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Rape Victims in the (Gender) Neutral Zone: The Assimilation of Resistance?

Patricia Novotny¹

A scene in the 1996 European film, *Breaking the Waves*, depicts what would be a sex crime if committed in Washington State, except that the perpetrator is female.² Bess, the film's main character, is persuaded by her quadriplegic husband that by having sex with other men she will cure him. (Note: according to the movie, this actually works.) She begins this selfless quest by masturbating a man on a bus, an apparent stranger with whom she exchanges hardly a look, let alone conversation. He makes no move to stop her, but struggles to control his facial expression as she works him through arousal to climax. She, being virtuous, gets off the bus and vomits. We are not shown what he does, but the movie does nothing to counter the cultural expectation that he walked home whistling a merry tune.

In this paper, I suggest that cultural expectation is being unsettled, with potential consequences—good or ill—to efforts to combat sexualized violence and misconduct. Those efforts justifiably assumed female victims. They no more contemplated the man on the bus as a victim than did the European filmmakers. Now, at least in the United States, sexual assault and sexual harassment increasingly occupy a gender-free or gender-neutral zone, contrary to an understanding of such conduct that is as old as gender itself. Does this gender neutrality reflect a change in the reality of sexual victimization or a successful deflection of efforts to end such victimization? This essay amplifies that question, but leaves the future to answer it.

The classic definition of rape has been expressly gendered: carnal knowledge of a woman against her will.³ Indeed, for purposes of the Uniform Crime Reporting Program, the Federal Bureau of Investigation defines forcible rape in a manner that expressly excludes males.⁴ As the FBI bluntly puts it, “the victims of rape are always female,”⁵ making

explicit the general understanding of positioning by gender in the sex crime context. “Victim” describes the feminine role in rape, just as “passive” describes the feminine role in paradigmatic sexual intercourse.⁶ The crime of rape in the United States bears this imprint with its definitional prerequisite of penetration.⁷

As one consequence of the centrality of gender to sexual assault, men and women experience sexual assault differently, according to social psychologists. In one study, for example, on gender differences in rape reporting, the authors observed that: “men experience and give meaning to rape and reporting rape as threatening to their self concept and masculinity, whereas rape and rape reporting do not contradict but rather reinforce a hetero-normative feminine self-concept for women.”⁸ In other words, men who are raped are rendered female by the rape, while women are merely reminded of what being female means.

What happens when this gendered paradigm meets a rising and vigorous insistence on a gender-neutral, even gender-symmetrical view of rape? For example, in Washington, as in many states, the crime of rape may be committed if the victim is rendered mentally incapable of consent, whether through the abuse of alcohol or drugs, or for some other reason.⁹ Some of my students argue that if both parties are intoxicated, either both are guilty or not guilty of the crime. In fact, because there is no *mens rea* element for rape in Washington,¹⁰ only the penetrator is potentially culpable, an answer somewhat short on satisfaction. More remarkable, of course, is that my students posit a gender blind “date-rape” landscape, one inhabited by as many potential male as female victims.

The students’ argument is possible only because one accomplishment of rape law reform was gender neutralizing of the laws, eliminating artifacts like the gender-specific statutory rape law in California upheld by the Supreme Court’s decision in *Michael M. v. Sonoma County*.¹¹ Now, many states define rape without reference to the sex of the victim and all but fifteen states do so with respect to statutory rape.¹²

In addition to achieving gender neutrality in the statutes, rape law reform accomplished several other changes, including expansion of the definition of the crime to include a range of sexual contacts. Thus, where rape before was understood to mean penile-vaginal intercourse, the crime now encompasses other sexual acts involving penetration by objects other than the penis and of orifices other than the vagina.¹³

These two accomplishments of rape law reform may in turn have accomplished something unintended, a possibility that can be framed by the familiar resistance/assimilation paradox.¹⁴ Feminist resistance to rape and “rape culture”¹⁵ was a driving force behind rape law reform.¹⁶ Among the goals of rape law reform were to increase reporting, prosecution, conviction, and punishment (particularly without regard to whether the rape occurred between acquaintances or intimates), and, of course, to reduce the actual behavior.¹⁷ According to several studies, progress toward these goals has been disappointing.¹⁸ At the same time, there is evidence that the dominant masculinized culture may be assimilating the feminist challenge to sexualized violence, like rape, and sexualized misconduct more generally, such as sexual harassment. Specifically, to the extent the feminist challenge rightly and necessarily intended its beneficiaries to be female, has it been undermined by a rising tide of male victims? By gender-neutralizing the victim position have we gained or lost ground in the struggle against sexual assault and harassment?

A number of recent events, suggesting male co-optation of the victim category, prompt this inquiry. Prominent among these is the scandal enveloping the Catholic Church in the United States, marked by the willingness of men to come forward and claim victimization as boys and young men.¹⁹ Exploitation of the vulnerable by authority figures is hardly newsworthy. Exploitation by Catholic priests, in particular, is an old story to many former Catholic schoolgirls. Obviously, the scandal is interesting for its intersections with anxieties about sex, age, and homosexuality, all of which contribute to public appetite for the story. But it is also interesting

for the new willingness it reveals, both on the part of the speakers and the listeners, to identify males as victims of sexual misconduct.

