'SHE ASKED FOR IT'.

A TEXTUAL ANALYSIS OF THE RE-NEGOTIATION OF THE MEANING OF RAPE IN THE 1970s-1980s

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A Textual Analysis of the Re-negotiation of the Meaning of Rape in the 1970s-1980s.

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Jacqueline O'Neill
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Me aro koe ki te ha o hineahuone

Pay heed to the dignity of women

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INTRODUCTION

The discursive construction of 'rape' has changed in an important way over the past twenty years. The way we consider and respond to rape today as a society, and often as individuals, is very different to the mid-1970s.[1] From this period, feminists played a considerable role in the re-negotiation of the meaning of 'rape'. From the narratives of rape victims, feminist discourse produced an alternative meaning. Feminist knowledge and action helped shape legal reform and brought radical changes to the treatment of rape 'victims'.[2] The focus of this thesis is the shift in the meaning of rape from the mid-1970s to the mid-1980s, and in particular, the role feminists played in it.

Meaning is produced in discourse. At any one time particular discourses will be dominant in constructing what is understood to be the 'real' meaning of 'rape'. While the experience of rape is 'real' enough for its victims, how rape is constructed has important implications for the identities and experiences of both rape victims and rapists, and more generally, the experience of all women. Its meaning is, however, always unstable. The discourses that converge to produce dominant meanings are not wholly consistent and at certain times contesting discourses arise. In the 1970s, the meaning of 'rape' became hotly contested. Newer ways of talking and acting, in particular feminist discourse, widened the discursive space for making sense of rape, challenged the constructions which produced the older meaning, and effected a shift in that meaning.

It is in this context that I intend to analyse the process in which discourses interwove, unmade, and remade the meaning of rape. This involves exploring the established and newly emerged discourses, on rape, their context, their relationship to social practices, and the ways in which they engaged with each other. Of particular focus is feminist discourse, its practices and its impact on both internal and external discourse. Internal discourse refers to how women themselves made sense of their rape experiences, and

[1] Amy Chasteen, "Constructing Rape: Feminism, Change, and Women's Everyday Understandings of Sexual Assault", *Sociological Spectrum,* vol. 21, issue 2, April, 2001, EBSCOHOST, p. 1.

external discourse refers to how others constructed meaning of women's rape experiences. The discursive practices of institutions that dealt with rape victims, such as the government and its agencies, the judiciary and the medical profession, are also analysed. These discourses were principally engaged in a re-negotiation of the meaning of rape that culminated in significant reform of the law in 1985. An analysis of the reform can reveal the extent of the shift in the meaning of 'rape' within particular discourses. Therefore, the process and outcome of legal reform is a focal part of my discussion.

Contesting the meaning of rape

In the early 1970s, the dominant meaning of rape related a rape narrative in which a male stranger, either 'deviant' or over-amorous, probably working-class and/or Maori, got carried away with a 'she asked for it' kind of girl. Gender constructions embedded in medical and legal discourses contained the problem of rape by making it largely invisible. These masculinist discourses supported rape myths such as, women naturally lie, no really means yes, and rape is impossible, which denied the experiences of rape victims, effectively silencing them, and simultaneously, upheld male sexual privilege.

The Women's Liberation Movement that emerged in the 1970s contested this construction. Feminist discourse constructed an alternative meaning, founded primarily on the experiences of rape victims. It challenged assumptions about rape's prevalence, causes, and consequences, and provided an alternative analysis for making sense of sexual violence.[3] Feminists took bold action. Speak-outs, Reclaim the Night marches, vigilante action, and the setting up of rape crisis centres, were some of the more significant feminist practices which challenged conventional social and political responses to rape.

The feminist challenge went further than individual analyses of individual cases: it located rape in 'normal' heterosexuality. This made possible the statements 'all men are

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[2] Some people prefer the word 'survivor' to victim as 'victim' carries with it notions of powerlessness and vulnerability. But to speak of a person as a survivor who has only recently experienced such an event seems premature. I use the term 'victim' in this thesis.

[3] Chasteen, p. 101.

potential rapists' and 'all women are potential victims'. Rape victims were not provocative women: instead, all women were vulnerable to the threat of rape. And rather than the stereotypical working-class, amorous, and coloured rapist, feminists pointed the finger at the relatively more powerful middle-class pakeha men. For some feminists, race became integral to their analysis of, and response to, sexual violence. This was reflected in The National Collective of Rape Crisis and Related Groups of Aotearoa actively accepting Maori as tangata whenua.[4]

Feminist knowledge constructed rape as an ordinary event, not an extraordinary one. The feminist challenge made the gender order problematic: it subverted long-held understandings people had about men, women and sexuality. Not surprisingly, many men had difficulty listening to feminist talk, and so too did many women who had invested their well-being and safety in that patriarchal genderised order.

