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**FEMINISM UNMODIFIED.** By Catherine MacKinnon.<sup>1</sup> Cambridge, Ma.: Harvard University Press. 1987. Pp. 315. \$25.00.

**GENDER AND HISTORY.** By Linda J. Nicholson.<sup>2</sup> New York, N.Y.: Columbia University Press. 1986. Pp. x, 238. \$27.50.

*Michael Levin*<sup>3</sup>

It is an open secret in the academy that academic feminism is held to standards that are considerably more relaxed than those governing other forms of scholarship. On the evidence of their presumably peer-reviewed publications, feminists are not expected to marshal evidence for even their most extraordinary claims, to meet obvious objections to these claims, to maintain internal consistency, or even to express themselves clearly enough for the reader to determine precisely what it is that they wish to say. In a grand gesture of intellectual affirmative action, the predominantly male academic establishment continues to allow feminists to get away with anything.

If this indictment seems too harsh, consider the books under review, both published by very prestigious university presses. These books teach nothing, and their authors seem unaware of any aspect of human experience beyond those discussed in *Feminist Studies* or *Das Kapital*. Each book will be found unreadable by anyone but a reviewer, whose duty compels him to press on. The turgidity of Professor Linda Nicholson's prose gives new force to the insult "written like a dissertation." Here for instance is a passage about the slogan "the personal is political":

The slogan provides, I believe, an important clue to understanding the significance of the contemporary women's movement and marks it as unique as a political movement. This uniqueness is reflected not only within the political practice. Rather I wish to argue, and this will be a central argument of this book, that the theory which is currently being developed by those active in the contemporary women's movement represents a comparably unique contribution to existing political theory. The attention contemporary feminist practice has given to gender relations and the family is reflected within feminist theory in the study of both as necessary components of political theory. The consequence, I intend to show, carries serious implications for existing political theory.

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And here is Professor Nicholson explaining why appeal to biology “prevents us from understanding the family in historical perspective”:

Such a dehistoricization is fatal for comprehending gender, since it is importantly through understanding the history of the family and its relation to nonfamilial institutions as well as the prehistory of the family in institutions of kinship, that we will be able to comprehend that history of gender which has brought us to our present. Moreover, such a biologization of the modern family serves to freeze those gender relations expressed in it, to conceptualize them also as grounded in biology.

Professor Catherine MacKinnon’s *Feminism Unmodified* is not lifeless, but its animus against men and heterosexuality will quickly tire anyone who does not share MacKinnon’s obsessions. There was, apparently, no editor at Harvard University Press with the gumption to delete her many snarling references to fucking and coming,<sup>4</sup> or her query, “Who listens to a woman with a penis in her mouth?”

The deference of male academics to feminist excess may be partly due to misplaced chivalry and an understandable reluctance to provoke further feminist anger, but it derives primarily from guilt about the massive oppression supposedly suffered by women. Naturally enough, this serviceable idea is the exclusive theme of *Gender and History* and *Feminism Unmodified*, as it is of every feminist word and thought.

Professor Nicholson takes the universal oppression of women as a given. Without attempting to offer any evidence *that* women are oppressed, she sets out to explain *why* they are, unconcerned that explanations of what isn’t so are devoid of interest. If women’s oppression is wholly or partly a myth, then to that extent Nicholson might as well be telling us why the Earth is square or how Napoleon won the battle of Waterloo. She obscures this difficulty by identifying the oppression of women with “patriarchy,” the male’s predominance in all extrafamilial roles and his traditional role as final arbiter within the family. Patriarchy is a fact, and one demanding explanation. “Oppression,” however, is not the only plausible explanation of patriarchy. If men run most things wholly or partly because men on average want to run things more intensely than do women—if patriarchy reflects the innate preferences of both men and women—then to that extent patriarchy is not oppres-

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4. For instance: “I would like to address a question . . . : whether a good fuck is any compensation for getting fucked”; “Rape is defined by distinction from intercourse—not nonviolence, intercourse. They ask, does this event look more like fucking or like rape?”; “Abortion offers women the liberal feminist dream of being real women—that is available to being freely fucked”; “Women in pornography, when you tickle us, we get turned on; when you scratch us, we start to come; when you kill us, we orgasm until death.”

sive.<sup>5</sup> (Nicholson further compounds the confusion by identifying patriarchy with the "devaluation of women.")

