

# STOCKINGS



January/February 2014



# Stockings



Google *Blue Stockings Society*, *Bluestockings*, *Blue-Stocking Oxford* and *Red Stockings*.

“We stand on the shoulders of giants”, Bernard of Chartres

*Stockings* aims to be an inclusive platform on which to celebrate and share creative New Zealand (+neighbouring) talent with an intersectional- feminist slant.

If you are interested in submitting anything to *Stockings*, be it an article, observation, essay, poem, photo, painting or thought, please email [samantha\\_allen@live.com](mailto:samantha_allen@live.com)

Thank you to all those who make up the family of this pilot issue of *Stockings*;

April Chiu, Beau Murrah, Hanna Aoake, Pati Kaay, Jasmine Chalmers, Kate Wilkinson, Kari Schmidt, Kirsten Browning, Lindsey Horne, Matthew Joyce, Nicole McCallum, Stevie Jepson and Su’Ad Muse.

Cover girrrl Madeline Enright in Newtown, Wellington.

You are all fantastic x

Best,  
S.





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# Where are all the Women at?

## The Bechdel Test

Su'Ad Muse, Medicine Student at Otago University

**F**air warning I'm about to come at the Bechdel Test with my fighting words but I'm actually a fan, and I'm actually 'coming at' those who would have you believe it's the quadratic equation of feminist film theory.

If you watch Anita Sarkeesian's YouTube channel *Feminist Frequency* or are particularly interested in Swedish art house cinema you might be familiar with the Bechdel Test. The test, as it is known today, first appeared in Alison Bechdel's comic strip *Dyke's to Watch Out For* in 1985. In the strip a character states she only buys tickets to films that have (1) at least two women, who (2) talk to each other about (3) something besides a man.

Bechdel credits the "The Rule" to her friend Liz Wallace, who in turn adapted it from Virginia Woolf's 1929 work *A Room of One's Own*. What was once a jab at gender bias in Hollywood, in an underground lesbian comic strip, is now

- (1) at least two women, who**
- (2) talk to each other about**
- (3) something besides a man**

being used in some Swedish theatres as a legitimate tool for measuring this bias, giving films an A grade if they pass the test. This in turn led to a lot of debate.

Few are Bechdel Test fundamentalists for whom the test is the be all and end all of film. But nonetheless some still expect and ask far too much from it. Claims that the test attempts to stamp out sexism, because yaknow it's that easy, or shame-faces misogynistic films are not only dishonest to Alison Bechdel's original intent but harmful as well. Many supporters and critics have pointed out the test is too simplistic to encompass the nuanced portrayal, or lack thereof, of women in any given film.

What exactly an 'A' grade denotes is debatable. If it is that a film satisfies the three conditions stated above, it is hard to draw the lofty conclusions purposed by some i.e. the film is feminist. Other than, perhaps, identifying women are present, and even this can be contested, it gives little insight into individual films. Blatantly sexist and crappy films routinely pass the test with flying colours (Sucker Punch yo and lol Sharknado), while others, considered by some as feminist works, fail.

This is because the Bechdel Test, regardless of its application, has limited scope in critiquing any one film as it was never designed to be a definitive measure of quality. However, what it can do is focus attention on the wider cultural malaise of limited and screwed up representations of women. Basically, if from today every film made passed the Bechdel test it is unlikely that we'd be better off, unless, of course, we overthrow the fierce patriarchy we live in.

Complexity in character and story cannot be reduced to a three point checklist. And that actually isn't even the point. Alison Bechdel recognised this is the same comic strip when the character went on to say the last film she saw that passed was *Alien*, noting sardonically that "the two women in it talked together about the **monster**". The problem is bigger than being present in film, though even being meaningfully present still poses a significant challenge (considering approximately half of all films fail the test). The problem is that the film industry circa 1985 generally sucked and some 30 years later- it still does.

Whether or not such and such film "passes" overlooks larger conversation to be had: Why do so many films fail the test? Where are the stories about the complicated women we encounter in everyday life? Who controls the industry?

Perhaps as a starting point it should be noted that the content creators, and those with the money to fund projects, are largely the usual benefactors of patriarchy; straight cisgender white men. Does it really come as a surprise then that an abysmal 11% of film protagonists

are women? Or that these men get the cool movies, the complicated movies, the deep movies, the critically acclaimed movies in excess. Everyone else gets Katniss Everdeen to see us through the next five years. And you know what? That's if we don't even bring race, ethnicity, nonbinary gender, disability, class etc. etc. into the question. That's when we really start to realize how big the problem actually is. This is only the beginning a long messy conversation.

Allison Bechdel in a blog post on the subject posted an expert from Virginia Woolf's

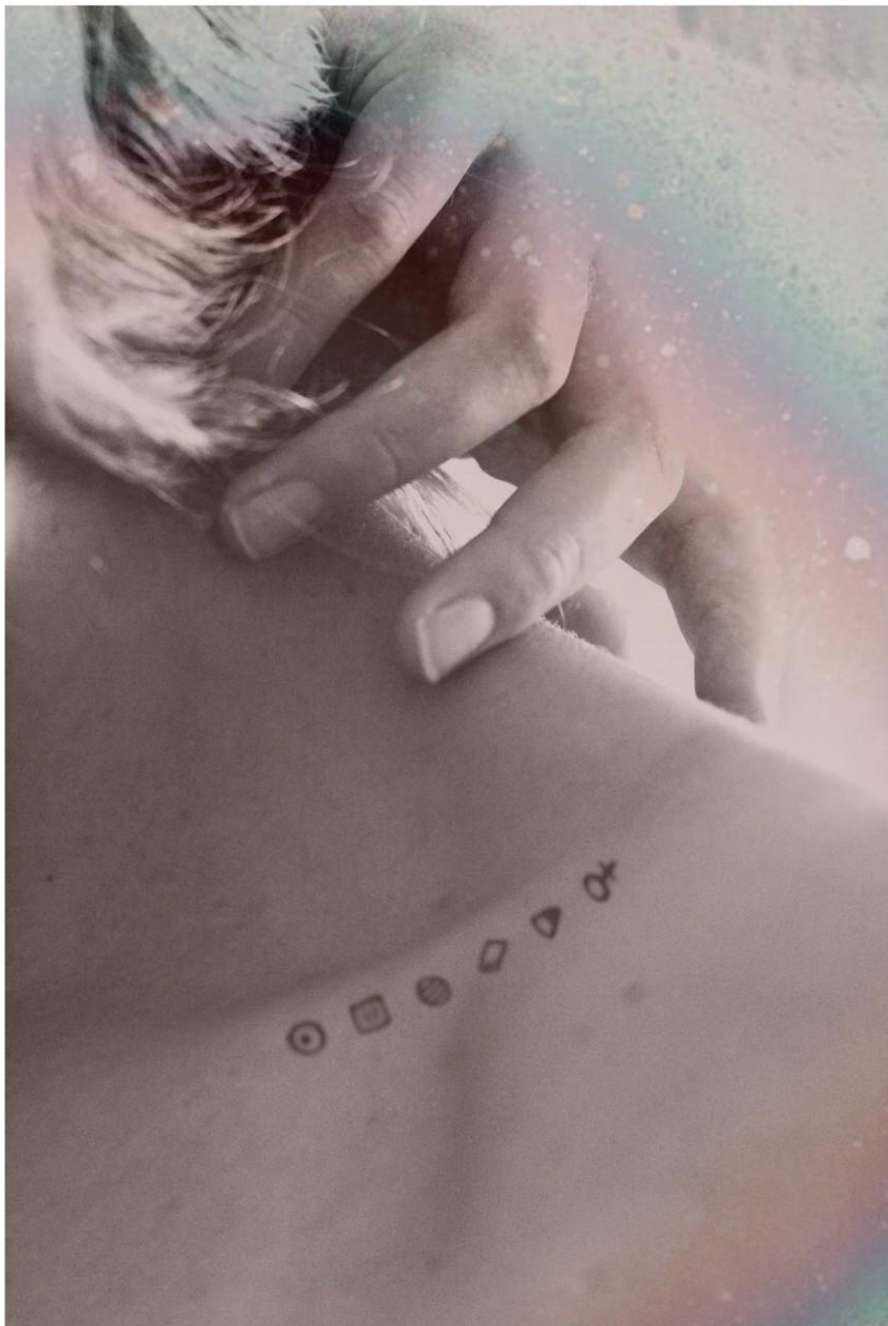
aforementioned book. The end is worth restating, *ad nauseam*, until everyone gets it.

"Suppose, for instance, that men were only represented in literature as the lovers of women, and were never the friends of men, soldiers, thinkers, dreamers; how few parts in the plays of Shakespeare could be allotted to them: how literature would suffer!"

Indeed.



