

The Failure of Radical Feminism

The following essay by Rachel Flick responds to some of the ideas of Catharine MacKinnon, a leading feminist theorist and activist. MacKinnon's book *Sexual Harassment of Working Women* (Yale University Press, 1979) was a major contributor in the development of the law of sexual harassment. In recent months she has co-authored with Andrea Dworkin the ordinance against pornography passed by the Minneapolis and Indianapolis city councils.

Her central ideas are developed in *"Feminism, Marxism, Method, and the State: An Agenda for Theory,"*

Signs 7 (1982); *"Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence,"* *Signs* 8 (1983); and *"Toward Feminist Jurisprudence,"* *Stanford Law Review* 34 (1982).

Rachel Flick is a reporter in the Washington Bureau of the New York Post. Previously she served in the Office of Planning and Evaluation in the Reagan White House. This essay emerged from a talk she presented at the Center's conference on *"The Moral Foundations of Civil Rights Policy,"* held in October 1984, at which MacKinnon also spoke.

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Catharine MacKinnon is a celebrated writer on feminism and the law. She explicates a kind of feminism that she designates as "radical." Much of her work is toward the development of what she calls "a feminist jurisprudence," which is a jurisprudence that accepts her radicalism as truth and responds to the injustices it purports to identify.

Two things are wrong with "feminist jurisprudence," as MacKinnon understands it. First, it is a contradiction in terms. If MacKinnon succeeded in changing our jurisprudential standards as she wants to, she would not have reformed the law, she would have ended the rule of law as we know it. Second, the jurisprudential change MacKinnon proposes is as fundamental as it is because the kind of feminism that directs it is totalitarian. Radical feminism is based on the dictum "the personal is the political," which is a totalitarian concept. You really have only to hear this dictum to understand why this is so—it clearly repudiates individuality in favor of collectivity—but I will try to demonstrate how this dictum becomes totalitarian when it takes hold of the law.

I will begin, though, by describing radical feminism as MacKinnon represents it.

The Personal as Political

MacKinnon thinks that what is called the objective truth about things is not objective but is in fact the point of view of men. So great and pervasive is male control over the way we speak, what we think, and the way we live, that the very notion of objectivity is chimerical.

Although she believes that men have defined everything, she is especially concerned that they have defined the two sexes—what men are and what women are and what should be the relations between them.

MacKinnon thinks that gender as we know it is not natural but social in origin; it is a made thing and it was made, as was everything else, by men. Moreover, men have defined the sexes in men's own interests. Gender is "a division of power." And the way it divides power is to give it to men.

In her scheme, then, women are utterly, essentially oppressed. From the most profound level—that is, from their very definition as women—women are the creatures of men and the servants of male power. They are true slaves, enslaved not only materially, but also in spirit. Most women do not even know that they are not free. Women are not subjects; they are objects. They have been objectified.

So to the question, "What is woman, in our world?" MacKinnon answers that woman is what man has determined that she will be. And what he has determined is that she is "rapable." "To be rapable," says MacKinnon, "a position which is social, not biological," defines what a woman is.

MacKinnon's feminism explains and justifies itself by declaring that the personal is political. This dictum is absolutely central to her point of view. It is the notion that one's political stature is so much a part of what one is that it defines one's personal stature, too. And ultimately, "the personal is political" is a justification for political intervention in the personal, because the political is thought to determine the personal anyway, already.

To say that the personal is political, MacKinnon explains, means that you can discover and verify that gender is in fact a division of power through, as she puts it, "women's intimate experience of sexual objectification, which is definitive of and synonymous with women's lives as gender female." Sexual objectification defines and is life as a woman. These are her

own words. That is what "the personal is political" means. And that is what defines and directs her feminism.

Radical Feminism and the Law

At this point the reader should ask himself: Do I agree with that: Does sexual objectification define femininity? Is that really all that men think of women? And is my personal life really all that political? Very few people will answer that these things are true, a fact which is in itself revealing and important.

It is equally important, though, to look at where these theses take the law, when MacKinnon tries to apply them. MacKinnon believes that the law suffers from the same basic problems as the rest of the establishment. She writes: "The law sees and treats women the way men see and treat women." Just as what is called objectivity in the rest of our lives is really the point of view of men, what is called objectivity in law, too, is the point of view of men.

What legal objectivity is supposed to mean is that the law judges any situation on the basis of what happened, and not of who was involved. The objective law applies the same rules and precedents equally to all people, no matter who they are. MacKinnon believes, though, that while this legal objectivity is supposed to protect everyone, in fact it institutionalizes the rule of men. This is because our construction of the rules and our perception of "the facts" is dictated by the male perspective. Therefore, the legal objectivity to which we now aspire must be modified to accommodate the perspective of women. The law must be replaced by a tool that "recognizes women's voice."

As MacKinnon must know, though, such a replacement is antithetical to the rule of law itself. There is arguably no such thing as a law that rejects objectivity and is still law. Objectivity is the essence of law. Moreover, the alternative to law is either anarchy or (which is more relevant here) tyranny. For either guilt and innocence are determined by detached standards or they are determined by somebody's subjective opinion of truth and falsity, of right and wrong. That somebody who is making a decision of that magnitude is a tyrant.

But what tyrant, if any, emerges from MacKinnon's new jurisprudence? She wants to replace objectivity with "the feminine experience," but the feminine experience as understood by whom? She says "women," but what women? Two legal examples begin to expose her meaning.

