

Queer Theory and Poststructuralist Feminism

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Writing a queer/poststructural feminist judgment is a contradiction in terms. In our opinion, queer theory and poststructural feminism are extremely useful theories in deconstructing and critiquing law and legal systems. They also provide very useful analytic ways to understand how 'meaning' is created and how power, in its multiple forms, circulates around and acts upon people to shape individual and community identity. 'As law is one of the discourses of homophobic power, queer is in eternal opposition to law's myriad expression of that power.'¹ Given this opposition, it is not really possible to write a 'queer' or 'poststructural' judgment. It would either not be 'queer', or it would not be a 'judgment'. It is, however, possible to write a judgment informed by queer theory and poststructural feminism.

It is difficult to concisely summarise poststructural feminism and queer theory. In a theoretical sense, poststructural feminism was a reaction within feminist theory to the tendency of feminism to reify the category 'woman' and to speak meta-narratives claiming to be common to the experience of *all women*. It was partly built on post-structural semiotic theory within linguistics. Queer theory might be said to have developed in the early 1990s with multiple origins: post-structural feminist theory, cultural criticism and postmodern politics within queer communities. Although he pre-dates the 'canon' and the development of queer theory, the French philosopher Michel Foucault is central. The psychoanalyst Jacques Lacan is also important. Their shared focus on the constructed nature of *identity, truth, and power* are constant themes in queer theory. The 'canon' might be said to begin with the important work of Eve Kovesky-Sedgwick and Judith Butler.

¹ Wayne Morgan, 'Queer Law: Identity, Culture, Diversity, Law' (1995) 5 *Australian Gay and Lesbian Law Journal* 1, 36.

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