Relatedly, male survivors of sexual abuse now drive a mini-industry of psychotherapists and support groups, addressing themselves in part to the difficulties that attend male claims to victim status.²⁰ Though the perpetrators include both women and men, the public seems most intrigued by the female-male statutory rape scenario, especially the teacher-student variation famously illustrated in Washington by Mary Kay Letourneau.²¹

A similar phenomenon appears in the area of sexual harassment. Indeed, the Equal Employment Opportunity Commission reports that, in less than ten years, the number of men reporting sexual harassment on the job has increased by more than 30%, rising from 9.1% in 1992 to 13.7% in 2001.²² Usually the harasser is also male, as in the more prominent cases on this subject.²³ A recent cover story in *The New York Times Magazine* describes numerous variations on this theme.²⁴

Finally, a University of Washington study found that undergraduate males report having unwanted and coerced sexual activity in levels comparable to their female counterparts.²⁵ Though the men do not report being physically forced to have sex, they report feeling powerless to stop their partners, being worn down by a partner's arguments, as well as being plied with drugs or alcohol.²⁶

This litany suggests the Borg of *Star Trek* fame may be right: resistance is futile.²⁷ Or, if not futile, perhaps in the case of feminist resistance to sexualized dominance, greatly challenged by the assimilationist model refined by the Borg. Gramsci suggested precisely this when he identified hegemony as critical to sustaining the modern state.²⁸ In particular, Gramsci observed that the political power of the ruling class depends on the consent of the populace, obtained and maintained through civil institutions and through "common sense"—a pervasive, ideological construct of attitudes, moral views, beliefs, customs, etc.²⁹ Thus, hegemony includes a collective understanding of how the world does and should work

propounded by and for the benefit of the ruling class. This “consensus” legitimizes and stabilizes the State more effectively than armed force alone could. Hegemony, for example, not the National Guard, determined acquiescence to the Supreme Court’s decision in *Bush v. Gore*.³⁰

Certainly, our culture subscribes to some common sense around heterosexual sexuality, in particular, how people should assume different roles according to sex. For example, men hold open doors for women, men do the driving, men lead when dancing, men initiate dating, and men initiate sexual activity. One tenet of this common sense behind dating rituals and norms has been that men always want to have sex. Thus, young males who have sex with older women—Dustin Hoffman or his younger counterparts in *Summer of 42*—are not victims, they are lucky.³¹ Similarly, fraternity boys who drink too much in the course of getting their dates drunk are the winners if sexual intercourse occurs, hangover notwithstanding.

However, despite continuing allegiance to sex roles in the dating context, there is a growing insistence that men can be victims, too. That is, the view that sex is always a win-win proposition for men may no longer make common sense. The University of Washington attitudinal study suggests this possibility most directly.³² For the study, research psychologists took the survey designed by Mary Koss³³ and gender neutralized it, with surprising results. When used with a sample population of fraternity and sorority undergraduates to compare prevalence rates of unwanted sexual contact, the study found that:

[M]en were as likely as women to report being recipients of several types of sexual coercion. In particular, both men and women reported experiences of feeling it was useless to stop an aroused partner, feeling pressured to have sex by their partner’s continual arguments, and having sexual intercourse after having been given drugs or alcohol.³⁴

The study was small and was designed, in part, to observe alcohol effects on sexual aggression; a follow-up awaits completion. Nevertheless, its

conclusions prompt consideration of whether a fundamental precept is being unsettled: the notion that males perpetrate sexual assault upon female victims. More fundamentally, that masculinity means always wanting to have sex and femininity means never wanting to have sex—but always wanting to have romance. According to this paradigm, masculinity is enhanced by sexual conquest, while femininity is enhanced by resolute chastity; consequently, dating and mating follow a predator/prey script.³⁵ For example, in Rebecca Gilman's play, *Boy Gets Girl*,³⁶ the male coworkers of a stalking victim come to recognize in the stalker's extreme behavior the aggression/acquiescence dating model to which they themselves subscribe.

Rape law reformers subscribed to this same gendered dating/mating model, and were motivated largely by the fact of female victimization within it.³⁷ The reformers also largely subscribed—or succumbed, in the course of the legislative effort—to liberal feminism. As a consequence, the reforms themselves reflect the liberal feminist impulse toward formal equality, with its concomitant effacement of sex differences. Thus, rape laws were gender neutralized most likely to satisfy this philosophy, and not because reformers viewed the category of victim as gender neutral. Nevertheless, gender neutrality in rape reform, as is often the case, means gender disguise. Without altering the gendered reality of rape itself, gender neutrality permitted an understanding of rape different from the classic male versus female paradigm. At the same time, the force requirement was expanded to include less violent forms of compulsion, again allowing for variations from presumptive male physical superiority. Finally, when combined with an expanded definition of intercourse, to include penetration of various orifices by various objects and other kinds of sexual contact (e.g., oral sex), rape reform created the possibility that men and women can reposition themselves in criminal sexual encounters in ways not conforming to classic gender role assignments.