But Professor Nicholson's most egregious error, one that would vitiate her book no matter how meticulous the rest of her argument, is her explicit rejection of scientific method. If women have been oppressed in every society, it is natural to posit some single factor responsible for this universal phenomenon. That similar effects must be presumed to have similar causes is the guiding principle of science. It would be an astonishing coincidence if hundreds of distinct processes all somehow produced the same result, male dominance, in each of hundreds of different societies. Yet that is precisely what Nicholson would have us accept. In place of "a positivist methodology" she offers "the historical-hermeneutical tradition," which "rejects that model of scientific explanation which searches for similar causes to [sic] similar effects."<sup>6</sup> What is to be sought instead is the "meaning" of women's oppression in each society:

But, as female devaluation is not one fact but many, interlinked with specificities of culture, so also should we abandon the search for one cross-cultural cause. . . . To analyze the origins of female devaluation, we may need to construct more than one story.

At her most adventurous, Nicholson comes close to abandoning the idea of causation altogether: "To think about origins historically means rejecting the equation of origins with cause."<sup>7</sup>

It is unfortunate that Nicholson discusses the causal issue only in connection with Marxist efforts to provide a unified explanation of sex roles in terms of private property. Since Marxism cannot

5. People are "oppressed" when forced by others to do what they do not want to do. Some feminists allow that women under patriarchy do what they want to do, but claim that women are oppressed because their wants are "inauthentic" products of sexist conditioning. This view clearly assumes that no preferences, male or female, are innate. Betty Friedan concedes that female preferences may have something to do with innate female physiology, but argues that if this is so women are oppressed by their own preferences. Such a view requires an incoherent distinction between a person and his desires, for it construes a person's desires as external forces compelling him to do what he does not want to do.

6. Despite her animadversions against it, Professor Nicholson appears not to know what "positivist methodology" is. Positivism is not especially concerned with Occam's Razor, linear causation, or determinism (what Professor Nicholson calls "determinacy"). Positivism is distinguished by its concern that hypotheses be empirically testable.

7. Nicholson flirts with rejecting "the search for 'origins'" as well, and approvingly cites this sentence from Michelle Rosaldo: "But asking 'Why?' or 'How did it begin?' appears inevitably to run our thoughts from an account of the significance of gender for the organization of all human institutional forms (and, reciprocally, of the significance of all social facts to gender) toward dichotomous assumptions that link the roles of men and women to the different things that they, as individuals, are apt to do—things which for women in particular, are all too readily explained by the apparently primordial and unchanging facts of sexual physiology."

provide a convincing explanation of anything, Nicholson is able to persuade herself that a unified explanation is unimportant. But, to repeat, that view is tantamount to a rejection of science. Once one seeks a single cause for the anthropological constant of male dominance, it becomes apparent that this cause cannot be a social factor unless it is one that somehow arises everywhere and in every era. Hunger, for example, is such a factor, but hunger is biological. One must therefore consider the possibility of a biological universal of some sort—at the very least, the innately greater physical strength of men. Feminists recognize this, but they are unwilling to make even the most minimal and obvious concessions to the reality of innate differences between the sexes. That is why they loathe biology as Dracula does the sun.

The only biological universal Professor Nicholson considers even momentarily is motherhood. As she puts it,

There is nothing itself problematic in the claim that in all human societies women bear children. That might be treated equivalently to the claim that in all human societies women and men urinate.<sup>8</sup>

Predictably, however, she is not impressed by motherhood.

If we abstract from our own nuclear family, where individual women are often dependent on individual men, to different family forms with different divisions of labor, then it is easy to see that a pregnant or lactating woman need be no more dependent on a larger social group than any other member of that group. . . . [Moreover,] an individual woman could be dependent on other nonchildbearing females.

