Feminism and Liberalism Reconsidered: The Case of Catharine MacKinnon

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*M*uch of contemporary feminist theory presents itself as radically opposed to liberalism. Certain claims made by Catharine MacKinnon have contributed significantly to this view. In this article, however, I argue that certain fundamental aspects of MacKinnon's work must be understood within a liberal framework, even as she challenges the epistemological assumptions that tend to inform liberal political theories. I highlight the ways in which MacKinnon makes use of several fundamental liberal tenets, such as the primacy of individual choice, and then consider how her work contributes to an ongoing discussion about the relevance of liberal theory to contemporary feminist concerns.

Feminist theory has contributed a great deal to our understanding of the incompleteness of unreconstructed liberalism for addressing all aspects of human life. But the view that liberalism and feminism are incompatible has become widespread, especially among radical feminists who reject liberalism for offering women "a piece of the pie as currently and poisonously baked" (Morgan 1996, 5). When liberalism is understood as thoroughly patriarchal, feminism is understood as something separate from and beyond liberalism. The presentation of liberalism and feminism as disjunctive—indeed, as a contradiction[1]—raises the question of whether we have become too eager to dissociate thoroughly feminism from liberalism. Once we acknowledge the gender bias in many classical liberal tenets as originally formulated, we are left with the question of whether liberalism is simply one of "the master's tools [that] will never dismantle the master's house" (Lorde 1984).[2] Does liberalism remain relevant to feminism, or does feminism require "a new process of theorizing and a new form of theory" (MacKinnon 1989, 116)? The prominent feminist legal theorist, Catharine A. MacKinnon, is one of the more forceful defenders of this latter claim. Yet, I shall argue, certain aspects of the theoretical project she lays out in *Toward a Feminist Theory of the State* rest on liberal underpinnings. I maintain that liberal theory remains crucial to feminist theory's attempt to articulate fully the possibilities of feminism, even as a feminist critique is necessary to articulate fully the possibilities of liberalism.

Although the most vociferous debate in feminist theory currently centers on disentangling the complex relationship between feminism and postmodernism, the relationship between feminism and liberalism continues to be analyzed and reassessed as well (see, e.g., Allen 1988; Hirschmann 1996; Johnson 1994; Kensinger 1997; Nussbaum 1999; Sinopoli and Hirschmann 1991; Wendell 1987). Pauline Johnson (1994) has identified three stages in the changing relationship between feminism and liberalism. First, the classical paradigm was problematically applied to women by liberal theorists such as Mill. Second, feminist theorists exposed the patriarchal biases of the classical paradigm. The third stage, in which Johnson locates her own work, involves grappling with the following question: "In what terms, namely, are the value commitments of liberalism, which have underpinned feminism's own culture-critique, to be preserved in the light of the powerful feminist challenge to the conception of politically qualified subjectivity which has traditionally underpinned the critical values of liberalism" (1994, 69)?

Defenders of liberalism against the feminist critique often fail to take into account the specific challenges posed by Catharine MacKinnon. The exception is Martha Nussbaum (1999), who responds to several aspects of MacKinnon's critique, although she does not address MacKinnon's critique of liberal epistemology, to which I will devote considerable attention. Other commentators who address MacKinnon's work tend to ignore her theoretical claims and focus on the more limited task of reconciling antipornography legislation with the First Amendment (see, e.g., Scoccia 1996). Such an approach does not address the broader question of whether the assumptions underlying liberal theory are themselves part of the problem. Similarly, Easton (1994) examines Britain's 1986 Public Order Act, which prohibits incitement to racial hatred, with a view toward prohibiting pornography as incitement to sexual hatred. She defends such legislation by appealing to the liberal concern for "a more equal and just social order" (p. 154). Although this argument appears

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[1] A classic example is *The Radical Future of Liberal Feminism*, in which Zillah Eisenstein (1993, 3) argues that "the contradiction between liberalism (as patriarchal and individualist in structure and ideology) and feminism (as sexual egalitarian and collectivist) lays the basis for feminism's movement beyond liberalism." As Eisenstein presents it, only by transcending liberalism did feminism realize its full potential.

[2] "Liberalism" is notoriously difficult to define. I will refer to specific features that are generally accepted as intrinsic to the liberal tradition, which is made of up several strands, without claiming to address all the features that can be attributed to liberalism. In general, I focus on liberal values, principles, and theoretical commitments (such as the primacy of individual choice and self-determination, and the equal moral worth of all human beings based on a shared human core of dignity), rather than on liberal political institutions.

to link the practical political issue with broader theoretical questions, it appeals to an overly broad conception of liberalism—both Marxism and anarchism, for example, are certainly also concerned with a more equal and just social order—and disregards the degree to which "equality" and "justice" are contested terms. While offering useful practical insights, Easton circumvents important theoretical questions about feminism and liberalism.

In light of MacKinnon's (1987) claim to offer an "unmodified" feminism as well as the significant effect of her work on both the political and theoretical landscapes, it is important to confront the unique challenge she poses to liberalism before we can determine whether feminism can be useful in revealing not only the limitations but also the potential of liberalism. I will demonstrate that MacKinnon's work should be understood as part of a conversation within liberalism, not as a separate and fundamentally antagonistic enterprise. My intent is neither to render MacKinnon's ideas more palatable or less threatening nor to dismiss her equally important debt to Marxism.[3] Although MacKinnon goes out of her way to distinguish her feminist theory from both liberalism and Marxism, the Marxist dimensions of her work have been widely discussed (Brown 1996; Cornell 1991; Ring 1990). Yet, the liberal dimensions of her work remain underappreciated. This results in a largely inaccurate understanding of MacKinnon's feminist theory and contributes to the common misperception of the relationship between contemporary feminism and liberal theory as fundamentally antagonistic.

