

Paula Monopoli: I am delighted to be here today to join you all for this important symposium and.

Paula Monopoli: On a personal note.

Paula Monopoli: I graduated from UVA law school in 1983 which was 13 years after the pioneering attorney Elaine Jones who you'll hear from later today, a third of our class was women.

Paula Monopoli: But I went through three years without having any female faculty in a class, except for one adjunct for women in the law, so it is so gratifying to see my Alma mater in.

Paula Monopoli: With so many female faculty led by a woman Dean, and I celebrate this as a symbol of the fact that we are making tangible progress in terms of gender equality.

Paula Monopoli: But history moves one step forward and two steps back as we've recently seen and before I introduce our panelists I'd like to make a couple of framing comments for our conversation today.

Paula Monopoli: So first our work this morning is to unpack the significance of intersectionality in thinking about gender and racial equality.

Paula Monopoli: In this theory so aptly named by the brilliant scholar Professor Kim Crenshaw who was recently honored by the Double Ls Women and Legal Education section, with a lifetime achievement Award for her work.

Paula Monopoli: represents the powerful insight that multiple identities converge in ways that amplify the subordination women experience.

Paula Monopoli: And that, if we are to achieve racial and gender equity as a society, we need to consider how multiple marginalization and socio historic conditions on the ground.

Paula Monopoli: inform our anti subordination theory, in practice, and second, because this panel is titled lessons from the past.

Paula Monopoli: I'd also like to offer some historical context to frame our discussion in doing research for my book on the 19th amendment constitutional orphan I was struck by the fact.

Paula Monopoli: That white stuff ridges tactically and intentionally separated race and gender.

Paula Monopoli: So when blacks offer, just like Mary Church Terrell ask for support in calling for Congressional investigation when black women were turned away at the polls after ratification of the woman suffrage amendment.

Paula Monopoli: White suffer, just like Alice Paul made a tactical move to avoid the question by saying that Terrell's organization was concerned with race.

Paula Monopoli: And Paul's was concerned with sex and so hold us use that to refuse to join with black software, just to give teeth to the 19th amendment.

Paula Monopoli: Now, in part, that was racism, but it was also because Paul continue to need white southern Congressional votes for her new amendment equal rights amendment which we're going to be talking about today.

Paula Monopoli: And this mist constitutional moment was not only a moral failure, but it was a strategic one black suffrage is predicted.

Paula Monopoli: That it would lead to the promise of the 19th remaining unfulfilled and they were right and I'd argue that this decoupling of race and sex helps explain in part, how courts embraced a very thin conception of the.

Paula Monopoli: And how we still don't have an equal rights amendment under 100 years later.

Paula Monopoli: So today's panelists are going to focus on the opposite of that tactical separation they'll discuss the movement to acknowledge the unique harms that come from discrimination based on multiple identities.

Paula Monopoli: And 30 years after Alice Paul separated race and sex to avoid working with blocks offer just holly Murray, did the opposite and she brought together race and sex in her theory of change pro.

Paula Monopoli: And we see Florence Kennedy using intersectionality and her powerful advocacy as well in our panelists are will be addressing that history in their remarks, so let me introduce them.

Paula Monopoli: First, is Serena Mary who is professor of law in history at the University of Pennsylvania carry law school.

Paula Monopoli: And the author of reasoning from race feminism law in the civil rights movement Professor Mary will be presenting the successes limitations and legacies of intersection of feminist feminist advocacy in the 1960s and 70s.

Paula Monopoli: Then we will hear from trust cup of pika a second year law student who will be presenting shaping our freedom dreams reclaiming intersectionality through black feminist legal theory.

Paula Monopoli: Next, will have Haley Hon who's a third year law student will be presenting termites in the Masters house abortion rap in Florence Kennedy's contributions to racial and gender justice.

Paula Monopoli: And finally we'll have Julie suck a professor of sociology and political science at the graduate Center of the city University of New York and a senior research scholar at Yale law school.

Paula Monopoli: Professor slick is the author of we, the women the unstoppable mothers of the equal rights amendment and she'll be presenting the dangerous imbalance only murray's equal rights amendment and the path to equal power.

Paula Monopoli: i'm sharing moderating duties with Professor Naomi Kahn who's the justice Anthony Kennedy distinguished professor of law and Nancy buck research Professor.

Paula Monopoli: In democracy and equity and the director of the family law Center here at uva and i'd like to thank her for inviting me to co moderate this panel.

Paula Monopoli: And again each panelist will speak for 10 minutes and then we'll take questions from the audience, so please put your questions in the Q amp a box and they only and I will read them to the panelists with that Professor mayor.

Serena Mayeri: Thank you so much for having me it's an honor to be part of this distinguished panel and conference i'm going to try to share my screen now.

Serena Mayeri: Okay.

Serena Mayeri: The story of intersection of feminist legal advocacy in the 1960s begins with polyamory who may be the most important feminist legal strategist of the 20th century.

Serena Mayeri: I know, Professor monopoly already mentioned her Professor soup will be focusing on Murray so i'll be brief in this part of my talk.

Serena Mayeri: As a member of the presidential Commission on the Status of Women in 1962 Murray proposed litigating women's rights cases under the equal protection clause of the 14th amendment.

Serena Mayeri: In a strategy that she self consciously modeled on the naacp legal Defense fund successful campaign against racial segregation.

Serena Mayeri: This 14th amendment strategy appealed to Murray, for two reasons, one of which was explicitly intersection all.

Serena Mayeri: Murray, hope that litigating under the 14th amendment, based on an analogy between race and sex discrimination could bridge divides among feminists over the era and over racial justice.

Serena Mayeri: Attacking laws that invidious Lee discriminated against women, extending protective Labor laws to men as well as women.

Serena Mayeri: and forging, most importantly, to Murray, a coalition between civil rights and women's rights movements that had often as Professor monopoly just alluded to a been at odds.

Serena Mayeri: Two years later Murray successfully argued for the inclusion of a sex discrimination prohibition in Title seven of the Civil Rights Act of 1964.

Serena Mayeri: The second amendment had been cast as a provision that would protect black workers at white women's expense.

Serena Mayeri: Murray reframed it as a measure that was crucial to achieve racial justice, because without it, half of all black workers black women would be left unprotected and black and white women would suffer what she called a common fate of discrimination.

Serena Mayeri: Meanwhile Murray, and others at the aclu including Dorothy Kenyan and a very young Eleanor Holmes Norton fought for black women like Lily Willis and Mississippi voting rights activist prosecuted for perjury when she helped her elderly non literate mother registered to vote in 1965.

Serena Mayeri: The laws of three southern states at that time still barred all women from serving on juries as a matter of law and de facto our black men from serving on juries as well Murray helped to win a major victory in 1966 when a Federal Court ruled those exclusions unconstitutional violations.

Serena Mayeri: Of the equal protection clause.

