

talk that our parents wished to hear in their living rooms. He takes obvious pleasure in concluding that Justice Stevens probably likes the "*Bill Cosby Show*" (sic.) but didn't laugh much at George Carlin's monologue. How else could Stevens miss Carlin's point so completely? You can't shock an audience without using words that shock them, and the choice matters when shock is the thought expressed.

To his credit, Smolla does not hide behind the usual argument that someone awful like Flynt must be protected so that George Will can feel secure on Sunday mornings. Even if law professors can be seduced by this sort of slippery slope argument,⁷ it is not clear that the public can also be fooled, and Smolla's forthright defense of Flynt makes no attempt to do so. Possibly because he speaks and writes so well, Smolla understands the necessity of pushing at the breaking point of the speech envelope. It is no small pleasure to read a scholar defending Larry Flynt without holding his nose.

If it has been too long since you last read a first amendment scholar defending offensive speech on its own merits, then *Jerry Falwell v. Larry Flynt* will be a refreshing change.

WOMEN'S RIGHTS IN FRANCE. By Dorothy McBride Stetson.¹ [Contributions in Women's Studies, number 74]. Westport, Connecticut: Greenwood Press. 1987. Pp. xvi, 239. \$35.00.

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For over one hundred and fifty years after the Revolution, French women and their male allies campaigned unsuccessfully for legal, economic, and political equality. Women in France obtained the vote only in 1944-45. In 1946 a clause giving women equal rights in law was incorporated into the Constitution of the Fourth Republic; it was reconfirmed in 1958 by the Fifth Republic. Between 1965 and 1975 most of the long-sought reforms, especially of the constrained legal status of married women, were granted by the government. These included, for married women, complete empowerment with regard to property and personal decisions and

7. Less so after Schauer, *Slippery Slopes*, 99 HARV. L. REV. 361 (1985).

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rights over children, and, for all women, the legalization of contraception and abortion. In the 1980s the French state began to sponsor programs for family planning. "Between 1965 and 1985," as Professor Dorothy McBride Stetson summarizes, "every policy affecting women, from reproduction to retirement, was rewritten."

What accounts for such a vast and sudden change? The major political parties on the Left and Right, it seems, had discovered that women were the swing vote in elections. Although the French did not then speak of a "gender gap," the presidencies of Georges Pompidou, Valéry Giscard d'Estaing, and François Mitterrand all acknowledged women's concerns as public policy issues and attempted to court their vote. By 1980, when the Socialists came to power, the major changes in women's legal position had already been accomplished.

Women's Rights in France is a comprehensive survey of these impressive changes in women's situation during the 1970s and 1980s with chapters on politics, reproduction, family, education, work, and sexuality. Professor Stetson is particularly attentive to conflicts over meaning, indicating which political factions set the terms of discussion for each issue, and in what spirit changes were realized. In Stetson's view, "[t]o have any influence feminists must gain control of the issues and change the way they are defined, replacing the conventional logic with a feminist one." But there are feminisms and feminisms, and a series of prescriptive statements by the author, laced through each chapter, reveal that her preferred brand—akin to that of egalitarian socialist-feminist Yvonne Roudy, the French Minister of Women's Rights under Mitterrand—seeks total economic and legal independence for women, through full-time paid employment and lifetime careers. Accordingly, she challenges women's conventional role as child-raisers and nurturers. "True equality for women," she affirms, "depends on both sexes sharing the responsibilities of breadwinning and childrearing."

Stetson's economic individualism sometimes leads her to misconstrue the approach that other French feminists took to these issues in the nineteenth and early twentieth centuries, particularly concerning the connections between women's work and family issues in the period of demographic crisis that preceded contemporary reforms. An earlier French feminist politics of motherhood, of "equality in difference," of women's rights *as women* and *for women* based on notions of physiological distinctiveness, sexual complementarity, and women's distinctive contributions to the national community as nurturers and culture-bearers, is largely discounted in this study. Yet this alternative approach to equality has had

enormous significance since the revolutionary era and remains important in France today, as Stetson's own survey of the 1970s suggests.³ François Mitterrand himself reflected this "relational feminist" position when he insisted that "a true socialist society will exist on the day that a woman can be recognized by us not only as equal but as *different*."⁴

But the strength of *Women's Rights in France* does not lie in its all-too-brief excursions into the complex and much misunderstood history of French feminism before 1945. It is first and foremost a comparative political inquiry with implications for policy development in today's United States. Stetson is explicit about this: "This book portrays the developments in the public fortunes of French women from the perspective of similar issues in the United States. After the great activity in law reform in both countries, who is ahead?" The answer, overall, is—not the United States. The tables have turned totally since 1960. And it is this aspect of the book that I want to dwell on here.

