Feminist Approaches To Property Law Research

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*In this chapter we explore the distinctive characteristics of a feminist approach to property law, stressing its importance in exposing the gendered dimensions of what is an apparently neutral project. We illustrate our argument by focusing on two particular themes. First we look at how feminist legal scholarship has interrogated the liberal assumption that the home should provide a domain free from state or commercial interference. Secondly we consider feminist scholarship which has analysed UK judicial responses to claims upon the family home made by cohabitants following relationship breakdown. In our chapter we also suggest that feminist approaches to property law have a particularly important role to play in exposing the gendered consequences of the contemporary redistribution of property which is a direct consequence of the dominance of neoliberal ideology.*

**INTRODUCTION**

Feminist perspectives have, since the 1970s, been deployed by critical scholarship to trouble the apparently neutral and progressive tenets of liberalism by exposing its gendered dimensions. One particular concern of liberalism has been to preserve individual freedom by treating the home and private property as domains which should, as far as possible, be free from government interference. This approach has had consequences for women and other vulnerable groups, and feminist legal scholarship has focused on making these consequences visible, whether through doctrinal, empirical, theoretical or socio-legal work. What should be clear from this is that feminist approaches to property law research are distinct from the methods of property law research explored elsewhere in this Special Issue because what is critical is the perspective that the researcher brings rather than the subject matter or the methodology.

This chapter explains what is meant by, and how a researcher might take, a feminist perspective on law, before going on to explore two themes that have been important to feminist legal scholarship. The first theme is largely theoretical. The article considers how feminist legal scholarship has interrogated the liberal assumption that the home should provide a domain free from state or commercial interference, beginning by looking at feminist legal scholarship on domestic violence and the necessity to disrupt the public/private divide in order to protect women. Some of the deleterious consequences for women where there has been state intervention in the home are then examined. Finally, feminist work on the gendered consequences of home ownership becoming the new social norm is considered. It is argued that feminist legal scholarship has not only brought vital critical insights into the gendered dimensions of property and the home, but also that it is well placed to expose the gendered consequences of the contemporary redistribution of property which is a direct consequence of the dominance of neoliberal ideology.

The second theme is more doctrinal and jurisdictionally grounded. The chapter looks at how courts within the United Kingdom have responded to claims upon the family home made by cohabitants following relationship breakdown and reflects upon some of the challenges that face contemporary feminist research into property law.

The chapter begins by reflecting upon what is distinct about feminist approaches to property law research.

**FEMINIST APPROACHES TO PROPERTY LAW RESEARCH**

Feminist research of property rights over the family home provides a radical departure from mainstream property concerns. For instance, Lim and Bottomley, in an edited collection, seeks to provide a feminist analysis of a range of issues relating to access and rights to land within different disciplines such as law, anthropology and geography.[[2]](#footnote-2) A feminist approach enables us to delve deeper into and analyse the gendered intersection between law and property. It compels us to go beyond traditional doctrinal analysis of the law in terms of its scope and application by examining and interrogating the way in which couples’ relationships are not neutral zones of gender and, relatedly, economic equality. So, for example, feminist legal scholars have looked at the way in which property, and, particularly, the home, is connected with social relations of power,[[3]](#footnote-3) and forms a site for gendered inequalities to persist.[[4]](#footnote-4)

The work of feminist scholars such as Carol Smart,[[5]](#footnote-5) Catharine MacKinnon,[[6]](#footnote-6) Katherine O’Donovan[[7]](#footnote-7) and Dorothy Smith[[8]](#footnote-8) has been influential on feminists working in this area of the law. For instance, through a feminist analysis, Katherine O’Donovan reveals the way in which the continued sexual division of labour between men and women within relationships is obfuscated in the law.[[9]](#footnote-9) Within this system of gendered division of labour, it is usually women who undertake the primary role of caregiver while men, the role of main, if not sole, wage-earner in the family. The system of gendered division of labour enables a relationship of unequal dependence to persist between the primary caregiver (usually women) and the wage-earner (usually men). This pattern remains unchanged even in contemporary UK society despite women’s increased participation in the labour market. For many women, their continued role as primary caregiver has an impact on the type of work they take on and the hours they can work, which in turn have a direct impact on the wages they can earn and their entitlement to any future social security and pension benefits.[[10]](#footnote-10) That invariably leaves them in a weaker economic position than their male partners.