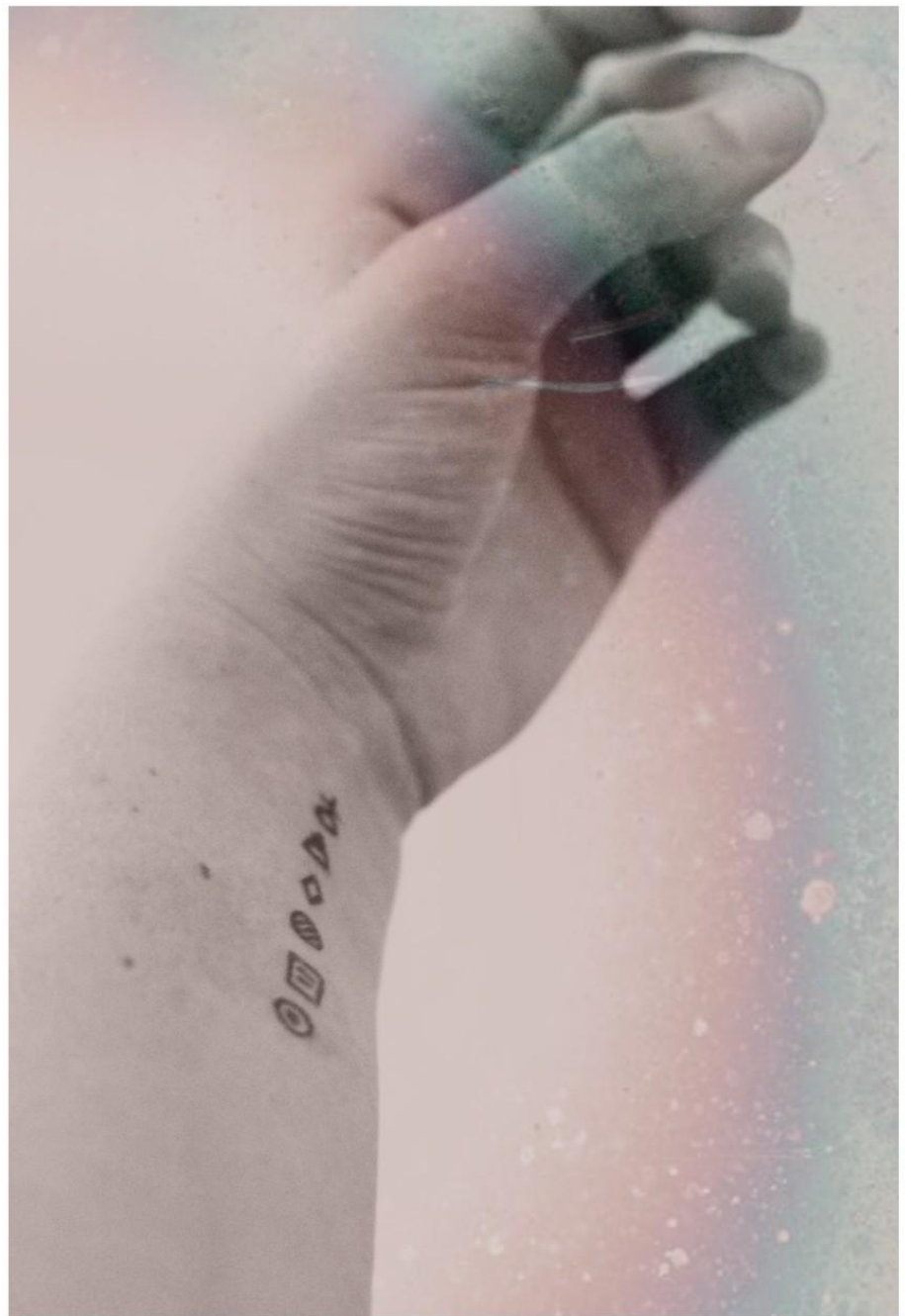
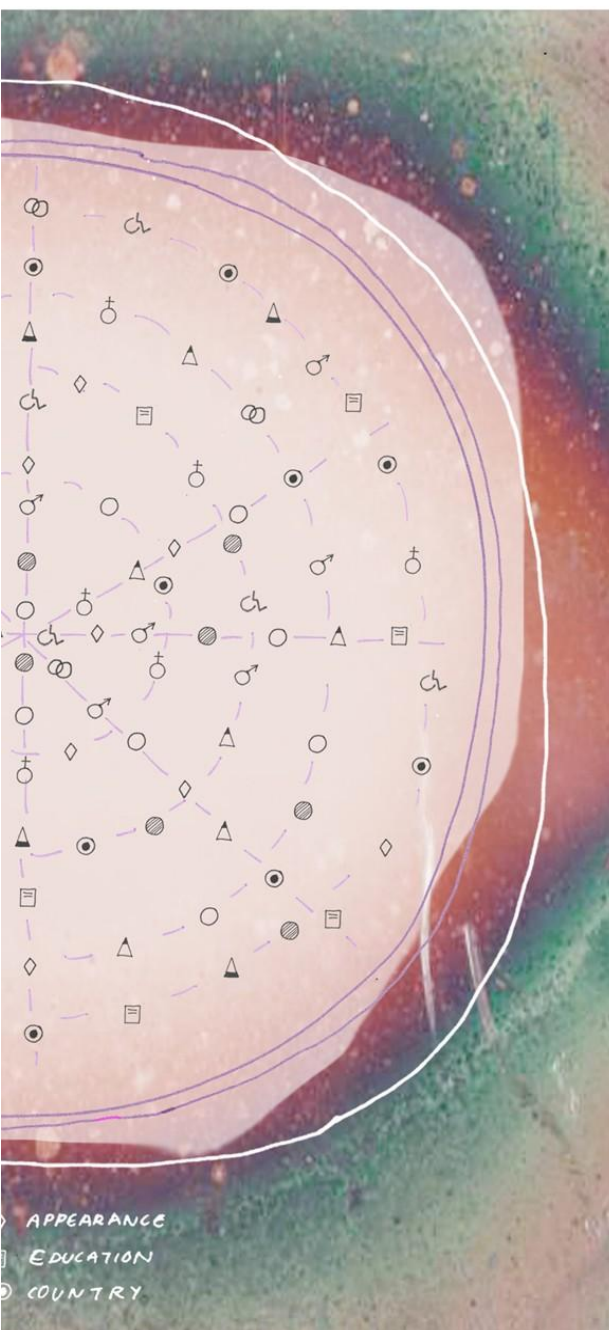
Strip from Bechdel's "Dykes to watch out for" comic



CLASSIFIED

Kirsten Browning,  
Designer, Australia  
[kirstenbrowning.com](http://kirstenbrowning.com)





“This piece, *CLASSIFIED*, is representative of my understanding of intersectionality and how it applies to myself and others in the world. *CLASSIFIED* is based upon the Celestial Atlas, the work takes shape as a map. Playing on the idea of the galaxy and its constellations, it sets out to communicate the vastness and complexity of intersectionality; a set of factors within a matrix. Symbols have been developed within the map to represent factors which are used by others to classify individuals, a classification which can in turn lead to discrimination. The photographs show the relationship between these symbols and the person, marked into their skin.

In this case the person classified is myself; by gender, class, appearance, race, education and country, classifications that I see placed upon me every day. While not all classifications can lead to discrimination, we are able to look more closely at the map and imagine how factors can interact with one another to impact upon individuals, leading to a cycle of oppression. These codes exist for everyone but are not always visible to us and those around us. If we are able to understand the factors at play for each individual and how they can combine and intersect to form discrimination, we can inform change across all reaches of the planet and in situations where it is needed most.” – K Browning.

I ask only for my silence &

Thinking of you by the sea

*Matthew Joyce*

*A lawyer in Rangiora who writes in his lunch break*



I ask only for my silence

night has no use  
for dogmas wound inside heads  
distinctions daylight  
can break into contradictions  
we collect  
the wind will release them  
unreel them  
tangle them in the tree tops  
I watch them spill through the night  
Rolling into emptiness  
I let them go,  
I ask only for my silence.



## Thinking of you by the sea

The thought of you  
is a constant background  
ringing through my ears,  
or my entire body.

Imagine the sound of the waves  
at a house just far away enough from  
the sea:

quietly one hears a distant broom  
continuously sweeping the water  
up onto the land.

If I stand very still

This is the only noise that  
eventually will fill everything









# Feminist Theory

*Jasmine Chalmers, Sociology (Hons) students at Otago University*

Feminism is an activist movement as well as a body of diverse strands of thought united with the common goals of equality and social justice. Feminism has evolved and transformed in our post-modern cyber universe, responding to criticism by broadening its scope of analysis. Central to feminist theory is the concept of gender which is understood as a socially constructed set of roles which legitimate unequal power relations between men and women.

