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Feminists as Collaborators and Prostitutes as Autobiographers: De-Constructing An Inclusive Yet Political Feminist Jurisprudence

Cynthia Chandler

The goal of this Article is to respond to the contemporary disintegration of a unified and politically powerful feminist movement. Since the late 1970s, an anti-essentialist critique of the feminist movement has developed, whereby many women of color, of less-privileged socioeconomic classes and of other disenfranchised communities righteously criticized "feminism" as being focused on the experiences and concerns of white women of middle- to upper-class privilege to the exclusion of other women's stories. This anti-essentialism critique has led to a backlash against the idea that there is one unified feminist community. Moreover, because these disenfranchised women were excluded from the feminist community, it creates a misconception of feminism as a philosophy not concerned with addressing the complexities of women's lives. 


2. See Harris, supra note 1, at 585 (arguing feminist methodology should challenge its tendency to privilege a unitary voice).
lives.\textsuperscript{3} This notion has matured in academic, professional, activist and grassroots communities alike, resulting in a less visible and cohesively self-defined feminist community, along with efforts to re-cohere or resist the dismantling of “feminism.”\textsuperscript{4}

While in some circumstances this perception of exclusion from feminism leads members of feminist-outcast communities to actively work to reclaim and redefine the terms “feminist” and “feminism,”\textsuperscript{5} other women simply reject these terms and no longer identify themselves as feminist or as part of a women’s community.\textsuperscript{6} This Article is written from the former perspective, with the concern that unless a more inclusive, yet simultaneously politically powerful, feminist jurisprudence is created it will lack a politically significant mass and may even eventually fail to exist—leaving no political body to work to protect the gains won for women through the feminist movement over the last thirty years.\textsuperscript{7}

In this Article, I present a deconstructionalst analysis of the feminist debates regarding prostitution, pornography and sexuality as a stage for describing one solution for creating a politically powerful and inclusive feminist jurisprudence. I argue that the feminist movement would be better served if feminists simultaneously sought to achieve two goals: 1) acknowledging and working against their own acts of exclusion of women; and 2) shifting the focus of feminist jurisprudence away from the contemporary foci on either women’s liberty and choices or the dominating constraints on women’s lives, to looking at the intersection of both agency and domination on their lives in order to develop methods of reducing

\textsuperscript{3} See Ginia Bellafante, Feminism It’s All About Me, \textit{TIME} Mag., June 29, 1998, at 54, 58-59 (60-70% of women polled answered “no” to the question, “Do you consider yourself to be a feminist?”; only 28% of women polled answered “yes” to the question, “Is feminism relevant to you personally?”).

\textsuperscript{4} See Harris, \textit{supra} note 1, at 606-07 (citing efforts by Harvard Law School professor Martha Minow to maintain unifying categories of women in order to maintain a feminist political force).

\textsuperscript{5} See, e.g., Nina Hartley, Conessions of a Feminist Porno Star, in \textit{SEX WORK: WRITINGS BY WOMEN IN THE SEX INDUSTRY} 142 (Frederique Delacoste & Priscilla Alexander eds., 1987) [hereinafter \textit{SEX WORK}] (Porn “Star” Nina Hartley insists that she is a feminist and that her work in pornography personifies her feminist goals and philosophy. She claims for herself the title “feminist” despite her perception that other feminists would not consider her a feminist).

\textsuperscript{6} See Bellafante, \textit{supra} note 3, at 58-59. On a personal note, on September 11, 1998, I attended a colloquium at American University, Washington College of Law on anti-racist responses to sexist violence. The academic participants in the colloquium were chosen for their concern with women’s rights and either domestic violence or incarceration issues. We discussed the merits of using the rhetoric “anti-sexist community” rather than “feminist community” in order to appear more united and anti-racist in philosophy—thus rejecting rather than redefining the term “feminist.” The use of this terminology is currently being developed by Professor Adrienne Davis, American University, Washington College of Law.

\textsuperscript{7} Cf. PATAI \& KOERTGE, \textit{supra} note 1, at 195 (arguing that the narrow definition of acceptable feminism is politically self-destructive because it will eventually “drive away those who are negatively categorized, and this reduces the group’s numbers and alienates potential supporters”).
women’s daily suffering.

Through the lens of the feminist pornography debate, Section I of this Article discusses how the knowledge gained and arguments made by contemporary feminists through listening and revocalizing women’s voices are not innocent, truthful and free of exclusionary power. Contemporary feminists’ rhetoric of “truth”—of claiming to be descriptive and presenting women’s reality—is produced by and reflects power differentials between women, as well as between women and men. Rather than increasing the choices and availability of persuasive strategies for feminists, this rhetoric of truth constrains feminist jurisprudence into falsely dichotomous schools of thought which focus either on women’s liberty and choices (choice feminism) or the constraints of a male-dominated society on women’s lives (constraint feminism). Moreover, these schools of thought serve not to politically strengthen the feminist movement, but to divide and alienate many women from it.

This first section is divided into three parts. It begins by illustrating the common themes in contemporary feminist methodology, defining one universal theory of women’s sexual agency as a “truth” in contemporary society, and of labeling criticism as evidence of falsity and therefore collaboration in the dominance of women. The section then shifts to demonstrate the normative nature of such feminist methodological strategies. These strategies simultaneously define the norm of female agency and ostracize or make invisible women who do not conform. I argue that such feminist tactics, rather than describing women’s reality, evaluate and choose one version of reality to describe all versions. Such feminist schools do not describe, but attempt, and to some degree succeed, in constructing female agency.

Once destabilizing the contemporary feminist description of the “truth” of women’s agency (or lack thereof), Section I then turns to a discussion of the political limitations of such a rhetoric of truth. These limitations are illustrated by developing a satirical choice-feminism “truth” argument8 that Catharine MacKinnon, a leading constraint-feminist, is a collaborator in the oppression of women. This satire demonstrates not merely the non-truthfulness of such “truth” rhetoric as illustrated through its inability to be tested and (ironically) its ability to be used against itself—but also highlights the political non-persuasiveness of such rhetoric as it insultingly alienates and exercises power to exclude all those who criticize, thus dividing feminist support.

Section II of this Article discusses whether a rhetoric of choice and constraint—which is conscious of its non-truth, or non-innocence—and an exercise of exclusionary power is any more politically useful than a

8. By “truth” argument I refer to an argument which claims to speak from the voice of one-sided truth in order to exclude opposition. I do not mean to state that the argument to follow is factually accurate.
rhetoric of either choice or constraint. Through an analysis of contemporary prostitutes' autobiographies, the possibility of a more inclusive rhetoric of choice within constraint is evaluated. This analysis points to the need for feminists to be conscious of their attempts to exclude some women's stories to maintain uniformity and solidarity within their own jurisprudence. Rather than weakening feminism's political base, such consciousness, combined with a desire to maintain true solidarity that does not require the exercise of such exclusionary power against fellow women and feminists, will enable feminists to create new ways of structuring their arguments so as to avoid conflicts between women, thus actually creating a more inclusive and powerful feminist political group. Yet in order to create these new solutions, I argue that it may be necessary for the focus of feminism to shift from issues of female freedom or limitation, to working pragmatically to reduce and alter conditions within which people experience oppression.

Arguing for a shift in focus of feminist jurisprudence raises the question of just how far away its focus can shift—can the subject of feminist jurisprudence be opened up too far so that there is no longer a "feminist" cause? I argue that feminism will not become "relativistic" once the use of a rhetoric of truth is rejected. Rather, feminists will always have belief structures intact by which they can judge "better" arguments from "worse" arguments. However, as feminists, we must work to increase the choices for all women, including ourselves. Only by doing so can a theory of female sexuality be developed which is both inclusive and which speaks to the complexity of gender roles and dominance in society. Yet such work to increase choice must be done realistically, with a critical eye toward political constraints affecting both women generally and feminists.

I.

OPENING THE DOOR TO A FEMINISM OF CHOICE WITHIN CONSTRAINT: FEMINISTS AS COLLABORATORS IN DIVIDING WOMEN

A. INTRODUCTION

In order to discuss rebuilding, or reclaiming, a unified feminist movement out of an environment of anti-essentialist critique and rejection of a unifying feminist definition, it is first necessary to define the current status quo of the feminist movement and examine why this status quo has succeeded in alienating many women from the feminist community. A more inclusive feminism can only be had by destabilizing and exposing the

exclusionary and evaluative judgments made by contemporary feminists.

In recent years, feminism has been divided between those interested in examining the choices, or autonomy and liberty available to women, and those focusing on social and economic constraints on their relative inautonomy and inability to make choices. At the center of this debate is the question of whether a female agency exists free of male domination and construction.

Perhaps more than in any other discourse, the division between feminists focusing either on choice or constraint is clearly evident within the feminist pornography debate. Scholars within this field often identify with extreme examples of choice or constraint feminism. Moreover, those who do not identify solely with one of these ideological camps—those who try to lead discussions on women’s continuum of agency (or choice) within systems of oppression (or constraints) and argue that women’s lives are more complicated and multifaceted to warrant such universal theories of agency—often find their ideas being slotted by others into one of these schools or the other, thus denying the complexity of their arguments. There appears little choice for the feminist researcher to choose how to approach the subject matter outside of a rhetoric of either choice or constraint. Interestingly, while women in all areas of the sex industry, including those pictured in pornography, have been regularly studied and described within contemporary feminism, women in pornography are not usually described or self-identified as feminists. Therefore, this is also a field in which there is a strong division between the feminist and the non-feminist woman.

Because the pornography debate is an area of study in which feminists have been slotted into feminist schools of choice or constraint, and because within such debate many of the women purported to be described by feminists have been alienated from feminism, the debate provides a useful lens through which to examine what has caused the continuing strategic divisions between choice and constraint feminists and between feminists

10. See Joan Williams, Gender Wars: Selfless Women in the Republic of Choice, 66 N.Y.U. L. Rev. 1559 (1991) (analyzing feminist theory concerning abortion and work/family issues, Williams argues that feminist rhetoric has become rutted in dichotomous schools of absolute agency or absolute victimization which fail to address the complexities of women’s experiences).

11. See id. at 1613, 1615.


13. See, e.g., id. at xx-xxi. In Pleasure and Danger, Vance outlines her experience of being defined a “pleasure” feminist (or anti-feminist) by “danger” feminists after she organized a conference devoted to examining the intersection between sexual pleasure and danger on women’s lives and within feminist understanding of female sexual agency.

14. See Hartley, supra note 5, at 142 (arguing against defining a feminist porn star as oxymoronic within the current feminist climate).
and others who reject or are rejected by the feminist label. Within the
debate, those focusing primarily on woman’s liberty or choices argue that
the goal of feminism should be to increase women’s sexual choices, liberty
and pleasure to the level that men enjoy. They argue that women have
sexual desires which, although not necessarily identical to those of men,
can equal men’s in intensity. Therefore feminists should fight for women
to have the same level of sexual freedom as men. However, this model of
feminism ignores the constraints sexual violence and sex-based power
inequalities place on women’s sexual liberty. Unfortunately, in our society
sexual, or “bad” women, are often considered easy targets of sexual abuse
because many people believe their abuse in not as deserving of criminal
sanction as the abuse of “good” women. Such a choice feminism
irresponsibly ignores the potentially abusive result of women exercising
sexual freedom in a society which constrains such activity through sexual
violence.

The other extreme model, exemplified by radical anti-pornography
feminists, focuses solely on the constraints on women’s sexuality. This
position has come to be commonly associated with the arguments of
Catharine MacKinnon. She argues male hierarchy is so pervasive that
there is no female sexuality separate from that created by “the hierarchical
relations . . . [and t]his process creates the social beings we know as women
and men . . . “. Pornography holds a central position in her theory as the
tool through which the male dominated hierarchy constructs sexuality,
making sexism or gender inequality the sexual norm and therefore
invisible. Moreover, because this process creates gender categories, the
sexualization of the dominance of women, or pornography, defines

15. See generally supra note 12, at xvii (outlining second-wave feminists’ commitment to
increasing women’s sexual freedom).
16. For examples of arguments grounded on such feminism, see Katie Roiphe, Date
Rape’s Other Victim: In Their Claims of a Date-Rape Epidemic on Campus, Feminists
Subvert Their Own Cause, N.Y. TIMES, June 13, 1993, Section 6, at 26; NADINE STROSSSEN,
DEFENDING PORNOGRAPHY: FREE SPEECH, SEX, AND THE FIGHT OVER WOMEN’S RIGHTS
(1995) (defending pornography against censorship in order to protect women’s freedom,
status, dignity and autonomy).
17. See Jan Jordan, Feminism and Sex Work: Connections and Contradictions, in
FEMINIST VOICES: WOMEN’S STUDIES TEXTS FOR AOTEAROA/New Zealand 180 (Rosemary
D. Plessis et al. eds., 1992); Duncan Kennedy, Sexual Abuse, Sexy Dressing, and the
Eroticization of Domination, in SEXY DRESSING ETC.: ESSAYS ON THE POWER AND POLITICS
OF CULTURAL IDENTITY 126 (1993).
18. Some of the other most influential anti-pornography feminists, and their texts,
include: Lara Lederer, TAKE BACK THE NIGHT: WOMEN ON PORNOGRAPHY (Lara Lederer
ed., 1980); SUSAN GRIFFIN, PORNOGRAPHY AND SILENCE: CULTURE’S REVENGE AGAINST
NATURE (1981); and ANDREA DWORKIN, PORNOGRAPHY: MEN POSSESSING WOMEN (1979).
19. CATHARINE A. MACKINNON, Desire and Power, in FEMINISM UNMODIFIED:
DISCOURSES ON LIFE AND LAW 46, 49 (1987) [hereinafter FEMINISM UNMODIFIED].
20. See CATHARINE A. MACKINNON, Francis Biddle’s Sister: Pornography, Civil Rights,
and Speech, in FEMINISM UNMODIFIED, supra note 19, at 166, 172.
"woman" as the dominated. To be male is to be dominant. Thus, pornography is and perpetuates sex discrimination, leaving no room for the construction of female sexual agency free of male hierarchy’s influence.