Feminist research on property issues involving the home has further been informed by critiques of traditional jurisprudence in order to reveal the truth about women’s experiences. The approach helps to demonstrate the gender bias and lack of neutrality of the law when it comes to dealing with claims of property rights in the family home.[[11]](#footnote-11) Feminist legal methodology is explored in more detail in the next section.

**METHODS OF FEMINIST RESEARCH IN PROPERTY LAW**

Carol Smart notes that legal discourse is often conducted in gender neutral terms, thereby conferring formal equality to male and female subjects. However, in doing so, women’s voices are silenced.[[12]](#footnote-12) One of the key methods used in carrying out feminist research on property law is to analyse the construction of women’s subjectivities. A common approach is to critique traditional jurisprudence with the view to revealing the truth about women’s experiences. This involves interrogating and/or challenging, for instance, the taken-for-granted assumptions about the objectivity and gender neutrality of the law, arguing instead that the home, far from being a safe haven for all who reside in it, can form a site of oppression and inequality for some, eg women and children. In other situations, a feminist research methodology may involve interrogating the usefulness, or even the appropriateness, of judicial constructions of women as innocent/victim/mother.[[13]](#footnote-13)

Unlike orthodox legal analysis, where doctrinal analysis is conducted with reference to case law and both primary and secondary legal sources, a feminist methodology seeks to provide an analysis that reflects women’s perspectives and points out their experiences in order to generate alternative legal norms and principles. Even where doctrinal work is being done on property related matters, feminist research approaches such work with a bit more creativity. Rather than just analysing the scope and operation of legal principles as in traditional doctrinal analysis, feminist research may ponder on the sociology of couple relationships and critique the way in which jurisprudence is influenced by judges’ own subjectivity when constructing and construing the relationships of couples inter se and with the home, and women as subjects.[[14]](#footnote-14) Feminist researchers often analyse women’s narratives and may do this using various methods.

For instance, some feminists draw on theoretical analyses of relations of power and subjectivities, particularly the work of scholars such as Marx, Foucault and Kant, in order to theorise matters such as women as subjects, human capital, power relations between men and women within the home and caregiving. In some cases, feminist research draws on qualitative data such as socio-legal and empirical research findings and/or quantitative data (such as statistical data on men’s and women’s earnings, their respective working hours, hours spent on performing housework and providing childcare, in order to substantiate claims about women’s real experiences and, relatedly, their weaker economic positions in the home). In other cases, as shall be seen below, research has concentrated on the realities of violence within the home.

Research into the home by feminists has also sought to develop alternative interpretations, such as giving recognition as well as placing value on various types of conduct, particularly women’s work in mothering, caregiving, performing housework and making indirect financial contributions to the household income. In terms of influencing this line of feminist enquiry, the work of feminist scholars such as Martha Fineman, Carol Gilligan and Selma Sevenhuijsen, spring to mind.[[15]](#footnote-15) Such contributions are, at present, either devalued or ignored by English law for the purposes of property acquisition. In the next sections of the article, two United Kingdom examples illustrate the distinctive contribution of feminist legal scholarship.

**HOME AS A SAFE HAVEN?**

Feminist, and perhaps more activist, scholarship has focused on disrupting the gendered assumptions underpinning the notion of home. What this scholarship points out is that, for many women, “‘home’ is not ‘the haven from the heartless world’ it has traditionally represented for men”.[[16]](#footnote-16) Oppression arises in part from the domestic and emotional labour required to sustain family life.[[17]](#footnote-17) More fundamentally, from the 1970s onwards,[[18]](#footnote-18) feminist activists have pointed out that, for many vulnerable people, and in particular for women, “the home continues to be the place of most danger”.[[19]](#footnote-19) In the United Kingdom, for example, the state was unwilling to recognise its responsibility for safety within and around the home, and reluctant to accept that harm could be caused within the home and arising from intimacy, other than in an individualised and dysfunctional way which could be dealt with by the criminal justice system. This provided powerful ammunition for feminists to attack the state and private property, explaining the limits of both as patriarchal.