I begin with MacKinnon's theoretical writings rather than the more recent *Only Words*, which is a particular application of the feminist method and jurisprudence that MacKinnon explains and defends in her earlier works. In *Toward a Feminist Theory of the State*, she distinguishes her own position from two other tendencies found in feminist approaches to liberalism.[4] The first charges liberalism with inconsistency, arguing that liberal ideals traditionally reserved for the public realm must be extended to the private realm (see Okin 1990). The second, which grew largely out of the work of Carol Gilligan (1982), argues that the virtues traditionally relegated to the (feminine) private realm should replace the traditional (masculine) liberal model of the public realm structured around atomistic individualism (see Held 1993; Ruddick 1989). Scholars of this persuasion argue that the public sphere should be recast in terms of care and connectedness, which would entail a revaluation of women's voices, work, and ways of being in the world.

In contrast, MacKinnon believes our options should not be limited to insisting that women are independent individuals, on the one hand, or celebrating the fact that they are not, on the other. Rather, she is interested in changing the social conditions that prevent women from being independent individuals. She criticizes liberal theory for presupposing that women are self-defining individuals, but she directs feminism to create conditions that support rather than undermine women's individuality, which liberals erroneously take for granted. To insist that women are individuals "will not make it so; it will obscure the need to *make change so that it can be so*" (MacKinnon 1987, 59, emphasis in original). Historically, liberalism as applied to the project of women's liberation has generally focused upon removing the explicit, state-sanctioned barriers that kept women from competing in the public sphere. MacKinnon sees barriers where others have not. In order to make these barriers visible, she challenges liberal theory in two ways, criticizing the liberal tendency toward abstract equality as well as the tendency to rely on empiricist assumptions about what it means to know social reality.

MACKINNON'S CRITIQUE OF ABSTRACT EQUALITY

On the surface of her argument, MacKinnon rejects the classical liberal conception of equality. She acknowledges that formal equality has achieved important advances for women (noting that it has been even more successful in gaining access for men to women's traditional protections), but she argues that it is insufficient for several reasons. First, it is virtually impossible to apply the liberal understanding of equality (treating likes alike and unlikes differently) to issues of sex and gender, since the sexes are socially defined by their mutual unlikeness. "Socially, one tells a woman from a man by their difference from each other, but a woman is legally recognized to be discriminated against on the basis of sex only when she can first be said to be the same as a man. . . . Sex equality becomes a contradiction in terms, something of an oxymoron" (1989, 216).

Second, MacKinnon argues that gender difference is more accurately gender dominance. Norms of masculinity and femininity vary over time, but the social meanings of "man" and "woman" remain linked to a hierarchical conception of heterosexuality in which dominance and submission define the two. MacKinnon maintains that despite the legal distinction between rape and sex, which turns on the question of consent, a certain degree of force/dominance is actually built into our understanding of normal heterosexual behavior. It is socially acceptable for men to pressure women for sex; only after some (ambiguous) threshold is crossed is a wrong committed. We dither over how much pressure is too much without questioning why any at all is acceptable. When a judge refers to "half-won arguments in parked cars" as part of the normal dance of sexual behavior that the law must protect, MacKinnon asks why half-won is enough. "Why not half-lost" (1991b, 193)? The roles men and women are expected to play in this view are not simply different, but inherently unequal.

The acceptance of hierarchy in sexual relations as a

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[3] We may broadly distinguish between "liberal" and "Marxist" feminist theories, but MacKinnon (1989, 39) reminds us that "few are exclusively liberal or exclusively radical."

[4] Nussbaum (1999) offers a thorough and persuasive defense of liberalism against these two strands of feminist critique.

natural (and thus innocuous and immutable) difference between men and women undergirds our tendency to accept other "differences" between the sexes. Because equality is premised on sameness, this leads to a real disparity in social power between men and women, with the result that women are rarely "similarly situated" to men. Beyond the obvious fact that women get pregnant, centuries of economic dependence, differential treatment in education, discriminatory legislation, and physical/sexual intimidation have created a situation in which the average woman is not similarly situated to the average man. The playing field is not level, and pretending does not make it so.

Because the average woman is not similarly situated to men, purely formal equality can be quite detrimental, as the "feminization of poverty" phenomenon indicates (see Pearce 1990). Insofar as the sexes are socially unequal, when the law treats them neutrally, it tends to enforce women's inequality. For example, the move to a gender-neutral criterion for deciding child custody did not result in greater equality for women. "Men often look like better 'parents' under gender-neutral rules like level of income and presence of nuclear family, because men make more money and (as they say) initiate the building of family units. In effect, they get preferred because society advantages them before they get into court, and law is prohibited from taking that preference into account because that would mean taking gender into account" (MacKinnon 1991a, 83–4).

Therefore, if women are treated by the law in abstraction from the fact that they are women, their unequal status is rendered invisible and remains unchanged. But if they ask to be treated as "women," they provide justification for unequal treatment by admitting they are different from men. MacKinnon thus explains why contemporary feminism appears to be divided against itself, why it is said that feminism cannot decide whether women want equality or "special treatment." Feminists are accused of trying to have it both ways. The question MacKinnon asks is: Men have it both ways, and why is that not considered unfair? Her answer is that male privilege is invisible; it is not described as having it both ways. For men, there is no conflict between the (so-called) neutral and the particular.

