The New Criterion

Features October 1993

Sex in the twilight zone: Catharine MacKinnon's crusade

by *Roger Kimball*

On Ms. MacKinnon's book Only Words.

Speaking about pornography is not like anything else. It is crazier. . . . It makes grown men cry and smart people stupid.
—Catharine MacKinnon, *Feminism Unmodified*

Every idea is an incitement.
—Oliver Wendell Holmes

The demand for excessive freedom is a curious thing. Beginning in wholesale rebellion against restraint, it soon sets about erecting its own restraints—often harsher and more irrational than those it intended to replace. What was meant to shatter the bonds of convention and establish liberty ends up forging a new set of tyrannous conventions, all the more noxious for being imposed in the name of freedom.

The latest access of sexual liberation is a case in point. Born in the 1960s, the movement for sexual liberation has followed a predictable trajectory. It started in naïve abandon—chanting "Down with monogamy, emotional commitment," etc.—and proceeded quickly through shock, disillusionment, bitterness, and rage. Herbert Marcuse, Norman O. Brown, and a thousand lesser gurus foretold the sensual paradise awaiting those who were bold enough to dispense with the repressive trappings of bourgeois morality. (And bourgeois politics: it is remarkable how regularly prophets of sexual revolution have fused, or confused, sex and radical politics.)

By the mid-Seventies, though, the prophets were grumbling. The sexual utopia they had envisioned was, literally, no place. Nature itself was part of the problem. A battery of new sexually transmitted ailments, from herpes to aids, arrived in quick succession to make casual sex a dangerous, potentially a deadly affair. Nor was disease the whole story. For one thing, most people found the pursuit of sexual gratification for its own sake ultimately ungratifying. They were looking for sex without strings. It turned out that "the strings"—the emotional and spiritual

nourishment that longstanding relationships offer—were essential: sever them and the pleasure chills.

So much was a salutary corrective to the excesses of the Sixties and Seventies. But true to form, the demand for sexual liberation has also spawned a counter-movement, an ideologically motivated demand for sexual orthodoxy. This shows itself above all in what we might call the sexual-harassment industry: the fantastical reinterpretation of everyday life such that every human exchange is potentially open to the charge of sexual malfeasance. Of course, there are genuine instances of sexual harassment, when an employer or a teacher or even a family member or friend takes unfair sexual advantage of someone. In the course of things, such cases are rare, which indeed is one reason we continue to be shocked when they come to light. But the sexual-harassment industry universalizes these instances. Largely an expression of the rancorous side of feminism, it is a perfect specimen of political correctness in action: yet another case of the euphoric Sixties suffering from a hangover. As usual, comic elements abound. Connoisseurs of bunk owe the folks at Smith College a great deal for the insistence that "lookism"—the "prejudice" that some people are more physically attractive than others—is a form of "oppression" that will not be tolerated on their campus. Only slightly less splendid is the notice posted at the University of Wisconsin warning that men had been caught "staring" at women in the library and urging those who had been "victimized" in this way to report malefactors to the police. Such examples could be multiplied indefinitely. Most are absurd; not all are so funny, as the spectacle of Anita Hill testifying against Clarence Thomas on national television reminded us.

The restrictiveness and intrusiveness of the sexual-harassment industry have led some to describe it as a "new puritanism."

The restrictiveness and intrusiveness of the sexual-harassment industry have led some to describe it as a "new puritanism." In fact, it is a new marriage of radicalism and intolerance. In this sense, it represents the underside of the movement for sexual liberation: sharing crucial goals and assumptions but differing over questions of implemention and method. Far from signaling a return to traditional sexual scruples (as some commentators have suggested), the sexual-harassment industry is really a kind of guerrilla arm of feminism. Male sexuality and "patriarchy" are the ostensible targets. But this campaign for sexual redress is ultimately directed against nature itself. How inconsiderate and illiberal of nature to have created human beings male and female! Let us therefore attempt to remedy this imposition by legislating it out of existence.

