

The Neutral Law? Essays in Honour of Johanna Niemi

Edited by Daniela Alaattinoğlu, Kevät Nousiainen and Amalia Verdú Sanmartin



Source: University of Helsinki. Dean Johanna Niemi, Faculty of Law.
Photographer Veikko Somerpuro 10/2021.



Published by HELDA Open Books, University of Helsinki (2026). Licensed under a Creative Commons Attribution–NonCommercial (CC BY-NC) license. The license applies to the text of the book, but excludes the images. The authors retain copyright.

ISBN: 978-951-51-8339-2 (pdf) | 978-951-51-8340-8 (print)

DOI: 10.31885/9789515183392

15 Episodic Encounters with Johanna Niemi and her Scholarship

Juho Aalto

Abstract

This reflective essay explores my intellectual and personal encounters with the scholarship of Johanna Niemi. Rather than offering a comprehensive academic analysis, the essay is structured as a series of episodic moments—both scholarly and personal—that illustrate Niemi’s influence on my thinking. Drawing on themes such as gender, sexuality, legal subjectivity, and violence against women, the essay highlights Niemi’s critical engagement with feminist legal theory, discourse analysis, and openness to interdisciplinary insights and her commitment to inclusivity, and social justice. Through these encounters, I reflect on the evolving nature of legal scholarship in terms of new materialisms and the importance of challenging binary frameworks in law in terms of sex and gender as a continuation of Niemi’s work in the future.

Introduction

Reflecting on the breadth and depth of Johanna Niemi’s scholarship—from procedural law (Niemi 2010) and insolvency law (Niemi 1984) to gender and sexuality (Niemi 2012) and violence against women (Niemi et al 2020)—one quickly realises that engaging fully with her work could constitute an entire research project. Rather than attempting a comprehensive academic analysis, this essay offers a personal reflection on my encounters with her scholarship and with Johanna Niemi herself. My focus is on how her work has shaped my thinking, particularly in challenging the presumed neutrality of law through the lenses of gender and sexuality.

This reflection is structured as a series of episodic moments, inspired by the narrative style of the *Star Wars* films. Much like the franchise’s unconventional chronology, these episodes are not presented in strict chronological order but are instead organised around meaningful encounters—both intellectual and personal—that have left a lasting impression on me. These moments, drawn from memory and experience, represent what Donna Haraway calls ‘situated knowledges’, shaped by my perspective and context, and thus represent my experience of reality and the meaning I attach to it in this text (Niemi-Kiesiläinen et al. 2007: 77). Rather than engaging in detailed academic debate, this essay aims to highlight the personal inspiration, mentorship and intellectual curiosity that Johanna Niemi has embodied throughout her career—and her profound impact on mine.

Episode I - Colonia

I was a recent graduate from the University of Helsinki and was considering applying for doctoral studies. I asked around whether there was anyone in Finland working on themes related to gender and sexuality in law. A clear answer was repeated from many directions: Johanna Niemi. I was hesitant to contact someone with such an extensive understanding of the topic and a long publication track record. After some deliberation, I decided to send my master’s thesis to, at the time, Minna Canth Professor Niemi, who promptly responded to my initial enquiry about a letter of recommendation. She invited me to meet her in the Faculty of

Law building, Calonia, in Turku. I sat on the train, filled with nervous thoughts about how she might receive me. At the very least, I thought, she had not dismissed me outright after reading my thesis titled *Lesbians, Gays, Bi-sexuals and Transpersons in Strasbourg – The Non-heterosexual Legal Subject under the Scope of the European Convention on Human Rights*. I checked my Instagram account and saw that I had shared a photo on 22 February 2019 from the somewhat clinical corridor in Calonia where Johanna's office was located.

At this point, I cannot guarantee that my memory is not playing tricks on me. I recall Johanna entering the corridor from a door next to the sofa where I was sitting and waiting. We went into her office and began discussing my thesis. I remember touching on possible explanations for the existence of homosexuality, where Johanna briefly interjected to ask whether such an explanation had ever been found (no definite answer exists to date). The conversation soon meandered towards gendered power relations in history. I remember pondering why homosexual relationships have historically been perceived as a threat to society, and I illustrated this with perhaps a far-fetched example: if, in history, women were exchanged as part of diplomatic relations between states to unite ruling families, then homosexual relationships between kings could have formed even stronger bonds—bonds imbued with power—than the, in today's terms, forced marriages between daughters and foreign princes. I remember the discussion as intellectually stimulating, at times entertaining and even humorous. I was genuinely surprised by how approachable Johanna was as a person.