Literally 'patriarchy' refers to 'rule by the fathers'.[5] Radical feminists[6] used it to refer to the constructions of gender which gave individual men power over women.[7] As the 'rule makers', men controlled women's sexuality, especially through the virgin or madonna/whore dichotomy. The line between whore and madonna was an arbitrary one. "No woman knows just how much sexual experience will be sufficient to push her over the line into the debased class. This depends on surrounding male whim."[8] But women who followed the 'rules' of femininity could also benefit from this distinction. To be a 'madonna' conferred status, and enabled one to demand protection. Distinguishing oneself from 'other' women, i.e. 'whores' also reduced one's perception of the personal

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[4] Lynne Alice, "Another Pair of Eyes: Women's Spirituality and Feminist Politics", in *Feminist Voices. Women's Studies Texts for Aotearoa/New Zealand*, Rosemary du Pleiss (ed.), Melbourne: Oxford University Press, 1992, p. 149.

[5] Alison Jaggar, *Feminist Politics and Human Nature,* Totawa, New Jersey: Rowman & Littlefield, 1988, p. 102.

[6] See chapter 3 for a discussion of radical feminism, p. 79.

[7] Karen Dubinsky, *Improper Advances. Rape and Heterosexuality, Conflict in Ontario, 1880-1929*, Chicago: University of Chicago Press, 1993, p. 32.

[8] Debbie Jones, "The Erotic Revolution: Is Sexual Freedom Revolutionary?", in *Learning About Sexism in New Zealand*, Phillida Bunkle, Stephen Levine, and Christopher Wainwright (eds), Wellington: Learmonth, 1976, p. 30.

threat of rape. Thus feminist talk had the effect of challenging both men and women's experiences.

To contest the meaning of 'rape' was to do more than ask who was telling the 'true' story in a rape event. It generated intense anxieties. It threatened other social constructions such as gender, race and class.[9] Contesting the meaning of 'rape' also questioned the institutions of marriage and family, considered foundations of society, and the culture of masculinity. The rape debate became part of the social and political unease stirred up by the changing role of women. In this way sex can be viewed as a medium for wider social concerns and a focus of struggles over power.[10]

Parameters of the thesis

In this thesis, the meaning of rape is fluid, reflective of discourses used by people of the time rather than my own understanding of rape. The word 'rape' is also inclusive of the 'rape event', 'rapist' and 'rape victim'. For the purposes of my thesis, a 'rape victim' is an adult female subject to non-consensual sex; this is both a gender and age demarcation. It assumes women can be studied as a group because sex is of central cultural significance.[11] Acknowledging that there are differences among women's experiences, and even that gender may not frame their primary experience, does not detract from this. Feminist research demonstrates that rape was, and is, a reality that has an impact on all women whether they experience it as an actual event or as an effect of that event.

The centrality of sex makes it difficult to avoid making sense of the rape event without the filter of gender discourse. A woman's body was the site where a rape action was perpetrated and such an action was understood to be sexual. Although feminist discourse often used an analysis of power, it still located rape in a patriarchal order, the ultimate expression of male sexual dominance over women.

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[9] Class in this thesis is analysed only in context of the older construction of the rapist.
[10] Jeffrey Weeks, *Sexuality and Its Discontents: Meanings, Myths, and Modern Sexualities,* London: Routledge, 1985, p. 16.

Much of the discursive space surrounding sexual violence at this time was also marked by this distinction. Legal and most feminist discourse restricted the word 'rape' to refer only to a specific act between a male assailant and a female victim.[12] Legally it was not possible for a man to be raped, although a man could be sexually assaulted. Nor was there much acknowledgment of male victims. Feminist discourse viewed rape as a powerful tool in the male oppression of women. Rape was seen, and still is by many today,[13] essentially as male sexual aggression against females. The gender demarcation is also reflective of my perspective in this thesis, i.e. a feminist one. As Catherine MacKinnon, an American feminist theorist and practicioner of law says, "sexuality is to feminism what work is to Marxism: that which is most one's own yet most taken away".[14]

The discursive space of sexual violence also made a distinction between child and adult victims. Legal discourse on rape emphasised adult rather than child victims of rape. Other discourses constructed the experiences of children and adults differently, e.g. discourses on childhood could automatically define the event as non-consensual; there was no question of consent. But not all discourses separated adult from child victims. Feminist discourse often linked the two under a single analysis of power. The age demarcation is revealed to be even more arbitrary, for at times, young adolescents were treated as adult by the judiciary and the public.

Feminist perspectives

This thesis has a feminist perspective. 'Feminism' is a broad encompassing name; it does not represent a homogenous group of women. I have always enjoyed Rebecca West's definition: "I myself have never been able to find out precisely what feminism is: I only know that people call me a feminist whenever I express sentiments that differentiate me from a doormat."[15] Cathy Roberts describes feminism as an intricate interweaving of feelings, ideas and experiences that have become a set of views on the situation of

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[11] Judith Allen, *Sex and Secrets. Crimes Involving Australian Women Since 1880,* Melbourne: Oxford University Press, 1990, p. 1.
[12] This has a general application. Not all feminists held this restrictive definition.
[13] Having said this it should also be added that there is now a greater acknowledgment of female perpetrators of rape and of specific gender obstacles that may deter male victims of rape from reporting.
[14] Catherine McKinnon quoted in Allen, p. 2.

women. She states the common ground in feminism is that women's position in the social structure should be defined by 'us'.[16]

