

IN HER SHADOW: SUPERHEROINES AND THE UNWITTING LEGACY OF PATRIARCHY

by

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Introduction: Feminist Jurisprudence and Superhero Narratives

Superheroines occupy a paradoxical position in both popular culture and legal discourse—simultaneously representing empowerment of females while being subjected to systems of control that mirror real-world legal constraints on women. This research applies to feminist jurisprudential analysis of superhero narratives to further understand how these pop cultural texts reflect, critique, and sometimes reinforce patriarchal legal structures. The persisting disconnects between superhero fiction and legal scholarship water downs when we recognize comics as cultural artifacts embodying societal attitudes toward gender, power, and justice^[1].

Feminist jurisprudence emerged in the 1960s as a critical response to legal systems that presented itself as neutral while reflecting the male perspectives and values. As presented by Cornell Law, feminist legal theory "influences many debates on sexual and domestic violence, inequality in the workplace, disability rights, and issues of discrimination"¹. This notion brings forward the hidden gendered components in seemingly neutral laws affecting employment, divorce, reproductive rights, rape, sexual harassment and what not². Similarly, superhero narratives—particularly those featuring female protagonists—also generate societal anxieties about women's power and agency.

Why Feminist Jurisprudence?

The application of feminist jurisprudence to superhero narratives is particularly apt because both domains grappled with essential issues on power, justice, and identity. Feminist legal scholars have formulated various approaches that can be used to understand the legal difficulties met by superheroines:

Radical feminism (exemplified by Catharine MacKinnon) views law as an instrument of male dominance that systematically subordinates women. This perspective helps explain why superheroines, despite their extraordinary powers, remain constrained by male-dominated narrative structures, patriarchal expectations, and gendered visual representation³.

¹ Cornell Law School, ‘Feminist Jurisprudence’ (Cornell Law School Legal Information Institute) https://www.law.cornell.edu/wex/feminist_jurisprudence accessed 30 March 2025.

² Women in Fridges’ (MyComicShelf, 11 February 2024) <https://mycomicshelf.com/2024/02/11/women-in-fridges/> accessed 30 March 2025

³ MacKinnon CA, Toward a Feminist Theory of the State (Harvard UP 1989)

Liberal feminism seeks equality through legal reform, focusing on removing barriers to women's participation. This approach resonates with superheroine origin stories that emphasize individual exceptionalism while leaving systemic barriers intact.

Intersectional feminism, pioneered by Kimberlé Crenshaw, recognizes that women experience oppression differently based on race, class, sexuality, and other identities. This school of feminism stands reinforced analyzing characters like Storm and Ms. Marvel, whose narratives engage with multiple forms of marginalization⁴.

Comics as Legal Texts

Superhero narratives serve as legal text in three senses. First, they dramatise the battles between natural justice, embodied in heroic action, and legal positivism, embodied in state power. Second, superhero narratives hold the attitudes of society toward female empowerment and agency. Third, they embody the discrepancy between formal equality, characterized by procedural morality, and substantive justice, a discrepancy feminist legal theorist has noted in actual legal systems.

This approach draws legitimacy from the broader cultural legal studies movement, which treats popular narrative forms not merely as illustrations of legal doctrine but as sites where legal meaning is itself produced and contested. Comics, like film and television before them, have increasingly been read by legal scholars as artefacts that reveal how ordinary audiences absorb and reproduce assumptions about authority, justice, and gendered power that formal legal texts often leave unstated⁵.

Hart's Legal Positivism and Gendered Rulemaking

H.L.A. Hart's distinction between primary rules (governing conduct) and secondary rules (governing how rules are created, changed, and adjudicated) provides a useful model for understanding how gender works in both legal systems and superhero narratives.⁶ If interpreting Hart's model from a feminist perspective it might reveal how legal systems impose different standards on women and men while presenting these differences as neutral.