As evidence of the extent of violence within the home emerged, the United Kingdom government was embarrassed into action; it could hardly leave married woman on whom it relied to discipline the working man and educate his children without protection. The *Domestic Violence and Matrimonial Proceedings Act 1976* (UK) marked the beginning of the “policing” of domestic violence. The remedies it provided suspended, albeit only temporarily, the traditional sovereignty of property rights, encapsulated in the phrase “an Englishman’s home is his castle” in order to protect victims of violence. The *Housing (Homeless Persons) Act 1977* (UK) also assisted; it classified women with children fleeing violence as a category of homeless people which required priority protection. However, as in other jurisdictions, state recognition of violence within the home was slow and on particular terms. There was a reluctance to accept the need to protect victims of violence who were neither married nor in relationships which mirrored the permanence and heterosexuality of marriage, and an insistence that the woman utilised the remedies that the state made available before she became entitled to additional help. A sustained campaign which combined feminist legal scholarship and feminist activism was required to gradually expand the available protections and develop understandings of violence as an endemic rather than exceptional problem. Nonetheless, the recognition of domestic violence as a state concern had profound and complex consequences as the state’s self-imposed restraints, forged on a notional public/private divide which was designed to limit state interventions into individual lives, proved unsustainable.

Not every intervention into the home in response to social problems has been productive for women and it is important for scholarship to recognise this. In the United Kingdom, for instance, the *Housing Act 1996* (UK) and the *Anti-Social Behaviour Act 2003* (UK), which introduced a new conditionality into social rented housing, have had some negative consequences. The effects of the legislation have been to dismantle barriers to possession orders which had been put in place by the *Housing Act 1980* (UK) when there were allegations of anti-social behaviour. A tenant’s home became at risk not only from his or her own behaviour, but also from the behaviour of visitors and/or children. The point was not only to punish the tenant for failing to behave in a responsible manner but to protect communities from future problematic behaviour. The new conditionality is particularly burdensome for women who are over-represented in social housing.

While the phenomenon of anti-social behaviour initiatives provoked extensive and thoughtful responses from academics interested in social policy, there has been limited engagement with the gendered dimensions of these initiatives. Nixon and Hunter provide a notable exception. At a relatively early stage in the development of legal tools, they pointed out that, within social rented housing, possession proceedings responding to anti-social behaviour were leading to the eviction of women who, while not responsible for anti-social behaviour themselves, were the single mothers of anti-social boys.[[20]](#footnote-20) Indeed, those women were all too often victims of violence perpetrated by their own children. Holt too has highlighted the ways in which gender “is played out as an informal disciplinary mechanism in the additional yet hidden discursive, emotional and behavioural practices which come with parenting a young offender”. Carr suggests that unravelling the complex way that gender is implicated within anti-social behaviour initiatives requires “that an important paradox is acknowledged. Although women are disproportionately penalised, many women, particularly those who are vulnerable as a result of age, disability and or class have welcomed anti-social behaviour interventions”.[[21]](#footnote-21) As Brown points out,

The prerogative of the state, whether expressed as the armed force of the police or as vacillating criteria for obtaining welfare benefits, is often all that stands between women and rape, women and starvation, women and dependent upon brutal mates – in short, women and unattenuated male prerogative.[[22]](#footnote-22)

So something more nuanced than the traditional liberal queasiness at state authoritarianism and a breach of the public/private divide is required in order to recognise women’s particular position.

Conventional property lawyers may baulk at the suggestion that investigating evictions from social housing is a proper concern of property law. In response it may be pointed out that secure tenancies are a form of property right because they are leases which grant exclusive possession. Indeed, features such as succession rights, the right to take in lodgers and, of course, the right to buy, suggest that the architects of the *Housing Act 1980*, which set out the legal characteristics of social housing tenancies, were keen to replicate many of the securities of home ownership. State intervention which strips a tenant of those securities is as much an attack on women’s property rights as the actions of men and courts which fail to acknowledge the variety of possible ways that women contribute to the acquisition of the family home. In the past few years, we have seen further encroachment on such rights. For instance, the benefit cap, imposed from April 2013, sets a limit on welfare payments, so that the total amount of benefits that can be received by any individual or family will be limited to a maximum amount of £500 per week for single parents and couples with children, and £350 per week for single people. Housing benefit will be reduced to prevent the total benefits received going above these limits. Likewise, the rather colloquially termed “bedroom tax” has been introduced which restricts housing benefit paid to social tenants deemed to be under-occupying their homes. From 1 April 2013, local housing allowance size criteria, which were previously limited to the private rented sector, are applied to the social rented sector. Those found to be under-occupying would have a percentage deduction applied to their eligible rent. Where the under-occupation is by one bedroom, the deduction is 14% and where the under-occupation is by two or more bedrooms, the deduction is 25%.The consequences of these developments as well as others such as the criminalisation of squatting of residential property under s 144 of the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (UK) with effect from 1 September 2012 and increasing housing space inequality[[23]](#footnote-23) should therefore be of importance to United Kingdom property lawyers and the way in which those consequences are gendered of particular interest to feminist scholars.