For these reasons, MacKinnon (1991b, 184) concludes that liberalism is insufficient to accomplish feminist goals: "Applied to women, liberalism has supported state intervention on behalf of women as abstract persons with abstract rights, without scrutinizing the content of these notions in gendered terms." What such scrutiny entails is not an abandonment of liberal principles but a new way of studying social reality in order to perceive better where and how it contradicts those principles. MacKinnon demonstrates that liberalism is insufficient unless supplemented by a feminist critique of the gendered social reality that liberal neutrality takes as a given, but it does not follow that liberalism and feminism are incompatible. Indeed, in my view, her analysis suggests that each requires the other. After I examine MacKinnon's epistemological critique of liberalism, it will become apparent just how and why this is the case.

CHALLENGING THE "FACTS" OF LIFE

In order to correct liberalism's deficiencies, MacKinnon offers a rethinking of the epistemological assumptions that underlie liberal political theories. The liberal approach to sex equality is most helpful in redressing inequalities due to stereotyping. Yet, any difference that is found to have a factual basis justifies differential treatment. The problem, according to MacKinnon, is that many "facts" about women that are taken to be real differences are not immutable givens; they have been produced by the sexual inequality embedded in our social arrangements. Women have been damaged by sexual inequality; if we take their damaged selves to be an accurate picture of what they are, they will never be similarly situated to men. Stereotypes are "most deeply injurious at the point at which they become empirically real" (MacKinnon 1989, 230). The more "real" the stereotype, the harder it is to argue that it must be changed or fixed. "Where liberal feminism sees sexism primarily as an illusion or myth to be dispelled, an inaccuracy to be corrected, true feminism sees the male point of view as fundamental to the male power to create the world in its own image, the image of its desires, not just as its delusory end product" (MacKinnon 1991b, 183).

First and foremost, liberalism assumes individual agents who participate in but are not constructed by the field of social interaction, makers of meaning who are not themselves made. This view underlies the liberal state's commitment to neutrality rather than interference and its unwillingness to change the social conditions perceived as "facts." But insofar as the state remains neutral in the face of a social arrangement that is not neutral, male dominance is reinforced. MacKinnon charges that liberal neutrality or "objectivity" is merely blind to its own bias. She goes so far as to state that "male dominance is perhaps the most pervasive and tenacious system of power in history . . . it is metaphysically nearly perfect. Its point of view is the standard for point-of-viewlessness, its particularity the meaning of universality" (1989, 116–7). Its metaphysical near-perfection lies in its coherence; the male perspective is so embedded in social reality that it becomes almost invisible as anything particular in itself. It comes across as "the way things are" (p. 162) and thus, in the empiricist view, defines rationality, making all accounts of reality that contradict the accepted "facts" easily dismissed. It is this virtual invisibility of male privilege, rather than force, that serves as gender inequality's best protection.

Pornography, which disseminates a sexual script wherein women are portrayed as sexual objects that exist solely to gratify men,[5] is a primary channel

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[5] MacKinnon defines pornography as the graphic sexually explicit subordination of women (as well as men, children, or transsexuals) through pictures or words. Her definition does not include all erotic or sexually explicit materials, only those that also present women as

through which sex and domination are fused. MacKinnon therefore treats pornography as a crucial feminist issue, arguing that it harms women in three ways. First, women are harmed in order to make pornography (just as children are harmed in the production of child pornography). Second, it perpetuates the image of women as sexual objects and thus dehumanizes them, undermining both their demands to be treated as full human beings and their credibility when they complain about sexual violation. "Men treat women as who they see women as being. Pornography constructs who that is" (1992, 298). It legitimates and promotes gender inequality by making that inequality sexual. The more widespread pornography use becomes, the more difficult it becomes to dissociate sex and degradation. How many adolescents absorb their understanding of sex from pornography? What effect might this have?

But the effect of pornography on the social position of women is not limited to the dissemination of harmful views of them. The conditioning effect constitutes the third and most important way pornography is harmful.[6] By appealing not to the intellect but to a largely unconscious sexual (physical) response, pornography habituates its users to experience a sexual thrill from the degradation of others (usually women). Insofar as it is used for sexual gratification, MacKinnon argues, pornography must be considered as a material component of sex rather than something that reflects or depicts sexual experiences.[7] Thus, pornography is more of an action than a communication of ideas, and MacKinnon implicitly invokes Mill's harm principle in framing her argument in these terms. Moreover, she attempts to redress the harm of pornography through legal reform rather than dismissing legal change as specious, as would someone who adopts a more thoroughly Marxist perspective.

By conditioning sexual desire and thus shaping sexual behavior, pornography does not just distort human sexual desires.[8] It also causes the dominance/submission model of sexuality to become an empirical "fact" about sexual behavior, which renders the distinction between reality and myth or stereotype virtually mean-

ingless. MacKinnon is not challenging the dominance/submission model of heterosexuality as a myth that needs to be dispelled; she acknowledges dominance/submission as a reality of sexual behavior and then challenges both the authenticity and the justice of that reality. The empiricism that informs so much liberal theorizing can at most capture a static picture of social reality. It fails to detect the contingency of the "facts" it perceives, and it thus regards pornography as mere representation and dominance/submission as reality. When the issue is framed this way, it becomes almost impossible to argue against gender dominance, as it is taken to be empirically real. This difficulty exemplifies what MacKinnon means when she says patriarchy is metaphysically nearly perfect.

