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APPEARANCE AS A FEMINIST ISSUE¹

Deborah L. Rhode

IN 1929, in *A Room of One's Own*, Virginia Woolf maintained that every woman needed to consider “what is your relation to the ever-changing and turning world of gloves and shoes”² Since then, that world has grown ever more complicated. In today’s universe of escalating opportunities for cosmetic enhancement, the issues surrounding beauty have posed increasingly complex challenges. For some women, our cultural preoccupation with appearance is a source of wasted effort and expense, a threat to physical and psychological well-being, and a trigger for workplace discrimination. For other women, the pursuit of beauty is a source of pleasure and agency, and a showcase for cultural identity. The question for the women’s movement is whether it is possible to find some common ground, and to develop a concept of beauty that is a source of pleasure rather than shame, and that enhances, rather than dictates self-worth.

I. NINETEENTH AND EARLY TWENTIETH-CENTURY DEBATES

Contemporary challenges to appearance-related practices have longstanding roots. During America’s first two centuries, “respectable” women did not “rouge,” a practice associated with prostitutes.³ Women might ingest chalk, vinegar, or even arsenic to achieve a fair complexion, or kiss rosy crepe paper to redden their lips, but any detectable use of paints or powders put their reputations at risk.⁴ Beauty and virtue were intertwined, and reliance on cosmetics was thought corrosive to a “chaste soul” and a sign of moral depravity.⁵ Some black women’s leaders similarly condemned anyone who wanted to whiten her skin: “Why does she wish to improve her appearance? Why not improve her real self?”⁶ On hair, many leaders echoed the advice of Marcus Garvey: “Don’t remove

1. Original publication available at Deborah L. Rhode, *Appearance as a Feminist Issue*, in *BODY AESTHETICS* 81 (Sherri Irvin ed., Oxford Univ. Press, 2016). The editorial assistance of Eun Sze is gratefully acknowledged.

2. Virginia Woolf, *A Room of One's Own and Three Guineas* 117 (Oxford University Press 2015).

3. Kathy Peiss, *Hope in a Jar: The Making of America's Beauty Culture* 53 (1998).

4. *Id.* at 15, 17; Karen Kozlowski, *Read My Lips: A Cultural History of Lipstick* 18 (1998).

5. Peiss, *supra* note 3, at 57.

6. *Id.* at 207.

the kinks from your hair! Remove them from your brain!”⁷

Market forces, however, kept putting temptation within ever-easier reach, and by the early twentieth century much of the stigma surrounding cosmetics had eroded.⁸ They became seen as a form of self-expression and an emblem of emancipation, as well as a means of moving up in the marriage market.⁹ According to Zelda Fitzgerald, “paint and powder” were a way for women to “choose their destinies—to be successful competitors in the great game of life.”¹⁰ By the early twentieth century, suffragists advocated lip rouge as a symbol of women’s rights and incorporated its use in public rallies.¹¹

Although some activists in this “first wave” of feminism also attempted to link dress reform with other feminist causes, their initial campaigns had little success. In 1851, Elizabeth Cady Stanton and Amelia Bloomer launched their crusade against corsets and crinolines by wearing shortened skirts over Turkish-styled pantaloons, a style quickly labeled “bloomers.”¹² A few other suffragists joined the effort, but soon dropped out after journalists viciously caricatured the costume and spectators jeered and stoned women who wore them.¹³ However, many doctors, educators, editors of women’s magazines, and authors of advice manuals supported at least some reform, and “sensible dress” apart from bloomers gradually emerged.¹⁴ The increasing popularity of the bicycle and other forms of physical exercise, as well as women’s entry into the paid labor market, ultimately reinforced the demand for functional fashions.¹⁵

In the 1960s, the emergence of a “second wave” of feminism brought a more fundamental and sustained challenge to the beauty industry. In 1968, protestors at the Miss America pageant announced a boycott of all products related to the competition, and unceremoniously deposited bras, girdles, curlers, false eyelashes, and women’s magazines into a “Freedom Trash Can.”¹⁶ Although no undergarments were burned, the label “bra burner” stuck as an all-purpose pejorative to characterize “radical” feminists.¹⁷ Among that group were authors of a statement accompanying the protest, which explained, “Women in our society are forced daily to compete for male approval, enslaved by ludicrous beauty standards that we

7. Ayana D. Byrd & Lori L. Tharps, *Hair Story: Untangling the Roots of Black hair in America* 38 (2001).

8. Peiss, *supra* note 3, at 54.

9. *Id.* at 59.

10. Zelda Fitzgerald, *The Collected Writings of Zelda Fitzgerald* 416 (Matthew J. Bruccoli ed., 1997).

11. Sarah E. Schaffer, *Reading Our Lips: The History of Lipstick Regulation in Western Seats of Power*, 62 *FOOD & DRUG L.J.* 165, 176 (2007).

12. Susan Brownmiller, *FEMININITY* 88-89 (1984).

13. *Id.* at 89.

14. Lois Banner, *American Beauty* 98-99, 147-50 (1983).

15. *Id.* at 150.

16. *People & Events: The 1968 Protest*, PBS.org: Miss America, http://www.pbs.org/wgbh/amex/missamerica/peopleevents/e_feminists.html [<https://perma.cc/8HHC-5BP4>].