There are many types of feminism – liberal, radical, socialist, materialist, Marxist, existentialist, ecofeminist – some with more developed theories and longer histories than

others. Liberal feminism is the oldest and has arguably been the most successful at achieving legal

equality for women. However, some would argue that it has failed at transforming society as it tends to focus on including women in traditionally male-dominated institutions rather than challenging them and dismantling their hierarchical nature. Feminism is usually defined by three 'waves' of activism, though feminist thought never ceased being churned out between each 'wave'. Women have been challenging male-dominated society arguably since patriarchy took hold. However the rise of the Enlightenment period in the 1700s - which made the idea of equality among men popular - provided a theoretical springboard for women to protest their own situation and advocate equality between men and women.

**...body of diverse strands of thought united with the common goals of equality and social justice**

The first wave of activism occurred during the 19th-20th century. Issues campaigned for were secondary and tertiary education for girls, voting rights and custodial rights to children.

The second-wave is the most well-known and publicised wave of activism. Social unrest in the 1960s produced many social justice campaigns with women heavily involved in them. However within these movements for civil rights women noticed the movement was not welcoming to their input or leadership. They were expected to type notes and make coffee while the men lead the movements. Spurred by ground-breaking new books

(especially Betty Freidan's *The Feminine Mystique*) the feminist movement came

to a head in the early 70s. Issues campaigned for include: sexual and reproductive rights, sexual harassment laws, equal pay, women's shelters, and the abolition of legalised marital rape.

Since the second-wave of collective action feminism has been criticised as a movement for privileged white, middle-class women which ignores the different identities and unique oppressions facing diverse women. The third wave of feminism occurred (and some say is still on-going) during the 1990s. The issues it deals with are in response to the criticisms of the second wave. It challenges the essentialist unified category of women,

highlighting the diverse identities within. In the third wave, feminist scholars created the theory of 'intersectionality' which recognises and interrogates the multiple forms of oppression which women experience because of their membership in ethnic minorities, diverse sexual identities and lower classes.

The third-wave encompasses different strands of thought in its analysis of gender

issues; post-structuralism, post-modernism, anti-racism, queer theory, and post-colonial thought are particularly prominent.

Feminist scholars engage critically with many topics: gender, sexual politics, violence, harassment, housework, equal pay, the male gaze, media representation of women, pornography, prostitution, masculinity, objectification, hyper-sexualisation. However, the diversity among feminists based on their allegiance with a particular strand of feminist thought leads them to disagree on many topics. For instance, the contention between radical feminists and sex-positive feminists over pornography during the 190s and 1980s led to major fracturing within the movement and a stand-still around progress in this area.

Feminist scholars today argue that we are living within 'post-feminism'. This refers to the popular discourses of femininity, women

and feminism generated by the media. It is a term with various understandings of the definition. Most would argue that it is a negative thing and see it as a backlash against second wave feminist goals. According to this understanding of post-feminism the media tends to dilute feminist goals, reducing

feminism to 'individual choice' and a personal lifestyle while presenting sexist imagery as unproblematic ironic fun. In pre-feminist media, women were often portrayed as mute, passive objects of an assumed male gaze, however in a post-feminist era "women are not straightforwardly objectified but are

presented as active, desiring sexual subjects who choose to present themselves in a

seemingly objectified manner because it suits their liberated interests to do so" (Goldman, 1992 in Gill, 2007). Post-feminist discourse is particularly carried through consumer culture which presents female bodies as projects continually needing to be worked on and improved; presenting femininity as something achieved through the disciplined, surveyed body. Popular women's magazines such as cosmopolitan, NW and New Idea are notable disseminators of post-feminist discourse. Post-feminist media has also been criticised as adopting the language of the second-wave and then undermining it. For example, post-feminist discourse uses ideas of 'choice' to promote patriarchal values and practices as unproblematic if it appears to be chosen by women (i.e plastic surgery, shaving regimes).

This is not the meaning of choice for feminism

which advocates the freedom to choose, not that every choice is empowering or feminist. A woman's 'choice' to shave/wax her legs is not a free

choice but rather a lack of any other available options which don't carry a fear of ridicule.

Feminism recognises that our choices are still only negotiable within the culture which provides their limited range. Our seemingly free choices are influenced by our saturation

## **...different identities and unique oppressions facing diverse women**

## **Feminism recognises that our choices are still only negotiable within the culture which provides their limited range**



in the values and normative ideas of our culture.

Contemporary feminist scholars pay attention to the way in which masculinity is constructed by patriarchal society. Unlike chauvinists and other armies of the gender order, most feminists are not essentialists and do not see men as a homogenous morally corrupt group. Feminists point out that traditional forms of masculinity have not only harmed women with their association with dominance and aggression, but also limit the human potential of men. Feminists recognise that the

expectations placed on men to take up power and dominance is also harmful to them. Men miss out on building emotionally connected and equal relationships with others. They also have their ambitions and interests curtailed by being placed in a man box which discourages them from practices associated with devalued feminine pursuits.

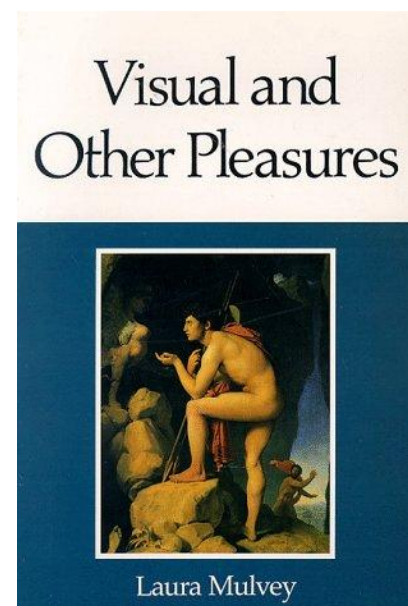
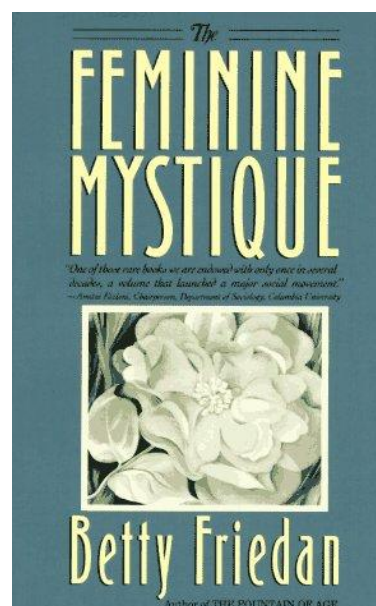
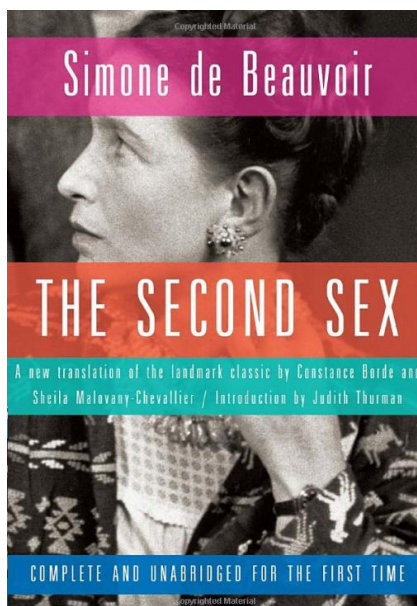
Feminism is ultimately about liberating men and women from the confines of a heavily gendered society.

### Foundational books and essays:

**Simone De Beauvoir, *The Second Sex*.** 1949. The French existential philosopher argued that men are defined as human and women as 'other'. When women try and act fully human they are accused of acting like men.

**Betty Freidan, *The Feminine Mystique*.** 1963. Through research with suburban housewives she argued that women are experiencing 'the problem with no name'. Women are depressed and disillusioned with their limited domestic life they had been told would fulfil them. This was the first text to analyse how advertising glamorises women's subordination.

**Laura Mulvey, *Visual Pleasure and Narrative Cinema*.** 1975. This was a ground-breaking theory of film analysis. Today it is one of the most cited works of film theory. Mulvey argued that classical Hollywood films subject female characters to the controlling gaze of the male protagonist, which the audience is invited to identify with. She asserted that male characters control and drive the film narrative while women interrupt the narrative to function as a visual spectacle. She weaved her argument with psychoanalysis which was popular at the time, to argue that the female character is fetishised to dissipate the threat of castration she represents.





**LINDSEY HORNE, Dunedin Artist,** [www.behance.net/gallery/Portraits/11453569](http://www.behance.net/gallery/Portraits/11453569)







# On Reproductive Rights

University of Otago, 26 November, 2013

Stevie Jepson, Masters Student in Politics, Otago University

As part of the Pro-Choice Highway, the nationwide book/listening tour spearheaded by author Dr Alison McCulloch, a reproductive rights panel was held at the University of Otago. Despite being held after the majority of students had left Dunedin, there was a really great turn out and a thorough and respectful conversation. The panellists were Rachael Goldsmith, a Green politician and community activist from Invercargil, who had been dealing with the anti-abortion groups down south; Colin Gavaghan from the law department and Ruth Fitzgerald from anthropology, both academics and lecturers at the University of Otago; and Dr Alison McCulloch, author of *Fighting to Choose: The abortion rights struggle in NZ* and the force behind the Pro-Choice Highway.

