

Measuring the Effects of Feminist Legal Research: Looking Critically at "Failure" and "Success"

Lisa Philipps

Osgoode Hall Law School of York University, lphilipps@osgoode.yorku.ca

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Commentary

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Commentary

MEASURING THE EFFECTS OF FEMINIST LEGAL RESEARCH: LOOKING CRITICALLY AT “FAILURE” AND “SUCCESS”[©]

BY LISA PHILIPPS*

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I.	INTRODUCTION	

What is the point of writing? What impact is it meant to have on the world, and what impact does it actually have? These are questions that all academic researchers are called upon to answer, at some point, for themselves or for others. They seem to arise more often and with extra urgency in relation to feminist research. Feminist scholarship must justify itself not only to the usual skeptics who doubt the need for independent, non-instrumental knowledge production, but also to two other audiences. The academic world continues to grapple with its suspicion that feminist ideas are, by definition, too political to be scholarly, while feminist activists may question whether research is sufficiently political to be strategically useful. Individually, we struggle to define the appropriate connections and boundaries between our scholarly work and our practical commitments to progressive, feminist social change. The 2004 Betcherman Lecture,

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* Associate Professor, Osgoode Hall Law School, York University. The author gratefully acknowledges the helpful conversations with Professor Sonia Lawrence. Professor Lawrence is not responsible for any of the opinions that are expressed by the author in this article.

delivered jointly by Susan Boyd and Claire Young,¹ should provoke a vigorous collective discussion about the impact of feminist research on law and public policy and on the lives of women.

Focusing on Supreme Court of Canada judgments in tax and family law since the 1980s, when feminist research began to flourish in these areas, Boyd and Young tell a discomfiting story of failure or, at best, temporary victories that have been eroded or erased by an anti-feminist backlash. They provide a persuasive diagnosis of how gender equality concerns are being submerged within judicial analysis by a renewed emphasis on individual choice and private, familial responsibility for economic security. In this sense their article offers a potentially helpful overarching framework for understanding what feminist law reform efforts must contend with in the current political and jurisprudential milieu. These disturbing trends should not, however, lead us to conclude that feminist research has had no meaningful or lasting impact on law and public policy. This is where I may take issue with Boyd and Young's rather disheartening analysis. I would not want to overstate the degree to which policy reforms have been driven by feminist research, or to suggest there is not a long way to go. However, I suggest that its impact must be measured on many levels and with attention to indirect and often unintended effects. Using examples from tax law, I argue that feminist ideas have influenced the direction of reform on occasion, though not always in ideal or predictable ways. This exercise brings to light some important aspects of progress that are otherwise overlooked or undervalued. Yet it also demonstrates that characterizing any law reform effort as either an outright "success" or a "failure" tends to obscure its uneven impact on women in different social locations. Specifically, this comment is an opportunity to explore the economic polarization of women and what it means for feminist legal reform struggles.

As Boyd and Young suggest, both family and tax law present some stark tensions between class and gender equality interests. Legal feminists have for some time acknowledged the challenge this poses, especially for crafting inclusive litigation strategies.² However, there is a need for sharper

¹ Susan B. Boyd & Claire F.L. Young, "Feminism, Law, and Public Policy: Family Feuds and Taxing Times" (2004) 42 Osgoode Hall L.J. 545.

² See e.g. Nitya Iyer, "Categorical Denials: Equality Rights and the Shaping of Social Identity" (1993) 19 Queen's L.J. 179; Audrey Macklin, "*Symes v. M.N.R.*: Where Sex Meets Class" (1992) 5 C.J.W.L. 498; Mary Jane Mossman & Morag MacLean, "Family Law and Social Assistance Programs: Rethinking Equality" in Patricia Evans & Gerda Wekerle, eds., *Women and the Canadian Welfare State: Challenges and Change* (Toronto: University of Toronto Press, 1997); Claire F.L. Young, "(In)visible Inequalities: Women, Tax and Poverty" (1995) 27 Ottawa L. Rev. 99; Claire F.L. Young, "Taxing Times for Lesbians and Gay Men: Equality at What Cost?" (1994) 17 Dal. L.J. 534.