Serena Mayeri: Now, as you may know, Ruth Bader Ginsburg credited polyamory with laying the groundwork for this 14th amendment litigation strategy based on an analogy between race and sex that Ginsburg later brought to the Supreme Court.

Serena Mayeri: Maria and other black feminists also pioneered another element of Ginsburg strategy, a vision of egalitarian marriage.

Serena Mayeri: Ginsburg efforts had roots in the advocacy of black feminist such as Eleanor Holmes Norton polyamory and Eileen Hernandez.

Serena Mayeri: Who advanced visions of egalitarian relationships pioneered by black couples that could provide models for white women who aspired to more equal partnerships with men.

Serena Mayeri: As we know, Ginsburg used litigation under the Fifth and 14th amendments to challenge the state's ability to enforce a male breadwinner female homemaker model through laws that penalized more gender egalitarian divisions of family labor.

Serena Mayeri: So so far i've been discussing the ways in which intersection of feminist advocacy critically shaped feminist constitutional strategy.

Serena Mayeri: But there was another side to intersection of feminist legal advocacy that I like to focus on now, when that is less often recognized and was ultimately less successful.

Serena Mayeri: From the late 1960s, to the early 1980s, poor and working class African American women attempted to redefine sexual and economic citizenship to include single mothers who called upon the state for help and caring for and supporting their children.

Serena Mayeri: welfare rights activists, we know, tried and failed in the late 60s and early 70s, to establish a constitutional right to subsistence.

Serena Mayeri: But there's importantly was also a quest for sexual freedom for reproductive justice and for sexy quality and this fight also played out in constitutional terms.

Serena Mayeri: Take Sylvester Smith, the Alabama Alabama woman who worked at full time as a cook to support or her children and grandchild and lost her public assistance benefits because of her intimate relationship with a married father.

Serena Mayeri: In 1968 miss Smith, not only fought successfully for a statutory right not to be subjected to so called substitute father and suitable home regulations.

Serena Mayeri: She also unsuccessfully asserted her constitutional right to engage in non marital sex, so long as she was that she put it young enough to enjoy the company of men.

Serena Mayeri: recipients of public assistance in states such as Texas and Alabama brought lawsuits attacking what 10 REP called the dual system of family law.

Serena Mayeri: alleging that states unconstitutionally discriminated against poor single mothers of color and their children when they funded mostly white recipients of old age and disability insurance much more generously than FTC beneficiaries.

Serena Mayeri: The plaintiffs in a case called roe vs Norton protested the invasion of privacy sex and poverty based discrimination that they suffered.

Serena Mayeri: When Connecticut ostensibly sticking to recoup public assistance expenditures forced them to disclose the identity of their children's fathers or risk fines and imprisonment.

Serena Mayeri: lowest Fernandez a Philadelphia city worker and Community activists who litigated and lobbied for the repeal of laws that discriminated against, so called illegitimate children.

Serena Mayeri: declared that she had freely chosen to become a single mother and was proud not ashamed of her decision to bear children outside of marriage.

Serena Mayeri: katie Mae Andrews and her compatriots, with the support of civil rights icons Kenneth Clark and Fannie Lou hamer.

Serena Mayeri: argue that single mothers who sought employment as public school teachers in rural Mississippi or heroic role models for their students, while white officials declared them a menace to students morality and to white parents morale.

Serena Mayeri: carlene MAC and other unmarried mothers challenge the exclusion of single parents from the army and air force.

Serena Mayeri: arguing that there, otherwise exemplary qualification should entitle them to serve their country and receive the considerable social and economic benefits associated with military service.

Serena Mayeri: These women advanced very different visions of sexual and economic citizenship and a family political economy from those that prevail in the constitutional change litigation of the 1970s, some claimed a right to call on.

Serena Mayeri: The state for support, even as their sexual and reproductive lives departed from normative family structure.

Serena Mayeri: Others defended their prerogative to flourish as single parents, without penalty from the state or from employers.

Serena Mayeri: They insisted that reproductive freedom was meaningless if it did not include the right to have and raise children and to do so outside of marriage.

Serena Mayeri: They also promoted extended family care arrangements including grandparent care as a viable an admirable solution to the dilemma is facing working women generally.

Serena Mayeri: The single mothers who saw entrance into the armed forces, for example, emphasize that their parents their children's grandparents couldn't would care for their children when their military responsibilities took them away from home.

Serena Mayeri: Like the proponents of egalitarian marriage they suggested that families of color which their with their rich traditions of extended family and kinship care, as well as women's work inside and outside the home might have something to teach white middle class Americans.

Serena Mayeri: These women achieved some success, to be sure.

Serena Mayeri: that the women who tried to redefine responsible citizenship to include single mothers succeeded mostly where they could prove their mettle as independent self sufficient workers who balanced bread winning and caregiving without any help from the State.

Serena Mayeri: I don't want to go on too long, so i'll just mentioned one other area in which black feminist lead the way.

Serena Mayeri: One example that I wanted to mention is the development of sexual harassment law yielding victories that still pay dividends today, despite the law shortcomings.

Serena Mayeri: I think it's fair to say that the legacy of this interface intersection of feminist legal advocacy.

Serena Mayeri: is now indelibly part of our national consciousness as so much of the unfinished business, as well as the success of sexy quality and racial and economic justice follows in the footsteps of what came before.

Thanks.

Paula Monopoli: Great Thank you Professor Mary and next we have trust couple pika and she'll be describing her paper shaping our freedom dreams trust.

Trust Kupupika: Thank you and also thank you, Professor Mary that was very informative so i'm going to be talking about my paper and just more so generally describing the trajectory that I take.

Trust Kupupika: So my paper mostly focuses on the Agency and importance of black feminists and how our intellectual offerings contribute to the feminist movement.

Trust Kupupika: I begin the paper by first explaining the history of black feminists legal theory do comparisons to critical race theory critical legal studies and feminist legal theory.

Trust Kupupika: Understanding black feminist legal theory helps contextualize modern feminist movements such as the me to movement to say her name campaign which built itself off of the black lives matter movement.

Trust Kupupika: And the recent Boston case Nevertheless, there are certain deviations from the tenant of black feminist thought in modern feminist movements which I suspected might be linked to the Miss application of black feminist theory.

Trust Kupupika: In order to address these deviations my paper underscores the importance of respecting the work of black feminists in order to build inclusive and effective legal progress.

Trust Kupupika: So although my paper predominantly focuses on Black feminist theory which is most recognizable through Kimberly Crenshaw's theory of intersectionality.

Trust Kupupika: I begin my paper by highlighting the black female characters in Toni Morrison's novel *Beloved*, which was a book that I read back and undergrad.

Trust Kupupika: And I absolutely enjoy, because it really highlighted to me something central to the theme of my paper, which is about black women struggling together collectively.