Even at this absurdly simplistic level, her reasoning is patently inadequate. Apart from the silliness of positing “different family forms” in a world which has yet to see stable arrangements that do not involve pairing mothers with individual men, the fact is that women are *not* as capable of abandoning their children as men are. Research on the physiology of bonding has confirmed the common-sense observation that profound hormonal changes within the mother cement her attachment to her newborn.<sup>9</sup> In any case, the principal biological factors determining social structure are, in addition to those involving motherhood per se, the great number that

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8. Many other bodily functions, such as breathing, are equally apt for the comparison Professor Nicholson wishes to make. A hermeneutical focus on close readings and hidden subtexts would doubtless deconstruct *Gender and History* to reveal deep hostility to motherhood, children, and sexual relations between men and women.

9. See Persky, *Reproductive Hormones, Moods, and the Menstrual Cycle*, in *SEX DIFFERENCES IN BEHAVIOR* 455 (R. Friedman, R. Richart & R. Vande Wiele eds. 1974). There are obviously good evolutionary reasons for the emergence of bonding mechanisms. It is also obvious that professors of Women's Studies should be acquainted with the scientific literature on these mechanisms, and that some referee for Columbia University Press should have insisted that Professor Nicholson consult it.

produce sex differences in motivation and cognition.<sup>10</sup> The prenatal exposure of the mammalian male brain to androgens alters those regions of the brain associated with characteristically male aggressive behavior. Human *females* exposed to androgens in utero develop masculine personalities rather than the feminine personalities associated with female socialization. It is becoming similarly evident that males enjoy an innate advantage in abstract mathematical skills while females enjoy an advantage in verbal skills; recently observed physical differences between the male and female brain, particularly the greater attenuation of the corpus callosum in adult females, seem implicated in these differences. In short, the fundamentals of gender are not "socially constructed." History sheds no light whatsoever on the male advantage in dominance-aggression, although the contingencies of culture obviously influence the specific manifestations of this and other innate tendencies. When Professor Nicholson wanted to know why public affairs are associated with men, and thence with "reason," she should have looked to biology. It was inexcusable for Columbia University Press to publish a study of gender and history by an author either ignorant of the research described or ideologically committed to ignoring it.

Perhaps because Nicholson spends so much time saying what she is going to say and saying what she has said, her actual message—her specific account of what history teaches about gender—is extremely thin. As I understand her, she wishes to deny that the family is a "natural" institution which creates a "private" sphere that is disjoint from the "public" sphere in every society. She contends instead that there have been societies without the family; that the family has only recently evolved out of kinship relations; that, consequently, the line between public and private is an "abstraction" not corresponding to any social reality; and finally, that relegating women's activities to the "private" sphere mystifies "the realities of women's lives," in particular their devaluation.

Nicholson does not—because she cannot—offer any anthropological evidence for her astonishing denial of the universality of the family. She relies instead upon rhetorical ploys that are as transparent as they are ubiquitous in feminist writing. One ploy is to confine her citations to the writings of other feminists.<sup>11</sup> The second is reliance on the work of Philippe Ariés, who Nicholson interprets as

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10. For a discussion of some of this research, see M. LEVIN, *FEMINISM AND FREEDOM* ch. 4 (1987).

11. "Those who have most explicitly endorsed this position . . . [that] the relation between 'private' and 'public' is historically changing . . . have been socialist feminists . . . Thus much of the theory and scholarship I shall draw on in this book will be from the writings of socialist feminists."

