

BOOK REVIEW

SPLIT DECISIONS: HOW AND WHY TO TAKE A BREAK FROM FEMINISM. By Janet Halley. Princeton, N.J.: Princeton University Press. 2006. Pp. 402. \$29.95 (cloth).

In the first few pages of *Split Decisions: How and Why to Take a Break from Feminism*,¹ Janet Halley claims that she is “urging us to indulge . . . in the hedonics of critique.”² Hedonics we certainly get in this book, including the hedonics obtained through critiquing feminism and its theoretical progeny. What Halley resolutely does not give us in this book, however—which might trouble those who want a viable, living, leftist political theory that critically assesses everything, including itself—is a critique of hedonics. There is a very particular reason why such a critique of hedonics is missing from Halley’s project: it is because if one evaluates either the pleasures that Halley takes for granted, or the pleasures of critiquing the forces presumably deployed to keep us from those pleasures, Halley’s entire project loses its political—as well as its ethical—force. Halley sets up two rigid fixtures in opposition to each other to keep her project intact. For different reasons, the assumptions underpinning these two fixtures escape Halley’s otherwise piercing critical eye and remain largely unquestioned throughout her book. The first fixture is the presumed good of undifferentiated, decontextualized, and dehistoricized bodily pleasures, and the second (set up in direct opposition to the first) is the allegedly pleasure-killing, paranoid, and moralizing power of feminism.

Halley’s hedonics are undeniably a wild ride: exhilarating, dislocating, and, at times, instructive. Halley has a vision for theory: she exhorts us to let theory proliferate free from moralizing constraints or embedded presumptions and valorizes the ability to hold open numerous perspectives at once. According to Halley, by doing this we can more fully imagine and take hold of the dimensions of human (especially sexual) experience. The hedonics, then, come not merely from critiquing “feminism” (Halley’s primary target, as she makes clear in her subtitle); the critique itself is driven by a strong sense of the varied pleasures, chiefly of sexual experience, that “feminism” prevents us from accessing. “Splits” from feminism are valuable, Halley tells us, because of the “sheer joy that they have made possible. . . . They have multiplied the desires and interests that we can see and articulate, and among which we distribute social goods.”³

¹ JANET HALLEY, *SPLIT DECISIONS: HOW AND WHY TO TAKE A BREAK FROM FEMINISM* (2006) [hereinafter HALLEY, *SPLIT DECISIONS*].

² *Id.* at 9.

³ *Id.* at 6.

Once joy and pleasure are set up on one side, which line up with Taking a Break from Feminism (a phrase Halley capitalizes throughout the book, presumably for emphasis), and moralizing and reductionism are set up on the other, which line up with Not Taking a Break, it is not hard to make a choice between them. But Halley's project is also meant to be a leftist one, one that is at least sensitive to, if not necessarily identifiable with, the insights of postmodernism. Any good postmodernist would observe that Halley has set up a binary here, and see a prime opportunity—no, more than that, an obligation—to deconstruct that binary. But one does not even necessarily need recourse to postmodernism; left political theory in general is characterized by the constant interrogation of principles and assumptions. This is what Halley quite rightly claims to be doing when she interrogates what she takes to be feminist principles and assumptions. A fairly long history of ideology critique has made clear the value of challenging reified concepts and naturalized presentations, combating them with concrete and historical contextualization. So let us address, then, in good leftist spirit, the two fixed poles of Halley's discourse in *Split Decisions*.

First, Halley's presentation of feminism. Halley has many things to say about feminism, or at least what she considers feminism to be. First, she argues that feminist theory always carries with it three commitments. It is first committed to being a theory of subordination, and this commitment has in its turn three parts: a fundamental distinction between what she calls "something m" (men, masculinity, or male gender) and "something f" (women, femininity, female/feminine gender), or m/f; a commitment to being a theory or practice about the subordination of the f to the m, or m>f; and "carrying a brief for" (working against the subordination of) f.⁴ The other two commitments of feminist theory, according to Halley, are the belief that feminism is necessary to any adequate theory of sexuality and the belief that one theory is better than many. The latter commitment also includes within it the belief that this one theory will tell us what "we need to know about moral value and emancipation," what Halley calls "the prescriptive deployment of theory."⁵ Halley also provides an engaging and deft description of the convergences and divergences of power feminism, cultural feminism, and queer theory feminism, but insists that what makes all of these identifiable as feminism is their commitment to the same three things. Halley maintains further that, in addition to having these characteristics, feminism is also powerful and hypocritical: at once both in denial about its power and paranoid about losing that power.