According to MacKinnon, sexuality is the eroticization of the dominance and subordination of women. Moreover, MacKinnon treats pornography and rape law as texts capable of normatively policing and constructing female sexual agency into an image in accordance with heterosexual male desire, as is illustrated in the following quote.

The law of rape divides women into spheres of consent according to indices of relationship to men. Which category of presumed consent a woman is in depends upon who she is relative to a man who wants her, not on what she says or does. These categories tell men whom they can legally fuck, who is open season and who is off limits . . . . The paradigm categories are the virginal daughter and other young girls, with whom all sex is proscribed, and the whorelike wives and prostitutes, with whom no sex is proscribed.

In juxtaposition to her description of the constructed female sexuality, MacKinnon argues that the “truth” behind pornography, and therefore sexuality, is the abuse of women—in making pornography, and their future abuse by men socialized or constructed through pornography to think that they enjoy being abused or subordinated. Moreover, because MacKinnon’s theory is purported to be a mere objective description of the construction process of sexuality in contemporary society, she defines criticism of her views as a disbelief in the reality of this description, or in the reality of the abuse of women in society.

The claim of “merely describing facts” or stating the truth serves as a powerful rhetorical device. It denies the possibility for valid objection except for the occasional narrative contradicting the description. Such narratives are therefore granted only limited persuasive value; they can either be reinterpreted as to be incorporated into the dominant theory of

21. See id.
22. See id. at 172 (pornography “institutionalizes the sexuality of male supremacy, fusing the eroticization of dominance and submission with the social construction of male and female”).
24. See CATHARINE A. MACKINNON, On Collaboration, in FEMINISM UNMODIFIED, supra note 19, at 198-99. See also MACKINNON, supra note 20, at 179-90 (describing abuses of women which justify her and Andrea Dworkin’s anti pornography statute); ANDREA DWORINK & CATHARINE A. MACKINNON, PORNOGRAPHY AND CIVIL RIGHTS: A NEW DAY FOR WOMEN’S EQUALITY 41-51 (1988) (describing provisions of the anti-pornography ordinance and the descriptions of harms of women that led to their drafting the statute).
25. See CATHARINE A. MACKINNON, On Collaboration, in FEMINISM UNMODIFIED, supra note 19, at 198-200 (creating a dichotomy between her “truthful” description of the harms and abuses of pornography, and the false and collaborative intentions of her feminist critics, in her essay).
truth, or be dismissed as an aberration. Any other attempts at criticizing the
"truth" are easily labeled as the result of ignorance, false consciousness26 or
the result of a deviant (anti) feminist who collaborates with the male
structure to keep other women down in society and refuses to acknowledge
the voices of abused women.27

Many feminists have attempted to critique MacKinnon's theory and
methodology as illustrated above by: 1) using examples or selective voices
of women experiencing danger and abuse to represent all of women's
concerns and experiences—or conflating examples with all of reality;28
2) treating written and film texts as capable of constructing sexual
socialization or society;29 and 3) claiming to describe and vocalize the
truth—a process which consigns critiques to the status of apostates.30
However, powerful criticism of this model, which I believe is necessary, is
more difficult than that of choice feminism.

Choice feminism can be criticized successfully through reference to,
and authentication of, data concerning the enormity of sexual assault
against women and the disproportionate abuse of "bad" women, such as
prostitutes deemed overly sexual in our society,31 and through reference to
court cases granting less protection in rapes of sexual women.32 Yet such
criticism of constraint feminists is made virtually impossible by its dual
device of maintaining a "rhetoric of truth,"33 and of defining opposition, no
matter how mild, as collaboration, as ignoring or being ignorant of the
subordination and abuses of women, or as being selfishly interested in the
liberty of privileged women. This labels feminist critique as representative
of "choice" feminism, and simultaneously critiques choice feminism as
collaborative or anti-feminist.

This rhetoric of "truth," and the defining of opposition as antithetical or
false, works to negate the possibility of devising a united rhetoric of choice

26. See, e.g., CATHARINE A. MACKINNON, Linda's Life and Andrea's Work, in FEMINISM
UNMODIFIED, supra note 19, at 258 n.1 (arguing women falsely and unknowingly accept and
accommodate male defined female sexuality).
27. See MACKINNON, supra note 25, at 198, 202.
28. See, e.g., Carole S. Vance, More Danger, More Pleasure: A Decade after the
Barnard Sexuality Conference, in PLEASURE AND DANGER, supra note 12, at xvii.
29. See, e.g., MARCIA PALLY, SENSE & CENSORSHIP: THE VANITY OF BONFIRES 59-61
(1991); Lynne Segal, Does Pornography Cause Violence: The Search For Evidence, in
DIRTY LOOKS: WOMEN, PORNOGRAPHY, POWER 5, 17-18 (Pamela Church Gibson & Roma
Gibson eds., 1993).
30. See, e.g., Jane Flax, The End of Innocence, in FEMINISTS THEORIZE THE POLITICAL
31. See, e.g., Jordan, supra note 17, at 180.
rape victim's previous arrests for prostitution toward motive to falsely accuse defendant of
went into a man's apartment determined to have insufficiently resisted to the degree
necessary for a married woman to up hold a conviction of rape).
33. See supra note 8.
and constraint. By claiming to be speaking and defining the “truth,” radical anti-pornography constraint feminism works to define any criticism as false. Because its claims are the “truth,” it does so innocently. It does not have to internalize a consciousness of acting out of exclusionary power in order to compel others to follow its normative beliefs.  

Pure “choice” rhetoric does not carry with it this rhetoric of truth. Rather, it emphasizes women’s ability to choose different directions. Likewise it does not inherently define its opposition as the “untrue,” but as an alternate choice. It is therefore open to criticism; it is susceptible to better arguments. In fact, it is highly susceptible to opponents who offer claims of a countering “truth.” As demonstrated earlier, choice feminists are in fact susceptible to critique in that they ignore the reality, or “truth,” of the constraints of violence imposed upon women’s ability to make choices.

The constraint rhetoric of radical anti-pornography feminism, by contrast, defines all criticism as “untrue,” as apostate, or as “choice.” There is no room for both truth and falsity. A description of women’s lives and challenges is either true or false. Therefore, even if one were to try to create a feminism of both choice and constraint, this description could not be understood within the feminist discourse informed by the rhetoric of radical feminism. Such attempts will be, and are, redefined within the discourse of contemporary feminism to be “false,” or concerned solely with choice rather than the domination of women.

Thus radical feminism works to construct the dichotomy between choice and constraint which contemporary feminism seems unable or unwilling to abandon. Only by first demonstrating the normative power-driven, non-innocent nature of the radical feminist description (or evaluation) of female nature and its divisive methodology, can feminism

34. See Flax, supra note 30, at 458 (arguing feminist claims of describing “truth” are in fact not free of complicity in the domination of others because feminists work to compel agreement with their claims that are in fact not natural truths).

35. I do not claim that no “choice” feminists claim to describe the “truth,” and in turn, define their critics as arguing the “untrue” or as anti-feminists. Such arguments have been made, particularly within the context of the pornography debate, in reaction to radical feminists’ rhetoric of truth. I discuss these “truth” choice arguments in section I(D), demonstrating that they suffer from the same political disadvantages as do constraint “truth” arguments.

36. See, e.g., Vance, supra note 28, at xxi (recounting how her attempts to organize a conference concerned with both choice and constraint, or pleasure and danger, were redefined by choice anti-pornography feminists as “anti-feminist”).

37. I do not claim radical feminism’s rhetoric and its influence on the contemporary feminist discourse is the only reason a rhetoric of choice within constraints is rejected. There are, of course, other philosophical and political reasons for objecting to such an inclusive rhetoric for feminist jurisprudence, and I address in detail some of these objections in Sections II and in the conclusion of this Article. However, I do want to emphasize that the rhetoric of truth of radical feminism does assist in at least maintaining the dichotomy between choice and constraint ever-present within contemporary feminist jurisprudence.
emerge to address the possibility of female agency while also recognizing the historic abuse of women at the hands of men. Once the radical feminism rhetoric of truth is recognized to be normative, feminist discourse generally can expand to allow the possibility of a debate over the benefits and disadvantages of a rhetoric of choice within constraint, and a discussion as to whether opening up such a discourse may lead to a more inclusive political feminism.

**Methodology**

The remainder of this section develops a deconstructionalist analysis of radical feminist methodology in order to destabilize this school’s truth rhetoric and expose the exclusionary and evaluative judgments made by many contemporary feminists. It is important to understand that the goal of this analysis is to create room for a more inclusive feminism, not through rejecting constraint feminism, but by embracing it alongside choice feminism. By employing deconstructionist techniques, one can read and critique radical feminism from within radical feminism, retaining the benefits of its analysis while critiquing and modifying its weaknesses.

Thus, by “deconstructing” radical feminism’s rhetoric of truth, the objective is not to reject radical feminist methodology and ideology but to use it to open it up to uncover within it surprises or unexpected subtexts. The text of radical feminism is approached with the assumption that there is no one correct reading of this or any text, but that many contradictory readings may coexist. I use radical feminism’s own methodology to “open up spaces in or from which different and more varied ideas and practices may begin to emerge.” The process of systematically employing the methodology and ideology I am critiquing places me within the discourse of radical feminism. I am not a detached reader but am completely involved in the discourse.

More importantly, while part of this deconstructionist enterprise is concerned with a traditional Derridian process of identifying concepts labeled as apostates within a text and disrupting their binary opposition by demonstrating how the text creates these binary oppositions. This formulation is not my primary use of “deconstruction” in this Article. While it is interesting how radical feminism assists in constructing or maintaining an unnecessary dichotomy between choice and constraint feminism, it is not the primary objective of this piece.

Rather, by deconstructing radical feminism, I endeavor to reveal the

40. FLAX, supra note 39, at 31.
41. See JONATHON CULLER, ON DECONSTRUCTION: THEORY AND CRITICISM AFTER STRUCTURALISM 87-88 (1982).
42. See id. at 86. See also FLAX, supra note 39, at 36-37.
internally contradictory nature of its principle of "truth" and its apparent unity. Such a method assumes that reality is always heterogeneous and differentiated, and therefore any appearance of unity signifies a suppression of someone or something left out of the description of what is real. Unity signifies an exercise of power or suppression. Therefore, what is truly interesting is what has been suppressed by the text, what is left out, and what techniques or strategies are used in order to claim its representational authority. 43 As the rhetoric of truth operates within radical feminism to suppress opposition, this truth needs to be tested. This section serves as a test of such feminism from within its own theory, and by using its own tools.

More importantly, in examining radical feminism from within its own text, this analysis utilizes subjects through which to examine radical feminism precisely because they are subjects of special interest to the radical feminist. They most obviously involve situations of dominance through sexuality: pornography and prostitution. Furthermore, Catharine MacKinnon's work is examined repeatedly throughout this Article as representing radical feminism because MacKinnon is perhaps the most widely recognized radical feminist in the United States and holds an elite position of power within feminism to define the movement. These subjects and MacKinnon's work will serve as useful texts through which to analyze the radical feminist analysis of domination and power, while simultaneously examining the possibility of radical feminism's exercise of the power of normative exclusion.

However, I have twisted the discussions of pornography and prostitution within this Article in ways which directly contradict traditional radical feminist description. Ideas to be discussed include the idea that feminists such as MacKinnon can be collaborators in the oppression of women and the idea that prostitutes, often portrayed within radical feminist texts as silenced abused prostituted women unable to speak for themselves, 44 are writing their own autobiographies and organizing their own presses to publish them. These ideas involve traditional radical feminist concepts of power and domination, but not in the way feminists usually formulate them. These are subjects which are generally embraced by radical feminism, but the particular slants presented in this article are rejected for study or acknowledgment by such feminists. I have chosen these subjects to reflect my desire to embrace, yet look for contradictions and surprise within the text of radical feminism.

