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CENTERING MEN'S EXPERIENCE: NORAH VINCENT'S *SELF-MADE MAN* COMPLICATES FEMINIST LEGAL THEORISTS' VIEWS OF GENDER

BY KATHY A. THOMACK

INTRODUCTION

In *Self-Made Man: One Woman's Journey into Manhood and Back Again*, Norah Vincent describes her experiences as a man in disguise.¹ As Ned, she discovered that our social interactions are “gender-coded”.² For example, the dynamic of her relationships with men changed after they learned that Ned was actually Norah.³ After telling her bowling partner, Jim the truth of her identity they hugged one another, which she considered evidence of his acceptance of her as a woman.⁴ However, as she was still in disguise, he pulled away quickly, and said, “[y]ou don't wanna be seen hugging another man in the parking lot outside a bar like this.”⁵ As they parted, “[Jim] shouted over his shoulder: ‘Hey, man, you take care of yourself over there in Iraq.’”⁶ As Norah, their embrace was socially acceptable; as Ned, it violated social boundaries.

Norah Vincent disguised herself as a man named Ned for eighteen months to evaluate gender as “[a] cultural and psychological phenomenon whose boundaries are both mysteriously fluid and rigid.”⁷ Her experiences as Ned and the resulting insights offer a lens through which to evaluate the work of feminist legal theorists. Ultimately, she complicates feminist

¹ NORAH VINCENT, *SELF-MADE MAN: ONE WOMAN'S JOURNEY INTO MANHOOD AND BACK AGAIN* (Penguin Books 2006).

² *Id.* at 223 – 24.

³ *But see id.* at 180.

⁴ *See id.* at 51.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 16.

legal theorists' notions of gender by calling some views into question while confirming others.

In Part I of this paper, I summarize *Self-Made Man*, describing Norah Vincent's motivations, methods, and experiences when she disguised herself as a man for eighteen months. As Ned, she joined a men's bowling team, visited strip clubs, dated women, lived in a monastery, worked as a salesman, and joined a mythopoetic men's group. She expected to enjoy the perceived freedoms of being a man, but discovered that men's lives are not as easy as many women, including Vincent herself, tend to think.

Part II examines the contrasting approaches of formal equality theorists and difference theorists. In particular, the work of Ruth Bader Ginsburg and Carol Gilligan are discussed. Ginsburg, who advocated a formal equality approach, emphasized the similarities between women and men. In contrast, Gilligan, a difference theorist, suggested that norms were male-based and should be changed to accommodate women's difference. Vincent's experiences support difference theory. Her psyche was dramatically shaken by the experience of being Ned, which she attributes to men and women being fundamentally different.

In Part III, I analyze Catharine MacKinnon's dominance theory from the perspective of Vincent's experiences. Vincent complicates the notion that there is a power inequality between men and women. Her experiences suggest that MacKinnon's theory is problematic because it fails to consider the way in which sexuality makes women powerful. At the same time, this makes women vulnerable to sexual violence.

Part IV considers gender essentialism and the work of Angela Harris. Vincent challenges the suggestion that gender essentialism is a flaw of feminist scholarship. She believes gender is more important than race, class, or any other social categorization because it is so closely connected to one's self-image and social interactions. Therefore, Harris' analysis is flawed and her recommendations for feminist scholarship are misguided.

Finally, Part V examines third wave feminism in light of Vincent's experiences. She embraces individualism and emphasizes the importance of involving men in the debate about

gender issues, which is consistent with third wave feminists. *Self-Made Man* is an example of third wave feminist scholarship because she makes her personal experiences political.

I. NORAH VINCENT'S EXPERIENCES AS NED, A "SELF-MADE MAN"

Norah Vincent disguised herself as a man named Ned for eighteen months and wrote about her experiences as Ned in *Self-Made Man: One Woman's Journey into Manhood and Back Again*.⁸ A lesbian and self-defined feminist, Vincent rejects the notion that she is a transsexual or a transvestite who was attempting to resolve a crisis of sexual identity.⁹ Rather, she was interested in gender, "[b]oth as a cultural and psychological phenomenon whose boundaries are both mysteriously fluid and rigid."¹⁰ She became Ned with the assistance of a makeup artist, a personal trainer, and a voice coach.¹¹ As Ned, she joined a men's bowling team, visited strip clubs, dated women, lived in a monastery, worked as a salesman, and joined a mythopoetic men's group.¹² Vincent ultimately concludes that men's lives are more difficult than most women tend to think.¹³

The idea for the book began several years prior to its inception, when, after agreeing on a dare to go out in drag, Vincent noticed that men, who usually followed her with their eyes, refused to meet her gaze.¹⁴ At the time, she was intrigued by how the men behaved differently toward her and speculated about how much more she might observe if she disguised herself as a man for a longer period of time.¹⁵ The idea resurfaced in 2003 after she watched a reality television show in which two male and two female contestants attempted to disguise themselves as members of

⁸ VINCENT, *supra* note 1.

⁹ *See id.* at 15–16.

¹⁰ *Id.* at 16.

¹¹ *Id.* at 9–15.

¹² *See id.*

¹³ *See id.* at 275.

¹⁴ *Id.* at 1–3.

¹⁵ *Id.* at 3–4.

the opposite sex.¹⁶ Although three of the four disguises failed, Vincent thought she could successfully disguise herself as a man.¹⁷ She wanted to explore what the television show failed to address that is, “[t]he deeper sociological implications of passing as the opposite sex.”¹⁸ At the beginning of her project, she thought that “[l]iving as a man and having access to a man’s world would be like gaining admission to the big auditorium for the main event after having spent [her] life watching the proceedings from a video monitor on the lawn outside.”¹⁹ From her experience as a woman and a lesbian, she expected to enjoy what she perceived as the freedoms that came with being a man.²⁰

In preparation for her project, Vincent altered her physical appearance and consulted a makeup artist, personal trainer, and voice coach. To make her jaw line appear more square, she had her already short hair cut in a flat-top style and wore eyeglasses with rectangular frames.²¹ She also purchased a new wardrobe consisting of rugby shirts, khaki pants, baggy jeans, blazers, dress pants, dress shirts, ties, and white undershirts.²² To conceal her breasts, she wore a sports bra two sizes too small and wore layers.²³ She also wore a flaccid prosthetic penis to fill out her pants and a jockstrap to keep it in place.²⁴ Achieving a five o’clock shadow was more difficult and required assistance from a makeup artist. At his suggestion, she used an electric beard trimmer on wool crepe hair to get stubble-sized pieces, which she brushed onto her face with stoppelpaste, a lanolin and beeswax-based adhesive.²⁵ She also consulted a personal trainer, who helped her gain fifteen pounds and build muscle in her shoulders and arms.²⁶ Lastly, she sought assistance from a voice coach at the

¹⁶ *Id.* at 4.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 280.

²⁰ *See id.*

²¹ *Id.* at 11.

²² *Id.* at 13–14.