For the purposes of this thesis, Naomi Wolf's ideas on feminism resonate with mine. She says feminism should be broadly understood as a humanistic movement for social justice. Thus it precludes hate - it is illogical to claim one's rights as a woman yet deny them to others. But feminism also sets a narrower focus than 'humanism': on this level it is appropriate to work on behalf of women because female humans are oppressed in ways unique to their sex.[17]

Shulamit Reinharz says feminist research does not entail defined feminist research methods but, rather, a feminist doing research.[18] Feminist methods are not necessarily seen as being different from masculinist or mainstream methods, but feminists can make unique contributions by seeing patterns and inter-relationships, and implications of questions, that non-feminists may not see.[19] Mainstream methods are thus reformulated to offer other possibilities. And "feminist scholarship and empirical research ...have particular qualities that distinguish it from other research ... in its choice of problems and objectives".[20] Nor is there only one way to do feminist research.[21]

Feminist scholarship has a strong relationship with action and does not separate the production of knowledge from its uses.[22] In part, through this thesis, I intend to demonstrate the significance of the role of feminist groups in the law reform and in the treatment of rape victims that took place in the 1980s. I will contend that without their 'talk and walk' little would have changed. It is easy for marginal or minority groups to be written out of history. Cathy Roberts contends that feminist thought and action are not

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[15] As quoted on a postcard, Cath Tate Cards, London.
[16] Cathy Roberts, *Women and Rape*, Hertfordshire: Harvester Wheatsheaf, 1989, p. 1.
[17] Naomi Wolf, *Fire With Fire. The New Female Power and How It Will Change the 21st Century,* London: Chatto & Lindus, 1993, p. 152.
[18] Shulamit Reinharz, *Feminist Methods in Social Research,* New York: Oxford University Press, 1992, p. 7.
[19] ibid.
[20] Lott Bernice quoted in Reinharz, p. 3.
[21] ibid, p. 243.
[22] ibid, p. 94.

often acknowledged as part of our cultural heritage, but a part they are. Significantly, she asserts that the work of the feminist anti-rape campaign and the personal experiences of women who have been raped are a part of the background and development of therapy and support services the world over.[23]

Charlotte Macdonald talks from her experience as a university lecturer in the 1990s of teaching students who had little if any memory of the Women's Liberation Movement of the 1970s, and says we need to present the contemporary movement in its historical context.[24] This relates to the feminist concern to reclaim the lives of past women, because in understanding what has gone on before we can better know and act upon our present.[25] Judith Allen also sees a study on a criminalised practice such as rape with regard to sexuality and power as contributing to the broader historical study of negotiations between the sexes.[26] This is more than just filling in a gap in women's history: it reveals how women as a group were marginalised. The deconstruction of discourses that made this possible has a contemporary relevance.

The ease with which minority voices, in this case those of feminists, can be erased from history, can stem from the colonisation of their self-definitions. Listening to contemporary conversations, it seems to me that the word 'feminism' has now attached to it a sense of embarrassment, or is perceived to equate to unfeminine man-haters.[27] This attests to the success of counter-discourses that have subverted the original meaning of feminism, as most feminists understood it, to mean something that is not 'normal', is extremist and scary. To counter this, I think it is important to reclaim the word

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[23] Roberts, 1989, p. vii.
[24] Charlotte Macdonald, *The Vote, the Pill, and the Demon Drink. A History of Feminist Writings in New Zealand,* Wellington: Bridget Williams Books, 1993, p. 2.
[25] Liz Stanley quoted in Reinharz, p. 159.
[26] Allen, p. 12.
[27] I have heard women declare emphatically that they are not feminists when their behaviour is strongly suggestive that they are.
The National Collective of Women's Refuges is at present considering changing the descriptions of its four cornerstones, one of which is Feminism. The suggested change is to Women's Rights, and the rationale is that the previous title is outdated and they now need something that is more in keeping with contemporary society. Personal communication with Timaru Women's Refuge co-ordinator, March 2005.

'feminism' as something positive, complex and dynamic, and to demonstrate its significance in and for the experience of every woman.

By representing feminist talk and action in their own terms (mediated by a supportive feminist), women and men can access feminist meanings without the typical negativity. In a time when distinction between men and women is perceived to be less obvious, e.g. because of numerous women in higher levels of employment and more laws to support women's rights, there is possibly a weaker base for feminist political mobilisation. A study of the roots of a feminist movement against sexual violence in the past can provide some clarity for a contemporary analysis.

Some stylistic differences are also associated with feminist scholarship. To reflect her feminist stance, Shulamit Reinharz makes decisions which include using 'her' as the generic pronoun rather than 'him', nonmasculinist terms such as 'distribution' rather than 'dissemination', women's full names rather than impersonal, masculinist surnames, and the use of nonmilitary language.[28] Some of these particular stylistic choices make sense to me, and I intend to adopt them in the writing of this thesis.

