Contesting Knowledges: Formulating (Hetero)Sexual Bodies in the Terri-Jean Bedford Decision*

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Abstract: This paper is part of a larger ethnographic project on citizenship and sexuality. More specifically, I demonstrate how the law ambivalently constructs sadomasochism as a sexual practice. I explore this ambivalent relationship through the disjunctions of legal discourse and how particular bodies are socially constructed through two court rulings in the Terri-Jean Bedford case. Terri-Jean Bedford is a dominatrix who was charged and convicted for keeping a common bawdy house in Thornhill (just outside of Toronto) in October 1998. My analysis concentrates on how these rulings culturally construct knowledge about "other" sexual bodies so that eroticism is rigidly and uncritically understood in (hetero)sexual terms. I demonstrate how the rulings consistently return to a particular version of what "sexuality" means. Knowledge is never produced so simply, hence, Terri-Jean Bedford's complicity and participation in producing meaning(s) is included. In addition to the court rulings, there are short excerpts from Bedford's unpublished manuscript which explore the complexity of how knowledge is produced. Although there is a hegemonic *Truth* that resonates in legal discourse, I also include subjugated voices that contribute to their own subjugation. Thus, contested knowledges resonate in the place of a final "ruling" or politics.

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Introduction

Who gets to speak in a court of law and under what circumstances does the speaking subject acquire the status of a reliable speaker? What are the culturally constructed conditions which deem some discourses acceptable, thus reliable, and others oppositional, and therefore marginal? The following critique centers on how particular knowledges about sexuality and sexual practice are rendered "transparent" under the guise of the Law. Sadomasochism (s/m) as a sexual practice is a particularly ambiguous sexual category. In other terms, constructed notions of "appropriate" sexual relations remain within a domain of heterosexual knowledge. Consequently role-playing, fantasy, fetishes, and the delicate line between pleasure/pain fall outside of a dominant and normative discourse. To this end, the conceptualization of erotic knowledge is contingent upon how various actors negotiate their sensuality in sites such as the courtroom. My aim is

not to designate a site of sexual resistance—this would ignore the complicated terrain of power. Instead, sadomasochism in this instance is partial knowledge. In other words, the actors' understanding of sadomasochism including the author's shifts accordingly, thus, demonstrating that sexual knowledge is not final and absolute.

On 9 October 1998, Judge Roy Bogusky delivered two significant rulings in the Terri-Jean Bedford case. Bedford, a dominatrix was charged for keeping a common bawdy house, in September of 1994. The first ruling outlines the final decision on whether Bedford's bungalow was a common bawdy house or s/m dungeon. The second ruling, serves to outline the inappropriate actions of the fifteen police officers who dismantled Bedford's home, strip searched her, and used excessive force during the arrest.[1]

Terri-Jean Bedford was found guilty based on Judge Bogusky's finding that s/m constitutes prostitution and not fantasy fulfillment. There has been no legal decision, as yet, as to whether or not accepting payment for s/m constitutes a criminal act. A common bawdy house according to the *Dictionary of Canadian Law* (1995) is "a place that is a) kept or occupied, or b) resorted to by one or more persons for the purpose of prostitution or the practice of the acts of indecency."[2] Bedford strongly contests that her Thornhill bungalow (in Toronto) was a bawdy house and asserts her status as a dominatrix, insisting that the site of her business was her residence/dungeon (house of sadomasochism).[3]

Deconstructing these rulings untangles the power of unquestioned categories and therefore renders what Patricia Williams (1991) describes as being characteristic of Anglo-American jurisprudence. Williams (1991:8) points to the exclusive categories and "definitional polarities" that are supposed to make life easier. These would include categories such as good/evil, public/private, moral/immoral. Alternative analysis, or other ways of "seeing" are perceived "outside" and therefore " 'emotional', 'literary', 'personal', or just Not True" (Williams 1991:9).

Tracing Sexual Normalcy

The representation of s/m as radical subversion may border on reactionary when it is deemed politically *superior*. Bedford's assertive sexual politics and identity as a dominatrix clearly counters a moral hegemony that promotes heterosexual normalcy and the erasure of other sexual cultures. The mainstream media, for example, lingered on the sensational aspect of sadomasochism and its "bizarre" fantastical elements (or its diversion from normative notions of sexual gratification). Ironically, Terri-Jean Bedford's (1998) moral rejection of prostitution on the other hand (articulated most elaborately in her unpublished manuscript), disregards the political agency that might exist in various sex trades like prostitution. The politicized links based on a sexual citizenship and the critique of legal and moral assertions of *criminalized* sexualities fails to include complicated agencies that may exist within the sex trade. Bedford's failure to

make these links, unfortunately, assumes a hierarchical critique of "sexual politics" where one practice (sadomasochism) takes moral and political precedent over another (prostitution).