Trust Kupupika: So black women have long pushed the limits of feminist thought by noting the dissimilar experiences of womanhood when compacted with race, class, sexuality, and so forth.

Trust Kupupika: Despite this necessary insight, black feminists have often struggled to have their work properly respected and engaged.

Trust Kupupika: And so that formed a lot of the foundational structure of even like what inspired me to write the paper because I felt like the term and the theory of intersectionality oftentimes was either overused or misused.

Trust Kupupika: So, within Toni Morrison's *Beloved*, the women struggle together as black women who had been mistreated and abandoned by society in order to achieve the triumphant and hopeful ending.

Trust Kupupika: Of the novel *My Hope*, my hope is that my paper assists the collective struggle of black feminists within legal studies and outside of it as we deal with third period and re-share the isolation, the misappropriation, and sometimes the trauma.

Trust Kupupika: So, specifically, I chose to expound upon Crenshaw's theory of intersectionality.

Trust Kupupika: Because intersectionality as a term is widespread, quite aggressively, misuses many black feminists have even considered the term devoid of useful meaning, as it has been an appropriate use as a catch-all term for things that are complicated.

Trust Kupupika: And so Crenshaw herself has repeatedly expressed her frustration with the improper use of the term, mostly because it takes a purposefully vague and ineffective position where decisive clarity is required.

Trust Kupupika: So the true purpose of the term was to highlight the limitation of judicial decisions specifically in anti-discrimination cases, because many judges defined racial or gender bias using the generalized experience of black men and white women respectively.

Trust Kupupika: This often left black women not protected by the law, because the Court would deny them access to legal remedies.



Trust Kupupika: And oftentimes either they were considered so different from white women that they couldn't be included in the category of gender when it came to anti discrimination.

Trust Kupupika: or they were, on the other hand, seen so similar to black men because of race that their cases should be handled in the same way.

Trust Kupupika: But obviously because black men and black women have important differences that sometimes didn't work for them in terms of legal strategy and so those legal arguments would fail.

Trust Kupupika: So although black woman's experiences specifically help develop intersection ality as a theory the time can generally expose the reliance of the law on shorthand in order to maintain structures of an equity.

Trust Kupupika: By defining discrimination, according to the experience of the most privileged within a marginalized group, those who are most that need are oftentimes unable to enjoy the full protection of the law.

Trust Kupupika: So that gives a little bit of context and oversight into intersection ality as a term and so within my paper.

Trust Kupupika: I tried to focus in on modern feminist movements and the ways in which intersection ality has been applied.

Trust Kupupika: To see how its impacted either negatively or positively that movement, depending on whether or not the term was properly or improperly applied.

Trust Kupupika: So I mentioned earlier, specific modern feminist movements, like the me to campaign and.

Trust Kupupika: The black lives matter movement, but specifically underneath that the say her name campaign, which is something that Kimberly crenshaw herself was a part of the inception of and then also the boss case.

Trust Kupupika: Because I felt as though each of those reflect and adaptation of black feminists legal theory by the reliance on intersection ality, however.

Trust Kupupika: Sometimes, as mentioned earlier inaccurate reliance what often show up as shortcomings within the logics of those movements.

Trust Kupupika: and eventually as often showed through history, this leads to a type of progress that mirrors the logics behind the oppression that those feminists initially a post.

Trust Kupupika: So quick example there's a lack of diverse voices that are uplifted or having uplifted.

Trust Kupupika: By the me to movement, despite the fact that the campaign initially was started by a black woman and was popularized by a white actress on Twitter.

Trust Kupupika: And then within my paper, I really delve into not only just generally but also there was some data done.

Trust Kupupika: To show that black women on average didn't engage with the Twitter campaign as much as women from other groups, specifically white women.

Trust Kupupika: And how a lot of this can be explained by the different incentives that are.

Trust Kupupika: presented to certain types of women as opposed to other and then also obviously the obstacles that might pop up if black women were to engage, because there are definitely different elements.

Trust Kupupika: of engaging with the me to movement for black women, such as economic factors are wanting to consider themselves.

Trust Kupupika: Black first and woman, second, which is sometimes impressed upon black women really young in the black community, and so they didn't want to seem as though they were being.

Trust Kupupika: aggressive or contrary toward people within their own race they wanted to show a level of way show solidarity.

Trust Kupupika: And so that was just one example, but then I also look at the Boston case in particular because it uses language that actually reflects the language.

Trust Kupupika: That Professor Kimberly crenshaw uses that incorrectly views race in the anti discrimination sense so she talks about crenshaw talks about.

Trust Kupupika: The but for look into racial discrimination or any discrimination in which courts sometimes look at an element of your identity and say that.

Trust Kupupika: But for this element of your identity, you would have not been discriminated against, and that is often times and approach that.

Trust Kupupika: In the boss sock example was helpful because that's actually the approach that was used in the opinion.

Trust Kupupika: and obviously that case has been a landmark case for the LGBT Q Community however it's still relies on what Professor crenshaw sees.

Trust Kupupika: As flaws in understanding discrimination because it ends up isolating those who would most benefit from the legal system by not allowing for those who experienced discrimination in unique ways and usually ways that are more.

Trust Kupupika: Pressing or isolating because they are more marginalized from truly enjoying full protection of the law, whereas those who are seeing as.

Trust Kupupika: easily protected due to their closer alliance to those who are at the top of a certain hierarchy, so that means people who experienced discrimination in a way that most aligns with the norm, the norm in the United States sense usually being white straight says heterosexual men.

Trust Kupupika: And so, there are a couple of examples that I work through in my paper but generally, I think.

Trust Kupupika: I understand, and this was sort of my reflections towards the end about where we should go moving forward.

Trust Kupupika: That doing any type of laboratory work is very difficult, because it requires a very high level of intentionality and then also follow through.

Trust Kupupika: And this is made clear to the reference that I use at the beginning of my paper to the formerly enslaved women in toni morrison's novel beloved, which is why I wanted to add it in at the beginning.

Trust Kupupika: Because those were people, although they were written about in the fictional sense that did reflect the true story of women who had to struggle with far less resources.

Trust Kupupika: to accomplish what within the context of the novel and even in real life seemed impossible at times.

Trust Kupupika: And so my overall suggestion to those interested and honoring black feminist legal theory is to, of course, engage in the words of popular black legal feminists.

Trust Kupupika: Like Kimberly crenshaw cheryl Harris Dorothy Roberts Angela Harris Nicole Alexander floyd there are so many I was so engrossed when I was.

Trust Kupupika: just doing the reading for my paper, I really, really enjoyed it but Lastly, I did want to say that.

Trust Kupupika: Also really spend a lot of time with black feminists from outside of academia, who offer their first hand analysis of how the legal system disregards and Miss treats them.

Trust Kupupika: Because again, this is by no means an easy task, and although it is difficult, I do believe that true commitment.