Post-modern approaches

Post-modernism and feminism are useful allies in analysing gender. Discourse analysis is the primary tool I use to write this feminist social history. A discourse is a system of statements that construct an object. "It refers to a set of meanings, metaphors, representations, images, stories, statements and so on that in some way together produce a particular version of events."[29] Discourse is manifested in texts, and given that virtually all aspects of human life are imbued with meaning, everything around us can be considered as 'textual'.[30] Michel Foucault treated discourses and practices as if they were

[28] Reinharz, p. 16.
[29] Vivian Burr, *An Introduction to Social Constructionism,* London: Routledge, 1985, p. 48.
[30] ibid, p. 51.

the same thing. Material practices are always invested with meaning, i.e. they have the status of a text.[31]

Discourse analysis proceeds through deconstruction of the text. Textual criticism can identify "discrete meaning systems employed in the understanding of personal and social phenomena and entails an analysis that is attentive both to detail in language and to the wider social picture".[32] Deconstruction involves taking texts apart and seeing how they are constructed in different ways to project particular images of people and their actions.[33] This is necessarily a subjective and interpretative process. Several models provide a means of doing this.

Jacques Derrida describes dominant forms of Western thought as structured in hierarchical binary oppositions or dichotomies, but relying for their meaning on devices that fall outside this logic and are therefore denied in the official text.[34] Because language is a self-referring system (i.e. words or 'signifiers' gain meaning only from other 'signified', or what words refer to) to talk about something is necessarily to talk about what it is not. In this way, presence contains absence. Jacques Derrida referred to this as *differance*.[35]

He argued that hierarchical binary oppositions are typical of ideologies. They lead readers to believe that one side of the dichotomy has a greater value, when neither can exist without the other.[36] To deconstruct a text is to draw out its conflicting logics with the aim of showing that the text never exactly means what it says or says what it means.[37] The deconstruction of a text seeks to reveal its 'hidden' internal contradictions and

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[31] Ian Parker, *Discourse Dynamics: Critical Analysis for Social and Individual Psychology*, London: Routledge, 1992, p. 17.
[32] Damian O'Neill, "Men Against Violence: A Post-Structuralist Critique of the Science and Practice of Stopping Men's Violence to Women in an Applied Community Setting", Ph.D. thesis, Massey University, 1997, p. 31.
[33] Burr, p. 164.
[34] Chris Atmore, "The Mervyn Thompson Controversy: Feminist Deconstructive Reading", *New Zealand Sociology,* 9 (2) 1994, p. 176.
[35] Burr, p. 107.
[36] ibid.
[37] Atmore, p. 177.

repressed meanings and shows us how we are led by the text into accepting the assumptions it contains.[38]

Thus deconstruction has the potential to unsettle binary oppositions that embody power relations.[39] "Wherever, within the cultural matrix, power claims privilege for itself in the name of Being, presence, authoritative speech, essential nature, absolute Truth, in sum as pure identity and sameness, then *differance* can be called on to instigate a relativisation and subversion of that power. "[40] The domain of gender is viewed as particularly inviting of this strategy.[41]

Jacques Derrida has also identified logocentrism with *phallagocentrism.* He has claimed that "it is the one and the same system: the erection of a paternal logos ... and of the phallus as 'privileged signifier'".[42] It is possible to conclude from this that the hierarchy of masculine/feminine is the most forceful and encompassing binary that links all others.[43] This goes some way to explain the centrality of sex to our lived experiences, and of the difficulty of interpreting rape outside a gender framework.

Instead of the logic of either/or, Jacques Derrida recommends that we adopt the logic of both/and. To merely invert the opposition by privileging the second term would retain the power relations previously exercised. This idea is expressed in Naomi Wolf's definition of feminism, in which she says it is illogical to claim one's rights as a woman and yet deny them to others.[44]

Post-modernism identifies a multitude of ways of assigning meaning to the world, and to the understandings and defining of events and entities within it which are available to

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[38] Burr, p. 165.
[39] Anthony Easthope and Kate McGowan (eds), *A Critical and Cultural Theory Reader,* Buckingham: Open University Press, 1994, p. 103.
[40] ibid, p. 107.
[41] ibid.
[42] Jacques Derrida quoted in Easthope and McGowan, p. 103.
[43] ibid.
[44] Wolf, p. 152.

people at any time in a specific socio-historical space.[45] Each version of reality favours particular possibilities for personal identities, social relationships and social institutions. It is through discourses that we make sense of our personal experiences, define them, and act in them. Meaning is plural, and consciousness is a site of conflict between competing discourses, as each discourse offers different subject positions for an individual to adopt or an institution to practice.[46]

Within this discursive field, one discourse is usually more dominant, having procured for itself the stamp of truth. In this way, meaning-making and control over language are important resources held by those in power.[47] Discourses produce and reproduce power relations. Talk, writing, and social encounters can be viewed, therefore, as sites of struggle and conflict where power relations are acted out, contested and resisted.[48] Naming is power, and naming certain situations as sexually coercive or not will impact on how those situations are experienced and made sense of.[49] Thus discourse analysis enables us to examine how discursive practices create and uphold particular forms of social life and to expose power inequalities.

