

How Feminism Shaped the Legal Response to AIDS

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In 1991, the CDC reported that 20,739 women were living with HIV in the United States and 3 million women living with HIV globally. By 2013, 16 million women were living with HIV globally, 242,178 of these in the United States. Today, HIV is frequently described as a “feminized” epidemic, dramatically different from the association between gay men and AIDS that defined that early response to HIV.

As the epidemic amongst women grew, feminists began to view HIV as a women’s rights issue. This article explores the feminist footprint inside of public health law and policy making on HIV/AIDS over the last few decades. While it is not possible to overstate the positive impact of the feminist intervention into AIDS, it has also been the case that the particular modes of feminist thinking shaped conceptions of the HIV epidemic and produced blindspots in the HIV response.

Drawing on critical studies of science, this paper explores how feminist ideas of risk shaped the epidemiological and legal response to HIV amongst women. In particular, feminists understood men to be the main source of HIV infections for women, and violence against women a key means of women’s vulnerability. Feminist conceptions of HIV lent support to the dominant mode of addressing violence against women to decrease the risk of contracting HIV: criminal law. Importantly, as feminist ideas of risk and risk prevention traveled within global law reform projects in the 1990s, the critiques of the carceral project, largely emanating from feminists of color, were ignored.

Part I of the paper will provide a historical overview of feminist engagement in the HIV epidemic drawing on the past of the feminist women’s health movement. Part II draws on critical studies of risk to discuss feminist idea of risk and reveals its limitations. I argue that the feminist construction of risk both contributed to positive gains as well as produced barriers to fully understanding and responding to the HIV epidemic.