

TURNER::

Hello and welcome to Wisconsin Law in Action, a remotely recorded podcast, where we discuss new and forthcoming scholarship with the University of Wisconsin Law School professors. I'm your host, Kris Turner. And my guest today is Helenka Mietka, the incoming editor and chief of the Wisconsin Journal of Law, Gender and Society. This is our first in, what we hope, is an annual check in with Wisconsin student editors [inaudible 00:00:32] the past several months. Thank you for joining the podcast, Helenka.

BUDZYNSKA MIETKA: :

Hi Kris. Thank you for inviting me to join you today.

TURNER::

Absolutely my pleasure. Before we jump into your current work, let's find out more about your background, specifically your writing and research interests.

BUDZYNSKA MIETKA: :

Sure. I am a native Chicagoan, first-generation Polish-American and amateur skier. In my undergraduate career, I studied feminist and gender studies at Scripps College where I focused on issues of race and gender. I primarily focused my research on the ways in which white feminism continues to benefit from white supremacy and more specifically research the emotional reactions of white feminists to discussions of [inaudible 00:01:16] and how we as white feminists can better support movements like Black Lives Matter, which is I think very relevant today. And then in my legal career here at UW, I spent some time researching the implications of medical coding on the care received by transgender patients and found interesting connections to the ways in which homosexuality was treated as a mental disorder in the not too recent past. My past research interests very much align with the subject matter of the Wisconsin Journal of Law, Gender and Society.

TURNER::

This journal might've been created just for you to be the editor in chief, it sounds like to me. All these topics you just described, they seem unfortunately to be always evergreen topics of interest and controversy.

BUDZYNSKA MIETKA: :

Yeah. There's always more work to be done.

TURNER::

Can you give us some background on the Wisconsin Journal of Law, Gender and Society, such its publication history, typical article topics and the frequency of your publication?

BUDZYNSKA MIETKA: :

Of course, yeah. The Wisconsin Journal of Law, Gender and Society was founded in 1985 by a group of students who recognized a gap in legal scholarship and wanted to address the reality that the law is not gender neutral in its creation, in its application, or really in its effect. Often our journal takes the UW law in action mentality that we all know and love to examine the ways in which our conceptions of gender, in its broadest sense, interact with the law and the practical effects of that interaction. We publish bi-annually and we encourage articles and seek out articles that examine the intersection of law and

gender, especially with issues of race, ethnicity, socioeconomic status, citizenship status, and sexual orientation. So we run the gamut with what our writers write about.

TURNER::

So how do you go about selecting articles with such a wide gamut and diverse selection of topics? What has your experience been like working with the journal so far?

BUDZYNSKA MIETKA: :

So far working with the journal has been truly engaging. I'm lucky enough to be surrounded by a fantastically creative and dedicated executive board who really shares my vision for growing the journal. Currently, we are in the midst of grading completed write on packets from our peers. And I'm really enjoying reading the work that my fellow students have put into the write out process, which I'm sure you know, is very intense. The diversity statements, especially I have to say are just a great reminder of the rich lives that we all lead outside of law school. So I'm really happy that's a component of what is sometimes otherwise more dry [inaudible 00:03:54], but in terms of article selection for publication, we are, as a journal, committed to providing a space for insightful scholarship. And we seek to set for traditionally marginalized voices. That's kind of the tradition of our journal.

BUDZYNSKA MIETKA: :

And I'd say that our guiding lens for article selection is that of intersectionality and novel framing of gender issues. And I don't know if intersectionality is a term that most people are familiar with or for any anyone tuning in who's not familiar with that term, and I don't know, maybe Kris, you'd like to jump in here as well, but it's a term that basically recognizes that barriers to gender equality change, according to other aspects of our identities, like age, race, ethnicity, and socioeconomic status. It's very clear that one's experience of the legal system is tremendously affected not only by gender, but also by other visible or invisible elements of someone's identity. And so we like to find a space for articles and notes exploring that intersectionality and exploring that reality that, for example, white women and black women do not experience the legal system in the same way. Articles that explore those issues really can find a home in our journal.

TURNER::

That was very well explained. I have nothing else to add or to jump in there. Thank you for pulling that apart for everybody listening. So far, have you had any specific articles jump out at you that you would especially recommend or that you're looking forward to?

