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## RUTHANN ROBSON: WRITING LIFE AND FICTION-THEORY

*Lynda Hall*

*i thought fiction was poetry  
it is theory  
i thought theory was a solution  
it is practice<sup>1</sup>*

Ruthann Robson's teaching, writing, research, and presentations at conferences and other venues encourage social change through scholarly and literary endeavors. As a legal theorist and Professor of Law, Robson understands the limits of the law as a tool for social change and urges the lesbian and gay community to work on a number of fronts—social and cultural, as well as legal ones. Significantly, Robson writes about lesbian and gay issues in ways that are insightful and understandable for those inside and outside the legal profession. Her cross-genre writings cover a diversity of subjects. Robson's writings are widely acclaimed. Robson's book of short stories *Eye of a Hurricane* was the winner of the Ferro-Grumley award for Fiction in 1990.<sup>2</sup> Her 2003 piece *Notes from a Difficult Case*, articulating her medical misdiagnosis, won a \$10,000 Creative Nonfiction Best Essay Award from *Creative Nonfiction*.<sup>3</sup> In the following, I focus on Robson's social and cultural writings from three perspectives, which, due to her activism at the nexus of the private and public, are inextricable. I discuss her writings in terms of autobiography: writing the "self," and the positive attributes and the dangers of these writerly acts. I examine her many nonfiction and fiction pieces that address her medical misdiagnosis, in addition to subjects such as motherhood, lesbian love, sexuality, and self-identity. Often the same subject is presented from several different perspectives, in kaleidoscopic and poetically nuanced stories and essays. I then examine her writings with relation to the community building she accomplishes, including a segment on same-sex marriage. Finally, I present one example of how her legal writings and analyses are used by others. The most obvious case to

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<sup>1</sup> RUTHANN ROBSON, *authenticity*, in MASKS 129, 131 (1999) [hereinafter ROBSON, *authenticity*].

<sup>2</sup> RUTHANN ROBSON, *EYE OF A HURRICANE* (1989).

<sup>3</sup> Ruthann Robson, *Notes from a Difficult Case*, 21 CREATIVE NONFICTION 6 (2003) [hereinafter Robson, *Notes from a Difficult Case*].

draw upon is her analyses of the Sharon Kowalski case<sup>4</sup> and how it informed the deliberation of others, using the example of Casey Charles's *The Sharon Kowalski Case: Lesbian and Gay Rights on Trial*.<sup>5</sup> The Sharon Kowalski case has been the rallying point and instigation of many of the legal changes that have occurred within lesbian communities with respect to custody, legal rights to marriage, and the rights of the disabled. Robson has been at the forefront of these challenges to the homophobic legal system, both in the classroom and in the court. On November 14 and 15, 2004, Robson kindly answered several of my questions in an interview pertaining to this piece. Several salient responses are interspersed throughout the following deliberations, noted in italics.

Before I begin my analysis, it is productive to identify my own position in relation to Robson's work. I teach English Literature and Cultural Studies at the University of Calgary and have used Robson's writings extensively in my classes. In addition, for years previous to my teaching career, I read her novels; therefore, my interest is academic as well as personal. Robson graciously contributed writings to my first two edited collections: *Lesbian Self-Writing: The Embodiment of Experience*, in which writers address their process of writing,<sup>6</sup> and *Telling Moments: Autobiographical Lesbian Short Stories*, for which Robson contributes a story that addresses her experiences with the medical profession and an after-note written two years later in retrospect that discusses the story in terms of "writing the self."<sup>7</sup> The cover for this collection features a photograph of Robson kneeling at the seashore, visualizing the many edges and borders she inhabits. This short story collection was a LAMBDA Literary Award Finalist in 2004. One of her writings that is most relevant to the teaching situation in a university environment is *Lesbian Sex in a Law School Classroom*, chapter thirteen of *Sappho Goes to*

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<sup>4</sup> On November 13, 1983, Sharon Kowalski suffered severe brain injuries in an automobile accident, leaving her first comatose, and then severely physically and cognitively disabled. Over a decade of legal battles ensued between Kowalski's father, Donald Kowalski, and her lesbian partner, Karen Thompson, over rights of guardianship and visitation. In the end, the courts allowed Thompson to bring Kowalski back to the couple's home to care for her, but only after enduring several years during which Donald Kowalski refused to allow Thompson any visitation with Kowalski at all. See *In re Guardianship of Kowalski*, 478 N.W.2d 790 (Minn. Ct. App. 1991).