What prevails in both of Judge Bogusky's rulings, apart from the singular voice of the Judge, is a logic of heterosexuality, whereby prostitution is the major site of contention. Sexuality based on the efforts of women to *entice* clients through their female bodies, negates any prospect that these bodies may engage in domination, thereby making the notion of *seduction* an ambiguous category. What creeps into Judge Bogusky's description is a familiar heterosexism that falls within the boundaries of what may be considered prostitution:

> *In the erotic area of the house, if you were to add in female employees dressed in lingerie, which was the case, a strong sexual and erotic mood would be created (R v. Bedford, October 9, 1998, unreported 1, emphasis added)*

The idea that *adding* comprises some secret formula of sexuality, as if the recipe for erotics could not traverse the stereotypical interaction between male and female already sets up sadomasochism narrowly within the confinement of the Judge's knowledge. Bedford on the other hand, clearly states that "there is no end to the list of things which serve as fetish wear" (Bedford:2, "Costumes and Doms"). She includes the diversity of fantasy, which is directly linked to what the dominatrix wears. Lingerie, within the limited description of the Judge, is the symbolic erotic order that negates any performative likelihood such as cross dressing.

To further evade performative possibilities of s/m in Judge Bogusky's description, he narrows down the complexity of s/m by describing staged situations as follows:

> *The moods ranged from the satanic where articles of torture and death were present and in order to stimulate the bondage seekers, to the burlesque where a small stage is erected for the cross dressers (R v. Bedford, unreported).*

The range of possibilities again are limiting, and there is the added Judeo-Christian association of evil, or the satanic. Articles of torture and death are categorized through the Judge's assertion that they *are* satanic. In opposition to this inherent "evil" is the erotica area (women in lingerie) which stands in contrast to death and torture. The logic here is not as objective or innocent as it first appears, and that which is rendered as evil, or satanic is contrasted against the Good and Normal.[4] "Treatment of good/evil as a duality is wired into the intrinsic order of things" (Connolly 1993:366) and what is good is embodied in the Law and the Normal. Having defined the good, the evil falls unquestionably within proper ideological parameters. In this case, what is sexually "evil" or satanic falls outside of *normal* imagery of sex. Ironically, the imagery of women

in lingerie is set up as transparently sexual, while this sexual "normality" is also part of an illegal framework-that is prostitution. The apparent "contradictions" do not necessarily conflict because they always operate effectively within specific discourses. For example, if s/m was not the issue and the matter was clearly about prostitution, the tendency would be to treat the prostitute body as that which is outside of the norm and the norm would, perhaps, enforce the idea of monogamous heterosexual relationships where sexual interest does not include the exchange of money for sex and is mainly for reproductive purposes.[5] In this case, prostitution is set up in opposition to s/m and apparently, while still illegal, is acceptable in terms of its "proper" (hetero)sexual exchange.

Who Speaks?: The Politics of Truth Telling

Although Judge Bogusky's first ruling requires the knowledge of witnesses to explain and describe s/m[6], his authorial position determines and designates whose descriptions are in fact "reliable" and "truthful." Moments of reflexivity[7] or a recognition that s/m requires alternative forms of understanding escapes judicial reasoning. Instead, the Judge's designations affirm that the specificities of sexual knowledge are irrelevant in the space of the court room (Code 1995:59).

Following Lorraine Code's reading of how Foucault deconstructs the testimonial in nineteenth-century Europe, I also find it useful to think through these interactions as testimonial accounts, particularly as they relate to the "rhetorical spaces" (Code 1995) of the court room. What is important here is the way in which "knowers" do not reveal fully their beliefs because completion of what is understood through the testimony is not fulfilled. Hence, "its failure to reach completion causes the speaker/testifier to doubt the veracity, the validity even of her/his 'own' experiences" (Code 1995:59). The structure of the courtroom and legal process determines to a certain degree the 'experience' of the speaker. In the space of the courtroom, the narratives of subjugated knowledges are suppressed and replaced with the "facts." This is further accentuated with the unquestioned power of a final ruling, a moment whereby "truths" are re-made and re-fashioned accordingly.

