

# ROBIN'S BRACKETS

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I want to share some thoughts on Robin's brackets.

The specific brackets I have in mind appear in Robin's still-singular 1987 essay in the *Wisconsin Women's Law Journal: The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*.<sup>1</sup>

*Hedonic Lives*, as many of you know, is a hugely ambitious work. Its aim was to reorient the field of feminist legal theory by decentering it from its then-rotations around the dual axes of liberal and radical feminisms in order to squarely situate it on phenomenological, specifically hedonic, grounds.<sup>2</sup>

The text moves in classic Westian fashion. It exposes the conceptual elements of the theories it engages as well as their deep logics, illuminating the theories as they never quite appeared before. Concretely, *Hedonic Lives* maintains that liberal and radical feminist legal projects are overly responsive to their nonfeminist, legal theory origins, hence, correspondingly, insufficiently calibrated to *directly* apprehending and furthering happiness in women's lives.<sup>3</sup>

Despite its ambitious scale, *Hedonic Lives* is movingly intimate. Exploring women's suffering and joy in standard academic ways, it points to third-party authoritative sources to structure and steel its argument.<sup>4</sup> Like a number of the sources it engages, however, *Hedonic Lives* fundamentally claims the authority of knowledge that emerges directly from women's socially situated mind-body conditions.<sup>5</sup> Inspired by consciousness raising, including Lynn Henderson's legal practice of it, *Hedonic Lives* bravely places Robin's own mind-body life on the analytic line as it unfolds its phenomenological case.<sup>6</sup>

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1. Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WIS. WOMEN'S L.J. 81 (1987) [hereinafter, West, *Women's Hedonic Lives*].

2. See *id.* at 83–89 (discussing liberal and radical feminisms and pointing out their shortcomings compared to a feminism that is “hard at work providing rich descriptions of women's subjective hedonic lives, particularly the pain in those lives, and more particularly the pain in our lives which is different.”).

3. See *id.* at 86–89 (tracking the point).

4. Many are classics in feminist and legal theory, including at their intersections. See, e.g., *id.* at 82–83 n.2, 83–84 n.3, n.4, 84–84 n.5, 87 n.6, 88 nn.95–96.

5. *Id.* at 97–106, 118–33 (quoting first-person accounts by women of experiences with abusive domestic relationships, promiscuous heterosexuality, rape, and erotic submission).

6. On Henderson's model, see *id.* at 81 n.\* (dedicating the article to Henderson and saying why), and 97 & n.21 (citing as exemplary Henderson, *The Wrong of Victims' Rights*, 37 STAN. L. REV. 953 (1985)). On Robin's own life, see also *id.* at 96, 98–99, 101, 106–107 (describing her experiences of women privately sharing details about dangerous men, of being in a violent intimate relationship, of her own adolescent and post-adolescent sexuality, and of street harassment).

*Hedonic Lives*'s intimate sensibilities get even more intimate in a series of carefully placed bracketed refrains. In these formal textual asides, Robin's work goes meta, holding up a mirror to herself in the process of writing. The resulting portrait of Robin thinking ruptures the fourth wall of legal scholarship, backlighting how shallow the usual academic "I" is, covering—rather than unveiling—the embodied thinker thinking behind the thinking that the "I" is doing.<sup>7</sup> The effect of the maneuver is to supply the solitary reader a glimpse of *herself* in that same mirror, which in turn gives her the option of identifying with Robin. Thus does Robin's text imbue the act of reading with the experience and sensation of writing the text that's being read. At the same time, alchemically, this cross-identification process provides Robin, as author, with an opportunity to escape from the work, or at least temporarily to gain relief from the pains and pleasures of creating it. Thirty years on, the intentional magic persists: Defying standard operations of time and space, reading *Hedonic Lives* today still offers up the experience of seeing and identifying with Robin in her mirror, just as she was back then. It's hard not to think of all the faces this mirror has reflected reader-by-reader over years.