<sup>5</sup> CASEY CHARLES, *THE SHARON KOWALSKI CASE: LESBIAN AND GAY RIGHTS ON TRIAL* (2003).

<sup>6</sup> LESBIAN SELF-WRITING: THE EMBODIMENT OF EXPERIENCE 125 (Lynda Hall ed., 2000), *simultaneously co-published as* J. OF LESBIAN STUD., Dec. 2000.

<sup>7</sup> Ruthann Robson, *Leaving Her*, in *TELLING MOMENTS: AUTOBIOGRAPHICAL LESBIAN SHORT STORIES* 223 (Lynda Hall ed., 2003) [hereinafter Robson, *Leaving Her*].

*Law School: Fragments in Lesbian Legal Theory*.<sup>8</sup> Here, Robson uses sharp humor, particularly in her observations on real classroom experience and advice on how to negotiate the position of the professor in relation to both heterosexual and lesbian and gay students.

#### WRITING THE "SELF"

In *Striving to Be Selfish*, published in *Lesbian Self-Writing: The Embodiment of Experience*, Robson's summary states, "Robson explores the different kinds of selfishness it takes to be a writer and a dyke, especially the necessary focus on the higher self. Distinguishing the writer from the author (and the dyke from the lesbian), she argues that there is an almost spiritual dimension to the practices of writing and sex."<sup>9</sup> Obviously, there is the primary selfishness necessary to have the private space and time to write, which takes time from other endeavors. She articulates a view of selfishness that is other than ordinary anxieties, such as placement of a story in an anthology. Her selfishness is assigned a capital "S": "the drive to connect with something higher and more grandiose than daily life. Some call it Soul, or Spirit, or Goddess, or even God. And some do not name it at all."<sup>10</sup> Robson describes the struggle while writing that occurs between the identities of author and lesbian, the struggle to avoid worries over sales figures, and the struggle to ignore publishers' or critics' desires for certain stories or certain endings. These sorts of testaments help the reader understand her writings more deeply. Robson names a significant result of the writing experience: self-discovery and new understandings. For instance, she explains, "[I]n *a/k/a*, my interest in the phenomenon of love at first sight led me to places that I could never have anticipated."<sup>11</sup>

Time has changed many of Robson's thoughts on her life and work and writing. Obviously, her misdiagnosed cancer led to intense contemplations about life and "being." Philosophical questions imbue her works. While in the past Robson felt it was important simply to have a lesbian character, in her 1997 interview with Brownworth about her novel *a/k/a*, she explains a deeper ethical motivation: "Now I think it's important to write about how characters are involved in the political life around them—how they are

<sup>8</sup> RUTHANN ROBSON, *SAPPHO GOES TO LAW SCHOOL* 215-24 (1998).

<sup>9</sup> Ruthann Robson, *Striving to be Selfish*, in *LESBIAN SELF-WRITING: THE EMBODIMENT OF EXPERIENCE* 125, 125 (Lynda Hall ed., 2000) [hereinafter Robson, *Striving to be Selfish*].

<sup>10</sup> *Id.* at 127.

<sup>11</sup> *Id.* at 128.

engaged or not engaged, how characters are trying to lead ethically political lives in spite of their material and political circumstances. And with their own grasp of privilege vis a vis other people. How hard it is to get a job that both pays you something and is also not demeaning. . . .”<sup>12</sup> Robson’s writings deal with real life issues that are prominent factors in the lives of lesbians, such as class, employment, and political activities, and the issues of pride and accomplishment that accompany these social and economic dimensions of life. Hers are not disengaged writings, but writings that paint in brilliant colors the flaws and disappointments of the characters, the darker and lighter sides of life, as well as the humorous and hopeful.