Judge Bogusky's preferred witness, who went by the name of "Princess," was a short time employee of Bedford who was being trained as a dominatrix, and whom police officers questioned at length during the search (without the presence of a lawyer). What is unsettling is the decision to privilege Princess's testimony when, in fact, "she had little knowledge of s/m" (*R v. Bedford*). The Judge, however, prefers her testimony because "she *appeared*, at trial, to be a person of quality and gave her evidence in a straight forward and credible manner" (*R v. Bedford*:2, emphasis added). The "truths" that she might have expressed are selected and so her testimony as to the excessive force of the police is disregarded for the reason that, "...(it) was less reliable, but that is understandable as things happened very quickly that day" (*R v. Bedford*:2). Here we find " 'the master of truth'[- the Judge] literally allows – or refuses to allow – the truth to establish itself' (Code 1995:59).

Although Princess appears to be Judge Bogusky's preferred witness, it is relevant to point to the circumstances that warrant his preference. Princess's use of her body as a livelihood predetermines the validity of her character in the space of the court room.[8] In other terms, her *confusion* is naturalized as unreliable knowledge, and knowledge being rational and not "confused" negates her testimony. The 'master of truth,' on the other hand, fathoms what is confusion and what is order. More importantly, he determines what is valid knowledge.[9] Power effectively creates moments that are not produced in negative terms of exclusion or abstraction, instead, what is produced in this case are testimonies of truth, whereby "the individual and the knowledge that may be gained of him/[her] belong to this production" (Foucault 1977:194). Princess's inconsiderable knowledge of s/m, and the potential support of portraying s/m as a practice that includes sexual acts yields to the expectations of the court. Yet, her testimony as to the actions of the police are not considered, making her an unreliable witness in the next instance. This is the recurrent tone of the ruling which undeniably returns to a certain narration of sexuality, one that is not outside normative productions of sexual *indecency*.

The Production of Sensual Knowledge(s)

Stimulation, in Bogusky's ruling, pre-supposes its meaning, leaving very little room for interpretation. The assumption made in the making of the ruling is that stimulation can only occur within the sexual erotics of a typified scene of sexual exchange where the male responds to the female in a precise manner. Similarly, the consensus of this exchange extends itself to the acceptable knowledge of what count as "erogenous zones." "She (Princess) gave descriptions of some form of stimulation being applied to every area of the male body, all of which have been *accepted* as erogenous zones" (*R v. Bedford*:3, emphasis added). The possibility of "female erogenous zones" seems absent from the erotic logic of Judge Bogusky, ignoring that Bedford also had female clients.[10] The focus on male genitalia, ["It is apparent the genitals received much attention and the penis was usually tied in some fashion" (*R v. Bedford*:3)] can be a result of two contested discourses. On the one hand, it is the phallocentrism of what constitutes eroticism, and on the other hand Bedford's presentation (interpretation) of s/m practice is complicit in the production of phallocentrism. She recognizes that creating fantasies was always more accessible for men, since, in general men have higher incomes (Bedford: 1 "Women Clients"). The issue of class is pertinent here although the courts do not discuss this aspect except to acknowledge that sessions were expensive. Bedford, too, though challenging normative sexual expectations, is complicit in maintaining class boundaries that in some cases do exclude women. She unknowingly perpetuates normative definitions of erogenous zones by placing emphasis on the phallic which results in nourishing boundaries between sexual subjects.

The final section in the first ruling concludes in a way that upholds previous (hetero)sexual imagery and fails to consider even the slightest possibility of "other" forms of sexual expression. Moreover, the notion that s/m should even

be considered is made irrelevant, since the final judicious reasoning points to the discourse of prostitution. Judge Bogusky concludes the first ruling with the following:

> *A case against the accused has been made without the Court having to get into the broader question of whether every form of S and M for hire is sex for hire. The facts of this case were not difficult to interpret. Common sense allows no other interpretation for a scenario involving a naked male with a rope around his penis being attended to by a female, even more so when she is wearing lingerie (R v. Bedford 3, emphasis added).*

The "common sense" that Judge Bogusky depicts implies that being in disagreement is illogical, thus, having the effect of censoring any other interpretation. For example, the idea that a naked man and a woman in lingerie equal a (hetero)sexual encounter annuls other readings of s/m, which, according to Terri-Jean Bedford, vary and are dependent on the particular fantasy being played out. The role playing that may occur when a man is naked and bound may refer to the performance of domination and submission. According to Valerie Steele (1996:171), "clothing itself is generally associated with power, and nakedness with its lack...the dominatrix is usually clothed [lingerie?]. By contrast the slave, bottom, masochist, or submissive is often stripped naked or reduced to wearing clothing that exposes breasts, buttocks, and/or genitals." In reality, then, it is possible that Judge Bogusky has (mis)interpreted what seems obvious because of the cultural associations already in place in regard to the thinkable interaction that can occur between a naked man and a somewhat clothed woman.