MacKinnon charges that most feminist analyses, even some that call themselves "radical," fail to capture the complex reality of gender inequality because they unwittingly work from within a traditional liberal epistemology. For example, in *Gyn/Ecology*, Daly (1978) discusses the traditional Hindu practice of suttee, in which a widow throws herself upon her dead husband's funeral pyre, supposedly out of overwhelming grief and a desire to remain pure. Daly proves that the widows do not voluntarily throw themselves but are often drugged or pushed. By showing that suttee usually is not voluntary, Daly believes she is demystifying the whole practice. Her analysis suggests that women's consciousness exists outside the prevailing understanding of their society. Women may be told that life is nothing without a husband, but they do not believe it. The harm Daly identifies is the explicit coercion of suttee, and she assumes that the women's reality is located in the absence of coercion.

But institutionalized inequality has the power to create inequality in its own image. In MacKinnon's view, Daly ignores the material effects of systemic gender inequality, which not only hide women's authentic response to the death of a husband but also shape it. Daly locates the "real" feminine response to suttee in women's resistance, but their resistance is neither as universal nor as untouched by social expectations as Daly suggests. Daly thus closes off the possibility of understanding the true power of suttee, which is most profoundly manifested in the woman who does not have to be pushed, who wants to die when her husband dies. This woman, according to MacKinnon, is the greatest victim, notwithstanding the absence of visible, immediate coercion. A woman who jumps is not evidence of lack of coercion, but of coercion so fundamental that it has become foundational to a woman's self-understanding.

MacKinnon discerns a similar internalization when women subscribe to a social understanding of sexuality that tells them they should orient themselves toward men's desires because to do so is to be a woman. What is at stake in MacKinnon's analysis is the degree to which the social meaning of gender becomes the content of women's lives. To the extent that women become "thingified in the head" (1989, 99), they appear to consent to their subjection, and liberalism is hard pressed to help them. "In other words, to the extent

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"dehumanized as sexual objects, things, or commodities; enjoying pain or humiliation or rape; being tied up, cut up, mutilated, bruised or physically hurt; in postures of sexual submission or servility or display; reduced to body parts, penetrated by objects or animals, or presented in scenarios of degradation, injury, torture; shown as filthy or inferior; bleeding, bruised, or hurt *in a context that makes these conditions sexual*" (1992, 300, emphasis added). The definition is intended to distinguish pornography from other sexually explicit material that does not meet these criteria and therefore is not sexually discriminatory.

[6] I believe it is the most important because it circumvents the argument that pornographic images are mere speech or representation of ideas. The Seventh Circuit Court of Appeals acknowledged the harm that pornography causes to women by disseminating the view that they are sexual objects, but it then used this admission to categorize pornography as protected speech that must not be abridged based on the particular content or viewpoint it expresses. See *American Booksellers* v. *Hudnut* 771 F. 2d 323 (7th Cir. 1985), aff. mem. 475 U.S. 1001 (1986).

[7] For a more detailed explanation of how pornography is an activity and not just a representation of ideas, see MacKinnon 1993.

[8] Nussbaum (1999) directs her arguments to this aspect of MacKinnon's discussion of pornography.

pornography succeeds in constructing social reality, it becomes invisible as harm" (1992, 299). Moreover, to the extent that dominance and submission are eroticized as the basis of heterosexual relations, it is difficult for both men and women to discern the line between sex and rape. MacKinnon shares the liberal preoccupation with choice and consent but tries to make them meaningful for women by identifying unacknowledged barriers that interfere with their free exercise.

BEYOND INEQUALITY: MACKINNON'S LIBERAL HUMANISM

MacKinnon clearly draws on Marxist insights in formulating her critique of liberal idealism, but she then distances herself from Marxist critics by charging them with oversimplifying social reality as much as liberalism does, albeit from the opposite direction. "As liberal theory has looked for the truth of women in the mirror of nature, left theory has looked for the truth of women in the mirror of social materiality" (1989, 122). Like liberal idealism, materialism fails to capture the complex reality of woman as someone who both is and is not a product of her conditions. The complexity of this reality allows MacKinnon to avoid invoking the concept of false consciousness. We cannot say that either the woman who is explicitly coerced or the woman who does not need to be coerced is suffering from false consciousness. Both are exhibiting a real response to real conditions, and both responses need to be taken into account in order to appreciate those conditions. Yet, neither is exhibiting a fully real response because ultimately both are products of oppressive conditions. We have no idea, under these circumstances, what a woman's real response would be. Feminist theory as conceptualized by MacKinnon orients itself toward both dimensions of women's reality: the reality of women's inequality and the reality of women as self-determining human beings.

One must take careful note of MacKinnon's acknowledgment that patriarchy is only nearly perfect. This careful qualification allows MacKinnon to identify some critical space from which women can challenge the system that has in large part produced them. Marxists encounter a similar difficulty in trying to account for the class consciousness of the proletariat under capitalism, a parallel MacKinnon mentions (1989, 103–4). Yet, her theory entails a much weaker version of this problem because she never presents consciousness as a unilinear reflection of material conditions. If she did, it would be difficult to justify her argument that the empirical "facts" about women are not actually true, although they accurately describe women as they are and so cannot be dismissed as mere stereotypes. Paradoxically, the stereotypes are "true and false at the same time" (p. 104), which is why women can claim consciousness that existing social reality is not theirs and simultaneously argue that they have been constructed by that reality. MacKinnon does not dismiss patriarchy as mere illusion. "As it justifies itself, namely as natural, universal, unchangeable,

given, and morally correct, it is illusory; but the fact that it is powerful is not illusion" (p. 100).

