

A postmodern
feminist view of
political power politics
essay



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Modern political thought can be applied to any number of institutions, communities and situations in contemporary society because of the different range of perspectives that can be applied. One such perspective is especially important in defining the roles and women and the way in which woman can relate to and be situated within the modern world. Postmodern feminism is a particularly interesting perspective because it can be used to examine the gulf between women in various political systems: “ Many of the new rights that are being claimed by women or ethnic minorities are no longer rights that can be universalized. They are the expression of specific needs and should be granted to particular communities.” (Giroux, 1991, p. 1).

With this in mind, it is necessary to examine the particular communities in question within the context of postmodern feminism. This essay will examine the role of legal functioning within both a fascist dictatorship and a liberal democracy with a view to concluding that a legal system can most definitely be considered to be much more than a reflection of political power because no political system can be solely defined by its legal procedures alone.

Postmodern Feminism

Prior to examining the theories of postmodern feminism, it is essential to define and thus be fully able to understand exactly what postmodern feminism is and where it actually comes from. This can be difficult given the sheer number of definitions of this area of political thought that are out there at the moment. As critics and supporters all have their own theories in mind in relation to postmodernism and feminism, as well as the field of postmodern feminism, it is necessary to decide upon a definition in order to complete analysis of various political and legal institutions and systems within the rest of this essay. Taking feminism first: “The most obvious way in which current usage is ignored when feminism is defined as an opposition to the sex-based injustices from which women suffer is in itself seeming to count far too many people among feminists.” (Richards, 1980, p. 2). This definition is apt because it highlights the oversubscription to the notion of feminism. In fact, many women do not agree with feminist principles but that does not prevent those principles from applying to the individual women, whether they benefit from equality or are discriminated against because of gender differences. Postmodernism, on the other hand, can be “...traced to a heightened anxiety about what impact intellectuals have on a world that appears increasingly inimical to the values promoted in the arts and in intellectual work.” ((McGowan, 1991, p. 1). This anxiety and intellectual perspective of the modern world does provide a unique viewpoint of the political and legal systems, especially when combined with feminism.

Postmodern feminism combines the philosophies of postmodernism and feminism theories in order to provide political analysts and philosophers with

a brand new perspective on society and a means of differentiating between different societies and communities as well. The definition below is perhaps one of the most apt out there:

...postmodern feminism does not focus on the category “ woman”. Rather, it focuses on the situated realities of women, plural. Postmodern feminists question earlier feminist attempts to redefine the category “ woman.” Any definition, even one articulated by feminists, is limiting and serves to “ tie the individual to her identity as a woman”. (Weisberg, 1993, p. 243)

This particular definition is an excellent one for application to the models of country X and country Y, as defined in the question. However, it can also be applied to numerous other situation and circumstances that women in particular find themselves in because it takes each situation on an individual basis, thus on its own merits and in relation to the collective gender and not the individual. This definition examines numerous factors in a set context with a view to determining just how important the factors are. For example, it examines identity in regards to politics as well as the individual’s ability to define his or her own path through life. Feminism obviously implies the exclusion of men but within this particular definition and its theoretical postmodern combination, it can be used to determine the legal standing of an entire society in relation to equality as well.

There is another factor that is closely associated with postmodern feminism and that is essentialism: “ The concept of essentialism, discussed above, is a manifestation of postmodern feminist thought.” (Barnett, 1998, p. 195). This clearly defines essentialism as a major element of postmodern feminist

thought, although some critics either disagree or fail to acknowledge it as an element. Although this is not always considered in relation to this particular theory, it has a major bearing on the way in which the individual legal system and political system is defined as in the question and so merits a comprehensive definition, which is also vital if one is to fully appreciate the theories of postmodern feminism in relation to various legal and political systems. The best possible definition is perhaps the following: “ Essentialism searches for the intrinsic “ nature” of things as they are, in and of themselves.” (Fuchs, 2005, p. 12). The nature of any political and legal system is incredibly important and thus the application of essentialism is vital to the very nature of this particular analytical examination of political power and whether or not the nature of society itself has an impact on the legal system of different countries.