The Rise and Fall of the Empire/Phallic: Moral Regulation Enacted

The second ruling specifically deals with the manner in which the search warrant was conducted. This ruling is not distinct from the previous one and the perception of "abnormal" sex acts continues to dominate much of the logic. The ruling creates scenarios which justify a search warrant and, moreover, it creates moral panic in order to explain the presence of an Emergency Police Task Force. Considering the "offense," it is difficult to imagine how it is justified. However, at the same time, any explication of excessive police action is made irrelevant since, according to Judge Bogusky, the only witness (Princess) which he found reliable was "confused" about what actually went on during the search. Terri-Jean Bedford, whom Judge Bogusky does not even mention, is not included as a reliable witness even though she claimed to have a direct encounter with the police that day. Bedford describes the scene in her manuscript, and the reader is given a sense of how the police responded:

> *...fifteen men lined up behind him (main officer) at the door. The officer with the badge pushed me aside and the men rushed into the house...they were plain clothes detectives, uniformed constables and an Emergency Task force team, acting like they believed they were capturing terrorists or hijackers...a massive officer grabbed me and told me to sit on one of the couches in the living room. I hesitated a second and he grabbed me around the chest and punched me several times on the side of the head. Then he held me down on the couch. (Bedford, The Raid:1)*

The search is left to the discretion of the police who, as law enforcers, do not need to explain procedures to suppress *indecent sexuality*.[11]

The ruling strategically downplays the excessive force of the police by admitting to the "overkill," "bit of bad taste" and "rowdyism." Yet, the ruling positions these acts as natural consequences to the events that took place. What emerges, once again, are the sexual overtones that give rise to "normal behavior" advocated by Judge Bogusky:

> *The rowdyism which developed in the basement. And if everybody recalls, the basement had the erotica area and you know it is—-if you—want to get a reaction from a bunch of young bucks, present them with some imagery of the male anatomy, including images of penises plus the equipment for cross-dressing and you might get a rather strange reaction. The reaction which flowed was almost predictable. You know there was a lot of rowdyism downstairs and hooting and howling and ultimately the officer in charge had to tell them to put a lid on it. I do not know with what word you would describe it. Rude. I do not know. Something along those lines (R v. Bedford, October 9, 1998 unreported 2, emphasis added).*

What is strangely suggestive from this passage is that erotic spaces cause (male) rowdiness in a way that is expected and supported in settings that are considered "unnatural," or under circumstances which may present ambiguous masculinity (i.e. cross-dressing). The notion of "predictability" returns to a discourse of science where a logical process will consequently determine certain behaviour. Yet there is an admission that the police did not behave accordingly since their actions were not absolutely predictable but "almost." Thus, the "strange" surroundings that they might have encountered are understood as contradictory to a "normal" state, returning once more to a logic of binary oppositions that clearly mark moral/immoral spaces.

The "erotic area" had equipment for cross-dressing and some imagery of penises which might have appeared to the police to be placed in rather uncertain terrain. Masculinity in a heteronormative sense was no longer a "natural" part of sexual presentation. Cross-dressing leaves the "penis" betwixt and between what is considered its sexual place in society and so this contradiction, according to Judge

Bogusky, entails "strange reactions." He affirms acceptable notions of masculinity by describing and, therefore, justifying the police's actions as those of "young bucks." Thus, he emphasizes a wild and *natural* masculinity; a slang for "male" identity. If this is the case, and if this imagery is taken seriously, then the assumption is that *being* male allows for such reactions in order to secure masculine sexuality. Judge Bogusky may not be "defending" the actions of the police, *per se*, but he constructs a scenario that is in accordance with a bourgeois sexual morality; one which at all costs defines the boundaries of proper sexual behaviour. The kernel of importance, abiding by the charge of keeping a common bawdy house, remains in the realm of an incontestable kind of sexual exchange. To put it another way, a specific sexual discourse is legitimized, leaving s/m unexplored as an "other" sexual practice. Sexual normalcy reigns in the formulation of the law and most eminently (hetero)sexuality surfaces at every turn. In the case of the second ruling, the actions of the police are encoded in a logic of sexual normalcy.[12]