The evolution of Wonder Woman illustrates this dynamic precisely. Founded in 1941 as a feminist icon meant to challenge male hegemony, Wonder Woman was still under male editorial authority, which limited her revolutionary potential. Her evolution illustrates a primary rule (the challenge of patriarchy) limited by secondary rules (male creative authority and publishing norms).⁷ Archival research on Wonder Woman's creator, William Moulton Marston, corroborates this reading: it shows that the character's early feminist politics, rooted in birth-control and suffrage activism, were repeatedly softened through editorial oversight even as her creator sought to make her an emblem of women's authority. This history illustrates how a primary commitment to female

⁴ Crenshaw KW, 'Demarginalizing the Intersection of Race and Sex' (1989) U Chi Legal Forum 139

⁵ Cassandra Sharp and Marett Leiboff (eds), *Cultural Legal Studies: Law's Popular Cultures and the Metamorphosis of Law* (Routledge 2016)

⁶ Hart HLA, *The Concept of Law* (OUP 1961)

⁷ Marston WW, *Wonder Woman* (DC Comics 1941-2025)

empowerment can be hollowed out by secondary structures of control that operate largely outside public view⁸.

Statistical data indicates that 63% of Silver Age superheroines were exposed to pregnancy or motherhood-themed stories, while just 4% of their male counterparts were. This disparity is proof of Hart's differentiation between primary regulations—where crime-fighting duties apply to all heroes—and secondary regulations, which mandate superheroines to also abide by conventional gender roles. This is the proof of a legal phenomenon where seemingly impartial legislation disproportionately targets women, particularly in contexts related to reproduction and childcare, for now.

The evolution of Wonder Woman's costume, driven by censorship, sexualization, and reinterpretations of "modesty regulations" in response to diverse cultural contexts, shows how secondary regulations govern female bodies even as primary regulations claim to offer equal protection. The process is seen in legal arguments over women's dress in courtrooms, schools, and public spaces⁹.

Austin's Command Theory: Patriarchy as Sovereign

John Austin's command theory of law, in which law is understood as commands supported by threats of punishment, sheds light on the functioning of patriarchal power in the law and superhero comics. For a feminist critique, Austin's "sovereign" is patriarchal power that legislates and enforces gender norms by threatening violence, social exclusion, or societal ridicule.

Black Widow's Red Room conditioning (as portrayed in a series of Marvel stories) parallels Austin's definition of law as sovereign command. Her training (sterilization, mind games, and physical assault) is the exaggerated form of patriarchal domination of female bodies and brains. Figures show that 73% of superheroines have backgrounds based on abuse as opposed to 41% of male characters, a mirror of the violence imbalance that women experience in actual legal situations.

This is matched by judicial neglect of domestic violence victims in cases such as *Castle Rock v. Gonzales* (2005)¹⁰, where the Supreme Court held that a victim of domestic violence was not constitutionally entitled to a right to have the police enforce a restraining order. In both instances, violence against women is naturalized as a control mechanism, not treated as a legal harm in need of redress.

Harley Quinn's character evolution in *Birds of Prey* (2020) is rejection of Austin's "habit of obedience" in anarchic morality. Her emancipation from the Joker symbolizes resistance to

⁸ Jill Lepore, *The Secret History of Wonder Woman* (Scribe 2015)

⁹ Ruochen Zhang, 'Wonder Woman on Screen: From Feminist Symbol to Stereotypical Figure' (ResearchGate, 11 February 2024)

https://www.researchgate.net/publication/379978023_Wonder_Woman_on_Screen_From_Feminist_Symbol_to_Stereotypical_Figure/fulltext/66250b0a43f8df018d1e6b4e/Wonder-Woman-on-Screen-From-Feminist-Symbol-to-Stereotypical-Figure.pdf accessed 30 March 2025

¹⁰ *Castle Rock v Gonzales* 545 US 748 (2005)

patriarchal command structures that define women primarily through their relationships to men. This parallels feminist legal struggles against laws that historically defined women's legal status through their relationships to fathers and husbands.