At the end of our discussion, Johanna suggested that I apply for a doctoral degree under her supervision at the University of Turku. That suggestion—and my eventual decision to follow it—has had a profound impact on my thinking and, to some extent, on my sense of self.

Episode II – Feminism's Internal Challenges

At first, I was somewhat unfamiliar with Niemi's scholarship. On first glance, I noticed her strong commitment to the feminist tradition. I was lost amid the different schools of thought that form dividing lines within what is categorised as 'feminist' scholarship. I remember seeing Judith Butler's *Gender Trouble* (Butler 1995), alongside Janet Halley's *Split Decisions: Why and How to Take a Break from Feminism* (Halley 2008), and even David M. Halperin's *Saint Foucault: Towards a Gay Hagiography* (Halperin 1995) on Johanna's office bookshelf. It is hard to describe the feelings I had when I saw those titles. It was a mix of heart-warming joy and curiosity, infused with an odd sense of surprise.

I began reading Niemi's work in 2019 and soon noticed that her approach to law and gender—particularly with respect to subject formation—resonated with how I had intuitively come to understand myself. Her postmodern discourse-analytical studies on the formation of legal subjectivity struck a chord. Despite the recurrence of the 'scary' f-word (i.e. feminism) at the time, I soon came to realise that Johanna's work was critical not only of paradigmatic legal thought (the legal auditorium) but also of internal tensions within feminist scholarship. In some of her texts, Niemi explicitly refers to sexual minorities and people who fall outside the male/female binary (e.g. Niemi 2015). The more I read, the more I was struck by the openness to new forms of scientific inquiry embedded in her scholarship. For instance, Niemi has repeatedly asserted the idea that both biological sex and social gender are socially constructed (e.g. Niemi 2012, 2019).

Niemi's scholarship has arguably become more relevant than ever—some might say, sadly so. Today, debates continue over the true nature of sex and gender, and whether biology is 'truer' than what is often dismissed as 'gender ideology'. Once again, I cannot guarantee

where exactly we had this conversation, but I remember Johanna expressing her surprise at hearing, in discussions about the Istanbul Convention (the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence), that some opponents were framing gender as an ideology.

On 16 April 2025, the Supreme Court of the United Kingdom decided *For Women Scotland v The Scottish Ministers*, ruling that the terms ‘man’, ‘woman’ and ‘sex’ refer to ‘biological sex’ under the meaning of the British Equality Act 2010. The judgment effectively sanctions the existence of specific spaces lawfully restricted to ‘biological’ women or men. To date, biological women who identify as ‘butch’ have been removed from these single-sex spaces. Framing gender as ideological feels almost insulting to decades of work in gender studies and law-and-gender scholarship, where gender has long been approached as a critical, complex and constructed category.

Episode III – Violence against Women

A theme close to Niemi’s heart is violence against women, which she has addressed extensively in her own publications and in the doctoral dissertations she has supervised (e.g. Leskinen 2022; Luján Pinelo 2023). Violence against women is a gendered issue, where women are often victims and men perpetrators. In Finland, as in other Nordic countries, women are frequently victims of violence in close relationships (e.g. Hydén 1994). However, the issue becomes more complex when we consider subject formation beyond the heteronorm and question the role of marriage as a foundational institution of society—as it is often framed by paradigmatic legal thinkers (e.g. Aarnio 1997: 282; Austin 1962).

In 2024, Finnish ice hockey player Janne Puhakka was found dead in the couple’s shared home. Puhakka was killed by his ex-partner, Norwegian veterinarian and businessman Rolf Nordmo. Nordmo pleaded guilty to manslaughter and was convicted of murder. He has appealed the judgment. This case is thought-provoking in light of Niemi’s scholarship: on the one hand, violence against women is a gendered issue; on the other, our understanding should not be confined to binary gender categories. Puhakka’s death follows patterns of intimate partner violence that are all too familiar. It is well known that the most dangerous time for a woman is often the dissolution of a relationship, when the abandoned male partner may resort to lethal violence (Einiö et al. 2023). Yet we must also recognise that same-sex relationships have only recently gained broad social acceptance, decades after different-sex relationships. In Puhakka’s case, both the victim and perpetrator were men. This suggests that factors other than gender might be at play in these troubling crimes.