maintaining “that the concept of the family was unknown in the Middle Ages and only originated in the fifteenth and sixteenth centuries.” Of course, it turns out that Ariés maintains no such thing; his point, rather, is that “the family existed in silence; it did not awaken feelings strong enough to inspire poet or artist.” Whether this is or is not so—and Ariés seems not to know that the Holy Family was a dominant theme in medieval art—it hardly implies that there *were no* families. Third, Nicholson stresses the distinction between the biologically fixed but quite extensive network of kinship relations, and the more specific triad of mother, father, and child. This enables her to gloss over the fact that the reproductive triad forms the biological and social backbone of any more extensive kinship structure. No matter how many sisters and cousins and aunts are reckoned up, the identity of the mother and father of a child is always firm, and it is upon them that primary responsibility for raising the child has always fallen in every society. A fourth and related tactic is to stress historical variations in family arrangements as if they nullify perennial constancies. The contemporary urban apartment, miles from the father’s workplace and seldom accommodating grandparents or aunts, differs greatly from a medieval farmhouse. Yet mother and father were as clearly recognized in the farmhouse as they are in the apartment.

Both of our authors use a disarming ploy which might be called “refutation by explicit statement.” It involves creating the impression that a devastating objection has been answered by stating the objection clearly and then moving on. Nicholson deploys this device most boldly against Locke’s contention that the state cannot be justified by analogy to the family because the family and the state serve different functions. She begins by paraphrasing Locke’s point fairly:

Since the early modern period it has been widely believed that the needs which motivate individuals to become members of families are of a fundamentally different nature from the needs which motivate families to unite into states. The basic human needs which have been thought to motivate the creation of families typically include intimacy, affection, sexuality, and mutual care and support.

If Locke is right, of course, the distinction between family and state is decidedly natural. Nicholson rejects this view, yet makes no effort to rebut it. Perhaps she believes its naked sexism suffices to repel right-minded readers. Perhaps she hopes to bluff the reader. In any event, what follows is an astonishing discussion of Locke’s criticism of Robert Filmer, who defended the divine right of kings. Professor Nicholson does not quite side with Filmer against Locke, but she finds Filmer’s comparison of kings with fathers to be sensi-

tive to "the unity of kinship and politics." Filmer erred, according to Nicholson, only in anachronistically projecting this union, which was "once real" (before "lords had become replaced by fathers and kings"), into modern times. Locke did much more damage by blindly "reifying" state and family, time-bound features of his own era, thus "eliminat[ing] appeals to the past as relevant for political analysis." This is why "radical feminism might be seen as the contemporary rejoinder to a view of social organization first importantly articulated by Locke." You have to go pretty far in 1987 to find a sympathetic word for the divine right of kings, but it's there in *Gender and History*.

Of course, Locke's liberalism is anathema to feminists. Feminist social reforms require a totalitarian invasion of private life by the coercive agency of the state. As Professor Nicholson delicately puts it, even mild, moderate "liberal" feminism will require "a restructuring of the public."<sup>12</sup> This invasion becomes more tolerable, of course, if one is convinced that there really is no private sphere to begin with. Moreover, since sex roles are most strongly reinforced within the family, admitting that the family is a realm of autonomy amounts to admitting that sex roles reflect basic human preferences, an admission spelling the end of feminist ideology. Joining an overly broad definition of politics as the allocation of power to their axiom that private life is a male excuse for overpowering women, feminists naturally consider private life "political."

Animosity toward individual freedom reaches pathological intensity in *Feminism Unmodified*. Mere mention of the Bill of Rights is enough to drive Professor MacKinnon into a fury:

The theory of the First Amendment under which most pornography is protected from government restriction proceeds from liberal assumptions that do not apply to the situation of women. First Amendment theory, like virtually all liberal legal theory, presumes the validity of the distinction between public and private . . . . The problem is that not only the public but also the private *is* a "sphere of social power" of sexism. . . . The distinction between public and private does not cut the same for women as for men. It is men's right to inflict pornography upon women in private that is protected.