17. *Id.*

ourselves are conditioned to take seriously.”¹⁸ Building on the premise that the “personal is political,” activists shed a range of conventions along with their undergarments. Unshaved legs and unadorned faces became a symbol of “liberation.”¹⁹

The public reception was not unlike the response to early dress reformers. Feminists were seen as “dowdy,” “frumpy” “moralizers,” who hated men because they could not attract them.²⁰ Because radicals gained disproportionate media attention, the early feminist movement, in general, and its critique of beauty in particular, was often dismissed even by those who accepted most of its other egalitarian principles.²¹ In *The Sceptical Feminist*, Janet Radcliffe Richards voiced a common concern: “The image of the movement comes from the individuals in it; if large numbers of them are unattractive the movement as a whole is bound to be so too.”²²

Over the last quarter century, as the feminist movement has grown increasingly fragmented, different subcultures have differed sharply on matters of appearance. Since the late 1960s, fat activists have sought to challenge discrimination on the basis of weight and to make tolerance for all body sizes a social priority.²³ Beginning in the 1990s, a group of young activists, self-labeled as “third-wave feminists,” focused on interlocking categories of oppression and ways of encouraging sexual agency.²⁴ For some of these women, that has involved reclaiming conventional emblems of femininity—sexualized clothing and stiletto heels. For others, such as those in punk rock subcultures, it has meant rejecting traditional images of femininity and asserting deviant styles—green hair or shaved heads.²⁵ And for aging second-wave feminists, the challenge has been finding ways to reconcile their personal attachment to femininity with their political commitments.

II. CRITIQUES OF PREVAILING BEAUTY PRACTICES

Despite their other differences, many contemporary feminists have raised shared concerns about current norms of appearance. The most obvious is cost. In her widely publicized account, *The Beauty Myth*, Naomi Wolf noted that women’s absorption with appearance “leeches money

18. Brownmiller, *supra* note 12, at 24-25.

19. Betty Luther Hillman, “*The Clothes I Wear Help Me to Know My Own Power*”: *The Politics of Gender Presentation in the Era of Women’s Liberation*, 34 *FRONTIERS: J. WOMEN STUD.* 155, 158 (2013).

20. *Id.* at 160-62.

21. Janet Radcliffe Richards, *The Sceptical Feminist: A Philosophical Enquiry* 282 (1994).

22. *Id.* at 283.

23. Dan Fletcher, *The Fat-Acceptance Movement*, *TIME* (July 31, 2009), <http://content.time.com/time/nation/article/0,8599,1913858,00.html> [<https://perma.cc/TPA6-4B76>].

24. Leslie Heywood & Jennifer Drake, *Third Wave Agenda: Being Feminist, Doing Feminism* (1997); see also Jennifer Baumgardner & Amy Richards, *Manifesta: Young Women, Feminism, and the Future* (2000).

25. Lauraine Leblanc, *Pretty in Punk: Girls’ Gender Resistance in a Boys’ Subculture* 13, 219 (1999).

and leisure and confidence.”²⁶ Because women are held to unattainable ideals, their task is boundless. Almost all areas of the female body are in need of something. The result is to focus women’s attention on self-improvement rather than social action.

The costs of our cultural preoccupation with appearance are considerable. The global investment in grooming totals over US \$100 billion, and Americans alone spend over US \$40 billion a year on diets.²⁷ Much of that investment falls short of its intended effects or is induced by misleading claims. The weight loss industry is a case in point. Ninety-five percent of dieters regain their majority of their weight within one to five years.²⁸ Yet in the fact-free fantasy land of diet marketers, miracle products abound. Claims that the Federal Trade Commission has targeted include topical gels, patches, and dietary supplements that “eliminate fat deposits” and cause “rapid weight loss” without “diets or exercise.”²⁹ Consumers squander millions of dollars on such products because most Americans assume that manufacturers could not make these claims without a factual basis.³⁰ Yet resource limitations have prevented state and federal regulatory agencies from keeping up with the barrage of misleading advertisements regarding diet and cosmetic products.³¹

Our preoccupation with appearance also carries health risks, including eating disorders, yo-yo dieting, and cosmetic surgery.³² From a health perspective, the current obsession with thinness is misdirected; it compromises reproductive and work capacity, and predicts higher rates of sickness.³³ Except at extreme levels, weight is less important than fitness in preventing disease and prolonging life.³⁴ Concerns about appearance

26. Naomi Wolf, *The Beauty Myth: How Images of Beauty are Used Against Women* 53 (1991).

27. Alex Kuczynski, *Beauty Junkies: Inside Our \$15 Billion Obsession with Cosmetic Surgery* 7 (2006); Gina Kolata, *Health and Money Issues Arise Over Who Pays for Weight Loss*, N.Y. TIMES, Sept. 30, 2004, at C4.

28. Francine Grodstein et al., *Three Year Follow-up of Participants in a Commercial weight Loss Program: Can you Keep it off?*, 156 ARCHIVE INTERNAL MED. 1302, 1305 (1996).