Rather than approaching the problem solely through the gender framework—implied by the male/female binary and often carrying a brief for the feminine (e.g. Halley 2008)—it may be more fitting to examine it through the lens of sexuality. According to Rosi Braidotti, sexuality is a vital material force upon which the sex/gender dichotomy attempts to impose its primacy (Braidotti 2022: 188). From this perspective, such instances of violence can be conceptualised as exertions of control over another person’s sexuate matter in its most brutal form. Perhaps the root causes lie in the capitalist notions of ownership embedded in the institution of marriage.

I recently watched a moving film from 2020 titled *Supernova*, directed by Harry McQueen. The film follows a gay couple, Tusker (Stanley Tucci) and Sam (Colin Firth), who have been together for 30 years. As they travel through the English countryside in a camper van, their holiday gradually transforms into a farewell journey. Tusker has been diagnosed with

dementia and plans to end his life to spare Sam the anguish of watching the disease progress. Sam learns of the plan during the trip and pleads with Tusker to abandon it, unable to imagine life without him. Tusker, however, explains his decision and asks Sam to let him go. In this narrative, death is framed as an act of love, and suicide is not portrayed as selfish within that context. It is rare for a film to bring tears to my eyes.

Violence in close relationships is sometimes dangerously romanticised, especially during separation, when jealousy can serve as a trigger (e.g. Enander et al. 2022). The example of *Supernova* illustrates death as a continuation of Tusker's existence as he wished to be in the relationship (sollen) before dementia. Nordmo, by contrast, claimed that he had no difficulty letting go of the relationship. However, he had sent messages to a friend expressing feelings of betrayal after Puhakka had met someone new following their separation. Nordmo chose to continue the relationship on his terms—by ending Puhakka's life (sein). In this latter case, the act of killing can be interpreted as an attempt to limit the other person's sexual agency through death, triggered by jealousy.

While the problem remains gendered—violence in close relationships still disproportionately affects women—marriage continues to be promoted as desirable. Perhaps queering that very premise could offer new insights.

Episode IV – Discourse Analysis and New Materialism

Niemi has applied social constructionism as a theoretical framework and critical discourse analysis as a method to examine how gender and sex are socially and juridically constructed. She has reflected on the philosophical similarities between discourse analysis and paradigmatic discourse theoretical work in assessing how legal discourses shape and produce social reality and identities (Niemi-Kiesiläinen et al. 2007).

In 2019, Amalia Verdu Sanmartin introduced me to something called new materialism, which led me to rethink my theoretical starting points. I soon noticed that queer legal theory, alongside postmodern feminist social constructionism—both of which I had been exploring—could not fully respond to my research questions. I found it untenable to regard sexuality, distinct from the expression of sexual orientations, as merely a social construction. At the same time, the existence of socially constructed sexual identity categories based on the sex/gender binary was clear (Aalto 2024). Marriage has historically been used to exclude same-sex couples from full human rights and to reinforce heterosexuality as the desirable norm. Nevertheless, I began to search for something more substantial.

Rosi Braidotti's posthuman feminism renders the sex/gender dichotomy obsolete—or at least less relevant. Once again, I was struck by Johanna's openness to emerging theoretical frameworks. However, as I explored her scholarship more deeply, I found clear signs of her engagement with material feminisms (Niemi 2015: 1037), including reflections on the 1990s debate between Rosi Braidotti and Judith Butler (Peltonen 2012). Niemi recognises the risks of overemphasising discourse at the expense of materiality. Notably, Butler has recently acknowledged that the materialist and trans critiques of her gender performativity theory—formulated some 35 years ago—are well founded (Butler 2024: 23). In new materialist thought, gender operates as a grid that captures and codes sexuate matter (Braidotti 2022: 188).¹ Yet gender, as discourse, also functions as an analytical tool to interrogate the very

¹ Braidotti references Moira Gatens's critique of the sex/gender distinction a text from 1989, which Johanna assigned to me at an early phase of my thesis project. At the time I did not understand much of it.

structures it helps create and sustain. As Niemi reminds us, all feminist traditions can offer valuable methodological insights for addressing problems in their particular contexts (Niemi 2015: 1025).