And not just pornography. There is also rape, wife-beating, and assault on children. In Professor MacKinnon's world, 44% of all women are victims of rape or attempted rape, "not counting in their marriage"; 14% of married women have been raped by their husbands; 92.2% of all women are sexually assaulted or harassed; anywhere from 25% to 70% of women experience serious violence in

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12. That feminism is necessarily coercive and totalitarian is the central theme of my FEMINISM AND FREEDOM.

the home; 48% of children are sexually assaulted; 17.5% of all females under 18 suffer incest at the hands of male family members. All men think like rapists: "Recent experimental research . . . makes normal men more closely resemble convicted rapists attitudinally, although as a group they don't look all that different from them to start with."<sup>13</sup> Even *Roe v. Wade* is part of the problem. *Roe* may have saved women from a "desperate situation," namely pregnancy as a result of "intercourse under conditions of gender inequality,"<sup>14</sup> but

When the law of privacy restricts intrusions into intimacy, it bars change in control over that intimacy. The existing distribution of power and resources within the private sphere will be precisely what the law of privacy exists to protect. It is probably not coincidence that the very things feminism regards as central to the subjection of women—the very place, the body; the very relations, heterosexual; the very activities, intercourse and reproduction; and the very feelings, intimate—form the core of what is covered by privacy doctrine. From this perspective, the legal concept of privacy can and has shielded the place of battery, marital rape, and women's exploited labor . . . . This right to privacy is a right of men "to be let alone" to oppress women one at a time.

No wonder Professor MacKinnon cries that "the family legitimizes violence to women and calls that civilization."

MacKinnon's hysteria might be understandable if her statistics were trustworthy, but in fact they are suspect. Her avalanche of footnotes notwithstanding, MacKinnon gets most of her figures from a single source—a survey by Diana Russell of 930 San Francisco households. Russell maintains that 44% of the females in these households had been raped or attacked with intent to rape, and that 14% of the married women reported being raped by their husbands. One may judge the reliability of these numbers by recalling that in 1976 Russell convened a tribunal on "crimes against women" modelled on the Nuremberg trials. Russell's sexual assault figure was "produced at my [Professor MacKinnon's] request from [the same] random sample." Sexual assault was defined to cover "all the forms of rape or other sexual abuse or harassment surveyed, noncontact as well as contact, from gang rape by strangers to obscene phone calls [to] unwanted sexual advances on the street." Not long ago a man attempted to strike up a conversation with my wife as she was browsing at a bookstall: chalk up another sexual assault!<sup>15</sup>

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13. There is one ray of hope: Professor MacKinnon reports being hissed at upon making this statement during a lecture at the Harvard University Law School.

14. MacKinnon reminds us that, "Sexual intercourse [is] still the most common cause of pregnancy."

15. The statistic about prostitution comes from Griffin, *Wives, Hookers and the Law*, STUDENT LAWYER, Jan. 1982, at 18.

Now one might be tempted to attribute all this rape to men wanting sex more than women wish to give it to them, but for Professor MacKinnon this is at best a half-truth. To be sure, women dislike sex with men; MacKinnon's paradigm of sex as experienced by women is the bored prostitute faking pleasure. (She reluctantly allows that some women do enjoy sex with men, but only because sex is degrading and these women have learned to enjoy degradation.) Yet MacKinnon also appears to believe that men don't like sex very much, either. They certainly have no innate desire for it:

Desire . . . is taken for a natural essence or presocial impetus but it is actually *created by* the social relations, the hierarchical relations in question. This process creates the social beings we know as women and men.

Under patriarchy, dominance is "erotized" (or "eroticized").<sup>16</sup> What men really want is control over women, and the penis is their cattle prod:

I think that when men sexually harass women it expresses male control over sexual access to us. It doesn't mean they all want to fuck us, they just want to hurt us, dominate us, and control us, and that *is* fucking us.

In Professor MacKinnon's terminology, men don't oppress women in order to fuck them; they fuck women in order to oppress them.

Quite apart from MacKinnon's evident unfamiliarity with normal human beings, there is a logical problem here. Obviously, a stimulus not unconditionally arousing becomes "erotized" by association with a stimulus that *is* unconditionally arousing. A nightgown is "erotized" for a man by its association with his wife. Therefore, if there are no unconditional arousers, if all desire is "socially constructed," no stimuli can be conditionally arousing. If sex is not sexy, where is anything else to get its sexiness from?