Dr Colin Gavaghan started off the discussion and spoke on the topics of disability, genetics and abortion, as well as body policing and extra imposed burdens during pregnancy. Colin touched on the controversy around 'Saving Downs', and disability and abortion would prove to be a hot topic in the discussion. Although Colin covered a huge breadth of topics, I think a lot of us watching learnt a lot from what he had to say.

The panellists were each given around 10 minutes to speak on any issues they felt were important in terms of reproduction in New Zealand. Rachael Goldsmith was definitely a crowd favourite, managing to combine the retelling of her experiences with anti-abortion groups in Invercargil, attending SPUC meetings as a kid and her resulting pro-choice activism with humour. Rachael's speech was really relatable and inspiring, it was great to hear how dedicated the pro-choice activists in Invercargil were and how receptive the community was to them.

Dr Ruth Fitzgerald gave a brief look into her study on the choices of Otago and Southland men and women when dealing with termination of pregnancies. It was really fascinating as it was such a local study that yielded some interesting answers. Ruth again touched on disability and abortion, mentioning that the reasoning behind choosing termination for disabled couples was usually the same as that of non-disabled couples, a point she believed was often lost on people.

Dr Alison McCulloch spoke of her experiences around the country on the Pro-Choice Highway. Alison had a few run ins with anti-abortionists on her trip around the country, including many attending her public meetings (often outnumbering the pro-choice people) and giving her a fake fetus. Alison's speech was great, and while she outlined the challenges that the pro-choice community faced in New Zealand, her calls for more action were inspiring.

The event ran really smoothly, and there were many great contributions from the floor. Audience members commented on each of the panellists speeches, and added their own experiences, again enriching the whole discussion. It was an amazing experience to be able to address the nuances of these topics, rather than reverting to a moral argument on right and wrong, and although the audience was quite large, the conversation still felt quite intimate. I left the discussion feeling uplifted and hopeful for the future of pro-choice activism as the people who came represented a broad cross-section of the Otago community and were all engaged in what was happening. I really hope that in the future, we can have more of these events, and capitalise on the amazing talent in our community.

NZ Abortion Law Reform Association [www.alranz.org](http://www.alranz.org)















**Cambodia, 2013**





LANDSCAPE HOTEL



# Equal Work for Equal Pay

## The gender wage gap in New Zealand

Nicole McCallum, Law and Politics student at Otago University

**“All that separates, whether of race, class, creed, or sex, is inhuman, and must be overcome.”**<sup>1</sup> Kate Sheppard stated these words in her efforts to eradicate gender discrimination in New Zealand. Though over a century has past, New Zealand women are still fighting for gender equality. The recent Auckland Employment Court decision in *Service and Food Workers Union Nga Ringa Tota Inc v Terranova Homes and Care Limited*<sup>2</sup> has again highlighted the inequality women face in the workforce.

International laws have come into existence to ensure that equal work for equal pay is implemented globally. New Zealand has ratified some of these international laws meaning that our country “...by means appropriate, shall, promote and ensure the application to all workers for equal pay for equal value.”<sup>3</sup> Although New Zealand has agreed to promote equal work for equal pay, this is not the reality.

### ***The gender gap under the status quo***

Internationally New Zealand is ranked sixth in closing the gender wage gap<sup>4</sup>. However, the 2011 OECD report “Divided We Stand” saw the New Zealand gender wage gap increase by 4 percent

since 1980<sup>5</sup>. The most recent statistics produced by Statistics New Zealand support the OECD findings. The June 2013 Quarterly Employment survey shows that women earn \$3.93 less than men, a 3.8 percent increase since last year<sup>6</sup>. Currently, the wage gap sits at 13.4 percent.<sup>7</sup>

Professor Des Gorman, a professor of Medicine at the University of Auckland and executive chair of Health Workforce stated, “The pay parity issue is historical. It used to be that women would become nurses or teachers until they could find a good husband. Vocational history is the baggage that those particular professions carry.”<sup>8</sup>

Professor Des Gorman rightly notes that it is the entrenched historical and structural gender discrimination that has resulted in so called “women’s work”.<sup>9</sup> Skills involved with “women’s work” such as caregiving and cleaning are often undervalued by society as they are viewed as jobs that women do for free at home.<sup>10</sup> Due to the perception of women’s work, female dominated jobs tend to be lower in wages.

Policies surrounding parental leave are another major cause for the gender wage gap. The 2011 NZIER report found that 32 percent of women who had a child under the age of 15 years old

were in full time employment, where as childless women in full time employment was 75 percent.<sup>11</sup> Furthermore, statistics show females who work part time earn 90.7 percent of male income, but full time females earn 93.8 percent of male earnings.<sup>12</sup> Because women are the child bearers of society they are often disadvantaged; if they have children and return to work it is usually part time and it is these part time jobs where the wage gap is prominent.

New Zealand's progress towards closing the gender wage gap is slow. Despite having ratified numerous international laws the Government has not made an effort to actively promote them.

### ***The Laws in Place***

New Zealand is party to many international covenants, such as the International Covenant on Economic, Social and Cultural Rights 1996 (ICESCR), International Covenant on Civil and Political Rights 1966 ICCPR, and the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW). These international laws are among many others that address not only equal remuneration but equal rights in general, which should include equal pay.

On top of these international laws New Zealand has enacted the Equal Pay Act 1972 (from now on referred to as EPA) which states its purpose is "...to make provision for the removal and prevention of discrimination, based on the sex of employees, in rates of remuneration of males and females in paid employment..."<sup>13</sup> New Zealand also has sections included in the Human Rights Act 1993 and the New Zealand Bill of Rights Act which prohibits discrimination based on gender within employment.

However the role these laws play are questionable due to the gender wage gap still existing. The recent case *Service and Food Workers Union Nga Ringa Tota Inc v Terranova Homes and Care Ltd* is one of the few New Zealand cases discussing the EPA and the gender wage gap.

The main issue in *Terranova* was the interpretation of s 3(b) EPA. This section states that to determine whether or not discrimination exists, the wages of male and female's who have substantially similar skills in the workforce need to be compared. *Terranova* interpreted the EPA to include "equal work for equal pay". Up until this case, the EPA had been interpreted narrowly, only addressing equal pay within an organisation.

The judges concluded that s 3(b) is interpreted as requiring the workforce to look at "the rate of remuneration paid to men in the workplace or sector if their pay is uninfected by current or historical or structural gender discrimination. If a comparator that is uninfected by gender discrimination cannot be found within the workplace or the sector then it may be necessary to look more broadly, to jobs which a similar value can be attributed using gender neutral criteria."<sup>14</sup> The 2012 ILO report on New Zealand noted that "Governments improvements in the gender pay gap have been slow, with very little change in the pay gap over the last decade. The Committee notes further that women are concentrated into lower paid sectors."<sup>15</sup> The report also noted the Committees concern with the interpretation of the legislation on equal remuneration and that "no broad concept of work of equal value was being applied."



## ***The Problem***

Despite New Zealand's efforts of signing international conventions and enacting domestic laws governing equal pay, inequalities continue to exist. The New Zealand government hides the true inequality behind the façade of laws. Helen Kelly, the current president of New Zealand Council of Trade Union's commented in a recent pay equity speech that; "...the Government likes to portray an image of New Zealand that it can no longer sustain. It promotes an image of an egalitarian society where everyone gets a fair go, of a liberal social agenda with strong social dialogue, and of a modern international outlook which respects and actively supports the international institutions and in particular the United Nations. This is how our government is pitching New Zealand to the UN as part of seeking a position on the UN Security Council. But, sadly, it is no longer a reality."<sup>16</sup>

The Ministry of Business, Innovation and Employment do have available employer's "tools" to ensure that their employees are given equal pay for equal work. However these tools are not actively promoted by our Government and therefore are not put to effective use. The 2012 ILO report also noted "the Government should take further measures to promote the use of the Equitable Job Evaluation tool in both public and private sectors."<sup>17</sup>

The main issue of enforcing equal work for equal pay is that it is difficult to find a "comparator" to ensure a fair wage is given to "women's work". The Chief Executive of Terranova Homes stated, "Surely there are few more deserving than

caregivers of the likes of our Kristine Bartlett [the plaintiff of that case]. But we can't realistically do that on our current



funding."<sup>18</sup> This quote highlights that alone, employers simply do not have the financial means to enforce equal work for equal pay. In a competitive free market economy, equal work for equal pay can be seen as a burden. If equality is to be gained by women then gender equality should also be improved in leadership roles. Statistics show women are underrepresented in leadership roles.<sup>19</sup> The recent Census of Women's Participation revealed that women made up less than 30 percent of judges, less than 25 percent of senior academic staff, and less than 20 percent of top legal partnerships.<sup>20</sup> If gender equality were to be

achieved at the top in representation then this is likely to create a trickledown effect encouraging favourable policies towards women nationally.