Today, the paradox of how to recognise ‘women’ while keeping the category open-ended remains a central tension within the sex/gender dichotomy. This question is divisive even among feminists. Niemi has pointed out that accepting the social construction of biological sex is particularly difficult (e.g. Niemi 2019). The recent UK Supreme Court ruling appears to fix the meaning of key terms in law. Yet, as Margaret Davies suggests, this may not ‘solve’ the fluidity of the social world. Who are these ‘normal’ biological women entitled to access sex-specific spaces? According to Davies, ‘there is a norm in normal’ (Davies 2018: 37). Those who claim to defend biological sex are in fact defending how biological sex is culturally expressed as gender. The UK Supreme Court judgment arguably places too much weight on discourse and too little on material bodies. The ‘normal’ woman may be little more than a product of stereotype and essentialism.

The wilful—and sadly successful—exclusion of trans women from women’s toilets has already led to cases where so-called ‘biological’ women have been removed from public facilities (Dunbar 2025) for failing to conform to discursively normalised femininity. These women have included butch lesbians who neither conform to nor wish to perform traditional gender norms. In this sense, a new form of violence against women is emerging—one that results when biology is upheld as ‘truer’ than social gender. This example exposes material bodies to discrimination via discourse, and the law fails insofar as it insists on clear-cut binary categorisations of human beings.

Niemi has asked whether new materialism could be understood as the ‘post’ of discourse analysis (Niemi 2020: 502). I recall bumping into Johanna by the elevator doors on the third floor of the Turku Law Faculty. I told her that discourse analysis is rather entangled within new materialisms, because there is no before, after nor post. We both laughed, and the moment stayed with me. I agree with Niemi: all feminist traditions remain valuable today, depending on context—alongside matter in its physicality.

Episode V – New Beginnings

I have immense gratitude towards Johanna Niemi as a person, and my encounters with her scholarship have led to many surprises. One of the most meaningful aspects of getting to know Johanna is her genuine curiosity about scientific discovery and her unwavering commitment to promoting social equality through education and scholarship.

Johanna’s work has remained open to insights from fields beyond law, especially in recognising the challenges connected to different ways of being in society. I can say that being a sexgendered man in a distinctively women-dominated field such as law and gender has not always been easy. As Niemi has stated: ‘Finally, the emancipatory potential of law can only be understood when we start to see the legal system and legal discourses as constitutive of sex, gender and other identities’ (Niemi 2019: 112).

Looking ahead, the challenge lies in understanding how matter and discourse are co-constituted. This is crucial for continuing the interrogation of binary sexgender, particularly in how legal institutions rely on binary knowledge while simultaneously shaping the very subjectivities they claim to merely regulate.

Episode VI – Retrospective of the Episodes

Looking back on my episodic encounters with Johanna Niemi and her scholarship, what stands out most is not only the intellectual depth of her work but also the openness, curiosity and generosity she brings to academic life. Her ability to challenge the neutrality of law through a feminist lens—while remaining receptive to evolving theories such as new materialism—has profoundly shaped my own scholarly path.

Johanna's work exemplifies how legal scholarship can be both critical and constructive, questioning dominant paradigms while offering new ways of understanding identity, power and justice. Her commitment to inclusivity, in recognising the experiences of sexual and gender minorities in both her research and educational roles, has made space for voices often marginalised in legal discourse. Through her mentorship and example, I have learned that academic rigour and personal authenticity are not mutually exclusive.

In a field where categories like sex and gender are often treated as fixed, Johanna Niemi's scholarship reminds us that law is not merely a reflection of society but a force that actively shapes it. Her influence has encouraged me to embrace complexity and to find confidence in my own voice—the one I now use to question binaries, without the fear of the f-word.

I remain entangled with the lessons from these encounters: that scholarship can be transformative, that mentorship matters, and that the pursuit of justice must always remain open to redefinition. Future inspiration lies in engagement with 'the indeterminate nature of nature as part of the nature we seek to understand' (Barad 2007: 62), as a path towards overcoming the sex and gender distinction. I am similarly very happy to know Johanna as a person whose witty sense of humour has made me feel welcome in many feminist encounters—and encounters with different kinds of feminists.

Thank you, Johanna!