If this characterization seems extreme, consider the work of Catharine A. MacKinnon, perhaps the most articulate and influential representative of what one writer has dubbed "feminist fundamentalism." A tenured professor at the University of Michigan Law School, MacKinnon is the author of *Feminism Unmodified* (1987), a collection of essays about what a rotten time women have had of it, and *Toward a Feminist Theory of the State* (1989), an elaborate effort to demonstrate that the law is sexist—or, if that seems too blunt, that the state participates "in the sexual politics of male dominance by enforcing its epistemology through law." Together with the activist Andrea Dworkin (to whom *Feminism Unmodified* is dedicated), MacKinnon has labored long on the frontiers of a certain species of feminist radicalism. The two women cultivate very different personae. MacKinnon is poised and comely, conservatively, almost primly, dressed and meticulously made-up, her nails gleaming and hair piled high in calculated disorder. Andrea Dworkin is, well, the opposite. But both come bearing the same message. It is a short tape, yet it plays on an endless loop. Miss Dworkin sums it up when she writes that in contemporary America (which—it is one of her charms—she spells "Amerika") "rape is the paradigmatic sexual act." An alarming claim. But no more alarming than the argument, vigorously put forward by MacKinnon and Miss Dworkin, that pornography itself is a form of rape. Accordingly, both argue that pornography should not be protected under the First Amendment. ("First Amendment absolutism" is for both a term of contempt.) On the contrary, they insist that, as an instance of discrimination against women, pornography should be actionable under the Fourteenth Amendment (the "equal protection" amendment) as a violation of civil rights. They have even drafted a model ordinance for the city of Indianapolis outlawing "the graphic sexually explicit subordination of women through pictures and/or words."

Until recently, Miss Dworkin and MacKinnon have been largely cult interests. But MacKinnon has lately emerged as an important academic celebrity. Last spring, *The New York Times Magazine* and *New York* both ran cover stories on her. After all, it is not every day that you find an attractive female law professor obsessed with pornography and arguing against the First Amendment. There are also some gossipy tidbits. One piquant detail is that MacKinnon is engaged to be married to Jeffrey Masson, the renegade psychoanalyst whom Janet Malcolm wrote about in *The New Yorker* a few years back. Among other claims to notoriety, Mr. Masson admits to having slept with nearly a thousand women. This is not generally the sort of thing to win a feminist's heart, but Mr. Masson has apparently mended his ways. It may also help that he considers his fiancée "the greatest mind at work in the world today." Living with MacKinnon is "like living with God," he told readers of *New York*. "She just sits and thinks deep thoughts."

The latest digest of MacKinnon's deep thoughts is to be found in a slim volume entitled *Only Words*.[1] Originally presented in April 1992 as the Christian Gauss Memorial Lectures in Criticism at Princeton University, *Only Words* is by and large a recapitulation of arguments MacKinnon had made in previous books. But its brevity gives it a special punch—much as distillation produces a more potent, not to say more toxic, brew. The book is remarkable on several counts. In the first place, it is remarkable that an exercise in feminist legal apologetics should have been delivered as

the Gauss lectures. Established in the late 1940s, this distinguished series was conceived primarily as a forum for new work in criticism and aesthetics. (The comprehensive listing supplied by Princeton is headed "The Princeton Seminars in Literary Criticism.") There have been some exceptions—Hannah Arendt on Karl Marx, for example—but the dominant focus of the Gauss seminars has until recently been literary or literary-critical. Previous Gauss lecturers include such eminent writers and critics as Erich Auerbach, Francis Fergusson, René Wellek, Robert Fitzgerald, Randall Jarrell, Edmund Wilson, Rosemond Tuve, W. H. Auden, and Lionel Trilling. It tells us a great deal about the state of the humanities in the academy today that someone with Catharine MacKinnon's radical views should have been deemed appropriate for this honor.

Only Words is also remarkable in its tenor. The book is a philippic against pornography.

Only Words is also remarkable in its tenor. The book is a philippic against pornography. Yet it contains many graphic passages sure to bring a blush to the cheek of a young person. MacKinnon displays an uncommonly expert acquaintance with the varieties of pornographic experience, assuring us, for example, that she has done "five years of research on the making of pornography in cults and white supremacist organizations." Her thundering denunciations, delivered from the pulpit of feminist self-righteousness, remind one of an old-time preacher's invocation of hellfire and brimstone: How terrible pornography is! How degrading that women should be depicted in this way! Let me give you all the shocking details. . . . Other opponents of pornography might conclude that to some extent *Only Words* is an example of what it condemns.