43. See Flax, supra note 39, at 36-38.
B. HOW RAPE CONSTRUCTS SEXUALITY: OUTLINING RADICAL FEMINIST METHODOLOGY

One goal of this Article's deconstructionalist analysis of radical feminism is to use such feminism's methodology to demonstrate its benefits and deficiencies in constructing a single unifying image of female sexuality. A deconstructionalist critique illustrates the invaluable perspective gained through application of radical feminism's methods in highlighting the significance of dominance to society's treatment of sex differences. However, a deconstructionalist critique also explains why such methodology and its resulting ideology cannot be tested for producing universally truthful results and theory. Its methodology defies testing and can even work against itself to prove the normative nature of its own theory. Its methodology serves to prove it conflates description with evaluation. Thus, a deconstructionalist analysis allows for a critique of radical feminism's claims of representing truth while maintaining and incorporating the benefits of a rhetoric concerned with power inequality.

I begin this deconstructionalist critique by developing a MacKinnon-like reading of three sexual assault cases to illustrate radical feminism's "description" of the normative and constructive function of rape law within male hierarchy. As illustrated in the introduction of this Section, such a MacKinnon-like reading may employ the following methodological devises common to MacKinnon's writings: conflating examples with a generalized reality; treating individual written or film texts as capable of singularly constructing societal norms; and employing a rhetoric of truth that consigns one's critics to the status of apostates. The point of this initial reading is to highlight and illustrate the strengths of radical feminism's critique of sex-based power inequities and societal norms which function to reinforce sexist violence. After describing these strengths, the reading moves on to destabilize radical feminism's rhetoric by performing a similar radical-style examination focusing on the power inequities of this type of feminism itself.

From the earlier summary of Catharine MacKinnon's radical anti-pornography theory, one can see that MacKinnon analyzes society (including law) for its subtexts of power. She is concerned with who is dominant and how dominance is perpetuated. MacKinnon's reading of law and cases for their subtexts of power serves as a useful analytical tool for demonstrating how the treatment of consent in cases concerning sexual violence reflects and reinforces gender stereotypes of women as sexual willing victims and of men as masculine aggressors. By using as a
methodological base MacKinnon’s presumption that individual cases are capable of constructing society and therefore the law,\textsuperscript{47} this section argues that the stereotypical portrayal of alleged victims in legal materials constructs and polices sexual behavior of individuals to conform to norms held by society and the courts—a reflection of heterosexual male desire. Moreover, it is demonstrated that through the law women’s domination is sexualized and their consent is ignored (or made a non-issue). Women are policed to be either “good” or to accept their role as perpetual eager purveyors of sex to men. Moreover, through this construction of male and female sexual roles, homosexuality is made invisible as a valid form of sexuality. Through the use of MacKinnon’s methodology, it becomes apparent that the courts’ rulings in these cases develop such themes while attempting to resolve real conflicts in society, but they do not describe the truth of human sexuality. They construct and police individuals into conformance with a normative vision of sexuality.

The Supreme Court of Massachusetts relied upon a reasonableness standard in ruling that evidence of a rape victim’s previous arrests for prostitution are relevant to her possible motivation to falsely accuse the defendant of rape—further arguing that it is reasonable for a woman having been arrested for prostitution twice in similar situations (after being found naked in a car parked in a parking lot) to cry rape in order to avoid potential arrest and further prosecution.\textsuperscript{48} However, essential to the court’s determination of reasonableness, was a reliance upon the facts of the case as presented by the defendant.

The prosecution claims that after picking up the victim hitchhiking, the defendant drove her to a parking lot and forced her to perform oral sex and have intercourse.\textsuperscript{49} In the course of her attempts to escape twice, the defendant punched the victim multiple times.\textsuperscript{50} Eventually,

[s]eeing the headlights of an approaching car, the complainant . . . naked and bleeding around the mouth, jumped from the defendant’s car and ran toward the other car screaming and waving her arms. The other car was a police cruiser. The police officers testified that they had entered the lot to investigate screams.\textsuperscript{51}

The defendant concedes that he picked the woman up hitchhiking, but he claimed that she had been beaten by her boyfriend before he picked her up, and therefore had already been bleeding.\textsuperscript{52} He further claimed they entered the parking lot at her request so she could smoke some “angel

\textsuperscript{47} See supra text accompanying note 29.
\textsuperscript{49} See id. at 183.
\textsuperscript{50} See id.
\textsuperscript{51} Id.
\textsuperscript{52} See id.
dust” and it was then she suggested they have sex.\textsuperscript{53} He alleged that upon seeing the police car approach, he warned the complainant to get dressed as they were both naked. She “jumped out, ran to the cruiser, and accused him of raping her,” screaming for the first time as she approached the police.\textsuperscript{54}

What makes the possibility of the woman’s lying reasonable to the court is the assumption that the facts as presented by the defendant are reasonable—that it is reasonable for a man to want to have sex with a beaten woman; that a woman would choose to remain the girlfriend of a man who beats her; and that such a woman is reasonably capable of consenting to sex. The court found:

The bias theory is not inconsistent with the defendant’s version of the facts. The relevancy of testimony depends on whether it has a ‘rational tendency to prove an issue in the case.’ We cannot say that this evidence has no rational tendency to prove that the complainant was falsely motivated to accuse the defendant of rape by a desire to avoid further prosecution.\textsuperscript{55}

By the logic of the court, it appears “normal” or “reasonable” for women to consent to violent relationships, as well as normal for men to want to have sex with bloody beaten women. The woman’s bloody mouth becomes irrelevant as to the issue of non-consent; it is in fact reconstructed through the “reasonableness” of the defendant’s narrative to imply that there had been consent.

The fact that the complainant is a prostitute also plays an interesting role in the law’s construction of female consent. The court claims that under the law, whether a woman engages in sex for hire is irrelevant as to her credibility as a witness.\textsuperscript{56} However, this appeal would not exist as formulated (i.e., around the question of whether evidence of a rape victim’s previous arrests for prostitution are relevant to motivation to falsely accuse a defendant and can be admitted into evidence as an exception to rape shield laws) but for the fact that this victim is a prostitute. Furthermore, the conviction would not have been reversed and remanded for retrial if she had not been known and labeled as a prostitute by the police. According to the defendant, it is because of such labeling that she allegedly feared prosecution and therefore allegedly falsely accused the defendant. Finally, her future vulnerability to rape is increased by this legal decision because of her occupation as a prostitute. Any man might now be capable of forcing her to have sex in a parking lot without any legal ramifications. The law, via the court’s creation of an exception to rape-shield law based

\textsuperscript{53} Id.
\textsuperscript{54} Id.
\textsuperscript{55} Id. at 187.
\textsuperscript{56} See id. at 185, 187.
on bias, has defined her as rapable, or rather as non-rapable. Her status as a prostitute defines her consent. The law "tell[s] men whom they can legally fuck."57 And just as the law tells men who they can legally fuck, the law also conveys the same message to women.58 Logic tells us that men and women alike, as members of the same society, would be constructed sexually by the law. Yet the law appears to serve the male interest while constructing gender. MacKinnon summarizes this phenomenon by arguing that the law constructs female sexuality in view of what men desire.59

As is seen through the above analysis of Joyce, part of the work of enforcing the male-desired norm upon women is the necessity to police women’s behavior so it conforms to this desire. Women are not only constructed by the male law, their roles are created, or policed by it. Joyce teaches women that if they are "bad" women, or whores, they can be fucked. Women learn to either be good or expect to be fucked as part of the norm in our society. Thus rape law polices women to fit into the norm of rape culture—to accept the idea that women like to be fucked, that whores always like to fuck, that once a woman fucks she cannot stop fucking. There is no rape of "bad" women. Radical feminists would argue that this is not the truth of female sexuality:

[I]t is questionable that this sexuality is ‘women’s’ in the sense that we own or possess it, or even that it accurately characterizes us. It is, however, the sexuality that is attributed to women by [men]... . Women, under conditions of sex-inequality, then may come to exhibit it or even claim and embrace it as their own.60

In summary, it is true that women can want to say “no” after once saying “yes,” but women who do are taught and internalize the norm that they will not be listened to. And for certain, the prostitute who stood up against this norm in Joyce was not listened to by the court.

In contrast to Joyce are cases involving male victimization. As discussed above, the Joyce court found reasonable both the idea of a woman consenting to sex after being beaten, and the idea that a woman may be party to an abusive relationship. In contrast, in 196761 a California appellate court ruled “[i]t is... of common knowledge that a normal person in full possession of his mental faculties does not freely consent to

57. See MacKinnon, supra note 23, at 175.
58. See id.
59. See id.
60. CATHARINE A. MACKINNON, More Than Simply a Magazine: Playboy’s Money, in FEMINISM UNMODIFIED, supra note 19, at 258 n.1 (emphasis in original).
61. I have chosen to analyze this case despite the fact that it is thirty years old because it remains good law in California and has been followed in at least three other states. See, e.g., State v. Collier, 372 N.W.2d 303, 306 (Iowa Ct. App. 1985); State v. Hatfield, 356 N.W.2d 872, 876 (Neb. 1984); State v. Brown, 364 A.2d 27, 30 (N.J. Ct. App. 1976).
the use, upon himself, of force likely to produce great bodily injury.\textsuperscript{62} Despite the fact that the alleged male victims of the defendant voluntarily participated and consented to the filming of sadomasochistic activities with the defendant, and despite the fact none of the victims were even contacted by the prosecution or portrayed as having any complaints against the defendant, the \textit{Samuels} court rejects their ability to consent. Why is a man who has no complaints of his treatment deemed unable to consent to abuse, while evidence of the bloody, beaten mouth of a woman who charges rape, who claims to have been abused, is deemed irrelevant?

Radical feminists such as MacKinnon who read texts for sex-based power differentials\textsuperscript{63} would likely argue the difference between the two cases lies in the gender construction of men and women. The court in \textit{Joyce} presumes it is reasonable for a man to have sex with a bloody woman, and reasonable for a known prostitute to want sex after being beaten.\textsuperscript{64} In \textit{Samuels}, the court rejects the reasonableness of any man placed in a victim-like position by denying the possibility of consent in such situations.\textsuperscript{65} As radical feminists such as MacKinnon would predict, courts' legal standard of reasonableness appear to reinforce and reflect society's gender role stereotypes of women as victims and men as aggressors.

Yet just as \textit{Joyce} was shown to construct and police female sexuality,\textsuperscript{66} \textit{Samuels} also serves a policing function on sexual desire. The active policing and constructing role of both these cases is perhaps best illustrated through a discussion of consent. Both cases reject the complainant's own protests of consent, whether in the affirmative as in \textit{Samuels} or in the negative as in \textit{Joyce}. Thus the courts actively dismiss the "realities" of the complainants' lives or wills and replace instead their own interpretations of what constitutes true consent. The courts' truths are not objective but normative.

\textit{Samuels} also serves to police images of acceptable or recognized sexuality by making invisible the homosexual experience as a valid lifestyle. This function of \textit{Samuels} can be viewed through examining why the sadomasochistic videotapes did not serve as evidence that the gay "bottoms," or masochists, consent to sadomasochistic homosexual sex.