²³ *Id.* at 12.

²⁴ *Id.* at 13.

²⁵ *Id.* at 9–10.

²⁶ *Id.* at 12–13.

Juilliard School for the Performing Arts.²⁷ Although her voice was already deep for a woman, she learned to use fewer words, speak more slowly, and sustain her breath through the words.²⁸ To assume Ned's identity, Vincent was initially dependent on her entire costume and disguise, but as she became more comfortable and confident, she found that the props became less necessary.²⁹

During Vincent's first eight months as Ned, she joined a men's bowling league in a working class neighborhood and became friends with the members of her team – Jim, Allen, and Bob.³⁰ They were in their 30s and 40s and had known one another for years.³¹ Despite her lack of bowling skill, the men quickly accepted her as part of the team. Jim, Allen, and Bob worked as an appliance repairperson, a construction worker and a plumber, respectively.³² While not satisfied with their jobs, they enjoyed other aspects of their lives such as playing in the bowling league, watching sports, and going to bars.³³ Vincent felt welcomed and found them easy to get along with, since they were often telling jokes and stories.³⁴ After six months, she decided to tell them the truth about her identity.³⁵ She feared that they would react violently, and had “[v]isions of [her]self running down the middle of the town's main street with [her] shirt ripped off . . . and a lynch mob chasing [her]”³⁶ Nonetheless, Vincent first told Jim, while in a public place, that she was a woman and was conducting research for her book.³⁷ Initially, he thought she was joking and refused to believe her, but after talking for three hours, Jim hugged her and talked more openly with her than he had previously.³⁸ Two

²⁷ *Id.* at 14.

²⁸ *Id.* at 14–15.

²⁹ *Id.* at 11–12.

³⁰ *See id.* at 20–61.

³¹ *Id.* at 24–27.

³² *Id.* at 30.

³³ *See id.*

³⁴ *See id.* at 20–61.

³⁵ *Id.* at 48.

³⁶ *Id.*

³⁷ *Id.* at 48–52.

³⁸ *Id.* at 49–52.

weeks later, she told Allen and Bob while bowling.³⁹ They also thought she was joking, but after she explained the project, they all laughed about it and agreed that they liked Vincent better as a woman since she was no longer trying so hard to fit in.⁴⁰ The fact that Vincent was conducting research for a book seemed to make her deception more acceptable to her bowling partners. They expressed an interest in the book and asked what their names would be.⁴¹ Vincent was amazed at how accepting they were, particularly of her lesbianism, and ended the experience feeling like she had unfairly underestimated them.⁴²

During her time as Ned, Vincent went to strip clubs numerous times with male friends and received several lap dances.⁴³ Vincent went to strip clubs with Jim, her bowling partner who knew the truth of her identity, as well as with another man, Phil, whom she met in a bar. Phil did not know that she was a woman.⁴⁴ Most of the strip clubs she visited were “low-end” establishments where the women were naked and alcohol was not served.⁴⁵ The lap dances were full-contact, with the men clothed and the women naked and intended to make the men reach orgasm.⁴⁶ Vincent reports that the men she met were never honest with their wives or girlfriends about strip clubs or their sexual drives.⁴⁷ Rather, they were ashamed of their “primal” sexual drives and found the anonymity of strip clubs appealing.⁴⁸ As a woman, Vincent found strip clubs depressing because she felt that both the female strippers and the male clientele were “[e]qually debased by the experience.”⁴⁹ She believed that “[e]veryone . . . had made the choice to be there, and chances were that choice was made in the context of a lifetime’s worth of emotional wreckage

³⁹ *Id.* at 55–61.

⁴⁰ *Id.*

⁴¹ *See id.* at 57.

⁴² *See id.* at 58, 61.

⁴³ *Id.* at 62–91.

⁴⁴ *See id.* at 62, 80.

⁴⁵ *See id.* at 63.

⁴⁶ *Id.* at 68.

⁴⁷ *Id.* at 65.

⁴⁸ *See id.* at 66–67, 79.

⁴⁹ *Id.* at 90–91.

that had been done to their lives by people of both sexes long before they stepped through that door.”⁵⁰ Vincent felt “genuine sympathy” for the strippers, as well as for the male clientele, which she had not expected.⁵¹

As Ned, Vincent dated women, the majority of whom she met on the internet.⁵² After failed attempts to “pick up” women at bars, she sympathized with men.⁵³ The first time she approached women at a bar, she felt hurt by their rejection, and told them that she was actually a woman conducting research for her book.⁵⁴ Interestingly, they were not homophobic, but accepted her welcomingly into the conversation.⁵⁵ When Vincent went on more than a date or two with a woman and felt that the woman was becoming interested in Ned, she told them the truth.⁵⁶ She told three women, all of whom thought it made sense because they had thought Ned might be gay.⁵⁷ Two of the three women were interested in continuing the relationship and Vincent actually had sex with one of them.⁵⁸ From her dating experiences, Vincent learned that women want men who are in control but who are also sensitive and vulnerable.⁵⁹ She had thought Ned, a metrosexual, would be the ideal man but discovered that women generally did not consider him “manly” enough.⁶⁰

To observe men living together without women in a celibate environment, Vincent spent three weeks at a Catholic monastery.⁶¹ There were approximately thirty monks living in the monastery, several of whom she became close to during her stay.⁶² However, she was ostracized by some of them when they

⁵⁰ *Id.* at 91.

⁵¹ *See id.* at 80.

⁵² *Id.* at 92–130.

⁵³ *See id.* at 92–99.

⁵⁴ *Id.* at 96–98.

⁵⁵ *Id.* at 98.

⁵⁶ *Id.* at 100.

⁵⁷ *Id.* at 117–23.

⁵⁸ *Id.* at 119.

⁵⁹ *Id.* at 111.

⁶⁰ *Id.* at 117.

⁶¹ *Id.* at 131–83.

⁶² *See id.*

suspected that Ned was gay because of his characteristically effeminate mannerisms.⁶³ These effeminate mannerisms included an “emotive temperament” and the use of certain words or phrases.⁶⁴ For example, Vincent called one monk “cute” and said that another one “looked very good for his age.”⁶⁵ Essentially, Vincent did not behave “as properly socialized males” do because she did not respect masculine social boundaries.⁶⁶ Vincent, who had never been considered effeminate as Norah, was intrigued by the notion that femininity became apparent when masculinity was portrayed.⁶⁷ Vincent found there to be a pervasive fear of homosexuality.⁶⁸ Although she perceived that the men needed fraternal and paternal acceptance, they seemed unable to communicate that need or to offer consolation to one another when one of them became physically or mentally ill.⁶⁹ For example, a monk who was known to be taking antidepressants was ostracized for his perceived weakness.⁷⁰ Before leaving the monastery, Vincent disclosed the truth of her identity to three monks.⁷¹ Although they expressed a sentiment of having been used, they forgave her and felt less threatened by her being a woman than by her being a homosexual man.⁷² Two of the monks, including the one whom she had initially been closest to, only hugged her after learning that she was a woman.⁷³ The third monk, however, was the only person through the duration of her project who, upon learning the truth, treated her exactly the same.⁷⁴ He hugged Ned, and then hugged Norah, commenting that her gender did not change anything.⁷⁵ Vincent considered that a “remarkable

⁶³ *See id.*

⁶⁴ *See id.* at 144.