The evidence Halley provides for the charge that feminism is both powerful and in denial about its power lacks concrete or historical support. Halley's approach to power tracks her approach to pleasure, in that she

⁴ *Id.* at 4–5.

⁵ *Id.* at 5.

takes a depoliticized, quasi-Foucauldian view of both: they exist everywhere in largely undifferentiated form. So it is that Halley describes “governance feminism” with something very like horror: feminism is “running things” everywhere from rape activism to international criminal tribunals to sex and reproduction generally. Halley frequently characterizes feminism as paranoid; ironically, Halley’s reading of the power of feminism could itself best be described as paranoid.

Halley maintains, for example, that governance feminism has made child sexual abuse into a privileged crime. According to Halley, child sexual abuse is “a serious enforcement priority complete with ‘zero tolerance’ enforcement attitudes; other kinds of child neglect and abuse, other kinds of adult/adult interpersonal violence, lack the charisma of the sexual offenses. They fall into the background. And this is an effect of governance feminism.”⁶ Here we see a very clear example of Halley’s paranoid-critical approach to feminism: she accuses feminism of doing too much and too little simultaneously. Too much, because Halley implies that child sexual abuse should not in fact be such a serious enforcement priority; too little because feminism does not do enough to address other forms of violence among persons. Regarding the first, one might readily answer that it is a very good thing that child sexual abuse be treated with “zero tolerance”—if Halley would prefer leniency in such cases, she should perhaps offer some reason why. If one considers the history of child sexual abuse—the fact that it has been for centuries practiced, hidden, and excused in a way that many other personal crimes were not—one can certainly see why we should now, if possible, break with that tradition. If feminism has been able to agitate successfully for such a change (which is a largely unsupported assertion—while feminist reform may have tried to make child sexual abuse a priority for law enforcement, statistics on actual child sexual abuse indicate that far more instances of this abuse take place than are ever prosecuted), it is unclear why this would be anything but a progressive change. As far as the claim that other interpersonal crimes do not have the same “charisma” (as Halley puts it) goes, it seems to lay an unreasonable burden at feminism’s doorstep. It simply does not follow that if feminism has achieved some success in demanding serious recognition for a crime that has long been allowed to remain behind closed doors, the fact that other crimes are not highlighted in the same way is feminism’s fault. Halley wants it both ways; she wants political feminism to refrain from influencing law enforcement priorities, but she also criticizes it for not using its power to prioritize crimes that lack the “charisma” of child sexual abuse.

Halley fares little better in her very lightly qualified assertion that feminists “walk the halls of power” with respect to international criminal tribunals. Halley notes with alarm that feminists who advise and contrib-

⁶ *Id.* at 21.

ute to international tribunals “posit[] themselves as *experts* on women, sexuality, motherhood, and so on.”⁷ There seems to be no explanation other than paranoia to account for the omission Halley makes when describing the situation this way—namely, that international crimes affecting women because they are women (one example of gender-based violence) have for centuries been dismissed or even affirmed by those in power. Women’s arrival on the critical scene of international criminal law is new, and the function of feminism in this scene is largely corrective, not expansive. The machinery of international law moves slowly for all victims, and it is dwarfed against a background of appalling daily atrocities. Of course it is true that feminists have impacted international law and therefore obtained some kind of power; Halley asserts that all feminists would strenuously deny this, but fails to offer a single quotation or reference to support this claim. But to survey international criminal law—to survey the countless genocides, crimes against humanity, rapes, mutilations, and the maddeningly slow and weak mechanisms for justice available to challenge them—and make note only of the power of feminism is misleading at best.