analysis of the growing social and economic power of class privileged women and men, both as an effect of the neo-liberal trends identified by Boyd and Young, and as a possible unintended side effect of feminist legal struggles. Acknowledging the different interests that women bring to the table is threatening because it may undermine political solidarity or theoretical coherence. But it is more dangerous to avoid or gloss over the issue of class polarization among women. Analyzing the classed nature of gender inequality is necessary to ensure the integrity and quality of feminist research in law. It will allow a more accurate assessment of the likely impacts of particular law reform strategies, and the trade-offs being made among different groups of women. Ultimately, it will also strengthen the credibility of feminist political claims, which are now too easily countered by pointing to the small group of women who have gained access to the professional and business elites.

II. POSITIVE IMPACTS ON MANY LEVELS

Scholarly research rarely leads directly to legislative or common law reforms. If it did, there would be no need for political advocacy or activism. Feminist research is better understood as working gradually to establish the epistemic conditions for political and policy change. That is, feminist scholars have their greatest impact in expanding what can be known and what questions can be asked about the world. At a basic level they have unsettled the common sense understanding of sex as a purely natural or biologically based difference, and have provided an alternative knowledge of gender as a socially constructed set of power relations. Though never fully complete or uncontested, this discursive shift has opened space for a wide variety of political claims to be voiced and to resonate with policymakers and the wider public. Ironically, the impact of feminist ideas may become less visible the more they are incorporated as part of mainstream assumed truth, and are pursued in turn by other researchers working outside an explicitly feminist frame.

Success or failure, then, cannot be measured only by reference to majority decisions in the Supreme Court of Canada, or major legislative reforms. It is equally reflected in the way power is exercised at the micro-level in family relationships, the workplace, the administration of government programs, or in decisions about the marketing and consumption of goods and services. Though harder to quantify, I argue that these more remote impacts are at least as meaningful as high profile legal victories in determining the quality of women's lives.

This is not to dismiss the need for critical analysis of judicial discourse of the kind offered in the Boyd and Young lecture. Since the

advent of the *Canadian Charter of Rights and Freedoms*,³ particularly its equality rights provisions, feminist law reform campaigns have often centred around high profile litigation strategies. There has also been a significant amount of feminist scholarship examining what laws should be challenged, how best to argue the cases, and how judges should apply the *Charter* to improve gender equality in different legal contexts. As such it does make sense to track litigation outcomes as a possible indicator of the impact of feminist research on law and public policy. Perhaps the most direct evidence of such an impact is not who won the case, however, but whether feminist research is cited or otherwise relied upon in the reasons. Indeed, we should count such moments as significant even in cases that are lost in the result.

Boyd and Young note that an important contribution of feminist legal scholarship has been to show how “women’s lives were disciplined, or regulated, by the discourses in judicial decisions, even when they might appear to ‘win’ a case,” for example by perpetuating ideologies of good and bad mothering.⁴ However, their article gives less attention to the converse possibility, that is the progressive impact of “losing” cases. A high profile loss for feminists can nonetheless contain partial improvements in judicial reasoning, as well as help to create the conditions for future progress. While this may seem cold comfort to the parties or advocates taking the case forward, there is a danger of missing out on some valuable silver linings if only winning cases are seen to have a positive impact. We also risk not noticing that the failed litigation has moved the law in a direction that benefits some women but leaves out others.

III. LOSING CASES BUT WINNING GROUND

All of these points can be illustrated by examining more closely the two tax cases that are highlighted by Boyd and Young: *Thibaudeau v. Canada*,⁵ an unsuccessful *Charter* challenge to the taxation of child support payments, and *Symes v. Canada*,⁶ an unsuccessful attempt to characterize child care costs as a fully deductible business expense. Though both claimants lost in the Supreme Court of Canada, their cases generated some notably progressive judicial discourse in the lower courts, in dissenting

³ Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 [*Charter*].