Professor MacKinnon's argument rests on the observation that some speech is not only speech but is also a kind of action. The law has long recognized this, which is why it enforces oaths and certain oral contracts and provides remedies for libel, slander, etc. When we say "I do" at the altar or shout "Fire!" in a crowded theater, we do not express an opinion but commit an action. MacKinnon's contention is that pornography, far from being "only words" (or pictures), is also a form of behavior. "What pornography does it does in the real world, not only in the mind." And again: "To say it is to do it, and to do it is to say it. It is also to do the harm of it and to exacerbate harms surrounding it." It is this dubious equation that licenses her claim that "protecting pornography means protecting sexual abuse *as* speech" and, further, allows her to call for legal sanctions against pornography. It is a short step from here to MacKinnon's claim that "there is no way to prohibit rape if pornography is protected."

MacKinnon can be a diligent scholar; and no doubt the case law she cites raises challenging questions for specialists interested in the tension between the First and the Fourteenth Amendments (a tension that in this context might be described as the conflict between the demand for individual freedom and the promotion of group rights). But all her scholarship is in the service of an obsession. Thus it is that *Only Words*, like MacKinnon's other books, proceeds on two levels.

On the one hand, we find a clever theorist spinning ingenious arguments about the ways in which pornography is more act than speech and hence qualifies as a species of discriminatory behavior. On the other hand, we encounter an impassioned ideologue in the grip of an *idée fixe*. The latter keeps breaking through the text of the former, undercutting her credibility. This shows itself particularly in MacKinnon's tendency to treat her central categories as infinitely elastic metaphors. In *Toward a Feminist Theory of the State*, for example, she writes that "women are raped by guns, age, white supremacy, the state—only derivatively by the penis."

Hmmm. One wonders whether victims of such "derivative" rape would agree. It's partly a case of the little girl crying wolf. The problem is that rape—what we might be forgiven for calling "real rape"—gets lost in the blanket indictment. The same is true of Andrea Dworkin's identification of rape as the "paradigmatic" sexual act. MacKinnon and Miss Dworkin want to declare the entire world a disaster area. This makes it impossible for them to discriminate between genuine emergencies and business as usual. (They will tell you that "business as usual" *is* the emergency: but that of course is the rub.) It is difficult not to conclude that that little tinkle one hears while reading MacKinnon's books is the rattling of a loose screw. Consider her remark, in *Feminism Unmodified*, that for the previous five years (this was 1984) she had spent two hours a night, five nights a week, studying martial arts as "a physical, spiritual, and political activity." A cheering thought, that! And then there is her complaint that "sexual intercourse" is "still the most common cause of pregnancy." Still? Even now?

> According to MacKinnon, pornography is to blame for all manner of social calamity.

According to MacKinnon, pornography is to blame for all manner of social calamity. Indeed, it sometimes seems that she regards it as a kind of latter-day Original Sin—with Adam, not Eve, proffering the forbidden fruit. In her mind, the power of pornography is preternaturally formidable: "its power *is* the power of the State," she exclaims. No image of brutality is extreme enough to capture the evil of pornography. In one place she likens it to the Holocaust. And in a recent pbs television interview about her book, MacKinnon even implicated pornography in the rape and slaughter now sweeping Bosnia. In the former Yugoslavia, she explained on the "Charlie Rose Show," pornography was even more prevalent than it is in the United States. (And America, she says repeatedly, is a society "saturated" with pornography.) It was just this—the ubiquity of pornography—that "created a population of men pre-primed sexually to enjoy inflicting torture." Pornography, she concluded, created an army "just waiting to commit a genocide."

