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THE RADICAL FEMINIST DEFENSE OF INDIVIDUALISM

Cynthia V. Ward*

Radical feminism is attempting to move beyond critique of male domination and into the construction of an affirmative vision of the state and society.¹ Accordingly, radical feminist theory forges close links between its three foundational premises: the attack on gender hierarchy, the conclusion that "liberal legalism" has served only to reinforce and perpetuate that hierarchy, and the delineation of a collective "woman's point of view"² that both allows women to reach a standpoint from which they can see and reveal the inherently "male" nature of liberalism and enables women to envision methods of ending gender domination.³ Thus, on the radical view women's collective oppression, imposed on them by socially constructed gender norms that place men at the top of the hierarchy in all of life's important settings, is explicitly tied to the necessity for a nonliberal solution to domination.

In this Article, I challenge this assumed link between the gender hierarchy and the rejection of liberalism. Acknowledging the power of the domination theory as critique, I locate that theory within the

* Associate Professor of Law, Arizona State University. Many thanks to the Wallis Foundation for summer research support, to Hastings College of Law for providing the summer office space in which the first draft of this essay was written, and to my colleagues at Arizona State—especially Jeffrie Murphy Fernando Tesón—for discussions that helped illuminate parts of the argument here.

¹ See, e.g., CATHARINE A. MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE 241-49 (1989) [hereinafter MACKINNON, TOWARD A FEMINIST THEORY] (describing feminism's movement beyond description and critique of sex inequality and toward an affirmative theory of law and society); Catharine A. MacKinnon, *Reflections on Sex Equality Under Law*, 100 YALE L.J. 1281, 1298 (1991) [hereinafter MacKinnon, *Sex Equality*] ("The inequality of women to men deserves a theory of its own.").

In the wake of postmodern and cultural feminist contributions to the literature it has become necessary to define what one means by the label "radical feminism," since these two sub-movements have made theoretical claims whose legal and political implications are arguably just as "radical" as those made, for example, by Catharine MacKinnon. In this essay I use the term "radical feminism" to describe the views of feminist theorists who accept the "three foundational premises" outlined below. See *infra* text accompanying notes 2 and 3.

² See, e.g., MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 83-84 (discussing "women's consciousness, not as individual or subjective ideas, but as collective social being"); *id.* at 121 (discussing "women's point of view").

³ For an articulation and defense of all three premises, see generally *id.*

liberal tradition and then evaluate recent feminist charges that radical feminists are really closet liberals and that radical feminism relies, to its detriment, upon liberal individualist assumptions about rights, women, and/or human nature. While the critics are wrong in asserting that radical feminist theory contains any *inherent* or *necessary* endorsement of liberalism, I argue that nothing in radical theory blocks the use of liberal strategies to address the problems created by male domination. On the contrary, the radical critique of male domination calls for liberal individualist solutions. In evaluating radical feminist theory, I focus mainly on Catharine MacKinnon's ideas, which represent the most fully developed version of the radical feminist approach.

I. FEMINIST THEORY: THE LIBERAL-RADICAL DIVIDE

According to its now-standard definition, liberal feminism accepts the key tenets of liberal philosophy—especially a belief in individual rights and autonomous selfhood—and seeks to correct flaws in the execution of those principles as they have been applied to women.⁴ On this view the feminist movement is needed not to condemn the liberal legal concepts of individual rights and equal treatment, but to demonstrate their imperfect execution. Liberal feminism has long been driven by the idea that sex discrimination is an aberration, an externally imposed collectivization of women that violates liberal ideals of equal concern and respect for all persons as individuals. It followed that feminism's task was to make this clear to men so that the mistake would be corrected and women's false group identity would disappear.⁵ Thus, under liberalism, the existence of the political group "women"—and the existence of a feminist movement—results directly from the externally imposed personality enforced on females by liberalism's unkept promises of equal respect and equal rights. One important implication is that liberal feminism refuses to generate a positive "woman's point of view" from the externally driven collectivization of women that has caused their subordination. "Groupness" is the enemy of liberal feminism, the chief symptom and reinforcer of women's inequality; once inequality disappears, so will "woman's point of view," at least as it relates to issues that the law must notice and incorporate. Thus, in a very real sense liberal feminism works toward its own annihilation.

⁴ For well-known discussions of liberal feminism, see, e.g., ALISON M. JAGGAR, *FEMINIST POLITICS AND HUMAN NATURE* 27-50, 173-206 (1983); CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 32-40 (1987) [hereinafter *MACKINNON, FEMINISM UNMODIFIED*] (describing liberal legalism as applied to women); MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 40, 241-49 (comparing liberal and radical feminism); MacKinnon, *Sex Equality*, *supra* note 1, at 1286-97 (recounting history of liberal feminism).

⁵ See, e.g., JAGGAR, *supra* note 4, at 175-76.

In contrast, radical feminist theory challenges not merely the imperfect realization of equal rights but the root concepts of individualism, rational deliberation, and freedom through autonomy that underlie "liberal legalism."⁶ Radical theory breaks out into several closely related components. First, it views sex inequality not as a problem of unequally realized rights but as a result of the systematic and deliberate victimization of women by a socially constructed male hierarchy that is reinforced by liberal law.⁷ Radical feminists believe that liberal ideas of individual rights and autonomy-based justice are not merely the wrong way to end sex inequality but help to perpetuate it, since they reflect inherently male ways of being.⁸ In order to demonstrate this, radical feminists are forced to delineate and defend a substantive vision of women's collective oppression around which they can organize political and legal reform. To prove that liberal legalism is innately (and not merely historically) male, feminism must construct a "woman's point of view" which allows it first to perceive male domination and then gives it a base from which to fight against domination in the name of women as a group. Thus, radical feminist theory attempts to draw clear and necessary connections between exposing the gender hierarchy, demonstrating its perpetuation under "liberal legalism," and arguing for nonliberal methods of ending it. In the following sections I examine these root principles of radical feminism and question the strength of the links between them.

II. THE CONCEPT OF MALE DOMINATION

The roots of the domination theory lie not in law or politics, but in male-female sexual relations. Taking heterosexual sex as their basic paradigm, radical feminists first assert that sex is an act of physical domination by men. The image explicitly drawn upon is that of the male thrusting into the female, invading her.⁹ The theory goes on to assert that the social construct "feminine" draws its definition and staying power directly from this picture of sex; woman as submissive,

⁶ The phrase "liberal legalism" refers to the principles of liberalism as embodied in law; as used in feminist literature, it is most often a term of skepticism or outright opprobrium. See, e.g., MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 170 ("Including, but beyond, the bourgeois in liberal legalism, lies what is male about it."); see generally Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 1 (1988) (arguing that liberal legalism is "essentially and irretrievably masculine").

⁷ See, e.g., MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 161-70 (attempting to prove this point).

⁸ See, e.g., JOAN HOFF, *LAW, GENDER, AND INJUSTICE* vii (1991) (recounting feminist battle against "the liberal ideal of women as pornographic sex objects"); see generally MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1 (criticizing the liberal state as male).

⁹ Andrea Dworkin has argued:

Violation is a synonym for intercourse. At the same time, the penetration is taken to be a use, not an abuse; a normal use; it is appropriate to enter her, to push into . . . the bounda-

vulnerable and available to be acted upon, is preserved in sex through the creation and encouragement of these "feminine" characteristics in society. What is "feminine" in the social world is what turns a man on, and what turns a man on is female passivity and subordination—whatever allows him to aggress against her, to invade her, without resistance or even resentment.¹⁰ Thus, radical feminism reduces society's conception of "woman" to the female role in sex, and further reduces that role to one of submission and passivity.

For radical feminists, these social stereotypes take on political significance because they operate to deprive women of equality in all spheres of life—social, economic, political, and legal. Social rules dictate that women be made sexually available to men, and legal rules help ensure that women's identities are constructed to fill that desire.¹¹

If this analysis is correct, one can begin to see the force of radical feminist challenges to rights-oriented liberalism. Radicals charge that liberal law begins with the assumption that basic social equality already exists between men and women and seeks simply to assure that equal rights are not denied to women by government simply because of their gender.¹² But in the radical view, inequality runs far deeper.

ries of her body. She is human, of course, but by a standard that does not include physical privacy.

ANDREA DWORKIN, *INTERCOURSE* 122 (1987). See also *id.* at 122-23:

He has to push in past boundaries. There is the outline of a body, distinct, separate, its integrity an illusion, a tragic deception. . . . There is never a real privacy of body that can co-exist with intercourse: with being entered. . . . The thrusting is persistent invasion. She is opened up, split down the center. She is occupied—physically, internally, in her privacy.

Id.

¹⁰ See, e.g., MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 130 ("Sexuality, in feminist light. . . is a pervasive dimension of social life. . . . Dominance eroticized defines the imperatives of its masculinity, submission eroticized defines its femininity."); *id.* at 131 ("Masculinity precedes male as femininity precedes female, and male sexual desire defines both. Specifically, 'woman' is defined by what male sexual desire requires for arousal and satisfaction and is socially tautologous with 'female sexuality' and 'female sex.'"); *id.* at 137. MacKinnon further argues:

To be clear: what is sexual is what gives a man an erection . . . Whatever else does this, fear does, hostility does, hatred does, the helplessness of a child or a student or an infantilized or restrained or vulnerable woman does, revulsion does, death does . . . Hierarchy, a constant creation of person/thing, top/bottom, dominance/subordination relations, does. What is understood as violation, conventionally penetration and intercourse, defines the paradigmatic sexual encounter.

Id.

¹¹ See *infra* text accompanying notes 26-39.