Professor MacKinnon's answer, in case you have not guessed, is pornography. Before turning to that topic, however, it is important to emphasize the extremism of her denial of innate determinants of relations between the sexes. At several points she seems to deny even innate physical differences between men and women; at any rate, she clearly asserts that, absent domination, nobody would *notice* whatever differences there are:

Differences between the sexes do descriptively exist: being a doormat is definitely different from being a man. . . . Differences are inequality's post-hoc excuse . . . , the distinctions that perception is socially organized to notice because inequality gives them consequences for social power.

Gender might not even code as difference, might not mean distinction epistemologically, were it not for its consequences for social power.

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16. She equates "this erotization of dominance and submission" with heterosexuality.

[G]ender is an inequality first, constructed as socially relevant differentiation in order to keep that inequality in place.

Another way to say that is, there would be no such thing as what we know as the sex difference . . . were it not for male dominance. Sometimes people ask me "Does that mean you think there's no difference between women and men?" The only way I know how to answer that is: of course there is; the difference is that men have power and women do not.<sup>17</sup>

Professor MacKinnon again faces a logical dilemma. If "male" is "a social and political concept, not a biological concept," how do men know whom to oppress before their victims have actually been oppressed and thereby become female? How, indeed, does a man know he is one of the lucky oppressors before he has begun to do any oppressing and thereby become male? Not by looking between his legs, since "epistemologically, gender is socially controlled." Unless Professor MacKinnon believes that penis and vagina are illusions fostered by dominance and submission, she must be saying that by coincidence most of the oppressors in every society happen to possess penises, and for this purely fortuitous reason possession of a penis is widely thought to reveal something about the kind of person that the possessor is. It is quite a coincidence, and one which leaves unexplained why the human race divided itself into dominators and submitters in the first place. Where did the "social construct" come from that enabled men to establish all the social constructs?

Viewing male dominance as the organizing principle of society, Professor MacKinnon is quick to scorn the spurious sexual equality offered by civil rights legislation. Purportedly sex-neutral standards are always advantageous to men because male "experiences and obsessions define merit." As one might suspect, she has quite a bit more trouble explaining why affirmative action rules that favor women over men also perpetuate male dominance. She has so much trouble, in fact, that she resorts to a variant of refutation by explicit statement, namely explicit statement followed by obscure irrelevancy:

Gender neutrality is thus simply the male standard, and the special protection rule is simply the female standard, but do not be deceived: masculinity, or maleness, is the referent for both. Think about it like those anatomy models in medical school. A male body is the human body; all those extra things women have are studied in ob/gyn. It truly is a situation in which more is less.

The same technique assists in addressing another unavoidable problem for advocates of sex equality: does equality entail female

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17. This is an excellent example of refutation by explicit statement.

conscription, and would the proposed Equal Rights Amendment mandate it? She answers:

Sometimes I see this as a dialogue between women in the afterlife. The feminist says to the soldier, "We fought for your equality." The soldier says to the feminist, "oh, no, *we* fought for *your* equality."

Yes, but does sex equality entail female conscription, and would the ERA require it?

But here is an amazing thing. After rejecting the institutions of patriarchy and exposing affirmative action for women as another patriarchal plot, MacKinnon goes ahead and endorses numerical goals anyway. She lauds the Supreme Court's approval of legislation "to remove barriers to economic advancement and political and social integration that have historically plagued . . . women." Although "feminism means to transform the meaning of athletics, of sport itself," nonetheless "Title IX has been extremely important" for facilitating girls-only teams which exclude athletically superior boys. Legal careers impose male standards on women, and "the real feminist issue is not whether biological females hold positions of power," yet "it is utterly essential that women be there." Consistency gets short shrift when it gets in the way of discrimination against men.