BUDZYNSKA MIETKA: :

Yes, totally. Of course, I'm biased and I would recommend every article and I have [inaudible 00:05:36], but for the sake of brevity, there's two recent articles that really stuck out to me as I was reading. Last year, we published a student article by a student named [Alyssa Schafer 00:05:46], and this article was called Sexual Harassment in the Shadow of Mandatory Arbitration. And she showed, as is often the case, that seemingly gender neutral laws like those allowing mandatory arbitration are not often gender neutral in their effects. So in that article, she traces the rise of mandatory arbitration and employment agreements and how it's really, I mean, it's significantly altered the employment landscape, but those changes have also impacted the sexual harassment protections granted by title seven. And so it's a very interesting interaction between employment law and title seven. I think it's an interesting read for

anyone in the employment law field and really for anyone interested in learning more about the collateral effects of various legal developments.

BUDZYNSKA MIETKA: :

It serves as a great reminder to our readers, that law is shaped by the worldview and experiences of those who write it and often, a lack of diversity in the law, sometimes results in gaps in the law. And I think she did a really good job of addressing that. In 2018, a student who just graduated, Daniel Short, wrote an article titled Gestational Surrogacy Contracts, where he explored the different and very diverse ways that states enforced surrogacy contracts. And he ultimately made the case for the uniform adoption or a widespread adoption of the Uniform Parentage Act. But I found the article to be very engaging, especially as someone who has no exposure to the Uniform Parentage Act at all, or really the enforceability of surrogacy contracts at all, both of those really peaked my interest and I learned a lot.

TURNER::

My favorite part of doing this podcast so far, especially with the three student editors that I've spoken with, is to get all these great recommendations from you. Like you said, every article in here is worthwhile, but to hear about the specific topics and articles that have been published is great and it's providing me with some nice reading every evening. So thank you for that. This is great. Were there articles that broke new ground or reached any surprising conclusions?

BUDZYNSKA MIETKA: :

Definitely. So I think one of the most exciting things about our journal is that gender really continues to be an evolving concept in society, but especially in the law. And we know that the law is slow to catch up to where society is at, but that lag between society's definitions of gender and legal definitions of gender has created a really interesting space for legal scholarship. That's a tangent off of the article that I want to talk about from our 2018 issue titled Transgender Tights are Human Tights, a Contemplation of Litigation Strategies and Transgender Discrimination Cases. It was the first article that I read, not that there aren't others out there, but it was the first one that I read that centered dignity of the transgender litigant very expressly and addressed the common judicial discomfort with transgender issues and the notion that gender is not in fact binary, which is something that society come to accept I think a little bit more in a way that the justice system is slow to adapt to.

BUDZYNSKA MIETKA: :

The author, Ryan Blake, connect to the recent politicization of transgender issues in the Trump era with the increasingly more restrictive regulations in terms of healthcare and access to military service. And he connects that with the transgender litigant and with the [inaudible 00:09:20]. As I was reading it, I was really pulling out interesting considerations for attorneys handling the cases of transgender citizens and he guides attorneys through the litigation process as experienced by a transgender litigant, which I think is a really important exercise for attorneys to sometimes place themselves in the shoes of the litigants, especially when one identity is the source of the discrimination issue in the case. And he recognizes the transphobia felt by many people, including judges and courts, which generally speaking, continue to enforce a more simplistic view of gender as something binary or something fixed at birth.

BUDZYNSKA MIETKA: :

And so there's definitely a disconnect between courts and society. And Ryan suggests that as litigation strategy, which I thought was very interesting, transgender advocates can focus on emphasizing the

humanity of their clients outside of the very, what has now become politicized, but isn't inherently politicized gender identity. And he says that will improve legal outcomes and educate the judiciary. So for anyone really interested in more effective ways to advocate for transgender rights in the courts, I think it's a really good read.

TURNER::

It sounds especially oriented towards the law and action aspect that you talked about, where there's very practical ways to take this on. That's something that doesn't always come through in academic articles. It's something that's very theoretical sometime, but this seems like it was very grounded. Pivoting a little bit, tell me a bit about your previous symposium. What were the topics and who were the speakers?