In France, unlike the United States, the continuing centrality of the national government means that all laws concerning relations between the sexes and issues regarding the family, reproduction, education, employment, etc. are necessarily national laws, instantly applicable to the entire territory. Candidates for the French presidency and National Assembly take positions on these issues and the winners make policy. Moreover, judicial review plays far less of a role than in the United States. Old laws are not subjected to constitutional tests and equal rights doctrines have never been understood as threats to protective legislation in situations where physiological differences between the sexes are perceived to affect social function.

The case of reproductive politics in France is especially informative for Americans today. Stetson insists that "only in France have feminists been successful in convincing government to define abortion as a women's rights issue." In effect, French feminists succeeded during the 1970s in dismantling a once rigorous *de facto* system of state-asserted control over women's bodies which dated back to the criminalization of abortion in 1810. Encouraging population growth and maintaining the male-headed family were of keen interest to the post-revolutionary French state, irrespective of religious prescription. Napoleon and his successors were all concerned about the availability of sufficient manpower to further French

3. For further elaboration of this problem, see Offen, *Defining Feminism: A Comparative Historical Approach*, 14 SIGNS: JOURNAL OF WOMEN IN CULTURE AND SOCIETY 119-57 (1988).

4. See Mitterrand's preface to Y. ROUDY, *LA FEMME EN MARGE* 8, Paris: Flammarion, (1975).

political, military, and economic interests. Following the unparalleled slaughter of World War I, the pronatalist male leaders of the Third Republic criminalized the distribution of contraceptive information (except for condoms—in the interest of “public hygiene”) and transferred abortion cases over to judges, who tended to be less lenient than juries. In such a climate feminists faced nearly insurmountable barriers to redefining reproductive issues in terms of women’s “rights.”

By the 1970s, however, the situation had greatly changed; with family planning advocates openly defying the 1920s laws, women activists raised the abortion issue once again. Suddenly, contraception didn’t look so bad to government authorities, and it became possible for politicians to argue that state-authorized contraception might be a deterrent to abortion. The change was due, in large part, to a clever and well-orchestrated campaign of a group called *Choisir* [Choice], spearheaded by the crusading attorney Gisèle Halemi, and to the election of Giscard d’Estaing as president of the republic. The first law reauthorizing limited abortion passed in 1974, and was reaffirmed in 1979. With this the entire issue was redefined as a women’s rights issue. In the 1980s the Ministry for Women’s Rights (1981-86) spearheaded a “massive campaign” for adequate contraceptive and family planning services, based on the argument for women’s choice.

Stetson is emphatic about the feminist triumph of redefinition in France: “Family planning, as a woman’s right and as a means of preventing abortion, is now fully integrated into public policy. The presence of feminists in the executive [branch] has been responsible for making contraceptive information and services a regular part of the government’s work.” She also describes the ways in which the government has enforced the new perspective, using the state administrative apparatus to ensure compliance of doctors and hospitals, and assuring funding for early abortions from the *Sécurité sociale* despite the severe economic crisis of the early 1980s. She reports that further liberalization is still demanded, but the fundamentals of the present law are not seriously in question.

French treatment of issues concerning family and work likewise provides edifying examples of widened possibilities. Unlike the United States, France initiated a full-fledged family policy in 1946, the roots of which lay in a series of earlier private sector/public measures that included paid maternity leaves, family allowances, and special subsidies to working mothers who agreed to remain at home with their young children. French family policy was initially geared to a conservative vision of sustaining poorly-paid male

breadwinners and “their” dependents in times of economic hardship, ongoing high rates of female employment, and falling birth-rates. But in the 1970s these policies underwent substantial revision in the direction of creating a more positive overall environment for family formation without the patriarchal overtones. “The state’s new role,” as Stetson explains, “would be to make it easier for women to have more children by helping them to reconcile their jobs and family responsibilities, not by making them choose between them.”

During the 1980s, however, a socialist-feminist perspective prevailed. Yvonne Roudy at the Socialist government’s Ministry of Women’s Rights demanded not merely revised conditions for family formation but sex role revision as well, rejecting in particular the exclusive identification of women with childrearing. As Stetson describes it, “Roudy traces women’s oppression in the work force to dependency in marriage and the sex role division of labor. Equality in work and family require role change.” Roudy first initiated several reforms to complete the empowerment of women in family law: joint management by spouses of community property; spousal co-signature of tax returns (she did not manage to bring about the Swedish solution of separate taxation for working spouses); and aid from the government family allowance administration to help collect child support from delinquent fathers. With these exceptions, however, Roudy and her allies insisted on disengaging family and demographic issues from women’s issues, preferring to treat the former as general social issues, while channeling the ministry’s energy and resources into equal employment opportunity policy.

Emphasis on women’s employment thus loomed large in the politics of the Ministry of Women’s Rights. Not only did Roudy insist on women’s right and need to work, but she also opposed any notions of a sexual division of labor that might inhibit their full-time employment. The Ministry prescribed against part-time work for women. The development of broader vocational training programs, promotion opportunities (especially in the civil service), and expanded childcare opportunities were priority concerns. Another strategic priority was the law of 1983 on equal opportunity. This law, “devised especially for women,” put teeth into the prior French commitment (since 1950) to the principle of equal pay for equal work, in accordance with an initiative launched in the late 1970s by the European Economic Community.