## ***Conclusion***

The difficulty New Zealand faces in closing the wage gap and conforming to international laws lie in the hands of the Government and their policies. Currently, the Government's policy towards equal pay is based on demonstrating good faith, natural justice, human rights, good employer practice and meeting all statutory requirements.<sup>21</sup> The DOL stated that the "Government encourages voluntary participation of public and private sector organisations in pay and employment equity projects."<sup>22</sup> As the gender wage gap remains an issue this voluntary

approach is clearly not gaining much traction. What New Zealand requires if women are ever to see a concrete change in the gender wage gap is stronger government support for a change in policies and a mandatory use of the gender equity tools.

This paper has explored the gender wage gap in New Zealand, the international and domestic laws available to address the gender wage gap, and the difficulties New Zealand faces in closing the gender wage gap.

Equal work for equal pay is the idea that men and women with the same level of skills across sectors are paid an equal amount. New Zealand is a member to numerous international laws governing equal pay. To further their international obligations New Zealand has enacted legislation such as the Equal Pay Act. Although New Zealand has both international and domestic obligations the gender wage gap continually hovers around the 10 percent mark and is increasing. There are many reasons for this lingering wage gap; entrenched historical and structural discrimination, inactive government policies, no means to implement machinery identifying unequal wages, insufficient parental polices and unequal representation of women in leadership. In a society where the market determines everything women cannot become equals.

What is required is an active Government who ensures that the idea of equal work for equal pay is implemented nationally among all workplaces. When this happens, New Zealand can be confident they comply with the international laws.



YOU CAN'T LOVE ME WHOLE

*(trigger warning)*

*Pati Kaay*

You can't love me whole -  
Holy - I am the sins of the confession,  
My body seeps guilt and transgressions,  
For when they enter with no permission, the gates are no longer  
closed or open or locked to anyone.  
For there is nothing to protect - anymore.  
The bank has been robbed, the house has burnt down, the sky has  
fallen - babe,  
I reign hot ash, desolate, abandoned.  
When we kiss, my tongue will sprout years of blood enough to fill your  
lungs,  
And I beg you - don't drown in this -  
I am the biohazard - dead waste  
Protect yourself - please  
In the night I am torture,  
My screams will pierce you - don't cut yourself baby please -  
I left my body long ago - it became infested with creatures of which  
the yellow-pages had no exterminator for -  
So you can touch me, fuck me, make love to me  
But I will feel nothing.  
I will surrender into the swallowing bed and rest beneath us both while  
you fuck my carcass  
Pick me dry - scavenger.  
You wonder why I won't call you back,  
or want something more but —  
You can't make love to shards of glass, or daggers or a loaded pistol,  
babe,  
This isn't dirt or a cut, or something we can talk out over a bottle of  
wine.  
The dirt is quick sand, the cut a miscarriage of unsaintly thrashing  
blood, and if you try to mend me, you'll begin to taste me in your wine  
-  
I don't want to ruin your drink,  
I don't want to ruin you - so whole,  
Holy one -  
Leave now and forever hold your peace.

*Girlfriends, Egon Schiele*





# Meat Culture

## The female body and biophilia

Hana Aoake, artist and writer  
[bellaandmadeline.blogspot.co.nz](http://bellaandmadeline.blogspot.co.nz)

Since the dawn of mankind, vegetarianism or the harvesting and gathering of plants for food and medicinal purposes has been largely considered a feminine domestic task. The gathering of plants and seeds was not a less important task than hunting, but rather an integral and sustainable means of ensuring survival. The assigning of gender roles began with men hunting and women gathering. I notice this especially when I go out and eat dinner with my parents; my mother has a salad and sometimes maybe fish, but my Dad always has a steak. Of course in our time men and women participate in both vegetarianism and meat eating, but meat eating is still largely associated with virility, and with 'manhood'. Men are encouraged to eat 'protein' in order to be strong and masculine. This is particularly evident in the advertising for meat products, which relies heavily on three strategies; the male right or entitlement to eat meat, the

animalizing of the female body and/or the sexualisation and feminization of animals. Carol J Adams' theory on the sexual politics of meat suggests that Nonhuman Animals, a highly feminized group, are fetishized as the ultimate "man food."<sup>1</sup> Male domination is seen as an entitlement, as something enjoyable and natural. This is particularly noticeable in conjunction with sports. In an advertisement for Buffalo wild wings the lead protagonist stares at the last piece of chicken at a sports bar before a coach figure firmly asks him, "are you a little baby boy or are you a man?" The coach then asks if he is 'man enough' to consume the last piece of chicken. In both the books *Fifty Shades of Grey* and *Fifty Shades of Chicken* (a cookbook) Adams states that we are witness to the "packaging and sexualizing [of] dominance over another being."<sup>2</sup> The former is an extremely regressive book in which the lead female character enters into a

sadomasochistic relationship with a man who is abusive and controlling of her. Keeping this in mind, a poultry based cookbook which makes reference to this book presents the chicken under a male gaze and suggests that the animal wants to be consumed.

In the last thirty years human consumption of meat has increased exponentially, especially the consumption of poultry.<sup>3</sup> In New Zealand, the meat and dairy industries are often described as being the 'backbone of our economy'. Meat isn't considered a delicacy but instead serves as a means to 'sustain' growing bodies. Thus, we are indoctrinated into a culture of animal consumption from a very young age. The regime of mass production that is concomitant with this, removes the consumer from the process of deanimalisation and puts a large strain on our environment, especially our heavily polluted waterways.

When animals are turned into food they are violently slaughtered and renamed into different parts. I largely believe that consumers do not want to know about this process, because it would force them to address the means by which animals become food. Through butchering, animals become absent referents and in this process their dead bodies replace the live animal.<sup>4</sup> Without animals there would be no meat eating, yet they are absent from the act of eating meat, because they have been transformed into food.<sup>5</sup> This absence is affirmed through our use of language. The dead bodies are



Photos by  
Lucas Armstrong

Top:  
Quartered off  
building  
in Christchurch

Middle:  
an installation series  
called "Biophilia 1  
Spatial Harmony" in  
Christchurch out of  
debris and plants

Bottom:  
Meat display in  
Christchurch





dismembered and renamed before consumers participate in eating them and the absent referent enables the consumer to forget about the animal as an independent entity. The origin of these creatures is further obscured by the fact that supermarkets use bright 'clean' fluorescent lights, ice, garnishings, plastic and labelling to entice consumers into buying these dead animal parts.

Human bodies, and our gastrointestinal tracts in particular, struggle to digest animal products in large quantities. A recent study by Harvard University found that a type of bacterium that flourishes under the meat-rich diet has been linked to inflammation and intestinal diseases in mice.<sup>6</sup> The study performed an experiment using nine human volunteers in which they ate both a meat based diet and a plant based diet and then analyzed the volunteers' microbiomes (the communities of bacteria that live inside our guts).<sup>7</sup> The study found that during the meat based diet, both the amount of dairy (especially cheese) and the amount of meat ingested caused volunteers to experience inflammation of the gut. This is yet another example of something that seems obvious to me, that our bodies were not meant to consume the amount of animal products that are so prevalent in our diet.

I believe human beings have always shared an intrinsic bond with other living systems, especially other animals. This bond can be referred to as the biophilia hypothesis. Biophilia is a psychological condition which necessitates a

spatial harmony between human beings and other living organisms. The hypothesis was popularised by Edward O Wilson in his book *Biophilia* (1984), but was evidently considered by town planners during the end of the 19th century. Ebenezer Howard's Garden city concept is a clear example of this.

In cities which have experienced environmental traumas, the proliferation of rooting systems and seeds still manages to regenerate many areas. Dr Glenn Stewart, a Professor in urban Ecology at Lincoln University, has recently conducted studies aiming to manage the effects of these traumas on the urban environment of Christchurch. Stewart's studies have shown that the regeneration of native species of plants has been rapid and, in some areas, rather prolific.<sup>8</sup> However, this process relies not just on the resilience of nature but a socio-ecological dynamism. Within Christchurch there has been a serious community based ecological restoration effort and many members of it's community are currently contemplating how Christchurch can be rebuilt sustainably, with projects such as the Acropolis urban farm and Plant gang. While I was visiting I also heard that the council are considering minimising the amount of cars that enter the CBD once the reconstruction is underway and it is properly reopened. This would mean accessibility by means such as foot or bicycle and other such personal transport options.