Discourses are not monolithic; there are internal points from which they can be attacked, and they are threatened by other discourses.[50] Ian Parker describes discourses as embedding, entailing and presupposing other discourses. Discourses provide spaces - the concepts, metaphors, models and analogies - for making new statements within any specific discourse.[51] This reflects their inter-textuality. Context and text are relational. They stand a part of, and apart from each other. The process in which meanings are transferred from one body to another is never one of simple inscription, but rather one of

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[45] O'Neill, p. 18.
[46] ibid.
[47] Charlene Muehlenhard, Irene Powich, Joi Phelps and Laura Giusti, "Definitions of Rape: Scientific and Political Implications", *Journal of Social Issues,* vol. 48, no. 1, 1992, p. 23.
[48] Burr, p. 41.
[49] Muehklenhard, Powich, Phelps and Giusti, p. 41.
[50] Burr, p. 74.
[51] Parker, p. 13.

re-inscription.[52] In this way, discourses interweave to unmake and remake both text and context.

Understanding the discursive process as relational and inter-textual, containing more fluid and complex dichotomies, allows for a fuller, and ultimately more human, analysis of history. Karen Dubinsky in her book, *Improper Advances. Rape and Heterosexual Conflict in Ontario 1880-1929,*[53] argues against conflating heterosexuality and sexual violence and seeks to recover the various ways women have resisted patriarchal norms of sexual behaviour and attempted to carve out their own sexual territory. Otherwise, she asks, how could we understand the many women who resisted unwanted male incursions on their bodies by taking their cases to court? Thus she promotes the concept of sexual autonomy in women, alongside their experiences of victimisation in sexual relations. The duality of women, as both victim and agent, is a particularly useful construct in viewing feminists in my study.

In a different way Susan Ehrlich uses the concept of a 'community of practices' to analyse language in order to shift away from overarching generalisations about women and men.[54] A 'community of practice' is defined as a group of people 'who come together around mutual engagement in some common endeavour'. As linguistic practices arise out of the kinds of community of practice with which we are involved, an understanding of such local practices and activities should provide greater insight into the differential linguistic behaviour of women. This allows for a focus on gender in its fuller complexity and reflects the fluid inter-textuality of context and text.

But a flaw in a less dichotomous understanding of We and Them, is a weaker basis for feminist political mobilisation. Conversely, such an understanding can be viewed as offering more opportunity for real change as it is more inclusive, has more potential for

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[52] Chris Hilliard, "Island Stories. The Writing of N.Z. History, 1920-1940", M.A. thesis, University of Auckland, 1997, p. 12.
[53] Karen Dubinsky, *Improper Advances. Rape Heterosexuality, Conflict in Ontario, 1880-1929,* Chicago: University of Chicago Press, 1993.
[54] Susan Ehrlich, "Communities of Practice, Gender and the Representation of Sexual Assault", *Language in Society,* 28, 1999, p. 239.

asserting rights without denying others, and forces a more sophisticated analysis of a problem. The latter, in particular, is realised in Karen Dubinsky's book when she seeks to replace an early feminist analysis of rape with one that takes into consideration the complex interplay of structures and ideologies that support patriarchal domination.

A strongly dichotomous understanding of We and Them characterised the early feminist movement on sexual violence. Though this provided a solid basis for political action, it also obstructed some feminists in developing their conceptualisation of, and response to sexual violence. Naomi Wolf sees 'victim feminism' as having slowed women's progress.[55] The difficulty in accepting that men could be victims, or support people in women's lives, also had this effect. When at times some rape crisis centres refused access to men, it had a negative effect on both women's and men's post-rape experiences.

Post-modernism provides for the possibility of agency. Power relations always involve the possibility of resistance, are intrinsically unstable, and can be reversed.[56] At an unconscious level we, as individuals, are constantly in the process of constructing and negotiating our own identities from the available discourses. But it is conscious engagement with discourses and related social practices that holds the potential for personal and social change.

Feminist consciousness-raising offered and realised this potential. "Although ... the subject is constituted in discourse, this subject is yet capable of historical reflection and is able to exercise some choice in respect to discourses and social practices that it takes up for its own use."[57] Change becomes possible because people are capable, given the right circumstances, of critically analysing discourses that frame their lives.[58] They can then either resist, claim, or re-contextualise the positions afforded them according to the

[55] Wolf, p. 147.
[56] Patrick Baert, *Social Theory in the Twentieth Century,* United Kingdom: Polity Press, 1998, p. 125.
[57] Burr, p. 90.
[58] ibid.

possibilities they wish to pursue. As these things have been made, they can be unmade, as long as we know how it was they were made.[59]

But agency is not limitless. It is constrained by both the limits discourse places on what can be said about objects and on the identities that impact on what claims a person can make. Thus while women could claim they were raped, a legal discourse that positioned women as duplicitous made their claims of rape difficult to legitimate and privileged a male version that described what occurred as consensual sex.

