

"Will Feminist Judges Really Make a Difference?"

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Bridget J. Crawford & Anthony C. Infanti, [Feminist Judgments: Rewritten Tax Opinions](#) (New York: Cambridge University Press, 2017).

Feminist judgments projects originate in Canada.¹ The initial Canadian project saw six equality decisions rewritten by ten women. The aim: to see if equality under the *Canadian Charter of Rights and Freedoms* would be interpreted and applied differently if feminists were authoring the decisions. Since that time, projects have proliferated, with volumes produced in [England and Wales](#) (Margaret Davies [reviewed](#) that volume in Jotwell in 2012), [Australia](#), the [United States](#), [Ireland and Northern Ireland](#), and [Aotearoa New Zealand](#). The Canadians enjoy the exercise of rewriting equality judgments enough to have offered a second cluster of decisions last year.² And new volumes are expected from jurists in [Africa](#), [India](#), and on [International Law](#).

The first volume of American re-writes focused on decisions of the US Supreme Court. Surprising only to people who do not teach tax, the next volume of American re-writes takes up tax opinions. Released on December 28, 2017, as an invitation to continue holiday festivities, a volume edited by Bridget Crawford and Anthony Infanti serves up a veritable buffet of delights.³ Eleven rewritten American tax opinions comprise the volume. Six are rewritten Supreme Court decisions, one if a rewritten federal circuit court opinion, and four are rewritten Tax Court opinions.

The end result is spectacular. I want to draw attention to two features in this short review. These features are not tied, given this more general audience, to the tax context of the decisions. That's worth underlining: this is a volume that is worth reading for scholars in any area of law with an interest in feminist legal theory and practice and how feminists approach legal and factual questions.

First, and worth emulating, each judgment is preceded by a commentary. The commentaries are designed to set context for the judgment. The authors of the commentaries were charged with explaining the original court decision, identifying how the rewritten judgement varies from it, and articulating how the feminist approach may have led to a different result. This context allows a non-American, or non-tax reader to make sense of the decision that following, enhancing the potential audience for the decisions. It also liberates the authors of the judgments to focus on what a re-written judgment would look like, without also trying to signal how their decision is at variance with the original. The commentaries in this volume don't serve as introductions or cheerleaders for the main event: they work collaborative with the re-written judgment in a duet.

Second, the decisions themselves serve as terrific source material. I could imagine a volume on this volume. The decisions allow us to ask questions like: What makes the decision feminist? If a judge adopts a feminist approach, what changes? Do they interpreting statutes differently? Weight facts in unexpected ways? Use different kinds of reference materials to support their reasoning? Situate the decision in different contexts? Do feminists bring different higher-order values to the exercise of making decisions in tax cases? Is their approach to judicial authorship different?

The judgments in this volume, set within the specificity of tax law, suggest the answer to these questions is "yes."

1. *Canadian Journal of Women and the Law* 18, no. 1 (2006).

2. *Canadian Journal of Women and the Law* 30, no. 2 (2018).

3. Bridget Crawford and Anthony Infanti, [Feminist Judgments: Rewritten Tax Opinions](#) (New York: Cambridge

University Press, 2017).

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