What's wrong with this picture? For one thing, MacKinnon assumes a breathtakingly simplistic and reductive view of human behavior. Men she regards with contempt: "the ultimate male bond,"

she says, is "between pimp and john." Not only are men heartless exploiters, they are also dangerous automata: one whiff of pornography and they are irretrievably set on the path toward rape: "Sooner or later, in one way or another, the consumers want to live out the pornography further in three dimensions." One sometimes gets the sense that what really enrages MacKinnon is the ungovernable fact of sexual desire itself. "Men define women as sexual beings," she notes with distaste. What effrontery! In MacKinnon, we have a modern Lady Macbeth, calling on the gods to unsex her—and everyone else, too.

As it happens, MacKinnon's attitude toward women is hardly more encouraging. Of course, her declared goal is equality—between the sexes first of all, but also between classes, races, etc. (She is yet another tenured professor opposed to "hierarchy.") But if women are the feckless, supine creatures that MacKinnon conjures up, then equality is no more than a chimera. "You hear the cameras clicking or whirring as you are being hurt," she writes. "You learn that language does not belong to you, that you cannot use it to say what you know. . . . You learn that your reality subsists somewhere beneath the socially real—totally exposed but invisible, screaming yet inaudible. . . . You learn that speech is not what you say but what your abusers do to you."

Who is the "you" in this nightmare scenario? Women—abused and "silenced" by a society that tolerates pornography. MacKinnon is endlessly loquacious about the "silence" of women. And their helplessness. For her, women never have any choice about whether to become prostitutes; they never freely choose to act in pornographic films; they never display a prurient interest in pornography. The London *Sunday Telegraph* recently ran a story about a woman-run brothel in Germany that supplies women for women. Not wonderful, perhaps. But in MacKinnon's victimology it should be impossible: Women are used and abused by men, not by other women.

The absurdity of this view of women has been adroitly exposed in *The Morning After*,[2] Katie Roiphe's recent book about the sexual-harassment industry. Miss Roiphe is quite right that MacKinnon's attack on pornography is a "potent mixture of mysticism and legalistic logic" that "infantalizes" women. "The image that emerges from feminist preoccupation with rape and sexual harassment," she notes, "is that of women as victims, offended by a professor's dirty joke, verbally pressured into sex by peers." Are women so fragile, so much in need of protection? Miss Roiphe reminds us that we have every reason to doubt it. She also takes issue with Professor MacKinnon's "monkey-see-monkey-do" model of male behavior according to which pornography "causes" men to become perverts. Is looking at dirty pictures really so dangerous?

Currently a graduate student at Princeton, Miss Roiphe is only in her mid-twenties. Yet her book, which focuses largely on her undergraduate years at Harvard, displays more common sense (not to mention more humor) about relations between the sexes than all of MacKinnon's dour lucubrations. For MacKinnon, if a man whistles at a woman, it is a crisis of sexual harassment. No doubt the whistler acts in bad taste. Perhaps his attentions are unwanted and make the woman feel uncomfortable. Should his whistling be proscribed? Miss Roiphe's comment is a breath of fresh air: "although it may infringe on the right to comfort, unwanted sexual attention is part of nature. To

find wanted sexual attention, you have to give and receive a certain amount of unwanted sexual attention." MacKinnon seems not to have figured out this elementary fact of courtship yet.

Given her attack on feminist fundamentalism, it is worth noting that Miss Roiphe identifies herself as a feminist. But she is what one might call a red-blooded feminist: bright and impatient with the anemic fantasy according to which an evil male conspiracy has systematically subjugated the frail female throughout history. The testimony of her own experience tells her how distorted this view is; her observation of its effects on her peers shows how damaging to the real interests of women it can be. Miss Roiphe had occasion to sit through the lecture version of *Only Words.* During the question period she asked about Vladimir Nabokov's *Lolita*: is it, too, a form of pornography? Most readers will be surprised to discover that, according to Professor MacKinnon, *Lolita* is really about "the tragedy of child abuse." Tinkle, tinkle, tinkle: would that we had Nabokov's rejoinder to that one.