An important manifestation of the increased inequality which is a direct consequence of neoliberal social and economic policies is the increasing divide between those who own and those who do not own property. Perhaps even more than paid work, property ownership is the new marker of your status as a neoliberal citizen. It provides access to capital accumulation, better possibilities for income and credit and an alternative to reliance upon the state. If property lawyers ignore the consequences of being excluded from, or only marginally included in, the benefits of property ownership, they are missing a crucial dimension of the contemporary role of property. Feminist property scholarship is therefore likely to be increasingly concerned with the gendered dimensions of governmental techniques to extend access to home ownership, such as Help to Buy, Shared Ownership and the Right to Buy.[[24]](#footnote-24) It has to be equally sensitive to the legal complexities which may result from women’s strategic responses to the problems of accessing affordable housing and work compatible with domestic responsibilities, such as the growth of so-called kitchen table entrepreneurialism,[[25]](#footnote-25) co-housing and the adaptation of family homes so that adult children can be accommodated. The 2001 United Kingdom census revealed, for instance, a 70% rise in concealed families (ie families living in a multi-family household, in addition to the primary family) since the previous census.[[26]](#footnote-26)

**PROPERTY DISPUTES ON BREAKDOWN OF COHABITATION**

One of the major contributions to property law by feminist legal scholars, certainly in the United Kingdom, has been in disputes over the property rights of cohabitants when their relationships break down.[[27]](#footnote-27) Two empirical studies[[28]](#footnote-28) were even cited by the House of Lords in the case of *Stack v Dowden* [2007] UKHL 17 at [45]. Other jurisdictions, eg Australia and some European countries, such as France, Sweden, Denmark, Netherlands and Spain, provide in varying degrees legal protection to cohabitants. Although “property” does not include the family home under s 27 of the *Family Law (Scotland) Act 2006*, cohabitants in Scotland are provided some rights in certain property and to financial provision upon separation. England and Wales, however, has yet to follow suit and resolution of property disputes between separated cohabitants therefore has to be dealt with by areas of law such as contract and trusts law, particularly the common intention constructive trust.

Feminist research in the United Kingdom has been particularly concerned with the effectiveness of trusts law in resolving disputes over the home between cohabitants when their relationships terminate. In order for a common intention constructive trust to exist, the claimant must establish an intention (ie a “common intention”) to share the equitable ownership through either some express or implied agreement or understanding. In many cases, reliance is upon the existence of an implied rather than express agreement. The English courts, however, have emphasised the need for direct financial contributions towards the purchase of the property to be made in order for a common intention to be implied.[[29]](#footnote-29) Recent jurisprudential developments appear to take a more liberal approach by acknowledging that indirect financial and even non-financial contributions ought to be taken into account in ascertaining a couple’s intentions regarding the sizes of their shares in the beneficial ownership of the home.[[30]](#footnote-30) Notwithstanding that, feminist lawyers have challenged the assumption of law’s neutrality and protection of individual freedom and autonomy. Feminist research enables us to evaluate more critically whether allegations of gender bias are indeed being addressed by the courts’ supposedly more holistic approach in these cases. It further critiques the continued reinforcement of gender roles and the traditional “male wage-earner/female homemaker” model through the continued requirement for direct financial contributions to be made in order to get a claim for an equitable share in the home off the ground.