Displacing S/M: Articulating Regulation

The practice of s/m remains hidden and is manifested in a grotesque form, but in a form that emphasizes "normal" sexual practice nonetheless. In her description of the police's "rowdiness," Bedford elaborates on how s/m is manipulated in the hands of the police giving (hetero)sexuality power and especially legitimacy:

> *...Upstairs Morgan and I sat on the couch, upset and yelling to the officers that they had no right or reason to be there. I saw the officer who hit me and said, "I want your badge number. I'm charging you with assault." He laughed and said, "Call me master" (Bedford: 2 "The Raid", emphasis added).*

This exchange, although using the "language" of s/m, has significantly different meaning and consequences. The utterance implies the immediate "real" control of the police over Bedford's sexuality. Her role of dominatrix is reversed in this case without any predetermined consent. She is strip searched and the police continue to manifest "reactions" towards "strange surroundings."

> *...Morgan (employee) was appalled when she saw what was going on downstairs. She saw them (police) playing with the whips while wearing the wigs... Princess said that she'd seen officers playing with my equipment and jokingly threatening each other with whips...Morgan told me after that what most struck her during this time was the look on the faces of the officers. "You could tell by the way they looked at me that they wanted to be spanked, and they were turned on by the restraints and equipment" (Bedford:2 "The Raid").*

The point of Morgan's narrative is not to "prove" in some way that the police were in fact "turned on," since this entails a certain amount of interpretation. However, what seems important is that their reaction is not that of refusal but,

instead, their particular "role playing" mockingly expresses a grotesque sense of their sexuality. S/M, though unfamiliar, is given sexual significance in the exchange between Morgan and the police, who later kiss her feet mockingly (Bedford:2). This exchange once again complies with the hegemony of (hetero) sexual relations, where the woman is no longer the dominatrix but the sexual object. In uttering "*Call me master,*" the police shift the local knowledge (discourse) of s/m into a realm of "legitimate" discourse making it admissible. Although Judge Bogusky may not have mentioned these "reversed roles" in the ruling, the certainty of how the police conducted the search is encoded in a language which justifies their actions and in doing so, pronounces the triumph of a particular kind of (hetero)sexuality.

If the actions of the police were "almost" predictable, thereby admitting to the inappropriateness of their conduct, this is partially due to "rules" which they failed to follow. These rules were overturned in order to collect evidence, giving the discourse of science its rightful place during the search. The plethora of articles that were taken from Bedford's home were not, for the most part, related to the charge. However, Judge Bogusky rules that "the police must follow the rules of collecting evidence" (*R v. Bedford* 4). Under the legal guise of collecting evidence, no explanation is necessary, and I would add that the already persistent descriptions of "strangeness" in Bedford's household permits that any object is reified as potentially sexual.[13] Removing items from the Bedford home also symbolically removes sexual ambiguity and by dismantling those "strange" spaces, normative (hetero)sexuality is (almost) affirmed.

Judge Bogusky does not grant any recognition that there was an abuse of force except to say that, "Any relief I can give the accused will appear on sentence" (*R v. Bedford*:11). The implications of this decision merge the power of the state, in its coercive ideological form, with the power of a process of logical (scientific) procedure. The sentence is not what matters but the final judgment that "other" sexual practices in fact could never be understood outside of heterosexual relations. I have demonstrated that the final words of Judge Bogusky in the space of the courtroom resonate with "common sense" (hetero)sexual "definitional polarities" (good/evil, moral/immoral) that operate behind a veil of objectivity. It is hard to imagine if at any point there is an attempt to co-construct the various dimensions of sadomasochism which would potentially abandon a master narrative of sensory "conduct."[14]