It should go without saying that one does not have to subscribe to MacKinnon's absolutist stand on pornography in order to conclude that it is a social ill. Even in its milder forms, pornography tends to depersonalize sex. And as a substitute for genuine human connectedness, it is narcissistic and dehumanizing. In this sense, pornography may be said to harm men, its primary consumers, even more than women, its chief subject. It is also true that in its hard-core varieties pornography is basically sexualized psychopathology. We are told that pornography is a $10 billion-a-year industry —larger than the "legitimate" film and record industries combined: a dispiriting statistic, if accurate. About this we can commiserate with MacKinnon. And we can agree with her, too, that the pornographer's insistence on his First Amendment right to publish filth is largely a cynical abuse of his democratic freedom. The Founders struggled mightily to frame a document that would secure political liberty for the citizens of this country. It is grotesque to see their efforts used to justify *Hustler* or *Deep Throat.*

In most societies, it is: often by indirect social pressure as much as by law.

At the same time, it is worth remembering that virtually all advanced societies produce pornography; its partisans call it—or the forms of it they approve of—erotica. Not that the ubiquity of pornography is a reason that its production and circulation should not be restricted in various ways. In most societies, it is: often by indirect social pressure as much as by law. The point is that in a free society, people are legally "allowed" to do many things that we hope they will forbear doing. The limits of permissible behavior are not the same as the limits of desirable behavior. We count on upbringing, education, and socialization to nudge us closer to the latter. Because we value freedom, we grant the latitude to err. It is this that MacKinnon cannot abide. Thus she advocates a sweeping program of censorship that would restrict not only pornography but also "materials that promote inequality." And who do you suppose would be empowered to decide what sort of

materials “promote” inequality?

This brings us to what is most radical in MacKinnon’s thought. Although pornography is her chief subject, her goal is not simply the eradication of smut. For her, pornography is a metaphor, a crystallization, of social and sexual inequality. Banishing pornography is only one element in a campaign to revolutionize the law and, with it, all of society. MacKinnon concludes her book by calling for “a new model for freedom of expression in which the free speech position no longer supports social dominance, as it does now.” A level playing field is not enough: she wants to enforce her own brand of “equality.” What she opposes even more than pornography is what she calls “the stupid theory of equality”—the theory, that is, according to which everyone is equal under the law. Because some people are disadvantaged, she argues, they deserve unequal (i.e., preferential) treatment in order to establish “true” equality. Hence she wishes to replace the “abstract rights” guaranteed by the Constitution with a menu of “substantive rights.”

What would this mean? The short answer is a new feminist tyranny. MacKinnon expatiates at the end of *Toward a Feminist Theory of the State*: “The main question would be: does a practice participate in the subordination of women to men, or is it no part of it? Whether statutes are sex specific or gender neutral would not be as important as whether they work to end or reinforce male supremacy, … When it is most ruthlessly neutral, [the law] is male; when it is most sex blind, it is most blind to the sex of the standard being applied. When it most closely conforms to precedent, to ‘facts,’ to legislative intent, it most closely enforces socially male norms.” In other words, fair is foul, foul is fair.

Professor MacKinnon tells us that she looks forward to the imposition of a “nondominant authority.” This marvelous Orwellian oxymoron—even she admits that it is currently “unthinkable”—perfectly epitomizes her approach to social policy. Tyranny is necessary to establish freedom, while the rule of law must be broken to make room for a “higher” law. To Catharine Mackinnon, it looks like the promised land. In fact, as this ravaged century has shown repeatedly, it is a recipe for disaster.

Notes

Go to the top of the document.

1. *Only Words*, by Catharine A. MacKinnon; Harvard University Press, 152 pages, $14.95. Go back to the text.
2. *The Morning After: Sex, Fear, and Feminism on Campus*, by Katie Roiphe; Little, Brown, 180 pages, $19.95. Go back to the text.

Roger Kimball is Editor and Publisher of *The New Criterion* and President and Publisher of Encounter Books. His latest books include *The Critical Temper: Interventions from* The New Criterion *at 40* (Encounter Books) and *Where Next? Western Civilization at the Crossroads* (Encounter Books).

This article originally appeared in The New Criterion, Volume 12 Number 2 , on page 11
Copyright © 2024 The New Criterion | www.newcriterion.com
https://newcriterion.com/issues/1993/10/sex-in-the-twilight-zone-catharine-mackinnonas-crusade