Trust Kupupika: does require some level of humility and sacrifice, in order to gain the progress that I know so many people are committed to one day achieving so that was sort of an overview and thank you for having me.

Paula Monopoli: Thank you so much trust.

Paula Monopoli: Next we'll hear from haley Han talking about her paper termites in the pastor's house Emily.

Hayley Hahn: Thank you very much, and thank you to to the Virginia larger view and a Center for the study of recent law, I am honored and excited to be here today.

Hayley Hahn: um so my essay, and this is great Thank you trust for your thoughts speaking of black feminist from outside the legal Academy.

Hayley Hahn: I will be discussing the length and contributions of radical black feminist Florence slow Kennedy my paper focuses on kennedy's abortion access advocacy.

Hayley Hahn: Today i'd like to present a brief overview of kennedy's life and then close with three key takeaways from kennedy's abortion access advocacy.

Hayley Hahn: That are especially salient for contemporary of reproductive justice advocates first, who was Kennedy were in Kansas city Missouri on February 11 1916 Kennedy would go on to become an important intersection attorney an advocate.

Hayley Hahn: can have you believe that only through quote unifying and struggle, unquote could marginalized people achieve liberation.

Hayley Hahn: As an undergraduate student at Columbia University Kennedy penned an essay for a sociology course in which he demonstrated a keen awareness of intersection all theory.

Hayley Hahn: She wrote quote the similarities of the societal positions of women and negros are fundamental, rather than superficial and.

Hayley Hahn: This awareness led Kennedy to pursue a career in a wide range of advocacy positions on behalf.

Hayley Hahn: of a variety of groups, indeed the modern African American political thought reader observes that during her lifetime Kennedy advocated for quote.

Hayley Hahn: The rights of African Americans women sex workers and members of the LGBT community following her graduation from Columbia University.

Hayley Hahn: Kennedy went to Columbia law school where she was one of the first black women to earn a law degree.

Hayley Hahn: This enabled her to represent a range of clients and causes, including the student's ability holiday and Charlie Parker black radicals, such as a shotgun shukor.

Hayley Hahn: And to take on powerful institutions such as the Catholic Church, which Kennedy challenged on the basis that they're anti abortion advocacy violated the provisions of their tax exempt status.

Hayley Hahn: later in life kind of do you transition to her advocacy to focusing primarily on public speaking she often troubled with Gloria steinem.

Hayley Hahn: working to advance nows interests and during the speeches Kennedy would captivate crowds with their characteristic humor and fiery rhetoric.

Hayley Hahn: This rhetoric also led to some detractors people magazine dubbed Kennedy quotes the biggest loudest and it is indisputable, excuse me, the rudest mouth on the battleground and quote for.

Hayley Hahn: Radical feminist policies all admit much without language today, while speaking, but if you'd like to see some of it please check out my essay.

Hayley Hahn: Importantly kind of you never punched down she was always concerned with using humor and language to fight for the oppressed to fight for the most marginalized.

Hayley Hahn: And one area where this impulse really shines through was in her abortion access advocacy so in my essay I use Professor Patricia hill Collins dual dimensional framework for black woman's activism.

Hayley Hahn: to analyze kennedy's approach, but today I just want to focus on three key takeaways first a bit of background.

Hayley Hahn: In 1969 Kennedy joined with attorney Diane trial lawyer to challenge new york's restrictions on abortion.

Hayley Hahn: During the trial Kennedy's foreground the experiences of the women who had sought abortions.

Hayley Hahn: This is a departure from the approach up to that point which would often focus on the experiences of the overwhelmingly male physicians and this is also an approach that serves today for.

Hayley Hahn: Campaigns that seek to highlight women's voices and other folks voices who have sought abortions, such as the shot your abortion movement.

Hayley Hahn: Fortunately for those seeking reproductive justice in New York on the legislature repealed the challenge statute in 1970 moving the case.

Hayley Hahn: But Kennedy and shoulder remained concerned, so they decided to pen a book abortion rap which laid out the case for the Supreme Court to declare it restrictions on abortion unconstitutional.

Hayley Hahn: And so doing Kennedy and other sure to do three things which I think are especially important for reproductive justice advocates today.

Hayley Hahn: especially given the unprecedented number of abortion restrictions passed in recent years by states, as well as restrictions on the federal level.

Hayley Hahn: So first Kennedy and shoulder mature to foreground the experiences of black women, they did this in a few ways first.

Hayley Hahn: The first congresswoman Shirley Chisholm and wrote a foreword for the book and Kennedy and shoulder made sure to highlight black women's experiences.

Hayley Hahn: Now Kennedy and shoulder also observed in keeping with intersection all these focus on multiple marginalized identity is.

Hayley Hahn: That black women disproportionately face risks of censure or violence for coming out about abortion access so to protect them, they presented these testimonials and the aggregate so no one woman was at risk for backlash.

Hayley Hahn: Kennedy and shoulder also recognized that reproductive freedom for black women did not merely encompass abortion access or contraceptives.

Hayley Hahn: Rather lock them and also face other barriers to exercising reproductive freedom, such as sterilization for sterilization which.

Hayley Hahn: was a prescient critique given later cases such as *Ralph Fern versus Weinberger* which would challenge federal policy of forced sterilization.

Hayley Hahn: So for contemporary reproductive justice advocates keeping with this policy it's important to make sure so foreground.

Hayley Hahn: The experiences of black women not merely white women, which has led to the conventional reproductive rights movement moving on to focusing almost exclusively on abortion and contraception, when there are a range of issues.

Hayley Hahn: The second key takeaway from Kennedy's approach was the focus on intersectionality i'm not just incorporating analyses of race, but also class.

Hayley Hahn: Kennedy and shoulder wanted to make sure that economic impediments to abortion access for removed.

Hayley Hahn: So if contemporary reproductive justice advocates for able to adopt the same framework we might see economic barriers, such as the Hyde amendment removed this would ensure that the right to an abortion would remain nacho Sir right and name only, but.

Hayley Hahn: A practical reality to.

Hayley Hahn: Finally, Kennedy and shoulder and made sure to foreground women's voices, as I mentioned earlier Kennedy is approached during the trial was a departure from the focus on overwhelmingly male actors in prior actions.

Hayley Hahn: Today, on journalists, Dalia lithwick has written about the courts recent tendency to focus a lot on the experiences of women or those seeking abortions, but on other male actors.

Hayley Hahn: This lithwick has observed, has led women to hope that quote men will make really good choices on their behalf but Kennedy recognize the power of having people testify, based on their lived experiences she and shoulder notice.

Hayley Hahn: The power of that testimony, and so they made sure to include on anonymous but still testimony from women who had had trouble.

Hayley Hahn: Accessing abortions in their book on this is important for contemporary reproductive justice advocates to.