⁴ *Supra* note 1 at 549.

⁵ [1995] 2 S.C.R. 627 [*Thibaudeau*].

⁶ [1993] 4 S.C.R. 695 [*Symes*].

judgments, and even in Justice Iacobucci's majority reasons in *Symes*. Furthermore, both generated significant media and public discussion, and both were followed by legislative changes that at least partially vindicated the gender equality arguments made in court. An investigation of this fallout suggests not only that legal feminists may have had more impact than what appears on the surface, but also that this work has benefited some women much more than others. In particular, the expansion of the child care expense deduction following *Symes*, combined with the failure of governments to invest directly in public child care services, has fed directly into the class inequality of women in Canada.

A. *Thibaudeau v. Canada*

Boyd and Young cite the Supreme Court of Canada's decision in *Thibaudeau* as an example of judicial erasure of gender equality concerns and rejection of feminist advocacy and research. While agreeing with their analysis of the majority judgment, I would argue that the bigger story came after the decision was rendered. The media coverage of the case was intense and allowed Suzanne Thibaudeau herself, as well as feminist lawyers, academics, and activists to argue in public why the outcome was unfair to separated and divorced women and their children. The outcry prompted the federal government to strike a national task force chaired by the Honourable Sheila Finestone to hold hearings and advise on possible reforms. Following the report of the task force (which was never made public), the government effectively overruled the Court by announcing it would amend the *Income Tax Act*⁷ to deny a deduction to child support payers, and remove taxation from child support recipients.⁸ While it is true, as Boyd and Young point out, that lobbying by women's groups was critical in achieving this change, these groups also relied on feminist research to help them challenge the technical tax policy arguments held up to defend the law, and to demonstrate the relationship between taxation of child support and post-divorce poverty of sole-parent women. One of the main points of contention in this debate was whether the tax burden was, or could be, addressed simply by ensuring that the amount of child support awards was "grossed up" by lawyers and judges to cover the associated income tax. On this issue, feminist scholarship helped to convince policy-makers that the "gross up" solution was not viable given the realities of

⁷ R.S.C. 1985 (5th Supp.), c. 1.

⁸ Canada, *Budget Plan Tabled in the House of Commons by the Honourable Paul Martin, P.C., M.P., Minister of Finance*, (6 March 1996) at 151-52.

unequal bargaining power during marriage breakdown.⁹ Viewed from a post-litigation perspective, we might count the *Thibaudeau* case as a significant success.

B. *Symes v. Canada*

Beth Symes' bid to deduct the full cost of her nanny's salary as a business expense was always controversial among feminists. The claim was seen by many to serve only privileged self-employed women, and as too acquiescent in the private nanny system and its systemic exploitation of low income, immigrant women of colour. However, feminist scholars have generally condemned the Supreme Court's unwillingness to interfere with the patently inadequate child care expense deduction in section 63 of the *Income Tax Act*. Boyd and Young strongly criticize the decision, arguing that in contrast to contemporary developments in family law, "tax law remained impervious to a substantive equality analysis of issues such as the gendered nature of caregiving and inequality in the labour force."¹⁰ I would suggest, however, that such critiques have focused too heavily on the result in the case, and not enough on those aspects of the majority judgment that made significant breakthroughs in opening tax law to gender analysis. I will comment specifically on that part of Symes' argument that relied not upon the *Charter*, but on the interpretation of the relevant provisions of the *Income Tax Act*.