The first of these examples is the law against rape. MacKinnon tells us that the legal definition of rape now hinges on two points: the use of force by the rapist, and the lack of consent by the victim. She rejects this because force and consent are meaningless concepts, things between men and women being what they are. The feminist definition of rape, she offers, "lies instead in the meaning of the act from the woman's point of view."

What is interesting about this change is that the existing law does account for the point of view of at least some women, insofar as it assumes women have a worthwhile opinion concerning whether they were forced and whether they consented. On some level, then, MacKinnon rejects the point of view of women who claim such opinions. By "the meaning of the act from the woman's point of view" she does not mean "the meaning of the act" according to these women.

The second example is a case called *Wanrow v. Washington*. MacKinnon does not unequivocally endorse the feminist perspective in *Wanrow*, but she takes its novel premises seriously and her discussion of it is revealing.

Wanrow was the trial of a woman who shot a man who had threatened her and abused and threatened her children. The disputed point was whether the shooting was in self-defense. Self-defense was claimed on unusual grounds. It was argued that the defendant was entitled to have her actions considered "in the light of her own perceptions of the situation, including those perceptions that were the products of our nation's long and unfortunate history of sex discrimination."

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Thus the feminine perspective that is relevant to this case is drawn from someone's assumptions about our nation's history and the effect that history has had upon a woman's perceptions and capabilities. The premise is that what some people have determined to be the lifetime experience of all women, in general, should be a factor in the defense of one woman's actions in a particular case. It is a peculiar basis for a determination of guilt or innocence in a criminal case distinguished—as are all criminal cases—by particular people and events.

We see much the same thing in *Wanrow*, then, that we saw in the proposed rape law. In both cases, we see an interest in codifying the "woman's point of view." In both cases, too, the "woman's point of view" espoused by the new feminist jurisprudence does not necessarily mean the point of view of the individual women involved. It is, rather, more likely to mean a "woman's point of view"—an allegedly collective perspective, intended to apply to all women. And like all points of view that call themselves collectivist, this one is really the perspective of the collectivity according to some one person or group of people who will claim to speak for it.

MacKinnon's remarks about the collectivity with respect to *Wanrow* are here revealing. The *Wanrow* decision, she writes, moves toward "a single standard from women's point of view." The defendant's subjectivity "is equated with the point of view from women's experience. What she actually perceived as an individual in that moment of threat is important, but without a collective context in which to interpret its meaning it is unintelligible and non-dispositive. Here subjectivity does not mean personal except in the sense in which the personal is political."

Catharine MacKinnon is dissatisfied with the law because the unit the law works with is the individual. And her creed is that the personal—which means something individual—is in fact political, which is not individual, but collective. MacKinnon's true agenda involves the replacement of the individual by the collectivity, which will be, inevitably, in the hands of the few who claim to speak for it. Like most collectivities, this one is a tyrant.

The Personal as Personal

To say, though, that "the personal is political" is a totalitarian premise yielding totalitarian law does not address the matter of whether the premise is true, and if it is false, of where exactly it goes wrong. The falsity of "the personal is political" is not discoverable as much by argument as it is by experience. And the precise point at which this dictum errs is discoverable only by the sort of reflection on the human lot to which—happily—many wise observers have already opened the door.



By looking at Eastern Europe—and by looking at our own lives, as well—we know that although the personal is in some ways touched by the political, it is not only political, or even mainly political. Most of the personal is not political at all, which is why it is called "the personal." It is totalitarianism which tries to politicize the personal. Yet even totalitarianism must fight the personal's trenchant, sometimes even involuntary resistance to politicization.

By looking at our own lives, too, we know that MacKinnon vastly oversimplifies power (at least, as it prevails in a free nation like the United States). While there is considerable truth in her idea that politics have to do with power, power encompasses a great deal more than just politics. Power relations between men and women, in particular, encompass more than politics. And even to the extent that male-female relations are divisions of political power—to the extent, in other words, that the power we have or lack in our public lives does filter through to our personal lives and sexual relationships—that power is far more complex than the brute exploitation she assumes.

Catharine MacKinnon's mistake, in short, is in assuming that men are just beasts and women just victims. In fact, we are all a lot more and a lot better than that. A short illustrative passage from Henry James's *Portrait of a Lady* wonderfully illustrates our true complexity. Isabel Archer, a young American, and Ralph Touchett, her English cousin, are in a London square at dusk. Isabel tells her cousin, who is in love with her, that soon she will return to her hotel and have a simple dinner. Ralph asks if he may join her, and she answers him, "No, you'll dine at your club." James writes:

They had wandered back to their chairs in the center of the square again, and Ralph had lighted his cigarette. It would have given him extreme pleasure to be present at the modest little feast she had sketched; but in default of this he liked even being forbidden. For the moment, however, he liked immensely being alone with her, in the thickening dusk, in the multitudinous town; it made her seem to depend upon him and to be in his power. This power he could exert but vaguely; the best exercise of it was to accept her decisions submissively—which indeed there was already an emotion in doing.

This paragraph throws the failings of radical feminism into sharp, clear relief. For what James understands, that radical feminists do not, is that people are complex, and the bonds between people are complex. Most of all, he knows that power is complex. James understands, as radical feminists do not, the various and beautiful shifts of power from protector to protected and back again, among decent, civilized men and women.

—Rachel Flick

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