Procedurally, the brackets contain running commentaries on both the main text and its author, many in question form. How will the work be received?<sup>8</sup> Did it share too much?<sup>9</sup> Will it embarrass her, trigger shame, set her up for violence and harm, thwart her capacity to trust herself and her judgment about just how far to push an argument?<sup>10</sup> In another setting, or less able hands, these superegoistic worries might have sounded other than they do here. Fully controlled, they're a form of truthful, if painful, beauty, seamlessly reminding the reader of her own power over the text and the figure behind it, hence all the vulnerabilities and uncertainties legal academic writers can feel writing in an academy that isn't always safe. In the midst of all that, the questions, which Robin sometimes answers herself, function cathartically, providing liberation from attachments to worldly conditions that could have been so alienating they fully seized the production of the text. Thus are *Hedonic Lives*'s brackets the well-oiled engine for

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7. Robin offers some reflections and additional examples in Robin West, *Love, Rage and Legal Theory*, 1 YALE J.L. & FEMINISM 101, 107 (1989) (citing, *inter alia*, Susan Estrich, *Rape*, 95 YALE L.J. 1087 (1986), and Henderson, *supra* note 6) [hereinafter, West, *Love, Rage and Legal Theory*]. Among the vital counter-examples are the exceptional works found in critical legal theory, particularly critical race theory's first-person narrative project. Of the major works in this tradition that I regularly teach, Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401 (1987), and Margaret Montoya, *Máscaras, Trenzas, y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 17 HARV. WOMEN'S L. J. 185 (1994), are still changing lives.

8. West, *Women's Hedonic Lives*, *supra* note 1, at 99 ("Will people think I must have been crazy? . . . Will it undermine my credibility? . . . Will I become an untouchable? Was my situation too exceptional? (No, my situation was not exceptional. It was terrifying, and is common.) Does it make my perceptions idiosyncratic? (They're not.) Does my experience of it make my argument *about* it invalid? (That's the gamble.)").

9. *Id.* ("Should I talk about this?"). For other examples, see *id.* at 101, 107.

10. *Id.* ("Is it shameful? Could he still hurt me? . . . Can I answer questions about it? Can I trust my voice?").

the work, indispensable in its machinations toward a phenomenology of a full—certainly, fuller—self-presence.<sup>11</sup> As argument, the brackets propose that accepting ourselves as mind-bodies in the world—even amidst alienating conditions and experiences of vulnerability, uncertainty, and fear—is a way to gather the energy needed for the practice of telling our truths and so reclaiming our right to be wholly present just where we are and as we are: right here, right now, like this. As exercises of authority, the brackets are valuable in themselves as well as for their transformative possibilities: making full, nonalienated selves out of conditions of alienation, and then, in the next step, though maybe the two are indistinguishable, socially joining these selves together.

*Hedonic Lives*'s success, then, is partly at the level of its conceptual sophistication and partly at the level of what it shows about what can be achieved by feminist method that keeps it super-real, and through that realness finds a way to the recognition and the negation of alienated selfhood. The work is at once an argument for something and the thing itself: It performs what it wants to see more of. The way it does this is its own hedonic wonder. To encounter *Hedonic Lives*, like so much of the rest of Robin's work, is to feel the exhilaration of watching someone who wasn't meant to escape from sex inequality bust out of it anyway: a mind-body-life, in possession of itself, thinking free. This freedom is the spirit of the work's beckoning, and it keeps calling people back.

Understood this way, *Hedonic Lives* was never only about finding liberal or radical feminist converts to its cause. Its significance was and remains as a herald of a legal feminist phenomenology that values and very directly pursues women's happiness in life as a measure of feminist method, interest, politics, and theory. The work's unspoken brilliance is how in arguing for happiness out there in the world and down the road, it produces it for its readers right here.

This view of *Hedonic Lives* opens a wider lens on Robin's larger body of work: This is thinking that practices caring for the whole self, *cura personalis*, in the plural, in their collectivity.<sup>12</sup> Methodologically, it is attentive to minds and

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11. There are affinities here, but also critiques, of some of the work on nonalienation in the critical legal theory canon, on which, see, for example, Peter Gabel, *The Phenomenology of Rights-Consciousness and the Pact of the Withdrawn Selves*, 62 TEX. L. REV. 1563 (1984), and Peter Gabel & Duncan Kennedy, *Roll Over Beethoven*, 36 STAN. L. REV. 1, 4 & 54 n.2 (1984) (discussing "intersubjective zap," a "sudden, intuitive moment of connectedness"), which Robin saw and criticized as something of a boy's problem. West, *Love, Rage and Legal Theory*, *supra* note 7, at 104 (1989) ("[T]he critical legal scholar seeks to overcome the sense of alienation from others to which his separateness commits him through mystical transcendence (the celebrated 'intersubjective zap' of *Roll Over Beethoven Fame*). . . . But they [the liberal, economic, and critical scholars] are *all*, distinctively, committed to a vision of the self and hence of themselves as necessarily separate from the other. That shared commitment alone puts *all* of their work at odds with our developing feminist legal scholarship.").

