

Catharine A. MacKinnon

Butterfly Politics

Cambridge, Mass.: The Belknap Press of Harvard University Press, 2017 (ISBN 978-0-674-41660-4)

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Catharine MacKinnon's *Butterfly Politics* is a collection of essays and speeches produced over the period of her career so far, dating from 1980 to 2015. Many of them have never been published before, although the speeches have been delivered in a variety of contexts, from commencements to closing arguments before juries to award ceremonies. The territory that they cover will be familiar to many, as they articulate and review the main themes of MacKinnon's work in attempting to use the law to change the conditions of life for women: the fight for (as she puts it) sex equality.

The title is of course a reference to the metaphor of the "butterfly effect." Since its coining in 1972 by Konrad Lorenz, the metaphor (the butterfly opening and closing its wings in Brazil can cause a tornado in Texas) has been used frequently to explain how "some extremely small simple actions, properly targeted, can come to have highly complex and large effects in certain contexts" (1). MacKinnon's application of it to legal and political work refers to the possibility that "the right small human intervention in an unstable political system can sooner or later have large complex reverberations" (1). It works as an organizing concept for this collection of scholarly and activist efforts, many of which have had precisely this character of beginning as small movements in the direction of change and have grown to have significant impact. In some of the pieces presented here, MacKinnon articulates for the first time ideas and concepts that have become the standard: for example, the claim of sexual harassment as a crime of discrimination against women. In others, the reverberations are ongoing, and we have yet to see what their effects may be.

The book is organized in sections, and within each section roughly (not perfectly) chronologically, giving readers a sense both of the range of her work and its progression over time. In the first section, "Change," the pieces emphasize MacKinnon's reflections on *how* to make change, in particular, how to make the law change or make law work so as to effect change. In chapter 3, MacKinnon urges a graduating class to recognize the power they do (and don't) have, for example, with regard to their ability to help women be heard by the law, taking the risk of speaking with and for them. She advises graduates to resist the tendency to live as if there is "plenty of time" for the important changes, but rather to "speak and write as if it is the last thing you will ever say, the last chance you will ever have, as if it is the last thing that your audience is ever going to hear" (32). In chapter 4, she advises that since all the problems women

face are likely to be interconnected, it matters less where one begins to address them than how: by neither forgetting nor trivializing what happens to women or what women have accomplished; by not being nice and not shutting up when that is what will be easiest to do.

The second section, "Law," is the largest by far and presents the major themes of MacKinnon's work in legal theory and practice. Her efforts to make it possible to bring a claim of sexual harassment before the law are presented in the overview provided in chapter 7 and more specifically in the Supreme Court brief reprinted in chapter 8. The brief is especially interesting, as it so powerfully reveals the entitlement, on the one hand, and the utter lack of logic on the other, found in both the courts and in perpetrators of sexual harassment. Chapters 9 and 10 provide testimony on the harms of pornography as part of the effort by MacKinnon and Andrea Dworkin to pass and sustain legislation making pornography a sex discriminatory practice that violates (in particular but not only) women's civil rights by abuse and coercion in the making of it and by promoting sexual violation and sexual denigration in the trafficking of it. Chapter 11 presents the speech given to a group of Canadian "equality seekers" on the topic of substantive equality. The speech represents the first public presentation of this theory of equality and the ways it would be better for women and any marginalized groups than the more standard formal equality. Chapter 12, again a speech delivered to a Canadian audience, is on torture, but in particular presents the acts engaged in the making of pornography as torture, revealing the "atrociousness in the everyday," as pornography is widely tolerated as not terribly bad for either participants or consumers. Chapters 13 and 14 are on rape, especially as "weaponized" in war and genocide. Chapter 15 deals with prostitution and sex trafficking.