¹² See, e.g., MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 163:

The foundation for [the state's ideal of] neutrality is the pervasive assumption that conditions that pertain among men on the basis of gender apply to women as well—that is, the assumption that sex inequality does not really exist in society. The Constitution—the constituting document of this state society—with its interpretations assumes that society, absent government interventions, is free and equal; that its laws, in general, reflect that; and that government need and should right only what government has previously wronged.

Id.

Gender is preeminently a disease produced by social domination, of which the legal and economic inequality of women are merely symptoms. Male social dominance perpetuates itself by setting up legal structures that fail to remedy the social sources of gender inequality. Thus, the liberal state, not only by refusing to effectively prohibit violations against women¹³ but also by affirmatively protecting instruments of female subordination such as pornography,¹⁴ ensures that while a few women might become "similarly situated" so as to successfully demand "equal treatment" under liberal law, the vast majority of women will never rise to that level and will thus remain unaffected by liberal promises of equality.¹⁵ In fact, according to radical feminists, liberal feminism may have made women's situation *worse*, both by encouraging women via the "sexual revolution" to become more available for male sexual aggression and by hiding the reality of that aggression beneath meaningless equality rhetoric.¹⁶

¹³ See, e.g., Catharine MacKinnon, *From Practice to Theory, or What is a White Woman, Anyway?*, 4 YALE J.L. & FEMINISM 13, 20 (1991) (condemning contemporary rape law as "largely useless") [hereinafter MacKinnon, *From Practice to Theory*]; MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 179 ("From women's point of view, rape is not prohibited; it is regulated.")

¹⁴ For attacks on the liberal defense of pornography, see, e.g., MACKINNON, FEMINISM UNMODIFIED, *supra* note 4, at 206-13; MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 195-214.

¹⁵ See, e.g., MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 163-64:

[O]nce gender is grasped as a means of social stratification, the status categories basic to medieval law, thought to have been superseded by liberal regimes . . . are revealed deeply unchanged. Gender as a status category was simply assumed out of legal existence, suppressed into a presumptively pre-constitutional social order through a constitutional structure designed not to reach it . . . so long as male dominance is so effective in society that it is unnecessary to impose sex inequality through law, such that only the most superficial sex inequalities become *de jure*, not even a legal guarantee of sex equality will produce social equality.

Id.

It is worth noting that this view implicitly adopts a theory of the possibilities of law that might well contradict liberal feminist theory. In fact, liberal feminists do not need to assume that social equality exists prior to law; instead, they can see equal legal rights as a way of introducing, *via* law, the idea of equality into society and so ending social as well as legal domination. Law can be used both to inject society with the notion that women are equal to men and to make it possible for women to make economic and political equality a reality. See *infra* text accompanying notes 40-51.

¹⁶ See, e.g., MACKINNON, FEMINISM UNMODIFIED, *supra* note 4, at 98, 143 (characterizing the sexual revolution and abortion rights as having succeeded only in making women more available for male sexual domination); MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 149-50:

Women who are compromised, cajoled, pressured, tricked, blackmailed, or outright forced into sex . . . often respond to the unspeakable humiliation . . . by claiming that sexuality as their own. . . . although raped women, that is, most women, are supposed to feel . . . that they have some meaningful determining part in having their sex life—their life, period—not be a series of rapes, the most they provide is the raw data for the man to see as he sees it. . . .

But what exactly *is* the connection between the social idea of the “feminine” and male domination in other spheres? If radical feminists can show a strong link, they have made their point.

A. *The Reach of Domination*

Catharine MacKinnon spends very little time defining the concept of male domination. In fact, she proceeds from announcing the gender hierarchy to laying out its results, attempting to demonstrate women’s systematic subordination via descriptions of women’s disadvantaged economic situation,¹⁷ the widespread sexual abuse of them,¹⁸ and the popularity of pornography depicting women being abused, or (in “soft-core” porn) sexually passive and subordinate to men.¹⁹ But feminists of all stripes know of and deplore this abuse, whether or not they agree with MacKinnon. Her facts are clearly consistent with varying explanations of women’s inequality, from liberal to radical, and cannot alone prove the existence or extent of male domination. A more substantive definition of gender domination must be sought.

It might be helpful to approach this inquiry by first understanding what domination does *not* mean in radical theory. For example, one interpretation of the concept would equate dominance with predominance. A definition of male dominance as predominance would go no farther than to note the disproportionately large numbers of men in positions of economic, social, and political power. To say that men are dominant in this sense is merely to describe, not to analyze. It says nothing about the reasons behind this situation, nothing about the relationship between the dominant group and the rest of society. It is the same meaning of “dominance” that is implied in the statement, “I.B.M. dominates the computer business”—meaning simply that I.B.M. accounts for the highest percentage of computer sales of any single company. How or why it does are questions that require a separate discussion.

Clearly, male dominance as predominance is fully consistent with liberal solutions to women’s inequality. All feminists acknowledge

The mind fuck of all of this makes liberalism’s complicitous collapse into “I chose it” feel like a strategy for sanity.

Id. See also Katherine Bartlett, *MacKinnon’s Feminism: Power on Whose Terms?*, 75 CAL. L. REV. 1559, 1561 (1987) (reviewing CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987)) (stating that “MacKinnon attempts to demonstrate the superiority of her dominance approach by showing that the so-called gains of liberal feminism have strengthened rather than weakened male hegemony”).

¹⁷ See, e.g., MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 160.

¹⁸ *Id.*

¹⁹ MacKinnon, *From Practice to Theory*, *supra* note 13, at 15 (reciting empirical facts about abuse to women and concluding that “[t]o see that these practices are done by men to women is to see these abuses as forming a system, a hierarchy of inequality”); see also MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 160.

that men have historically filled the vast majority of powerful positions in society, and that statistics in many areas continue to show male predominance. However, a definition of dominance as predominance both stands and falls on the numbers; under its logic, once women occupy positions of power in equal numbers with men, domination ends. Thus, statistical evidence of women's progress in achieving this goal²⁰ immediately begins to serve as a measure of *liberal* feminism's success at weakening male supremacy. MacKinnon, therefore, cannot hang her case against liberalism on statistics, and must reject this first meaning of domination as inadequate. In fact she does reject it, declaring her view invulnerable to statistical refutation.²¹ It therefore seems that the radical view of domination must include not only the descriptive fact of predominance but also the reasons behind that fact.

In brief, MacKinnon must mean that men "dominate" women in a second sense of that word: so as to achieve mastery and control over women as a group. This immediately appears to match with MacKinnon's description of the effects of male dominance on women. Dominating is something men *do* to women; it is systematized male coercion which constricts women's development and relegates them to the bottom.²²

In what sense, then, are women coerced into victimhood? There are at least two different ways in which the claim of dominance as coercion might be true. Again, the first interpretation is consistent with liberal assumptions about the autonomy²³ of all human beings. On this view, men dominate women by using male predominance in

²⁰ *E.g.*, the influx of women during the 1970's and 1980's into traditionally "male" occupations. *See, e.g.*, WOMEN'S BUREAU, U.S. DEP'T OF LABOR, *TIME OF CHANGE: 1983 HANDBOOK ON WOMEN WORKERS* 57, 298 (1983) (documenting the increasing entry of women during this period into law, medicine, management, protective services such as police officers and guards, and the skilled trades).

²¹ *See, e.g.*, MACKINNON, *FEMINISM UNMODIFIED*, *supra* note 4, at 77:

Until all women can [succeed], none of us succeed as women, but as exceptions. . . . the feminist issue for me is not whether one of us, as an individual woman, can escape some of the burdens of the condition of all women, but whether it remains socially necessary that someone will remain in the position we have escaped from, and that someone will be a woman. . . . To speak as a woman in this sense is to speak from the perspective and in the interest of 53 percent of the population. . . .

Id.

²² *See, e.g.*, MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 160.

²³ The concept of autonomy has been given varying interpretations by philosophers. *See, e.g.*, Thomas Hill, *The Importance of Autonomy*, in *WOMEN AND MORAL THEORY* 129 (Kittay & Meyers eds., 1987). The three understandings of autonomy described by Hill focus on (1) autonomy as impartiality in the review of moral principles, (2) autonomy as a person's right to non-interference by others in the making of important decisions in her life, and (3) autonomy as self-fulfillment, a concept which appears similar to Diana Meyers's characterization of "personal autonomy." DIANA MEYERS, *SELF, SOCIETY, AND PERSONAL CHOICE* 9-21 (1989) (stating that an individual with personal autonomy lives her life by "her own lights" within the range of moral permissibility). In this essay I treat autonomy as synonymous with Meyers's vision of personal

positions of power to coerce women sexually. Here gender-based domination, while contemptible, is merely one example of the many forms of coercion involved in human interaction, including male-to-male and female-to-female relationships. Domination is the use of superior power, however acquired, to get something one wants. Just as a man might use his power over a male business subordinate to, for example, acquire a golf companion on Saturdays, he uses dominance over women to get sex. The key point is that all attempts at domination take place in a context involving individuals, male and female, who presumptively are equally endowed with autonomy and equally capable of rationally directing their lives.²⁴

Of course MacKinnon does not want to accept this view of domination. Like the notion of dominance as predominance, this second view is perfectly consistent with liberal premises and solutions to sex inequality. Remember that the liberal feminist argues for the removal of artificial barriers to women's advancement in the public sphere on the basis that such barriers violate liberalism's core ideals of equal respect and concern. Once these barriers have been removed, the liberal assumes that women will achieve power and prestige to the extent of their individual capabilities. That is, liberalism treats women as possessing individual "selves" that are equal to men's in the capacities for autonomy and rationality, and liberal theory assumes that these selves will emerge once equal legal rights have been extended to women.