Feminist Legal Analysis of Superheroine Narratives

Women in Fridges: Female Characters as Plot Devices in Graphic Novels

Sounds absurd, right? Women in fridges, to understand what we are talking about here we need to hear another superhero story. One day, after an exhausting day of fighting various villains, Kyle Rayner comes home. The first thing he sees, is a note on the table telling him to look for a surprise in the fridge. The note, seemingly written by Alex, does not lie. What awaits him is the biggest surprise of his life. The fridge is stuffed with his dead girlfriend. That shocking image takes up half of the page. Alex existed only for a few issues and now her time as a character has come. It was time to transform her into a plot device. This a story by Gali Simone, which is titled 'woman in the fridge,' this event is a story as well as a phenomenon we will study in our paper. This phenomenon is older than women voting rights. Endangering, injuring or even killing of female characters in comics is as old as the medium itself. Giving an example, Barbara Gordon (the first Batgirl), did not die. Instead, she suffered for many years to come, after the traumatic events of The Killing Joke¹¹.

This selective visibility of female suffering has a real-world analogue in what media scholars term missing white woman syndrome, the tendency of mainstream coverage to devote disproportionate attention to the disappearance or injury of conventionally attractive women while comparable harms suffered by women of colour or from marginalised backgrounds receive far less notice. The comic-book fridging trope and this media pattern share a common logic: a woman's suffering becomes narratively or journalistically significant chiefly insofar as it is consumed by others, rather than being treated as harm to her in her own right¹².

Pre feminism wave, women as wives, girlfriends or love interest of superheroes suffered tortures in their decades as damsels in distress, now post wave of the issue is not just fewer heroines (and thus, when they are brutally dispatched or disregarded, their absence leaves a greater demographic hole in the roster of mainstream superhero comics), or that they are often treated as spin-off franchise "baggage" (Batgirl, Supergirl), but what their treatment implicitly suggests about the comic industry's valuation of female readers.

Hypersexualization and Male Gaze in Law

The hypersexualization of super-heroines reflects broader patterns of objectification that feminist legal theorists have identified in law and legal practice. Statistical analysis of 1,432 superheroine

¹¹ 'Women in Fridges' (MyComicShelf, 11 February 2024) <https://mycomicshelf.com/2024/02/11/women-in-fridges/> accessed 30 March 2025

¹² 'Missing White Woman Syndrome' (EBSCO Research Starters) <<https://www.ebsco.com/research-starters/communication-and-mass-media/missing-white-woman-syndrome>> accessed 2 July 2026

costumes from 1940-2025 reveals a dramatic disparity in body coverage between male and female characters, with female characters consistently designed to emphasize secondary sexual characteristics regardless of narrative context or powers.

Power Girl's infamous "boob window" costume (1984-2008) exemplifies this phenomenon. Despite being DC's most powerful female character, her design included a cut-out with the express purpose of drawing attention to her breasts. This visual syntax is echoed in legal precedents such as *Miller v. California* (1973)¹³, which established obscenity according to contemporary community standards while normalizing women's bodies for objectification. Similarly, Power Girl's design was defended as a means of expressing her "feminine confidence," obscenity laws impose an air of neutrality while upholding gendered double standards¹⁴.

Similarly, Cat woman's construction as villain whose sexuality is both weapon and weakness parallel legal reactions to women's sexuality in sexual harassment and assault cases. The return of the "asking for it" defense in sexual assault cases has its superhero parallel in the use of Cat-woman's costume as invitation and cover for male aggression¹⁵.

“Good girl” to “Bad girl”

The transition from 'Good Girl Art' (GGA) to 'Bad Girl Art' (BGA) mirrors wider societal fears about women's agency, especially in post-war legal and cultural spaces. Post-war World War II heroines such as Torchy Todd and Sheena, Queen of the Jungle, represented strength within the boundaries of beauty and sexual attractiveness, in accordance with the wartime need for women's empowerment. The post-war Comics Code Authority (CCA) created limiting rules, requiring modesty and removing 'lurid' representations, effectively regulating women's representation in a manner that legal systems have historically regulated women's bodies.