Conclusion

The over determination of (hetero)sexuality loses ground not only by those who object to its hegemonic discourse, but also by the already unstable sexuality which expresses *itself* as the "original." Behind normative constructions that appear in spaces such as the courtroom, what surfaces is the uncertainty of (hetero)sexuality as the "original," of which other sexualities are copies.[15] Thus, acting out of line with heterosexual norms brings with it social ostracism but also

transgressive pleasures produced by those very prohibitions (Butler 1991:24). What the police encounter during Bedford's arrest does not only initiate "strange" reactions, as the Judge suggests, but a reaction embedded in the absolute refusal of their own heterosexuality and pleasure in the erotic "other" (or that which defies normalcy). "In other words, heterosexuality is always in the process of imitating and approximating its own phantasmatic idealization of itself — and *failing*" (Butler 1991:21). To maintain this phantasmatic idealization, those deemed "other" are perpetually defined in opposition to a normative (hetero) sexuality and "other" knowledges are presumed unreliable (Princess's testimony).[16]

The circumstances of speaking and being deemed a "reliable" speaker shifts, if just temporally, when the knowledge produced in the courtroom, the knowledge uttered in the form of a ruling, is critically scrutinized. The "final" judgment depends in part on the stability of its utterance as final and, therefore, not open to other interpretations, or the refusal to recognize other interpretations as legitimate productions of knowledge.

Stated assumptions, which propose conclusions that comply with the Normal and the Good, appear in the Judge's final assessment of the meaning of s/m, which already presupposes a particular (hetero)sexuality that is applied to affirm the normative criminality of prostitution. Both rulings, though slightly different in their content, return to what seems to cause the most anxiety; the assurance that "normative" sexual practice, even in its illegality, contains indisputable sexual exchange. The supposed transparency of this claim is validated in the space of the courtroom where legal procedure naturalizes the *objective* stance of Judge Bogusky's polar descriptions of Bedford's home and the meaning of sadomasochism, the house search and arrest, and the "naturally" masculine and *legitimate* reactions of the police.

Finally, I propose that knowledge in its many tangled and multifaceted forms is never innocent and without complication. All players in this struggle of sexual definition confront both what they oppose and support. However, it is in the already accumulated social knowledge of sexuality that these discourses operate. Hence, the possible epistemological disruptions occur not only in disrupting truths, but also in acknowledging the co-constructedness and contradiction of knowledge production.

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Endnotes

[1]Excerpts from Bedford's unpublished manuscript, *Bondage Bungalow Dominatrix* (1998) are used to minimize the monological ruling by incorporating her voice as counter narrative. It is unfair to give too much credit to this approach since, as the author, I choose *the* excerpts and, therefore, I do not claim to be *giving* Terri-Jean Bedford a voice. There is always room for (mis)interpretation.

[2] Following this definition there is already an assumption of what those "indecent" acts might look like.

[3] Sadomasochism has challenged anti-pornography debates that have categorized it in terms of a sexual practice that reflects patriarchal society and therefore degrades women. For elaboration on the debates, see Mariana Valverde (1989). For a better understanding of sadomasochism as constituting a complex set of relations that are situated historically and socially, see McClintock's (1995) work on cross-dressing and the cult of domesticity and also McClintock (1993). Here there is an attempt to decriminalize sex work such as prostitution. The women are not victims of a capitalist economic system and their bodies perform a critical sexuality. To read about how these debates have moved into the realm of censorship issues, anti-pornography feminists leaning towards the enforcement of censorship, see Shannon Bell and Brenda Cosman (1997). Anti-censorship critiques have most often not pointed to the anti-sex dimension of the anti-pornography movement, which has been predominantly led by Catherine MacKinnon and Andrea Dworkin (see Valverde 1987).

[4] Ironically, prostitution and sexuality begin to merge in an interesting way for the purpose of setting it up against sadomasochism/fantasy fulfillment.

[5] For an extensive discussion on judges' views on prostitute bodies, see Carole Smart (1995), who interviews several Magistrates and discovers three main approaches and attitudes towards prostitute women. The "liberal/permissive discourse" advocates the right, although not agreeing with it, to sell sex. In other words, the liberal tendency to accept it as long as it is not in view (hence, the acceptance of a bawdy house). This has other legal implications as to the possible actions taken against prostitutes who do stand in specific corners. The "puritan/authoritarian discourse" takes a strong stance against prostitution and prostitutes, and does so through the campaign to control prostitute bodies through imprisonment and police control. This discourse has moral overtones. Finally, the "welfarist discourse" views women as psychologically suffering from childhood "traumas" and, therefore, "it" is not "their" fault. All three discourses locate prostitutes in a distinct social category keeping them abject and outside of *the* "normal" discourse.