Walking through the remains of what used to be Christchurch's CBD with someone from

Christchurch makes you really aware of the history of these now flattened piles of debris or the construction that has taken their place. There's an eerie ambience that echoes through the city. Although these sites may be flattened and appear empty, or house the skeletal remains of what was once a building, they are full of growth. The city is regenerating itself through the growth of plants. Remains of the earthquake like bits of fibreglass or nails are marred by nature; by both the disaster which upset the land, and through the process of regeneration itself. Many of the plants are beginning to overtake these abandoned areas, especially around the CBD, can either be eaten, provide pollination for bees or have medicinal purposes. Artists, such as Liv Worsnop have initiated projects like her Plant Gang, which facilitates and completes 'environmental artworks and gestures around

post-quake Christchurch.' This includes the dispersion of seeds, the building of gardens and the planting of edible plants, such as herbs and vegetables. The project asks one to consider how plants will be a part of the rebuilding of Christchurch.

Plants serve many purposes and are a fundamental part of our diet and ecosystem. I do not intend this article to feel like I am passing judgement on those who eat animal products. What I am advocating is for consumers to both reduce the amount of animal products they consume and to make more considered, sustainable choices. Buy local produce from local farmers. Buy products made by companies that follow sustainable and ethical modes of production. Go dumpster diving. Start a compost. Most importantly, if you can do so, plant a garden and grow plants that bees like or that you can eat or that have aesculapian properties.



*"Meat Prize" performance by Hana in Christchurch*  
[www.belaandmadeline.blogspot.co.nz](http://www.belaandmadeline.blogspot.co.nz)

*Photos by Tanya Michils*







## Top 14 tips for navigating the world as a feminist

Kari Schmidt,  
[www.karipetroschmidt.blogspot.nl](http://www.karipetroschmidt.blogspot.nl)

So for those of us who ascribe to the set of values and beliefs inherent in the term of 'feminism', it can be a hard road – frustrating, disillusioning. But it's also such an important one. Here are some tips from my own experience!

1. Find a community which you can turn to for support when in need.
2. But don't close off that community to other people – i.e. avoid becoming your own alty, clique. If feminism is about valuing people equally and caring about others, this not only makes you a hypocrite as a feminist but prevents you learning from others (and maybe even changing their minds).
3. Be the change you want to see. I.e. one of the most powerful things you can do as a woman for feminism and other women is to be as successful as possible, and to help other women professionally where you can.
4. Be armed – read, develop your arguments. Many people become feminists because they have the very real feeling that power imbalances exist in the world between the genders and that this is unfair and has very real implications. Being able to eloquently articulate about this, as well as back it up with facts, an historical understanding of feminism and the way women have been treated, *as well as* your personal experience, is a powerful combination.
5. Love your fellow womyn. Have a lot of female friends – the rewards you'll get from these relationships will be infinite.
6. Speak up! You'll regret it if you don't.

7. But pick your battles. Some things genuinely aren't worth the effort and will only deprive you of the energy you so need to a) thrive in your own personal life and, b) fight the good feminist fight.
8. Related to this – be prepared to make a sacrifice. When you make a stand in anything there will sometimes be negative consequences – either professionally or personally. I've lost valuable contacts through deciding not to collaborate with people professionally due to their sexist values. But I personally don't believe you can separate the political and the personal/professional – the 81' Springbok tours are a good example. Where Susan Devoy, then athlete, current Race Relations Commissioner, believed refusing to play sport with SA made no tangible difference to Apartheid, many South Africans saw such global protest actions as a ray of hope. This matters. So too, I've also lost friends who I dearly valued and had amazing times with. It's not always going to be easy – nothing worth the time ever is.
9. But in saying that, celebrate the victories.
10. Try to stay away from the BS in our society that brainwashes us e.g. shitty TV shows, advertisements. We view these things with our reptilian brain and can't help but be influenced by them (e.g. in terms of loathing our bodies, in terms of the limited roles they prescribe for women etc.), so the best thing is to avoid them where possible.
11. Find alternatives – alternative forms of entertainment, ways of being and ways of experiencing the world. Listen to Joni Mitchell, read Simone de Beauvoir. When having sex, whether it's casual or romantic, try to take it out of the framework of the abusive porno e.g. by actually being in the present moment of two human bodies engaging in one of the most fundamental carnal acts.
12. Don't forget that humor is a powerful tool – whether it's in countering a sexist remark, convincing someone of the value of feminism, or just in dealing with the sometimes utterly ludicrous manifestations of patriarchy we come across in day to day life.
13. Another good technique in advocating for feminism – often when people espouse sexist attitudes, they normalize these values. They frame them as 'reality'. Instead of trying to have a reasoned, respectful discourse with them (which would be ideal, but often doesn't work in practice), it can be much more effective to frame *your* feminist values as indisputable reality. Through normalizing feminism and its attitudes, you present the *fact* that other realities do exist and ought to be considered.
14. Never apologize!!! Be inspired in your choice to advocate for feminism. There is a huge legacy behind this movement, heroines to look up to – it is a fundamental shift in our society that's really occurred only within the last 100 years (that's in the context of THOUSANDS of years of history, by the way) that we should celebrate. This isn't 'lifestyle choice', it's about a fundamental understanding of how we want to conduct ourselves in our daily lives and the kind of world we want to believe/live in. That is something I am proud to believe in and fight for.



# Degendering

As a boy I was taken on a tour of Monticello, the famed estate of Thomas Jefferson, founding father and third president of the United States.

My father took me on a tour of the estate, pointing out the architecture and Monticello's industrial-eye for gadgetry. I was taught that Jefferson was a great inventor. Jefferson gave us a host of quaint contributions to progress and statesmanship, including the swivel chair and helpful ploughing related inventions. Jefferson was not alone, but he was only really in a community of a very specific type of person. The ghosts of inventors-past basically surrounded Jefferson; these inventors called the Founding Fathers, who invented the United States as we know it. Thomas Jefferson has even been called the "Godfather of American invention", with a storied philosophical ideal of sharing and global enlightenment cited by 'digerati' today:

*"That ideas should freely spread from one to another over the globe, for the moral and mutual instruction of man, and the improvement of his condition, seems to have been peculiarly and benevolently designed by nature... incapable of confinement or exclusive appropriation. Inventions then cannot in nature, be a subject of property"* - Letter from Jefferson to Isaac McPherson, 1813.

I now sit at a shared desk at an anarchist info-shop in Dunedin Aotearoa, facing a wall of Zines and exposed to topics such as Copyleft, open-source philosophy, feminism, abolitionism, and critiques of cultural imperialism. I am nearly 15,000 kilometres away from Monticello and 15 years on from emigrating to New Zealand. It has

been 200 years since Jefferson wrote the letter vaunting the free exchange of inventions over the globe, in skepticism towards the idea that they could be patented. It seems important to wonder if my worldview might have changed from what I was taught as a southern boy.

First, it has to be noted Thomas Jefferson owned hundreds of slaves that really made Monticello what it was. Owning humans as property indicates a deeply borked moral compass, to our righteous indignation is still very much a thing across the globe today. For a man with big words about moral and mutual instruction, Jefferson held desperately fossilized views about women's roles in life:

*"A plan of female education has never been a subject of systematic contemplation with me. It has only occupied my attention so far as only as the education of my own daughters occasionally required... the order and economy of a house are as honourable to the mistress as those of the farm to the master"* - Letter from Jefferson to Nathaniel Burwell, 1818.

I am not sure what Grace Hopper, developer of the first compiler for a computer programming language, would have had to say about that noise above, but probably would laugh. Thomas Jefferson's letter was **26 years after** Mary Wollstonecraft's Vindication of the Rights of Woman was widely published- his viewpoint was

# Invention

bigoted in his time.

There are too many men today who are simultaneously reigning in exploitation under the banners of technology, deeply ignorant about leading non-patriarchal scholarship of the day, yet idealistic about ideas travelling the globe. There are lots of them on websites which hold themselves up as democratic. Sometimes I wonder if they get an easy ride in the media under labels such as "Pirate", "Artist", "Genius", "Contrarian" or "Economically disruptive" when it should really be that they are just huge jerks. In their crudest forms they call themselves "Men's Rights Advocates", none of whom I would call friends of mine. As with Wollstonecraft in the 18th century, women with education and lived experience fundamentally drive this movement, but feminism really is for everyone. The 'Masculine' cultural imaginary does me few favours.

As my colleague Nicole McCallum outlines in this publication with the freshest 2013 empirical evidence, the gender parity has widened in New Zealand in recent years. New Zealand is now negligently remiss on its domestic and international legal obligations to promote equal work for equal pay across genders. In the area of cultural production, dominated by American media-exports, things are even bleaker. In a ground breaking work "Degendering Value", shows that gendered conceptions of credit and reward are written into the intellectual property laws themselves (See: Special Topic on Intellectual Property, Jacobin Issue 11-12, Anne Elizabeth Moore

). Moving from global to local, Jane Kelsey's book, *"Hidden Agendas"*, on the Trans Pacific Partnership Agreement's potential effects for New Zealand's intellectual property future to lock in this American-media importing paradigm is pressingly important.