Of course, the achievement of this goal would not mean that all attempts at domination would end. To the extent that human beings are willing to use power to coerce each other and violate each other's autonomy, domination—including, for example, sexual harassment in the workplace—would continue. But if liberals are right, once women enter the top ranks of power, such domination will not move in only one direction—domination by men over women. Coercion will be spread more or less evenly between the sexes, with powerful women using their status to obtain sex from male subordinates just as men have long used power over women for this purpose. Hierarchy will continue, but gender-based hierarchy will dissolve. It would make sense in such a world to outlaw certain forms of domination, such as sex harassment, just as we do physical assault, based not on its effect on women solely but on its especially damaging impact on the autonomy and personhood of the victim, whether male or female. Indeed, this motivation undoubtedly lies behind contemporary liberal feminists' support for laws against sex harassment—and the law's refusal to confine that term to cases involving harassment by a man against a

autonomy, which I understand to be roughly equivalent to Hill's third understanding of the concept.

²⁴ I am indebted to Jeffrie Murphy for discussions which clarified this idea.

woman. The key point is that certain forms of coercion may be outlawed on the liberal premise that they violate the autonomy of the individual victim, a premise that implicitly adopts the principle that all persons are to be treated as having such autonomy and that preserving autonomy is a good to which the law must be responsive. Thus, on this second definition of domination, the gender hierarchy disappears via liberal legalism.

It follows that radical feminists must pursue an even stronger definition of male-domination-as-coercion if the notion of gender hierarchy as they describe it—male supremacy that is necessarily reinforced and perpetuated by liberal legalism—is to survive. MacKinnon does so. While one theme of her work seems premised on the idea that women's sexuality is the constant target of men's control, she ultimately concludes that women lack the power to resist male sexual advances; indeed, she states that women are purposely kept in a powerless condition for this purpose.²⁵ On her view, male domination goes beyond the use of power to violate women's individual autonomy; male power, says MacKinnon, actually destroys the possibility of autonomy, indeed of individual selfhood, for all women. Here, domination reaches into the very construction of women's character and personality, creating something analogous to a "false consciousness" under which many women actually voluntarily accept, defend, and even choose roles that help perpetuate the gender hierarchy.²⁶ Women are socially engineered to believe in the naturalness and inevitability of male supremacy; male dominance thus becomes "self-enforcing."²⁷ Under male domination, "women are systematically deprived of a self and . . . that process of deprivation constitutes sociali-

²⁵ MacKinnon's critics have noted a contradiction here; i.e., why do men have to pursue control over women's sexuality when it's already "in the bag"? See, e.g., Bartlett, *supra* note 16, at 1562. MacKinnon has acknowledged the contradiction but never resolved it. See, e.g., MacKinnon, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 173 (Under conditions of male domination, "[t]he question for social explanation becomes not why some women tolerate rape but how any women manage to resent it.").

²⁶ Feminists have disagreed over the presence of "false consciousness" in MacKinnon's theory. See, e.g., MacKinnon, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 115-16 (distinguishing her view from one which assumes false consciousness); Katharine Bartlett, *Feminist Legal Methods*, 103 HARV. L. REV. 829, 875 (1990) (charging that despite her attempts to deny that she relies on it, MacKinnon implicitly ascribes false consciousness to feminists who disagree with her); Jeanne L. Schroeder, *The Taming of the Shrew: The Liberal Attempt to Mainstream Radical Feminist Theory*, 5 YALE J.L. & FEMINISM 123 (1992) (attempting to defend MacKinnon against charge that she accuses women who enjoy pornography of false consciousness).

²⁷ MacKinnon, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 99-100:

[O]ne form of the social existence of male power is inside women. In this form, male power becomes self-enforcing. . . . Given the imperatives of women's lives, the necessity to avoid punishment—from self-rejection to involuntary incarceration to suicide—it is not irrational for women to see themselves in a way that makes their necessary compliance tolerable, even satisfying.

Id.

zation to femininity."²⁸ The social construction of woman as sexually subservient to man means that "there is no such thing as woman as such; there are only walking embodiments of men's projected needs."²⁹ From such a being the concept of "consent" to her situation has no meaning, since she has no choice but to be a creature who *will* say "yes."³⁰ Thus, the state need not impose laws openly enslaving women; women have been forced by other means, which the state merely allows to continue, to acquiesce in the system.³¹

According to MacKinnon, men have used every available means of coercion in order to construct women as victims. First, domination is physical. Women who defy sexual stereotypes and try to act independently are subject to the constant threat of physical intimidation.³² Second, male domination is economic; women are relegated to economically dependent status and are thus kept from having the choice or the power to live without men.³³ And third, male force is legal, leaving women powerless to battle the externally generated sexual stereotypes imposed on them via education and socialization.³⁴ In MacKinnon's own words:

Speaking descriptively . . . the [male] strategy is first to constitute society unequally prior to law; then to design the constitution, including the law of equality, so that all its guarantees apply only to those values

²⁸ *Id.* at 89.

²⁹ *Id.* at 119.

³⁰ *Id.* at 124 ("Women's complicity in their condition does not contradict its fundamental unacceptability if women have little choice but to become persons who then freely choose women's roles.").

³¹ *Id.* at 239:

[N]o law gives men the right to rape women. This has not been necessary, since no rape law has ever seriously undermined the terms of men's entitlement to sexual access to women. . . . No law gives husbands the right to batter their wives. This has not been necessary, since there is nothing to stop them. No law silences women. This has not been necessary, for women are previously silenced in society. . . . No law guarantees that women will forever remain the social unequals of men. This is not necessary, because the law guaranteeing sex equality requires, in an unequal society, that before one can be equal legally, one must be equal socially.

Id.

³² See, e.g., *id.* at 92 ("Men's response to women's redefinition . . . is often to show women just how little control they have by threatening women's material or physical survival or their physical or sexual or emotional integrity."); *id.* at 93 ("Always in the background, often not very far, is the sanction of physical intimidation, not because men are stronger but because they are willing and able to use their strength with relative social impunity. . . .").

³³ See, e.g., *id.* at 168 ("Women as a whole are kept poor, hence socially dependent on men, available for sexual or reproductive use.").

³⁴ See, e.g., *id.* at 162 ("The [liberal] state's formal norms recapitulate the male point of view on the level of design"); *id.* at 163 ("The state is male jurisprudentially, meaning that it adopts the standpoint of male power on the relation between law and society.").

that are taken away by law; then to construct legitimating norms so that the state legitimates itself through noninterference with the status quo. The results of male domination have been to create a subordinated class—women—who, despite their individual circumstances, abilities, and opportunities, are inescapably victimized by male supremacy.³⁵ [O]ver time, women have been economically exploited, relegated to domestic slavery, forced into motherhood, sexually objectified, physically abused, used in denigrating entertainment, deprived of a voice and authentic culture, and disenfranchised and excluded from public life. Women, by comparison with comparable men, have systematically been subjected to physical insecurity; targeted for sexual denigration and violence; depersonalized and denigrated; deprived of respect, credibility, and resources; and silenced—and denied public presence, voice, and representation of their interests. Men as men have generally not had these things done to them. . . . Men have done these things to women.³⁶ Thus, under male supremacy women are deprived not merely of opportunity but of the chance to form an identity, not merely of choices but of the very power to choose.

This third understanding of domination, which moves male supremacy from externally imposed force to internal compliance by women themselves, is central to MacKinnon's argument. If women are denied independent selves capable of evaluating—and therefore rejecting—their situation, her argument loses no persuasiveness when women comply, are successful, are even *happy* members of a permanent underclass. Thus, the core of the domination idea is that under a system of male supremacy women are denied the opportunity to develop independent selves. It follows that the most important goals of the feminist movement should be to recognize this and to create opportunities for women's self-development. That goal is of course central to liberal feminism, which takes the recognition of selfhood and the importance of self-development to be core ideals. In fact, the radical domination thesis, even in its strongest form, is so far mirroring ideas that have been at the core of liberal feminism since its inception.

B. *The Liberal Origin of the Domination Critique*

Liberal reforms of gender inequality are not only consistent with a view of inequality as caused by male domination, but are founded upon such a view. The domination thesis unarguably has power, but it is hardly new. The classic liberal argument against the gender hierar-

³⁵ See, e.g., *id.* at 241 ("Inequality on the basis of sex, women share. It is women's collective condition."); *id.* at 104-05 ("[N]o woman escapes the meaning of being a woman within a gendered social system, and sex inequality is not only pervasive but may be universal (in the sense of never having not been in some form), though 'intelligible only in . . . locally specific forms.'") (quoting Michelle Z. Rosabito, *The Use and Abuse of Anthropology: Reflections on Feminism and Cross-Cultural Understanding*, 5 *SIGNS: J. WOMEN CULTURE & SOC'Y* 417 (1980)).

³⁶ *Id.* at 160.

chy was made by John Stuart Mill in his famous essay *The Subjection of Women*, first published in 1869.³⁷ Mill's protest against male domination contains all the major tenets of Catharine MacKinnon's. Like MacKinnon, Mill argued that men dominate women so as to deprive them of autonomous selfhood:

All women are brought up from the very earliest years in the belief that their ideal of character is the very opposite to that of men; not self-will, and government by self-control, but submission, and yielding to the control of others. All the moralities tell them that it is the duty of women, and all the current sentimentalities that it is their nature, to live for others; to make complete abnegation of themselves, and to have no life but their affections.³⁸

Compare MacKinnon:

The overall objective of female conditioning is to make women perceive themselves and their lives through male eyes and so to secure their unquestioning acceptance of a male-defined and male-derived existence. The overall objective of male conditioning is to make men perceive themselves and their lives through their own eyes and so to prepare them for an existence in and on their own terms.³⁹

Mill charged that women's victimization is eroticized by men, made into sexual attractiveness:

[T]his great means of influence over the minds of women having been acquired, an instinct of selfishness made men avail themselves of it to the utmost as a means of holding women in subjection, by representing to them meekness, submissiveness, and resignation of all individual will into the hands of a man, as an essential part of sexual attractiveness.⁴⁰

Compare MacKinnon:

Sexuality . . . is a pervasive dimension of social life. . . . Dominance eroticized defines the imperatives of its masculinity, submission eroticized defines its femininity. So many distinctive features of women's status as second class—the restriction and constraint and contortion, the servility and the display, the self-mutilation and requisite presentation of self as a beautiful thing, the enforced passivity, the humiliation—are made into the content of sex for women. Being a thing for sexual use is fundamental to it.⁴¹

Mill argued that male social power was so total as to deprive women of any choice but to become victims of it:

When we put together three things—first, the natural attraction between opposite sexes; secondly, the wife's entire dependence on the husband,

³⁷ JOHN STUART MILL, *THE SUBJECTION OF WOMEN* (M.I.T. Press 1970) (1869).