Now that all vital elements of this political theory have been examined and defined, the essay will examine the situation of jurisprudence in relation to postmodern feminism and the defined political systems as per the question. A coherent answer will be achieved via the deconstruction of the two distinct societies: “ Deconstruction, moreover, located originally primarily in the postmodern field of linguistics, becomes an accessible tool for the analysis of law and legal theory.” (Barnett, 1998, p. 195)

The Context of Jurisprudence

Postmodern feminism fits into the context of jurisprudence well because its practical application is relatively straight forward regardless of the nature of the individual or society that is being examined. However, the notion of jurisprudence is often split into two distinct categories – the male and the

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female: “” ...feminist jurisprudence demonstrates the need for law to recognise confirm and secure this emancipation. In the context of nurturing work, such law would spread the costs of nurturing work throughout the whole society so that women do not bear them all.” (Stark, 2003, p. 127). As the postmodern feminist philosophy of the law is discussed here, it stands to reason that it actively examined the female side of the law in relation to how women function within society, what their roles are and whether or not they sought equality has actually been achieved in some measure. Many individuals argue that females are still considered to be subordinate in the context of dictatorships and the governmental systems in place. However, whether the legal systems define feminism within the context of jurisprudence or the external factors that contribute to any given society can be questioned, particularly when placed in contrast with liberal democracies and the way in which postmodern feminist thought can be used to examine them. The interaction between postmodern feminism and jurisprudence is an integral relationship that is necessary for the extensive analysis of country X and country Y, and using examples is integral in defining exactly how the power structures interrelate is essential.

The Political System, The Legal System And Postmodern Feminism

According to Thornham, “...feminism, politics and theory are interdependent. But... feminist politics have engaged as much with issues of culture and representation as in campaigns for social change.” (2005, p. 24) However, in order to be able to apply the principles behind the theory of postmodern feminism, it is necessary to delve into particular countries and their legal

systems with regards to the specific examples given. According to the question given, country X is a fascist dictatorship in which oppressive legal measures are used to deny people basic freedoms. Country Y, on the other hand, is a liberal democracy in which the legal system upholds capitalism and human rights. In short, the two are diametrically opposed and therefore analysis is vital to form a conclusion as to whether a legal system may be said to be anything more than a reflection of political power.

Taking country X first, a fascist dictatorship that is characterised by oppressive legal measures denies its people their freedom, which is of course the whole point of controlling a country so completely. There have been many examples of this in the past century, all of which use a legal system to snatch and maintain political power. However, in the case of postmodern feminism, it is easy to find examples of rebellion that question the political system and its legal enforcement, which in turn affects the status of the legal system as a reflection of political power. A fine example is that of the women in Chile under Pinochet:

During the Pinochet era, Chilean women “rescripted” the passive, non-agent role into which they were being maneuvered [sic] by certain Western feminisms and the Pinochet regime. Based on their particular experiences within the culture of marianismo – those situated practices of which they were a part – our subject Chilean women asserted their position as political subjects and rewrite the original script to reflect their status as political agents. (Warkentin & Daly, 2003, p. 157)

This particular analysis highlights the way in which Chilean women did exert their feminist rights as a result of the influences of the outside world, of liberal democracies, that made it through. This is done against pressure from political authorities and thus also the legal system as a direct result of the postmodern feminist principle of agency. Warkentin & Daly highlight that the Chilean women embraced agency and thus carved out their own niche within the system despite the level of oppression that was occurring at the time. As such, this points to the fact that the legal system, regardless of how oppressive it is, is only successful should women and men alike choose to accept it. The Chilean women did not and thus completely altered their own role within society at the time. The change in attitudes could not be governed by the oppressive legal system and thus it automatically becomes more than a reflection of political power but also of political challenge as well.