Although sexual inequality is real, feminism is also real, and it provides a glimpse of a "shadow world" (MacKinnon 1989, 104) of possibilities for women. Women are what they are (which is reflected in yet not exhausted by what they are said to be), but they are (or could be) something more or something else. The evidence of women's reality beyond the reality of their experience of inequality is the awareness that they could be more than they are allowed to be, that is, its evidence is feminism. If sexual inequality were not real, feminism would not exist. If it were exhaustive of the real, feminism could not exist. Feminism exists at the intersection of the reality of women's oppression and their reality as complete human beings and affirms the reality of both. The Enlightenment epistemology that is central to liberalism—the detached, rational subject knowing a separate, static object—is insufficient to capture this complex reality. MacKinnon thus requires an epistemic position that locates itself within the dynamics of the existing social system of gender inequality (because women are never "outside" it) and yet is not wholly determined by that system (because women are not reducible to it). Mind and world are neither detached nor collapsed but interpenetrated.

The necessary intersection of the reality of women's inequality and the reality of women as self-determining human beings is not always appreciated by MacKinnon's commentators. Often, MacKinnon is presented as someone who seeks to sensitize her audience to women's victimization without pointing them beyond it (Brown 1996, 94; Elshtain 1997, 253; Ring 1987, 470). Consider, for example, Cornell's (1991, 128–9) characterization:

> MacKinnon is a "realist" in two senses. First, she is a "realist" in that she argues for a descriptive methodology in which the reality of gender difference, understood as a determinate presence that determines individual identity as sexualized, is traced and brought to consciousness. Thus, she argues against those . . . who have argued that social and legal reality is indeterminate. Secondly, and in a related manner, MacKinnon is a realist in the colloquial sense that she insists that women face up to reality. We must confront what male domination has done to us, rather than try to see the world of gender hierarchy through rose-colored glasses.

Cornell suggests that MacKinnon sees women's oppression as constitutive of women's reality. This is partly accurate insofar as MacKinnon criticizes those who abstract from existing inequality to view women as essentially free. But what Cornell ignores is that MacKinnon herself then abstracts from that inequality in order to argue that oppression is not exhaustive of women's reality. If it were, radical feminism would be no more than a celebration of victimhood, a worldview that denies women's capacity for choice and self-determination. Instead, the emancipatory potential in women's consciousness of the existing inequality is affirmed by MacKinnon (1989, 91) as essential to the development of feminist consciousness: "Women experienced the walls that have contained them as walls—

and sometimes walked through them." She may criticize liberals who focus their attention on protecting the individuality of the exceptions to the rule without questioning why the rule—pervasive factual inequalities between the sexes—persists, but she cannot help but rely on the existence of "exceptions" to the pervasiveness of patriarchy in order to advance her own arguments.

Cornell also opposes MacKinnon's realism to the poststructuralist view that social reality is indeterminate. Clearly, MacKinnon sees the social/sexual objectification of woman as fairly stable rather than as a perpetually shifting text. Although she does emphasize the discursive construction of sex and gender and the importance of seeing the meaning of "sex" and "woman" in their social context, she does so for the purpose of arguing that this context is a distortion. She disputes the social meaning of womanhood not on the grounds that identity is inherently indeterminate but because there is something to "woman" that is authentic and real, and it must be taken into consideration in assessing whether our social order is just. Moreover, she seeks recourse to a position beyond power and history from which social reality can be evaluated. In her characterization of existing social reality as a distortion she implies another reality against which it can be measured. Although this reality does not, in MacKinnon's view, simply underlie the cultural production of gender, untouched and waiting to be discovered once we strip away the layers of stereotypes, her references to this reality reveal her liberal, humanist tendencies. She posits a shared human core that she considers authentic rather than arbitrary, something that is more than a mere reflection of a new social order and serves as the basis for her arguments on behalf of women as individuals of intrinsic dignity and worth.[9]

MacKinnon does not propose that, apart from a shared experience of sexual objectification, women share any particular qualities, and she does not argue that women would be just like men absent gender inequality. If there is such a thing as the "human," our understanding of it cannot be complete until women contribute to that understanding. Yet, MacKinnon (1989, 187) invokes a liberal humanist vision when she frames her principal question in the following terms: "Are women human beings or not?" Implicit in her challenge is an overriding concern with women's capacity for choice and self-determination. Moreover, the reasoning she supplies for her reluctance to spell out in advance any concrete details of a shared human core reflects liberal concerns about preserving individual choice. Critics who deride MacKinnon as paternalistic (Berns 1994; McElroy 1995) assume that she

desires a state-sponsored, top-down process of social transformation in the name of her own vision of the good (feminist) society. Yet, MacKinnon explicitly rejects such an approach, criticizing those who claim to miss women's voices so much that they (paradoxically) "proceed to imagine for them the world they should be a part of building" (MacKinnon 1987, 219).