Hayley Hahn: As we make sure to foreground folks have multiple marginalized identities, we should focus on the power of narrative as a persuasive technique.

Hayley Hahn: Not just for courts, but also for legislators So in conclusion on there is much to learn from Kennedy's life and legacy, I talked about this a bit more in the essay but as trusted alluded to, there is a tendency.

Hayley Hahn: for society to render black women's contributions invisible and part of that in Kennedy's case was due to the trope of the angry black woman.

Hayley Hahn: As I mentioned earlier Kennedy's rhetoric was fiery but she used this fiery rhetoric to fight not perpetuating justice, she was concerned with the most vulnerable in society, and she use the tools at her disposal to highlight these disparities.

Hayley Hahn: Rather than disregard her contributions due to this racist and sexist trope, then I contend that it is time to foreground her contributions to hear her words as an example.

Hayley Hahn: And to use this to build momentum to build power and to foreground on the experiences of the most vulnerable to ensure i'm not just reproductive rights, but reproductive justice.

Hayley Hahn: I think this is an approach that will further again, not just variants but hopefully contribute to what trust observed a celebratory potential for black woman's feminism, so I will conclude, there, but thank you all so much again and I look forward to the rest of the discussion.

Paula Monopoli: Thank you Haley and, finally, Professor Julie Suk who's going to be presenting a dangerous imbalance.

Julie Suk: So I just want to thank Professor Kim, for it was really and the University of Virginia law school for convening this really important conversation.

Julie Suk: And just listening to what we've heard so far, I was really moved in hearing Professor Monopoli reflect on her experience of having a course and women in the law here.

Julie Suk: And I was just so impressed listening to your students trust and Haley and the amazing research they're doing that's now going to be published.

Julie Suk: In the University of Virginia law of you online, and I hope to cite their work and my future work.

Julie Suk: Because I think there is a story right here on this panel about women being empowered and institutions.

Julie Suk: And that's what I want to talk about with regard to a certain vision of the equal rights amendment as it's playing out in real time today and the history of its making.



Julie Suk: That helps us get to this understanding of the equal rights amendment as having a certain relationship to the idea of empowerment within institutions.

Julie Suk: So, as many of you know as Virginia became the 38 State to ratify the equal rights amendment about a year ago and.

Julie Suk: it's an it produced an unprecedented situation in constitutional history, because the equal rights amendment was adopted by two thirds of Congress, as required by Article five.

Julie Suk: Almost 50 years ago and 35 states three short of the 38 necessary ratified it almost 50 years ago.

Julie Suk: And then the three states that make up the three fourths that you need under Article five, to make a constitutional amendment.

Julie Suk: doesn't come through with their ratifications until the last three years, culminating in virginia's ratification, just a year ago.

Julie Suk: And then, since then there's been this question because there was a seven year deadline on ratification and the three States came in decades after that seven year deadline.

Julie Suk: And so Congress has tried to take action to remove that deadline, in fact, they extended it once in the 1970s.

Julie Suk: The House voted last year to remove the deadline, but the Senate didn't follow than the ratified the late ratifying States brought a lawsuit saying that the deadline could be ignored.

Julie Suk: So there's intense political and legal conversation about whether or not the ERA can be validly added to the Constitution today or at some future date.

Julie Suk: And this raises huge questions that is that should be of great interest to constitutional lawyers and scholars, like, for example, can you make an amendment like this.

Julie Suk: The Constitutional text doesn't say anything about deadlines and so can we.

Julie Suk: have them can we remove them and then who decides whether the deadline is enforced, and whether we can add the ERA now does Congress get to just decide that by removing it.

Julie Suk: through the courts get to decide by deciding whatever they'll decide in this litigation does the President have a role to play and.

Julie Suk: and so forth, so these are huge questions and assuming that you can make an amendment this way.

Julie Suk: Although I think there is some skepticism within the constitutional law scholarly community as to whether you can legitimately make an amendment display.

Julie Suk: If you can make it there's this other deeper question and constitutional theory as to what on earth is this amendment going to mean because it was adopted at time 119 72.

Julie Suk: It was ratified through the 1970s and then there's an updated meaning, I mean it has the amendment has words like equality of rights shall not be denied or abridged on account of sex.

Julie Suk: right on account of sex, those are words that have evolved from 1972 tonight to 2020 equality of rights also evolved evolved in part because of changes in La with regard to the 14th amendment.

Julie Suk: Throughout the 1970s, due to the pioneering work of polyamory as the intellectual architect and Ruth Bader Ginsburg as the primary implemented through advocacy of a theory of equal protection.

Julie Suk: That reach some success with you, the United States versus Virginia decided 25 years ago in 1996 so one proposition, and I think this is a.

Julie Suk: subject for intense scholarly and lawyerly debate in the future is that there's got to be a transgenerational synthesis of meaning between the time of adoption 1972 and the time of completed ratification.

Julie Suk: In 2020 and it's within that proposition in constitutional law that I want to bring in the story and the through line of black women's advocacy for the equal rights amendment from the 1970s.

Julie Suk: To the three late state ratifications in 2020.

Julie Suk: Because I think there is a through line and division that's carried forward and it helps us make understand what the public meeting of the era is at moment one moment to through this idea of a transgenerational synthesis I said this is that.

Julie Suk: critiques but also builds on what was achieved through 14th amendment litigation and the achievements of justice Ruth Bader Ginsburg.

Julie Suk: So, with that in mind, I just want to point out, and I think it is an important part of the story that should not be ignored, as people form their views as to whether we should legitimize the ERA today.

Julie Suk: It is a fact that black women were the leaders in the state legislatures that ratified late Nevada Illinois and Virginia, and particularly in Virginia.

Julie Suk: We had black women in the legislature sure who were patrons in both Houses Jennifer Carol boy who incidentally in the House of delegates was one of the first black women to go to vm I after United States versus Virginia integrated.

Julie Suk: BMI so then she ends up in the House of delegates and is the primary sponsor of the ERA ratification Jennifer mcclellan a black woman in the Senate and made me luck.

Julie Suk: Black woman in the Senate and the whole story when Virginia ratifies is that they're making history they're trying to correct women's.

Julie Suk: disempowerment and lack of representation in the Virginia legislature and in Virginia history, indeed.

Julie Suk: By ratifying Dr Ray and that story is also very importantly related and these two women, by the way, were women who were.

Julie Suk: Very public about being pregnant, while running for office and pregnant, while in office so they're bringing a lot of attention to issues motherhood.

Julie Suk: and connecting the drive for the era, not to this history, not only to the history, but also to the need for public policy to support working mothers.

Julie Suk: And in the same legislative session, they are both co sponsors of the pregnant worker fairness act in Virginia and doing a lot of other public policy around repealing.

Julie Suk: Restrictions on abortion, that are not based in scientific evidence.