Section III, "Culture," contains pieces that are deliberate engagements with aspects of mass culture. Chapter 16 is a written response to articles published in *The Village Voice* objecting to and attempting to discredit MacKinnon and Dworkin's work on antipornography legislation. Chapter 17 is a speech given on the same topic to a meeting of the American Civil Liberties Union, which represented pornographers in court and in public on the grounds that pornography is protected speech. The topic is brought forward in time in chapters 18 and 19, as MacKinnon moves from the earlier pieces written in 1985 to the latter in 2005 and 2007.

"Academy," the fourth section, contains pieces on feminism and women's experiences with and within the academic sphere, raising questions about what education and scholarship can and should do to work toward changes for women and substantive equality. Specific topics include gender bias in education, and the need to move toward gender literacy (chapters 20 and 21). Academic freedom is treated in chapter 22, where one question is whether the concept is being used as it should when it is raised, for example, as a defense for professors against student demands that they not be sexually harassed. Chapter 23 takes up engaged scholarship, arguing that because scholarship is motivated by life even when that motivation is made invisible, there is a sense in which all scholarship is engaged, and certainly feminist scholarship is so.

Section V, "Toward an Equal Future," offers concrete changes that could be made to improve substantive equality, such as changes in the definition of rape in law (chapter 25). MacKinnon argues that with regard to rape and other crimes against women/humanity, international law has so far set a much higher standard, eliminating consent ("a pathetic standard of equal sex for a free people" [289]) and instead prohibiting "use of or threat of use of force or other forms of

coercion, abduction, fraud, deception, or abuse of power or a position of vulnerability for purposes of sexual exploitation" (290). Chapter 27 argues that we still need an equal rights amendment, and that in fact the US lags behind many other countries in assuring the human rights of women. Chapter 28 presents several cases in international law to argue, again, that in many ways international law is ahead of domestic law in protecting women's (human) rights, although there is still much work to be done.

It's easy to see, through the brief mention of chapters and contents, that MacKinnon's work has been both important and controversial. This collection does two things that I see as making the investment in reading it very worthwhile. First, it brings an overview of MacKinnon's work to a new generation of feminist readers. As I find when I teach courses in feminist theory, most of our current students are not aware of a lot of the history they are benefiting from. We all "stand on the shoulders" of those who came before us, and I encourage students to know who some of those people are. Through the speeches and essays in the book, those previously unfamiliar with MacKinnon's work can become aware of the scope and significance of her contributions in feminist legal theory and practice, and in feminist work generally. Because the pieces are written with a sometimes stinging directness, new readers will also see her passion and commitment to the project of changing the world in the direction of greater equality.

Those of us who do know some of this history, on the other hand, may know it in a relatively polarized and/or partial way. So the second benefit I see to the book is that it re-presents MacKinnon's positions in the radical voice so characteristic of her, but also with some updated information, as the book presents speeches and essays that are more recent. Those of us who are familiar with the debates have the opportunity to review this history and to learn more about what the butterfly effects have been. Since the issues involve ongoing concerns about the welfare of women around the world, this is highly valuable.

For example, the debate around MacKinnon and Dworkin's antipornography legislation focused very strongly on whether such legislation would be in violation of the free speech rights of pornographers and consumers of their products. This is the way I remember the issue myself; being young, liberal, and sexually "liberated" then, I felt quite a lot of sympathy (as many feminists did and still do) with the position that not all porn was evil. Couldn't distinctions be made between "pornography" and "erotica"? Couldn't women take charge of their own sexuality and decide how to experience it? Wouldn't the making and sale/consumption of such sexual imagery and materials be okay if the people involved in it were also in control of it?

