

Only court views
rape. throughout her
essay,



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Only Words, by Catharine MacKinnon is a collection of three essays; each essay argues her claim that sexual words and pictures should be banned instead of Constitutionally protected under the First Amendment as free speech. In her first essay, Defamation and Discrimination, MacKinnon takes the stance that pornography is sex, and should not be treated as speech, but as a sexist act. She claims that pornography is an action, just as, a sign saying White Only is only words, but it is seen as the act of segregation that it is.

(MacKinnon 13) MacKinnon claims that other action words, such as death threats, are banned, pornography should be banned as well. According to her essay, pornography rapes women. First, the photographers select already victimized women to be photographed, and thereby re-victimizing them.

Then each man who views the pornography uses the ideas he attains from it to force his own sexual partner to perform the acts in the pornography. In the second essay, Racial and Sexual Harassment, MacKinnon states, if ever words have been understood as acts, it has been when they are sexual harassment.(MacKinnon 45) She explains how written words can have the same effects on a reader as an action. They can evoke the same fear and violation as a physical threat of rape. In her final essay, Equality and Speech, MacKinnon suggests that the words as actions that she has describes in her previous essays should be subject to a group defamation lawsuit. She states that the Constitution protects speech that promotes sexual inequality.

She feels that the Fourteenth Amendment should cover the discrimination allowed in the First Amendment. Susan Estrichs Real Rape is an essay

preaching proposed changes in rape statutes. Estrich first describes, in great detail, the history of rape legislation in England. She follows pertinent cases through history, citing changes and analyzing the effects of those changes. Estrich bases her findings on summaries, dissents, and other legal documentation. She then describes the current law, and evaluates how it has changed the way in which the court views rape.

Throughout her essay, Estrich makes a distinction between classic rape and simple rape. She defines the former as aggravated rape by a stranger, and the latter as rape by a date or acquaintance. Estrich focuses on simple rape for the majority of her thesis.

To conclude, she proposes changes in the current law to make a simple rape conviction easier to attain for a truly victimized woman. Throughout the years, the legal definition of rape has been reworded, revised, and reworked. Even so, the definition current to Real Rape is lacking in many aspects. To understand the progression of the law, it is important to understand its foundation. Modern rape legislation is still based upon the outdated opinions of Chief Justice Matthew Hale of England, who lived over three hundred years ago. His opinion is that rape is a charge easily to be made and hard to be proved, and harder to be defended by the party accused, tho never so innocent. (Estrich 5) This principle requires the victim of the rape to prove that she free of guilt in order to attain a conviction for her attacker. Based upon Hales position, rape has come to require proof of physical resistance on the part of the victim.

The man must have used ample force, as well. The law required corroboration on the victims testimony. A time limit was imposed on how long after the event a woman could report it. In addition, the victims sexual history could be submitted as evidence in order to discredit her, but the exposure of a mans past was rarely allowed. Most states also included a provision that protected a man from rape charges against his wife. In practice, these limits and restraints did not affect the conviction rates of stranger rape.

Simple rape, however, has been extremely hard to prove. In cases of simple rape, if the jury decided to convict, the court of appeals usually overturned the decision. In 1889, the Supreme Court of Nebraska reversed a conviction, reasoning that, voluntary submission by the woman, while she has the power to resist, no matter how reluctantly yielded, removes from the act an essential element