As a conclusion to its methodological presumption that individual written or film texts are as capable of singularly societal norms, radical feminists such as MacKinnon have argued that pornographic imagery

\begin{itemize}
\item[63.] See \textit{supra} note 46.
\item[64.] See \textit{Joyce}, 415 NE.2d 183-87. See also \textit{supra} text accompanying notes 52-55.
\item[65.] See \textit{Samuels}, 250 Cal. App. 2d at 513-14.
\item[66.] See \textit{supra} text accompanying notes 57-60.
\end{itemize}
serves to create and inform gender roles and expectations—that the pornographic defines what "normal" sex is. Following this logic, one might conclude that films of explicit sexual conduct such as those at issue in *Samuels* should be evidence that such acts are "normal" or consented to. Such a similar conclusion forms the basis of MacKinnon's explanation of the social acceptance of the "lies" or presumptions of consent behind Linda (Lovelace) Marchiano's performance in 1970's pornography classic, *Deep Throat*. 68

MacKinnon argues that Marchiano's performance in the film is perceived and defined as consensual, despite Marchiano's claims that she was forced at gun point to perform in pornography, because Marchiano's normal consenting sexuality as a woman is defined by the pornographic film. 69 "The superficial lie, that we [women] get pleasure in ways we do not, is the central conceit. The deeper lie is that Linda enjoyed it." 70

Moreover, MacKinnon argues that the pornographic construction of female sexuality as synonymous with abuse can apply to any man placed in a subordinate gendered position in pornography—or for any biological man who is defined by being subordinated as a gendered woman. For this reason, she and Andrea Dworkin constructed an anti-pornography statute that allows women-identified individuals hurt through pornography civil remedies so that "[m]en, children, and transsexuals, all of whom are sometimes violated like women through and in pornography can sue for similar treatment." 71

However, in *Samuels*, the court uses the film as evidence of non-consent despite the fact that the victims are men placed in subordinate passive positions, and thus defined female. Yet, *Samuels* is distinguishable from Linda Marchiano's case. In *Samuels*, the court notes that there is no penile penetration of the alleged victims—Samuels was acquitted on the count of sodomy. 72 The court also never refers to the movies as "sexual," or even affirmatively acknowledges the prurient quality 73 of the films, saying only that the films "allegedly" possess prurient appeal. 74 Furthermore, when discussing the fact that the Kinsey Institute had a scientific interest in these films, that interest is explained to be in the

67. See MacKinnon, supra note 20, at 171.
68. See MacKinnon, supra note 26, at 128-29.
69. See id.
70. Id.
71. MacKinnon, supra note 25, at 201.
73. That some material appeals to the prurient interest is required to find such material obscene under the Miller test for obscenity. See Miller v. California, 413 U.S. 15, 24 (1973). The definition of "prurient interests" was further refined by the Supreme Court in Brockett v. Spokane Arcades, Inc., 472 U.S. 491, 504 (1985). Only appeals to a shameful or morbid interest in sex are prurient. The Court did not further specify how "normal" sex was to be distinguished from the "shameful" or "morbid." Id.
74. See Samuels, 250 Cal. App. 2d at 510.
subject of sadomasochism generally. The sexual nature of these films is dismissed, ignored and rendered invisible. Additionally, the court's passive emphasis of the films asexual nature implies that the apparent asexual appearance of these films influenced the court's decision.

I ask what would have happened if sexual conduct, defined as penile penetration, were present? Perhaps the victims would have been judged or treated as gendered female and the case would have come out the other way—respecting the victim's right to consent to abuse. Perhaps the victims would not have been termed victims at all, but participants, and the abuse would have been found to be reasonably sexual (or more precisely, as heterosexual, since the victim is woman-like and the sexual conduct would have involved penile penetration), not abuse.

This theory gains support when juxtaposing Samuels with People v. Alfaro where a California court distinguished cases involving both rape and assault from sadomasochistic cases impacted by the Samuels law, reasoning that rape charges inherently allow for a consent defense regardless of the violence involved. In the context of this case, the court stresses, citing Samuels, that "consent is never a defense to an assault which results in great bodily injury," but that a rape such as this one, which involves an assault, is defensible through evidence of consent. This distinction is not based on whether violent abuse occurs, but rather whether penile-vaginal penetration is present in addition to a violent assault. Once penetration occurs, women are deemed capable of consenting; men are given an opportunity to justify their assultive behavior as reasonable sexual conduct.

Thus, developing a MacKinnon-like radical reading of these three cases illuminates their normative visions and awards us valuable insight into the significance of sexual dominance within the law. As illustrated earlier, such a MacKinnon-like reading may employ the following methodological tools common to MacKinnon's writings: conflating examples with a generalized reality; treating individual written or film texts as capable of singularly constructing societal norms; and employing a rhetoric of truth that consigns one's critics to the status of apostates. The goal of this initial reading was to highlight and illustrate the strengths of radical feminism's critique of sex-based power inequities and societal norms which function to reinforce sexist violence. This reading demonstrates that in addition to policing female sexuality and constructing consent, the only sexuality acknowledged as such by the courts is heterosexuality; courts normatively limit the representation of sexuality to mirror the desires of

75. See id. at 504.
76. See People v. Alfaro, 61 Cal. App. 3d 414, 418-19 (1976) (victim was sixteen year-old girl who was severely beaten and raped by two men).
77. Id. at 429.
78. See supra text accompanying notes 28-30.
heterosexual men.

Now that the strengths of a radical feminist "description" of the normative and constructive function of rape law within male hierarchy have been highlighted, the next section moves to destabilize radical feminism's rhetoric by performing on radical feminism itself a similar radical style examination focusing on power inequities.

C. HOW RADICAL FEMINISM REINFORCES RAPE: OUTLINING THE NORMATIVE NATURE OF UNIVERSAL THEORIES OF AGENCY

This section now applies the same radical analytic framework as used in the previous section to analyze rape law and to examine as an independent text radical feminism's own methodology and ideology. Ironically, applying such an analysis to radical feminism results in the finding that radical feminism reinforces and perpetuates the same male-hierarchy it purports to critique. This finding destabilizes the radical feminist portrayal of women's "reality," and shows it to be false in that it is not testable. Once radical feminism's truth is destabilized, room can be made to critique the political feasibility of its normative description of women's agency and its reliance on a rhetoric of truth.

The deconstructionist analysis in this section focuses on the norms replicated by rape law identified in the previous section as being derived from gender inequality and thus resulting in a rape-facilitating/encouraging culture. Because of the gender imbalance inherent in these norms, examining texts and social arrangements for them serves as a tool for locating power inequalities. By looking for, and finding within radical feminisms' own texts these identified hierarchy-based norms, this section will demonstrate that radical feminism's rhetorical claim to be "describing the truth" is as normative as the construction of sexuality underlying rape law. Likewise, radical feminism is shown to exercise exclusionary power to construct a uniform notion and perception of female nature, excluding all opposition to the detriment of women who do not fit this vision.

Once again, within its deconstructionalist analysis of radical feminism, this section uses the writings of Catharine MacKinnon to exemplify radical feminism. In examining radical feminism for its own exercise of power, it is useful to focus on a feminist who has reached a position of dominance within this field. Examining the powerful in order to understand the power dynamics of a setting or culture is crucial. Therefore, this section will analyze MacKinnon's ideology through her own methodology. Through this examination, MacKinnon's exclusion of any and all opposition from the "true" feminist rank is shown not to be the result of innocent desire to adhere to the "truth" of sexual subordination and domination of women, but an exercise of power on her part to construct a uniform notion and
perception of female nature, much like that of the rape culture she criticizes. Additionally, by demonstrating how MacKinnon erroneously conflates the descriptive with the evaluative, one can see how her definition of opposition as apostates works to feed her normative vision of the lack of female sexual agency. MacKinnon’s radical feminism normatively closes the door to a feminist theory that incorporates both notions of choice and constraint.

This argument is not meant to imply that MacKinnon actually perpetuates rape. However, one of my methods for deconstructing her claims of adhering to a methodology and ideology, which innocently describes the “truth” of female domination, is to examine how her rhetoric itself gives away the falsity of these claims. This deconstruction demonstrates how her methodology is not “testable” for creating and describing a true reality, but rather, ironically, such methodology can be turned on itself to find similar results regardless of the subject matter which it is applied to. Her methodology and her “rhetoric of truth,” which uses examples to represent all of experience and treats all text as capable of creating reality, can be seen as causing MacKinnon to conflate description with evaluation. This conflation, combined with her systematic exclusion of all criticism from her ranks, leads to a method of argument which defies testing or refutation. Applying her theory when analyzing her own writings as an independent text leads to an awareness that this conflation of description and evaluation allows even the bizarre conclusion that MacKinnon promotes rape to be made without refutation. Therefore, development of the illogical and bizarre argument, which follows from her own methodology, of MacKinnon as collaborating in the oppression of women and reinforcing rape culture, highlights the falsity and normative nature of her own rhetoric.

For purposes of this argument I will focus on one piece by MacKinnon,79 “On Collaboration,”80 as it concisely summarizes her arguments regarding gender inequality and pornography and because much of her article is devoted to interchangeably asserting her position as “truth” or “reality,”81 and defining feminist opposition to her arguments as ignoring this truth and collaborating in the oppression of women.82

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79. While reliance on only one piece by MacKinnon may open this argument to criticism for not being representative, it is done out of my desire to rigorously rely on MacKinnon’s own methodology in analyzing her ideology. As described in the text accompanying supra notes 28-30, MacKinnon’s methodology includes conflating examples with a generalized reality and treating individual texts as capable of singularly constructing societal norms. Therefore, my reliance on only one of her texts as representative of her work is done in adherence to MacKinnon’s own methodology out of a desire to rigorously rely on MacKinnon’s own methodology in analyzing her ideology.
81. Id.
82. For one example of this argument within the text, see id. at 205.
Examination of her own theory points to the same type of policing practices highlighted in the above description of rape-culture.

The first norm policed by rape law described in the section above is the "reality" of women as divided into two groups—those who always fuck (and who like to fuck) and those who are not to be fucked (who are not attributed any sexual desire or are not desired by men). Once a woman becomes a "bad" sexual woman, she cannot become a "good" woman—she is not believed to be a "good" woman ever again. Her example teaches other women either to avoid sexuality or to accept their non-rapable status.

Rather than merely describing this normative process of gender construction, I argue MacKinnon also helps to construct this norm of female sexuality through her own writings. First, MacKinnon clearly sets up an antithesis between herself and her opponents to define "good" and "bad" woman, or "good" and "bad" feminist. Within the pornography debate, she aligns herself with the "truth" of female sexual abuse, claiming to respect women's real experience.83 Yet, she does not respect women who criticize her position. She describes women who oppose her as denying the abuse of women and acting as collaborators in women's domination—they are the "bad" or the anti feminists.

Why, when women's agony and pain becomes what pornographers want to say, when our bodies are their media of expression, are women lawyers, feminists, among those who tell us it is only an idea, information, symbolic, a fantasy, just representation? Aren't these women real to them either?84

Women who defend the pornographers are defending a source of their relatively high position among women under male supremacy, keeping all women, including them, an inferior class on the basis of sex, enforced by sexual force.85

She further establishes the dichotomy between herself and her opposition in the following confrontation with her feminist opposition.

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

83. See id. at 199 (claiming to speak the truth of women's experience of abuse).
84. Id. at 201.
85. Id. at 205.
has anything in common with feminism.\textsuperscript{86}

Interestingly, according to MacKinnon, these ‘bad’ or anti-feminists are also the sexual feminists, the feminists with desire, who are willing to sell out other women for their own sexual gratification and power.

It’s . . . frustrating to have women lawyers, feminists, say or act as though [the sexual abuse of women through pornography] doesn’t happen—or, if it does, that it is not as important as the \textit{pleasure} to be gotten from it.\textsuperscript{87}

Why are women lawyers, feminists, siding with the pornographers? To be a lawyer orients you to power, probably sexually as well as in every other way.\textsuperscript{88}

Thus, the “bad” women to MacKinnon are the “sexual” women. Ironically, MacKinnon’s “bad” women are the “bad” sexual women as defined by rape culture.

Additionally, by arguing both that these “bad” women cannot or will not identify with and acknowledge women who say “no” (or the “real” survivors of sexual abuse),\textsuperscript{89} and that they do not acknowledge their own experiences of domination as women,\textsuperscript{90} MacKinnon implies these “bad” women never acknowledge saying “no” to sex. Thus, she divides women into two categories: 1) those who are bad, never say “no,” who only identify pleasure with sex, and who ostensibly like to fuck; and 2) those good women who know that they are forced into sex and who associate sex, as defined by pornography, with pain and assault—women without desire for sexuality as constructed in our culture. This construction of female sexual desire mirrors that of rape culture.\textsuperscript{91} Thus MacKinnon’s treatment of critics as apostates serves as a devise constructing sexual desire, policing and dividing women.

There do appear to be some women MacKinnon believes may be persuaded to change their views and follow her position despite the fact she believes that they deny the reality of sexual abuse of women through their defense of pornography. MacKinnon describes these women as being falsely conscious and forgetful of their experience as women before they became male-identified feminists.\textsuperscript{92} MacKinnon rejects their claims of sexual agency or choice—defining them as false. She denies that her

\textsuperscript{86} Id.
\textsuperscript{87} Id. at 202 (emphasis added).
\textsuperscript{88} Id. at 205.
\textsuperscript{89} See supra text accompanying notes 84-85.
\textsuperscript{90} See supra text accompanying note 86.
\textsuperscript{91} For an example of feminist critiques of MacKinnon for further dividing “good” and “bad” women in accordance with male hierarchy, see Ellen Willis, \textit{Feminism, Moralism \& Pornography}, in \textit{POWERS OF DESIRE} 460, 464 (Snitow et al. eds., 1983).
\textsuperscript{92} MacKinnon, supra note 25, at 205.
critiques may have a real sense of consent and instead replaces her own interpretation of consent.

As shown in the discussion of rape case law, this technique is used to police female agency to the male desired norm. It denies the aberration and thus makes it invisible. It makes sure a woman knows that if she tries to define her own consent outside the norm, her consent will not be respected. Interestingly, as in the context of rape law, MacKinnon’s apparent need to police women’s sexual agency (i.e., choice) hints at the possibility and reality of a true female agency outside the norm.