29. Deborah L. Rhode, *The Beauty Bias: The Injustice of Appearance in Life and Law* 33-34 (2010).

30. *Widespread Ignorance of Regulation and Labeling of Vitamins, Minerals, and Food Supplements, According to a National Harris Interactive Survey*, Harris Interactive Health Care News (December 23, 2002), <http://www.prnewswire.com/news-releases/widespread-ignorance-of-regulation-and-labeling-of-vitamins-minerals-and-food-supplements-according-to-a-national-harris-interactive-survey-77244857.html>.

31. Jodie Sopher, *Weight-Loss Advertising too Good to be True: Are Manufacturers or the Media to Blame?* 22 CARDOZO ARTS & ENT. L.J. 933, 941-43, 963 (2005); Michael Specter, *Miracle in a Bottle: Dietary supplements are unregulated, some are unsafe—and Americans can’t get enough of them*, THE NEW YORKER, Feb. 2, 2004, at 68.

32. Paul Campos, *The Obesity Myth: Why America’s Obsession with Weight is Hazardous to Your Health* 32, 225, 234 (2004); Glenn A. Gaesser, *Big Fat Lies: The Truth About Your Weight and Your Health* 34, 155-6 (2004).

33. Patricia R. Owen & Erika Laurel-Seller, *Weight and Shape Ideals: Thin Is Dangerously In*, 30 J. APPLIED PSYCHOL. 979, 980 (2000).

34. CAMPOS, *supra* note 32, at 34-35; LAURA FRASER, *LOSING IT: AMERICA’S OBSESSION WITH WEIGHT AND THE INDUSTRY THAT FEEDS ON IT* 253-54 (1997); Tara Parker-Pope, *Better to be fat and fit than skinny and unfit*, N.Y. TIMES, Aug. 19, 2008, at F5.

are also linked to depression, anxiety, and low self-esteem.³⁵ Even fashion footwear carries a cost; high heels are a major contributor to serious back and foot problems.³⁶ Hillary Clinton learned that fact the hard way. One Christmas season during the Clinton presidency, after standing for hours in receiving lines at holiday parties, she became bedridden with back pain.³⁷ A specialist concluded that she “shouldn’t wear high heels again.” “Never?” Clinton asked. “Well, yes, never,” he responded, and added, “With all due respect, ma’am, why would you want to?”³⁸

Another cost of our cultural preoccupation with appearance is discrimination. Appearance skews judgments about competence. Resumes and essays get less favorable evaluations when they are thought to belong to less attractive individuals.³⁹ Overweight individuals are seen as having less effective work habits and ability to get along with others.⁴⁰ Less attractive teachers get less favorable course evaluations from students,⁴¹ and less attractive students receive lower ratings in intelligence from teachers.⁴² A meta-analysis that aggregated findings of over a hundred studies found that although less attractive individuals are perceived as less competent, the actual correlation between physical appearance and intellectual competence is “virtually zero.”⁴³ Although the relative importance of appearance varies by occupation, less attractive individuals are generally less likely to be hired and promoted and earn lower salaries.⁴⁴ Penalties are apparent even in professions like lawyer and college

35. Thomas Pruzinsky, *Psychopathology of Body Experience: Expanded Perspectives*, in *Body Images: Development, Deviance, and Change* 183 (Thomas F. Cash & Thomas Pruzinsky eds., 1990); Rebecca M. Puh and Kelly D. Brownell, *Confronting and Coping with Weight Stigma: An Investigation of Overweight and Obese Adults*, 14 *OBESITY* 1802, 1802-03 (2006).

36. Marc Linder, *Smart Women, Stupid Shoes, and Cynical Employers: The Unlawfulness and Adverse Health Consequences of Sexually Discriminatory Workplace Footwear Requirements for Female Employees*, 22 *J. CORP. L.* 295, 296, 306-307, 309 (1997); Alyssa B. Dufour et al., *Foot Pain: Is Current or Past Shoewear a Factor?* 61 *ARTHRITIS CARE RES.* 1352, 1356-57 (2009).

37. Hillary Rodham Clinton, *Living History* 490 (2004).

38. *Id.* at 491.

39. Mohammed Y. Quereshi & Janet P. Kay, *Physical Attractiveness, Age, and Sex as Determinants of Reactions to Resumes*, 14 *SOC. BEHAV. & PERSONALITY* 103, 107 (1986); David Landy & Harold Sigall, *Beauty is Talent: Task Evaluation as a Function of the Performer's Physical Attractiveness*, 29 *J. PERSONALITY & SOC. PSYCHOL.* 299, 302, 304 (1974).

40. Sondra Solovay, *Tipping the Scales of Justice: Fighting Weight-Based Discrimination* 101-05 (2000); Janna Fikkan & Esther Rothblum, *Weight Bias in Employment, in Weight Bias: Nature, Consequences, and Remedies* 15, 16-17 (Kelly D. Brownell et al. eds., 2005).

41. Daniel S. Hamermesh, *Beauty Pays: Why Attractive People are More Successful*, 80-81 (2011); Daniel S. Hamermesh & Amy Parker, *Beauty in the Classroom: Instructors' Pulchritude and Putative Pedagogical Productivity*, 24 *ECON. EDUC. REV.* 369, 375 (2005).

42. Vicki Ritts et al., *Expectations, Impressions, and Judgments of Physically Attractive Students: A Review*, 62 *Rev. Educ. Res.* 413, 422 (1992).

43. Linda A. Jackson et al., *Physical Attractiveness and Intellectual Competence: A Meta-Analytic Review*, 58 *SOC. PSYCHOL. Q.* 108, 115 (1995).