On the face of it, the trust principles, in line with liberal notions of individual freedom and autonomy, appear to be gender neutral in terms of being equally applicable to men and women. This form of formal equality masks the dichotomy between the public and private spheres of men and women’s lives. It obscures the practical reality of their respective lived experiences as a couple as well as a family. In doing so, it further masks the true scope and extent of the law in determining separated couples’ access to property, such as rights in the family home, and how that might (dis)advantage particular groups of stakeholders. Feminist lawyers have sought to expose the law’s gender bias since the direct financial contribution requirement favours men rather than women and can form a barrier to women successfully claiming a share in the home. There is a fine dividing line between success and failure for women seeking a share in the family home, with everything hinging on whether direct financial contributions, no matter how small, have been made.[[31]](#footnote-31) Even where direct financial contributions are made, women may be constrained by their weaker financial earning capacities and lower earnings, thereby acquiring a lesser share in the property.[[32]](#footnote-32)

Feminist legal scholars have further sought to reveal the problematic way in which the law seeks to identify the existence of a common intention to share. Bottomley, for instance, highlights the problem of specificity of discussion which the law requires in establishing some sort of agreement, whether express or implied, in order for a successful claim to be made.[[33]](#footnote-33) This, she argues, is a mode of reasoning and language use more conducive to men than women: men therefore are more likely to benefit from the way in which the legal principles are framed.[[34]](#footnote-34) Other lines of feminist enquiry have been normative, particularly the hegemony of the marriage model as the golden yardstick by which all couple relationships are to be measured and compared as well as the appropriateness of the assimilation of cohabitation with marriage. For instance, the English courts seem to be taking a more liberal family-centric approach these days. This approach has been described by John Dewar as a process of familialisation, ie “the process by which both judges and the legislature have modified general principles of land law or trusts to accommodate the specific needs of family members”.[[35]](#footnote-35) In doing so, subtle comparisons are made between cohabitants and their married counterparts, especially in reaching conclusions about how “committed” cohabitants ought to behave and structure their relationships. A feminist methodology may therefore analyse and critique the law by questioning the normative assumptions made by judges which in turn influence their application of the law in these cases.[[36]](#footnote-36)

Given the lack of legal protection for cohabitants in English law and overall dissatisfaction with the application of trusts law,[[37]](#footnote-37) feminist research has naturally gravitated towards one of the principal areas of concern of feminist legal scholarship, ie the consideration of a law reform project and the possibility of providing some form of statutory regulation of cohabitation.[[38]](#footnote-38) Some have used feminist research methods in considering alternative bases, such as unjust enrichment, unconscionability and some form of community of property, in order to get around the restrictive approach and negative aspects of trusts law and to provide cohabitants with fairer outcomes.[[39]](#footnote-39) Feminist research into property rights in the home serves as an example of the potential for opening up space for legal researchers to interrogate and bring new insights into that area of the law.

**CHALLENGES OF FEMINIST RESEARCH IN PROPERTY LAW**

At a theoretical and practical level, feminist research in property law faces many challenges. As feminist research in the home generally focuses on the unequal and gendered aspects of sharing a home, the focus of the research tends to be on women and their lived experiences as wife/mother/homemaker. There is thus the perennial problem inherent in feminist legal scholarship as to whose (female) voices we hear. Given that women have very varied experiences, feminists researching in property law need to be mindful of criticisms of essentialism and universalism being levelled at their work and how to make these two concepts work alongside each other rather than be antagonistic.[[40]](#footnote-40) As Carol Smart has observed, there is the problem that feminism may be perceived by some as not speaking for or to all women.[[41]](#footnote-41)

Another challenge faced by feminist researchers is the way in which law forms a powerful form of discourse in making truth claims.[[42]](#footnote-42) A problem for feminists seeking to challenge the law’s claim to truth is concerned with the nature and validity of knowledge drawn from women’s lives and experiences. This may be particularly the case where the research is reliant upon other research findings such as socio-legal or other qualitative studies where the sample sizes are small and thus questionable as being sufficiently representative. This is not to say that the use of qualitative and quantitative data is unreliable but it does mean that the conclusions to be drawn may only be at best tentative as larger scale, and possibly even longitudinal, research may be needed to add greater weight to the findings. A further challenge for feminist research in this area of the law is the development of a discourse of equality and empowerment for women. There is a danger of preserving the existing dualism (men/women) in legal discourse which situates and keeps women in a position of dependency (on men) and portrays them as victims. In preserving a discourse of comparative dualism, there might be the danger of entrenching the very inequalities we are trying to resist; of keeping women in positions of vulnerability instead of empowering them. Hence, a future challenge for feminist legal research might be to try to overcome the consequences of the dualism in a way that allows women to be empowered rather than perpetuate their position seemingly as victims.