⁶⁵ *Id.*

⁶⁶ *Id.* at 145.

⁶⁷ *See id.* at 168.

⁶⁸ *See id.*

⁶⁹ *See id.*

⁷⁰ *Id.* at 161, 164–66.

⁷¹ *Id.* at 166–80.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.* at 180.

⁷⁵ *Id.*

moment” because the bond she had developed with the third monk transcended gender.⁷⁶

Upon leaving the monastery, Vincent sought to experience a “testosterone-saturated” work environment.⁷⁷ She applied for a half dozen sales jobs as Ned, and was offered every one.⁷⁸ She ultimately worked for three different companies, all of which sold entertainment coupon books door to door.⁷⁹ These were low-paid, high turnover jobs, where qualifications were not necessary and a stereotypical masculine attitude was rewarded.⁸⁰ Vincent found it easier to adopt an attitude of entitlement and confidence bordering on arrogance while wearing a suit.⁸¹ For the first time, she “[f]elt male privilege descend on [her] like an insulating cape”⁸² Interestingly, no one suspected that Ned, the salesman, was gay.⁸³ The resulting empowerment was what she had expected at the commencement of the project; however, while others respected and admired this Ned, Vincent did not.⁸⁴ After selling a number of books and conforming to company culture, Vincent earned praise from her arrogant boss for being a “highly motivated type of guy,” and quit.⁸⁵

Lastly, Vincent joined a mythopoetic men’s group that was inspired by Robert Bly’s 1988 bestseller, *Iron John*.⁸⁶ She attended monthly meetings and went on a weekend retreat in the woods, where the group emphasized consciousness-raising.⁸⁷ The men talked openly about their feelings, were physically affectionate with one another and routinely hugged.⁸⁸ They sought to make peace with their fathers and talked about the anger and

⁷⁶ *Id.*

⁷⁷ *Id.* at 184.

⁷⁸ See *id.* at 184–228.

⁷⁹ See *id.*

⁸⁰ See *id.*

⁸¹ See *id.* at 187, 227.

⁸² *Id.* at 187.

⁸³ *Id.*

⁸⁴ *Id.* at 221–28.

⁸⁵ See *id.*

⁸⁶ See *id.* at 229–31.

⁸⁷ *Id.* at 229–74.

⁸⁸ *Id.*

resentment they felt toward the women in their lives.⁸⁹ As a woman who had infiltrated the group, Vincent feared for her safety more in this setting than in any other.⁹⁰ These men had “serious rage issues about women” and she spent a weekend alone with them in the woods.⁹¹ Due to her presumably well-founded fear, she never revealed her true identity to the group’s members.⁹² Ultimately, Vincent had a sort of mental breakdown because of her experiences as Ned and checked herself into a psychiatric hospital for four days.⁹³ Vincent credits her mental instability to the “cognitive dissonance” resulting from being “[a] woman peering through [a man’s] windows . . . ,” as well as to the guilt she felt for having deceived people.⁹⁴ She reclaimed her life as Norah, and recovered two months later.⁹⁵

II. NORAH VINCENT ON FORMAL EQUALITY THEORY AND DIFFERENCE THEORY

Norah Vincent’s experiences as Ned, as described in *Self-Made Man*, offer a lens through which to view the debate between formal equality theorists and difference theorists. The debate concerns whether feminist advocates should emphasize the ways in which women are similar to or different from men. Formal equality theorists argue for the former, while difference theorists argue for the latter. In other words, theorists question how equality is best achieved. What does equality look like? Does equality mean sameness, or can equality be achieved while recognizing difference? Vincent views gender as a spectrum, where a particular individual may fall anywhere along that spectrum in terms of his or her expression of characteristically masculine or

⁸⁹ See *id.* at 241.

⁹⁰ See *id.* at 244.

⁹¹ See *id.*

⁹² See *id.* at 244, 273.

⁹³ *Id.* at 267–71.

⁹⁴ *Id.* at 269.

⁹⁵ See *id.* at 270.

feminine traits.⁹⁶ However, she ultimately believes that men and women are fundamentally and undeniably different.⁹⁷

A. FORMAL EQUALITY THEORY: EFFECTIVE BUT UNREALISTIC

The formal equality approach, which first was applied to gender as a litigation strategy in the 1970s, is considered the first stage of feminist legal theory.⁹⁸ Formal equality theorists emphasized the similarities between women and men. They focused on “[d]ismantling the intricate system of sex-based legal distinctions which had been established purportedly to protect women” because such laws restricted women to the sphere of the home and family.⁹⁹ The basic argument was that since men and women are the same “in all relevant respects,” women are entitled to and deserve “access to all public institutions, benefits and opportunities on the same terms as men.”¹⁰⁰ They were reluctant to consider any differences between men and women, such as a woman’s distinct ability to be pregnant and to give birth, since those biological differences had been used to justify the distinctions in the law that disadvantaged women.¹⁰¹ For example, they argued that pregnancy should be considered a disability under the law.

The formal equality approach guided the work of Ruth Bader Ginsburg, who founded the Women’s Rights Project (WRP) at the American Civil Liberties Union in 1971.¹⁰² The WRP argued for equality under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.¹⁰³ The Supreme Court extended the equal protection guarantee to women for the first time in *Reed v. Reed*, ruling unconstitutional an Idaho statute

⁹⁶ *See id.* at 16.

⁹⁷ *Id.* at 281–82.

⁹⁸ *See* MARTHA CHAMALLAS, INTRODUCTION TO FEMINIST LEGAL THEORY 15 (2d ed. 2003).

⁹⁹ *Id.* at 16.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *See* Hon. Ruth Bader Ginsburg & Barbara Flagg, *Some Reflections on the Feminist Legal Thought of the 1970s*, 1989 U. CHI. LEGAL F. 9, 10–18 (1989).

¹⁰³ *Id.*

that preferred men over women for appointment as administrator of a decedent's estate.¹⁰⁴ In *Frontiero v. Richardson*, the Supreme Court declined by only one vote to apply strict scrutiny to classifications based on sex.¹⁰⁵ However, the Court did find an Air Force policy that automatically gave spousal benefits to married men, but not to married women without a showing that the wife provided more than half of the husband's support, unconstitutional.¹⁰⁶ The Supreme Court applied an intermediate level of scrutiny to sex-based classifications in *Craig v. Boren*, holding that an Oklahoma statute invidiously discriminated against men between the ages of eighteen and twenty-one because it prohibited the sale of beer to men under the age of twenty-one and women under the age of eighteen.¹⁰⁷ Under intermediate scrutiny, a classification based on sex "must serve important governmental objectives and must be substantially related to achievement of those objectives."¹⁰⁸ The formal equality theorists, like Ginsburg, thus made important advances for women in the 1970s by "educating" the Supreme Court about "the assumptions underpinning traditional sex-specific rules."¹⁰⁹

Formal equality theorists advanced women's interests by arguing that they should receive equal treatment under the law because men and women are essentially the same. However, Norah Vincent suggests that it is unrealistic to deny that men and women are fundamentally different. She says,

I believe we are that different in agenda, in expression, in outlook, in nature, so much so that I can't help almost believing, after having been Ned, that we live in parallel worlds, that there is at

¹⁰⁴ See *Reed v. Reed*, 404 U.S. 71 (1971).