Halley offers probably the least plausible and thus seemingly most paranoid assessment of feminist power when she writes that feminism “has convinced lots of men that the ‘new man’ must defer to feminism on questions relating to women’s welfare in sex and reproduction.”⁸ Exactly what evidence Halley relies on for such a claim remains a mystery; one wonders in any case what Halley is criticizing here. Is it the fact that women no longer simply defer to men on matters of sex and reproduction? The fact that laws no longer uniformly reflect male perspective and serve male benefit? The fact that feminism has served as a corrective to what has been a very one-sided legal, social, and cultural ideology of sex and reproduction is not to be denied: indeed, it should be celebrated, at least by anyone who does not uncritically accept overwhelmingly one-sided ideologies. But this remains a corrective power, not a freestanding one, and Halley offers no evidence to support the claim that feminists now control the answers to questions of sex and reproduction.

Halley immediately follows her claim about the “new man’s” deference to feminism with what at first seems like a non sequitur: “In the United States, the only left-of-center locales where male masculinity is worshiped anymore are gay and male.”⁹ But on closer inspection, it becomes clear that this seeming non sequitur is actually one of the moments when Halley really “puts her cards on the table” (much more revealing than the times throughout the book when she claims to be putting her cards on the table) and gets, quite frankly, moralistic. This is difficult to see at first because Halley has set up a binary in which feminism does all the moralizing,

⁷ *Id.* at 21 (emphasis in original).

⁸ *Id.* at 22.

⁹ *Id.*

while those who *Take a Break from Feminism* simply embrace the multitude of pleasures available in the world. Halley is supposed to be giving us theory that avoids “prescriptive deployment,” and yet how else are we to make sense of these two statements she puts side by side? If “feminism has convinced lots of men that the ‘new man’ must defer to feminism on questions relating to women’s welfare in sex and reproduction,” and “[i]n the United States, the only left-of-center locales where male masculinity is worshiped are gay and male,” then what we are really being told is that worshiping—not just respecting or acknowledging or taking into consideration—*worshiping* male masculinity is preferable to deferring to women in sex and reproduction. Not only that, but Halley here implies that there is some static, essential concept of “male masculinity” that *should* be worshiped—which is surprising coming from a theorist who generally argues against essentialist views of sexuality. In any case, there is a very clear moral imperative here, despite Halley’s protests against prescriptive theory. Feminism is not just wrong for introducing women’s stake and women’s perspective into issues of sex and reproduction; it is wrong for not glorifying men’s perspective. Glorifying men at the expense of women has a name—male supremacy, or, if you will, patriarchy. And there is the secret of the game. While it is certainly Halley’s prerogative to find value in patriarchal norms, there is something intellectually dishonest about the implication that her position is somehow less moralizing, less paranoid, or less powerful than this Thing Called Feminism. It is hard to see how Halley’s position here is any less tied to at least one of the commitments that Halley claims to criticize: an emphatic distinction between something masculine and something feminine—although accomplishing a reversal of Halley’s caricature of feminism, to be sure, in privileging the former over the latter.

But is it really that simple? Is it the case that all Halley is really after in *Taking a Break from Feminism* is the reinstatement of patriarchy? Not quite. In some ways, it is much worse than that. What Halley is seeking becomes much clearer in her critique of Robin West, whose book *Caring for Justice* is one of the major defining texts of cultural feminism.¹⁰

West’s formulation [of feminine sexuality] has a feature that I regard as widely characteristic of feminist legal theory today and highly puzzling, if not downright inexplicable: a pervasive lack of interest in women’s erotic yearning for men and a foreclosure of theoretic space for an affirmation of men’s erotic yearning *for them* [T]here seems to be no urgent need in their feminism

¹⁰ ROBIN WEST, *CARING FOR JUSTICE* (1997).

to understand *women's* version of what Leo Bersani . . . called "the [gay male] love of the cock."¹¹

At the risk of sounding glib, what Halley seems to be after is not mere reinstatement of patriarchy, but patriarchy with a smile—with a stamp of (erotic) approval from women. "I have not found *anyone*," Halley complains, "determined to produce a theory or politics of *women's heterosexual desire for masculinity in men*."¹² It bothers Halley very much that many feminists are married to or have significant intimate relationships with men and yet offer no encomiums to the objects of their heterosexual desire. "[I]t's just odd, striking, puzzling, that cultural feminism . . . have [sic] not been asked to explain how they can excuse or affirm precisely the male desire that they do desire, and why so many feminists who interdict it ethically seem to keep going back for more of it."¹³