In addition to constructing and policing a normative form of sexuality that ignores women’s ability to consent and defines sexual women as rapable women, MacKinnon also similarly enforces heterosexuality—thus completing a construction of sexuality mirroring that of male-dominated hierarchy.

It is not original to criticize MacKinnon for making invisible the gay and lesbian identity within her analysis of law and society. In doing so, she rejects the voices of many women for whom she claims to speak for. Legal scholar Ruthann Robson criticizes MacKinnon’s gendered model of dominance for inaccurately portraying the lesbian experience so as to make it indistinguishable from the heterosexual and therefore rendering it invisible. She argues that in the context of lesbian battery, MacKinnon’s tool of asking, “who is the man,” rather than who is dominant—when interpreting the law, minimizes the complexity of the lesbian identity. Such interpretation is not only underinclusive but is fundamentally unhelpful in assisting legal strategy aimed at curbing such violence.

Although Robson’s criticism of MacKinnon points to the underinclusiveness of MacKinnon’s theory, it fails to explain why the lesbian experience should be made visible if MacKinnon believes the pornographic society she is examining and describing does not recognize or depict such relationships. MacKinnon’s texts never challenge this hierarchical description of the homosexual and lesbian existence as being invisible or unimportant. She does not appear to desire or work toward a more inclusive theory of feminism. This seems inconsistent given the fact that she claims to speak for women who have traditionally been silenced. In response to such incongruency in MacKinnon’s arguments, I examine what place lesbians and gays hold in MacKinnon’s theory and description of the “real,” as opposed to in the “male constructed.”

At most they are delegated to a footnote or a sideline sentence. In the

93. See, e.g., Patricia A. Cain, Feminist Jurisprudence: Grounding the Theories, 4 BERKELEY WOMEN’S L.J. 191, 202 (1989); Ruthann Robson, Lavender Bruises: Intrale­


94. See Robson, supra note 93, at 586.

95. See id.
text at issue, while female sexuality is the subject of the piece, the majority of her original audience was female 96 and she includes explicit descriptions of sexual conduct 97—discussion of lesbianism is absent. Gay sex or homosexual pornography is alluded to twice. Within a list of harmful images contained within pornography, MacKinnon notes that “[l]esbian sex is shown as men imagine women touch each other.” 98 Once, in a side comment, she notes that the anti-pornography statute she constructed with Andrea Dworkin providing a cause of action that would be available to all those who are violated through or in pornography—including men, transsexuals and children who (argues MacKinnon) may be violated like women. 99 Thus MacKinnon tersely alludes to homosexual pornography by insultingly lumping homosexuality together with child abuse.

MacKinnon claims to speak for all women. She claims to be describing women’s “truth” in juxtaposition to the normative vision of sexuality as created by rape-culture. But, the lack of importance she places on the lesbian and gay experience of many “real” women and men, as demonstrated by the lack of attention she spends on this subject and her neglect to critique the description of it offered by the dominant hierarchy, sends a message to gays and lesbians that their reality is unimportant in her description of “truth.”

She constructs an image of the reality of sexuality which does not allow for homosexuality, and in doing so, she renders homosexuals invisible. 100 This description is normative; it is “descriptive” only in so far as her evaluation (her ranking of the importance of subject matter) is conflated with mere description of “truth.”

This analysis can be extended further when considering MacKinnon’s evaluation of the lesbian and gay experience as unimportant alongside the common criticism that MacKinnon’s dominance theory simply does not accurately or usefully describe this experience. Perhaps MacKinnon does not innocently or accidentally omit lesbians and gays, but does so intentionally because they do not fit her theory—they pose a polemic she is unwilling to face. The fact that MacKinnon and Dworkin added the small clause to their ordinance protecting people who might “sometimes” be treated as female, points to the fact that their gendered theory of dominance does not always work out quite the way they expect it to.

Therefore, there is some evidence that MacKinnon’s theory is not without fault. The fact of her exclusion (or omission) of lesbians from her discourse assists in preserving the unity of her theory. This all points to the

96. Her essay was originally delivered as “part of a debate at the National Conference on Women and the Law in New York, Mar. 24, 1985.” MacKinnon, supra note 25, at 198.
97. See id. at 205.
98. Id. at 199.
99. See id. at 201.
100. Cf. Cain, supra note 93, at 211-12.
criticism that MacKinnon purposefully omits the experiences of some women in order to preserve such uniformity. At the very least, the homosexual experience may be strategically omitted in order to make MacKinnon’s theory appear “truer,” thereby strengthening its unifying force and weakening its opposition by rendering it “untrue” and therefore unpersuasive. Either way, MacKinnon’s rhetoric cannot be seen as free of coercive power. Therefore, her theory is not only normative, it functions to exclude some women’s voices in order to present a unified truth of women’s experience.

D. MACKINNON AS COLLABORATOR: THE DEVISIVE RESULTS OF FEMINISTS’ NORMATIVE RHETORIC OF TRUTH

Applying MacKinnon’s own methodology to her theory of constraint, feminism serves to deconstruct her claims of speaking the innocent non-exclusionary “truth.” By conflating description with evaluation, by using only a few voices to represent all women, conveniently omitting from the theory any voices which disagree, and by treating any text as capable of creating and constructing reality—MacKinnon deploys a method of argument which defies testing. A bizarre conclusion that MacKinnon’s arguments aid in constructing rape-culture cannot even be tested for the truth. This lack of testability, even in such an extreme case, calls into question the “truth” of conclusions derived from this methodology. Once this truth is called into question, MacKinnon’s exclusion or omission of selected women’s voices from her theory becomes suspicious. It loses its innocence and instead begins to indicate that exclusion is a technique MacKinnon uses to protect the homogeneity of her theory, to maintain its untestability and to keep unquestioned her claims of speaking the “truth.” Her tactic of excluding those who criticize her begins to be viewed as an exercise of power and a necessary weapon to protect the strength of her arguments.

As radical feminists’ rhetoric of truth and their practice of defining critics as apostates is called into question, the possibility appears of a feminism that acknowledges the possibility of female “choice” and the constraints of male domination and the subordination of women. Yet, there may be political benefits to continuing to retain an exclusionary feminism. For example, some theorists argue that feminism must necessarily exclude certain women and rely on a rhetoric of exclusive truth, whether arguing from either choice or constraint camps, because such exclusion is required to preserve the appearance of a unified and “truthful” theory of feminism. 101 Exclusion is a necessary cost because in order to be

101. See Harris, supra note 1, at 606-07 (1990) (citing efforts by Harvard Law School professor Martha Minow to maintain unifying categories of women in order to maintain a feminist political force); Kate Nash, The Feminist Production of Knowledge: Is
politically effective, feminists must be able to present themselves as a unified body fighting for the true and natural rights and needs of women.\(^{102}\)

However, this argument presumes two theses: 1) choice or constraint rhetoric of truth is politically persuasive to those whom feminists want or need to convince to follow their lead in law reform or social change; and 2) an inclusive feminism of choice and constraint is not as politically persuasive as a choice or constraint argument by itself. I challenge this first assumption by formulating a satirical choice-feminist "truth" argument\(^{103}\) that builds upon the earlier criticism of the normative nature of MacKinnon's ideology for perpetuating rape culture. I then evaluate the persuasiveness and political feasibility of such a truth argument.

A more sincere version of the argument that MacKinnon perpetuates rape-culture has been made by anti-censorship feminist and activist Marcia Pally in reaction to MacKinnon's pornography argument.\(^{104}\) However, I do not seek to argue that MacKinnon's rhetoric perpetuates the abuse of women. Rather, this satirical "truth" argument is formulated for three primary reasons. First, it forces constraint feminists to experience themselves the upsetting experience of having their theories and arguments defined "false" or as collaborative in the oppression of women. Thus, it inverts the exclusionary power usually experienced by constraint feminists against others. Second, regarding the normative nature and potential for inversion of constraint "truth" arguments, I wish to expose choice feminists to this criticism as well. Third, because I believe most people will find this style of rhetoric lacking persuasive power once faced with an actual example, this satirical argument highlights the significant rhetorical limitations of such an exclusionary argument.

The satirical argument that follows builds to an extreme the analysis of MacKinnon's work developed earlier in this Article:

MacKinnon as Collaborator in the Oppression of Women

MacKinnon normatively constructs a vision of female sexual agency which mirrors that created through rape law, and therefore facilitates\(^{105}\) the rape of women and polices female desire to conform to the desires of men.\(^{106}\) She divides women respectively into the good and the bad, the sexual and non-sexual, the unrapable

\(^{102}\) See Nash, supra note 101, at 75 (arguing that there is an inherent tension within feminist discourse between the desire to be inclusive and the need to construct a unified front).

\(^{103}\) See supra note 8.

\(^{104}\) See Pally, supra note 29.

\(^{105}\) Notice the assumption that a text has the power to construct reality.

\(^{106}\) See supra Section I(C).
and the undesirable, those for men’s use and those of no interest to men, without deference to the individual woman’s will.107 Only the male-defined norm of heterosexuality between men and consenting women is recognized as sexuality, as all other options are denied and policed.108

Now that MacKinnon’s claim to be merely “describing” the objective “truth” has been deconstructed, the possibility for a feminist criticism emerges. No longer can she claim that criticizing her description of female sexuality requires a denial of rape victims. In fact, to oppose rape culture mandates opposition to MacKinnon who seeks to construct and police female sexuality as does rape law.109

Furthermore, deconstructing the “truth” of MacKinnon’s description to show she is actively constructing and policing gender opens her to the additional criticism of assisting rapists in rationalizing their crimes. Grounding arguments and legislation on the premise that pornography causes violence against women, or that it is violence against women, removes social and individual culpability from the rapist who is assumed to have watched or imitated pornography, and places blame on the pornography itself.110 If this is merely a description of the actual truth of a rapist’s rationalizations, such criticism is warrantless. But if MacKinnon’s theory is normative and constructive, such criticism gains strength.

Such rhetoric will only aid the rapist in rationalizing a potential crime. As with alcohol and a batterer, a rapist can blame pornography for the assault. He will be able to rationalize he has a pornography-abuse problem, not a raping problem. For someone with violent propensities, such rhetoric is a dangerous tool. Examples have already emerged demonstrating rapists’ copying of this rhetoric. Ted Bundy is just one example of a convicted rapist who, after familiarizing himself with feminist and religious anti-pornography literature, came to blame pornography for the rapes he committed despite psychiatric testimony and the testimony of his lawyer to the contrary.111

107. See supra text accompanying note 91.
108. See supra text accompanying notes 93-100.
109. Notice the rhetoric of exclusion at work here—if you do not agree, you do not understand or care about the abuse of women.
110. This portion of the argument is taken from PALLY, supra note 29.
111. See, e.g., id. at 59-61
Will society really place a portion of the blame for an assault merely on the pornography an offender viewed before or during an assault? Pornography is more often than not sexual images of women's bodies. Therefore, some of the blame for the assault of the woman in the room will be blamed on the body of the woman pictured on the wall or on the video screen. But women in the sex industry are disproportionately sexually abused once in the industry because our society makes them easy targets. All too often the woman being victimized is the same woman found in pornography. Women's own bodies will be blamed for their assaults.

If feminism solely concentrates on constraints placed on female sexuality, we will have come full circle back to arguing a woman's dress or appearance is reasonably linked to her own assault, to arguing men are not as culpable and blameworthy for rape as for any other violent crime, to arguing sexy women are bad women, to arguing women's wills should not be respected, and to forcing gays and lesbians back into the closet.

The idea of MacKinnon collaborating in the oppression of women by creating scapegoats for rapists is likely not very persuasive to the many feminists who have sympathy for her arguments, as well as to many who do not. It is an insulting accusation backed by little, if any, empirical evidence. Additionally, such an accusation can also easily be reversed, as seen from the use of MacKinnon's own rhetoric to create this unexpected satirical critique of her as a collaborator. Because of its insulting and alienating rhetoric, and the absence of an objective empirical evidentiary backing, this accusation lacks persuasive force for anyone other than those who already agree with the point being made.

For those who are not predisposed to such an alienating "truth" argument, the reaction to it is not persuasion but anger or defensiveness. This is evidenced by the extent to which many feminists have firmly entrenched themselves in a pornography debate for close to two decades. Even those that do not feel anger might be alienated by this rhetoric because there is no room within it to agree or disagree with parts of the discourse. Either you agree wholly, or you too are a collaborator. As there is no room for appeal to common ground, it is doubtful anyone would be convinced by this argument in changing their own feminist or political philosophy.

"Better," or more politically persuasive, arguments than arguments of

112. See id. at 63.
113. See Jordan, supra note 17, at 180.
truth combined with exclusion are required for political persuasion. The next section addresses whether a rhetoric of choice and constraint which is conscious of its "non-truth" (or non-innocence and its exercise of power) is more politically useful than a rhetoric of either choice or constraint.

