

**Feminism Unmodified, Discourses on Life and Law.** Catharine A. MacKinnon. Cambridge, MA: Harvard University Press, 1987, Pp. 315.

To remake society so that women can live here requires a feminism unqualified by preexisting modifiers.<sup>1</sup>

Catharine MacKinnon is an American feminist lawyer, legal theorist and activist. Her work has been extremely influential within the Canadian feminist movement, and her influence is likely to increase since she has spent some time visiting and teaching at the Osgoode Hall Law School in Toronto. Her new book, with the confident title, *Feminism Unmodified*, has been available for some months now. It is a collection of essays, which, as a matter of choice, retain the flavour of the speeches they originally were.

A reader of this book would very quickly develop a sense of Professor MacKinnon's politics, of her formidable intellect, and her dramatic style.

There are a number of unifying themes; the analysis that the social relations of the sexes are organized around male domination and female submission and that "this relation is sexual—in fact, is sex"<sup>2</sup>; a critique of the idea that gender can be analysed as a matter of difference rather than hierarchy; and the identification of pornography as the most significant means of actualizing "these two dynamics"<sup>3</sup>, that is, the eroticization of male domination and gender hierarchy.

The subject matter of the speech/essays ranges over rape, privacy and equality in relation to abortion, equality in relation to the cultural survival of Indians, sexual harassment<sup>4</sup>, pornography and women in sport. Some of the material has been published before, for instance, "Not by Law Alone: From a Debate with Phyllis Schlafly"<sup>5</sup> and "Privacy v. Equality: Beyond Roe v. Wade"<sup>6</sup>. It is very convenient to have so much of Professor MacKinnon's work available in one volume.

From place to place throughout the book can be found a devastating critique of liberalism and liberal feminism. MacKinnon attaches words to the experience of the deficiencies of liberalism, and her words become part of the vocabulary of feminism. They demystify "the substantive misogyny of liberal neutrality"<sup>7</sup>. They give us the language of hierarchy, domination and subordination with which to talk about equality. Thus, inequality can be understood as the subordination of women rather than as different treatment. The bedrock of such an analysis as the

reality of women's experiences of poverty, violence, rape, the sexual assault of children, prostitution and pornography. It is crucial that this analysis and these realities be made part of a basic judicial and political understanding of the constitutional guarantee of equality in section 15 of the *Canadian Charter of Rights and Freedoms*<sup>8</sup>. There is a growing body of work in Canada in which MacKinnon's analysis is used in an attempt to influence the construction of equality that is now taking place. A good example can be found in a recent background paper issued by the Canadian Advisory Council on the Status of Women. In "Personal Autonomy and the Criminal Law: Emerging Issues for Women," the author, Elizabeth Sheehy, uses the "subordination principle" as part of a theoretical approach to issues such as wife battering, sexual assault and special defences for women. Sheehy states that this principle has the "ability to detect, explain, and alter women's oppression beyond a legalistic analysis, and it is the most capable of generating a creative vision of a society where women can pursue autonomous but connected lives"<sup>9</sup>.

Catharine MacKinnon is also famous for her work on pornography. Together with Andrea Dworkin she drafted a pornography ordinance for Minneapolis<sup>10</sup>, which allowed the victims of coercion, force, assault and trafficking, to take civil action against those who harmed them through pornography<sup>11</sup>. The use of the law against pornography is a controversial issue for feminist<sup>12</sup>, with some feminists choosing to categorize pornography as the exercise of freedom of speech. Included in this collection is a powerful response to such views, entitled "On Collaboration." The social phenomenon of pornography is described.

It is a specific and compelling behavioural stimulus, conditioner, and reinforcer. The way it works is unique: it makes orgasm a response to bigotry. It is a major way that dominance and submission—a daily dynamic of social hierarchy, particularly of gender inequality—are enjoyed and practiced and reinforced and experienced. And fused with male and female. Pornography makes sexism sexy.<sup>13</sup>

Speaking to the National Conference on Women and the Law in 1985, MacKinnon passionately denounces the "women lawyers, feminists" who choose to use their speech to misrepresent the ordinance and then attack it.

I really want you to stop your lies and misrepresentations of our position. I want you to do something about your thundering ignorance about the way women are treated. I want you to remember your own lives. I also really want you on our side. But, failing that, I want you to stop claiming that your

liberalism, with its elitism, and your Freudianism, with its sexualized misogyny, has anything in common with feminism.<sup>14</sup>

Some of the above ideas on equality and pornography will be familiar to many feminists. However, the book contains material that has not been accessible in the past. I am thinking particularly here of the speech entitled "Whose Culture? A Case Note on *Martinez v. Santa Clara Pueblo*," given at the North American Survival School, Red Earth, St. Paul, Minnesota, in 1983. The ideas expressed in this are important for those who are troubled by the interaction of equality and the respect for the culture of native Canadians.