Criticisms of a post-modernist approach are to the suggestion that there is nothing outside language, and to its potential to slide into relativism. Ian Parker observed that post-structuralism can provoke an exhorbitation of language at the expense of everything else, including politics.[60] But he offers some way to ameliorate this problem that is useful in thinking about sexual violence. He provides for a reality that exists outside the texts. We can think of things as having one of three object statuses: ontological, epistemological and moral/political, and it is this reality that provides the raw material from which we may structure our understanding of the world through discourse. Ontological objects are objects that form the material basis of thought. These can include all aspects of our physical and social environment that structure our action. But we cannot directly know of them. They are mediated through language, which is a constructive process. When we give meaning to them they enter the epistemological sphere. The third realm of moral/political objects refers to special epistemological objects which are 'called into being' through discourse, such as mental illness and personality.[61]

The idea that emerges from Ian Parker's concepts is that while reality does not determine knowledge it lays down important restrictions on the way in which the world can be constructed. Thus a rape event has a material basis in reality but we can only make sense of it through the constructive process of language. This does not deny the actual experience of rape, but makes subjective the interpretation of it. It is this subjectivity that

[59] Baert, p. 127.
[60] Parker, p. 41.
[61] Burr, p. 87.

provided the opportunity for feminists to challenge an essentially patriarchal definition of rape. And, while it is also this very subjectivity that can support claims of relativism, 'reality' limits what can be said about rape. When feminists related self-narratives of rape victims, previously silenced, the established rape narrative made less sense. For example, when women broke their silence and large numbers of women began to say they had been raped, the traditional position that rape was an extraordinary event fragmented.

In discourse analysis, power is defined as an effect of discourse. Michel Foucault defines power as a strategy, emerging out of the relationships between people, transmitted through subjects, rather than imposed on them.[62] Knowledge has a relationship with power. Discourse is viewed as effective when its subjects identify with it and help to circulate it.[63] This has already been alluded to. But to discuss power only in these terms obscures the experience of the rape event of women. While discourses provided the limits of how rape victims could make sense of the rape event, power, as a physical force was also part of it. At the very least, it provided a material basis for thinking about rape. As such, power has a more multi-dimensional definition in this writing.

Rape was, and is, a traumatic experience for any individual. It is described as an attack on not only one's physical body, but also one's emotional, mental and spiritual being. Some people describe it as a death. The focus of this thesis is the contestation and re-negotiation of the meaning of rape as it was enacted in both language and social practices. But this can obscure the sense of personal destruction and disintegration voiced by rape victims and survivors describing their rape experiences. It is therefore imperative to draw attention to the fact that it is the experiences of these women that provide the impetus for such a discussion and that behind any sense-making of 'rape' is a woman's pain.

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[62] Baert, p. 124.
[63] Kungja Jung, "The Politics of Speaking Out: NESB Women and the Discourse of Sexual Assault in Australia", *Asian Journal of Women's Studies,* vol. 4, no. 3, 1998, p. 134.

Historiography

Rape was not seriously researched or discussed until the 1970s. Academic and clinical literature emphasised the psychopathological nature of sexual offenders and characteristics of victims. This implied a rapist who was inherently different to other men and a victim who contributed to her sexual victimisation.[64] These identities were largely informed by Sigmund Freud's conclusions regarding male and female sexuality based on his studies in psychoanalysis.

Feminist writings in the 1970s reinterpreted sexual violence from a woman's perspective. Susan Brownmiller's *Against Our Will,* published in 1975, regarded as a pioneer in the literature of rape, demonstrated that the political is personal, and that knowledge is rooted in experience. It was controversial because rape was defined as a political crime, and was argued to be a necessary consequence in the patriarchal control of women.[65] Rather than a deviation from 'normal' sexuality, rape was an extension of it. And rape was re-conceptualised as an act of violence rather than one of sex, having more to do with power than with sexual desire.

Susan Brownmiller has been criticised for essentialising rape, her treatment not truly historical; and for assuming a unity among women from a white liberal perspective. Seeing rape as violence rather than sex was also problematic for some feminists. Not all feminists made a distinction. Some, such as Stevi Jackson, defined rape as both a sexual act and an act of aggression.[66]

Against Our Will was one of a number of publications in the 1970s that served to challenge long-held assumptions about rape, renaming them 'rape myths'. Following Susan Brownmiller's, there were more than four dozen books on the subject published in

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[64] Colleen Ward, *Attitudes Towards Rape: Feminist and Social Psychological Perspectives,* London: Sage Publications, 1995, p. 9.
[65] Lisa Cuklanz, *Rape on Trial: How the Mass Media Construct Legal Reform and Social Change,* Philadelphia: University of Pennsylvania Press, 1996, p. 16.
[66] Stevi Jackson, "The Social Context of Rape: Sexual Scripts and Motivation", *Women's Studies International Quarterly,* vol. 1, 1978, p. 27.

the U.S.A. alone.[67] These both reflected and propelled a growing trend in changing attitudes about gender in the U.S.A. and would influence shifts in understandings of rape and gender in New Zealand.

The new feminist understandings of rape have also informed historical studies. These have used the past as a means to access the present, reflecting a Foucauldian practice. Through juxtaposition of the past with the present, assumptions or underlying structures that tend to be taken for granted by individuals are made visible. And the realisation that such structures are not universal, but particular to time and place, has allowed for contemporary assumptions, both traditional and feminist, to be challenged.