³⁸ *Id.* at 16.

³⁹ MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 111 (quoting Purple September Staff, *The Normative Status of Heterosexuality*, in *LESBIANISM AND THE WOMEN'S MOVEMENT* 80-81 (Nancy Myron & Charlotte Bunch eds., 1975)).

⁴⁰ MILL, *supra* note 37, at 16.

⁴¹ MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 130.

every privilege or pleasure she has being either his gift, or depending entirely on his will; and lastly, that the principal object of human pursuit, consideration, and all objects of social ambition, can in general be sought or obtained by her only through him, it would be a miracle if the object of being attractive to men had not become the polar star of feminine education and formation of character.⁴²

Compare MacKinnon:

Women's complicity in their condition does not contradict its fundamental unacceptability if women have little choice but to become persons who then freely choose women's roles.⁴³

And Mill opposed the idea that the domination of women was somehow "natural," arguing instead its social construction and legal reinforcement:

Neither does it avail anything to say that the *nature* of the two sexes adapts them to their present functions and position, and renders these appropriate to them. Standing on the ground of common sense and the constitution of the human mind, I deny that any one knows, or can know, the nature of the two sexes, as long as they have only been seen in their present relation to one another. . . . What is now called the nature of women is an eminently artificial thing—the result of forced repression in some directions, unnatural stimulation in others.⁴⁴

Compare MacKinnon's criticism of relational feminism:

By establishing that women reason differently from men on moral questions, [Carol Gilligan] revalues that which has accurately distinguished women from men by making it seem as though women's moral reasoning is somehow women's, rather than what male supremacy has attributed to women for its own use. . . . To the extent materialism means anything at all, it means that what women have been and thought is what they have been permitted to be and think. Whatever this is, it is not women's, possessive. To treat it as if it were is to leap over the social world to analyze women's situation *as if* equality, in spite of everything, already ineluctably existed.⁴⁵

Thus, both liberal and radical feminism accept the domination thesis as the core explanation for sex inequality.⁴⁶ Both acknowledge that women have been denied selfhood. And yet John Stuart Mill, writing

⁴² MILL, *supra* note 37, at 16-17.

⁴³ MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 124.

⁴⁴ MILL, *supra* note 37, at 22.

⁴⁵ MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 51. MacKinnon here appears to associate the Gilliganesque view of women's moral reasoning with liberalism, *see id.* at 52; a more accurate characterization would associate it with communitarianism, as other feminists have done. *See, e.g.,* Suzanna Sherry, *Civic Virtue and the Feminine Voice in Constitutional Adjudication*, 72 VA. L. REV. 543, 580-91 (1986).

⁴⁶ MacKinnon acknowledges Mill's contribution, *see* MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 41-45, but neither identifies it with her own nor refutes it. She proceeds directly from a description of Mill's ideas to a general critique of liberalism, "[f]rom Mill to contemporary forms," that fails to engage Mill's arguments or the principle of domination that underlies them. *Id.* at 45-47.

in an era when the law gave married women almost no legal rights as individuals, argued for the extension of liberal equality and respect for autonomy to women in the form of equal legal rights.⁴⁷ Catharine MacKinnon, writing at a time when those rights have been largely extended to women, argues that liberal legalism itself perpetuates male domination, and is certain that the rejection of liberalism is necessary in order to end male supremacy.⁴⁸

What explains this apparently dramatic difference in politics between two visions that share the same central goal: the achievement of selfhood for women? If there is a difference, it must lie in the concept of selfhood itself. Liberals and radicals must divide on the question of what the achievement of selfhood for women means. As I attempt to show in the next section, MacKinnon certainly tries to establish a difference with liberalism here, but her efforts are ultimately unsatisfying.

III. ENDING MALE DOMINATION: VISIONS OF WOMEN'S SELFHOOD

The concept of selfhood is currently under intense examination by feminists and others.⁴⁹ In explicit contrast to the liberal idea that the "self" is coextensive with the physical individual, some theorists discuss the possibility of many "selves" coexisting within the individual body,⁵⁰ while others argue the existence and importance of a "col-

⁴⁷ See JOHN STUART MILL, *ON LIBERTY* 175 (Penguin Classics 1985) (1859):

The almost despotic power of husbands over wives need not be enlarged upon here, because nothing more is needed for the complete removal of the evil than that wives should have the same rights and should receive the protection of the law in the same manner as all other persons; and because, on this subject, the defenders of established injustice do not avail themselves of the plea of liberty but stand forth openly as the champions of power.

Id.

⁴⁸ See, e.g., *supra* text accompanying note 36. Cf. KATHERINE BARTLETT, *GENDER AND LAW: THEORY, DOCTRINE, COMMENTARY* (1993). In her casebook, Katharine Bartlett quotes from Mill and MacKinnon on the subject of women's subordination and notes that:

Mill—the leading spokesman for nineteenth-century liberalism—finds the subordination of women an irrational (and unjust) blind spot of liberalism. MacKinnon, on the other hand, finds the subordination of women a rational (and unjust) consequence of liberalism's emphasis on the individual, its claim to objectivity, and its idealism. Are their analyses of the relationship between liberalism and women's subordination as different as these opposing interpretations might suggest?

Id. at 427-28.

⁴⁹ See, e.g., SEYLA BENHABIB, *SITUATING THE SELF: GENDER, COMMUNITY AND POSTMODERNISM IN CONTEMPORARY ETHICS* (1992); MARTHA MINOW, *MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW* (1990); NAOMI SCHEMAN, *ENGENDERINGS: CONSTRUCTIONS OF KNOWLEDGE, AUTHORITY, AND PRIVILEGE* (1993); *FEMINISM/POSTMODERNISM* (Linda Nicholson ed., 1990); ELIZABETH V. SPELMAN, *INESSENTIAL WOMAN* (1988); DIANA T. MEYERS, *SELF, SOCIETY, AND PERSONAL CHOICE* (1989).

⁵⁰ See, e.g., Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 *STAN. L. REV.* 581, 584, 608 (1990); Mari Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 *WOMEN'S RTS. L. REP.* 7 (1989).

lective" self, involving the shared identity of many individual persons.⁵¹

Various critics have accused Catharine MacKinnon of endorsing both the liberal individualist and the collective visions of women's selfhood. Some have charged that MacKinnon, despite her strong denunciations of liberal epistemology, politics, law, and psychology, is herself a closet liberal.⁵² Others have seen fundamental flaws in MacKinnon's discussion of a collective "women's point of view," claiming that her analysis assigns women a common identity and that this subordinates women's diversity, a violation of MacKinnon's own declared commitment to faithfully represent women's actual practice.⁵³

Understanding these critiques requires exploration of MacKinnon's theory as it relates to the concept of women's identity. MacKinnon appears to take three different positions on the question of female selfhood. At one level she simply sidesteps the question, stating that until we end male domination we cannot know how women will develop in its absence.⁵⁴ But critics have pointed out that this answer is troublesome, since it leaves radical feminist theory without an account of women's ability either to condemn domination or to

⁵¹ See, e.g., Sherry, *supra* note 45, at 545 n.3 (quoting Michael Sandel's definition of "inter-subjective conceptions of self which 'allow that in certain moral circumstances, the relevant description of self may embrace more than a single, individuated human being'" (quoting MICHAEL SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* 62 (1982))).

⁵² See, e.g., Schroeder, *supra* note 26, at n.227 (accusing MacKinnon of having "an essentialist concept of 'the human,' which seems to correspond to the liberal concept of the human (i.e. autonomous individuality) which is also the current stereotype of the masculine"); Bartlett, *supra* note 17, at 1567 ("MacKinnon rejects liberal ideology because its assumptions do not apply to women in our society; yet her assumption that achieving parity of power with men will enable women to freely determine and choose what we want suggests that at some deeper level she retains allegiance to this ideology."). In a well-known article which in part analyzes the psychological premises of radical feminism, Robin West notes the common reliance of radical and liberal theory on such values as individual freedom, selfhood, and autonomy. West distinguishes the "individuation prized by radical feminism" from liberal autonomy by positing that the former "may be a precondition" of the latter. Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 41 (1988).

⁵³ See *infra* notes 62-64 and accompanying text.