One of the most poignant admissions Robson makes connects her creative writing with the sense of accomplishment and duty in relation to scholarly writing. While many creative writers earn a major part of their living teaching creative writing in universities and colleges, a natural extension of their lives, Robson’s positions as law professor and attorney may appear to be at odds with her writing career. How can one juxtapose the autobiographical and the fictional with the cut-and-dried facts of the law? However, Robson succeeds in connecting the two lives. She explains, “Creative writing is most likely to manifest the epiphanies that mark connections with the higher Self, but I also try to practice Selfish Scholarship.”<sup>13</sup> Her writings delve into central questions, such as “How are lesbians treated when they are criminal defendants?”<sup>14</sup>

“BEGINNING FROM (MY) EXPERIENCE: LESBIAN NARRATIVES”

The above quotation is the title for chapter six of Robson’s *Sappho Goes To Law School: Fragments in Lesbian Legal Theory*. This quotation embodies Robson’s positive introduction of her personal life into her professional work. Robson has authored more than three hundred pieces of scholarship that have appeared in a wide variety of journals in the United States, Canada, Great Britain, New Zealand, and Australia, and has been translated into several languages, including French, German, and Hebrew. Her autobiographical and fictional writings truly enable both those within law and not conversant with legalese, and those who are heterosexual or homosexual, to understand the ramifications of many issues les-

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<sup>12</sup> Victoria A. Brownworth, a/k/a *Novelist: An Interview with Ruthann Robson*, LAMBDA BOOK REPORT 5.9, Mar. 1997, at 1, 7.

<sup>13</sup> Robson, *Striving to be Selfish*, *supra* note 9, at 129.

<sup>14</sup> *Id.*

bians and gays face every day, in an amazing Möbius strip of creativity.

Writing, as a lesbian and as an attorney and as a professor and as a mother and as a woman, places Robson in the public eye in a way that attracts surveillance as well as praise. While homophobia is gradually diminishing, it is still a significant social force. Leigh Gilmore, in the *The Limits of Autobiography*, argues that *identification* “marks a point of tension in autobiography for writers whose self-representational projects place them squarely within the dynamics of surveillance and who fall outside the most familiar operations of identification and sympathy.”<sup>15</sup> As evidenced by Robson’s many autobiographical writings, and her frequent presentations at conferences and workshops, her devotion to her beliefs and her desire for social justice preclude any notion of silencing herself or altering her works to avoid the repercussions of oppressive homophobia.

The possibility for writing to encourage social transformation significantly grounds Robson’s writerly endeavors. In our interview, she notes, “*I am very interested in writing as transformation and exploration. The possibility of change, especially social change, is what attracts me most.*” However, there are clear differences between what can be accomplished in the court and through literary activities. In her interview with Victoria Brownworth, Robson explains, “‘There are ways in which people simplify the law or confuse it with other things, like social change. The law and fiction are tools of social change—or could be—but aren’t of themselves social change and are subject to very reactionary forces as well.’”<sup>16</sup> Further to this point, in our November 2004 interview I inquired whether Robson receives negative reactions to her strong commitment to addressing issues such as medical malpractice or lesbian rights.

Robson responds: “*There are those who say that the law, especially litigation (as opposed to legislation), is inherently reactionary/conservative since it relies upon precedent. The status quo is preferable unless there are dramatic reasons to change it; change is viewed as illegitimate. So, any time one wants legal change, one should expect a negative reaction. For me personally, I have been told by many judges (not to mention opposing counsel), that my arguments were ‘radical’ and ‘without basis.’ I have been told by many that legal scholarship about lesbians is ludicrous, or ‘academic*

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<sup>15</sup> LEIGH GILMORE, *THE LIMITS OF AUTOBIOGRAPHY: TRAUMA AND TESTIMONY* 23 (2001).

<sup>16</sup> Brownworth, *supra* note 12, at 7.

suicide.' I have been told to write pieces that are more 'straightforward' (perhaps this meant genre, perhaps 'straight'), or happier (?), or more scholarly or less scholarly, or . . . this or that. So, of course one receives negative reactions! But, then again, there are also many positive reactions. Sometimes I have won in court and some theories I have voiced have become more accepted and some readers have liked my work. It does sound so platitudinous, be true to one's self; but I do think it is true."

To be "true to one's self" is a complicated endeavor when one individual occupies so many spaces of "being" in society. Many "selves" require attention and integration. Often writers describe the characters in their books as representing different parts of themselves—either of their present sense of self or of parts of selves of the past that have long been left behind. For instance, in her piece for the *Lesbian Self-Writing* collection, Jewelle Gomez suggests that there are parts of her "self" in different characters in *The Gilda Stories*.<sup>17</sup> In Audre Lorde's *Zami*, the wide array of characters cross many boundaries—racial, gender, sexual, class, and age.<sup>18</sup> Writing provides a rich opportunity for writing diverse "selves" into being. Robson observes, "In some ways, I write various selves into being, but I also use my writing to 'escape' from the narrowing versions of self that can be most comfortable. Writing allows me to experience the world as someone else. It's what makes writing wonderfully fun."