There is another profound challenge facing feminist property scholarship. At the same time that neoliberalism has operated to enhance the status of property ownership, globalisation (in short, the contemporary ease with which capital and people can relocate and be relocated) has had an impact upon the meaning of home. While Lorna Fox, in a well-respected legal text,[[43]](#footnote-43) proposes that home interests should be accorded a financial value by law, it is arguable that this reflects an outdated and indeed nostalgic notion of home; one which emerges from the perspective of a settled middle class who see law as a progressive tool available to a nation state to be deployed to extend the promise of home to excluded groups. Not only does such a perspective ignore feminist concerns with the oppressions of home, outlined above, it also fails to reflect home’s contemporary complexity.

The demise of the nation state, global migration, the economic abandonment of unproductive industries, places and people, and the emergence of a new precarious class[[44]](#footnote-44) work together to problematise home. The authors suggest that feminist property research should take a lead from feminist socio-legal scholars who have re-theorised labour law following the growth of precarious employment.[[45]](#footnote-45) Feminist scholars are well placed to trouble the dominant notion of home as inevitably secure and develop an understanding of its complex contemporary reality by starting from the perspective of its precariousness. In particular, they can respond to Feldman’s call for a radical pluralisation of home[[46]](#footnote-46) in order to nourish a care for difference and to disrupt the current polarisation of society into normalised homeowners and sheltered others. The cutting edge history and radical politics of feminist property research enables it to respond to Valier’s call for contemporary scholarship to “theorize new forms of belonging, individual and collective identities and conceptions of ‘home’ and ‘away’”[[47]](#footnote-47) with relative ease.

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8. Smith D, *The Everyday World as Problematic* (Northeastern University Press, 1987). [↑](#footnote-ref-8)
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12. Smart (1990), n 4. [↑](#footnote-ref-12)
13. See Auchmuty, “Unfair Shares For Women”, n 3; Bottomley (1993), n 3 and Bottomley A, “From Mrs Burns to Mrs Oxley: Do Cohabiting Women Still Need Marriage Law?” (2005) 14(2)FLS 182. [↑](#footnote-ref-13)
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17. See Wilson E, *Only Halfway to Paradise: Women in Postwar Britain 1945 – 1968* (Tavistock Publications, 1980). [↑](#footnote-ref-17)
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23. See Tunstall R, “What Should We Worry About When We Worry About Housing Problems”, Inaugural lecture, 30 April 2012; available at http://www.york.ac.uk/chp/news/2012/inaugural/. [↑](#footnote-ref-23)
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30. See particularly *Stack v Dowden* [2007] 2 All ER 929; *Jones v Kernott* [2012] 1 All ER 1265. [↑](#footnote-ref-30)
31. In the English context, see cases such as *Burns v Burns* [1984] 1 All ER 224; *Grant v Edwards* [1986] 2 All ER 426; *Lloyds Bank v Rosset* [1991] 1 AC 107. Cf *Midland Bank v Cooke* [1995] 4 All ER 562; *Eves v Eves* [1975] 3 All ER 768. [↑](#footnote-ref-31)
32. See, eg *Oxley v Hiscock* [2004] 3 All ER 703. [↑](#footnote-ref-32)
33. Bottomley, n 3. [↑](#footnote-ref-33)
34. Bottomley, n 3 at 62. [↑](#footnote-ref-34)
35. See Dewar J, “Land, Law, and the Family Home” in Bright and Dewar, n 26, pp 327, 328. [↑](#footnote-ref-35)
36. Wong S, "Shared Commitment, Interdependency and Property Relations: A Socio-Legal Project for Cohabitation" (2012) 24(1) CFLQ 60; Probert R, "Equality in the Family Home? Stack v Dowden" (2007) 15(3) FLS 341. [↑](#footnote-ref-36)
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40. See Klinger C, “Essentialism, Universalism, and Feminist Politics” (1998) 5(3) *Constellations* 333. [↑](#footnote-ref-40)
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42. Smart (1989), n 4. [↑](#footnote-ref-42)
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45. See, for instance, Vosko L (ed), *Precarious Employment: Understanding Labour Market Insecurity in Canada* (McGill Queens Press, 2009). [↑](#footnote-ref-45)
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