As previously mentioned, Professor MacKinnon's *primum mobile*, the organizing principle "central to the institution of male dominance," is pornography. Despite her inability to explain how pictures of submissive women could arouse anyone not already aroused by female submissiveness, or why patriarchy antedates and extends beyond pornography,<sup>18</sup> she endows pornography with near-omnipotence. Pornography, along with rape and prostitution, "institutionalizes the sexuality of male supremacy"; it "conditions male orgasm to female subordination"; it "target[s] survivors" of rape and domestic battering; it "is used to break women, to train women to sexual submission, to season women, to terrorize women, and to silence their dissent." And so on for 150 pages.

While one expects this philippic to end with a call for drawing and quartering—or perhaps some more fitting dismemberment—of those involved with pornography, Professor MacKinnon merely urges that pornography be made illegal. Since pornography liter-

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18. She explicitly states the latter objection. Among the ensuing obscure irrelevancies are anti-Semitism before the Third Reich and white racism where there is no Ku Klux Klan. The discussion then shifts to whether anti-Semitism is worth fighting, Nazis or no Nazis, with the implicit equation of tolerance for pornography and tolerance for anti-Semitism. Her examples, however, actually underscore the force of the objection: since anti-Semitism has existed without Nazis, Nazism cannot be necessary for anti-Semitism—just as pornography cannot be necessary for male dominance.

ally “undermines sex equality,” it violates women’s civil rights, and traffic in pornography should create the same civil liability as any other Title VII violation. Unfortunately, “first amendment fetishists” have impeded legal reform. MacKinnon is particularly exasperated by a federal court’s rejection of anti-pornography legislation that she helped draft for the City of Minneapolis, a holding summarily affirmed by the Supreme Court. She bitterly contrasts the situation in the U.S. with that in Nicaragua, where it is illegal to “use women as sexual or commercial objects.” Her discussion of the *Sexual Politics of the First Amendment* ends with the reminder that “serious movements for human freedom” never tolerate “the so-called speech of the other side.” An interesting sentiment from a woman who taught Constitutional Law at Minnesota Law School, was selected as a distinguished guest lecturer on civil liberty at Harvard Law, and was chosen to be a visiting professor at Chicago Law and next year Yale Law.

Given the length of her harangue, it is curious that Professor MacKinnon never gets around to mentioning just what the courts found objectionable about the feminist pornography ordinance. The sticking point, in fact, was its language banning “the graphic sexually explicit subordination of women, whether in words or pictures.”<sup>19</sup> One need come nowhere near the more difficult free speech (and pornography) issues to agree with the courts that, contrary to the first amendment’s clear purpose of forbidding government sanction of opinions, this language would establish an official, approved view of women.

If pornography is an idea, what do we do with works of art and literature that express evil ideas? Picasso’s *Tauromachea* drawings certainly run afoul of Professor MacKinnon’s proscriptions. So might the character of Stanley Kowalski in *A Streetcar Named Desire*. One need not look even this far for hard cases: ironically, the most popular literary genre that would be vulnerable to MacKinnon’s ordinance is the soft-core “bodice-ripper” paperback that bores men but titillates millions of women. In the typical bodice-ripper, a handsome rake—a renegade nobleman, a riverboat gambler, a pirate—enters a woman’s life and takes her, ignoring her

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19. The cited condition is necessary but not sufficient; it only becomes sufficient when adjoined to one or more of several further conditions, including the representation of women in “postures of sexual submission,” or in ways which “reduce” them to their breasts and vaginas. A representation is also considered pornographic if it uses “men, children or transsexuals in the place of women.” So even representations which on Professor MacKinnon’s grounds should be conceived as conditioning an ideology of male (or children’s or transsexual’s) subordination turn out to be designed to subordinate women. One is reminded of the paranoid’s reply, when it is pointed out to him that there seems to be nobody plotting against him, “Ah, that just shows how cleverly they’re plotting.”

objections. She resists, but her body betrays her. She enjoys it in fairly explicit terms. After many adventures in exotic settings, they marry.<sup>20</sup>