The first breakthrough came in the majority's decision that it would not simply follow the precedents that characterized child care costs as "personal expenses," which cannot be deducted in computing a taxpayer's business income. Rather, it would ignore the previous Canadian case law on the point as well as the nineteenth century English precedent on which it was based, and examine the proper characterization of child care expenses within the general principles of income tax law. Justice Iacobucci wrote,

The decision to characterize child care expenses as personal expenses was made by judges. As part of our case law, it is susceptible to re-examination in an appropriate case. ... The increased participation of women in the Canadian workforce is undoubtedly a change in the "social foundation" ... Accordingly, I do not feel that I must slavishly follow those cases

⁹ See e.g. Lisa Philipps & Margot Young, "Sex, Tax and the Charter: A Review of *Thibaudeau v. Canada*" (1995) 2 Rev. Const. Stud. 221; Lisa Philipps, "Tax Law: Equality Rights: *Thibaudeau v. Canada*" (1995) 74 Can. Bar Rev. 668; Ellen Zweibel & Richard Shillington, *Child Support Policy: Income Tax Treatment and Child Support Guidelines* (Ottawa: Policy Research Centre on Children, Youth, and Families, undated) at 10-17.

¹⁰ *Supra* note 1 at 559.

which have characterized child care expenses as personal in nature.¹¹

The majority went on to consider the various tests that have been applied to distinguish “personal” from “business” expenses in tax law. In doing so it made a second important breakthrough by admitting that this distinction has a subjective element and is vulnerable to gender biased assumptions about the division between productive and domestic life.

In this section of the judgment, Justice Iacobucci relied directly on feminist sociological and legal research, quoting in particular the following passage from Audrey Macklin:

[A]s long as business has been the exclusive domain of men, the commercial needs of business have been dictated by what men (think they) need to expend in order to produce income. The fact that these expenditures also have a “personal” element was never treated as a complete bar ... It seems closer to the truth to suggest that these practices inhere in the way men, or some men, engage in business. Of course, since men have (until very recently) been the only people engaging in business, it is easy enough to conflate the needs of businessmen and the needs of business. Women’s needs in doing business will necessarily be different, and one might reasonably demand a reconceptualization of “business expenses” that reflects the changing composition of the business class.¹²

The Court then stated that “it is difficult to argue that history has not conflated the ‘needs of businessmen with the needs of business’ as Professor Macklin suggests.”¹³ Having accepted this analysis, the Court appeared torn about how to characterize Symes’ nanny expenses observing that “[i]t can be difficult to weigh the personal and business elements at play.”¹⁴ Unfortunately, the majority decided it was not required to resolve this conundrum because the partial deduction allowed under section 63 was intended to be a complete code for deduction of child care expenses, thus precluding Symes from claiming her full costs under the broader deduction for business expenses.

This was certainly a disappointing turn in the reasons. Given the majority’s initial eagerness to get to the root of the business/personal

¹¹ *Supra* note 6 at 728-29.

¹² Macklin, *supra* note 2 at 507-08. The list of authorities cited in the judgment includes at least twelve feminist works, including such items as Grace Blumberg, “Sexism in the Code: A Comparative Study of Income Taxation of Working Wives and Mothers” (1971-1972) 21 *Buff. L. Rev.* 49; Kathleen Mahoney, “Daycare and Equality in Canada” in *Research Studies of the Commission on Equality in Employment* (Ottawa: Minister of Supply and Services, 1985) 157; and Claire F.L. Young, “Impact of Feminist Analysis on Tax Law and Policy” in *Feminist Analysis: Challenging Law and Legal Processes 1992 Institute of Continuing Legal Education* (Toronto: Canadian Bar Association–Ontario, 1992).

¹³ *Supra* note 6 at 743-44.