[6] Interestingly, Shannon Bell, a political philosopher and dominatrix at York University, was an expert witness in the case whose testimony was disregarded because of her supportive position of "other" erotic practices. Moreover, Bell insisted in her testimony that s/m is not about sexual gratification and, as someone familiar with the environment, she had never seen people having sex in the sadomasochistic scene. When the issue of the erections during Bedford's s/m scenes was discussed, and which some witnesses testified to, Bell had this to say: "I have seen erections (in s/m scenes) but its important to realize that Socrates died with an erection, so I don't think it has much to do with sex" (Toronto Star July 28, 1998). While she could have added to the knowledge of what s/m is, and

re-configured normalizing discourses on sex, this was not possible in the Rational space of the Law. After all, the idea of "erections" is a sensitive issue if there are suggestions of an ambivalent sexual masculine response (Code 1995:61).

[7] I make a distinction here, as do others (see Babcock 1980), between the reflexive and reflective. Reflexive takes into consideration the epistemological underlying of a process. Unlike a mere reflection, which is one's consciousness of oneself, reflexivity is about being conscious of being self conscious.

[8] Linda Alcoff (1995:8) argues that the feminist critique of reason stems in part from the recognition that reason and, therefore, knowledge encompass a universal practice dominated by men who attribute the rational to that of gendered inheritance. Where women stand in opposition to (universal) *man*, "...women's traditional concerns have been characterized as the site of irreducibly irrational particular and corporeal." Although Princess appears to be Judge Bogusky's preferred witness it is relevant to point to the circumstances in which Princess is preferred. Pure objectivity would dictate that gender is irrelevant, however, it is essential to account for relations of power that contrary to objectivity, the Judge will *judge* Princess as a *woman* who makes a living through the use of her body or excessive "irrationality."

[9] At first, the power to validate knowledge seems that it is solely in the hands of the Judge, and this over determines his role. Following Foucault (1980), I agree that even those subjugated knowledges contribute to their subjugation (i.e. Bedford's disassociation to the political potential of prostitution). Power, therefore, is not invested exclusively in the formulation of the Law but in multiple negotiated power struggles that comply with scattered moments of marginalization. Also, it is not the "Judge" *per se* that carries the burden of a particular kind of knowledge production. Rather "it is communities, not individuals, that maintain the resources for the acquiring and certifying knowledge. Some People more than others, are assumed to know, or know how" (Walker 1998:57). Under the Rubric of the Law, especially in the context of "the ruling," the Judge acquires this privileged status.

[10] It is not surprising that any suggestion of gay or lesbian sex is omitted from Judge Bogusky's definitions. There has been a general common sense, moral imposition as to supposedly sexually obscene material, which more often than not depicts gay or lesbian sex. "Even lesbian sex magazines *Quim* and *Bad Attitude*, on route to the Toronto Women's Bookstore, have been seized by Canada Customs on the basis of the depiction of anal sex" (Bell and Cosman 1997:35).

[11] There are other examples that illustrate the extent to which the police work to create moral panic, especially in regard to sex. Bell and Cosman (1997) describe the impetus behind the child pornography scare in London, Ontario between 1993-1995 where the spectacle of arrests resulted in various police mistakes, where, in fact, child pornography was not the issue (anyone under 18 according to the law is considered a "child") but teen hustling. "The discourse of 'child-

pornography' is being deployed to police the boundaries of legitimate and illegitimate sexual activity, a boundary that places gay teen sexuality firmly outside the realm of 'good sex'" (Bell and Cosman 1997:41).

[12] "What is peculiar to modern societies, in fact, is not that they consigned sex to a shadow existence, but that they dedicated themselves to speaking of it *ad infinitum* while exploiting it as *the* secret" (Foucault 1980:35, original emphasis).

[13] Bedford recounts that, "The police not only took my bondage equipment and fixtures, they took everyday furniture and clothing. They took my television set, my bed, and many items so commonplace that it was inconceivable that these things could be evidence of any sort. I still can't believe the things they seized. They seized lady's hats. They seized things from the schoolroom like a blackboard and a small desk. They also took large items such as the living room set, lounge chairs and numerous other personal items which had no bearing on the business" ("The Raid":4).

[14] Legal discourse as to the sexually obscene, like any discourse, does not operate exclusively and so sexual politics also struggles against and alongside dominant understandings of s/m. Interrogating the law is best observed in discursive moments like those found in Terri-Jean Bedford's unpublished manuscript. Here, the interrogation of epistemological assumptions about *the* law permit other representations from women who are not professionally trained in legal writing to enter the conversations upon the experience of authority (Gbrich 1991).