Rather, women must participate in building this world as "real" (free) women, not as walking projections of male needs. If civil rights were conceptualized in such a way as to recognize the harm to women caused by sexual use and abuse, then individual women could bring suits against pornographers (and the specific harm would have to be proven in each case, arguably a very high standard to meet). If pornography were actionable as a civil violation, the state would not have to ban books or art by decree. In MacKinnon's presentation, the conflict over pornography exists between individuals and not between the individual and the state. She intends her attack on pornography as an expansion of individual rights, rather than an abridgement of them.[10]

It is particularly important to note MacKinnon's attention to individualism because it is generally believed that liberalism and feminism use two different units of social analysis, which creates a fundamental chasm between them insofar as liberalism is individualist and radical feminism collectivist.[11] That distinction is not absolute, however, from the point of view of either liberalism or radical feminism. Liberals have long acknowledged the importance of individual membership in various collectivities to the definition of the individual.[12] And although MacKinnon argues on behalf of women as a group, her antipornography civil rights legislation, written with Andrea Dworkin, is designed to permit anyone (including any man) who has been harmed on the basis of sex through the making or use of pornography, as the ordinance defines it, to sue. According to MacKinnon, any individual can occupy a position of sexual degradation; the antipornography statute is "gender-neutral in overall design" (MacKinnon 1992, 300). Her point is that when the recipient of harm is viewed as feminine (understood as sexually violable), the harm tends to disappear or get explained away. She does not jettison Mill's harm principle; she asks that it be applied more judiciously. It is true that this requires looking beyond individual cases in order to see how gender operates structurally; but the group-level analysis is shown to be necessary precisely because of the way gender affects individual cases.

Moreover, unlike some feminists who, inspired by

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[9] Because MacKinnon's theory generalizes about gender, many commentators accuse her of essentialism, that is, of attributing a fixed essence in common to all women (see Cornell 1993; Harris 1990). Rapaport (1993) defends MacKinnon against this charge, demonstrating that she makes only socially and historically contextualized generalizations limited to modern Western industrialized society. I agree that the generalizations are contextualized, but I also think MacKinnon employs a general (and liberal) conception of the human.

[10] MacKinnon has criticized Canadian policy for taking a criminal approach to pornography, although she commends the Canadians for at least recognizing that pornography is a sex equality issue (MacKinnon and Dworkin 1996).
[11] Although he does not address MacKinnon, Graham (1994) argues that radical feminism is liberal with regard to ends but not with regard to means. My analysis of MacKinnon's rejection of paternalism suggests that she, at least, is liberal with regard to means as well.
[12] Johnson (1994) provides an overview of liberalism's appreciation of the interrelatedness of the individual and the group. See also Kautz 1995.

Marx's attempt to eradicate class, seek to eradicate sex (Firestone 1970), MacKinnon does not demand an enforced obliteration of the gender distinction altogether, hoping to bring about a substantive sameness. Her "clean slate" is not a final goal; it is a new beginning from which individuals can and must act, and it therefore transcends the distinction between "equality of opportunity" and "equality of results." Some have argued that MacKinnon discards such concern about fairness in favor of "revenge" (Cornell 1991, 138), but this is not the case. The perennial liberal tension between freedom and equality may not be resolved by MacKinnon, but it is a concern that she incorporates.

CONNECTING EPISTEMOLOGY AND POLITICS

The problem is that the empiricist epistemology traditionally employed by liberal theorists hampers our recognition of the barriers that make it virtually impossible for women to occupy the position of the individual who is the basic social unit in liberal theory. MacKinnon identifies this position, with the attendant capacity for choice and self-determination, as essential to the full experience of humanity. She does not, as do some other feminist critics, argue on behalf of an alternative to the liberal conception of the individual; she employs a liberal view of the self as an essential part of her argument. Her critique challenges the assumption that women presently occupy this position and that they should be treated neutrally by the law; her goal, however, is to foster social conditions under which such a view of women would be justified. For example, only when women have speech (only when they are heard even when they contradict the speech scripted for them) will they be in the position of liberalism's presumed "individual," whose free speech must be protected from government interference. It is from this perspective that she launches her attack on pornography.

Paradoxically, MacKinnon wants liberals to see differently and to see more of what already tends to register as contrary to liberal principles. In her presentation of the complex relationship between consciousness and material conditions she stretches liberal theory the farthest, although she detects an appreciation for that complexity in Mill's work ([1859] 1978, [1869] 1988).[13] For example, MacKinnon (1989, 44–5) cites favorably his acknowledgment that "women's consent to their place is no less coerced for seeming acquiescent." Mill also addressed the fact that myths supporting sexual inequality are true and false at the same time, which makes it impossible to defend women as "just like men." He recognized the ways in which social practices caused a harm to women much more profound than formal inequality, even if the remedies he proposed did not adequately address that harm.[14] The principle of individual inviolability supplied him, as it ultimately supplies radical feminism, with a standard for arguing the injustice of such harm, but that principle requires the contributions of a feminist perspective (like that of MacKinnon, or perhaps Harriet Taylor) in order even to recognize the harm. Liberalism is open to seeing harm in new places; the question is whether it is open to seeing harm in new ways. MacKinnon has been quite successful in arguing that sexual harassment constitutes harm, which suggests that mainstream American culture is willing to rethink its received notions of acceptable sexual behavior without abandoning its dominant liberal framework.