¹⁴ *Ibid.* at 742.

distinction, and its refreshing openness to the possibility of gender bias in the conceptual foundations of tax law, it seemed to be a formalistic and disingenuous conclusion. However, this should take nothing away from the progress that was made in challenging the axiomatic treatment of child care expenses as personal, and in admitting the relevance of gender analysis to the interpretation of technical income tax rules. The business/personal distinction is a key pillar of our tax system. It underpins many of the specific rules and is always vulnerable to gender bias because it maps so closely onto the market/family divide in liberal ideology. Rather than focusing exclusively on the fact that *Symes* lost, feminist (and other) advocates could cite the case in the future to show that the business/personal distinction is in flux, and should be applied in a way that avoids gender bias.¹⁵

Counting *Symes* only as a loss also neglects the power of the progressive statements made in dissenting and lower court judgments in the case, which clearly drew upon feminist research in a number of ways. The Federal Court (Trial Division) initially held in *Symes*' favour, with Justice Cullen quoting extensively in his reasons from the expert testimony of feminist sociologist Patricia Armstrong on the mass entry of women into the paid labour force and the detrimental effect of child care responsibilities on their income earning capacities.¹⁶ I was a junior associate at a law firm when this decision came down and took part in some of the heated discussions among lawyers at the firm about the merits of the ruling and the equality of women in the profession more generally. The point is that regardless of one's view of the case and its final result, it undeniably raised consciousness and provoked more open discussion of these issues among senior lawyers. These are the people who decide on matters such as maternity leave policies at law firms, the criteria for awarding partnership status, and the availability and remuneration of part-time and other alternative employment arrangements. They also advise corporate clients concerning their obligations toward employees, and make arguments in court about the proper interpretation of employment and anti-discrimination laws.

The dissenting judgment of Justice L'Heureux-Dubé (concurring in by Justice McLachlin, as she then was) in the Supreme Court should also be counted as a mark of progress. The dissent incorporated feminist

¹⁵ Examples of situations where this argument might be helpful include the deductibility of home office expenses; the characterization of employer-paid child care as a taxable benefit (because it is "personal," rather than a condition of employment); and the question of when a small business has a "personal" element such that it must show a reasonable expectation of profit in order for expenses to be deducted.

¹⁶ *Symes v. Canada*, [1989] 3 F.C. 59 at 71-73 (T.D.).

research and discussed gender equality principles at length and contested the logic and objectivity of the majority judgment. I have found it to be a powerful tool in the classroom for exploring with students the difference that gender might make in tax law and in adjudication more broadly. The influence that high level dissenting judgments can have in shaping future developments in the law is also well known.

III. CLASS POLARIZATION AMONG WOMEN

Beyond the importance of the judgments themselves, I suggest that the *Symes* litigation helped to increase political pressure on the federal government to take some form of action on the lack of affordable child care. Yet it likely has also contributed to a trend whereby the government continually fails to invest directly in public child care services and instead repeatedly increases the maximum that can be deducted under section 63 of the *Income Tax Act* by those who incur private child care costs. Not long after the trial decision in favour of *Symes* was overturned by the Federal Court of Appeal,¹⁷ the government announced it would increase the child care expense deduction by 1 thousand to 5 thousand dollars per child under seven, and \$3,000 per child seven or over, proclaiming that,

The child care expense deduction provides important recognition of the costs incurred by single parents and two-earner families. Through this deduction the federal government provides about \$300 million in tax assistance to over 600,000 taxpayers, of whom three-quarters are women.¹⁸

When the Conservative government lost power to the Liberals in 1993, their election platform included the famous promise of a national child care program. The government reneged on this promise, as it has on repeated promises since that time to provide significant new direct child care funding. Instead, it has continued to increase the maximum child care expense deduction, currently at \$7,000 per child under seven, and \$4,000 per child seven or over.¹⁹ This approach has been harshly criticized by

¹⁷ *Symes v. Canada*, [1991] 3 F.C. 507 (C.A.).

¹⁸ *Budget Papers Tabled in the House of Commons by the Honourable Don Mazankowski, Minister of Finance* (25 February 1992) at 136-37.