[15]The distinction made between "original" and "copy" has been used in "rationalizing" gay or lesbian identity. I would add that in the case of the above, the moral imposition of certain symbolic orders negates any other erotic logic. The insistence for example of what Judge Bogusky determines is so *obviously* (hetero)"sexual'—women in lingerie and naked men captures the desperate insistence to make (hetero)sexuality the norm or "original". Judith Butler (1991) argues for the performativity of gender of which "drag" manifests itself not to mimic a "real" but as an elaborative parodic gender, "gender is a kind of imitation for which there is no original" (Butler 1991:21).

[16] Although Morgan, another of Bedford's employees, encountered the police in a way that would implicate their participation in s/m (hetero)sexual practice, Judge Bogusky does not come close to suggesting that the police might have participated more than they should have. It is their rowdyness, and being "young bucks" that he emphasizes as though to a certain extent their being "young" rids them of any " mature" sexual recognition.

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References Cited

Alcoff, L.
1995 Is the Feminist Critique of Reason Rational?
Philosophical Topics 23(2):1-26.

Babcock, B.
1980 Reflexivity: Definitions and Discriminations.
Semiotica 30(1-2):1-14.

Bedford, T.
1998 ***Bondage Bungalow Dominatrix: The Unpublished Manuscript by Madame de Sade.***
Toronto (unpublished). (Each section starts at page number one, therefore, each citation specifies section).

Bell, S., and B. Cosman
1997 ***Bad Attitudes on Trial: Pornography, Feminism and the Butler Decision.***
Toronto: The University of Toronto Press.

Butler, J.
1991 Imitation and Gender Subordination.
In ***Inside/Out: Lesbian Theories, Gay Theories.***
Diana Fuss, ed. Pp. 13-31.
New York: Routledge.

Code, L.
1995 Incredulity, Experientialism, and the Politics of Knowledge.
In ***Rhetorical Spaces***.
Pp. 58-82.
New York: Routledge.

Connolly, W.E.
1993 Beyond Good and Evil: The Ethical Sensibility of Michel Foucault.
Political Theory 21:365-389.

Foucault, M.
1977 ***Discipline and Punish: The Birth of the Prison.***
New York: Vintage Books.

1980 ***The History of Sexuality Vol. 1: An Introduction.***
New York: Vintage Books.

Grbich, J.
1991 The Body in Legal Theory
In ***At the Boundaries of Law: Feminism and Legal Theory.***
Martha Fineman and Nancy Thomadsen, eds. Pp.61-77.
New York: Routledge.

McClintock, A.
1993 Sex Trade and Sex Work
In ***Social Text*** *(special edition) 37 (winter).*

1995 Imperial Leather: Race, Cross-Dressing and the Cult of Domesticity.
In ***Imperial Leather: Race Gender and Sexuality in the Colonial Context.***
Pp. 132-181.
New York: Routledge University Press.

Smart, C.
1995 Legal Subjects and Sexual Objects: Ideology, Law and Female Sexuality.
In ***Law, Crime and Sexuality:Essays in Feminism.***
Pp. 49-53.
London: Sage Publications.

Steele, V.
1996 Fashion, Fetish, Fantasy.
In ***Fetish: Fashion, Sex and Power.***
Pp. 163-197.
New York and Oxford: Oxford University Press.

Valverde, M.
1987 Too Much Heat, Not Enough Light.
In ***Good Girls/Bad Girls: Feminists and Sex Trade Workers Face to Face.***
Laurie Bell, ed. Pp. 27-33.
Toronto: The Seal Press.

1989 Beyond Gender Danger and Private Pleasures: Theory and Ethics in the Sex Debates.
Feminist Studies 15(2):237-254.

Walker, M.
1998 Authority and Transparency: The Example of Feminist Skepticism.
In ***Moral Understandings: A Feminist Study in Ethics.***
Pp. 49-77.
New York: Routledge.

Williams, P.
1991 The Brass Ring and the Deep Blue Sea.
In ***The Alchemy of Race and Rights.***
Edited Volume. Pp. 3-15.
Cambridge: Harvard University Press.

———

1995 Common Bawdy House.
In ***The Dictionary of Canadian Law.***
Scarborough: Carswell.

*** Case**

R v. Bedford October 1998, unreported (Delivered by Judge R.E. Bogusky). (Ruling 1 and 2)