⁵⁴ See, e.g., Catharine A. MacKinnon, *Reflections on Sex Equality Under Law*, 100 YALE L.J. 1281, 1328 (1991) ("The challenge of grounded thinking and keeping faith with silenced women means facing that we cannot know what women not unequal as women would want, how sexuality would be constructed, how law would relate to society, what form the state would take, or even if there would be one.") [hereinafter MacKinnon, *Reflections on Sex Equality*]; MACKINNON, *FEMINISM UNMODIFIED*, *supra* note 4, at 45 ("I say, give women equal power in social life. Let what we say matter, then we will discourse on questions of morality. Take your foot off our necks, then we will hear in what tongue women speak."); *id.* at 77 ("If it seems as if this is not very concrete, I think it is because we have no idea what women as women would have to say. I'm evoking for women a role that we have yet to make, in the name of a voice that, unsilenced, might say something that has never been heard."). For a critique of MacKinnon's failure to discuss substantive visions of post-domination society, see Bartlett, *supra* note 16, at 1565-68.

reject liberalism as a solution to it.⁵⁵ How can creatures who have been socially constructed to support the system of male supremacy recognize that it does them an injustice, or design a new legal regime—a separate feminist view of law and society—that will bring equality to women? Although at times MacKinnon seems simply to acknowledge these problems without attempting to solve them,⁵⁶ she is ultimately driven to give some substantive content to her notion of women's selfhood. She does this in two ways. First—and I will return to this point below⁵⁷—she condemns as necessarily male the vision of individual selfhood adopted by liberalism. Whatever women's selfhood will look like after male domination ends, it *won't* be liberal. Second, MacKinnon attempts to construct a female self out of consciousness-raising. In fact, much of the criticism of MacKinnon's theory has centered on her attempt to forge a close connection between women's identity and the methodology of consciousness-raising.

A. *Selfhood and Consciousness-Raising*

In MacKinnon's view, consciousness-raising "is the process through which the contemporary radical feminist analysis of the situation of women [*i.e.*, the theory of male domination] has been shaped and shared. . . . The key to feminist theory consists in its *way* of knowing. Consciousness raising is that way."⁵⁸ Explicitly modeling her discussion of consciousness-raising on feminist groups of the 60's and

⁵⁵ See, e.g., *infra* sources cited in note 82.

⁵⁶ For MacKinnon's recognition of the problem, see MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 86 ("Why some women take the step of identifying their situation with their status as women, transforming their discontents into grievances, is a crucial unanswered question of feminism (or, for that matter, of marxism)."); *id.* at 115 ("Feminism criticizes this male totality without an account of women's capacity to do so or to imagine or realize a more whole truth."); see also MacKinnon's discussion of the issue, *id.* at 103-04 (apparently analogizing radical feminist consciousness to that of proletariat in Marxist theory and relying on historical determinism to improve women's situation).

⁵⁷ See *infra* text accompanying notes 85-90.

⁵⁸ MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 84. While MacKinnon perhaps makes the most dramatic methodological claims for consciousness-raising, other feminists have agreed with her as to its basic meaning and function, if not its exclusive status as feminist method. See, e.g., Jeanne Schroeder, *Abduction from the Seraglio: Feminist Methodologies and the Logic of Imagination*, 70 TEX. L. REV. 109, 152 (1991) (identifying consciousness-raising as "the methodology most associated with the development of radical feminist jurisprudence and political theory"); *id.* at 154; Bartlett, *supra* note 26, at 863-64 (identifying consciousness-raising as one of several feminist methods and defining it as "an interactive and collaborative process of articulating one's experiences and making meaning of them with others who also articulate their experiences"); Leslie Bender, *A Lawyer's Primer on Feminist Theory and Tort*, 38 J. LEGAL EDUC. 3, 9 (1988) ("Feminist consciousness-raising creates knowledge by exploring common experiences and patterns that emerge from shared tellings of life events. What were experienced as personal hurts individually suffered reveal themselves as a collective experience of oppression.").

70's,⁵⁹ MacKinnon gives this method credit for defining "woman's self-concept" through an exploration of "women's consciousness, not as individual or subjective ideas, but as collective social being."⁶⁰

Two ideas are critical to this theory of consciousness-raising. First, it claims to derive a feminist epistemology from women's actual experience, from *practice*, and not from abstract, objective principles of justice.⁶¹ MacKinnon contrasts this "grassroots," bottom-up approach⁶² to the top-down Enlightenment idea which she characterizes as beginning from abstract principles about human reality which are then applied to the world in a purportedly gender neutral, but really male-biased, way.⁶³

Second, MacKinnon unites grassroots consciousness-raising with group-based reform proposals, insisting that "since a woman's problems are not hers individually but those of women as a whole, they cannot be addressed except as a whole."⁶⁴ Consciousness-raising uses a group-based approach to discovery of the truth about women's situation⁶⁵ and reaches collective conclusions about the nature of women under male supremacy; "woman's collective perspective" resulted in the delineation of "woman's self-concept"—under male supremacy, that concept is woman as victim. Consciousness-raising

⁵⁹ For which she has been criticized, *see, e.g.*, Schroeder, *supra* note 58, at 154 (stating that "one of the greatest weaknesses of *Toward a Feminist Theory of the State* is that MacKinnon's insistence of the primacy of her methodology reads as a nostalgic longing for the formative experience of *her* youth, and she is thus unable to articulate what this methodology might be for today's young women"); Angela Harris, *Categorical Discourse and Dominance Theory*, 5 *BERKELEY WOMEN'S L.J.* 181, 183 (1989-90) (book review criticizing MacKinnon's emphasis on consciousness-raising as outdated).

⁶⁰ *MACKINNON, TOWARD A FEMINIST THEORY*, *supra* note 1, at 84, 88.

⁶¹ *Id.*, at 242 ("Where mainstream equality law is abstract, this [dominance] approach is concrete; where mainstream equality law is falsely universal, this approach remains specific.").

⁶² *Id.* at 84.

⁶³ *See, e.g.*, MacKinnon, *From Practice to Theory*, *supra* note 13, at 13 ("The conventional image of the relation between [theory and practice] is first theory, then practice. . . . In legal academia you theorize, then try to get some practitioner to put it into practice."); *id.* at 22:

If we build a theory out of women's practice, comprised of the diversity of all women's experiences, we do not have the problem that some feminist theory has been rightly criticized for. When we have it is when we make theory out of abstractions and accept the images forced on us by male dominance.

Id. *See also* MacKinnon, *Reflections on Sex Equality*, *supra* note 54, at 1285 ("The distinctive theory forged by [the feminist movement] is a form of action carried out through words. It is deeply of the world: raw with women's blood, ragged with women's pain, shrill with women's screams. It does not elaborate yet more arcane abstractions of ideas building on ideas. It participates in reality. . . ."); *MACKINNON, TOWARD A FEMINIST THEORY*, *supra* note 1, at 114-17.

⁶⁴ *MACKINNON, TOWARD A FEMINIST THEORY*, *supra* note 1, at 95, 83-84 (Consciousness-raising "approaches its world through a process that shares its determination: women's consciousness, not as individual or subjective ideas, but as collective social being.").

⁶⁵ *Id.* at 84 (discussing group-based nature of consciousness-raising as central to its method).

revealed "how women are systematically deprived of a self and how that process of deprivation constitutes socialization to femininity."⁶⁶

C. *The Critique of Essentialism*

These views have attracted strong criticism from scholars who attack MacKinnon for crafting a universal woman's identity out of feminist methodology. In fact, MacKinnon and other radical feminists who advocate collective "standpoint theories"⁶⁷ claiming to represent the experience and desires of all women have recently come under attack for the sin of "essentialism."⁶⁸ According to this critique, the radical feminist attempt to delineate and defend a "woman's point of view" necessarily involves the suppression of diversity among women. It does this in at least two ways: by silencing the distinct voices of women of color,⁶⁹ and by discounting the positive experiences of growing numbers of women under contemporary liberalism.⁷⁰ Radi-

⁶⁶ *Id.* at 89; see also *id.* at 111:

The overall objective of female conditioning is to make women perceive themselves and their lives through male eyes and so to secure their unquestioning acceptance of a male-defined and male-derived existence. The overall objective of male conditioning is to make men perceive themselves and their lives through their own eyes and so to prepare them for an existence in and on their own terms.

Id. (quoting Purple September Staff, *The Normative Status of Heterosexuality*, in *LESBIANISM AND THE WOMEN'S MOVEMENT* 80-81 (Nancy Myron & Charlotte Bunch eds., 1975)).

⁶⁷ See, e.g., Bartlett, *supra* note 26, at 872-73 (identifying MacKinnon as proponent of "standpoint epistemology.").

⁶⁸ Many feminists have charged MacKinnon with essentialism. See, e.g., Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 *STAN. L. REV.* 581 (1990); Bartlett, *supra* note 16, at 1566 ("Over and over, [MacKinnon] assumes that underneath their oppression, women have some true essence, or essences, which only need to be discovered."); Schroeder, *supra* note 58, at 189 (MacKinnon's view "is grounded on an unstated and undeveloped concept of an essential female nature. . ."). In her book *Inessential Woman*, Elizabeth Spelman lays the groundwork for these charges against MacKinnon by describing how "dominant Western feminist thought has taken the experiences of white middle-class women to be representative of, indeed normative for, the experiences of all women." SPELMAN, *supra* note 49, at ix.

MacKinnon has denied that she is an essentialist. See MacKinnon, *From Practice to Theory*, *supra* note 14, at 15-16; see also Elizabeth Rapaport, *Generalizing Gender: Reason and Essence in the Legal Thought of Catharine MacKinnon*, in *A MIND OF ONE'S OWN: FEMINIST ESSAYS ON REASON & OBJECTIVITY* 127, 135-40 (Louise Antony & Charlotte Witt eds., 1993) (dividing essentialism into "strong" and "weak" versions and claiming that MacKinnon's "weak essentialism" is not vulnerable to the most fundamental anti-essentialist charges).

⁶⁹ See, e.g., Harris, *supra* note 68, at 585 (taking the view that the result of the "gender essentialism" espoused by feminists such as Catharine MacKinnon and Robin West "is not only that some voices are silenced in order to privilege others . . . but that the voices that are silenced turn out to be the same voices silenced by the mainstream legal voice of We The People—among them, the voices of black women"); Martha Mahoney, *Whiteness and Women*, in *Practice and Theory: A Reply to Catharine MacKinnon*, 5 *YALE J.L. & FEMINISM* 217, 221 ("Despite the goal of building theory from diversity, [MacKinnon's] reductionist approach to proving oppression tends to reproduce a white norm."); Rapaport, *supra* note 68, at 136 (summarizing anti-essentialist critique of MacKinnon).