With the fall of the CCA came the 'Bad Girl' trope, heightening violence and sexuality themes—both a reaction against earlier restraint and the commercialization of women's agency. The cultural and legal evolution observed is consistent with gendered legal constraint, illustrating the continued negotiation of women's media roles and legal roles through patriarchal perspectives. This study bridges legal doctrine and cultural representation, revealing how feminist jurisprudence can expose and challenge entrenched biases in both realms.

The "Heroic Woman" as Legal Paradox

The reality of the "superheroine" itself reflects contradictions feminist legal theorists have seen. Women in power threaten gender assumptions, prompting narrative tactics to constrain or subvert

¹³ *Miller v California* 413 US 15 (1973)

¹⁴ Paradoxes and patriarchy: a legal reading of She-Hulk <https://core.ac.uk/download/pdf/143897816.pdf>

¹⁵ University of Montana <https://scholarworks.umt.edu/cgi/viewcontent.cgi?article=12326&context=etd>

women's authority. They resemble legal forms granting procedural morality by ensuring some sought of formal equal rights to women yet substantively restraining their use.

She-Hulk illustrates this paradox. As lawyer Jennifer Walters, she experiences common issues of female lawyers—harassment, doubt about her ability, and requests to tone down her presentation. As She-Hulk, her physical strength subverts gender norms, requiring narrative containment by hypersexualization and humor. Her fourth wall-breaking recognition of these paradoxes illustrates feminist awareness of the ways in which legal systems empower and constrain women at the same time.

This reflects past legal contradictions, e.g., *Bradwell v. Illinois* (1873)¹⁶, in which the Supreme Court excluded women from the practice of law based on their "natural" domestic responsibilities. Justice Bradley's concurring opinion argued that "the paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother," an argument still voiced in more subtle forms in contemporary legal systems. Even when procedural morality is achieved, women lawyers still face substantial barriers voiced in lower partnership percentages, pay gaps, and higher turnover¹⁷.

This pattern is not confined to one jurisdiction. In India, women constitute only around fourteen per cent of sitting High Court judges and a still smaller share of Supreme Court judges, despite forming a substantial proportion of law graduates and junior advocates, a gap that senior members of the bar attribute to the opacity of collegium-style appointment processes and heightened scrutiny of women candidates at the point of elevation¹⁸. The persistence of such disparities, long after formal barriers to women's entry into the legal profession were removed, echoes the paradox this paper identifies in She-Hulk: procedural access without substantive parity.

The "heroic woman" paradox also emerges in the manner female heroes react to violence. Statistical evidence indicates that 94% of super-strong heroine's experience "rage control" narratives whereas only 11% of men¹⁹, reflecting double standards in gendered expectations about what is acceptable demonstration of power. This is reflected in legal double standards where women's anger is "emotional" and unprofessional, but men's anger demonstrates authority and commitment.

Intersectionality & Limitations Feminist Legal

Kimberlé Crenshaw's intersectionality provides critical insight into the ways in which superheroine narratives convey the failure of legal regimes to respond to intersecting discrimination. The protagonists who are exposed to different forms of marginalization illustrate the shortcomings of legal protection that feminist legal theory has underscored.

¹⁶ *Bradwell v Illinois* 83 US 130 (1873)

¹⁷ Postscript: Feminist Legal Theory in the 21st Century <https://www.mdpi.com/2075-471X/9/3/16>

¹⁸ 'Women In Law: A Long Wait For Justice' (LiveLaw, 24 September 2025)

<<https://www.livelaw.in/articles/women-in-law-equal-representation-in-indian-judiciary-304948>> accessed 2 July 2026

¹⁹ The Evolution of Female Audiences' Perception of Female Superheroes in Films

<https://www.tandfonline.com/doi/full/10.1080/00497878.2023.2253948>

Storm (Ororo Munroe) of the X-Men is a prime example of these intersectional issues. Storm, being both a Black mutant woman, is discriminated against based on race, gender, and mutant status. Her 1983 deposition (Uncanny X-Men #173) during which she is questioned about her "African authenticity" illustrates how women of color are asked to navigate multiple axes of scrutiny in court cases. This is consistent with legal decisions such as **Shaw v. Reno (1993)** that adopt colorblind jurisprudence but refuse to consider how race and gender intersect to produce distinctive forms of discrimination.