Escape from the present and creation of new selves is one component and impetus for writing. The titles of two of her works—*a/k/a* (a novel) and *Masks* (a book of poetry)—linguistically gesture towards the potential for assuming other personas. The fact that both acclaimed works include fictional and autobiographical features demonstrates the genres of autobiography and fiction as inextricable.

Robson's first book of poetry, *Masks*, infuses the personal experience with the lives of other women, creating a canvas of community and shared experience. The name of the press for this collection, Leapfrog Press, succinctly indicates the nature of Robson's work—crossing genres, sexualities, and time. As the back cover of the collection indicates, "Some of these poems zero in on moments or trends in the poet's own life, as a lesbian mother, a child of the city streets and a legal scholar, while others examine the female experience through women as diverse as Frieda Kahlo,

<sup>17</sup> Jewelle Gomez, *To Grandmother's House I Go*, in *LESBIAN SELF-WRITING: THE EMBODIMENT OF EXPERIENCE* 71 (Lynda Hall ed., 2000) (discussing her novel *THE GILDA STORIES* (1991)).

<sup>18</sup> AUDRE LORDE, *ZAMI: A NEW SPELLING OF MY NAME* (Crossing Press 1983) (1982).

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Alice B. Toklas, Diane Arbus, Kathe Kollwitz, Mary Cassatt, Willa Cather, and Isadora Duncan.”<sup>19</sup> Of note, this list of creative women—artists, writers, photographers, and dancers—situates Robson in an amazing group of women (mostly lesbian or bisexual) who challenge the system, and succeed at their professions—not only succeed, but excel. Robson suggests a feminist history of community in a segment of her poem, *neolithic*:

the women surround  
ourselves  
with our voices  
we sing  
the rain      the wheat      the woman<sup>20</sup>

The images of voice and circling and nature signify a continuance that cannot be broken, and the pronouns and adjective “ourselves,” “our,” and “we” bring the women into a circle of birth and creativity.

Further creating community and a shared sense of experience, Robson brings her personal experiences to an anthology entitled *Lesbians Raising Sons: An Anthology*.<sup>21</sup> The diverse stories in this anthology expose the problems and the joys of raising happy, healthy sons in a homophobic society. Robson’s *Marbalo, Lesbian Separatism, and Neutering Male Cats* represents her experiences in a humorous and candid way.

BUILDING COMMUNITY AND ASSUMING RIGHTS THE WOMEN  
SURROUND / OURSELVES

Writing is a witnessing “act” that creates lesbian community. Many of the readers of Robson’s fictional/autobiographical fiction writings, as well as her collections of essays on lesbians and the law, such as *Sappho Goes to Law School* and *Lesbian (Out)Law*, are lesbians. I would argue that writings such as Robson’s give lesbians a sense of being part of the larger community, as well as the impetus to challenge the inequalities in the legal system. A well-known fact of life is that most lesbians let problems pass by rather than challenging them through use of the legal system, such as not pursuing available equal health benefits when the partner is employed by a discriminatory company, just to avoid embarrassment. Given the

<sup>19</sup> RUTHANN ROBSON, *MASKS*, back cover (1999).

<sup>20</sup> RUTHANN ROBSON, *neolithic*, in *MASKS* 7, 12 (1999).

<sup>21</sup> Ruthann Robson, *Marbalo, Lesbian Separatism, and Neutering Male Cats*, in *LESBIANS RAISING SONS: AN ANTHOLOGY* 72 (Jess Wells, ed., 1997), reprinted from RUTHANN ROBSON, *CECILE* 9 (1991).



vigorous debates in the United States regarding same-sex marriage, this places more emphasis on benefits and rights of gays and lesbians. Robson's work participates in this slow change: just encouraging others to stand up for their rights. There is a major difference between Robson's site (or community) in New York City, and the realities that many other lesbians face in small-city and small-town North America. I asked Robson, "Do you believe your writings might give lesbians the empowerment to challenge the system?"