⁷⁰ See *infra* text accompanying notes 108-13.

cal feminism assigns to all women the point of view of suburban, white, middle-class women in the 1970s, thereby erasing from feminist analysis the stories of both the most disadvantaged women and the most successful women (groups which are not mutually exclusive, but are certainly not identical) in contemporary society. Critics have accused MacKinnon of treating women of color as merely intensified examples of all women⁷¹ and of treating liberal women as traitors to their gender,⁷² characterizations that are seen to be unjust to women and, as Angela Harris has pointed out with respect to black women, to violate feminism's own promise not to shove women into abstract categories for philosophical convenience but to honor their lived experiences.⁷³

A different but related critique charges MacKinnon with implicitly importing into her theory a liberal concept of the self.⁷⁴ Critics claim that not only has MacKinnon erroneously structured a universal female "essence" out of the experiences of a small group of (relatively privileged) white women, but that that "essence" contains many of the psychological attributes of the autonomous, individuated person celebrated by liberal theory.⁷⁵

Critics of MacKinnon charge that her vision of women's "true," undominated self—that is, the woman that will exist *after* male domination is ended—is a liberal vision that prizes the qualities of individuation, autonomy, and free will.⁷⁶ Here MacKinnon is accused of claiming to know what women's "true," undominated selves are (despite her repeated refusals to speculate on this subject)⁷⁷ and of basing her theory on the assumption that those true selves are mere instantia-

⁷¹ See, e.g., Harris, *supra* note 68, at 592 ("In dominance theory, black women are white women, only more so.").

⁷² See, e.g., MacKinnon, *FEMINISM UNMODIFIED*, *supra* note 4, at 205 ("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."); *id.* at 217 (suggesting that liberal feminism amounts to "a vision of change for all having been traded for a better deal for some"). Speaking to liberal feminists, MacKinnon writes:

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

Id. at 205. See also Bartlett, *supra* note 16, at 1564; Schroeder, *supra* note 58, at 158.

⁷³ See, e.g., Harris, *supra* note 68, at 601 ("[F]eminist essentialism represents not just an insult to black women, but a broken promise—the promise to listen to women's stories, the promise of feminist method.").

⁷⁴ See, e.g., *infra* note 77 and accompanying text.

⁷⁵ See, e.g., sources cited in note 52.

⁷⁶ See, e.g., Bartlett, *supra* note 16, at 1566-67.

⁷⁷ See *infra* notes 83-84 and accompanying text.

tions of liberal theory.⁷⁸ In the minds of some, therefore, MacKinnon's theory apparently bears too close a resemblance to Mill's: both attack male domination with the view of winning for women the reality of liberal selfhood that has long existed for men.

To the extent that this critique sees any *inherent* connection between MacKinnon's domination theory and liberalism, it seems wrong. In justification of their conclusion that MacKinnon is a closet liberal, her critics have relied principally on three arguments: first, that MacKinnon's use of language such as "woman's point of view" and "woman's self-concept" indicates her reliance on some overarching vision of women's "true" selfhood; second, that MacKinnon's refusal to articulate an explicit, normative vision of that selfhood indicates that she must be relying upon the existing liberal paradigm; and third, that MacKinnon's analysis of women's subordination focuses on liberal concepts such as the lack of choice that women have and the denial of selfhood to women.⁷⁹

But not one of these arguments shows a *necessary* connection between MacKinnon's delineation of the gender hierarchy and liberalism. First, when MacKinnon uses language such as "woman's self-concept" and "woman's point of view" to describe the results of feminist consciousness-raising, it is not clear that she means to articulate a transcendent feminine identity for all time.⁸⁰ It could well be consistent with her views, for example, if her use of "selfhood" and "view-point" language referred only to women's "selves" under male domination. Women's "self-concept," as discovered through consciousness-raising, refers not to any post-domination female "essence" but to women's common experience of the social construct "femininity."⁸¹ Even assuming, as some of MacKinnon's statements suggest, that women's "selfhood" under male supremacy is completely enclosed within their victimization—that the totality of "woman's self-concept" is "woman as victim"⁸²—there is nothing "essential" about this characterization, nothing that tells us anything about what wo-

⁷⁸ See, e.g., Schroeder, *supra* note 26, at 179 n.227.

⁷⁹ See, e.g., Bartlett, *supra* note 16, at 1566-67; Schroeder, *supra* note 58, at 193-200.

⁸⁰ Elizabeth Rapaport uses this point to justify identifying MacKinnon as a "weak essentialist," and as such invulnerable to the most important tenets of the anti-essentialist critique. Rapaport, *supra* note 68, at 135-36.

⁸¹ This seems to be Rapaport's view, see generally *id.*, at 140 (stating that "illumination of women's common experience and its encounter with the dissonant stance of the law").

⁸² For criticism of MacKinnon for depicting women as total victims, see, e.g., Harris, *supra* note 68, at 613 ("[T]he story of woman as passive victim denies the ability of women to shape their own lives, whether for better or worse. It also may thwart their abilities."); Bartlett, *supra* note 26, at 872-77; Mahoney, *supra* note 69, at 217 ("Defining gender by what is done to women makes it hard to see the many ways in which women act in our own lives and in the world."); Katharine Franke, *Cunning Stunts: From Hegemony to Desire: A Review of Madonna's Sex*, 20 N.Y.U. REV. OF L. & SOC. CHANGE 549, 557-59, 561-72 (1994) (book review) (raising question of how, if women's status as victim sums up their "selves," MacKinnon and other feminists have

men's selfhood would look like were male domination to end. There is also nothing philosophically liberal about women's selfhood under the gender hierarchy; the concept of selfhood MacKinnon assigns to women under male supremacy is about as far removed as a theory could get from liberal visions of the person as a center of autonomy, rationality, and free agency.

Second, the mere absence of a normative vision for women in MacKinnon's theory, while it may pose certain strategic difficulties for the feminist movement,⁸³ does not necessarily compel a conclusion that MacKinnon endorses status quo liberalism. MacKinnon has stated that, even though we can't know what women will be or think after the arrival of gender equality, we can recognize *inequality* when we see it, and seeing that inequality as resulting from the gender hierarchy can help us to fight it, without a detailed vision of how we will all come out at the other end.⁸⁴ This argument explains both the usefulness of her theory and its ability to produce strategic and political reform without importing a liberal vision of personhood.

Finally, the fact that MacKinnon criticizes the status quo for not providing choice to women, or for denying them selfhood, is no proof of a necessary link between her theory and liberalism. Unless we assume up front that the concepts of "choice" and "self" that she uses are liberal ones—which is the very question at issue—the mere use of these words gets us no closer than we were before in collecting details about the place of choice in her vision, how it would be exercised, and in furtherance of what concept of the self. Alternatively, MacKinnon may use these terms as a way of conducting an internal critique of liberalism—of showing, in other words, how liberal legalism fails even by its own standards to deliver equality for women.

It is thus somewhat puzzling to observe the intensity with which some feminists have combed MacKinnon's writings with the apparent goal of ascribing to her the endorsement of a view that she expressly denounces and that seems, on a reasonably charitable interpretation, to lie outside the necessary confines of her understandings of women's situation today. One senses that engaging MacKinnon's theory may be less important to some scholars than discovering ways to exclude liberalism from legitimate consideration in the feminist lexicon,⁸⁵ and

escaped this totalized victimhood, and explaining post-structuralist methodology for recognizing possibility of genuine female agency within existing social constructs).

⁸³ See Bartlett, *supra* note 16, at 1568 ("Without a theory (however tentative) about our future, it is hard to imagine that any gains made by women will change anything other than our relative positions in a world that continues to value, hunger, and fight for power and autonomy.").

⁸⁴ MacKinnon, TOWARD A FEMINIST THEORY, *supra* note 1, at 237-49.

⁸⁵ See, e.g., Schroeder, *supra* note 58, at 195 n.270 ("Personally, I say that if the result of feminism is that we will be what men are now, let's quit while we're ahead."); Mahoney, *supra* note 69, at 218 ("White women urgently need ways of understanding and working on race and

that these critics sense that MacKinnon's effort to do so is unsatisfying. On this last point, at least, they are absolutely right.

While there is no *necessary* connection between MacKinnon's analysis of the gender hierarchy and liberal theory, neither does she succeed in *excluding* the liberal version of selfhood from legitimacy. Her goal is to depict the liberal ideal of individual selfhood as both inherently male and inherently bad, and to argue for its rejection on those bases. Embedded in her analysis is the charge that individualism as men have enjoyed it is parasitic and therefore exploitative; in brief, that men have achieved individual selfhood only by exploiting women.⁸⁶ But she never demonstrates any necessary connection between individual autonomy and exploitation, and such a demonstration is necessary in the face of liberalism's explicit endorsement of the principle of equal autonomy for all, and its consequent rejection of the idea that one person's self-development may be achieved at the expense of another's. Further, as I have noted above,⁸⁷ her critique of the liberal state and liberal society erases the many successful stories of women under the liberal vision of equal rights, as well as liberalism's success in adapting itself to feminist arguments about the essential "maleness" of the workplace, law, and society under liberal legalism.⁸⁸ Finally, although at times MacKinnon is alive to the power of law to affect society,⁸⁹ she never acknowledges that liberal equality, which she criticizes as not reaching into conceptually prior social con-

racism that are not liberal. . . ."); Bartlett, *supra* note 16, at 1569 (endorsing ethic of care as normative vision for women and warning that "[o]therwise we may become, like MacKinnon describes herself and other feminists, 'survivors,' but on terms that appear suspiciously 'male'").