Julie Suk: That story with Virginia has important parallels to the Nevada story and abort Nevada of course instigates the 21st century revival, by being the first of these three states in 2017.

Julie Suk: to ratify the era that was it there were a coalition of women have many races and generations involved in that fight, but it was led very.

Julie Suk: Importantly, by Senator pat spearman who is an African American woman and an ordained minister, a member of the LGBT community and a mother.

Julie Suk: And she brought all of those identities, to the table when she said it's really time to ratify the equal rights amendment because the quality protects everyone.

Julie Suk: And, and I think that message was extremely important in the Nevada ratification the Illinois replication is among the most interesting because there are you have black women who are strongly in support of the era.

Julie Suk: Like now lieutenant governor Giuliana stratton and the tessa wallace who are in the House of Representatives, in one way.

Julie Suk: But also it's really close vote in Illinois you need 60% of the legislature to ratify an amendment and it's really close, because there are two black women who voted against the ERA ratification.

Julie Suk: Mary flowers and freedom, a field, and they voted against it, and these are women who have also sponsored pregnant worker fairness acts in Illinois and done a lot of work on reproductive rights and reproductive justice.

Julie Suk: So they said the equal rights amendment was brought to us by Alice Paul, who is a proud racist, do we really want to align with that history.

Julie Suk: So there was a real debate on the Illinois floor about the white legacy of advocacy for suffrage and the era, and what that would mean for protecting and helping.

Julie Suk: working mothers working class mothers and black women who never enjoyed some of the protections.

Julie Suk: The Labor protections for example that white women enjoyed when there were early fights about Labor protections in the era.

Julie Suk: And what I want to point out is that these debates and ultimately Giuliana strategy with tesla wallace were able to convince the legislature that indeed.

Julie Suk: The ERA could form the basis for how stronger protections against violence against women and could and would lead to better public policies that were intersections.

Julie Suk: In their consciousness, I think these debates are really important, because you can see a very strong through line between both the critiques and the responses.

Julie Suk: From polly marie's work and specifically polly marie's testimony in 1970 before the Senate Judiciary Committee, I would say that that Judiciary Committee testimony on behalf supporting the era.

Julie Suk: was a very important pivot point because paulie Marie began from a standpoint of some skepticism about the equal rights amendment throughout the 1960s and the work that Professor Meyer, he talked about.

Julie Suk: Initially, the strategy was to try to do gender equality through the 14th amendment because the fear was that the equal rights amendment would be too rigid and would strike against all sex classifications in the law.

Julie Suk: And indeed polyamory when she testifies in favor of the ERA says what the era is really interested in is not equal rights but equal power.

Julie Suk: we're really interested in imbalances of power, dangerous and balances of power which lead to abuses of power.

Julie Suk: And so, she talked about the fact that there were so few women in Congress at the time and.

Julie Suk: She was hopeful that the era would work, politically, not just doctrinally but politically to draw attention to women's empowerment and then to move public policy in the direction.

Julie Suk: of empowerment and that might sometimes mean public policies that recognized sex discrimination as a problem and made sex classifications, to overcome that so.

Julie Suk: Where does that leave us today, so it does show us that, even though there were certain goals of the era and certainly striking at some sex classifications was important to the project in the 1970s.

Julie Suk: And that's the project that actually succeeds, through the 1970s three equal protection jurisprudence, by the time you get to the United States versus Virginia, you have.

Julie Suk: A heightened scrutiny for sex classifications, although I think justice Ginsburg wrote the opinion carefully.

Julie Suk: To avoid a situation where it would mean strict scrutiny of the sort that was given to race cases against affirmative action.

Julie Suk: There is a space left, both in United States versus Virginia, as well as in polyamory early advocacy.

Julie Suk: For taking measures to really empower women, even if it means that you might sometimes use sex classifications in the law.

Julie Suk: And then you see African American women taking up that legacy and then doing a lot of policymaking in the same legislative sessions, that they do era ratification.

Julie Suk: On problems like unequal pay that persist and the unfair treatment department workers.

Julie Suk: And i'm in the interest of time i'm not going to say much more than that, but I think there are serious doctrinal implications, to the trends generally transgenerational is synthesized era.

Julie Suk: With important work done by African American women I think they're important doctrinal considerations as to what it could add to the equal protection clause jurisprudence that we now have specifically.

Julie Suk: you're seeing empowerment initiatives in California, ie a statute that requires at least one woman on every corporate board of directors.

Julie Suk: And a new Statute just passed in October that requires at least one member of an underrepresented group whether it's African Americans and circle racial groups board member of the LGBT community these laws are under threat.

Julie Suk: Pacific legal foundation and judicial watch are suing.

Julie Suk: The State saying that these are violations of equal protection clause, claiming that you can't have sex classifications.

Julie Suk: Of the sort under the equal protection clause, and I think knowing what we know about the transgenerational synthesis of the era, I think the ERA could create a space, by which we could think differently about.

Julie Suk: State or federal initiatives to empower women like a corporate board representation rule, I think we could think about them differently from the way we might analyze them under equal protection as.

Julie Suk: inherently problematic and require and compelling justification, so I went there and I look forward to questions.

Naomi Cahn: Thanks so much to you Julie thanks so much to our amazing group of panelists.

Naomi Cahn: And thank you for being so timely because we now have plenty of time for questions.

Naomi Cahn: A reminder that, if you would like to ask a question, please pose it in the Q amp a box at the bottom of your zoom screen.

Naomi Cahn: So i'm just going to go in the order of the questions that we have received and the first one is from kj and it's to Professor Mary and it's a here's the question you seem to have had more to say about sexual harassment, how was intersection ality historically relevant to that issue.

Serena Mayeri: Thanks so much for the question um I think it was it was relevant in a few different ways.

Serena Mayeri: One way, I think it was important was the degree to which.

Serena Mayeri: Black women who suffered from sexual harassment at work, were able to see that harassment as problematic and as something that contribute to their inequality and subordination, in part because they were.

Serena Mayeri: They had observed and experienced discrimination based on race, and sometimes class and other categories, as well as sex throughout their lives.

Serena Mayeri: and were able to see sexual harassment which at the time was often characterized as you know, just sort of a personal problems mean it naturally happens when men and women work together.

Serena Mayeri: I think their experiences helped them to see it as something that was not only problematic but addressable under anti discrimination laws.

Serena Mayeri: I think it also helped judges see that, to some degree that judges who could by that point, some of them at least more easily see the problematic nature of race, based harassment, I think we're able to, and I think this is true across a variety of areas of the anti discrimination law when.

Serena Mayeri: Discrimination claims were framed as.

Serena Mayeri: Both race and sex discrimination claims, you know as Professor crenshaw observed, sometimes, that was a huge impediment but the I think there were also instances where it was an advantage because judges, particularly actually judges in the South who had dealt with.

Serena Mayeri: Discrimination and and desegregation cases and the intransigence of have many white southerners in those contexts.