The nature of this rebellion against the political dictatorship by the women of Chile fits in well with postmodern feminist theory for a number of reasons. First of all, women became stronger and more coherent a group within society, but they did not try to revolutionise the country itself. Instead, they were aiming for smaller and more localised goals, which is part of the postmodern theory. Big questions and issues do not come to fruition under dictatorships but the smaller concerns that characterise postmodern thought do (Mansell & Meteyard, 2004, p. 160). The nature of the people and the external influences that caused unrest are both important factors in explaining exactly why total political control does not always automatically lead to a society that will not grasp empowerment where possible.

Furthermore, it is important to note that the feminist movement in liberal democracies is able to filter through all elements of society regardless of the current situation in individual countries. The characteristics that define feminism certainly have their own brand of power: "...conceptual distinctions, criteria of legitimation, cognitive procedural rules, and so forth are all political and therefore represent moves of power and also recognize that they represent a different type of power than is exhibited in, for example, physical violence or threat of force." (Nicholson, 1990, p. 11)

Postmodern feminist theory is most definitely applicable to other political and legal systems as well. For example, it can be actively used to examine a liberal democracy, under which human rights are upheld by the legal system. This is the criteria for country Y and can be examined in relation to any number of countries. However, British politics and the relevant legal system are particularly favoured by postmodern feminist critics as a result of the measure of equality allowed to all sections of society at the moment. In this instance, the legal system is not only a reflection of political power but also of the nature and attitudes that are currently present within society. For example, postmodern feminist critics will undoubtedly allude to the level of topics that were previously taboo on a legal and social level but are now in the public eye: "...feminism has helped to bring a range of new issues, formerly perceived to be essentially private or social, onto the public political agenda, and thence into the purview of policy studies, such as domestic violence... abortion, and childcare." (Randall, 2009, p. 146). Liberal democracies do actively consider the needs of every element of society by nature and the legal system is used to reinforce the values and rights that

every free individual has, which is a far cry from the legal system within a dictatorship. However, it is the rights that the people demand that are covered by legal institutions. Under postmodern feminism, the relatively moderate issues of domestic violence and abortion are considered to be localised interests and not the big decisions that previous political theories considered.

However, that is not to say that the legal system has not been used in order to exert limits on individual rights within a liberal democracy. An example of that is the issue of abortion within the United States, with particular reference to the presidency of George W. Bush. A woman's right to choose was repeatedly questioned under the government because of the legitimacy of the human rights of a foetus. According to Crooks and Baur, Congress approved a ban on late term abortion in 2003, which was then signed by the president but

...several federal courts declared the ban unconstitutional and the ban was not enacted... Bush's appointment of anti-abortion Supreme Court justices has given hope to far right anti-abortion forces that the Court will decide counter to all previous federal court decisions and uphold the first ever federal ban on abortion. (p. 305)

As Bush could not constitutionally enforce a ban at local and federal level, he attempted to engineer the Supreme Court so that it would be possible to do so, thus removing rights that women had in regard their own bodies and placing them in the hands of men. This does not sit well with postmodern feminist theory in relation to a liberal democracy, but the nature of the

system itself ultimately prevented those rights being removed. Furthermore, anxiety over morals within a liberal democracy caused a distinct difference of opinion, but one that the law could not preside over given the fact that the objections were largely religious and relate directly to human rights. In fact, with both sides arguing over human rights in relation to this, the legal system would not be allowed to uphold laws in breach of either side. As Tetreault points out, "the most valuable resources leading to authority inhere in the individual." (2003, p. 276)

In conclusion, the analysis here proves that it is possible to discount the theory that the legal system is nothing more than a reflection of political power within any given country, regardless of the social and political composition of that in question. The example of the Chilean women fits in well with specific elements of postmodern feminist thought because it actively proves that power to achieve small goals lies with the people, regardless of the pressure they are under from oppressive and somewhat brutal regimes. Furthermore, it implies that, whilst legal systems can be and often are defined in relation to the nature of the political system and the overt freedoms of the people, the individual cannot and thus the legal system's ability to keep attitudes and the evolution of thought in check is not always as straightforward as it seems.