Consonant with both Kelsey and Moore's work, it's clear that under neoliberalism poverty has grown particularly more severe for women and trans\* persons. In brief, "Current IP laws don't just quaintly reflect traditional gender roles, they reinforce them, valuing certain forms of cultural production but devaluing others". Moore outlines a persuasive evidential case that current IP laws:

- + Favour traditionally masculine modes of production in Copyright
- + Consistently award patents to male inventors more often than female inventors
- + A convincing case that the primary order of business in updating IP rights should be eradicating barriers - all gender barriers, as well as those of race, nationality, and physical ability - in access to opportunity. Even for those who would resist globalisation. Even for those who plot its demise

With all that in mind, I would like to think I have come at least a significant way from Monticello, but it is a living experiment in learning and resistance. For men interested in invention and intellectual property law, it is vitally important to accept that there is nothing 'merely cultural', as Judith Butler argued **twenty years ago** in her text, indeed, titled *"Merely Cultural"*. Let's not be as backwards as Jefferson. If culture is able to be intellectual property, it inherently follows culture has material effects, and so do the laws which would guide it. The infoshop is far more beautiful than Monticello's neoclassical style, and season's greetings to you.

**B. Morgan Murrah,**  
**volunteer at [blackstarbooksdunedin.com](http://blackstarbooksdunedin.com)**





*pril Chiu*

*PPE Student at Otago University*  
*[aps-cc.tumblr.com](http://aps-cc.tumblr.com)*

*Film photographs taken by April's konica minolta*











In New Zealand, approximately 29% of women and 9% of men experience unwanted and distressing sexual contact in their lifetime<sup>1</sup>. An estimated 90% of these incidents are not reported<sup>2</sup>. Out of the 10% that are, only 31% of those go on to prosecute the accused, and a mere 13% of those result in a conviction<sup>3</sup>. Next to the conviction rate of 74%<sup>4</sup> for all reported assaults, this is alarmingly low. Aside from the many issues surrounding why the reporting rate is so low and why many victims are discouraged from pressing charges once they have reported, this paper will solely look at the main reasons why the conviction rate for sexual violation - which includes rape and unlawful sexual connection - is so low once charges are pressed.

### **INADEQUATE FORMAL POLICE INTERVIEWS**

The formal police interview is often the main evidence that is used in court and thus it is crucial that accurate and detailed information is obtained<sup>5</sup>. Adequate police training on conducting interviews is essential. Interviewing techniques affect how effectively the police collect information, for example the “free recall technique” is a technique developed in 2006 by the Wellington Police and is internationally recognised<sup>6</sup>. Police ask minimal questions and let the victim recall as much as they can uninterrupted. This avoids things such as leading or suggestive questions<sup>7</sup>. In a study of how specialist officers perceived victims, three stereotypes emerged; the “real victim”, the “mad discloser”, and the “bad discloser”<sup>8</sup>. Officers saw victims who showed signs of “shame, self-blame, and post-traumatic stress”; all which would affect their ability to accurately recall the incident, and were seen as less reliable “mad” or “bad” victims. Officers need to give adequate information to victims when they first report, need to be warm and friendly, and have non-judgemental and supportive attitudes.

### **INADEQUATE POLICE INVESTIGATIONS**

In addition to police interviews, it is essential that police obtain as much evidence as possible in their investigation of each case. Talking to possible witnesses, collecting evidence such as photos and belongings and forensics from where the offence occurred, and possibly approaching the suspect<sup>9</sup> are all crucial. The Adult Sexual Assault Investigation (ASAI) guidelines were implemented by the Police in 2009, and were aimed at improving the investigation

of sexual offences. Elisabeth McDonald and Yvette Tinsley, authors of “From ‘Real Rape’ to Real Justice”, propose things such as “more intensive monitoring and reviewing of sexual offending cases to ensure that these guidelines are being properly implemented”<sup>10</sup>. It also looks at other investigative issues, for example, calling for more specialist Police units trained to deal specifically with investigating sexual offending<sup>11</sup>. Part 3 of the “Response of the New Zealand Police to the Commission of Inquiry into Police Conduct”, which deals with the Police’s investigations into sexual offences, found “mixed but relatively poor progress to improve services for adult sexual assault complainants since 2010.”<sup>12</sup> The number of districts with specialist sexual assault teams has increased since 2010<sup>13</sup>. This increase is showing good progress, and is showing the importance now being placed on making police investigations as thorough as possible.

A legal system  
Low conviction

### **BADLY MADE DECISIONS TO PROSECUTE**

As after the investigation the police get the final say on whether to prosecute or not, it is paramount that they make the right decision<sup>14</sup>. While the police do not need the victims consent to prosecute, if there are no other witnesses or evidence it may be very hard to do so without the victims evidence<sup>15</sup>. When making the decision to prosecute the police must consider both the evidential test and the public interest test<sup>16</sup>. The police must therefore go through a balancing exercise, and if they believe that there is no realistic prospect of obtaining a conviction then they are entitled to exercise their discretion to not proceed with the complaint<sup>17</sup>. “Triggs and others” in their New Zealand study found that approximately one third of complaints were classified as “no offence”, and around 8% of complaints were viewed as false for which the complainant should be either cautioned or prosecuted for<sup>18</sup>. In 55% of cases there was an identified suspect, and in 2% the suspect was merely

warned and the case closed. In 17% of total cases even where the suspect was identified, no charges were laid and no other action taken. The study concluded that “there was a significant degree of mis-categorisation and possible dismissal of genuine complaints.”<sup>19</sup> To combat this, having specialist prosecutors and specialist police units to deal with sexual violence will help improve making the correct decision on whether to prosecute or not<sup>20</sup>. McDonald and Tinsley in “From ‘Real Rape’ to Real Justice” also recommend that the outcome of all sexual offence cases be reviewed by a specialist Detective Sergeant, and to give the complainant the right to inquire about whether this review took place where the police decide not to prosecute. If it did not, they should then have the right to request that the decision be reviewed by a specialist prosecutor<sup>21</sup>.

# Perspective

## on rates in NZ sexual violence cases

Kate Wilkinson, law student at Otago University

### **CROWN SOLICITORS HAVING LIMITED INVOLVEMENT**

There have been concerns that Crown Solicitors are not involved in the process early enough (cases usually only pass into the Crown Solicitors hands once they are set down for trial), and that this leads to cases being filtered out too early<sup>22</sup>. Findings show that police who have early contact with legal services, or the Crown Solicitor, to discuss whether prosecution should go forth, means greater victim well-being, increased consistency and builds a good relationship between the victim and the prosecutor. The Law Commission has suggested that Crown Solicitors become involved as soon as the defendant enters a plea or elects trial by jury.<sup>23</sup> “From ‘Real Rape’ to Real Justice” recommends that the Crown Solicitor meet with the complainant at least a week before trial to introduce themselves and to answer any questions that the complainant may have<sup>24</sup>. Victims feeling comfortable with and being guided by the Crown Solicitor is very important in them feeling confident in prosecuting their offender.

### **INADEQUATE METHODS USED TO GIVE EVIDENCE**

The “extreme distress of a complainant giving evidence in a rape case and reliving the trauma of the ordeal in the witness box” is a very common occurrence<sup>25</sup>. Re-traumatising victims like this may affect the quality of the evidence given by them<sup>26</sup>, therefore often affecting conviction rates. As “From ‘Real Rape’ to Real Justice” states, using a video of an investigative interview as evidence in chief would have benefits<sup>27</sup>. If the correct interviewing methods are used, “greater reliability and accuracy, and a reduction in memory loss, distortion, or contamination of the evidence” could be achieved<sup>28</sup>. Additionally, being forced to relive the experience and being grilled by defence lawyers is a huge factor in victims being reluctant to take their cases to court. Accounts such as “it was embarrassing and kind of

degrading and disgusting...I felt kind of like I was the one on trial...you’re in a room full of people, 90 percent of whom I don’t know talking about intimate sexual stuff”<sup>29</sup> are common.

### **RAPE MYTHS**

A huge contributing factor to low conviction rates is that the court is hugely affected by “rape myths”. Rape myths are “descriptive or prescriptive beliefs about sexual aggression that serve to deny, downplay, or justify sexually aggressive behaviour that men commit against women.”<sup>30</sup> For example, ideas such as a delayed complaint suggests the victim is making it up, lack of physical resistance suggests they wanted it, and the victim having continued contact with the defendant suggests they were okay with it all may be present in the jurors’ or judges minds in court<sup>31</sup>. The high standard of proof means that even if just one of these myths is present, a reasonable doubt may be had. The following are a few rape myths, among many more;

*“Real rape” is only between a “violent stranger and a pure, yet physically resisting victim in a public place”<sup>32</sup>.*

The perception that “real rape” only occurs in public with a violent man assaulting a woman means that situations where this is not the case are not thought to be rape. Therefore victims claiming to be raped by an associate or partner are less likely to be found credible. Factors such as having no injuries or not



giving physical resistance to the attack also influence the belief that it wasn't real rape. Considering that in Rape Crisis client statistics July 2010 – June 2011 it was found that just 3% of attacks were attributed to strangers<sup>33</sup>, and that over one-third of sexual offences are committed by current partners<sup>34</sup>, this is clearly a huge misconception.