II.

THE VALUE AND VALIDITY OF AN INCLUSIVE FEMINIST JURISPRUDENCE: PROSTITUTES AS AUTOBIOGRAPHERS.

In investigating whether a rhetoric of choice and constraint would be politically feasible, or at least more feasible and persuasive, than truth rhetoric of either choice or constraint, it is necessary to ask what or who should be the focus or subject matter of such a feminist jurisprudence. It is not clear whether the focus of such a jurisprudence would differ from that of either choice or constraint rhetoric.

Although I have a desire to maintain and embrace both choice and constraint rhetoric, a critique of both discourses is necessary to expose their exclusive and incomplete qualities. An investigation of this notion of a changing feminist focus is undertaken in this section by searching within both of these individual discourses for a topic which, although allegedly discussed frequently, does not seem to be satisfactorily addressed by either discourse. Once identified, I then seek to examine how a rhetoric of both choice and constraint, which is mindful of its own exercise of power, would affect the treatment of this subject.

By "satisfactorily discussed" I mean that there is confusion and contradiction concerning how each school of thought perceives its own coverage of the subject. The perfect topic to illustrate the dichotomy is one which interests both choice and constraint feminists, one which they both seem to embrace as a topic of concern, but which ultimately both fail to explore adequately or effectively. As already argued, such exclusions (or failures to address complications or inadequacies) on the part of choice or constraint feminists are used to maintain an appearance of a uniform constituency or theory. Therefore, a theory simultaneously rejected by both schools of thought may have elements of both schools within it. Finding such a topic may provide clues as to the types of subject matter with which a feminist of both choice and constraint would be concerned.

Based on these criteria, the "bad" woman or prostitute proves a fitting subject for study. This section argues that, although both constraint and choice feminists claim to be interested in helping sexual women and/or prostitutes and respecting their voices, the actual rhetoric of either of these

114. See Nash, supra note 101, at 72-73 (arguing that in the absence of a rhetoric of truth, in order to be persuasive, feminists must create "good reasons" which appeal to the belief structure of their audience).
strains taken individually functions to silence and ignore the concerns of these women. The fact that the prostitute’s voice is simultaneously rejected from both constraint and choice discourses serves to indicate that the prostitute’s voice itself cannot fit into either alone. Thus it appears that this is an area where a rhetoric of both choice and constraint may improve feminists’ ability to communicate and acknowledge the concerns of a distinct population of women.

This Section then transitions to examine the prostitute’s voice, unclouded by feminist translation, through an analysis of contemporary prostitute autobiographies. This examination gives additional clues indicating the need for a rhetoric that simultaneously allows for discourse of choice and constraint. It is through this analysis that the possibility and benefits of a more inclusive rhetoric of choice within constraint becomes clearer. An inclusive feminism which carries with it a consciousness of exclusion as a form of power can lead to a new way of structuring arguments so as to avoid conflicts between women, and thus create a truly powerful and inclusive polity. However, in order to create these new arguments, it may be necessary for feminists to completely remove their focus away from female freedom or limitation, and to move towards asking what can be done to reduce or alter conditions within which people experience oppression.

Before getting to the heart of this argument, an explanation of the unsatisfactory nature of either constraint or choice rhetoric in describing the prostitute and in improving her life is needed. This explanation begins by discussing choice feminism’s representation of the sexual woman. For purposes of this argument, writer Katie Roiphe has been chosen to represent the choice feminist point of view because, although she has only written one book, she has gained notoriety in the press for her views and therefore has been able to educate much of the public with an extremist choice feminism position.

Katie Roiphe, like many choice oriented truth feminists, attempts to discredit her opposition by labeling their efforts against sexual assault as being grounded in and perpetuating the infantalization of women (or as defining women as the inherently innocent sex). In a creative rhetorical strategy, Roiphe redefines the platform of the anti-rape movement to work against itself, redefining “rape crisis” to refer to an epidemic rather than a psychological state of an individual. Through her relabeling, and claims

115. See Katie Roiphe, The Morning After: Sex, Fear, and Feminism on Campus (1993).
116. Katie Roiphe appeared on numerous television morning and talk shows to launch her book, The Morning After: Sex, Fear, and Feminism on Campus (1993). For an example of her access to mainstream media, see Roiphe, supra note 16.
117. See Roiphe, supra note 16, at 5-6.
118. See id. at 6.
119. See id. at 26.
that rape crisis is grounded in paternalistic motivations, she creates a picture of the rape-crisis counselor as hysterical, Victorian, Ivy League, anti-sex and asexual—a picture which appeals powerfully to the reactionary far right and others in denial of sexual abuse. Unfortunately, as a result of her strategy, time and energy must now be wasted fighting this construct rather than helping women.

Through this redefining process, Roiphe further damages the fight for female sexuality free from sexual assault. She reconstructs the meaning of date-rape story literature, usually taking the form of date-rape awareness pamphlets, to be stories of lost female innocence and as developing images of women as virginal children who are easily conned. Having personally compiled stories for such literature and brochures, my intent was far from her description. The intent is to create sympathy for, empathize with and recognize the “real” rape of not always perfectly “good” girls. The reader of such literature is meant to go away thinking that a woman can go to a man’s room alone, walk down the street at night, enjoy a conversation with a man, have foreplay with a man, agree to have safe sex with a man and then later refuse when he will not wear a condom, or even run down the street naked and not deserve to be raped. The stories are aimed at giving voice to the non-innocent woman and the stories of rape of “bad girls.” Roiphe’s relabeling, rather than giving women tools for expression, makes invisible the reality of the sexual women she wishes to defend.

Female agency (or choice) cannot and will not be fully realized until female sexuality ceases to be policed through sexual violence. Sexual violence is a reality for many women who boldly assert their sexuality in today’s world. Roiphe does not prevent sexual violence against women by denying the existence of these women’s rapes. Ironically, although Roiphe desires a world which respects and recognizes female sexual agency, her extremist “choice” rhetoric frustrates this end by ignoring women’s experience of rape—denying rather than removing the constraints on their ability to exercise their sexuality. Women should be able to have great sex, passionate sex, even rough sex, but only when and with whom they want it.

Similar to Roiphe’s rhetorical style, radical feminists Catharine MacKinnon and Andrea Dworkin have redefined pornography and prostitution as inherently non-consensual. Thus, they have made anyone who defends prostitution or pornography subject to accusations of insensitivity toward, or even collaboration with, women’s abuse. Rather than claiming to facilitate the sexual abuse and blame of women in the sex industry for their own assaults, as alluded to above, MacKinnon and

120. See id. at 8-9.
121. See id.
122. See Kennedy, supra note 17; Jordan, supra note 17, at 180.
123. See DWORKIN & MACKINNON, supra note 24, at 38-39.
Dworkin claim they have the best interests of sex workers in mind, and frequently refer to their support of the claims of abuse of former pornography actress Linda (Lovelace) Marchiano to support this claim. Yet they alienate sex workers from the feminist community by describing women who continue to work in the industry as either brainwashed, falsely conscious, or as collaborators in the oppression of women. As previously discussed, besides being condescending and insulting, this rhetoric merely reinforces stereotypes of bad women or sexy women as brainless women, a stereotype feminism must challenge.

MacKinnon and Dworkin further alienate their cause from that of at least some sex workers by rejecting or sabotaging any claims or movements toward self-empowerment made by sex workers. For example, one of their definitions of what was to be considered pornography, or sexual subordination, in the draft of their model anti-pornography statute proposed in Minneapolis, and later in Los Angeles County, was pictures or descriptions of women portrayed as "whores." In 1985, a group of prostitutes and their supporters founded the International Committee for Prostitutes Rights (ICPR) which is based in the Netherlands. This organization sponsored the First and Second World Whores' Congresses in Amsterdam in 1985 and Brussels in 1986. It also drafted the International Committee for Prostitutes' Rights World Charter and World Whores' Congress Statements, arguing prostitutes' rights deserve protection under international human rights law. These conferences and statements contain the word "whore" and describe prostitutes as whores. Yet the goal of the ICPR is to give dignity to prostitutes, not to degrade them. Ironically, by MacKinnon and Dworkin's definition, these prostitutes' attempts at self empowerment and embracing of the label "whore" falls into the category of sexual subordination.

Despite claims and intentions to the contrary, the rhetoric of both choice and constraint feminists silences the experience of the sexual woman, or socially labeled deviant, and therefore limits her ability to have a voice in feminist jurisprudence. MacKinnon and Dworkin deny such women self-determination, and Roiphe denies their true experiences of sexual assault. Such rejection or silencing is a rhetorical technique employed by both strands of feminism to maintain the homogeneity and appearance of the truth of their independent theories of female nature.

124. See MacKinnon, supra note 26, at 127.
125. See MacKinnon, supra note 25, at 198, 199, 200-01, 205 (arguing women who support the pornography industry by being part of it are either ignorant of women's oppression or have an interest in the further subordination of other women).
128. See Dworkin & MacKinnon, supra note 126, at 191.
Moreover, because choice and constraint feminisms are described as antithetical, each group's rejection of these women's voices points to the inclusion of elements of the other view in their stories. MacKinnon and Dworkin's rejection of these women's self-empowerment hints at these women's actual agency or choice. Likewise, Roiphe's denial of women's experience and vulnerability to sexual assault actually serves to recognize the constraints placed on all women's ability to exercise free choice. The dual rejection of women's sexual reality from the constraint and choice discourses indicates that this is an area where choice and constraint rhetoric needs to work together for an accurate depiction and understanding of women's lives and needs.

Examining how prostitutes describe their own reality further demonstrates the importance and utility of an inclusive feminism of choice within constraint.

A. HISTORY OF PROSTITUTE AUTOBIOGRAPHIES

In the past decade there has been a large increase in the number of autobiographies written by women in the sex industry. These books are the result of prostitutes' frustration with research conducted on them, not for them, by social scientists foreign to sex work.

Throughout the prostitute rights movements of the 1970s and 1980s, social theorists of all sorts have been criticized for creating a false picture of the prostitute. Autobiographies have been used by many authors to demonstrate, by their own example, that prostitutes are not deviant or somehow inherently different from the rest of society. Their description of the prostitute contrasts with that of earlier predominantly male social theorists who looked for causes of prostitution either in women's biology or psyche. These earlier theorists "viewed involvement in prostitution as indicative of some form of underlying pathology."

Feminists are also commonly challenged by prostitutes for failing to accurately portray the prostitute's reality. Prostitutes charge feminists with ignoring prostitutes' own stories and refusing to take seriously women's interpretations of their own experiences.

[Prostitute women] claim that their reality has been ignored by feminism and by society, and that feminism in particular is

131. See, e.g., supra note 130.
132. See, e.g., Sex Work, supra note 5; Prostitutes, supra note 130; Gloria Lovatt & Pam Cockerill, A Nice Girl Like Me: The Autobiography of Gloria Lovatt (1988); Roberts, supra note 130.
133. Jordan, supra note 17, at 184.
incomplete until it integrates their experience . . . . If feminism claims to support women making choices and wishes to create a world view that incorporates women's reality, then the voices of the women who practice the world's 'oldest professions' must be heard.134

However, despite their anger at being unrealistically or inaccurately portrayed, it is unclear how prostitutes collectively wish to be described. For example, Margo St. James, founder of COYOTE (Call off Your Old Tired Ethics, a prostitute rights organization) "[r]ejects the patronizing attitude of society and some feminists that sex trade workers are destroyed by their work . . . ." 135 Yet prostitutes Margaret Valentino and Mavis Johnson criticize feminists for describing prostitutes as leading a "glamorous" life without problems.136 Thus the rhetoric of prostitutes themselves, as with that of feminist jurisprudence, may be divided between consideration of choice and constraint.

Prostitutes might also be reacting against the singular foci of the individual feminists describing them. This confusion among the prostitute critique of feminist jurisprudence may result from prostitutes wanting to criticize choice feminists for not considering constraint and vice versa. Without a combined feminist jurisprudence, the prostitute critic must become divided in order to address a divided discourse of feminist jurisprudence of either choice or constraint. There is no room within contemporary debate for a discourse of both choice and constraint. However, in studying the voice of prostitute women, the importance and political viability of a feminism of choice and constraint is made possible.

The increase in numbers of prostitutes publishing their own stories has triggered much criticism focusing on the validity and value to jurisprudence both of autobiographies or narratives generally, and of prostitute autobiographies specifically.137 The examination of the validity and significant value of prostitute autobiographies to law reform movements begins by examining whether prostitutes' insights into their own behavior should be taken seriously, or whether because of their proximity to prostitution, they are unable to accurately and completely portray their own involvement in the business.