Would it be too glib, one wonders, to ask if Halley would also critique the civil rights movement for not emphasizing the good qualities of white people, for not describing and valorizing the friendships that often exist between black people and white people, for failing to *worship* whiteness? Because perhaps such a question (by considering what in some ways is perhaps a less emotionally charged division than the one between men and women, namely, the division between races) might make it easier to see why—if indeed it is difficult to see why—political theory does not need to and in fact should not attempt to encompass the whole of human experience. Is it true that many feminists desire men and affirm masculinity? Certainly—although one would probably do well to try to describe precisely what is meant by "masculinity." Does that mean that feminist theory *needs to* account for and describe such desire? No, not any more than civil rights theory (for example) *needs to* account for or praise the deep, significant, non-oppressive relationships that surely exist between black and white people. Halley seems not to appreciate that political theory very often departs from a point of conflict and lays its emphasis there; she wants theory to be about joy and experience and the limitless possibilities of desire. And perhaps she would be right to criticize a feminist theory that denounces sexual relationships between men and women or maintains that all sex is rape and all female desire for men is patriarchal oppression, when in fact many of its practitioners happen to be desiring heterosexual subjects. But to take aim at feminists simply because they do not *prioritize in theory* the celebration of desire for men is moralizing in the worst possible sense. Halley wants theory to make us all feel comfortable in our desires; that is an interesting proposition, but not a very intellectually compelling one. Theory is work; if mere openness to experience

¹¹ HALLEY, SPLIT DECISIONS, *supra* note 1, at 65.

¹² *Id.* (emphasis in original).

¹³ *Id.* at 67.

were enough for full and meaningful existence, we would not need theory. Theory begins at the point at which we are blocked, challenged, oppressed, subordinated *in real ways*. Halley's criteria for evaluating theory seem to rest on how "included" she or imagined others feel in it, as she makes clear in a passage on the work of Sedgwick:

Any leftist with a serious heterosexual fetish for the erotic connection between masculine men and feminine women is going to discover in Sedgwick's list a certain limit: its ambitions to infinitude, and her relegation of that desire, that personhood even, to 'and so on . . .,' might make a person feel . . . a bit forlorn, left out of the party.¹⁴

Rather than desiring theory that politicizes, provokes, and displaces our assumptions, Halley wants theory that ensures that no one—or at least not Halley herself—feels "left out of the party."

What Halley seems to want from theory is acceptance, assurance, a home. There is something touching about Halley's intensely personal desire for theory, and the rawness she taps into is often brilliant and breathtakingly sharp; all the same, it is fundamentally depoliticizing. Halley freely admits that she advocates a theory that is "hypothetical," but she also maintains that it is meant to be critical. A politically viable theory must be critical and contextual; Halley's desire-as-theory is neither. This is clearest in the way that Halley approaches "pleasure," and consequently, in the way that she approaches "harm." To put it bluntly, Halley seems to think that a lack of pleasure, or the loss of an opportunity for pleasure, is, in itself, a harm. This is hedonics indeed; Halley does not concern herself with evaluating pleasures but rather implies that the very fact that someone could take pleasure in something makes that possibility inherently valuable. Simply put: Halley immunizes pleasure from critique. What is more, Halley seems to be unable or unwilling to articulate harm *in any other way other than a lost or missed opportunity for pleasure*. That is, as open as she leaves the concept of pleasure, to be filled in by virtually anything (regardless of how cruel, violent, or inhumane), her concept of harm is drawn very narrowly indeed. Thus we get Halley's reading of a divorce case involving adultery and undesired sadomasochistic sex, *Twyman v. Twyman*,¹⁵ as a story that is really about pleasure, feared and desired;¹⁶ thus, we also get a fable about rape that assures us that no harm has actually been done in sexual violence, because no pleasure is necessarily lost—except that for which *feminism* is responsible in calling it rape.