Robson acknowledges the power writing can have on the reader: "*I think it is always difficult to access the impact of one's writing on others, although I have certainly had my share of what might be called 'positive feedback.'* Perhaps I can twist your questions to myself as a reader, however, and say that the writings of others have certainly created community—and possibilities—for me. Books have changed my thinking and changed my life. If I have encouraged others to stand up for their rights, it is because I have also been empowered. And empowered to question the entire notion of 'rights,' which I think is very important. Who constructs and articulates those 'rights'? What counts as a 'right' and what does not? You mention geography and geographic isolation and I do not want to minimize that. But I'd also like to add another sort of isolation that is very dramatic to me at the moment, and that is an atomization of us as individuals, as consumers, as 'family members' or 'partners' that I find very destructive to community and ultimately to identity, and to humanity."

In this last statement, Robson clearly articulates one of her objections to the current rush by many lesbians to assimilate into patriarchal society by seeking the rights to marriage. Various states are struggling with the issue, with a few recognizing same-sex marriages.<sup>22</sup> The contentious nature of same-sex marriage is a significant social issue at the moment, embodied in the many states which included questions about legalization and recognition of gay marriages in the November 2004 U.S. election.<sup>23</sup> In the aftermath of the 2004 election, I note that these amendments varied from state to state. Oregon's, for example, was simply a statement saying that marriage in the state will be defined as between a man and a woman.<sup>24</sup> Other states also banned civil unions and even benefits

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<sup>22</sup> Currently only Vermont and Massachusetts will issue marriage licenses to same-sex couples. See *Baker v. State*, 744 A.2d 864 (Vt. 1999); *Goodridge v. Dep't of Pub. Health*, 798 N.E.2d 941 (Mass. 2003).

<sup>23</sup> In all eleven states that had the issue on the ballot, voters approved bans on same-sex marriage. See T. R. Reid, *Same-Sex Marriage Measures Succeed, Bans in Several States Supported By Wide Margins*, WASH. POST, Nov. 3, 2004, at A25.

<sup>24</sup> OR. CONST. art. XV, § 5a.

for domestic partners.<sup>25</sup> There is still no federal constitutional amendment, just a statute, the notorious DOMA—Defense of Marriage Act—which disallows any federal benefits for same-sex couples, like inheritance and social security rights.<sup>26</sup> In Canada (my home country), the Supreme Court declared the denial of equal status of “same-sex marriage” to be unconstitutional in December 2004,<sup>27</sup> and same-sex marriage was approved by Canada’s House of Commons on June 28, 2005, in a vote of 158 in favour of equality and 133 against.<sup>28</sup>

While many groups (religious and cultural) object to any comparison of heterosexual marriage to gay and lesbian relationships, many lesbians and gays also reject the notion of “same-sex marriage,” including Robson. This has been her long-term stance, as evidenced by comments in a 1990 article she published, along with S. E. Valentine, in the *Temple Law Review*:

While marriage and the quasi-marriage relationships contemplated by adoption and domestic partnership have many practical benefits, as well as practical disadvantages, marriage and quasi-marriage are suspect in lesbian legal theory. Underlying the lesbian critique of marriage is the gendered perspective on marriage developed by feminists. For example, feminist historian Gerda Lerner grounds current feminist antagonism toward marriage in an analysis of marriage as a transaction in which women are the objects of contractual relations: ‘The customary right of male family members (fathers, brother, uncles) to exchange female family members in marriage antedated the development of the patriarchal family and was one of the factors leading to its ascendancy.’<sup>29</sup>

In this article, Robson and Valentine state, “[t]he specter of lesbian marriage . . . threatens to hetero-relationize and erase lesbianism.”<sup>30</sup> Robson rejects lesbian marriage partly due to the danger that imitation of heterosexual institutions will erase what is “different” about lesbian relationships. Assimilation does nothing to contribute to lesbian identity. Robson discounts marriage as a

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<sup>25</sup> See, e.g., GA. CODE ANN. § 19-3-3.1 (2005).

<sup>26</sup> 28 U.S.C. § 1738C (2005).

<sup>27</sup> *Reference re Same-Sex Marriage* [2004] 3 S.C.R. 698 (Can.) (“The operative sections of the proposed legislation read as follows: 1. Marriage, for civil purposes, is the lawful union of two persons to the exclusion of all others.”).

<sup>28</sup> Civil Marriage Act, 2005 S.C., ch. 33 (Can.).