44. Hamermesh, *supra* note 41, at 81; Megumi Hosoda et al., *The Effects of Physical Attractiveness on Job-Related Outcomes: A Meta-Analysis of Experimental Studies*, 56 *PERSONNEL PSYCHOL.* 431, 457-58 (2003); Markus M. Mobius & Tanya S. Rosenblat, *Why Beauty Matters*, 96 *AM. ECON. REV.* 222, 223 (2006).

professor, where appearance bears no demonstrable relationship to job performance.⁴⁵ About 60 percent of overweight women report experiences of employment discrimination.⁴⁶ Such discrimination on the basis of appearance carries both individual and social costs. It undermines self-esteem, diminishes job aspirations, and compromises efficiency and equity.⁴⁷

The overemphasis of attractiveness diminishes women's credibility and diverts attention from their capabilities and accomplishments. In the long run, these are more stable sources of self-esteem and social power than appearance. The devaluation and sexualization of women based on appearance is particularly apparent for women in leadership positions. On Condoleezza Rice's first day as national security adviser, the *New York Times* ran a profile discussing her dress size (6), taste in shoes (comfortable pumps), and hemline preferences (modest).⁴⁸ After becoming secretary of state, her appearance in high boots when visiting troops in Germany inspired portrayals as a dominatrix in political cartoons and comedy routines.⁴⁹

Kamala Harris, California's Attorney General, received front page coverage when President Barack Obama described her as "by far, the best-looking attorney general in the country."⁵⁰ As first lady and then as a political candidate, Hillary Clinton faced a barrage of criticism as frumpy, fat, and "bottom heavy."⁵¹ As secretary of state, when a man at a town hall meeting in Kyrgyzstan asked her which designers she wore, an exasperated Clinton responded, "Would you ever ask a man that question?"⁵² Shortly after Marissa Mayer was appointed CEO of Yahoo, a *Forbes* article described her as "attractive, well coifed, and poised under pressure," and described her reputation as the "hottest CEO ever," and one of the "sexiest geek girls" of Silicone Valley.⁵³ Although Supreme

45. Jeff E. Biddle & Daniel S. Hamermesh, *Beauty, Productivity, and Discrimination: Lawyer's Looks and Lucre*, 16 J. LAB. ECON. 172, 197 (1998); Hamermesh, *supra* note 41, at 78-79.

46. Solovay, *supra* note 40, at 103.

47. *Id.* at 104.

48. Fiona Morgan, *No Way to Treat a Lady: Was the New York Times Profile of Condoleezza Rice Sexist or Just Silly?*, SALON (Dec. 19, 2000), http://www.salon.com/2000/12/19/rice_5/ [<https://perma.cc/LJJ4-H3AY>].

49. Deborah F. Atwater, *African American Women's Rhetoric: The Search for Dignity, Personhood, and Honor* 3-4 (2010).

50. Joe Garofoli, *Obama Apologizes to California's Harris*, SF GATE, Apr. 5, 2013, <http://www.sfgate.com/politics/joegarofoli/article/Obama-apologizes-to-California-s-Harris-4413842.php> [<https://perma.cc/2HY9-Z99W>].

51. Deborah L. Rhode, *Speaking of Sex: The Denial of Gender Inequality* 60 (1997); *From the Women's Desk—Why Does Larry King Think Hillary Clinton's Hair, Legs, Smile and Figure Are 'News'?*, FAIR (June 14, 1999), <http://fair.org/take-action/action-alerts/from-the-womens-desk-why-does-larry-king-think-hillary-clintons-hair-legs-smile-and-figure-are-quotnewsquot/> [<https://perma.cc/2UT9-8WM6>].

52. Jonathan Alter, *Hillary Clinton: Woman of the World*, VANITY FAIR, June 2011, at 201.

53. Meghan Casserly, *Yahoo's Marissa Mayer is the 'Hottest CEO Ever.' And it's Great For Business*, FORBES (July 17, 2012), <http://www.forbes.com/sites/meghancasserly/2012/07/17/yahoo-marissa-mayer-hottest-ceo-ever-great-for-business/#106f456751c7>.

Court Justices are not known for being eye candy, no male nominee to the Court has attracted comments like those directed at Elena Kagan; to talk show host Michael Savage, she looked “as if she belongs in a kosher deli.”⁵⁴ I got a personal glimpse into the phenomenon just described after publicizing my book, *The Beauty Bias*. It was surprising how many men took time to send me comments like “You ugly cunt,” or “Let’s take up a collection to buy the professor a burka and improve the aesthetics at Stanford.”⁵⁵

One other cost of discrimination on the basis of appearance is the exacerbation of economic and racial inequality. Appearance both reflects and reinforces class privilege. Prevailing beauty standards disadvantage individuals who lack the time and money to invest in attractiveness. Fashion, makeup, health clubs, weight loss products, and cosmetic procedures all come at a cost. Discrimination based on weight is particularly problematic from a class standpoint. Low-income and minority individuals have disproportionate rates of obesity, and as one expert puts it, there is some evidence that “poverty is fattening,” and “much stronger evidence that fatness is impoverishing.”⁵⁶ Many poor people live in nutritional deserts—areas with no readily accessible grocery stores that sell fresh fruits and vegetables.⁵⁷ These areas also tend to lack public recreational facilities and schools with adequate physical education programs.⁵⁸ The bias that overweight individuals confront compromises their educational, employment, and earning opportunities. Although images of beauty are growing somewhat more diverse, they still reflect the legacy of racial privilege. Light skin, straightened hair, and Anglo-American features carry an economic and social advantage.⁵⁹ Those who look less “white” have lower incomes and occupational status after controlling for other factors.