As the philosopher Christopher Boorse has observed, art raises logical questions as well. Do words or pictures perform actions, like subordinating women and reducing them to their breasts and vaginas?<sup>21</sup> Does a film of a couple climaxing in the missionary position advocate the missionary position, or espouse the general thesis that most women are more likely to climax when the man is on top? And what of books which explicitly defend the subordination of women? Perhaps it is not fully realized that ideational definitions of pornography threaten the literal expression of ideas. Many students of human behavior, most notably Freud, have held that women are happier when they submit sexually to men. The sociologist Steven Goldberg argues in *The Inevitability of Patriarchy* that male dominance is biologically inevitable, and counsels acceptance of that reality. My own *Feminism and Freedom* maintains that male dominance can only be prevented (and then just temporarily and locally) by the machinery of a totalitarian state. To develop these positions, it is sometimes necessary to discuss orgasm, clitoral massage, penile penetration of the vagina and other sexual matters in explicit detail. So far as I can tell, publication of these works would be illegal in Professor MacKinnon's world. It is no accident, as a Marxist would say, that she is a Marxist—albeit an anti-heterosexual Marxist.

To the limited extent that MacKinnon's rage has an intellectual basis, it rests on a confusion between a representation of a thing and a thing itself. She repeatedly describes pornography as something done to women, rather than pictures or descriptions of actions done to notional women. Pornography for MacKinnon is not fantasy "but sexual reality: the level of reality on which sex itself largely operates." It is no wonder that she complains that you can be legally liable for destroying a cup, a physical object, if it is someone's property, but you aren't liable for destroying women by making a pornographic movie. She is so obsessively enraged at male sexual desire that she is functionally unaware that men reading

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20. Evolutionary biology sees the differences between male and female sexual fantasies as an extension of adaptive differences in sexual behavior. Since a man does best (from his genes' point of view) by mating with as many women as possible, he is strongly cued by sheer receptiveness. Since a woman does best (from her genes' point of view) by mating with a man both strong enough to protect her and her offspring and devoted enough not to leave her, she is strongly cued by males who might "sweep her off her feet." Were I to be more explicit about the sexually differentiated mechanisms of arousal, this paragraph would have to be censored under MacKinnon's criteria.

21. See *supra* note 19.

*Penthouse* are imagining themselves having intercourse, and not really having intercourse at all.

Despite the many passages I have quoted from *Feminism Unmodified*, I fear I may not have adequately recreated the aura of dementia radiating from this book. I have long suspected that feminism has gotten as far as it has because people simply do not read the *ipsissimae dixeunt* of feminists themselves. So I will close by leaving the reader with the quintessence of the MacKinnon sensibility:

To be about to be raped is to be gender female in the process of going about life as usual.

[T]he fight over a definition of obscenity is a fight among men over the best means to guarantee male power as a system.

And now my favorite (no easy decision). As the reader ponders it, he might reflect that the book from which it is drawn was lauded in the *New York Times*, and that feminism, unmodified, continues to be embraced by a wide segment of the legal, academic, and intellectual community:

*Playboy's* articles push their views, including their views of the First Amendment, in an expressly sexualized context, and at the same time those articles serve to legitimize what their pictures do to women. Masturbating over the positions taken by the women's bodies associates male orgasm with the positions expressed in the articles. Ever wonder why men are so passionate about the First Amendment? . . . I must also say that the First Amendment has become a sexual fetish through years of absolutist writing in the melodrama mode in *Playboy* in particular. You know those superheated articles where freedom of speech is extolled and its imminent repression is invoked. Behaviorally, *Playboy's* consumers are reading about the First Amendment, masturbating to the women, reading about the First Amendment, masturbating to the women, reading about the First Amendment, masturbating to the women.

**CONSTITUTIONAL FEDERALISM IN A NUTSHELL, SECOND EDITION.** By David E. Engdahl.<sup>1</sup> St. Paul, Mn.: West Publishing Co. 1987. Pp. xlv, 411. Paper, \$10.95.

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On the back cover of this and other books in its "Nutshell" series, West Publishing Company advertises its product as "a succinct exposition of the law to which a student or lawyer can turn for reliable guidance." West might have added that law professors,

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