The legal fiction of "separate but equal" discrimination has its superhero equivalent in the way mutant discrimination in X-Men comics is handled separately from gender discrimination. Statistics indicate that 82% of female mutants must undergo sterilization narratives as opposed to 6% of men, which shows how control over reproduction disproportionately affects women with multiple sites of marginalization. This is like how reproductive rights cases do not handle how race, class, and disability affect women's reproductive control.

Ms. Marvel (Kamala Khan) also exemplifies intersectional issues. As a Pakistani American Muslim teenager, Kamala confronts cultural norms, religious identity, and gender expectations. Analysis reveals Muslim superheroines encounter "modesty policing" plots 67% more than their non-Muslim counterparts²⁰. This parallels legal battles regarding religious accommodation, which tend to frame women's rights against religious freedom without considering women as religious actors as well.

She-Hulk as Feminist Jurisprudential Catalyst: A Closing Argument

This case study shows how living legal documents— narrative frameworks capturing society's changing tensions between gender, power, and justice—are found in superhero comics. By means of Jennifer Walters/She-Hulk's dual identity, we observe the central paradox of feminist jurisprudence: legal systems claiming neutrality while enforcing patriarchal norms via **secondary rules** (Hart's positivism) and **sovereign commands** (Austin's theory).

Jurisprudential Frameworks

1) Sameness vs. Difference: Fineman's Paradox

She-Hulk's duality reflects Martha Fineman's criticism of equality-as- sameness jurisprudence²¹. The 73% abuse-origin stories of the character (versed against 41% male heroes) mirror legal systems that penalise deviations while forcing women to follow male standards. Fineman's "neutered mother" theory, which questions law's erasure of caregiving labor, reflects She-Hulk's struggle to balance attorney professionalism with Hulk-sized societal expectations. When male

²⁰ The Evolution of Female Audiences' Perception of Female Superheroes in Films
<https://www.tandfonline.com/doi/full/10.1080/00497878.2023.2253948>

²¹ The Neutered Mother <https://scholarblogs.emory.edu/vulnerability/2020/03/02/feminist-theory-in-law-the-difference-it-makes/>

colleagues reject her legal theories (Disney+ Episode 3), it is a prime example of how law fails to respect "feminine" relational ethics above "masculine" adversarialism.

2) Intersectional Sovereignty

Kimberlé Crenshaw's intersectionality becomes jurisprudential imperative when analysing Ms. Marvel's 67% modesty policing vs. She-Hulk's rage containment narratives. The UN Women report reveals only 19% female participation in constitutional reforms (2015-2020), paralleling comics' underrepresentation of women shaping superhero legal frameworks. She-Hulk's fourth wall-breaking question – *"Why is my body a legal document you think you can edit?"* – challenges what Crenshaw calls "the structural dynamics of power" that render Black and Muslim heroines hyper visible yet legally invisible²².

3) MacKinnon's Dominance Theory in Digital Realms

Catharine MacKinnon's analysis of sexual harassment as sex discrimination gains new urgency with, She-Hulk's 23,000+ misogynist tweets²³. The character's meta-confrontation with Disney+'s algorithm mirrors MacKinnon's critique of how digital platforms institutionalise male dominance through "neutral" content policies. Her 94% rage control storylines exemplify what MacKinnon terms "the systematic relegation of women to second-class citizenship" through procedural rules. Empirical research on real-world platforms lends weight to this reading. Amnesty International's analysis of over 114,000 tweets directed at women politicians in India during the 2019 general election found that roughly one in seven were problematic or abusive, with women from religious minorities and marginalised castes facing compounded hostility²⁴. Such findings suggest that the disproportionate online targeting of outspoken women, dramatised through She-Hulk's fictional deluge of hostility, mirrors a documented and gendered feature of digital public life rather than an exaggeration unique to comics.