Discrimination on the basis of appearance also compounds gender inequality by reinforcing a double standard and a double bind for women. They face greater pressures than men to be attractive and greater penalties for falling short; as a consequence, their self-worth is more dependent on looks.⁶⁰ Overweight women are judged more harshly than overweight men and are more susceptible to eating disorders and related psychologi-

54. Deborah L. Rhode, *Why Elena Kagan’s Looks Matter*, *The Daily Beast*, June 26, 2010, <http://www.thedailybeast.com/articles/2010/06/26/elena-kagans-looks-and-why-they-matter.html> [https://perma.cc/BJ6G-FEAT].

55. Michael Savage, *Comments during Savage Nation*, the savage nation (Apr. 9, 2010).

56. Paul Ernsberger, *Does Social Class Explain the Connection Between Weight and Health?*, in *The Fat Studies Reader* 26, 32 (Esther Rothblum and Sondra Solovay eds., 2009).

57. Elizabeth A. Baker et al., *The Role of Race and Poverty in Access to Foods that Enable Individuals to Adhere to Dietary Guidelines*, 3 *Preventing Chronic Disease* 7 (2006).

58. Jeffrey Kluger, *How America’s Children Packed on the Pounds*, *TIME*, Jun. 12, 2008, at 66, 69; Penny Gordon-Larsen et. al., *Inequality in the Built Environment Underlies Key Health Disparities in Physical Activity and Obesity*, *Pediatrics*, 2006, at 417, 421.

59. April E. Fallon, *Culture in the Mirror: Sociocultural Determinants of Body Image*, in *Body Images*, at 97-98; Imani Perry, *Buying White Beauty*, 12 *CARDOZO J.L. GENDER* 579, 587-88, 590, 606 (2006).

60. Fallon, *supra* note 59, at 80-81.

cal and physical dysfunctions.⁶¹ About ninety percent of cosmetic surgery patients are female, with all the financial costs and physical risks that such procedures pose.⁶² Yet even as the culture expects women to conform, they often face ridicule for their efforts. A case in point was the comment from a *Boston Herald* columnist about the appearance of a prominent politician: “There seemed to be something humiliating, sad, desperate and embarrassing about [Katherine] Harris yesterday, a woman of a certain age trying too hard to hang on.”⁶³ The “certain age” was forty-three.⁶⁴ But neither should women “let themselves go,” nor look as if they were trying too hard not to.⁶⁵ Beauty must seem natural—even, or especially, when it can only be accomplished through considerable unnatural effort.

Feminists are in a particularly problematic situation. Those who defy conventional standards are ridiculed as homely harpies; those who comply are dismissed as hypocrites. Jane Fonda’s decision to have breast implants and other surgical procedures seemed to “contradict everything she advocates” concerning health and fitness.⁶⁶ When confronted by the contradiction, Fonda responded, “I never asked to be a role model. . . . I don’t pretend to be different from any other woman. I’m subject to the same foibles and pressures.”⁶⁷ Most disturbing of all is the toll that these criticisms take on individuals’ own self-esteem. Many women who recognize beauty norms as oppressive feel humiliated by the inability to escape them. They are ashamed for feeling ashamed. Writing about her resort to electrolysis to eliminate unsightly facial hair, Wendy Chapkis confesses: “I am a feminist. How humiliated I then feel. I am a woman. How ugly I have been made to feel. I have failed on both counts.”⁶⁸ Eve Ensler, in *The Good Body*, recounts her own struggles with self-deprecating irony: “What I can’t believe is that someone like me, a radical feminist for nearly thirty years, could spend this much time thinking about my stomach. It has become my tormentor, my distractor: it’s my most serious committed relationship.”⁶⁹

61. Solovay, *supra* note 40, at 105; Fikkan & Rothblum, *supra* note 40, at 16-18; Kate Sablosky, *Probative “Weight”: Rethinking Evidentiary Standards in Title VII Sex Discrimination Cases*, 30 N.Y.U. REV. L. & SOC. CHANGE 325, 330-334 (2006).

62. *Quick Facts: Highlights of the ASAPS 2012 Statistics on Cosmetic Surgery*, AM. SOC’Y AESTHETIC PLASTIC SURGERY (2012), <http://www.surgery.org/sites/default/files/2012-quickfacts.pdf> [<https://perma.cc/K87A-XL4H>].

63. Caryl Rivers, *Mockery of Katherine Harris Shows Double Standard*, WOMEN’S ENews, (Nov. 29, 2000), <http://womensenews.org/2000/11/mockery-katherine-harris-shows-double-standard/> [<https://perma.cc/J8TM-UYQF>].

64. *Id.*

65. See Katha Pollitt, *Learning to Drive: And Other Life Stories 187-207* (2007); Wendy Chapkis, *Beauty Secrets: Women and the Politics of Appearance 2* (1999).