Assuming prostitute women's autobiographies give a valid account of

134. Susanne N. Frost, 4 CAN. J. WOMEN & L. 597, 598 (1991) (reviewing GOOD GIRLS, BAD GIRLS: SEX TRADE WORKERS AND FEMINISTS FACE TO FACE (Laurie Bell ed., 1987)).
135. Id. at 600.
136. See Margaret Valentino & Mavis Johnson, On the Game and On the Move, in PROSTITUTES, supra note 130, at 9-10.
women's lives in prostitution and the feminist implications of their
behavior, there still remains a question as to what value these
autobiographies contribute to literature on prostitution. This question is
analyzed here through examination of a small sample of six such
autobiographies. It is true that variables limit the usefulness of these
stories: including the inability to generalize from one individual's
experiences; the lack of analysis or insight accompanying the description of
the women's lives; and the apparent absence of new perspectives
contributed by the authors which contrast with or compliment
contemporary social theory of prostitution. However, by failing to look
beyond these limiting variables, critics often simplify and obscure the real
value of these texts. Their true value is not in generalizing their
conclusions, their representiveness, or in being complete and accurate, but
in that they create a forum which both builds solidarity between women
sharing the experience of working in the sex industry as well as facilitates a
broad-based public debate and review of law. A feminism of both choice
and constraint would be able to take advantage of these benefits of the
prostitute voice by altering the foci of feminism in a way mere choice or
constraint rhetoric would be incapable of duplicating.

B. VALIDITY OF AUTOBIOGRAPHIES

The ability of prostitutes to accurately depict their lives and the
implications of their behavior, has been attacked by many social theorists.
On the most basic level, the validity of autobiographies in general is often
questioned. For example, many social theorists, such as Howard S. Becker
have attacked the validity of the use of autobiographies in social science
because they are seen as biased and incomplete.

When we read an autobiography . . . we are always aware that the
author is telling us only part of the story, that he has selected his
material so as to present us with the picture of himself he would
prefer us to have and that he may have ignored what would be
trivia or distasteful to him, though of great interest to US.

Yet all social science research contains the biases of the researcher. Furthermore, even Becker admits all research is limited in its scope: “We
do not expect . . . that any one piece of work will give us all the answers, or
indeed, all of any one answer.”

Thus, dismissing autobiographies simply because the portrait of the
subject or author they present is limited and possibly biased, when such
criticism plagues all of social science, is erroneous and an overly simplistic

139. See Ken Plummer, Documents of Life: An Introduction to the Problems and Literature of a Humanistic Method 10 (1983).
140. Becker, supra note 137, at 422.
criticism of the validity of autobiographies.

A more complex criticism of the use of autobiographies to inform arguments concerning prostitution would challenge the ability of prostitutes specifically to accurately portray their role in prostitution. Radical feminists such as Catharine MacKinnon claim that prostitute women's proximity to a business run expressly for the sexual gratification of men renders them unable to separate the views and beliefs of their male oppressors from the reality of their situation. Sociologist Jan Jordan summarizes this perspective of MacKinnon.

[I]t is men's control over women as sexual beings which is viewed as the basis of male dominance . . . Prostitution represents one of the most overt forms of such control . . .

For radical feminists, then, prostitution is central to male dominance . . . Inherent within it is the subordination of women, yet it will often be impossible for women to recognize such oppression given the hegemony of the male perspective. As MacKinnon sees it:

The perspective from the male standpoint enforces women's definition, encircles her body, circumlocutes her speech, and describes her life. The male perspective is systemic and hegemonic.141

Ultimately women are unable even to perceive what would be in their own interest, since awareness of "self" has been colonized to such an extent that they see their own needs simply as a reflection of male desire—". . . there is no such thing as a woman as such, there are only walking embodiments of men's projected needs".142 Thus, because of their involvement in a business which markets and enhances the sexual oppression of women, prostitutes cannot objectively and truly evaluate their own behavior.

At close examination, this argument suffers from two fundamental flaws. At the extreme, such an argument implies that no woman can closely examine or become involved in the sex industry from a non-male-dominated perspective because, as part of society, all women's conceptions (including those of the social researcher) mirror the dominant male perspective. Thus the same feminists, including MacKinnon, who purport such theories of hegemonic male dominance, and who also find fault with how their male predecessors have analyzed prostitution, should be by their

definition unable to examine prostitution without regurgitating the same conclusions reached by their male predecessors. If this argument were true, MacKinnon would be in effect admitting she is a collaborator in the oppression of women, or that she does espouse and help to construct the male domination of women. This argument appears overly simplistic.

Additionally, even if this theory is true and prostitutes’ accounts reiterate the dominant male perspective, and MacKinnon’s do not, it remains an oversimplification to claim prostitutes’ autobiographies are therefore “invalid.” Just as MacKinnon’s theory itself constitutes one normative vision of what “is,” prostitutes’ voices are no less valid, but simply derived from a different perspective. In this case, the autobiographies would serve as a convenient and useful window through which feminists can view and understand the male hierarchy. The resulting portrayals would not be invalid, they would just not be feminist portrayals of prostitution, perhaps consisting instead of sexist portrayals of the sex industry.

Interestingly, within their autobiographies, some sex workers present a similar argument to those of radical feminists. They agree that prostitutes are unable to accurately describe their situation and that prostitutes are unable to understand the implications of their behavior. June Levine elaborates on this argument in the preface to Lyn Madden’s autobiography.

My experience with Lyn has taught me that an exploited woman often does not realise the reality of her life. It is not that a woman in Lyn’s situation lies to herself. But, by its very nature, the life of prostitution compels her to ‘cut off’ from feeling . . . . And the perfect cut off, as described by the psychiatrist and writer R. D. Laing, is so perfect that one does not know one is cut off . . . .

In the past . . . most of what [Lyn] . . . said intellectualised her experience of prostitution . . . . Today, her perceptions are different.143

Later in the text, Lyn herself confirms that not until undergoing therapy was she able to accurately describe the implications of her prostituting behavior.144

However, for methodological consistency, this autobiography must be viewed with the same scrutiny and skepticism as those of prostitutes who claim prostitutes are able to speak validly of their own behavior. Simply because this autobiography agrees with arguments made by radical feminists and other social theorists does not make it more valid than other autobiographies. MacKinnon makes this sort of fallacious assumption

144. See id. at 8.
when quoting and presenting as valid the autobiography of ex-porn star Linda Marchiano. MacKinnon rejects the arguments and self-reflection of sex workers who disagree with her findings, claiming their views are the result of indoctrination with sexist ideology. Yet for some reason, MacKinnon distinguishes Marchiano's story as valid. Absent clarification, it appears MacKinnon makes this distinction merely because Marchiano's argument concerning male hegemony supports that of MacKinnon. Therefore, MacKinnon's criticism of prostitute autobiographies can be seen as the result of her exercising evaluative power and excluding those women's voices which challenge the homogeneity of her theory.

For methodological consistency, all prostitute autobiographies must be approached as containing biases despite whether they agree with or argue against other theorists' writings on prostitution. All autobiographies fail to give a complete and unbiased picture of the subjects' lives. However, this fault is true of any qualitative work.Prostitue autobiographies serve both as a valid window through which to view the biases included within their text, and when correcting for these biases, as a valid source of information on prostitution.

C. VALUE OF AUTOBIOGRAPHIES

Even if autobiographies are accepted as a valid social science medium, there still exists the problem of determining the value of these autobiographies. Prostitue autobiographies do not allow for generalization and few are developed beyond a descriptive account of the woman's life, including minimal theorizing or analysis. Furthermore, it is unclear whether prostitute autobiographies present unique arguments not already widespread within prostitution literature.

In order to examine these three criticisms, a sample of six autobiographies and collections of prostitute women's stories are analyzed as to how their authors address these three obstacles in developing their arguments. The six books represent the stories of a wide range of sex workers from a variety of Western countries. This sample was purposely chosen in a non-random fashion as the existence of innumerable potentially confounding variables such as race, class, age, type of sex work performed,

145. See MacKinnon, supra note 142, at 539.
146. See supra text accompanying notes 141-142.
147. Catharine A. MacKinnon outlines her support for Linda Marchiano in Linda's Life and Andrea's Work, in FEMINISM UNMODIFIED, supra note 19, at 127.
148. See PLUMMER, supra note 139, at 10.
150. The books sampled are: SEX WORK, supra note 5; PROSTITUTES, supra note 130; LEVINE & MADDEN, supra note 143; LOVATT & COCKERILL, supra note 132; MELISSA, THE HARLOT'S ROOM (1987); ROBERTS, supra note 130.
upbringing and nationality affect these stories, making a controlled choice for most variables virtually impossible, and most likely inaccurate. The only variable controlled for, that the authors all worked in sex industries in Western countries, was not controlled by choice but by scarcity of subject matter. Although this sample may not be representative, it is still possible to use the sample in order to pinpoint argumentative trends, and to form a theory explaining the value prostitute autobiographies provide to the current literature on prostitution.

These six autobiographies fail to include any generalizations and very little theory building, with one exception: editor Claude Jaget's *Prostitutes—Our Lives*. This unique book is centered on the sweeping assumption that women's low economic status in male-dominated capitalistic society causes prostitution. Poverty forces women to become and remain prostitutes. No allowance is made for the possibility of women entering prostitution for any other reason. And it assumes prostitution will disappear completely with the fall of capitalism. This book, however, also includes life stories of a group of women and spokespeople from European prostitute collectives. Therefore, the generalizations are not based merely on the autobiography of a lone individual.

In *The Front Line: Women in the Sex Industry Speak*, Nickie Roberts also theorizes that women's general status of poverty in society forced her (and other women she knew) into the sex industry. Yet she recognizes that she is unable to generalize any conclusions from only her experience, stating that without the voices of other sex workers, her autobiography “could be dismissed as the experience of one individual, a token stripper.”

Whether the lack of general causal theories of prostitution derived from prostitute autobiographies either prohibits or justifies reliance on autobiographies in feminist jurisprudence can be determined through examination of the authors' goals in writing these books. Are they presenting a view or stance different from, or a valuable addition to, what has already been written on prostitution? Roberta Perkins summarizes the common aim of prostitutes in writing their autobiographies.

Some [of the prostitute autobiographies] have feminist orientations, others have other political intentions, but all make an appeal for human rights based on a non-deviant argument for prostitutes. They have been inspired by the prostitutes' movement since 1975, and are more concerned for circumstances affecting prostitutes in

151. See *Prostitutes*, supra note 130, at 11.
152. See id.
153. See id. at 30-31.
154. See Roberts, supra note 130, at 16.
155. Id. at 19.
their work than for causal factors . . . .\textsuperscript{156}

While the autobiographies are written from a variety of perspectives, Perkins claims that they all include arguments for an anti-deviant description of prostitutes, and a plea for social involvement in improving the plight of the prostitute.\textsuperscript{157} The authors of the six autobiographies sampled in this paper all appear to share these two common goals. However, not all the authors argue them successfully. In order to demonstrate this point it is necessary to examine these two goals individually.

The first intention of the majority of the authors is to demonstrate, through their own example, that prostitutes are not deviant or somehow inherently different from the rest of society. Despite the prostitute autobiographers' articulated goal of rejecting the definition of prostitute as pathological deviant, in reality most of the authors continue to describe themselves in this way.

Some of the sampled autobiographers make no pretense to describe themselves in a non-pathological light. For example, Lyn Madden (\textit{Lyn: A Story of Prostitution}) and Melissa (\textit{The Harlot's Room}) both set out to describe their prostituting behavior as resulting from their psychological problems. Yet even authors who deny inherent pathology forces women into crime, often present their own behavior as being the result of determinant variables over which they have no control.

Gloria Lovatt denies she or any other woman was "born a prostitute."\textsuperscript{158} She continues on to argue that "it doesn't always take a special sort of girl to walk the streets, just a special sort of childhood."\textsuperscript{159} Thus despite Lovatt's desire to portray herself as no different or deviant from any other woman, she does just this by differentiating between women from "normal" backgrounds and prostitute women who are the result of abusive childhoods. While she is not inherently deviant due to her biological, psychological or sexual nature, she is still differentiated from society because of her background of sexual abuse which forced her into prostitution. Lovatt merely replaces biological or psychological determinism with social determinism when explaining her criminality and deviance.

A similar replacement occurs in writings by members of the English Collective of Prostitutes (ECP).\textsuperscript{160} Members of the ECP hold a radical criminological perspective toward prostitution in that they see the business of prostitution as well as the roles of prostitute and client as resulting from

\textsuperscript{156} PERKINS, supra note 129, at 46.
\textsuperscript{157} See id.
\textsuperscript{158} See LOVATT & COCKERILL, supra note 132, at 14.
\textsuperscript{159} Id.
\textsuperscript{160} See PROSTITUTES, supra note 130; ROBERTS, supra note 130.
and reflecting current economic circumstances. These prostitutes believe "prostitution would disappear altogether if classism, and the closely related caste system of racism, disappeared." Furthermore, while they reject the notion of biological or psychological determinants forcing a woman into prostitution, they do "believe that poverty forces poor women to work in the sex industry." Thus again, as with Levine and Madden's book, these prostitutes set out to redefine the prostitute as non-deviant yet they continue to differentiate between the determined prostitute, victimized by her socio/economic environment, and the self-determined, rational, non-prostitute.