In *Female Sexuality and the Law,* Susan Edwards examined how discourse on femininity informed legal discourse and social practices. She adopted Michel Foucault's method of archaelogy to reveal the specific constructs derived from medical, gynaecological, psychoanalytical and everyday discourses that informed legal discourse and were reproduced and perpetrated in judicial practices. Her concern was not with discovering the truth about sexuality, but in revealing the way of speaking about it and the ways it was assimilated into a system of values and prohibitions.[68]

Judith Allen's *Sex and Secrets,* analysed historical crimes involving women within a framework of sex. She believed that "the historical specification of relationships between sex, power and sexuality will not proceed very far unless sex is accorded a distinct and indispensable analytic status".[69] Judith Allen's work, like that of Karen Dubinsky's, dissolved the unhelpful dualism of 'woman as victim' and 'woman as agent' and showed they were both the same woman. She described her work as a contribution to the historical study of negotiation between the sexes with regard to sexuality and power, and said that such an enquiry served those who wished to end oppression of the sex women by the sex men. Thus she made a connection between knowledge and its uses.

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[67] Cuklanz, p. 16.
[68] Susan Edwards, *Female Sexuality and the Law,* Oxford: Martin Robertson, 1981, p. 13.
[69] Allen, p. 5.

Some studies in a specifically New Zealand context followed. Mary Gillingham in her study on sexual cultures in Wellington, 1900-1920, adopted Karen Dubinsky's framework of sexual pleasures and sexual danger.[70] She also used the concept of 'sexual scripts', a phrase coined by Stevi Jackson. 'Sexual scripts' are seen to provide for the occurrence of rape since they contain 'techniques of neutralisation' which a rapist may use to justify his actions in advance, and may serve to motivate him.[71] This approach, which could also be described as a textual deconstruction, links discourse with identity and social practice. Rape was located in the unequal gender relations determined by a patriarchal society, but women's agency was also acknowledged.

Helen Bauchop described her thesis, "The Public Image of Rape in New Zealand",[72] as an examination of the way accounts of rape were constructed, believed or disbelieved, condemned or ignored in the 1950s-1960s. Although Helen Bauchop defined her work as feminist, she herself eschewed the use of theory as she saw this as disguising the reality of the violence and pain rape causes women. But ultimately she did rely on deconstruction theories in order to analyse newspaper articles, exposing the unwritten rules and regulations that governed sexuality, and used a feminist framework to make sense of them.

A specific aim of her work was to "put rape back into the society from which it came". Thus rape was defined as a social act, and links again made between discourse and social practice. Her work is a functional point from which to begin my thesis as it provides a background to the period I am covering. Her insights also continue to be useful as the 'rules and regulations governing sexuality'[73] in the 1950s-60s persisted alongside newer ones that were to emerge in the 1970s-80s.

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[70] Mary Gillingham, "Sexual Pleasures and Dangers: A History of Sexual Cultures in Wellington, 1900-1920", M.A. thesis, Massey University, 1998.
[71] Jackson, p. 27.
[72] Helen Bauchop, "The Public Image of Rape in New Zealand: A Case Study of Two Newspapers, 1950-1970", B.A. (Hons.) thesis, University of Otago, 1990.
[73] ibid.

David Shapcott, a member of the Carrington Rape Education Group in the 1980s, used a feminist analysis of rape in his ahistorical study of rape in the 1980s in New Zealand. He viewed the legislative changes as generally ineffective in achieving any real change in the sexual culture. He located rape in 'normal' male heterosexual practices and saw the perpetration of rape as a dramatisation of the power males hold over females. This power imbalance was rationalised by conscious and unconscious reference to myths about rape that are widely held in society. He argued that rape could exist only alongside rape myths, and as long as pornography was viewed as harmless.[74]

Nicole Humphries' study on the development of the rape reform laws[75] departed from a feminist analysis. Rape was defined as a legal rather than a political issue, and was not located in a social context. Her thesis outlined the legislative changes, but provided only for Jim McLay, Minister of Justice, as an actor in the legal process; feminist efforts were largely invisible. It is interesting that the description of Jim McLay as the sole protagonist of legal reform was based on interviews with himself. And the assessment of the changes as "on the whole ... working well"[76] was based on personal communication with a barrister. This demonstrates how the experiences of marginalised groups of people can be made invisible. It could be said that Nicole Humphries' thesis provides a rationale for producing this one.

Prevailing sexual attitudes and sexual relations are embedded in rape. The attitudes revealed in several New Zealand publications on sexuality also supported feminist views on sexual violence. Alison Gray's book, *Expressions of Sexuality,*[77] produced in conjunction with a T.V. series, explored sexuality in New Zealand, in the past and in the 1970s, through personal histories. She and her co-workers described sexuality as something that is part of people's whole lives, in contrast to what they perceived people to understand as just a physical experience. The difficulty of talking about sexuality for men and women was acknowledged, as is a social and political attitude that discouraged

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[74] David Shapcott, *The Face of the Rapist,* Auckland: Penguin Books, 1988.
[75] Nicole Humphries, "The Development of the Rape Law Reform Bills of New Zealand during the 1980s", M.A. thesis, University of Auckland, 1991.
[76] ibid, p. 250.

open discussion. This had the effect of abdicating space for the commercial model of sex to inform ideals of sexual behaviour. That sexuality was a social construct was thus tacitly acknowledged. Through public discussion of personal stories of sexuality, it was hoped that room would be created for change towards a healthier expression of human sexuality in our society.