66. Myra Dinnerstein & Rose Weitz, *Jane Fonda, Barbara Bush, and Other Aging Bodies: Femininity and the Limits of Resistance*, in FEMINIST ISSUES, Fall 1994, at 3, 13.

67. *Id.*

68. Chapkis, *supra* note 65, at 2.

69. Eve Ensler, *The Good Body 5-6* (2005).

III. THE DEFENSE OF BEAUTY

Responses to these critiques have proceeded on multiple levels. Some women stress agency. Cosmetic surgery patients often describe their decision as “the independent choice of a liberated woman” and deny that they are pressured by others.⁷⁰ In one widely circulated *Playboy* article, Jan Breslauer, a former Yale feminist theory professor, further insisted that having a “boob job” expressed feminist principles—“a woman’s right to do what she wants with her body.”⁷¹ It “made me focus on how far I’ve come. . . . I have arrived at a point where I can go out and buy myself a new pair of headlights if I want. . . . [I]f somebody asks if they’re [mine, I can] tell them, ‘Yes, I bought them myself.’”⁷²

At the same time, many patients have acknowledged ridicule, humiliation, and shame as driving their decisions. One female patient described a common experience: “I wish I could have said, ‘To hell with it, I am going to love my body the way it is’. . . but I had tried to do that for fifteen years and it didn’t work.”⁷³ Hillary Clinton, who has had a number of minor makeovers, captured similarly common views when she told *Elle* magazine, “Cosmetic surgery may be just as important for someone’s state of mind and well-being as any other kind of surgery.”⁷⁴

So too, studies of women’s use of makeup, salons, and spas find considerable satisfaction with such purchases. Cosmetics make many individuals feel more “credible” and “professional.”⁷⁵ Time spent shopping or in spas and salons provides pleasure and opportunities for female bonding. It can also seem like an occupational necessity. One study of women in Congress between ages forty-six and seventy-four found that over ninety percent had no visible grey hair.⁷⁶ The reasons for tinting are not unlike those that motivate users of Botox. As Susan Brownmiller observed three decades ago, the facelift is “a logical extension of every night cream, moisturizer, pore cleanser and facial masque that has gone before it.”⁷⁷

Yet as Carolyn Heilbrun argued in a celebrated essay, “Coming of Age,” makeup or hair tints are a form of temporary “camouflage” that can be shed at will.⁷⁸ Surgery reflects a riskier attempt to alter the body, and the efforts are often only “briefly if at all effective. Worse, they in-

70. Decca Aitkenhead, *Most british women now expect to have cosmetic surgery in their lifetime. How did the ultimate feminist taboo just become another lifestyle choice?*, THE GUARDIAN (Sept. 13, 2005), <https://www.theguardian.com/world/2005/sep/14/gender.deccaaitkenhead> [<https://perma.cc/3DB9-6R9D>].

71. Jan Breslauer, *Stacked Like Me*, PLAYBOY, Jul. 1997, at 64, 66-67.

72. *Id.*

73. Debra L. Gimlin, *Body Work: Beauty and Self-Image in American Culture* 100 (2002).

74. Deborah L. Rhode, *The Beauty Bias: The Injustice of Appearance in Life and Law* 78 (2010).

75. Kirsten Dellinger & Christine L. Williams, *Makeup at Work: Negotiating Appearance Rules in the Workplace*, 11 GENDER & SOC’Y 151, 165-66 (1997).

76. Anne Kreamer, *The War Over Going Gray*, TIME (Aug. 31, 2007), <http://content.time.com/time/nation/article/0,8599,1658058,00.html> [<https://perma.cc/BU5Q-GUTZ>].

77. Brownmiller, *supra* note 12, at 167.

78. Carolyn G. Heilbrun, *Coming of Age*, N. Y. WOMAN, Feb., 1991, at 56, 58.

crease the fear of age. . . . [O]ne should encourage youth, not try to be it.”⁷⁹ Freedom in midlife can only come in understanding that “who I am is what I do” not how I look.⁸⁰ Eve Ensler makes the same point about diets and other appearance-related regimes: “LOVE YOUR BODY. STOP FIXING IT.”⁸¹

While women remain divided over cosmetic practices, they also often share discomfort about the culture that produces them. Appearance is an opportunity for self-expression and self-determination, but many women recognize that their options are far too “limited by circumstances which are not of their making.”⁸² In one study of makeup in the workplace, virtually all the participants believed that they had a choice about whether to use cosmetics.⁸³ But many also believed that women who decline to wear makeup “do not appear to be (1) healthy, (2) heterosexual, or (3) credible.”⁸⁴ So, too, even women who are satisfied with their decision to have cosmetic surgery are often highly critical of the culture that had led them to take that step. Such surgery is “a symptom of an unjust social order in which women [have] to go to extremes” just to look acceptable.⁸⁵ To Katha Pollitt:

[W]hat is most of this starving and carving about but accepting that woman is basically just a body . . . with a rather short shelf life? You can postpone the expiration date if you “work” at it . . . or you “have work done,” as if the body were some sort of perpetual construction site. But basically you are suffering a lot to please people . . . and disguising that fact from yourself with a lot of twaddle about self-improvement and self-esteem.⁸⁶