Reading MacKinnon's arguments, including the more recent pieces on the rampant spread of pornography worldwide and its connections with sex trafficking, reminds me of how I have come to feel about "sexual liberation" more broadly. As a young woman, it did feel liberating to me to "take charge" of my sexuality, to have sex when and with whom I chose. On the other hand, we didn't have the concept and language for sexual harassment, even though we certainly had the experience. We didn't have the language for date rape, but how many times did we go through it? We didn't yet have the research that shows pornography's influence on the likelihood of violence and coercion in sex. We had instead the liberal propaganda that whatever is consensual between adults is ok, is good; but we did not have the analysis, as MacKinnon gives it in chapters 15 and 25, that consent is an inherently hierarchical concept, and functions to

perpetuate domination rather than empowering liberation. From the vantage point of many years of (collective) feminist work, theorizing, and reflection, I wonder how truly liberating the sexual revolution was for many women, when one of its primary effects seems to have been to make more women more sexually available in more ways to more men.

In short, one of the benefits of reading *Butterfly Politics* is that it provides the opportunity and material for many of us to reflect on how much has been accomplished and how much there is yet to be done. MacKinnon forcefully points out the latter with regard to, for example, the fact that we need to continue to work toward developing and implementing the stronger substantive conception of equality in place of formal equality in law and politics. Formal equality, she argues, is based on the "treat likes alike and unlikes unlike" principle, which she traces to Aristotle (137-38, 312). But that makes getting equal treatment a matter of showing that you are already "equal," already "like," and as she puts it, "[m]ost people who need equality aren't empirically 'the same' as the people who already have it" (311). Thus experiences of sexual harassment (and sexual abuse and rape) are often dismissed because they aren't seen as treating women "unequally" but rather as just treating them "like women," since after all, women are commonly treated this way (314). Substantive equality, on the other hand, recognizes that inequality *is* a matter of treating people "as if they are less and more, inferior and superior . . . based on their membership in social groups historically so designated and treated. It centers on social hierarchy, which is material before it is psychological" (312). The substantive conception of equality can actually get at the material inequalities of the real world, and use the law to help to dismantle the real effects of privilege, advantage, and domination.

Although she has been criticized for speaking and theorizing reductively, generalizing "women" as a category, and relying too heavily on the concept of domination in analyzing women's experiences as well as in law (a very thoughtful critique is Mahoney 1992), I greatly appreciate MacKinnon's willingness to call spades spades and to keep a strong focus on the harms that continue to be done to women (and men in conditions of subjugation) around the world. I agree with her that sometimes things need to be said emphatically, emotionally, in ways that might be offensive to the status quo, as it seems that nothing less can actually be heard. To do so is risky, and I appreciate that she has been willing to take this risk. Consider the following: "In this system of inequality, a woman's first obligation is silence. Incest and child sexual abuse is not taboo. Exposing it is. Pornography is not forbidden. Saying what it does, is. Rape is not illegal. Trying to make the ways women are raped illegal apparently is" (36-37). Or this, regarding the protection of pornography through free speech arguments: "because the profit . . . counts and women do not, because these materials are valued and women are not, because the pornographers have credibility and rights and women do not, the products of these acts are protected and women are not . . . I call this a direct causal link between pornography and harm" (102). MacKinnon asks the question, if sex work like prostitution is made safe and morally good through legalization, why is it that we still don't think children should be brought into it? And why don't more men pursue it as their "job"? Why, according to the research MacKinnon cites, do 89% of people in prostitution say they want to leave it?

Whether one agrees with MacKinnon on these matters or not, it is clear that they are matters that still need attention, debate, activist work, scholarship, and teaching about, because they are still with us. *Butterfly Politics* brings mostly previously unpublished and very accessible accounts of

the problems to audiences both new to MacKinnon's work and already familiar with it. Her radical voice does not say everything that needs to be said on any of these matters, of course, but it is one of the voices we need to attend to in order to understand how to continue moving forward in feminist theory and practice. The metaphor is meant to inspire hope, given that however small our interventions to change the world for the better for women (and men), those small efforts could be just what is needed to charge the storm of change.

Reference

Mahoney, Martha R. 1992. Whiteness and women, in practice and in theory: A reply to Catharine MacKinnon. *Yale Journal of Law and Feminism* 5 (2): 217-51.