¹⁰⁵ See *Frontiero v. Richardson*, 411 U.S. 677 (1973).

¹⁰⁶ *Id.*

¹⁰⁷ See *Craig v. Boren*, 429 U.S. 190 (1976).

¹⁰⁸ *Id.* at 197.

¹⁰⁹ See Hon. Ruth Bader Ginsburg & Barbara Flagg, *Some Reflections on the Feminist Legal Thought of the 1970s*, 1989 U. CHI. LEGAL F. 9, 10-18 (1989) (citing *CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY* 103 (Mary Becker et al. eds., 2d ed. 2001)).

bottom really no such thing as that mystical unifying creature we call a human being, but only male human beings and female human beings, as separate as sects.¹¹⁰

In reaching this conclusion, Vincent analyzed her own sense of self and how dramatically shaken her psyche was by the experience of being Ned. A self-defined “dyke,” Vincent considers herself a masculine woman, and had never been characterized as feminine until she became Ned.¹¹¹ As a child, Vincent was a “hard-core tomboy,” who loathed dresses and dolls, but dressed like a ranch hand and played with her brother’s GI Joes.¹¹² She speculates that, like sex and sexuality, “[g]ender identity is . . . in the genes”¹¹³ There is a continuum or spectrum of gender identity, anywhere along which an individual may fall, but “[g]ender has roots in [the] brain, possibly biochemical ones, living very close to the core of [one’s] self-image.”¹¹⁴ Vincent’s assumption of a male identity had detrimental mental effects, which, despite her stereotypically masculine traits, she attributes to her identity as a woman being so crucial to her sense of self. For Vincent, the differences between men and women are biologically based and made more extreme by the ways in which boys and girls are socialized.

B. DIFFERENCE THEORY: A MORE REALISTIC APPROACH

The difference theory approach to feminist legal theory, known as the second stage, arose in the 1980s in response to the formal equality theorists of the 1970s.¹¹⁵ Difference theorists supported the notion that equal need not mean the same.¹¹⁶ Rather than emphasizing that the similarities between men and women

¹¹⁰ VINCENT, *supra* note 1, at 281–82.

¹¹¹ *Id.* at 16, 52.

¹¹² *Id.* at 5–6.

¹¹³ *Id.* at 6.

¹¹⁴ *Id.* at 270.

¹¹⁵ See CHAMALLAS, *supra* note 98.

¹¹⁶ *Id.* at 18.

should lead to equal treatment, difference theorists suggested that the norms were male-based and should be changed to accommodate women's difference.¹¹⁷ That way, they argued, equality could be achieved.¹¹⁸ By putting women's difference at the center of the debate, difference theorists were able to focus on issues that formal equality theorists could not, such as pregnancy, rape, sexual harassment, domestic violence, and pornography.¹¹⁹

One branch of difference theory in the 1980s was known as cultural feminism, which is most often traced to Carol Gilligan.¹²⁰ Gilligan, a psychologist, theorized in her book, *In a Different Voice: Psychological Theory and Women's Development*, that psychologists, when considering moral problems, have ignored the relational, caring voice associated with women in favor of an analysis of abstract rules associated with men.¹²¹ She critiqued the scale used by Lawrence Kohlberg, a psychologist, for evaluating the moral development of children.¹²² Gilligan suggested that his scale was flawed, because it considered the male approach to be superior to the female approach.¹²³ The study in question involved a sample of sixth-grade students, including Jake and Amy.¹²⁴ The children were presented with a moral dilemma, and questioned about what a man who is unable to afford a drug from a pharmacist should do if his wife will die without the drug.¹²⁵ Jake quickly concluded that the man should steal the drug, reasoning that life is more valuable than property and that a judge would recognize the particular circumstances.¹²⁶ In contrast, Amy sought a resolution that would enable the man to obtain the drug without stealing, suggesting that the man should appeal to the pharmacist for

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 19.

¹²¹ See CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982).

¹²² See *id.* at 24-39.

¹²³ See *id.*

¹²⁴ See *id.* at 25.

¹²⁵ See *id.* at 24-39.

¹²⁶ *Id.* at 26-29.

assistance, or otherwise appeal to others who might be able to help.¹²⁷ Jake emphasized logic and the law in his answer, while Amy emphasized communication between the parties involved.¹²⁸ Thus, cultural feminists suggested that women's empathetic nature and emphasis on communication gives rise to a "different voice," which should be celebrated, but is ignored by the law.¹²⁹

Vincent's experiences support the work of Carol Gilligan. Throughout her book Vincent emphasizes that men and women communicate and connect with others differently. At the outset of the project, Vincent was overwhelmed by the warmth and sincerity she felt in the simple welcoming handshakes of her bowling partners. She felt more affection than she had felt as Norah when greeted by women, and proposes that women lack the "solidarity of sex" that men share.¹³⁰ However, she later worried that her bowling partners were upset at her because few words were exchanged.¹³¹ Women connect emotionally through talking, while "[s]o much of what happens emotionally between men isn't spoken aloud" ¹³² Vincent suggests that because women do not communicate in the same way, they assume that the emotional connection between men is lacking, but she assures her readers that "[i]t is there, and when you're inside it, it's as if you're suddenly hearing sounds that only dogs can hear."¹³³ Yet, that emotional

¹²⁷ *Id.* at 29

¹²⁸ Gilligan's research methods and analysis of these interviews have been criticized. CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 101 (Mary Becker et al. eds., 2d ed. 2001) (citing Linda K. Kerber, Catherine G. Greeno, Eleanor E. Maccob, Zella Luria, Carol B. Stack and Carol Gilligan, *On In a Different Voice: An Interdisciplinary Forum*, 11 SIGNS 304, 315 (1986)); Judy Auerbach, Linda Blum, Vicki Smith, and Christine Williams, *Commentary, On Gilligan's In a Different Voice*, 11 FEMINIST STUD. 149, 150–56 (1985); Debra Nails, *Social-Scientific Sexism: Gilligan's Mismeasure of Man*, 50 SOC. RES. 643, 654, 662–63 (1983); John M. Broughton, *Women's Rationality and Men's Virtues: A Critique of Gender Dualism in Gilligan's Theory of Moral Development*, 50 SOC. RES. 597, 604 (1983).