Not all women are, of course, under such illusions. Many also recognize that in the long run, their efforts to conform to conventional ideals carry “heavy costs for them and for all women.”⁸⁷ But this seems like the price for success in the short run, which requires “making do with a culture that they believe judges and rewards them for their looks.”⁸⁸ As one feminist noted, “I am a midlifer in today’s world and I don’t think I have time to reeducate society for the greater good.”⁸⁹ “Plastic surgery,” she acknowledged, “is a bit of a sellout, but I don’t think it means I have to skewer myself on the feminist spike. . . . The personal may be political, but the personal is also personal. . . . I know that aging naturally is the more honorable way to go but I’m not there to be honorable to my gender. I’ve

79. *Id.*

80. *Id.*

81. Ensler, *supra* note 69, at xv.

82. Kathy Davis, *Reshaping the Female Body: The Dilemma of Cosmetic Surgery* 170 (1994).

83. Dellinger & Williams, *supra* note 75, at 156.

84. *Id.*

85. Davis, *supra* note 82, at 162.

86. Pollitt, *supra* note 65, at 202.

87. Gimlin, *supra* note 73, at 107.

88. *Id.*

89. Katharine Viner, *The New Plastic Feminism*, *THE GUARDIAN*, Jul. 21, 1997, at T4.

done quite a lot of that in my life.”⁹⁰ Jan Breslauer defends her implants along similar lines. Sexism is “not going to change any time soon. Here’s the choice: You can rail at an imperfect world or go get yourself a great pair of bazongas.” As long as “women are judged by their jugs . . . it’s sometimes better to acknowledge that the injustice exists and get on with your life.”⁹¹

Such comments point up the discomfiting dilemma that many feminists face between personal interests and political commitments. Even leaders of the women’s movement who try to set the right example frequently fail to achieve the inner peace that their politics demand. As a matter of principle, Susan Brownmiller stopped shaving her legs, but years later she “had yet to accept the unaesthetic results.”⁹² Patricia Williams makes a similar confession about her attachment to “power point” footwear—shoes with spindle heels and narrow toes that are unsuitable for actual walking.⁹³ Such ambivalence is scarcely surprising, given the deep-seated cultural forces and market pressures that underpin appearance ideals.

So where does that leave us? “Has feminism failed women?” Karen Lehman wonders.⁹⁴ “Have women failed feminism? Or has society failed them both?”⁹⁵ Perhaps more to the point, are those helpful ways of framing the question? Is a better way forward to avoid looking back and to get beyond blame? Can we criticize appearance-related practices without criticizing the women who find them necessary?

Underlying this question are deeper, more vexed issues of false consciousness, female agency, and the “authentic” self. Much of the early work on appearance by contemporary feminists underscored the need to link the personal with the political.⁹⁶ From this perspective, a “choice” to engage in practices that objectified women or imposed undue costs seemed irreconcilable with feminist principles. When women experienced themselves as autonomous agents, making pleasurable decisions, that was simply evidence of the power of repressive ideologies.⁹⁷ The only answer was to raise women’s consciousness and to demand that they value their authentic unreconstructed selves.⁹⁸ They should accept their bodies as they “really” are, and please themselves, not others, with the way that they look.⁹⁹

By contrast, most contemporary feminist theorists, influenced by postmodern perspectives, see no universal, uncontested standpoint from

90. *Id.*

91. Breslauer, *supra* note 71, at 66.

92. Brownmiller, *supra* note 12, at 156.

93. Patricia J. Williams, *Have Pantsuit, Will Travel*, THE NATION (Aug. 27, 2008), <https://www.thenation.com/article/have-pantsuit-will-travel/> [<https://perma.cc/A6UL-4QYQ>].

94. Lehman, *supra* note 74, at 9.

95. *Id.*

96. See Hillman, *supra* note 19, at 158-59.

97. See *id.* at 161.

98. See *id.* at 161-162.

99. See *id.*

which consciousness can be declared “false” or identities considered “authentic.”¹⁰⁰ Yet they also emphasize the link between the personal and political.¹⁰¹ Choices are never wholly “free” or solely “personal.”¹⁰² Cultural practices inevitably shape individuals’ preferences, and their individual responses in turn help sustain or alter those practices. According to critics such as Susan Bordo, that entails viewing the body as a site not simply for self-expression but also for political struggle.¹⁰³

Yet to many activists, such theoretical formulations offer too little guidance on personal choices that have political implications. As Katha Pollitt notes, the failure to take a stance on practices that subordinate women as a group leads all too easily to a “you go, girl” approach, in which “[a]nything is feminist as long as you ‘choose’ it.”¹⁰⁴ It has now become “unsisterly, patronizing, infantilizing and sexist to question another woman’s decision. . . . There’s no social context and no place to stand and resist; there’s just a menu of individual options and preferences.”¹⁰⁵ An *Onion* parody makes a similar point.¹⁰⁶ Under the title “Women Now Empowered by Everything a Woman Does,” a fictional woman’s studies professor explains that “[f]ortunately for the less impressive among us, a new strain of feminism has emerged,” in which almost all activities—shopping for shoes, or gaining weight—are “championed as proud, bold assertions of independence.”¹⁰⁷ Another fictional feminist in the parody says, “Only by lauding every single thing a woman does . . . can you truly go, girls.”¹⁰⁸ It was “so much simpler,” Pollitt observes, when feminism could just “tell women to use their famous agency to pull up their socks and say *Screw you*.”¹⁰⁹

IV. BEYOND THE IMPASSE

“What do women want?” Freud famously asked, as if the preferences of half the world’s population could be captured in some universal standard.¹¹⁰ When it comes to appearance, what women want is not always the same or always compatible. Many women who opt for cosmetic enhancement feel well-served by the result.¹¹¹ But the cost is to reinforce

100. Susan Bordo, *Unbearable Weight: Feminism, Western Culture, and the Body* 38, 40-41 (1993).

101. *Id.* at 17.