Michael King explored changing attitudes towards masculinity in his book, *One of the Boys?* A number of men were interviewed, juxtaposing the ideas of masculinity they grew up with, with their feelings on masculinity in the present. Shifts in masculinity were often described as a result of challenges made by the Women's Liberation Movement. Some interviewees located rape within a social environment of gender inequalities. Mike Capeer saw the use of power as "not just about killing and raping. It's also about ... whose opinions get dismissed, who grows up expecting to give up her career to look after the children, to wash your clothes, the floors and the toilet".[78] Another interviewee, Kai Jensen, viewed sexuality as the final test of whether our social, economic and political attitudes are changing or not.[79]

Jock Philips has also explored masculinity in his book, *A Man's Country? The Image of the Pakeha Male*,[80] in which he traced the historical origins of the Kiwi male and the changes in masculinity following the mid-1960s. He located the shift in masculinity in both socio-eonomic changes and the Women's Liberation Movement. But he soberly concluded that changes in masculinity have not necessarily been better for women and he acknowledged the persistence of the Kiwi macho culture.

This thesis seeks to analyse a significant shift in the understanding of rape in New Zealand, therefore makes a specific contribution to the history of rape, and indirectly, to the history of gender negotiations. It also has a contemporary application. It can be

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[77] Alison Gray, *Expressions of Sexuality,* Auckland: Reed Methuen Publishers, 1985.
[78] Mike Capeer, "Coping with Shame", in *One of the Boys? Changing Views of Masculinity in New Zealand,* Michael King (ed.), Auckland: Heinemann, 1988, p. 218.
[79] Kai Jensen, "Naked Change: Revising Sexuality", in ibid, p. 228.
[80] Jock Phillips, *A Man's Country? The Image of the Pakeha Male – A History,* Auckland: Penguin Books, 1987.

regarded as taking up the feminist agenda from others, especially Helen Bauchop. Contemporary studies of rape and gender in other places and times, essentially feminist, have provided useful insights and approaches that I intend to apply to 'make sense' of my subject. And although the subject matter of my thesis has been approached recently by Nicole Humphries, her work had a different purpose and she made sense of the past in a non-feminist framework.

Sources

Primary sources came from a variety of locations. Government archives provided political, public and feminist texts in the form of correspondence and submissions to select committees on rape reform legislation. The rape law reform bills and their enactments, the Crimes Amendment Act (no.3), the Evidence Amendment Act (no.2), and the Summary Proceedings Act (no.4), are significant texts for this study. So too is a government sponsored rape study in 1982 that offers an analysis of the experiences of rape victims as retold by themselves, and also of the law, judicial practices and police enforcement at this time. A government sponsored rape symposium held in 1982, and a Y.W.C.A. conference in 1983, provided an insight into understandings of rape from a variety of perspectives. These include those of feminists, members of the medical and legal profession, rape victims, police officers and members of government. Parliamentary debates provided further sources of political discourse.

Feminist texts were less accessible than political ones. As well as in sources already mentioned, feminist voices could be heard in *Broadsheet,* a significant document for this thesis, and in general articles penned by representatives of feminist groups in specific publications such as *Women's Studies Journal* and in the general press. Secondary publications focused on histories of women, especially in context of the Women's Liberation Movement, and also provided flashes of feminist voices and actions. Newspapers and periodicals such as the *Listener,* also acted as a source for a variety of discourses.

Thesis construction

The title of this thesis, 'She Asked For It', is both a reference to a powerful rape myth serving to blame rape victims, and an attempt to appropriate the phrase to refer to feminist demands for a new interpretation of sexual violence. In this context the phrase therefore takes on a new meaning, to subjugate the old while co-existing with it.

This thesis explores discursive themes in a chronological framework. Chapter one examines the 'rules of formation',[81] or the contexts that impacted on, and were impacted upon by, discourse on sex, gender and rape within two times. Part 1 explores the old context in which legal discourse was informed by medical and psychoanalytical knowledge that defined gender and sexuality. Part 2 explores a new context that provided more possibilities for what could be said, and what could be done, about sex, gender and rape. Chapter two identifies the dominant meaning of rape through an analysis of statute law and social and legal practices, and explores its impact upon the experiences of women, especially those who were raped, and on rapists.

Chapter three looks at the older feminist meaning of sexual violence and at a newer one. Feminists in the 1970s explicitly challenged existing constructions of sexual violence and re-named it in women's terms. Feminists developed their own knowledge of rape, based on the experiences of women. Women were positioned 'knowers'. Feminist discourse enabled women to resist dominant subjectivities on offer for rape victims and rapists, and formulate their own. Chapter four analyses 'speaking out', or the unsilencing of women. Because feminist social action can be read for meaning, it can be considered 'textual'. New subjectivities offered in feminist discourse afforded new possibilities for feminist agency. 'Speaking out' was a form of resistance. It took many shapes, such as setting up of rape crisis centres and the sharing of experiences in small groups or at public events.

Chapter five analyses other voices contesting the dominant construction of rape, and at how the government responded to these challenges. It identifies the changes and the constants in the political construction of rape, and what this meant for the experiences of

[81] Baert, p. 119.

rape victims and the experience of women in general. Chapter six analyses the rape reform legislation introduced in parliament and submissions made about it. These texts provide a rich source for analysing various constructions of rape. A final analysis of the reforms as they were enacted in 1985 reveals the limits of their impact on the lives of all women, and those women who were raped.