12. ROBERT EMMETT CURRAN, S.J., *THE BICENTENNIAL HISTORY OF GEORGETOWN UNIVERSITY: FROM ACADEMY TO UNIVERSITY, 1789–1889* 173 (1993) (noting "the tradition of *cura personalis* within Jesuit education"); *id.* at 190 (describing it thus: "The Jesuit educational philosophy adapted this so as to engage the whole person in the act of learning, to make the student his own teacher as a self-initiating learner who brings his own imagination to bear creatively on 'the matter' under consideration, to make

bodies in the midst of life's flow. Its point isn't finally regard for the rational, autonomous self, or as a subject of power, but a self that is a complex transparency onto the human condition reflected inside us all.<sup>13</sup> Robin's work, with Walt Whitman, teaches that we are *all* large, and *all* contain multitudes.<sup>14</sup> If Robin's programmatic view is that law can and must support practices of self-recognition and self-care, her work demonstrates that important advances on these fronts in women's hedonic lives are achievable without the state's support.<sup>15</sup> To fully ground ourselves in our minds and bodies may give rise to ideas about how to change, or more actively author, ourselves, escaping self-alienation—or not. If changes are in the offing, they may have their own cascading possibilities for making and remaking community, including law and legal institutions, at ever-widening levels. This dream of change and its material possibilities, these hopes, are active and vital elements of Robin's scholarly work. Like the brackets in *Hedonic Lives*, this work gives us the chance to be with her, with ourselves, and with and for others, openly in life's struggles and for greater access to life's delights. This personal/political undertaking isn't, of course, only work. It is and speaks to an art of living that, with Viola Davis, "reminds us of the impact of what it means to be an artist, which is to feel less alone."<sup>16</sup>

So. Here we are, all of us together with you, Robin, to witness your achievements, proudly, in this profession we call home. With thanks to the Women in Legal Education section for honoring you with its Ruth Bader Ginsburg Award, I say thanks to you, Robin, for your great gift of teaching about what a beautiful, meaningful, affirming, community-building life of the mind-body, practiced in a serious way through intellectually rich and personally brave scholarship, can be.<sup>17</sup>

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him an active player in the integrated process, to 'place' himself there, whether translating Ovid or reflecting on the Fall of Rome"). See also Barton T. Geger, *Cura Personalis: Some Ignatian Inspirations*, 3 JESUIT HIGHER EDUC. 6, 6 (2014) (describing one typical definition of *cura personalis* in Jesuit education as "holistic education that attends to the spiritual and moral dimensions of a person in addition to . . . intellectual development.").

13. The alternatives describe the liberal feminist and radical feminist projects, respectively. West, *Women's Hedonic Lives*, *supra* note 1, at 83–84, 90–93, 111–16.

14. WALT WHITMAN, LEAVES OF GRASS 105 (Simon & Schuster Paperbacks 2010) ("Do I contradict myself? / Very well then I contradict myself, / (I am large, I contain multitudes.)").

15. Another, important example of self-help not mediated by state action is Robin West, *Deconstructing the CLS-Fem Split*, 2 WIS. WOMEN'S L.J. 85 (1986).

16. @goldenglobes, TWITTER (Jan. 8, 2017, 10:11 PM), <https://twitter.com/goldenglobes/status/818294006480150530>.

17. For related thoughts on Robin's community building, see Deborah Epstein, *Remarks on Robin West*, 21 GEO. J. GENDER & L. 543 (2020), and Robin West, *Feminism, Law, and Women's Hedonic Lives*, 21 GEO. J. GENDER & L. 551 (2020).