¹⁹ Based purely on personal experience and anecdotal evidence, a taxpayer who meets all the conditions for claiming the maximum deduction under section 63 can now deduct well over half the cost of a spot in a regulated, non-profit daycare centre, provided one can find a space, but still less than half the cost of a full-time in-home caregiver. Interestingly, the deduction for business meals and entertainment expenses has been cut back to 50 per cent of the actual cost incurred (*Income Tax Act*, s. 67.1). The favourable treatment of entertainment expenses relative to child care expenses, criticized by L'Heureux-Dubé J. in her dissent in *Symes*, appears to have been largely eliminated.

women's advocates for a number of reasons including the following: (i) it has not improved working conditions or wages for child care providers; (ii) it has not addressed the shortage of spaces in affordable, regulated child care programs; and (iii) the deduction is designed in a way that gives minimal or no assistance to many lower income parents.

This history suggests that legal feminists need to ask some searching questions about how the *Symes* litigation has in fact influenced law and public policy in a way that may benefit some women at the expense of others. While women's advocates have continued to lobby strenuously for direct child care funding, it is unclear what role the *Symes* case and the subsequent increases in the child care expense deduction have played in dividing constituencies and defusing political pressure for public daycare. In any event, the policy preference for tax deductions over direct funding contributes directly to the polarization of women along class lines.

Income tax statistics show that tax filers with incomes of 100 thousand dollars or more account for only about 3 per cent of all returns filed, and about 21 per cent of this group are women.²⁰ This is roughly the group for whom the child care expense deduction is most favourable, as they have sufficient income to afford large child care expenses and are generally taxed in the highest bracket, making the deduction more valuable.²¹ By contrast, about 24 per cent of all returns filed show an income of 10 thousand dollars or less, and of these 63.5 per cent are filed by women and 36.5 per cent by men. The child care expense deduction is of little or no assistance to these individuals even if they can afford to pay over the table for child care, as they have little if any tax liability to eliminate after claiming the basic personal credit. Aggregate statistics about women can occlude these sorts of disparities by suggesting that all women suffer equally from average gender gaps in income or other indicators. Sylvia Walby has made the case that slightly more disaggregated data can reveal that the situation of women is more complex and is changing.²² Her study found that women in the United Kingdom and the European Union had significantly increased their representation in the highest level jobs, with a simultaneous growth of women's employment at the bottom of the

²⁰ Canada Revenue Agency, "Final Statistics—Sample Data 2003 Edition (2001 taxation year)," online: <<http://www.cra-arc.gc.ca/agency/stats/gb01/pst/final/menu-e.html>>. Figures derived from Summary of Basic Tables 2 and Final Basic Table 6.

²¹ In 2001 the top federal rate of 29 per cent applied to taxable income exceeding 100 thousand dollars (*Income Tax Act*, s. 117(2)).

²² Sylvia Walby, "The Restructuring of the Gendered Political Economy: Transformations in Women's Employment" in Joanne Cook, Jennifer Roberts & Georgina Waylen, eds., *Towards a Gendered Political Economy* (London: Macmillan Press, 2000) 165 at 168.

labour market in part-time, precarious jobs, suggesting growing polarization. Walby argues these are “very significant transformations which need to be understood rather than denied” by feminist researchers.²³

Recent Canadian studies show that class inequality also affects self-employed women. The surging growth of self-employment during the 1990s, especially among women, has not improved women’s economic well-being across the board. Rather, self-employment falls along a spectrum ranging from those earning good incomes in full-time professional or other business activities, to others who work part-time with low incomes and minimal access to health insurance or other social benefits.²⁴ Women are over-represented at the less privileged end of this range, and more often than men are pushed into self-employment due to job loss or the difficulty of finding a job that is sufficiently flexible to accommodate family responsibilities.²⁵ Some women (like Beth Symes) do make it into the ranks of the better-off self-employed, but many others are stuck with and inadequate income and dependency on a male breadwinner for support. The child care expense deduction is very poorly suited to assist these lower income women, as a self-employed person who works long hours without making a profit cannot claim her child care costs under section 63. Unlike business expenses that can be carried forward and deducted in a later year if the business is in a loss position, the child care expense deduction requires that the taxpayer must have sufficient “earned income” to cover the expenses in the year they are claimed.