102. *Id.* at 20, 27.

103. *Id.* at 16.

104. Pollitt, *supra* note 65, at 192.

105. *Id.*

106. *Women Now Empowered by Everything a Woman Does*, *THE ONION* (Feb. 19, 2003), <http://www.theonion.com/article/women-now-empowered-by-everything-a-woman-does-1398> [<https://perma.cc/WV3E-G3GY>].

107. *Id.*

108. *Id.*

109. Pollitt, *supra* note 65, at 204.

110. Noam Shpancer, *What Do Women Really Want?*, *PSYCHOL. TODAY* (Aug. 22, 2013), <https://www.psychologytoday.com/blog/insight-therapy/201308/what-do-women-really-want> [<https://perma.cc/5T5V-9FM7>].

111. *See, e.g.*, Breslauer, *supra* note 71, at 64, 66-67.

standards that make it harder for other women to resist.¹¹²

Yet whatever their disagreements on these issues, most individuals appear to share certain core values. Appearance should be a source of pleasure, not of shame. Individuals should be able to make decisions about whether to enhance their attractiveness without being judged politically incorrect or professionally unacceptable. Our ideals of appearance should reflect diversity across race, ethnicity, age, and body size. In this ideal world, the importance of appearance would not be overstated. Nor would it spill over to employment and educational contexts in which judgments should be based on competence, not cosmetics. Women would not be held to higher standards than men. Neither would their self-esteem be tied to attractiveness, rather than accomplishment. In order for appearance to be a source of enjoyment rather than anxiety, it cannot dictate women's self-worth.

So how do we get from here to there? There are no easy answers, but refocusing the feminist critique is an obvious place to start. It has not helped feminists' political agenda or public image to denounce widely accepted beauty practices and women who won't get with the program.¹¹³ Greater tolerance is in order, along with recognition that women are not all similarly situated in their capacity for resistance. Those who write about women's issues need to recognize that not everyone has the luxury of being able to say "screw you" to the cosmetics industry. In my job as a law professor, no one cares whether I use mascara. For television's legal commentators, such as Greta Van Susteren, the circumstances are far different, and the condemnation she received for her surgical makeover seemed misdirected.¹¹⁴ Why center criticism on her choice rather than on the preferences of viewers and network executives that made the choice seem necessary? Focusing attention on personal decisions rather than collective practices asks too much of individuals and too little of society.¹¹⁵

To that end, we need a broad range of initiatives. Individuals should educate themselves and others about the risks of cosmetic practices and offer more support for women who resist them. Schools and workplaces should do more to discourage discrimination based on appearance. The media needs to offer more diverse and natural images of beauty, and to avoid promoting fraudulent appearance-related advertisements. The law should prohibit appearance discrimination and more effectively regulate the marketing of beauty products.¹¹⁶ When a leader such as Donald Trump demeans the appearance of his rivals, critics, and even women of

112. See Aitkenhead, *supra* note 53.

113. See, e.g., Brownmiller, *supra* note 12, at 160-62.

114. Lisa De Moraes, *Greta? Is That You? Analyst Moves from CNN to, Uh, Fox*, WASH. POST, Feb. 2, 2002, at C1; Kim Ode, *The Heart Has Reasons: It's Easy to Understand Why Van Susteren Chose the Eye Tuck: It May Even Be Tempting*, Minneapolis Star Tribune, Feb. 12, 2002, at E12.

115. Lynn S. Chancer, *Reconcilable Differences: Confronting Beauty, Pornography, and the Future of Feminism* 96 (1998).

116. Rhode, *supra* note 29, at 154.

who accused him of sexual abuse, the public should make its outrage felt.¹¹⁷

Feminists claim to speak from the experience of women. But that experience counsels tolerance for the different ways that appearance is perceived by different women under different constraints. *Fat is a Feminist Issue*, declared the title of Susie Orbach's widely circulated critique.¹¹⁸ So are implants, Botox, stilettos, and a host of other appearance-related concerns. Women need better ways of talking to, rather than past each other, on these issues, which continue to shape their opportunities and identities.

117. Trump asked about Carly Fiorina, "Look at that face. Would anyone vote for that?" Nicholas Kristoff, *Clinton, Trump, and Sexism*, N. Y. TIMES Jan. 24, 2016 (quoting Trump). For Trump's demeaning comments about his accusers, see *Donald Trump Mocks Accusers, Calls Them Unattractive and Liars*, Fortune, Oct. 15, 2016, <http://fortune.com/2016/10/15/donald-trump>.

118. See generally Susie Orbach, *Fat is a Feminist Issue: The Anti-Diet Guide for Women* (1997).