Despite the influence of Marxism on her work, MacKinnon does not contextualize or historicize the ideals to which she appeals in defending the importance of women's reality. Some see this as a potential contradiction in her work. For example, Ring (1991) believes MacKinnon emphasizes relativism and subjectivism over objectivity, and she defends a version of dialectical materialism as superior to MacKinnon's approach. Ring argues that the interaction between multiple subjectivities can provide access to objective reality. For example, the truth of whether a rape occurred can emerge out of the conflict between the man's defensive account of his actions and the woman's outrage at her perceived violation. Both must be weighed according to their emotional intensity. Each subjective response is valid as a subjective response; their clash should yield something greater than the sum of its parts. But what if a woman at some level believes she deserved what happened to her in a parked car? What if the woman's outrage does not materialize or is so tinged with ambivalence that it lacks the kind of emotional intensity that would impress a jury? According to Ring (1991, 201), "if that emotional bedrock of rage that I am here assuming accompanies a sense of violation, never emerges, the jury will indeed have to find that a rape did not occur." She adds (p. 201): "Catharine MacKinnon herself would have to believe in the superiority of conventional objectivity, if she were to argue that such a legal decision is erroneous." MacKinnon indeed appeals to some "objective" standard even as she rejects conventional empiricism. I have shown that MacKinnon orients herself not only toward a material inequality (that must be taken into account in order to correct liberalism's idealism) but also toward an abstract vantage point that cannot simply grow out of women's experience of inequality, and to which she attaches fairly traditional liberal ideals.

Presently, "sex equality" may be meaningless insofar as its requirements result in a contradiction in terms, but MacKinnon is not content to expose its contingency; rather, she works toward bringing about what she refers to as its true, comprehensive meaning (1989, 242). To better understand what she means by this, we must simultaneously draw on and think beyond the

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[13] Ring (1991, 64–84) detects self-contradiction in Mill, resulting from his commitment to empiricism, rather than subtlety in his treatment of women. But based on Mill's appreciation of the complex relationship between consciousness and material conditions, Burgess-Jackson (1995) argues that Mill has been mislabeled as a liberal feminist and was in fact a radical feminist.

[14] Analyses of Mill's failings in this regard are provided in Eisenstein 1989 and Ring 1991.

traditional liberal vocabulary. Only by revealing the illiberal tendencies of liberalism can certain harms be made visible. MacKinnon holds liberals up to their own standards in order to show them how they fall short. Civil rights activists faced a similar challenge; they had to recast the humanist ideals of liberalism in order to render them more comprehensive. Similarly, MacKinnon calls on us to recognize another unacknowledged instance of a failure to live up to liberalism's promise—its abstract, humanist, universal promise. She does not hold out an alternative promise for women, although she does say that it is hard to imagine what social reality will look like once that promise is met (1989, 249). This is not only because true sexual equality has never been tried, but also because true sexual equality will allow individuals—male and female—to shape the social landscape.

It is not surprising that MacKinnon affirms the successes achieved by civil rights activists who worked within a liberal framework. "There came a point in Black people's movement for equality in this country when slavery stopped being a question of how it could be justified and became a question of how it could be ended" (MacKinnon 1991a, 90). Just as arguments about racial equality shifted from explicit discrimination to systemic or endemic racism, so does radical feminism turn our attention to how sexism can be embedded in the social fabric in ways that may not come to light without sensitizing liberalism to its own blind spots.[15] According to MacKinnon, liberalism's most dangerous blind spot in the application of its principles to women is the persistent presumption that they are meant to be sexually used, which undermines any individual woman's chances at a fair trial, an equal opportunity, and so on. Her arguments are designed to get us to recognize this presumption as a barrier, but nowhere does she herself advance an argument that barriers as such are wrong.

Instead, I submit, MacKinnon relies on liberal opposition to barriers to individual choice and self-determination. Taking as a given that harm to another justifies limitation to one's freedom, she argues only that harm to women in the form of sexual objectification is such an instance. This requires more of a change in how we see women than in how we conceptualize the harm principle. The problem that MacKinnon detects arises from the fact that the sexual use and abuse of women will not register as harm if it is seen as only natural, if indeed "sex is what women are *for*" (MacKinnon 1991b, 191, emphasis in original). The hierarchical conception of gender operates in advance, undermining individual women's accounts of their ex-

periences of discrimination and violation by making such treatment seem appropriate to them. It certainly contributes to the view that pornography's harm to women is less insidious than the effect of pornography regulation on pornographers. If we could reach an agreement about how best to delineate the harm to women caused by the eroticization of dominance and submission, there is no inherent reason it could not be rectified from within a liberal perspective.[16]

CONCLUSION

If we take liberalism to be "essentially a view about the bases of political and social criticism, about what counts when we evaluate alternative political and social institutions and practices" (Johnston 1994), we see that MacKinnon agrees with liberals that choice, consent, and protecting individuals from harm by others and from state power should "count" fundamentally. She also argues that women must "count" in how these abstract ideals are given life in a concrete social system. She demands that liberals consider soberly the question of whether women are indeed human beings, and she spells out the serious implications of the seemingly innocuous equivocation, "Yes, but . . ." This is not to reduce her theory to a demand for inclusion. But we cannot understand her work in complete opposition to liberal theory, and we cannot understand the ways in which liberalism may or may not be "feminist," or make sense for women, until we understand the complexity of her work and appreciate the depth of her challenge to liberalism.