¹²⁹ See CHAMALLAS, *supra* note 98, at 19.

¹³⁰ VINCENT, *supra* note 1, at 25.

¹³¹ See *id.* at 29–30.

¹³² *Id.* at 46.

¹³³ *Id.*

connection and sense of camaraderie between men did appear to be lacking in the monastery.¹³⁴ Men who had lived together for decades hardly knew one another, and Vincent suggested that it was at least partially due to the lack of female presence to facilitate communication.¹³⁵

C. CONCLUSION

On the basis of Vincent's experiences and insights, the difference theorists, as opposed to the formal equality theorists, seem to be taking the correct approach. Formal equality theorists achieved progress for women by arguing that they are the same as men, and hence should have access to the same entitlements. Although Vincent would surely recognize and appreciate the progress made by formal equality theorists, she would likely argue that the law today should accommodate women's difference. Men and women are fundamentally different and equality will not be achieved by denying the existence of those differences. Vincent would likely suggest that forcing the issue of sameness between men and women is a futile exercise. Women should not have to act more like men, nor should men have to act more like women. Rather, women's uniqueness and conversely, men's uniqueness, should be embraced and equally respected by the law. To the extent that she equates the uniqueness of women and men, Vincent expands the cultural feminist approach. Cultural feminists should include men in the discussion. Although the perspective of women has been undervalued historically, that history does not make it superior. The perspectives of both women and men should be accommodated and celebrated.

III. NORAH VINCENT ON GENDER AND DOMINANCE

Dominance theory, which is associated with Catharine MacKinnon, is not concerned with the debate between formal

¹³⁴ See *id.* at 131-83.

¹³⁵ See *id.* at 158.

equality theorists and difference theorists.¹³⁶ Rather, MacKinnon posits that “to treat issues of sexuality as issues of sameness and difference *is to take a particular approach.*”¹³⁷ Dominance theory recognizes that men and women are different; however, it shifts the focus to the inequality of power between the sexes.¹³⁸ Vincent challenges MacKinnon’s theory that women are dominated by men, revealing that at least in some respects, women are more powerful.

A. DOMINANCE THEORY GENERALLY

Catharine MacKinnon believes that men and women are different; however, she objects to man as being the measure of all things.¹³⁹ Men are different from women to the same extent that women are different from men.¹⁴⁰ They are equal in their differences, but they are not socially equal.¹⁴¹ MacKinnon theorizes that equality is not a question of sameness or difference, but a question of power and specifically of male supremacy and female subordination.¹⁴² She claims that women are dominated by men and subordinated in society.¹⁴³ As a result, women are “damaged” and “not full people in the sense that men are allowed to become.”¹⁴⁴ Consciousness raising has revealed that women

¹³⁶ See Catharine A. MacKinnon, *Difference and Dominance: On Sex Discrimination*, in FEMINISM UNMODIFIED 32–45 (1987) (citing CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 108–16 (Mary Becker et al. eds., 2d ed. 2001)).

¹³⁷ *Id.* at 34 (citing CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 108–16 (Mary Becker et al. eds., 2d ed. 2001)).

¹³⁸ *See id.*

¹³⁹ *See id.*

¹⁴⁰ *See id.* at 37 (citing CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 112 (Mary Becker et al. eds., 2d ed. 2001)).

¹⁴¹ *Id.*

¹⁴² *See id.*

¹⁴³ Catharine A. MacKinnon, *Consciousness Raising*, in TOWARD A FEMINIST THEORY OF THE STATE 83, 86–88, 93–96, 101–05 (1989), (citing CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 92, 94 (Mary Becker et al. eds., 2d ed. 2001)).

¹⁴⁴ *Id.* at 95 (citing CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY 95 (Mary Becker et al. eds., 2d ed. 2001)).

operate under an implied sense of false consciousness, making decisions about their own lives based upon the male norms that they have internalized as their own.¹⁴⁵ MacKinnon does not believe that women reason “in a different voice” as suggested by Gilligan, but “in [a] feminine voice,” which has been silenced because women are powerless.¹⁴⁶

MacKinnon is particularly interested in the extent to which sexuality subordinates women, and has focused much of her attention on the issues of rape, pornography, domestic violence, and sexual harassment. Sexual violence is sex and “[cannot] . . . be categorized away as violence.”¹⁴⁷ In other words, “violence is sex when it is practiced as sex.”¹⁴⁸ She believes that sexuality and gender inequality are directly related. For women, subordination is sexualized, while for men, dominance is sexualized.¹⁴⁹

B. NORAH VINCENT: COMPLICATING DOMINANCE THEORY

Vincent's experiences complicate MacKinnon's views about the inequality of power between men and women. Vincent agrees that women have been disadvantaged historically, saying that “[t]he women's movement was in part about redressing feelings of powerlessness – physical powerlessness, institutional powerlessness – and the fear and rage that came of it.”¹⁵⁰ However, Vincent suggests that the issue is not so simple as men dominating women as a result of sexuality.¹⁵¹ After her experiences with dating and going to strip clubs, she believes that

¹⁴⁵ *See id.*

¹⁴⁶ *See* Catharine A. MacKinnon, *Difference and Dominance*, in *FEMINISM UNMODIFIED* 32–45 (1987) (citing *CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY* 108, 113 (Mary Becker et al. eds., 2d ed. 2001)).

¹⁴⁷ Catharine A. MacKinnon, *Sexuality*, in *FEMINISM UNMODIFIED* 5–8 (1987) (citing *CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY* 106, 107 (Mary Becker et al. eds., 2d ed. 2001)).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ VINCENT, *supra* note 1, at 126.

¹⁵¹ *See id.* at 126–29.

sexuality makes women powerful.¹⁵² She refers to the “monumental power of female sexuality,” which gives women an “immense advantage” over men.¹⁵³ However, the power inequality flips when men resort to rape to reclaim their power.¹⁵⁴

According to Vincent, the sexual power that women hold over men begins with men's sexual needs.¹⁵⁵ Vincent believes that men have a “primal” sexual drive, which is satisfied by viewing pornography and visiting strip clubs, among other things.¹⁵⁶ In her experience, the men she knew who visited strip clubs did not tell their wives, despite their professed love and respect for them.¹⁵⁷ They felt that their wives would not understand their need for an anonymous environment in which to satisfy their “primal” needs; needs of which they were ashamed and embarrassed.¹⁵⁸ Vincent found the strip clubs depressing and “[f]elt a despair that was salvaged only by the knowledge that [she] was not heterosexual.”¹⁵⁹ Vincent was comforted because she is not interested in “companionship or partnership” with men, but was still “insult[ed]” by the experiences as a woman and as “an emotionally needy sexual mind.”¹⁶⁰ Recognizing that the majority of women are heterosexual, she offers that they cannot know and do not want to know about the sexual desires of the men with whom they engage in sex.¹⁶¹ She theorizes that this “primal” sexual desire leaves men in a powerless position.¹⁶²

Evolutionary biology supports Vincent's portrayal of the male sexual drive. Because of the disparate “parental investment” necessary to produce offspring, it was evolutionary advantageous

¹⁵² *See id.*

¹⁵³ *See id.* at 126.