Serena Mayeri: were sometimes more sympathetic to sex discrimination claims that originated in a context that featured also racial inequality insubordination so Those are just a couple of ways I think intersection will.

Serena Mayeri: Experience and discrimination, played a role in the sexual harassment contact.

Naomi Cahn: Let me see do any of the other parent, but before we move on to more questions and the other panelists like to respond to that.

Julie Suk: Oh, if I can just add in a little point about the Illinois ratification of the era was actually very concerned with sexual harassment issues, particularly because.

Julie Suk: The women's Caucus that was formed that made era, its first priority was formed, partly because there were complaints growing out of the meat to movement about women's experiences.

Julie Suk: In the state legislature as aids are employees of various lead black male legislators so, and so I think that's just something I want to add in on the relevance of sexual harassment, to the set of concerns that we're looking at.

Naomi Cahn: Okay, let me move on to the next question, and this is for everyone it's from to hand mcauliffe How would you recommend law schools incorporate the lessons, you are discussing into the general law school curriculum more completely.

Naomi Cahn: And maybe maybe we should start with the law students.

Trust Kupupika: um I mean, I can say very generally that as a student it's very clear what the contours of.

Trust Kupupika: Legal studies look like just by like what's on a syllabus and I said so, I felt like that's usually the first and easiest way for law school to incorporate.

Trust Kupupika: These lessons like into your syllabus have different and diverse voices and also not just different voices, but people have.

Trust Kupupika: different backgrounds, I think that's also really important to me i've noticed in academia, a lot of time there is a reliance on other academics.

Trust Kupupika: And, whereas I feel like that makes a lot of sense just in light of you know the history of certain groups.

Trust Kupupika: Access to academia has been limited and really important ways and so i'm also a big advocate of incorporating non academic sources and treating them with the same.

Trust Kupupika: sort of respect and intentionality as those that come from different even academic not legal but research backgrounds that's important to me.

Hayley Hahn: Yes, I echo trust concerns and I think.

Hayley Hahn: One way to discuss this is which forms of expertise we credit, so one common.

Hayley Hahn: Criticism or just concerned i've had myself as a student in like political theory classes these theories seem pretty divorced from the practical realities we see um, how do we implement this as attorneys.



Hayley Hahn: But what I appreciated about Kennedy's legacy is that her approach was both theoretically rigorous but also practically effective.

Hayley Hahn: And when we talk about theorists there's a tendency to attribute brilliance.

Hayley Hahn: Sometimes unnecessarily overwhelmingly to white men but it's important to recognize that there is a brilliance in tackling an issue systemically.

Hayley Hahn: And in ways that actually have a positive material impact on people's lives which I would argue Kennedy's life and work demonstrates on a merely because.

Hayley Hahn: Activists are able to put these concepts into accessible language that doesn't mean that it's not also intellectually rigorous so I'm in selecting courses, I would say that's really important to keep in mind.

Naomi Cahn: Would either the professors.

Naomi Cahn: Like to respond or my co-moderator.

Naomi Cahn: Sure go ahead.

Julie Suk: So yeah I mean I think it's really important, I think there are two different institutional spaces, where it's important.

Julie Suk: One is I mean when people when we teach courses about women in the large under the law, I taught a course called mothers in law.

Julie Suk: You tend to get people who are already interested in thinking this way.

Julie Suk: But I think it's so important to bring these perspectives into the required courses that we teach and I really tried to do that when I taught civil procedure last semester.

Julie Suk: To bring in like really think about the fact that the cases we're talking about whether they say so or not impact real people and have intersection.

Julie Suk: effects, and I really encourage students to think about that in the classes, where it's not self-selection, everyone needs to think about it.

Julie Suk: And then there are the spaces, where we'll get more in depth into people who are already.

Julie Suk: Thinking this way I thought it was actually great that I mean I taught a hybrid class this semester, and so I had some students in the room and others on zoom but I was able to bring in attorneys.

Julie Suk: who have worked on some related issues and brought a certain perspective, about the material that.

Julie Suk: We were studying because I was able to bring them in over zoom, and so I totally hear what the students are saying about trying to connect to the real world at certain moments, and I think.

Julie Suk: For all the things that were bad about the pandemic, this was one silver lining that we were able to do that.

Serena Mayeri: I don't have much to add to these incredibly insightful comments, I would just say the other piece that I think is.

Serena Mayeri: can sometimes be helpful, is oftentimes law school and I think this is changing.

Serena Mayeri: To a large degree, today, but focusing on court cases can also be somewhat limiting in terms of thinking about who we credit as experts and also who we credit as legal advocate so looking at other forms of advocacy administrative legislative petitioning.

Serena Mayeri: And and and social movement activism can also be a way of bringing bringing those voices in and also addressing this question of practicality and and strategy.

Paula Monopoli: Great and I would just add.

Paula Monopoli: I actually teach a seminar in gender in the legal profession, which is providing a good vehicle to talk about.

Paula Monopoli: Women as advocates their sort of their battles to become lawyers why it's important that they were lawyers they're sort of all in constitutes defining constitutional quality.

Paula Monopoli: And, and that is a great way to sort of talk about how to bring intersection ality in theory, we talked about polyamory last night and so.

Paula Monopoli: There are spaces, I think.

Paula Monopoli: Both I think it's important as Julie says to bring it into the main classroom because people are there, who wouldn't otherwise be exposed and it's also important to think about developing new courses, where you can talk about that.

Paula Monopoli: And I will ask the next question which is directed at haley okay Jay how did Kennedy in practice approach working between move.

Hayley Hahn: Obviously, think there are two ways of talking about this first and I won't go into it too much because our last question address this, but.

Hayley Hahn: Kennedy through adopting intersectionality handled topics by viewing them systematically so he talks in her work, about the ringer of this system, which I think is just a more.

Hayley Hahn: conversational way of putting her approach to what has been turned in the literature hedge demonic oppression which we would approach on.

Hayley Hahn: Looking from trusting goal, for example, from the perspective of trying to further liberation.

Hayley Hahn: But I also think Kennedy's approach demonstrates both her courage and humility and I think that those two traits are sometimes thought of.

Hayley Hahn: As contradictory, but actually in her case for complimentary so she was fearless in the face of oppression, she was.

Hayley Hahn: happy to go work wherever she was needed, and she went where she was called so, for example.

Hayley Hahn: In 1973 women students at Harvard University were protesting, a lack of women's restrooms on the campus so they invited Kennedy to speak and she went there and helps to galvanize folks now the.

Hayley Hahn: Precise practical impacts of that action are difficult to ascertain but um it was written up in the Harvard crimson and professors Elizabeth separate and Deborah dinner have a great article on that came out in the last couple years that documents this instance is one example of.