My analysis shows that MacKinnon is part of an ongoing conversation. We must not ignore the extent to which she reformulates the liberal project, especially its idealism. Her work is not merely a mirror or a repetition of traditional liberal rhetoric and concepts; it is a rearticulation that shapes that which is articulated. She neither completely abandons traditional liberal theory nor mirrors it. In fact, her relationship to liberalism exhibits the same tensions we see in her characterization of feminism's relationship to the status quo of male power—more than a mere reflection but not entirely separable either. Whether or not we agree with MacKinnon's presentation of sexuality, her presentation of feminism's method and dilemmas provides a particularly fruitful example of both the possibilities and the difficulties of situated social criticism.

The tensions that characterize MacKinnon's relationship to liberalism, as a harsh critic as well as a fervent adherent, arise from her attempts to comprehend both the concrete (inequality) and abstract (equality) of women's reality. Her vision requires double vision in order to appreciate the concreteness of women's inequality and the "shadow world" of their equality. MacKinnon works to create the political conditions under which this reality, at present only a

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[15] In making manifest the illusory quality of some of liberalism's most fundamental assumptions, MacKinnon operates as critic in much the same way as Rousseau. She reveals the chains underneath the flowers (or hearts and flowers) with a view to moving from illusory to true liberty and equality. She even uses language that explicitly recalls the opening lines of *On the Social Contract* (Rousseau [1782] 1968), observing that "women are men's equals, everywhere in chains" (1989, 104). We would hardly characterize Rousseau as extrinsic to the liberal tradition, which has been profoundly shaped by many of his insights (via Kant), even though Rousseau himself had republican aims.

[16] Scoccia (1996) provides a detailed defense of the position that a ban on violent pornography is consistent with Mill's harm principle. Easton (1994, i–xi) points out that the harm principle has been used by both defenders and critics of the right to pornography.

shadow world, might flourish, and women might experience their full humanity. Such conditions do not involve an abandonment of liberal principles; on the contrary, those principles provide the basis for these conditions. For the most part MacKinnon's rhetoric emphasizes the limits rather than the possibilities of liberalism, but she also offers modest endorsements; she acknowledges, for example, that "legal guarantees of equality in liberal regimes provide an opening" for social changes (1989, 242). A great deal of feminist input is necessary to pry open that opening, but even in MacKinnon's estimation the potential is there. My reading of her work is intended to highlight that potential and the ways she makes use of it.

What, then, are we to make of MacKinnon's claim that her feminism is "unmodified" by existing theories? This claim applies more accurately to some aspects of her work than others. When MacKinnon is rethinking the social category "woman," her inquiry is radically new, and she demands that we engage her arguments on their own terms without filtering them through predetermined categories of what we do and do not already "know" about sex. To questions of individual freedom, equality, and choice, however, she does not offer "unmodified" answers. Rather, she invokes a liberal conception of these ideals. Hers is certainly not a "liberal feminism" if that phrase is taken to mean the application of liberal principles to women, without rethinking the category "women." But it is precisely on the basis of these liberal ideals that she argues such a rethinking is necessary.

To conclude either that MacKinnon should be lumped in with liberalism or that she abandons it is to oversimplify not only her theory but also liberalism. Too often the feminist critique turns liberalism into an overly static concept. It is obvious that liberalism relies on some basic, abstract ontological and political claims, but it is also the case that these claims are and must be continually articulated with respect to the specific questions they are intended to address. This process of articulation produces a diverse range of possibilities and attaches different meanings and implications to those claims. That is why there are and have been many disputes about and within liberalism, disputes in which feminism has participated and continues to participate. When feminism acknowledges this participation rather than claim it is proceeding on a different plane altogether, it can help reconceptualize the plane and parameters of liberal theory. Liberal theorists are paying more attention than ever to issues of racial, sexual, and economic inequality and pondering whether liberal theory offers the resources to address these inequalities (see, e.g., MacLean and Mills 1983; Yack 1996). My analysis lends support to the notion that liberalism's resources are still relevant to the issue of sexual inequality.

MacKinnon can contribute to this ongoing reevaluation of liberalism, and once her salience is acknowledged, the possibility of a more synergistic relationship between feminism and liberalism must also be acknowledged, whether or not we accept MacKinnon's specific prescriptions. The reopening of a dialogue between feminism and liberalism is necessary, according to Johnson (1994, 136):

> If contemporary feminist theory persuades itself that it can have no dialogue with the formulations of humanist ideals which have rooted themselves (albeit in an incomplete, flawed and fragile form) in modern social life, then, it inevitably severs itself from a reflective, interpretative relationship with the sense of frustrated potentials and dissatisfied cultural needs which have, from the first, galvanized the modern women's movement.

A real dialogue consists of contributions from both sides. Feminist theory must recognize the contribution of liberal theory to its own enterprise, beyond liberalism's historical role.

I do not suggest that liberal assumptions, ideals, and institutions are not contestable and contested; they are and should be. I do not claim there is anything in liberalism that is "off limits" for feminist interrogation; but when the interrogation yields results that partially affirm the framework being challenged, these results need to be acknowledged in order that the strengths and weaknesses of both the critique and the framework can be fully appreciated. Obviously, there are risks in invoking liberalism's abstractions, which, as MacKinnon shows, can be as much part of the problem as part of the solution. But there are risks in disavowing them as well. The extreme view that feminism and liberalism are incompatible drives an unnecessary wedge in what otherwise could be a productive alliance.

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[17] For examples of the kind of feminist analysis that proceeds along these lines, see Allen (1988) on the issue of privacy and Kiss (1997) on the issue of rights.

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