This recasting of employment issues affecting women remains controversial in France as elsewhere. Other competing perspectives remain in evidence in feminist circles, including the relational femi-

nist point of view that initially informed the system of French protective labor legislation, maternity leaves and job guarantees for women workers.⁵ As late as the 1930s, this was doubtless the dominant perspective; women from virtually all points of the political spectrum, from social Catholic to Communist, insisted that the rights of women included making motherhood a paid service of the state even as they maintained their right to achieve economic independence through paid work.⁶ Advocates of this position continue to argue that Roudy's approach only serves to obscure the difficult problems many women still face daily in their attempts to juggle careers and children.

Stetson reminds us that, even in the new climate of equal opportunity employment law, "paid maternity leave remains a central part of French labor policy, while in the United States equal employment laws have displaced maternity leave as such." Employed women in France today are entitled by law to a fourteen-week paid maternity leave. Indeed, in 1975, under Giscard, protections for pregnancy and maternity were strengthened. In 1977, however, a government-sponsored measure for additional work leave for mothers was challenged by opponents who preferred to make it a "parental" leave, available also to fathers, and this solution prevailed. Low payment scales make it less likely that men will take advantage of the new leaves. Nevertheless, one of the fundamental differences between the United States and France is that French equal opportunity employment policy is built on a foundation of sexual distinctions concerning maternity which has broad public support. The same cannot be said of the United States.

Although *Women's Rights in France* is unquestionably well informed, a few caveats are in order concerning its documentation. In addition to consulting official government publications, Stetson has interviewed many of the leading women political players. Even so, the book is less well-grounded in primary sources than would be desirable. The author has relied heavily on press clipping files, on secondary accounts in French (the most important of which appears to be Odile Dhavernas's spirited and partisan study of family law), and on the now outdated history of French feminism by Albistur and Armogathe.⁷ There are all too few references, for example,

5. See the important new study by M.L. STEWART, *WOMEN, WORK, AND THE FRENCH STATE: LABOUR PROTECTION & SOCIAL PATRIARCHY, 1879-1919* (1989).

6. See Offen, *Women and the Politics of Motherhood in France, 1920-1940*, working paper no. 87/293, European University Institute, Florence, Italy, 1987.

7. ODILE DHAVERNAS, *DROITS DES FEMMES POUVOIR DES HOMMES*, Paris: Seuil, (1978); MAÏTÉ ALBISTUR AND DANIEL ARMOGATHE, *HISTOIRE DU FÉMINISME FRANÇAIS, DU MOYEN ÂGE À NOS JOURS*, Paris: des femmes (1977).

to the *Journal Officiel*, the French version of our *Congressional Record*, or to systematic surveys of the contemporary press, including feminist publications. In addition, the author has an irritating habit of inserting quotations into the text without attributing authorship or date; only the endnotes reveal that she often cites individuals at second or even third-hand. Material from interviews is never cited as such.

Women's Rights in France is nevertheless a very useful book for anyone interested in how another major Western country has addressed and attempted to resolve gender issues in public policy. Readers interested in learning more about the topic of women's rights in France during this period can consult the extensively annotated bibliography, *Femmes: Recent Writings on French Women* compiled by Margaret Collins Weitz.⁸ This work, not listed in Stetson's bibliography, contains sections on all the topics examined there, plus many additional references in French. Those desiring further information in English about recent French feminist theoretical writing should consult two new studies, with accompanying anthologies containing translations of key texts, edited by Toril Moi and Claire Duchén.⁹

THE GROUNDING OF MODERN FEMINISM. By Nancy F. Cott.¹ New Haven, Connecticut: Yale University Press. 1987. Pp. xiii, 372. \$29.95.

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Professor Nancy Cott's history covers the years from 1910 to 1930, when the women's rights movement fought to win the vote and, having done so, quickly fell apart. Professor Cott is especially interested in a particular viewpoint, known as feminism, that achieved coherence around 1910. Historians have often applied the term to all efforts aimed at benefitting women from Mary Wollstonecraft's day to the present. As Cott points out, however, women did not begin calling themselves feminists until about the second decade of this century. "Feminists" sought to distinguish

8. M.C. WEITZ, *FEMMES: RECENT WRITINGS ON FRENCH WOMEN*.

9. TORIL MOI, *SEXUAL/TEXTUAL POLITICS* (1985); *FRENCH FEMINIST THOUGHT: A READER* (Toril Moi ed. 1987); C. DUCHEN, *FEMINISM IN FRANCE: FROM MAY '68 TO MITTERRAND* (1986); *FRENCH CONNECTIONS: VOICES FROM THE WOMEN'S MOVEMENT IN FRANCE* (Claire Duchén ed. and transl. 1987).

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