Hayley Hahn: The space that bathrooms have held an Anti discrimination debates, so I would say that those are the most important way is Kennedy's life demonstrates her ability to work between movements.

Paula Monopoli: Great Thank you, this one is for trust in your piece from this is from kj again if your piece you touch on how an intersection will approach in Boston would have pushed the Court to recognize that protections.

Paula Monopoli: That LGBT Q individuals need aren't just job safety, but other kinds of protections like healthcare, housing, food security and other necessities.

Paula Monopoli: So the questioner is asking you, you know if if you were able to have time to be more specific about it, what would an intersection approach to bostic look like doctrinally.

Trust Kupupika: I mean, I think that a quick specific answer would be probably the most simplistic but also difficult within the legal structure, we have now, because I think it would boil down to.

Trust Kupupika: constitutional law and obviously there's a lot that people can say about what the construction of.

Trust Kupupika: Particular rights are and liberty should be for American citizens, but I think that.

Trust Kupupika: My commentary sort of points in that direction that there are a lot of ways in which we look to the law to deal with the specific issues without understanding that the foundational perception of rights as something that can be denied.

Trust Kupupika: In certain areas like in food security and housing, like those are things that are more so variable but then there are other rights if you, you know go into the long history.

Trust Kupupika: Of the development of rights to the Constitution, where we kind of see them as more permanent or unalienable, and so, in that way, I think that sort of where i'm pointing to, but obviously the Constitution is the foundation of most all.

Trust Kupupika: of you know, American laws so it's really hard to have a commentary in a short paper, but I think, generally speaking, that's where I was pointing to.

Paula Monopoli: Thank you Naomi.

Naomi Cahn: Here here's a question on and again, let me thank everybody for all of your questions here's a question for.

Naomi Cahn: Everyone that kind of goes to some of the common themes seems that there's a lot of emphasis on how allies can help.

Naomi Cahn: What is missing from the conversation of ally ship to help us make more progress and what is something that marginalized people, particularly black people can do to remain uplifted energized in fighting for equality, given the trauma of the freedom struggle.

Trust Kupupika: I know I just said something, but I want to respond to that really quickly, I think that even in my piece like when I was reading the different black feminists legal theorists to write the paper.

Trust Kupupika: I felt very uplifted in that just reading what other black people have said, and how we are sort of like.

Trust Kupupika: join together in this struggle that you're not alone in it, because oftentimes I feel like when you start feeling burned out it's because you're taking on more responsibility that is do.

Trust Kupupika: think you know, specifically with black women there's this expectation that like we're super human, we are not and so like i'm very intentional with myself.

Trust Kupupika: and other black women within my Community to be like take a break step back and understand that these systems have existed.

Trust Kupupika: Long before you came around and that you obviously can have big impact, but I am a very, very strong advocate of collective struggle, because there's absolutely no way that one person can take on the burden.

Trust Kupupika: of you know, fighting against hundreds of years of anything, so I think.

Trust Kupupika: You know, to the by people who are participants like definitely feel encouraged know that there's a lot going on but there's also a lot of us, and that if we band together that we can do most anything so that's my response.

Naomi Cahn: Any other panelists want to respond.

Naomi Cahn: it's great to hear how you were inspired by by doing a project that could be quite depressing.

Naomi Cahn: um Okay, let me, let me then ask another question and.

Naomi Cahn: This is Julie took from from arjun Professor came forward miserably argues that the era might have unintended consequences.

Naomi Cahn: In the form of anti classification type judicial construction, how can we prevent that from happening in the judiciary as conservative, as it is right now.

Naomi Cahn: After all, the provision will be to be construed by courts, and let me say this is for for Professor so but but it's going to be the last question so other others on the panel, please think about it as well.

Julie Suk: Great thanks for so much for that question, I think a lot of the amendments that we had, including the 14th amendment have I don't know if you'd call them intended or unintended consequences, but we do know that.

Julie Suk: We had class versus Ferguson, after the 14th amendment so certainly it's possible to get an era.

Julie Suk: Without interpretations that we would identify as particularly feminist or in line with the proponents that i've cited in my paper today, so this I take this very seriously, I think there are two really important dancers.

Julie Suk: One is emphasized the legislative history where it's so clear that a lot of the women, including the women of color Shirley Chisholm and Patsy Mink who advocated for the era and converse in 1971.

Julie Suk: said that this really this amendment was not really going to be about the Supreme Court, it was going to empower Congress and it's going to empower state legislatures and it's going to empower them by the two year effective date.

Julie Suk: Because the state legislators, would be the first movers on repealing the laws that were inconsistent with the quality of rights.

Julie Suk: And so, and Ruth Bader Ginsburg wrote some articles, also in the 70s, talking about how the era was going to cause Congress and state legislators to systematically and pervasively.

Julie Suk: repeal laws that were inconsistent, but also importantly rewrite laws to make them consistent with equal rights, and that article by Ginsburg saying that about empowering legislature's.

Julie Suk: Get cited by Peter Beer minute she does the Nevada ratification in 2017, so I think one important thing about this amendment it's a different kind of amendment it's not made in the 19th century.

Julie Suk: it's an amendment that's very conscious of Congressional constitutionalism as opposed to court constitutionalism.

Julie Suk: and consistent with that, to the extent that you If anyone thinks that Congress does have the power to remove the deadline last week, there were two bipartisan resolutions that had been introduced in the House in the Senate.

Julie Suk: I think it's vitally important that there be hearings in the House, judiciary and Senate Judiciary committee's.

Julie Suk: That really create a robust record about what the amendment means why they're removing the time limit their voting to do that.

Julie Suk: Because I think that's a way in which you can create an Anti subordination of versus as opposed to an Anti classification reading of the era.

Julie Suk: If, particularly the reason for removing the time limit is Congressional dissatisfaction.

Julie Suk: With court with as conservative courts jurisprudence on equal protection clause, especially on matters like affirmative action, so I think that legislative process matters.

Julie Suk: I think that the way that the amendment is made will determine its meaning so and I think that legislative history, both in the 70s and now is the answer.

Naomi Cahn: Unfortunately, we are out of time, thank you for that response and I want to thank this amazing group of panelists for your discussion of as my amazing.

Naomi Cahn: Co moderator said in introducing the panel fair discussion of multiple marginalization and for bringing to the surface, some of the hidden histories that helped shape the issues underlying this entire conference.

Naomi Cahn: I should note that in conceptualizing this conference I know it was important to include a range of voices from throughout the.

Naomi Cahn: academy and including students and wow yeah I think it's worked better than we could have even intended.

Naomi Cahn: On thanks to you the audience for attending and for asking thoughtful questions and i'm sorry that we couldn't get to all of them, thank you also to the Center for the study of recent law and the Virginia law review.

Naomi Cahn: And to all of the co sponsors, we will reconvene at noon for panel to the struggle today, so I hope to see you all there soon Thank you so much.