⁸⁶ See, e.g., MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 92 ("It becomes clear, from one horror story after another, that men's position of power over women is a major part of what defines men as men to themselves, and women as women to themselves. Challenge to that power is taken as a threat to male identity and self-definition."); *id.* at 111:

sexual intercourse is a commonly definitive experience of gender definition. . . . What women learn in order to 'have sex,' in order to 'become women' . . . comes through the experience of, and is a condition for, 'having sex'—woman as sexual object for man, the use of women's sexuality by men. Indeed, to the extent sexuality is social, women's sexuality is its use, just as femaleness is its alterity.

id.; Schroeder, *supra* note 26, at 177 (interpreting MacKinnon as saying that men's selfhood comes at women's expense).

⁸⁷ See *supra*, text accompanying notes 71-74.

⁸⁸ Thus, liberal understandings of "equality under the law" have progressed from the "equal treatment" paradigm to embrace the concepts of "equal concern," see, e.g., RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* 180, 272-78 (1977); "equal acceptance," see, e.g., Christine A. Littleton, *Reconstructing Sexual Equality*, 75 CAL. L. REV. 1279, 1284-85 (1987); or "equal opportunity," see, e.g., Herma Hill Kay, *Equality and Difference: The Case of Pregnancy*, 1 BERKELEY WOMEN'S L.J. 1, 26-27 (1985).

⁸⁹ See, e.g., MACKINNON, *FEMINISM UNMODIFIED*, *supra* note 4, at 103-16.

struction, has worked to change societal norms to the benefit of disadvantaged groups.⁹⁰

D. *Liberal Solutions to Male Domination?*

Neither MacKinnon's critique of male domination nor her advocacy of consciousness-raising as the best feminist methodology are at all incompatible with liberal visions of autonomy and selfhood. It is certainly true that MacKinnon sees consciousness-raising, and collective action by women resulting from it, as vital to the feminist project of understanding and naming male domination: "since a woman's problems are not hers individually but those of women as a whole, they cannot be addressed except as a whole."⁹¹ But this statement merits exploration, since it seems both obviously true and obviously untrue. Unquestionably, law that treats women unequally as a group—which denies them, as a group, legal rights equal to those of men—should not proceed toward equality by granting rights separately to individual women; such a person-by-person approach would itself violate the equality ideal. To the extent law creates disadvantaged groups by denying them equal rights, it must remedy the problem by granting them equal rights, as a group. Once this is done, under liberal theory, women's group identity dissolves, leaving individuals free to pursue their own goals uninhibited by imposed gender identities. In this sense, *all* political and legal reform is "group-based."⁹² Notions of "collective empowerment" and collective point of view are completely understandable under this interpretation. Nothing illiberal here.

What makes some versions of "groupness" in feminist theory illiberal is not the mere association of individual women in groups, or the recognition by groups of women that they have suffered common experiences, but the claim that women are by nature more "group-oriented" in the sense of being more altruistic and/or relational than men.⁹³ This view, which explicitly or implicitly subordinates the liberal focus on individual autonomy and rational self-interest, is of course a central tenet of "cultural" or "relational" feminist theory.⁹⁴ It

⁹⁰ See, e.g., Note, *Racial Steering in the Romantic Marketplace*, 107 HARV. L. REV. 877, 878 n.3 (1994) ("Studies demonstrate that, although levels of covert racism remain high, overt discrimination 'has lost all social acceptance.'").

⁹¹ MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 95.

⁹² Jeanne Schroeder has noted that consciousness-raising as collective action can be used as a political strategy within a liberal framework. See Schroeder, *supra* note 58, at 195.

⁹³ This view has been criticized by anti-essentialists, sometimes alongside MacKinnon's theory. See, e.g., Harris, *supra* note 68, at 602-05; Bartlett, *supra* note 26, at 874.

⁹⁴ See, e.g., Bartlett, *supra* note 16, at 1568-70; see generally Carrie Menkel-Meadow, *Portia in a Different Voice*, 1 BERKELEY WOMEN'S L.J. 31 (1985); Sherry, *supra* note 45; West, *supra* note 6.

is a claim that does not appear in MacKinnon's work except as a condemned artifact of women's subordination.⁹⁵

In fact, from either a radical or a liberal feminist standpoint, cultural/relational feminism points in exactly the *wrong* direction. To see this requires barely a glance at the history of sex inequality. It seems indisputable that women's group orientation, as described by relational feminists, has been the root cause of their oppression.⁹⁶ Women's "femininity," and thus their subordination, have depended directly on their willingness to deny their own identities, to listen to and defer to others before themselves, and to honor a principle of self-immolation as central to their ideas of morality.⁹⁷ Catharine MacKinnon attacks this vision of the feminine as imposed by male supremacy, but offers no replacement for it. From a liberal standpoint, however, it seems clear that to free themselves from group-based subordination, women must learn to experience and develop themselves as individuals, as beings of the group but capable of separating from it, capable of designing and moving toward their own goals and of acknowledging that individual selfhood presents everyone with the necessity of recognizing his or her own needs for reward and recognition and the responsibility of accepting the results of his or her own choices.

Carol Gilligan's seminal work on women's moral judgments stands in support of this idea.⁹⁸ In the field of jurisprudence, Gilligan

⁹⁵ See, e.g., MACKINNON, TOWARD A FEMINIST THEORY, *supra* note 1, at 51.

⁹⁶ This has been noted by both liberal and radical feminists. Radical theorist MacKinnon rejects the labeling of women as naturally relational, pointing out that the celebration of such personality roles both reflects and perpetuates the influence of the gender hierarchy. See, e.g., MACKINNON, FEMINISM UNMODIFIED, *supra* note 4, at 38-39 (criticizing cultural feminism and noting that "[w]omen value care because men have valued us according to the care we give them. . . . Women think in relational terms because our existence is defined in relation to men"). Similarly, liberal philosopher Jean Hampton notes that Carol Gilligan's famous interviews with two children she calls Amy and Jake, indicating that girls are more relational than boys, may not be a cause for feminist celebration:

I find it striking that these children's answers betray perspectives that seem to fit them perfectly for the kind of gendered roles that prevail in our society. In their archetypal forms, I hear the voice of a child who is preparing to be a member of a dominating group and the voice of another who is preparing to be a member of the group that is dominated. Neither of these voices should be allowed to inform our moral theorizing if such theorizing is going to be successful at formulating ways of interacting that are not only morally acceptable but which also attack the oppressive relationships that now hold in our society.

Jean Hampton, *Feminist Contractarianism*, in A MIND OF ONE'S OWN: FEMINIST ESSAYS ON REASON AND OBJECTIVITY 227, 231 (Louise M. Antony & Charlotte Witt eds., 1993).

Of course, relational feminists hope to improve women's situation by empowering empathic, group-oriented ways of thinking within our legal structures, see, e.g., Sherry, *supra* note 45; West, *supra* note 52. This Article contends that such a plan might well ignore women's needs for independence and individual autonomy.

⁹⁷ See, e.g., CAROL GILLIGAN, IN A DIFFERENT VOICE 79 (1982) (discussing the emergence in women's moral discussions of the "conventional feminine voice . . . defining the self and proclaiming its worth on the basis of the ability to care for and protect others").

⁹⁸ *Id.*

is often cited by relational feminists for endorsement of the notion that women are innately communitarian and altruistic,⁹⁹ and that these facts should be celebrated and translated into proposals for reform of the legal system. But Gilligan's message is more complex than this citation pattern would imply. In Chapter Three of her book *In A Different Voice*,¹⁰⁰ Gilligan discusses the three stages of mature female moral reasoning. The context is the decisions of a group of women on whether or not to have an abortion, and Gilligan focuses on the interaction in the women's thought processes between duties owed to oneself and duties owed to others. The abortion context confronts women with the necessity of making a choice between the other-focused conventions of "femininity" and the inner promptings of the individual self. Progression to moral maturity is phrased by Gilligan as a resolution of the conflict between the dependency, fear, and dishonesty inherent in women's traditional ethic of altruistic self-immolation, and the assumption of responsibility and acknowledgment of the power of choice necessary to ascend into moral adulthood.¹⁰¹ As the women in Gilligan's study progress through the stages of morality they increasingly come to see that the altruism enforced upon them by societal standards of the "feminine" has served as a hiding place from responsibility for choice and from the need to assert and develop themselves as individuals. Women come to listen to the "inner voice," which insists on the assertion of their own needs and validates that assertion by including it in their scheme of morality.¹⁰²

⁹⁹ See, e.g., Sherry, *supra* note 45, at 580-91 (1986); West, *supra* note 6, at 16-20 (describing Gilligan's view); Bartlett, *supra* note 16, at 1568-69.

¹⁰⁰ GILLIGAN, *supra* note 97, at 65-105.

¹⁰¹ Gilligan states:

When birth control and abortion provide women with effective means for controlling their fertility, the dilemma of choice enters a central arena of women's lives. . . . The conflict between the self and the other thus constitutes the central moral problem for women, posing a dilemma whose resolution requires a reconciliation between femininity and adulthood. In the absence of such a reconciliation, the moral problem cannot be solved. The "good woman" masks assertion in evasion, denying responsibility by claiming only to meet the needs of others, while the "bad woman" forgoes or renounces the commitments that bind her in self-deception and betrayal. It is precisely this dilemma—the conflict between compassion and autonomy, between virtue and power—which the feminine voice struggles to resolve in its effort to reclaim the self and to solve the moral problem in such a way that no one is hurt. *Id.*

¹⁰² *Id.* at 78-105. Gilligan writes that the notion of care embodied in traditionally "feminine" morality keeps women from developing into moral adulthood. See, e.g., *id.* at 68:

The strategies of withholding and denial that women have employed in the politics of sexual relations appear similar to their evasion or withholding of judgment in the moral realm. The hesitance of college students to assert a belief even in the value of human life, like the reluctance to claim one's sexuality, bespeaks a self uncertain of its strength, unwilling to deal with choice, and avoiding confrontation.