<sup>29</sup> Ruthann Robson & S.E. Valentine, *Lo(h)ers: Lesbians as Intimate Partners and Lesbian Legal Theory*, 63 TEMP. L. REV. 511, 536 (1990) (quoting G. LERNER, *THE CREATION OF THE PATRIARCHY* 110-11 (1986)).

<sup>30</sup> *Id.* at 540.

traditionally and historically sexist institution, while other avenues of protection for lesbians and gays are pursued. While Robson does not support the concept of “marriage” for lesbians, she focuses from a legal perspective on the material effects of second-class citizenship, such as discrimination in the workplace, the inability to insure partners, to make decisions for (and in some cases even visit) partners when they are critically ill, to sue when partners are killed by negligence, to inherit from partners, and most importantly for the Sharon Kowalski case, to gain the legal presumption of being the best qualified guardian for disabled partners. Other material effects of living in a homophobic society addressed by Robson include problems with child custody and the results of homophobia in deliberations in court cases.<sup>31</sup>

#### MEDICAL MISDIAGNOSIS: NOTES FROM A DIFFICULT CASE

One of the remarkable talents that Robson possesses is her ability to take the most devastating experience and write it into being—making it understandable for herself and for others. Misdiagnosed with cancer in the 1990’s, she spent two years undergoing unnecessary and painful treatments, watching her body transform during the process, helping her son and her partner deal with her diagnosed early death, and attempting to deal with her own mortality while, at the same time, maintaining her teaching and legal career. Writings about her cancer experience have appeared in *Creative Nonfiction*, *Another Chicago Magazine*, *Harvard Gay and Lesbian Review*, and *Bellevue Literary Review*, as well as other venues. She contributed to *Coming Out of Cancer: Writings from the Lesbian Cancer Epidemic*, edited by Victoria A. Brownworth, which is the first anthology to address the devastating effects of cancer on the lesbian community.<sup>32</sup> It offers candid, moving testimonies written by and for lesbians with cancer. While the anthologized pieces are heartfelt and render the reader subject to the experiences the lesbian cancer patients inscribe, the writers unselfishly offer their lives for others to perceive, creating a community in the process.

Creating a community through writing works both ways. In her *In Reflection*, the retrospective afterward to *Leaving Her*, Robson’s autobiographical short story about her medical misdiagnosis

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<sup>31</sup> See, e.g., Ruthann Robson, *Our Children: Kids of Queer Parents & Kids Who Are Queer: Looking at Sexual Minority Rights from a Different Perspective*, 64 ALB. L. REV. 915 (2001).

<sup>32</sup> Ruthann Robson, *not // a story*, in *COMING OUT OF CANCER: WRITINGS FROM THE LESBIAN CANCER EPIDEMIC* 47 (Victoria A. Brownworth ed., 2000).

and her relationship with her oncologist, Robson comments on the impact of reading other writers' inscriptions of similar experiences: "During my own ordeal the words of others gave me strength and hope, regardless of what doctors were telling me and I hope to give others a similar gift."<sup>33</sup>

*In Reflection* identifies Robson's process of writing about her devastating experiences with the medical system. She notes that using Nicole Brossard's "fiction-theory" was the only way she could leave behind the "facts and my emotions [that] swirled around me as I tried to write a traditional piece."<sup>34</sup> The question is how does one distance oneself from the experience in order to write about it? As Robson and other writers have discovered, Brossard's "fiction-theory" transgresses the fixed boundaries of the philosophical and the literary, the fictional and the theoretical, facilitating a new perspective. Reality, or what we sense as reality, is interrogated through writing. Brossard illuminates her position: "[W]hen I was writing *L'Amér*, I felt that I had to move reality into fiction because patriarchal reality made no sense and was useless to me. I also had the impression . . . that my fictions were reality . . . and that from there I could start a theoretical work."<sup>35</sup> Further clarifying her process, in *L'Amér* Brossard's narrator explains that "the extent to which the gap between fiction and theory is reduced, the ideological field is eaten up."<sup>36</sup> Following Brossard's example, many of Robson's works combine theory and fiction, and cross the boundaries of self and other, provoking readers to traverse her steps.