¹⁵⁴ *See id.* at 127–28.

¹⁵⁵ *See id.*

¹⁵⁶ *See id.* at 65.

¹⁵⁷ *See id.*

¹⁵⁸ *See id.*

¹⁵⁹ *See id.*

¹⁶⁰ *See id.* at 75.

¹⁶¹ *See id.* at 65.

¹⁶² *See id.* at 127–28.

for men to have sex with as many fertile females as possible.¹⁶³ Today, this leaves men more amenable than women to “impersonal sexuality,” or “sex not associated with affection and bonding.”¹⁶⁴ Generally speaking, men, unlike women, can be sexually satisfied by anonymous sexual interactions. Vincent, a lesbian, found this to be true when she was not sexually aroused by the lap dances she received by naked female strippers.¹⁶⁵

Although evolutionary biology may support Vincent's analysis, she reinforces certain stereotypes about male sexuality.¹⁶⁶ She seems to indicate that men must satisfy their sexual desire, and that is why they secretly go to strip clubs.¹⁶⁷ She says that men who were getting lap dances “[w]ere doing their business mechanically, lined up side by side as unabashedly as if they were pissing at the urinals in a roadside public restroom, just satisfying an urge, doing what needed to be done.”¹⁶⁸ She observed men “[s]truggl[ing] with their sexuality,” trying to “[s]uccessfully resolve the conflict between baseline male sexuality and the civilized role of a man.”¹⁶⁹ As Neil Malamuth, a psychologist, has stated just “[b]ecause a behavior may have been adaptive in evolutionary environments, and therefore contributed to the current structure of the mind, does not mean that such a behavior is desirable, moral, or inevitable.”¹⁷⁰

Vincent posits that men's sexual desires leave them powerless with respect to women who decide whether or not to

¹⁶³ Neil M. Malamuth, *The Confluence Model of Sexual Aggression: Feminist and Evolutionary Perspectives*, in *SEX, POWER, CONFLICT: EVOLUTIONARY AND FEMINIST PERSPECTIVES* 269, 271–80 (1996) (citing *CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY* 328, 331 (Mary Becker et al. eds., 2d ed. 2001)).

¹⁶⁴ *Id.*

¹⁶⁵ VINCENT, *supra* note 1, at 77–78.

¹⁶⁶ *See id.* at 75 (quoting a man who said, “[for] us guys getting off is a biological necessity . . .”).

¹⁶⁷ *Id.* at 74–75.

¹⁶⁸ *Id.*

¹⁶⁹ *See id.* at 66–67.

¹⁷⁰ Neil M. Malamuth, *The Confluence Model of Sexual Aggression: Feminist and Evolutionary Perspectives*, *SEX, POWER, CONFLICT: EVOLUTIONARY AND FEMINIST PERSPECTIVES* 269, 271–80 (1996) (citing *CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY* 329 (Mary Becker et al. eds., 2d ed. 2001)).

agree to sex or even to a date. However, men only remain powerless if they choose not to rape women. Where a man resorts to rape, the power balance flips and he becomes powerful over the woman. In the context of strip clubs, women decide when and how to service the clientele and get paid for their services. In response to the feminist argument that such women are objectified, Vincent says,

It wasn't nearly so simple as men objectifying women and staying clean or empowered in the process. Nobody won, and when it came down to it, nobody was more or less victimized than anyone else. The girls got money. The men got an approximation of sex and flirtation. But in the end everyone was equally debased by the experience.¹⁷¹

So, according to Vincent, female strippers are not powerless. Similarly, she argues that women, in the dating context, are not less powerful than men unless men resort to rape. From her experiences dating as Ned, Vincent observed the power that women have over men:

Dating women as a man was a lesson in female power, and it made me, of all things, into a momentary misogynist . . . I saw my own sex from the other side, and I disliked women irrationally for a while because of it . . . I disliked their superiority, their accusatory smiles, . . . the damage a woman can do with a single cutting word: no.¹⁷²

In other words, women are more powerful than men because they are traditionally the ones in the position to say no to dating and no

¹⁷¹ VINCENT, *supra* note 1, at 90–91.

¹⁷² *Id.* at 127.

to engaging in sex.¹⁷³ However, where men try to reclaim power by becoming sexually violent, women become powerless.

Because women are powerful in this sense, in ways that Vincent believes women do not fully appreciate, “[women] are in even more danger than we know or dare contemplate.¹⁷⁴ After witnessing that women have the power “[n]ot only to arouse, but to give worth, self-worth, meaning, initiation, sustenance, everything[,]” Vincent wondered, “[w]hether the most extreme men resort to violence with women because they think that’s all they have, their one pathetic advantage over all she seems to hold above them.”¹⁷⁵ Vincent is adamant that such behavior is inexcusable. However, she sees “[h]ow rejection might get twisted beyond recognition in the mind of a discarded male where misogyny and ultimately rape may be a vicious attempt to take what cannot be taken because it has not been bestowed.”¹⁷⁶ Vincent seems to suggest that rape is more about power than it is sex. Where men resort to sexual violence to reclaim their power, women are left powerless.

According to Vincent, complicating the issue of power is the fact that women like to be sexually subordinate. This supports Robin West’s claims who says that the experience of dominance and submission that go with the controlled, but fantastic, “expropriation” of our sexuality is precisely what *is* sexually desirable, exciting, and pleasurable.¹⁷⁷ Vincent discovered that the women she dated were sexually attracted to “manly men,” a group to which Ned did not belong.¹⁷⁸ Although they appreciated to

¹⁷³ *But see* Linda R. Hirshman & Jane E. Larson, *Rape: The Baseline*, in *HARD BARGAINS: THE POLITICS OF SEX* 268–72 (1998) (citing *CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY* 271–74 (Mary Becker et al. eds., 2d ed. 2001)) (“[proposing] to raise the baseline price of sexual consent by requiring an affirmative ‘yes’ as the condition for intimate access between adults”).

¹⁷⁴ VINCENT, *supra* note 1, at 128.

¹⁷⁵ VINCENT, *supra* note 1, at 127.

¹⁷⁶ *Id.*

¹⁷⁷ *See* Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 *WIS. WOMEN'S L.J.* 149, 185–86 (2000).

¹⁷⁸ VINCENT, *supra* note 1, at 129.

some extent Ned's communication abilities and emotional sensitivity, Vincent discovered that most of the women wanted "[b]rawny, hairy, smelly, stalwart, manly men; bald men, men with bellies, men who can fix things and, yes, men who like sports and pound away in the bedroom."¹⁷⁹ One woman confessed to finding such men "[e]motionally disappointing, especially in bed, but the physical strength, the roughness [she finds] erotic and [does] not prefer sex otherwise."¹⁸⁰ MacKinnon would respond by saying that women are operating under a sense of false consciousness when they desire to be sexually dominated. However, the women that Norah dated as Ned, who said that they preferred "manly" men, only said so after first dating Ned, a sensitive metrosexual. These women's preference for such men seemed genuine, not a product of internalizing male norms.

