

PHIL420  
Philosophy of Law  
Distance Delivery  
Lectures Ten & Eleven

## Legal Feminism and Commodification

## Critical Legal Studies

- Liberal society
- The rule of law
  - Neutral
  - Objective
- “Crits” skepticism
  - Share the basic skepticism from realism
  - Realism does not go far enough
  - All science is political
  - All law is political
- Rule of law is impossible

## Alternative First Analytical Paper

Your paper should be between 2000 and 3000 words.

Different state within the United States, and different nations around the world, have very different laws concerning prostitution. How would a legal positivist approach the study and explanation of this phenomenon? How would the natural lawyer? How would the feminist legal scholar. Which approach would be most profitable? Why?

## Political

- **Political**
  - Of, relating to, or dealing with the structure or affairs of government, politics, or the state.
- **Political Science**
  - Etymology
  - Allocation of resources
  - Study of power
- **DPD (Difference, Power, Discrimination)**
- **All law is political**

## Feminist Law

- Sex
- Gender
- Feminism
- Law and power
- Power relationships and gender
- Law and gender

## Commodification

- Making “things” into property and can be exchanged in markets
- Marx
- Things that should not be for sale
  - Persons (slavery)
  - Babies
  - Body parts
  - Sperm and eggs?
  - Sex
- Rethinking commodification

## Margaret Jane Radin

- Freedom in a liberal society
- Paternalism
  - Protection of the powerless
  - Protection from ourselves
  - Protection of personhood and interpersonal relationships
- Market inalienability
- Incomplete commodification

## PPE Capstone Course

- Association for Law, Culture, and Humanites
- The panel on commodification
- Ann Lucas
- *Rethinking Commodification*
- Our course

## Radin's argument on prostitution

- Sex as a "contested commodity"
- Concern for women
  - Their welfare
  - Choices they must make
  - Incomplete commodification of prostitution
- Sexuality and personhood
  - Selling an essential part of yourself
- Sexuality and the wider culture
  - The domino theory

## Lucas' Rebutal

- Questions the commodification of sex and the loss of personhood connection
- Questions the domino theory
  - Already thoroughly commodified
  - Prostitute agency
  - Benefits of commodification
- Law reform
  - Problems with market inalienability
  - Problems with incomplete commodification
  - Complete commodification of prostitution