*Notes from a Difficult Case* was published in *Creative Nonfiction* in 2003. The issue is subtitled *Rage and Reconciliation: Inspiring a Health Care Revolution*. The title of the issue signals both the "rage" and "reconciliation" triggered by problems with the medical system and the resulting individual solutions, and describes the writing process most poignantly. Robson's short story embodies the notion of writing as a healing and ameliorative process, a process I have previously identified as "ameliorography." In my introduction to *Lesbian Self-Writing*, I include the following: "In a writerly act that I define as 'ameliorography,' many authors powerfully enact a healing of the past through writing and taking the agency of self-ex-

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<sup>33</sup> Robson, *Leaving Her*, *supra* note 7, at 230.

<sup>34</sup> *Id.* at 229.

<sup>35</sup> Christian Bök, *I, a mother / I am other: L'Amér and the Matter of Mater*, *STUD. IN CAN. LIT.*, [http://www.lib.unb.ca/Texts/SCL/bin/get.cgi?directory=vol16\\_2/&file name=Bok.htm](http://www.lib.unb.ca/Texts/SCL/bin/get.cgi?directory=vol16_2/&file name=Bok.htm) (quoting an interview by Jean Wilson with Nicole Brossard, in *BROADSIDES* 2.8 June 1981).

<sup>36</sup> *Id.* (quoting NICOLE BROSSARD, *L'AMÉR* 95 (1977)).

pression. They bring together the past and the present in order to re-negotiate experiences and integrate the past into present selves-in-process.<sup>37</sup> In *Notes from a Difficult Case*, Robson discusses her decision not to seek legal damages for malpractice, which would preclude publication of any work related to the litigation. Robson writes, “To agree—forever—not to talk or write about what happened to me is more unthinkable than what happened to me.”<sup>38</sup> I inquired whether Robson feels that writerly interventions achieve more than court proceedings.

Robson’s reply indicates her belief in the necessity to make use of all possible avenues in order to encourage social change: “*Not necessarily. If I concluded that litigation had no merit, then I would quit teaching law and resign from the bar, so that I could write full time. But I do think the law has limits as an agent of social change. In my particular case, I found that the contours of medical malpractice litigation were less acceptable than writing. But I DO think that medical practice as a legal doctrine could be vastly improved, so that it was more responsive to the desires I had. The law is not static. And one way to change the law is to critique it—which is often done through writing, as well as activism.*”

#### OTHER ACTS

As becomes intensely obvious from our interview, Robson is very forthcoming in examining her own writing process and the place writing holds in her life. Her writings span legal articles, essays, short stories, novels, poetry, book reviews, and encyclopedic articles; romance, detective stories, and science fiction; and autobiographical and purely fictional works. The diverse genres that her works represent suggest the breadth of her writing, and reveal the many ways in which writing constitutes a major aspect of her life. Her willingness to participate in interviews (such as my questions for this article) and write book reviews even though her time is so valuable and filled with so many other important commitments, indicates her passionate devotion to social justice.

Robson participates in change not only through the courtroom, the classroom, and print media, but through other forums as well. I mention a few examples here. She presented a paper at a workshop sponsored by Chicago’s LGBT community during the 2002 NCADP Conference. The panel examined how homophobia, sexism, and racism have often been used by prosecutors to seek

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<sup>37</sup> Lynda Hall, *Introduction: Lesbians Loving Wor(l)ds: Communicating Acts*, in *LESBIAN SELF-WRITING: THE EMBODIMENT OF EXPERIENCE* 1, 12 (Lynda Hall ed., 2000).

<sup>38</sup> Robson, *Notes from a Difficult Case*, *supra* note 3, at 19.

and obtain the death penalty against LGBT people across the globe. Commenting on the bias, Robson explained,

According to the American Enterprise Institute for Public Policy Research, in the years 1996, 1998, and 2000, the percentage of persons judging sexual relations between persons of the same sex as 'always wrong' was reported at sixty percent, fifty-eight percent, and fifty-nine percent, respectively. Members of juries are composed of this population of those who disapprove of homosexuality. Thus it is not surprising that a disproportionate number of potential jurors admit to being biased against lesbians and gay defendants in the criminal context.