*The victim is the one responsible as they were the one "asking for it"*<sup>35</sup>.

An Amnesty Report showed that failing to clearly say no, behaving flirtatiously or encouragingly, drinking, dressing provocatively, or being known to have had many previous sexual partners all make the victim seem less credible, therefore making the accused seem less responsible<sup>36</sup>. Homeless women, drug addicts and sex workers are also viewed as unreliable complainants, and are seen as unworthy of the protection of law due to their lifestyles. They are seen as having not done enough personally to protect themselves from rape or have put themselves out there to be raped, therefore are seen as responsible for the rape.<sup>37</sup> Although evidence such as flirtatious behaviour or provocative clothing cannot be raised in relation to the second limb of rape (that the victim consented), it can be raised in relation to the third limb (that the offender believed the victim was consenting). For example, evidence that the complainant was flirtatious could be a factor in the accused believing on reasonable grounds that she was consenting. Even so, this does not prevent this myth being present, especially if a defence lawyer capitalises on the fact that a victim's actions caused the offender to believe that she was consenting. Descriptions such as "the defence lawyer kept making me feel like I was a bad person...that I was doing things wrong...saying "you were intoxicated weren't you?"<sup>38</sup> are common. By even raising a suggestion that a victim somehow contributed to the offending is implying that "she was asking for it".

*False complaints are commonly made.*<sup>39</sup>

The belief that women commonly make up stories of sexual violence out of boredom, malice, fantasy, shame or regret falsely leads the court to think that the victim is lying<sup>40</sup>. The victim delaying in reporting the offending meaning that it was made up is also a common misconception<sup>41</sup>. The myth comes from the media focusing on the very few cases each year that are portrayed as false. It also comes from the misconception that if an offender is acquitted, this

means the victim was making the whole thing up. This is far from the truth, with one study suggesting that false rape allegations make up less than 1% of all reports<sup>42</sup>.

*The victim should act like a "victim" in court*<sup>43</sup>.

The idea that a victim should be crying and distraught in the courtroom can also contribute to a court either not believing the victim or believing they are exaggerating. All victims deal with their experiences differently, and in the time since the offence and the court date they would have taken different steps to cope<sup>44</sup>. Some victims would have tried to completely block the experience out, while some may have undertaken various types of counselling<sup>45</sup>. Although a judge may know, a jury and the rest of the court may have no way of knowing what steps the victim has taken and how far through the recovery process they are, creating a false expectation as to how they should act in court<sup>46</sup>.

Research has strongly proven that rape myths and stereotypes surrounding sexual offending are common within the general New Zealand community. These "pre-existing attitudes affect judgments more than the facts of the case or the testimony of the witnesses."<sup>47</sup> As it is likely that the majority of jurors will be affected by these myths, these dangerous preconceptions play a huge role in the outcome of each case.

### **JURY TRIALS**

Having jury trials in cases of sexual violence opens up the possibility that the jury's judgment will be affected by things such as rape myths and heuristics. These mistaken beliefs and lack of understanding as to what rape actually is contributes to the low conviction rate. Therefore it has been argued that jury trials should be abolished for sexual violence cases and replaced with either judge alone trials or a specialist court.<sup>48</sup> Although judges are not exempt from rape myths, "From 'Real Rape' to Real Justice" points out that as these myths are widespread, it is far easier to train and educate judges than the population in general. Additionally, it suggests that judges should be required to give reasons for their verdicts which would open up their reasoning to scrutiny<sup>49</sup>. As well as the jury being influenced by rape myths, another negative of having jury trials is the public nature that they create. Victims must tell their story to twelve strangers, who "despite

what they are directed by the judge, might go back and talk to their friends and families about what they've heard"<sup>50</sup>. Having a judge alone trial would mean that the information would stay as confidential as possible. Additionally, if the defence council sitting relies on theatrics in court to make their case, then this will not sit with the judge<sup>51</sup>. Judges are not interested in performances, comparatively to juries who can be easily sucked in. Defence councils use these sorts of techniques to manipulate and exaggerate the defendant's innocence. On the other hand, judges are seen to "sometimes live outside the mainstream", meaning they lose touch with what happens in everyday activities<sup>52</sup>. However if judges were specially trained to deal with sexual assault cases this would be combated. As we know, a jury trial is not necessarily essential to a fair trial, with the majority of trials in New Zealand already being judge alone. Furthermore, judge alone trials are preferred in some cases, for example serious fraud cases, as "we acknowledge that some issues are beyond the average juror's competence" meaning a fair trial would be impeded<sup>53</sup>. Surely the complexities of a sexual offending trial, including elements such as the reasonable belief of consent being a defence, would qualify sexual offending cases to be dealt with by either a judge alone or a specialist judge.

### **LACK OF SPECIALIST PROSECUTORS**

As rape trials are so specialised and different from other crimes, specialist prosecutors would be beneficial. Additionally, as victims are so vulnerable and are often very traumatised by the thought of having to go to court, specialist prosecutors would know how to give them the extra support they need. Other jurisdictions have initiated specialist prosecution teams, for example in England and Wales<sup>54</sup>. They have also introduced 'rape co-ordinators' to help co-ordinate the whole process of the trial. By having specialist teams, the profile of sexual offences and the importance of victims to be treated a certain way is raised. In general, there will be better awareness of the problems that sexual violence cases pose<sup>55</sup>. The Victorian Specialist Sex Offences Unit in 2008 reported that in one year since its operation, the figures suggested that the percentage of guilty pleas had doubled from the previous year from 28% to 58%. Their experience is that a "strong, consistent and proactive approach to the prosecution of sex offences has the capacity to influence the functioning of the whole criminal justice

process."<sup>56</sup> A South African qualitative study also suggests that specialist prosecutors should have the skills of "a lawyer, social worker and psychologist".<sup>57</sup> The English CPS Inspectorate have recommended that from the beginning to the end of a case, victims should only be dealing with one specialist lawyer that has been involved in the case early. This will help build rapport, trust and continuity.

### **HARSH TREATMENT BY DEFENCE COUNCIL**

It has been argued that defence lawyers go too far in cross examination, and that their tactic is "generally to under-mine your confidence, confused you about the sequence of events (so that you might contradict yourself), and cast a slur on your character, in particular by concentrating on personal lifestyle and sexual experiences"<sup>58</sup>. As previously mentioned, defence lawyers focusing on things such as intoxication, flirtatious behaviour and what the victim was wearing all contribute and reinforce the myths surrounding rape. The defence validly using these arguments in court show the jury and the wider community that they are legitimate. They also create fear for future victims of how they will be treated, causing reluctance to go to court. If they do decide to go to court, the defence lawyer may then enforce in the victim's mind doubts that they may have had the entire process. Although rape counsellors prepare victims for what sorts of questions they will be asked, they still have to endure it<sup>59</sup>. However if defence lawyers are too harsh then it may backfire, as the courts sympathy goes to the complainant<sup>60</sup>. Although this acts as a check, a lot of victims will still feel victimised as they are cross-examine by defence lawyers who are doing whatever they can to undermine the credibility of the complainant to win their case.

### **CONCLUSION**

A combination of the above factors and many more contribute to the extremely low conviction rate in sexual violation cases in New Zealand. Immediate changes need to be made to the legal system to combat this. Although social attitudes towards sexual violence have a long way to go, changing the legal system so that the conviction rate is where it should be is a starting point. If the courts adopt a no tolerance policy, our best hope is that society will follow.

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# Homo Sentiments II III

anon.

Pressed against the wall  
by mouths and wine and  
I could struggle could I  
I.

I'm afraid of scary judge eyes  
and cheesiness and sentimentality  
and homophobic mothers that really love you

I stopped reading your poem to write this and I miss you  
lets have a cigarette in the sunset  
lets have a kiki


we are soft and beautiful and  
poems get lost  
because they were without agenda

why I would I  
II.

This is the part I email to you  
an email not made of flesh

Poems blow through me backwards

I'm actually just so tired and poignant today



I think I'm about to get my period and  
how did your skin how did I manage how did I even

just leave so I can be alone with my layers of lovers  
mostly jerks  
but only mostly

I'm the least repressed at the party  
hand clap slap

There's always the one who shrugs and walks away  
steel feel defence mechanisms  
heteronormative Bukowski eyes and whiskey in the rain

I won't can't do I

III.

Homo mom said be careful  
of all the things you could possibly put inside of you  
carbs and sugar and alcohol and  
she didn't say dicks

I think this was meant to end on the veranda  
after I said  
something more convincing

you taste like smoke and dusk

what if we expected something from one another what if we  
what if I did do I