Julia Martinez sued her tribe because of a rule which excluded her children from membership if she married outside the tribe. The United State Supreme Court held that tribal membership was a matter to be resolved by the tribe itself.<sup>15</sup> Thus, the tribe was to define what equality is with respect to the question of membership, which left them free to use an exclusionary rule out of fear of the loss of native land through inter-marriage between native women and white men. The issue, if seen in this way, can be constructed as a clash between cultural survival and the "white" notion of equality. MacKinnon asserts, for Julia Martinez, the right to claim equality as an *Indian* idea, and rejects the conflict between cultural survival and equality. She suggests instead that survival is "as contingent upon equality between women and men as it is upon equality among peoples"<sup>16</sup>. She asks when male supremacy became a tribal tradition. Perhaps *inequality* is the "white" idea. Such a way of thinking does not provide any easy responses to the problems, but does take us out of the deadend blocked by the dichotomy between cultural autonomy and equality.

What else can be learned from this book? We should not shrink from knowledge of the subordination of women. "Since when is politics therapy?"<sup>17</sup> Nor should we deny ourselves the use of law because it cannot be trusted. Women cannot restrict demands for change to spheres we can trust, because there simply are not any, not medicine, not theology, not technology, not the environment and not the media.<sup>18</sup> For myself, a lawyer tempted to succumb to the idea of the pointlessness of legal change, as for other feminists, this book can be a source of reassurance as well as inspiration.

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## NOTES

1. MacKinnon, *Feminism Unmodified*, p. 16.
2. MacKinnon, p. 3.
3. MacKinnon, p. 3.
4. An earlier, and much more extensive discussion of sexual harassment, which has influenced American judicial thinking about this form of discrimination can be found in MacKinnon, *The Sexual Harassment of Working Women*, New Haven: Yale University Press, 1979.
5. "Excerpts from a Debate with Phyllis Schlafly." *Law and Inequality: A Journal of Theory and Practice*, Vol. 1, 1983, p. 341.
6. "The Male Ideology of Privacy: A Feminist Perspective on the Right to Abortion." *Radical America*, Vol. 17, 1983, p. 23.
7. *Supra*, fn. 1, p. 15.
8. *The Constitution Act*, enacted by the *Canada Act, 1982* (U.K.), c. 11, Sched. B.
9. Sheehy, "Personal Autonomy and the Criminal Law: Emerging Issues for Women," Canadian Advisory Council on the Status of Women, 1987, p. 8.
10. Ordinance #3, City of Minneapolis (1984). The United States Supreme Court has held that an Indianapolis version of the ordinance violates the First Amendment guarantee of free speech. *American Booksellers v. Hudnut*, 771 F. 2d 323 (7th Cir. 1985), aff'd 106 S. Ct. 1172 (1986).
11. For the definition of pornography, see MacKinnon, "Not a Moral Issue," *Yale Law and Policy Review*, Vol. 2, p. 321. See also "Pornography, Civil Rights, and Speech," *Harv. Cir. Rts. Civ. Lib. Law Review*, Vol. 20, p. 1.
12. See, for the views of some Canadians, V. Burstyn, editor, *Women Against Censorship*. Vancouver: Douglas and McIntyre, 1985.
13. *Supra*, fn. 1, p. 200.
14. *Ibid.*, p. 205.
15. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978).
16. *Supra*, fn. 1, p. 68.
17. *Ibid.*, p. 220.
18. *Ibid.*, p. 228.

**Women's Ways of Knowing: The Development of Self, Voice and Mind.** Mary Field Belenky, Blythe McVicker Clinchy, Nancy Rule Goldberger, and Jill Mattuck Tarule. *New York: Basic Books Inc., 1986, Pp. 256.*

*Women's Ways of Knowing* deserves to be as stimulating to feminist epistemology as Carol Gilligan's *In a Different Voice* was to feminist ethics. Like Gilligan's study, this book begins by asking whether a paradigm of development designed to explain men's behaviour and experience can be applied to women. The paradigm is William Perry's 1970 description (in *Forms of Intellectual and Ethical Development in the College Years*. New York: Holt, Rinehart and Winston, 1970) of the epistemological development of a group of male Harvard students during their college careers. *Women's Ways of Knowing* answers no, that Perry's model does not apply very well to women, but this question and answer are only the beginning and not the heart of the book. Its heart is in the descriptions and analyses of women's perspectives on knowledge.