Further, Robson identified the destructive and false claims that homosexuality is actually the cause or motive for criminal behavior:

Additionally, there is an evolving norm regarding the level of bias and prejudice against lesbians, gay men and other sexual minorities that will be tolerated . . . Prosecutors' prejudice announces to members of the lesbian and gay community that our sexual orientation constitutes a motive for us to murder and a rationale for us to be sentenced to death, according to the State of Illinois. It tells us that our relationships, sexual or otherwise, with those of our own gender are tantamount to our desire to 'lure' members of the opposite sex to their death.<sup>39</sup>

She also participated in the award-winning documentary *Perverted Justice*, by Donna Clarke, who worked in collaboration with Amnesty International to make the video.<sup>40</sup> Of the one percent of women who receive the death penalty in the U.S., forty percent are lesbians who are also predominantly poor or women of color. This shocking documentary tackles the homophobia, racism, and sexism of the U.S. legal system. In this documentary, Robson estimates that forty percent of women accused of murder contend with "some implication of lesbianism" that has a direct impact in the courtroom and on the jury's decisions.<sup>41</sup>

Robson's substantial body of writings is drawn upon by others. Her deliberations of the Sharon Kowalski case contribute to other investigations. Casey Charles, the author of *The Sharon Kowalski Case: Lesbian and Gay Rights on Trial*, is a lawyer who maintained a civil trial practice in the San Francisco Bay area from 1980 to 1986. He is currently Associate Professor of English at the University of Montana and is one of the founders of the Western Montana Gay

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<sup>39</sup> D. Kevin McNeir, *Death Penalty Forum Points to GL Cases*, WINDY CITY TIMES, Nov. 6, 2002.

<sup>40</sup> *PERVERTED JUSTICE* (1996).

<sup>41</sup> Richard Goldstein, *Queer on Death Row*, VILLAGE VOICE, Mar. 20, 2001, at 38.

and Lesbian Community Center. Charles cites two of Robson's books: *Gay Men, Lesbians, and the Law*<sup>42</sup> and *Lesbian (Out)Law: Survival Under the Rule of Law*.<sup>43</sup> He praises Robson's work: "As I launch into my new project on sexual orientation hate-crime documentaries and the law (*The Laramie Project*,<sup>44</sup> *Execution of Justice*,<sup>45</sup> and *The Brandon Teena Story*<sup>46</sup>), Robson's work as law professor, fiction writer, and champion of lesbian and gay rights continues to serve as a model for public and inter-disciplinary scholarship."<sup>47</sup> Here is an excellent example of cooperative support, since Robson's recommendation graces the back cover of Charles's *The Sharon Kowalski Case*: "An intelligent and insightful investigation into the history, activism, law, and personalities involved in the landmark Sharon Kowalski case. Charles's work illuminates the complex and highly personal struggles to obtain—and articulate—the continuing struggles for LGBT rights. How much has changed in twenty years! How much has not!"<sup>48</sup>

THE FUTURE: *OTHER THINGS WE STILL NEED TO SAY*

Ruthann Robson's productive contributions to law and literature, as she is mid-career, suggest that there is a lot more to come. Identifying the fact that much has changed for lesbians and gays in society, while there is so much work still to do and so much still to accomplish, Robson indicates her drive and determination to pursue her goals to encourage social justice and to create "open spaces" for us all.<sup>49</sup> In *Masks*, Robson writes,

there are other things we still need to say  
about the streets, about the academy, about  
the distances between our love  
of death and our love  
of masks and our love  
for each other and our love<sup>50</sup>

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<sup>42</sup> RUTHANN ROBSON, *GAY MEN, LESBIANS, AND THE LAW* (1997).

<sup>43</sup> RUTHANN ROBSON, *LESBIAN (OUT)LAW* (1992).

<sup>44</sup> MOISES KAUFMAN, *THE LARAMIE PROJECT* (2001) (exploring the murder of Matthew Shepard and its aftermath in Laramie, Wyoming),

<sup>45</sup> EMILY MANN, *EXECUTION OF JUSTICE* (1986) (based on the assassination of San Francisco Mayor George Mascone and the city's first openly gay City Supervisor Harvey Milk in 1978).

<sup>46</sup> *THE BRANDON TEENA STORY* (Zeitgeist Films 1998) (documenting the life and murder of Brandon Teena in rural Nebraska).

<sup>47</sup> E-mail from Casey Charles to Lynda Hall (Nov. 17, 2004, 09:26 EST) (on file with author).

<sup>48</sup> CHARLES, *supra* note 5, back cover.

<sup>49</sup> RUTHANN ROBSON, *A/K/A 276* (1997).

<sup>50</sup> ROBSON, *authenticity*, *supra* note 1, at 131.