¹⁴ *Id.* at 206.

¹⁵ *Twyman v. Twyman*, 855 S.W.2d 619 (Tex. 1993).

¹⁶ Halley qualifies this reading somewhat by offering it as "only" one possible interpretation, but this does not rid her reading of normative emphasis any more than the feminist readings she criticizes.

In *Twyman v. Twyman*, the Texas Supreme Court ruled that Sheila Twyman could recover damages from her ex-husband for the tort of intentional infliction of emotional distress. William Twyman had coerced his then-wife into sadomasochistic bondage activities, even after she told him she was uncomfortable with such practices due to having been raped at knifepoint before their marriage.¹⁷ Sheila Twyman discovered some years into the marriage that her husband was in psychotherapy, and in questioning him as to why, found out that he was having an affair with a woman who agreed to engage in sexual bondage.¹⁸ William Twyman made clear to his wife that if she would not engage in bondage activities, their marriage would have no future.¹⁹ Halley offers us an extraordinary reading of the case rather than what she takes to be the “feminist” interpretation of it: she asks us to consider

the utter pathos of William, begging for sex he can't get from his wife, guiltily sneaking off to have it with another woman, whipped through round and round of psychotherapy to figure out why he is such a pervert, and finally submitted to the public humiliation of testifying about his hopeless intimacies and suffering a published opinion deciding that his marital conduct is very likely outrageous, beyond all possible bounds of decency, atrocious, and utterly intolerable in a civilized society.²⁰

Halley would have us believe that if we take issue with this kind of reading, we are refusing to Take a Break from Feminism and colluding in what she calls the Injury Triad (the assumption of female innocence, female injury, male immunity).²¹

This is a very neat parry—by asserting that any unease with her reading stems from rigid, moralized assumptions, Halley attempts to escape critical scrutiny. But to critique the scenario that Halley imagines for us, we need not make any assumptions at all—we can simply interrogate the assumptions Halley herself makes. One: that William “begged” for anything—there is no factual support for the idea that William did anything other than threaten, coerce, and bully to get what he wanted from an unwilling person. Two: that William felt “guilt” about having an affair. The facts indicate that William told Sheila, in effect, that the affair was her fault because she refused to have sadomasochistic sex with him. Three: that psychotherapy was “whipping William round.” Again, there is no factual support for the idea that William was not in fact being validated for his desires, or that he was forced to confront any sense of himself as a

¹⁷ *Twyman*, 855 S.W.2d at 619.

¹⁸ HALLEY, *SPLIT DECISIONS*, *supra* note 1, at 350.

¹⁹ *Id.* at 351.

²⁰ *Id.* at 356.

²¹ *Id.* at 289.

pervert. But the most serious assumption in this scenario is that we should feel the “pathos” of William *because he wanted something and did not get it*. No interrogation of whether simply wanting something is reason enough to get it, no consideration of the fact that often we want things that hurt and disrespect other people, no questioning of the idea that we are simply entitled to take pleasure from someone else’s body. Pleasure good; lack of pleasure bad.

Consider by contrast how, against the pathos of William, Halley asks us to imagine Sheila: “the astonishing power of Sheila, laying down the moral law of the couple’s sex life, pursuing *William like a Valkyrie* for breaking it, and extracting not only a fault-based divorce but possibly also money damages specifically premised on her alliance with the state against him.”²² There is harm here, but by no means is it the harm of someone trying to exact sexual pleasure from another person against her will. No, the harm comes from Sheila herself—the *Valkyrie*—the *moralist*. Sheila is a moralist for choosing for herself, against severe emotional pressure, not to participate in acts she found humiliating and degrading.

Lest we be unclear on this point, Halley brings it home with a dire prediction of what the world would be like should *Twyman* become widely-accepted legal precedent: “Imagine further,” she writes,

Twyman as background family-law rule that husbands with enduring ineradicable desires for sex that their wives find humiliating must either stay married to those wives, or, if they seek a divorce (which they might well want to do simply to remarry and have nonadulterous sex with women who do not find their desires humiliating), pay a heavy tax in shame, blame, and cash.²³

Now we must believe—in the face of no evidence at all—that William’s predilection for sex his wife finds cruel and degrading is an “enduring ineradicable desire” before which Sheila—and all of us—should bow down. Pleasure is elevated to the status of a right, over and beyond the consent or the desire of person from whom that pleasure is being extracted.