BUDZYNSKA MIETKA :

Sure. So our most recent symposium was in 2019 and it was called, bear with me, it's a long title, but a great title, Racing Justice, Engendering Power, Black Lives Matter, Me Too and the Role of Intersectional Legal Analysis in the 21st Century. So basically it was a masterclass in intersectionality and the discussion remains extremely relevant today, as you mentioned earlier in our conversation. It's unfortunate that it remains relevant, but it definitely does. There, our very own professor, Linda Green, joined professors, [Chiesa Lindsey 00:00:11:36], [Lolita Ines 00:00:11:38], [Bennett Capers 00:00:11:39], [Noah Benasher 00:11:40] and [Marisa Baradon 00:11:43] in discussion with students. And the keynote address was delivered by Professor [Asamudia James 00:00:11:50], who is the acting dean and professor of law at University of Miami Law School. So yeah, I mean, we had a brilliant cast of characters and professors join us in this conversation and the symposium traps the difference in the ways that the Me Too movement and the Black Lives Matter movements have unfolded.

BUDZYNSKA MIETKA :

And so I think the discussion began with a recognition that Black Lives Matter came to have a public perception associated with black male identity. And the Me Too movement came to have sternly facing an association with white female, middle and upper class identities. And then, and to quote the symposium paper, these perceptions compound given that black women organized both of those [inaudible 00:12:39]. So the symposium placed itself right in this disconnect between the movements, how people were proceeding the movements in society, but then also who was driving and founding and informing these movements and how those three interactions, once again, serve to erase the work of black women, which so often happens in this country. And I will say that the conversation among the participating professors was memorialized in a piece published in our 2019 issue, that I would encourage everybody to read, especially in light of the events this past weekend. And it's called Talking About Black Lives Matter and Me Too. So please, please, please, everybody check that out.

TURNER::

Helenka and I are recording this podcast on June 1st. So the events of the last weekend she's referring to are the killing of George Floyd by Minneapolis Police and the protests that followed. As we keep on coming back to again and again, and it remains very unfortunately relevant that just keeps on coming back.

BUDZYNSKA MIETKA :

Definitely. The nature of our journal is to deal with marginalized voices. And those are the voices that suffer in this country. But that's also what is exciting about this journal is we create a space both for conversation and for the paving a path for some sort of change.

TURNER::

And it's nice to have that focus for the journal, for sure. This is a tougher question than it normally would be, but what's planned for next year?

BUDZYNSKA MIETKA: :

Yeah, well, we're hoping that even if we do not return to campus and [inaudible 00:14:12] virtual, that we will be able to engage with our community and engage with our writers. But our symposium next year, which I personally am very excited for, we'll likely explore issues surrounding missing and murdered indigenous women, as I'm sure you and many of your listeners know. Native American women are murdered and sexually assaulted at rates as high as 10 times the average in certain counties in the US, so we're hoping to take the opportunity to explore the legal backdrop to this violence ranging from maybe DOJ responses to proposed legislation, to the 1994 Violence Against Women Act, which has been used in different ways in different communities.

BUDZYNSKA MIETKA: :

And also just on a very pure legal level, the interaction between tribal courts and state courts. I think it's something that not many students have exposure to. If we are able to engage the law school community and this discussion of either how maybe law has failed or maybe has been very intentional in its direction, and then how we as young lawyers and potential future legislatures, I'm sure there's a state congressman somewhere in our law school. We can get creative with this. We have so many tools at our disposal, and if we can get creative with those tools to address issues of gender based violence, especially those facing the indigenous community, but gender based violence across the board, I would feel like I've contributed to the larger movement, which for me would be a positive, I think.

TURNER::

One of our guests in April was Professor Richard Monnette, who spoke a little bit about the interplay between sovereign nations, tribal nations and state governments and federal governments. And it's just such a complicated and thorny and a misunderstood or understudied area of law that I think that shining a light on, especially via the lens of the large amount of indigenous women that are murdered is hopefully it'll get more people focused on. And as you said, hopefully there's someone in the law school that is a state representative that can make this into law and action.

BUDZYNSKA MIETKA: :

Definitely, and continue with the Wisconsin way.

TURNER::

And so what are some of the articles and notes that we publish next year? Anything that we can get a sneak peek on?