IV. POLICY IMPACT UNDER THE PUBLIC RADAR

Feminist research sometimes has influence in fora that are less public than litigation—for example in policy consultations or legislative lobbying. Such work is often invisible to the public, especially if the result is simply to prevent implementation of a change that would be detrimental to gender equality. For example, women’s groups drew on feminist research in lobbying successfully against the replacement of old age security with a marital-unit based Seniors’ Benefit as proposed in the 1996 budget, and

²³ *Ibid.* at 166.

²⁴ Karen D. Hughes, *Gender and Self-employment in Canada: Assessing Trends and Policy Implications* (Ottawa: Canadian Policy Research Networks, 1999); Leah F. Vosko & Nancy Zukewich, “Precarious by ‘Choice’: Gender and Self-Employment” in Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity* (Montreal and Kingston: McGill Queen’s University Press, 2000).

²⁵ Karen D. Hughes, “Pushed or Pulled? Women’s Entry into Self-Employment and Small Business Ownership” (2003) 10 *Gender, Work and Org.* 433.

against Reform Party proposals in the mid-1990s to give tax benefits to more “traditional” single-earner couples. The introduction of a caregiver credit in 1998 must also be attributed in part to extensive feminist research and advocacy on valuing unpaid work during the 1990s. I have criticized the design of the credit elsewhere for problems such as its low amount and its delivery of benefits to breadwinners instead of directly to unpaid caregivers.²⁶ I have argued that it is an example of how feminist ideas can be appropriated and distorted to serve contrary political interests, such as legitimating the privatization of caregiving costs by shifting health care, elder care, and other responsibilities from public sector employees to unpaid family members, usually women. Examining the impact of feminist research will likely involve critiquing its partial or flawed implementation more often than celebrating its outright success, yet these are undeniably in part the impacts of our work.

Finally, it is important to note the influence of feminist work on other public policy research. Examples include the Ontario Fair Tax Commission of the mid-1990s that included a Women and Taxation Working Group and made several recommendations for improving gender equality,²⁷ the Law Commission of Canada’s 2001 recommendations for revising the tax treatment of relationships,²⁸ and the recent report by the Canadian Centre for Policy Alternatives on the gender and class distributional effects of tax reform platforms in the 2004 federal election.²⁹ While such reports seldom result in immediate or dramatic policy changes, they do help to create momentum and consensus for change over the longer-term, or to raise political resistance to other, regressive proposals. Such gains may be less inspiring than winning a case in the Supreme Court of Canada. They should nonetheless be scrutinized by feminist researchers to determine not only how we have affected the world in a positive way, but also what further research is needed to understand the ambivalent and sometimes problematic effects of past reforms.

²⁶ See Lisa Philipps, “Tax Law and Social Reproduction: The Gender of Fiscal Policy in an Age of Privatization” in Brenda Cossman & Judy Fudge, eds., *Privatization, Law and the Challenge to Feminism* (Toronto: University of Toronto Press, 2002) 41 at 61-70.

²⁷ *Fair Taxation in a Changing World: Highlights of the Report of the Ontario Fair Tax Commission* (Toronto: University of Toronto Press, 1993) at 28-29.

²⁸ Law Commission of Canada, *Beyond Conjuality: Recognizing and Supporting Close Personal Adult Relationships* (Ottawa: Minister of Public Works and Government Services, 2001) at 63-89.

²⁹ Sheila Block & Ellen Russell, “Who benefits? A Gender and Distributional Analysis of Election Income Tax Promises,” 6(3) *Behind the Numbers* (22 June 2004).