Based on Vincent's insights, MacKinnon's claim that women are less full people than men is unfounded. Rather, Vincent might suggest the opposite, that women are fuller people than men. Unlike women, who can publicly express a range of emotions, men are allowed a "[t]hree-note emotional range," which consists of little more than "[b]ravado and rage."¹⁸¹ The socially imposed restrictions on men's self-expression limit what is considered acceptable male behavior, and boys are socialized to conform to those restrictions. Just as women are victims of patriarchy, so too are men.

C. CONCLUSION

Vincent's experiences reveal that dominance theory, as discussed by Catharine MacKinnon, is problematic. Vincent does not deny that women have historically been disadvantaged by society. However, MacKinnon's analysis regarding the inequality of power fails to consider that women are powerful over men. Women are not made powerless by their sexuality, but are in fact powerful. Of course, where men react violently against women due to sexual frustration, women become powerless. To lessen the

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 118.

¹⁸¹ *Id.* at 278–79.

occurrence of rape and thereby prevent women from becoming powerless, the law should recognize that rape occurs as a reaction to women's power. Additionally, MacKinnon's theory is challenged by women's sexual desires to be dominated. Her dismissal of women's desires as being the result of false consciousness somehow seems inadequate, especially where women genuinely express an interest in "manly" men.

IV. NORAH VINCENT ON GENDER AND ESSENTIALISM

A. GENDER ESSENTIALISM DEFINED

Angela Harris defines "gender essentialism" as "the notion that a unitary, 'essential' women's experience can be isolated and described independently of race, class, sexual orientation, and other realities of experience."¹⁸² Theorists who engage in gender essentialism assume that women's experience can be categorized as something separate and distinct from other social classifications. As a result of this categorization, some voices are silenced.¹⁸³ Harris, a black woman, is particularly concerned with the silencing of black women's voices.¹⁸⁴ She suggests that the experience of black women is not equivalent to the experience of being black plus the experience of being a woman.¹⁸⁵ Harris claims that feminist scholarship has traditionally defined women's experience as the experience of white women.¹⁸⁶ She does not suggest that there should be no categories or generalizations, since that would leave each individual isolated; rather, she offers that those categories should be "tentative, relational, and unstable."¹⁸⁷

Harris offers four explanations for the prevalence of essentialism in feminist scholarship: (1) intellectual convenience; (2) emotional comfort; (3) power games; and (4) cognitive

¹⁸² Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 585 (1990).

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at 588-89.

¹⁸⁶ *See id.*

¹⁸⁷ *Id.* at 586.

comfort.¹⁸⁸ First, it is intellectually convenient to define women's experience as the experience of white women because it allows feminist theorists, who are primarily white, to write about that with which they are familiar.¹⁸⁹ Second, the feminist movement is considered "a place to feel safe, a place that must be kept harmonious and free of difference."¹⁹⁰ Third, there is a desire for solidarity among women so that women of conflicting opinions do not "splinter into mutually suspicious and self-righteous factions."¹⁹¹ Lastly, simplifying the experience of women into a unifying category allows for the organization of experience, "even at the cost of denying some of it."¹⁹² Harris argues that feminist scholarship must incorporate the diversity of women's experiences. She recommends energizing feminist legal theory by "subvert[ing] it with narratives and stories, accounts of the particular, the different, and the hitherto silenced."¹⁹³

B. NORAH VINCENT: EMBRACING GENDER ESSENTIALISM

Norah Vincent's experiences as Ned led her to believe that gender is more important to one's identity than any other social classification. She states:

Through Ned I learned the hard way that my gender has roots in my brain, possibly biochemical ones, living very close to the core of my self-image. Inseparably close. Far, far closer than my race or class or religion or nationality, so close in fact as to be incomparable with these categories, though it is so often grouped with them in theory.¹⁹⁴

¹⁸⁸ *Id.* at 605–07.

¹⁸⁹ *Id.* at 605.

¹⁹⁰ *Id.*

¹⁹¹ *Id.* at 606.

¹⁹² *Id.* at 607.

¹⁹³ *Id.*

¹⁹⁴ VINCENT, *supra* note 1, at 270.

For Vincent, being a woman has more impact on her sense of self than being white, coming from a relatively high socioeconomic status, being a former Catholic, or being an American.¹⁹⁵ Interestingly, Vincent fails to include sexual orientation as an incomparable category.¹⁹⁶ Perhaps she considers her lesbianism as being one and the same as her gender. Nevertheless, it seems problematic for her theory that she fails to define sexual orientation as being similarly less important relative to gender. Vincent's homosexuality is likely as central to her sense of self as being black is to Angela Harris. The fact that she fails to include sexual orientation as an incomparable category lessens the potential impact of her theory.

Setting aside her exclusion of sexual orientation, Vincent theorizes that gender is more important than any other social classification, both in terms of how a person views himself or herself, and in terms of how others view him or her. Vincent notes that our society has a need to know gender, which begins with the desire of parents to determine the sex of their baby, and also, that our society is incapable of acting gender neutrally.¹⁹⁷

In all my experiences passing back and forth between male and female – often going out in public as both a man and a woman in one day – I rarely if ever interacted in any significant way with anyone ... who didn't treat me and the people around me in a gender-coded way, or freeze uncomfortably when they were uncertain whether I was a man or a woman . . . If they don't know what sex you are, they literally don't know how to treat you. They don't know which code to opt for, which language to speak, which specific words and gestures to use, how close they can come to you

¹⁹⁵ See *id.* at 20, 133, 270.

¹⁹⁶ See *id.* at 270.

¹⁹⁷ See *id.* at 223–24.

physically, whether or not they should smile and how.¹⁹⁸

Vincent seems to suggest that gender-coded behavior is prevalent, while racial-coded and class-coded behaviors are not. Although that may be true today, at least in the United States, the analysis appears contextual, since historically, interactions between people have been dependent on race and class.¹⁹⁹

Assuming that Vincent is correct in her view of gender relative to other social categorizations, Harris' analysis is flawed and her recommendations for feminist scholarship misguided. Harris is critical of theorists like Catharine MacKinnon and Robin West, who make essentialist arguments. This has the effect of lessening the relevance of their arguments because they allegedly fail to address the experiences of all women. But, according to Vincent, they are correct to rely on gender essentialism, since gender, more so than other categorizations, is at the core of one's self-image as well as determinative of social interactions. MacKinnon improperly understands Harris as preferring to associate with men, assuming that she would rather be identified by her race, which she shares with men, than by her gender.²⁰⁰ By embracing her identity as a black woman, Harris is not attempting to disassociate herself from women but is simply asking that her race not be denied or overlooked. Vincent would likely appreciate Harris' desire to be defined as a black woman, since she would define herself as a lesbian woman. Vincent's embrace of her identity as homosexual, which aligns her with gay men but does not translate to denouncing her identity as a woman. That said, Vincent discovered that gender is most important, meaning that

¹⁹⁸ *Id.*

¹⁹⁹ See, e.g., JOHN HOWARD GRIFFIN, *BLACK LIKE ME* (1960). (Griffin, a white journalist, darkened his skin to experience racism in the South in the 1950s from the perspective of a black man).