Id.

As women confront the failings of this socialization into the "feminine," they begin to recognize and respond to their needs for self-awareness and autonomous action. See, e.g., *id.* at 93-94. Gilligan details the views of a woman who had made the transition to the third and highest

Thus, women learn to transcend their altruistic socialization, not by rejecting their connections to others but by bringing forth their individual selves and asserting the equality of their own needs to those of others.¹⁰³ Gilligan concludes that each gender should learn something from the other to achieve full moral development: while men must become more aware of and concerned with the effect of self-development on relationships and connection, women must learn the importance and validity of individual self-fulfillment.¹⁰⁴ Much relational feminist literature has recited the former half of this prescription; what women may require is a clearer focus on the latter half.

Thus, Gilligan's work supports the view that women's moral progress centers on the need for individual self-acknowledgement and development. Women's traditional "other-focus" is not purely laudable but has served, in part, to retard women's progress by enabling women to escape from the responsibilities and choices of individual selfhood. Wherever the blame for this lies, the need now is to encourage women to develop the qualities of individual agency and autonomy that will result in their self-maximization.

Thus, when Catharine MacKinnon accuses liberal feminism of incorporating a male referent,¹⁰⁵ there is a sense in which she is right—not because women want to be men, but because women may deservedly want the chance to develop independent identities the way men have. To the extent men have been allowed individual selves and women have not,¹⁰⁶ it is surely legitimate to ask the questions liberals

stage of female moral reasoning, and was only then able to see that within the "old framework" of traditional, care-based femininity:

[A]bortion seemed a way of "copping out," saving her from being a responsible person. . . . Within the new framework, her conception of herself and what is "right for myself" is changing. She can consider this emergent self "a good person" because her concept of goodness has expanded to encompass the feeling of "self-worth," the feeling that you are not going to sell yourself short and you are not going to make yourself do things that you . . . don't want to do. This reorientation centers on a new awareness of responsibility: "I have this responsibility to myself, and you know, for once I am beginning to realize that that really matters to me."

Id.

¹⁰³ *Id.* at 94 (Gilligan concludes: "These issues pertain to the worth of the self in relation to others, the claiming of the power to choose, and the acceptance of the responsibility for choice.").

¹⁰⁴ *Id.* at 100:

For women, the integration of rights and responsibilities . . . tempers the self-destructive potential of a self-critical morality by asserting the need of all persons for care. For men, recognition through experience of the need for more active responsibility in taking care corrects the potential indifference of a morality of noninterference.

Id.

¹⁰⁵ See, e.g., MACKINNON, *FEMINISM UNMODIFIED*, *supra* note 4, at 34.

¹⁰⁶ MacKinnon makes this contention repeatedly. See, e.g., MACKINNON, *TOWARD A FEMINIST THEORY*, *supra* note 1, at 103 (stating that "women are in fact not full people in the sense men are allowed to become"); Schroeder, *supra* note 26, at 177 (MacKinnon "says that in masculinist society, only men can become true human beings.").

ask—for example, what qualities have been important to the realization of men's self-development?—and to try to secure those qualities for women. Indeed, the only excuse *not* to do this is that you don't like the content of those selves and fear that women may, given the opportunity, develop (for example) traits condemned by radical feminists as "liberal"—a belief in the importance of autonomy and individual rights, for example.¹⁰⁷ But to say this is to take a totalitarian attitude toward women's self-development, to try to control it in a way scarcely less dominating than MacKinnon accuses men of doing now.

The argument thus far indicates both that group-based personality structures—such as those upon which relational feminist critique relies—are inherently at war with the diversity imperative, and that to the extent women *have* shared a collectivist orientation toward the world, their further progress toward equality and happiness depends on their ability to transcend that orientation in favor of recognizing the importance of individual selfhood and of accepting the responsibility that comes with it. Ironically, this may be especially hard to do in an age when the concepts of individuality, selfhood, and autonomy have taken a back seat in much political literature to attacks on liberalism and endorsements of communitarian values of the sort that have been the cause of women's subordination. Since much of the feminist movement has jumped on this bandwagon,¹⁰⁸ women are left without theoretical support for the development of autonomous selfhood.

In fact, the goals of individual agency and autonomy may now be reemerging as legitimate in feminist circles and, even more importantly, among women of all backgrounds and political convictions. Although one could never prove such a statement by merely citing examples, one indication of its plausibility is the dramatic success of feminist Gloria Steinem's recent book, *Revolution From Within: A Book of Self-Esteem*.¹⁰⁹ The book, which became a number-one national bestseller, speaks to both genders but is especially attentive to the problems experienced by contemporary women in the age of formal legal equality, many of whom are struggling to free themselves of traditionally "feminine" behavior that constricts their development and forbids them from listening to the "inner voice," which would steer them toward active, imaginative construction of their own lives

¹⁰⁷ Some feminists are quite open in declaring this sort of foundational dislike for liberal ideas of selfhood. See, e.g., sources cited *supra* note 85.

¹⁰⁸ See, e.g., Joan Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797, 799-800 (1989) (claiming that relational feminist scholarship of the Gilliganesque variety "is less a description of women's psychology than an attempt to attribute to women two influential critiques of contemporary Western culture . . . the critique of traditional Western epistemology [and] . . . the critique of possessive individualism").

¹⁰⁹ GLORIA STEINEM, *REVOLUTION FROM WITHIN: A BOOK OF SELF-ESTEEM* (1992).

rather than automatic self-denigration and other-focussed altruism. In the stories Steinem tells, one theme emerges repeatedly: as women have moved away from traditional roles, they have moved toward respect for their own status and rights as individuals. The struggle ends when women stop focussing entirely on the desires of men and begin asking, "What do *I* want?"¹¹⁰

Refusing to conflate women's identity with their role in the gender hierarchy—to announce, as MacKinnon often seems to do, that woman's "self" is synonymous with "woman as victim"—Steinem demonstrates the importance of developing individual selfhood in women. "We are so many selves," she concedes, but "there is always one true inner voice."¹¹¹ Women have been victimized, but we do not have to be victims. In celebration of this idea Steinem quotes the words of Jean-Paul Sartre: "Freedom is what you do with what's been done to you."¹¹²

Of course this one example proves nothing more than the existence of a desire for, and belief in the value of, individual autonomy among women. That fact, however, should receive serious attention by feminists committed to the fair representation of women's lived experience (and who reject the easy "out" of labeling all women who disagree with their political views as either traitors or victims of false consciousness). By its own declarations, feminism promises to listen to women's stories and to represent women's practice rather than categorizing women according to pre-existing theory.¹¹³ If that promise is to remain credible, radical feminists must now turn their attention to women's need for individual self-development and confidence.

An obvious question for feminists is, how can the law help to achieve this? One priority should be to revisit decisions about the allocation of feminist energies toward the construction of a "feminist jurisprudence." Do we really need a separate theory of law—a *women's* jurisprudence which conceptualizes and promotes a specifically female view of society and its political institutions? Or should our critique of the gender hierarchy be succeeded by a deeper inquiry into the substantive qualities necessary to break women—and men too, for that matter—out of socialized hierarchies and into individual self-def-

¹¹⁰ *Id.* at 58.

¹¹¹ *Id.* at 323. Steinem thus seems to resolve the potential conflict between the "multiple consciousness" idea expressed by Angela Harris and others, *see, e.g., supra* note 68 and accompanying text, and the possibilities of crafting an individual self from will and imagination.

¹¹² *See* STEINEM, *supra* note 109, at 63. To some extent this message is echoed in postmodern feminist literature, which often emphasizes the existence of many "selves" within each of us, as well as the self's capacity to change through engagement with social constructs—even negative ones. *See, e.g.,* Harris, *supra* note 68, at 610-16. However, postmodern writers go further than Steinem appears to go, rejecting any notion of a "true inner voice" that remains constant or that is possessed in the same form by all persons.

¹¹³ *See, e.g.,* MacKinnon, *From Practice to Theory*, *supra* note 13, at 22.

inition and achievement? Such an inquiry would treat legal prescriptions as purely a result of substantive value choices as to what women lack and what they need, not as an endeavor possessing its own justification. We should not, for example, be bound by male-dominated philosophical trends toward communitarianism which speak eloquently of men's need for connection but implicitly erase women's needs for individual selfhood. If feminism is really to be independent, it must be free not only to design new ideas for ending sexism but also to consider legal prescriptions for equality from all parts of the existing political arena, including (for example) libertarianism and anarchism. Many feminists react with visceral anger to such prescriptions; some even condemned Steinem's book as anti-feminist.¹¹⁴ Their reasons for doing so are their own, but Steinem herself offered a possible explanation in a different context:

Why is there such a split between grass-roots interest in self-esteem and support from much of the government, religious, or even media establishments? I think the idea of an inner authority is upsetting to those accustomed to looking outside for orders—and certainly to those accustomed to giving them. Moreover, if only outside authority is serious, then any inner experience becomes a frivolous concern.¹¹⁵

Have feminists become so focussed on attacking liberalism that this battle has become more important than inquiring into women's actual experience and expressed needs?

¹¹⁴ Steinem discusses some of the initial reactions to the book in an Afterword to the paperback edition, *see, e.g.*, STEINEM, *supra* note 109, at 328-30.

¹¹⁵ *Id.* at 30.