Up until this point, this argument is functioning under the presumption that a woman who acknowledges and vocalizes knowledge of the constraints on her life cannot still have some agency within these constraints. Yet it is not necessary to assume that the prostitute autobiographers fail to define themselves as non-deviant merely because they recognize socio-economic forces within which they have had to make their choices. Only if one reads these autobiographies as necessarily proving the truth of either agency (choice) or determination (constraint) must a reading reach this conclusion. If one allows oneself to open their discourse to include choice and constraint, then these autobiographies can be seen as providing invaluable insight into how individuals view their ability to make choices within constraints.

Clearly these authors are trying to achieve something new. They have gone out of their way to produce autobiographies and to have them published. This desire to have their voice heard goes far beyond agreeing to give a feminist researcher an interview. These autobiographies were made out of a desire to be heard after multitudes of prostitutes agreed to be interviewed, but whose voices remained unheard in the contemporary feminist discourse which allows only constraint or choice rhetoric. To approach these autobiographies with this exclusive feminist methodology intact again renders silent the prostitute voice. But to read these texts with the desire to find surprise, to be open to contradictions which may not in fact be contradictory, allows one to see evidence that maybe people including prostitutes do see themselves as existing and exercising agency within a system of constraints. Perhaps feminism would become more accurate and inclusive if we were to respect these self-descriptions.

Perhaps the most valuable contribution the prostitute autobiography can make to feminist jurisprudence is a portrayal of women who exercise choice within constraint. This portrayal opens up the possibility of a rhetoric or discourse to explain how women exercise agency within constraints.

161. See Sex Work, supra note 5, at 17.
162. Id.
163. Id.
Examining the prostitute autobiography also points to the possibility of political power to be gained through such a rhetoric of choice within constraint. A second significant contribution these books make toward the prostitute literature is found in their potential appeal for social awareness of circumstances, laws and policy effecting prostitutes. Demonstrating to the public how an individual, a real person, is affected by prostitution law and policy is likely a powerful instigator of social reform.

The historical reliance by social theorists on autobiographies and case studies, when hoping to encourage social reform, is traced by sociologist James Bennett through his analysis of studies of juvenile delinquency: "[Autobiographies] become fashionable when the main features of their social experiences need to be communicated in order to attract support for projects of social reform from professionals and members of the public."\(^{164}\)

Prostitute autobiographies further exemplify this trend. Eileen McLeod summarizes the impact prostitute women's stories have had on prostitution reform and public attitude towards prostitution.

[P]ublic attention has only recently been redirected towards the idea that the origins of prostitution lie in the sorts of social problems experienced by men and women . . . .

. . . [T]his change in public attention has mainly come about as a result of the advent of prostitutes' campaign since the mid seventies. Prostitution is now a matter of public debate because prostitutes have come out publicly . . . to further their cause rather than to foment scandal.\(^{165}\)

Thus prostitute autobiographies have encouraged public debate and social reform.

The power of the prostitute movement in re-educating and informing the public of the prostitute experience is enhanced by the solidarity between prostitute women. It arises from the ability to write the stories of their lives for each other.\(^{166}\) Unlike feminists arguing from an exclusive rhetoric of truth that alienates women who disagree in order to maintain an appearance of truth and uniformity; prostitutes who have embraced a rhetoric of choice within constraint do not argue from just one truth.\(^{167}\) They accept the notion that women's lives vary.\(^{168}\) Thus their rhetoric of openness actually helps them achieve a politically powerful unification. Although the value of uniting sex workers through their common

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\(^{165}\) EILEEN MCLEOD, WOMEN WORKING: PROSTITUTION NOW 2 (1982).

\(^{166}\) See ROBERTS, supra note 130, at 14.

\(^{167}\) See supra text accompanying note 149.

\(^{168}\) See id.
experiences, or simply being able to read that they are not the only ones in
their situation, is mentioned in all but one169 of the sampled
autobiographies, its value is ignored by social theorists.

This opportunity for prostitute women to unite, and therefore to gain
political solidarity and power, increases with the lack of analysis and
generalizations made within prostitute autobiographies. Only in books
criticized for “failing to move beyond the descriptive, and for contenting
themselves with chronicling the industry in ways often contradictory,”170
can a large group of seemingly unrelated women come together to share
their life stories.

Moreover, when there are no generalizations made, or even possible, a
broad range of women can celebrate their diversity, making it possible to
portray to the public how law and social attitudes affect every type of sex
worker. These diverse autobiographies portray a reality of diverse
experiences with which the public and other prostitutes can find elements
to identify with. Thus mass accounts of the sex industry, which are often
contradictory, demonstrate the new and valuable impact prostitute
autobiographies can have on current prostitution literature and social
policy, and it would not be possible without giving prostitute women their
own voices.

Ironically, the political power of the prostitution movement may be
enhanced by the very pathological assumptions made by the general public
concerning prostitutes. Because society in general defines prostitutes as
“different,” and certainly as non-intellectual, their writings are arguably
non-threatening. Moreover, it is likely their writings are assumed to be
titillating—almost pornographic or reminiscent of a romance novel. Thus
the low status prostitutes hold in society may render their writings highly
approachable as low-brow popular culture. This would increase these
autobiographies accessibility to a wide range of people certainly making
them more readily accessible than traditional feminist theory. Thus the
subordination and the social stigma of the prostitute may grant the
prostitute a form of literary power via the broad-based audience she
attracts.

D. THE VALUE OF AN INCLUSIVE FEMINIST VOICE

Yet how broad do we want to open up feminist jurisprudence? How
far are we willing to go to be politically persuasive?171

169. See MELISSA, THE HARLOT’S ROOM, supra note 150.
171. I use the term “we” sarcastically because in this context it implies that feminists,
particularly feminist lawyers, academics or activists are not prostitutes. I do not believe
such a clear division between different types of women exists. However, this assumption
runs rampant throughout the feminist prostitution and pornography literature. See, e.g.,
MACKINNON, supra note 25, at 205 (MacKinnon states that she doesn’t “see a lot of women
lawyers, feminists or otherwise, selling their asses on the street or looking for a
The example of the prostitute autobiography demonstrates the possibility and potential political benefits of an inclusive feminism recognizing women's ability to make choices within constraints. Yet such deconstructionist methodology insists that this new rhetoric not ignore nor avoid its responsibility for exercising power through the exclusion of some women from its discourse. The political power described above does not come without costs.

Although recommending destabilizing and challenging the claims of truth within discourses, I do not support relativism. As feminists we still will maintain sets of beliefs. And our feminist beliefs are based on good reasoning. Yet any feminist strategy must be conscious of its exclusion of some women for the offensiveness of their feminist beliefs.

The potential power of prostitute autobiographies gained through the accessibility of their titillating content was mentioned above. However, there are at least a few feminists who would not like to depend for political power and support on the lustful and subordinating desires of a man who out of desire for sex and power decides to gawk at a prostitute's autobiography. Additionally, if one believes that prostitution is fundamentally oppressive and abusive of women, then one would not want to encourage or support women's choices in choosing prostitution. Thus even when attempting to create an inclusive feminism of choice within constraint which can account for a wide range of women's experience, there will inevitably always be a conflict between women. One group will exclude another.

However, such exclusion is less likely within a feminist discourse which is conscious of its ability to exercise power to exclude and the divisive consequences of exercising such power. Exclusion is less likely with a feminism founded on the assumption that solidarity and inclusion is ultimately politically desirable, than in a rhetoric of truth which hides and denies its exercise of power to exclude. Understanding and trying to reconcile the conflict between the desire to be unified, and creating a diversity that pulls feminists apart, will at least give feminists the option and the chance to find ways around impending conflict. If exclusionary power is denied, no one can act to avoid conflicts which may lead to a

dichotomy separating feminists from sex workers). See also, Good Girls—Bad Girls: Feminists and Sex Trade Workers Face to Face (Laurie Bell ed. 1987) (implying by the title a dichotomy separating feminists from sex workers). In contrast, one of the few studies performed in the United States based on a representative sampling of prostitutes for range of sex work performed (i.e., prostitutes sampled worked as street prostitutes, call-girls, escorts and independent contractors) found that the only significant differences between prostitute and non-prostitute women included that prostitutes were likely to be more highly educated, and tended to have greater self-confidence and self-esteem, than non-prostitute women. See John J. Potterat et. al., On Becoming a Prostitute: An Exploratory Case-Comparison Study, BRIEF REPORTS (March 20, 1984), cited SEX WORK, supra note 5, at 335.

172. See Nash, supra note 101, at 72-73.
divisive and politically weak feminism.

One way feminists can avoid conflict is by shifting the focus of feminism from issues of female freedom or limitation to working to reduce or alter conditions within which people experience oppression. In reality, feminists want power to change these conditions. And frequently it is these conditions which actually cause divisions between feminists. Using the prostitution example, if feminists worked to eradicate the stigmatization and abuse of the prostitute, no conflict would exist between the desired goals of the prostitute and the political beliefs of the feminist. The prostitute would not have to rely on the nominal power found through stigmatization to have a voice. She might not even need to write because the stigma she is fighting would be gone.

Yet in changing the focus of feminism to reduce tensions between feminists and to increase solidarity and political power, the question of how far we are willing to open up the parameters of feminism must also be faced. Some would argue that this Article opens feminism too far, that there are some topics which are inherently non-feminist or even anti-feminist.

However, if persuasion relies on appealing to an individual’s belief structure, people are able to evaluate against their own beliefs “better” and “worse” arguments. Therefore, rather than ignore or hide from topics which appear at face value to be antithetical to the goals of feminism, such topics must be embraced. Such topics can be used to test or prove one’s hypotheses or theories—to make one’s arguments better. Such testing is, as demonstrated in the first section of this Article, impossible under the feminist rhetoric of truth. Yet feminists willing to approach feminist jurisprudence from the inclusive stance of a theory of choice within constraint will be able to embrace taboo subjects and to use them as strengths. Ironically, by rejecting truth rhetoric, the feminist is able to test her theories and work to make them better, and thus is able to more closely approach truth.

III.

CONCLUSION

In this Article, an attempt has been made to demonstrate how the knowledge gained by contemporary feminists through listening and revocalizing women’s voices is not an innocent truthful knowledge free from exclusionary power. Contemporary feminism’s rhetoric of truth is produced by and reflects power differentials between women and between

women and men. Rather than increase the choices and availability of persuasive strategies for the feminist, this rhetoric of truth has constrained feminist jurisprudence into falsely dichotomous schools of thought between choice and constraint. This forced dichotomy in turn closes the doors of persuasive strategy for feminism by dividing and alienating feminists and the very women feminism claims to represent.

In deconstructing and destabilizing the truth of contemporary feminism, there becomes a way to open up the doors of feminism to include a new more expansive voice. This deconstruction is not a rejection of the contributions of either constraint or choice feminists. In fact, it is only through embracing the techniques and understanding of both schools that this opening can be seen. As feminists, we must work to increase the choices of all women, and encourage the increase of choice among our own feminist rank. But we must do so realistically, with a critical and challenging eye toward social, economic and strategic constraints on both women and feminists. Only by simultaneously challenging constraints and working to increase women’s and feminists’ choices can a complex and inclusive feminist theory of sexuality be developed, which simultaneously allows the feminist scholar to maneuver within the constraints of persuasion.

Such a theory of choice and constraint will give voice to an increased diversity and number of women supporting feminism, which can serve as a strong political body lobbying for legal reform. It can provide room for a discourse that will work to decrease sexual assault while simultaneously allowing women pleasure. It can critically examine power differentials in society without allowing the power differentials to stifle the creativity of the researcher. It can allow for a feminist rhetoric with more freedom to avoid ignoring, or worse, betraying, a great many women’s concerns.

Yet opening the doors to a more inclusive feminism brings with it responsibilities. We must take responsibility for our own exercise of power and recognize the choices we make either to include or exclude in the name of strategy. This technique allows for no innocence. It pushes feminists to face the polemic of both trying to create an inclusive definition of womanhood or feminism, and yet also excluding some women or feminists in order to present a united front. However, by encouraging the feminist to desire both perfect inclusion and unity, it pushes us to try to find ways to dissolve or avoid divisions of women yet still remain persuasive. Thus encouraging the feminist to confront her own exclusions may lead to solutions that diminish these exclusions while retaining persuasive power. Ironically, this methodology, which rejects its own innocence, may lead the way to obtaining truly representative knowledge.