BUDZYNSKA MIETKA: :

Definitely. This year, we will be publishing articles dealing with foreign policy and its impact on foreign women living in the US. We will also publish an article addressing sexual harassment and how Wisconsin's rules of professional responsibility can better address it. So a novel angle of addressing sexual harassment. Also, please look out for an article that tackles an international view of the legal challenges [inaudible 00:16:53] pornography, and explores different legal approaches to either criminalizing or decriminalizing pornography, which was a very interesting read throughout the editing process. On another note, Kris, if I may, I'm hoping that we receive articles in the next year from scholars finding and exploring novel legal solutions addressing the racism found in the ways that we police our black and brown communities. As you mentioned earlier, this is an extremely relevant, fresh topic because of what is happening around the country.

BUDZYNSKA MIETKA: :

It's always been relevant, but it's coming to a boiling point right now. And police violence is very much a gender issue as trans folks like Tony McDade and black women like Brianna Taylor are disproportionately harmed by the state and in light of the protests that happened this weekend and the many years of organizing and community intervention, specifically around the issues of [inaudible 00:17:51] violence, I really hope that scholars and students take this opportunity to grapple with what justice looks like when the law and agents sometimes serve to harm citizens.

BUDZYNSKA MIETKA: :

And maybe we can take the opportunity to document these specific ways that law, which as I mentioned before, is notoriously slow to change, has been harnessed to make social change in the past. I anticipate fantastic work will be done when lawyers and law students like myself, as people who have a tremendous power in our society know working with the law does give us incredible power for change. If we were to flex what Barack Obama said in his graduation address earlier this month, if we were to flex our moral imaginations, that's something that I'm really hoping that those kind of articles come through in the next year or two, and that our journal can serve as a space for those developing ideas.

TURNER::

Final question, maybe the hardest question for you. What do you think the most rewarding part of being editor in chief will be?

BUDZYNSKA MIETKA: :

Oh my gosh. That is an extremely difficult question. One of the reasons I came to UW Law was because we had this gender journal. And so the fact that I got to end up, that I even get to be here on this podcast and serving my fellow students in this role is already rewarding. But internally, I think that's the most rewarding part of being editor in chief will be using my tenure to grow the journal's writing program, collaborating with the rest of the [E 00:19:23] board, of course. I believe that we have the capacity to create a program framework that really centers feedback for our students and makes the writing experience that much more engaging.

BUDZYNSKA MIETKA: :

Because we're working with such an interesting substantive realm, I think that the students who seek out our journal are ready to be engaged and passionate about the subject. And I think that our writing program is a good way to dive a little deeper and create more meaningful feedback and just also help

students work on their writing. I think that if I can do that along with the rest of the E Board, I will be very, very satisfied with how the year has gone.

TURNER::

Your legacy will be very secure if you're able to do that. And I'm confident that you will be. So where can people find new issues of the Wisconsin Journal of Law, Gender and Society, and where can they find your archives?

BUDZYNSKA MIETKA: :

Sure. So people can find our publication on sites that publish legal scholarship like Heinonline, on legal search engines like [Lexis 00:20:24], and our website, [publishtheuniversity 00:20:28]. We also print physical copies for those like me who prefer a screenless reading experience. And then the archives can be found on the law school's digital repository, but I think a Google search of Wisconsin Journal of Law, Gender and Society will yield what someone is looking for.

TURNER::

That's great. And of course we'll link to all the articles that Helenka mentioned in this discussion today, as well as the archives and the new issues of the Wisconsin Journal of Law, Gender and Society on the podcast page when we post this. Well, thank you very much for joining me today, Helenka, and congratulations on your election as editor in chief. It's been an absolute privilege speaking with you today. It's been really interesting.

BUDZYNSKA MIETKA: :

Thank you so much for having me. I really enjoyed it. First podcast, I can check off my list.

TURNER::

You've scratched it off your bucket list already. This is very impressive.

BUDZYNSKA MIETKA: :

Thank you so much.

TURNER::

You're very welcome. We've been speaking with Helenka Mietka about her upcoming tenure as editor in chief of Wisconsin Journal of Law, Gender and Society. We've spoken with all the editors of all the Wisconsin law journals this past month, so be sure to check out all of our previous podcasts, where I spoke with both the outgoing and ingoing editors of the Wisconsin Law Review and the Wisconsin International Law Journal. We're a monthly podcast. So be sure to subscribe to our podcast on either Stitcher or the iTunes Store. You can listen to our full archive at wilawinaction.law.wisc.edu. Thank you for listening. And until next time, happy researching.