²⁰⁰ Catharine A. MacKinnon, *From Practice to Theory, or What Is a White Woman Anyway?*, 4 *YALE J.L. & FEMINISM* 13, 18, 20-22 (1991) (citing *CASES AND MATERIALS ON FEMINIST JURISPRUDENCE: TAKING WOMEN SERIOUSLY* 179-81 (Mary Becker et al. eds., 2d ed. 2001)).

gender essentialists are correct to place women's experience ahead of considerations of race, class or any other social categorization.

V. NORAH VINCENT ON INDIVIDUALISM AND THE THIRD WAVE

A. THIRD WAVE FEMINISM GENERALLY

Third wave feminism refers to the recent efforts to redefine what it means to be a feminist. Third wave feminists grew up in the 1970s and 1980s, and "came of age with the awareness that certain rights had been won by the women's movement."²⁰¹ According to Gloria Steinem, this generation of feminists is "responding to the need to invent itself both with the approval of the world and in the hope of changing it."²⁰²

In *Manifesta: Young Women, Feminism, and the Future*, third wave feminists Jennifer Baumgardner and Amy Richards discuss how feminism is being redefined by women in their twenties and thirties.²⁰³ Third wave feminists embrace their sexuality and "girlie culture."²⁰⁴ Recognizing a lack of political organization among such feminists, Baumgardner and Richards encourage young women to be politically active.²⁰⁵ Third wave feminism is about "embracing individual experiences and making personal stories political."²⁰⁶ Unlike second wave feminists, who are concerned about women's inequality to men, third wave feminists are interested in gender inequality as it affects both

²⁰¹ JENNIFER BAUMGARDNER & AMY RICHARDS, *MANIFESTA: YOUNG WOMEN, FEMINISM, AND THE FUTURE* 3 (Farrar, Straus and Giroux 2000).

²⁰² Gloria Steinem, *Foreword* to *TO BE REAL: TELLING THE TRUTH AND CHANGING THE FACE OF FEMINISM*, at xviii (Rebecca Walker ed., 1995).

²⁰³ See BAUMGARDNER & RICHARDS, *supra* note 193.

²⁰⁴ See *id.*

²⁰⁵ See *id.* at 138.

²⁰⁶ Kristina Sheryl Wong, *Pranks and Fake Porn: Doing Feminism My Way*, in *CATCHING A WAVE: RECLAIMING FEMINISM FOR THE 21ST CENTURY* 294, 295 (Rory Dicker & Alison Piepmeier eds., 2003).

women and men.²⁰⁷ Thus, men are more involved in the discussion, both as a central subject and as participants.²⁰⁸

B. NORAH VINCENT: SUPPORTING THIRD WAVE FEMINISM

Self-Made Man is an example of third wave feminist scholarship, because it tells the story of Vincent's personal experiences, and makes those experiences political. She discusses her individual experiences, as Norah and as Ned, and uses those experiences to evaluate gender. By virtue of her age, Vincent is at the upper end of third wave feminists.²⁰⁹ Second wave feminists have provided third wave feminists with the luxury of questioning the meaning of gender, as Vincent does in *Self-Made Man*.

Like third wave feminists, Vincent is interested in gender inequality as it affects both women and men. Men are suffering just like women, says Vincent.²¹⁰ She refers to the "straightjacket of the male role," which is "[no] less constrictive than its female counterpart."²¹¹ After experiencing life as a white male, Vincent suggests that "[w]hite manhood [is] . . . just another set of marching orders, another stereotype to inhabit."²¹² She says:

"Men's healing is in women's interest, though for women that healing will mean accepting on some level not only that men are – here is the dreaded word – victims of the patriarchy, too, but (and this will be the hardest part to swallow) that women have been codeterminers in the system, at times as

²⁰⁷ See, e.g., Jason Schultz, *Getting Off on Feminism*, in *TO BE REAL: TELLING THE TRUTH AND CHANGING THE FACE OF FEMINISM* 107 (Rebecca Walker ed., 1995).

²⁰⁸ See *id.*

²⁰⁹ See VINCENT, *supra* note 1, at 184 (commenting that she was thirty-five years old toward the end of her project).

²¹⁰ *Id.* at 286.

²¹¹ *Id.* at 276.

²¹² *Id.* at 280.

invested and active as men themselves in making and keeping men in their role."²¹³

Both men and women have ignored and created the "crisis of masculinity," and it is to the benefit of both sexes to address the crisis by including men in the debate about gender inequality.

C. CONCLUSION

Norah Vincent's insights about gender, articulated in *Self-Made Man: One Woman's Journey into Manhood and Back Again*, arose out of her unique perspective as having experienced life as a man in disguise.²¹⁴ Her conclusions about gender complicate the work of legal theorists, confirming the views of some and challenging the views of others. Although feminist legal theorists generally share the common goal of gender equality, they offer conflicting ideas about how equality may be best achieved. Vincent's experiences offer a lens through which to evaluate those conflicting theories of gender.

Vincent's experiences and insights support the view of difference theorists, like Carol Gilligan, who posit that men and women are fundamentally different. However, she does not address whether those differences are based on a male standard, as suggested by Catharine MacKinnon. According to Vincent, the power struggle between men and women is more complicated than is portrayed by MacKinnon's dominance theory. Women are sexually powerful, but where men resort to violence to regain power, women become powerless. Yet, she fails to consider that because rape is always a possibility, women are essentially powerless. Vincent's experiences suggest that Angela Harris' criticism of gender essentialism is misplaced, since gender is a more important social categorization than race or class. And yet, Vincent leaves unanswered the question of how to accommodate for the fact that minority women are subject to double discrimination. According to Vincent, third wave feminists are correct to emphasize personal experiences and to encourage the

²¹³ *Id.* at 272.

²¹⁴ See VINCENT, *supra* note 1.

participation of men in the debate about gender. However, she fails to suggest how men and women can begin to resolve the crisis of masculinity.

Norah Vincent's experiences suggest three ways in which the law should respond. First, we should be taking gender more seriously. Gender is at the core of one's self-identity, as evidenced by Vincent's mental breakdown. Regardless of whether the differences are based on a male standard, women and men are fundamentally different. Second, we should focus on women's experience as a separate and distinct classification from race and class. Gender, more so than any other social categorization, is determinative of self-identity and social interactions. Lastly, we should be cognizant of men's experience and include men in the dialogue. Like women, men too are suffering, and their voices should be heard.