References

Bibliography

- Aalto, J. (2024) 'BinaryTech in motion: The sexgender in the European Court of Human Rights Jurisprudence'. *Leiden Journal of International Law*, 37(3).
- Aarnio, A. (1997) *Reason and authority: a treatise on the dynamic paradigm of legal dogmatics*. Aldershot: Ashgate.
- Austin, J.L. (1962) *How To Do Things With Words*. Oxford: The Clarendon Press.
- Barad, K.M. (2007) *Meeting the universe halfway: quantum physics and the entanglement of matter and meaning*. Durham: Duke University Press.
- Braidotti, R. (2022) *Posthuman feminism*. Cambridge: Polity Press.
- Butler, J. (2024) *Who's afraid of gender?* London: Penguin Books.
- Butler, J. (1995) *Gender trouble: Feminism and the subversion of identity*. New York: Routledge.
- Davies, M. (2018) *Law Unlimited*. Abingdon: Routledge.
- Dunbar, M. (2025) 'Woman says Boston hotel guard told her to leave bathroom because she "was a man"'. *The Guardian*. Available at: <https://www.theguardian.com/us-news/2025/may/06/boston-hotel-bathroom-same-sex-couple> [Accessed 4 August 2025].
- Enander, V., Krantz, G., Lövestad, S. and Örmon, K. (2022) 'The killing and thereafter: intimate partner homicides in a process perspective, part II'. *Journal of Gender-Based Violence* 6(3).
- Einiö, E., Metsä-Simola, N., Aaltonen, M., Hiltunen, E. and Martikainen, P. (2023) 'Partner violence surrounding divorce: A record-linkage study of wives and their husbands'. *Journal of Marriage and Family*, 85(1).
- Halley, J. (2008) *Split Decisions: How and Why to Take a Break from Feminism*. Princeton: Princeton University Press.
- Halperin, D.M. (1995) *Saint Foucault: Towards a Gay Hagiography*. Oxford: Oxford University Press.
- Hydén, M. (1994) *Woman Battering as Marital Act: The Construction of a Violent Marriage*. Oslo: Scandinavian University Press.
- Leskinen, M. (2022) *Seksuaalinen itsemääräämisoikeus: Rikosoikeuden muutos ja feministisen oikeusfilosofian mahdollisuus*. University of Turku, Faculty of Law, PhD thesis.
- Luján Pinelo, A. (2023) *Extreme Forms of Violence against Women in Europe. Femi(ni)cide in Germany*. University of Turku, Faculty of Law, PhD thesis.
- Niemi, J. (1984) *Etu-oikeudet konkurssissa: Selvityksiä*. Helsinki: Oikeusministeriö.
- Niemi, J. (2010) *Civil procedure in Finland*. Alphen aan den Rijn: Kluwer Law International.
- Niemi, J. (2012) 'Law and Gender'. In: Nuotio, K., Melander, S. and Huomo-Kettunen, M. (eds.) *Introduction to Finnish Law and Legal Culture*. Helsinki: Forum Iuris.
- Niemi, J. (2015) 'Onko "oikeus ja sukupuoli" oikeudenala?', *Lakimies* 113(7–8).

Niemi, J. (2019) 'Promoting Gender Equality'. In: Letto-Vanamo, P., Tamm, D. And Mortensen, B.O.G. (eds.), *Nordic Law in European Context*. Cham: Springer International Publishing.

Niemi, J. (2020) 'Oikeus konstruktionistisena käytäntönä', *Oikeus*, 49(4).

Niemi, J., Peroni, L. and Stoyanova, V. (eds.) (2020) *International Law and Violence Against Women: Europe and the Istanbul Convention*. Abingdon: Routledge.

Niemi-Kiesiläinen, J., Honkatukia, P. and Ruuskanen, M. (2007) 'Legal Texts as Discourses'. In: Svensson, E.-M., Gunnarsson, Å. and Davies, M. (eds.) *Exploiting the Limits of Law: Swedish Feminism and the Challenge to Pessimism*. Abingdon: Routledge.

Peltonen, S. (2012) 'Käsitteiden politiikkaa: Mistä puhumme kun puhumme sukupuolierosta?'. In: Lempiäinen, K., Leppänen, T. and Paasonen, S. (eds.) *Erot ja etiikka feministisessä tutkimuksessa*, Turku: UTUKirjat.