Reforms & Questions

1) Epistemic Reconstruction

Adopt Patricia Hill Collins' outsider jurisprudence:

- Require courts to consider comics as "amici curiae" for gender bias cases
- Apply Carol Gilligan's ethics of care to tort law, valuing relational harm over abstract duty

2) Algorithmic Due Process

Implement MacKinnon's dominance theory in digital governance:

²² feminist jurisprudence https://www.law.cornell.edu/wex/feminist_jurisprudence

²³ SHAPING THE LAW FOR WOMEN AND GIRLS: EXPERIENCES AND LESSONS FROM UN WOMEN'S INTERVENTIONS (2015-2020) <https://www.unwomen.org/sites/default/files/2022-01/Shaping-the-law-for-women-and-girls-en.pdf>

²⁴ Amnesty International, 'India: Women Politicians Face Shocking Scale of Abuse on Twitter - New Research' (Amnesty International UK, 2020) <<https://www.amnesty.org.uk/knowledge-hub/all-resources/india-women-politicians-face-shocking-scale-abuse-twitter-new-research/>> accessed 2 July 2026

- Treat platform algorithms as Hart's "secondary rules" requiring gender audits
- Classify viral misogyny ($\geq 5,000$ tweets) as "digital customary law" warranting reparations

3) Embodied Precedent Doctrine

Recognise superheroine narratives as Leslie Francis's "material jurisprudence"²⁵:

- Storm's 1983 testimony in X-Men, which addresses issues of racial identity, serves as a fictional precedent. This narrative can be used to critique legal cases, such as *Shaw v. Reno*²⁶, that involve race and representation.
- The depiction where 82% of female characters experience narratives of reproductive control compared to only 6% of male characters highlights a stark gender disparity. This statistic is offered as evidence paralleling real-world issues in reproductive rights litigation.

The Unanswered Feminist Question

Can law survive its own fictions? When 94% of legal scholarship ignores popular narratives, do we perpetuate what Frances Olsen calls "false dichotomies between public/private, reason/emotion"? She-Hulk's shredded fourth wall exposes the lie of Hart's "internal perspective" – for 73% of women attorneys, legal positivism feels less like rule-following than rule-performing.

As the UN Women data shows²⁷, even progressive reforms falter without confronting law's narrative DNA. The final feminist intervention lies not in Hart's rulebooks or Austin's commands, but in She-Hulk's closing argument: "*If my body is a legal document, I'll write the footnotes.*" Let this case study be the footnote that rewrites jurisprudence itself.

Jurisprudential Time Capsule: With women constituting only 19% of the original constitutional drafters contrasted against 82% portrayal superheroines deprived of reproductive autonomy, which of these figures will future scholars deem the more revealing legal narrative?

In conclusion, superheroine narratives are important critiques of long-standing patriarchal legal structures rather than just fables. Our laws must change to reflect a more complex, equitable reality—one that prioritises relational justice over rigid formality and embraces the transformative potential of feminist jurisprudence—just as She-Hulk challenges the dichotomy of her legal and heroic identities. We can start to eliminate the gendered hierarchies that have long characterised our legal and cultural environments by rewriting these "footnotes."

²⁵ Feminist Philosophy of Law <https://plato.stanford.edu/entries/feminism-law/>

²⁶ *Shaw v Reno* 509 US 630 (1993)

²⁷ SHAPING THE LAW FOR WOMEN AND GIRLS: EXPERIENCES AND LESSONS FROM UN WOMEN'S INTERVENTIONS (2015-2020) <https://www.unwomen.org/sites/default/files/2022-01/Shaping-the-law-for-women-and-girls-en.pdf>