But in the denouement to her discussion, Halley tells us that this scenario of suffering William and Valkyrie Sheila is not her favorite version; ultimately she prefers one in which no one is actually to blame, where undifferentiated, uncritiqued, unbound pleasures dance out an eternal dance: Halley suggests, in her final reading, that the Twymans’ divorce proceedings were actually a “paroxysm of intimacy, a sustained crescendo of erotic interrelatedness, which, if it should ever end, would leave both of them aimless and lonely to the last degree.”²⁴

²² *Id.* at 356 (emphasis added).

²³ *Id.*

²⁴ *Id.* at 363.

What stands in the way of this unfettered pleasure, this world of proliferating desires in which we can imagine and live and love beyond boundaries? We already know the answer—Feminism—but Halley makes it explicit for us again in a fable about a crying girl on the playground. In the midst of a discussion about feminist perspectives on rape, Halley asks us to imagine a girl stumbling on the playground, falling, scraping her knee. She is of course all right, not really hurt—until the adults come in, hyperconcerned, oversolicitous, and *teach* the girl that she is hurt. Robin West offers a brilliant critical reading of Halley's fable (and a spirited response to Halley's critique of *Caring for Justice*) in a recent volume of this journal; there is not much to add to it.²⁵ The salient points are these: Halley sees rape as a crime of naming, not a crime against a body. Thus, the rapist is not really to blame; the women who call it rape are. Halley elides the existence of a perpetrator altogether in the playground fable: the little girl, as West notes, mysteriously “stumbles”; she is not pushed. No harm occurs until the feminists come in: “*Feminism* objectifies women, *feminism* erases their agency”²⁶—and what comes in to save women is Janet Halley showing us how to Take a Break from Feminism.

This is a tempting proposition. Insofar as Halley might be advocating that we put the emphasis on agency, in rape situations and elsewhere, the point is strong enough. Of course there is much benefit to be had in encouraging women and girls, at least in some rape situations, to fight back. In any case, women and girls should be encouraged to get angry, to exercise power, to take back their sense of agency if they feel they have lost it. But it is entirely possible to do this without minimizing the *real harm* that a rapist or an abuser intends to commit. Women should not let themselves be ruled by harm; far from it—no sincere feminist would argue that they should—but those who rape and commit other harms should remain a target of justifiable anger. Halley seems to think that women and girls cannot both refuse to be subordinated and also acknowledge that people exist in the world who will try to subordinate them. Why does Halley insist that women can only do one or the other? This is not a failure of feminist imagination, but rather of Halley's. Giving a crime a name does not mean consigning yourself to victim status; it means naming a harm that someone tried to inflict upon you. Women should not have to fear that when they name this harm, it will unravel them or their strength. If women cannot name it, they cannot politicize it. Likewise, when feminists claim that oppressive forces still very much in power seek to silence and bury feminism, this is by no means necessarily a fatalistic resignation to the silencing and burial of feminism, as Halley argues. To the contrary, political feminists concerned with social change know that you have to name your oppressor before you can fight it.

²⁵ Robin West, *Desperately Seeking a Moralist*, 29 HARV. J.L. & GENDER 1 (2006).

²⁶ HALLEY, *SPLIT DECISIONS*, *supra* note 1, at 346 (emphasis in original).

Halley invites us to Take a Break from Feminism in order to be “*for women and against this increment of injury.*”²⁷ But Halley’s theory does not just ask us to take a break from feminism; it asks us to take a break from critical thinking and to embrace a theory that immunizes us from any scrutiny of pleasure. To refuse to name harm, and to refuse to critique pleasures in their historical and political context, in fact leaves very little *for women*. What is left of pleasure in Halley’s “break” is a strident, undifferentiated, and unquestioned insistence—a joyless imperative to enjoy.

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²⁷ *Id.* at 347 (emphasis in original).

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