Whether such repositioning is actually occurring certainly cannot be confirmed from the University of Washington study. That is, unquestionably women remain the principal targets of sexual assault and harassment. Still, the dating context shows signs of increased gender role fluidity. Women and girls increasingly initiate social contacts with men and boys, at a reduced risk of earning themselves disagreeable reputations.³⁸ Their behavior may be viewed, perhaps, as a piece with the broader relaxation of gender conformity requirements for women and girls. As threatening to the broader culture as it may be for women to assume masculine affects—in dating, as well as in the work world, in domestic relationships, in modes of dress and demeanor—it has seemed the easier direction for gender nonconformity. It no longer makes the news, or the Supreme Court docket, that women practice law,³⁹ drive big trucks, shave their heads, or play serious sports—hard.⁴⁰ However, movement for men in the other direction meets with more resistance. For example, men who stay home to care for their children get stared at in the grocery store. Men have not taken, to any significant degree, to wearing skirts or long hair; and men who take on more of the domestic work face ridicule from their male cohorts. In short, gender neutrality means everybody gets to be masculine.⁴¹

To the degree there has been an assertion of “girl power” in the dating context, I would call this a good thing. Certainly, one aspect to solving the rape problem is to increase women’s agency in sex, generally enabling women to embrace and act on their own desires, or not. This increased agency may itself be viewed as a form of resistance. So women can make the phone call, can make the first move, can even, perhaps, push a reluctant male partner to go further than he wants.

The corollary may be a reduction in male agency, or at least more fluidity, in the power relationships as they play out between individuals. In particular, men may not always want to have sex, and when they do against their wishes, it injures them.

As in other arenas, the unsettling of gendered expectations creates both peril and promise, and provokes myriad questions. Does male occupation of the victim category represent a disconnect with material reality, as currently mapped, where women are overwhelmingly represented as victims of rape, sexual harassment, and domestic violence? Not only are women directly victimized, they are incidentally constrained by this reality, burdened with an awareness of their potential victimization. Simply and significantly, that awareness does not follow men down a dark street in the same way. Does degendering the victim category distract from this material reality and from efforts to change it? Has the resistance to rape culture been absorbed by that culture with negligible impact? Has the dominant culture muted the challenge to rape with Borg-like assimilation of it? And, if so, with what other consequences? If men are victims of rape, then rape is not a tool of patriarchy? Indeed, is patriarchy itself a figment of feminist imagination? Is this, then, just another “backlash” story?

These dark possibilities are not the only ones. There could also be something hopeful about degendering the victim and demasculinizing the rapist. The assimilation/resistance paradox necessarily means a dynamic interplay, a give-and-take with unpredictable twists and turns for both assimilator and resister. If recognition of male victimization was not a goal of rape reform, might it nevertheless contribute to the anti-rape effort by engendering greater sensitivity to sexual domination? One commentator observes that “[m]en in prison who live with the threat of homosexual rape are probably the only men in our society who experience fear comparable to that felt by all women.”⁴² In the aftermath of *Thelma and Louise*, many male viewers and reviewers dismissed the film as “just another buddy movie,”⁴³ exposing the chasm that separates men and women in relation to sexual assault. Yet, the struggle against sexual assault and sexual misconduct must somehow bridge that chasm, must somehow engage men, if it is to succeed. Victimization of men—both actual and potential—may be one route to that engagement.

The Borg example is more dispiriting than these conjectures. When the Borg assimilate another culture, it claims to make that culture's biological and technological distinctiveness part of the Borg Collective. The assimilation obliterates the victim culture and leaves the Collective unchanged, one of the galaxy's most successful hegemonic triumphs. Fortunately, hegemony comes in flavors. Gramsci identified a Borg-like hegemony through absorption, where the ruling class neutralizes the concerns of the resistant or rising class.⁴⁴ Gramsci also idealized a hegemonic process that was expansive and truly progressive, whereby, in the process of assimilating a resistant class or movement, the ruling class destabilizes and fragments and society as a whole moves forward. Thus, with his insight into cultural revolution, Gramsci offers at least the possibility of a new common sense about men, women, and sex, and particularly, about the power relations embedded in sex. Perhaps, then, though feminist efforts, such as those embodied in rape law reform, may not yet have achieved widespread reduction in sexual assault and sexual misconduct, they may have inadvertently contributed to a subtle and slight shift in the balance of power between the sexes in this arena, a shift that might later prove resistance is not futile—just unpredictable.

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² A Washington prosecutor would likely charge a male perpetrator with the crime of indecent liberties. WASH. REV. CODE § 9A.44.100 (2003). This statute requires proof of sexual contact by forcible compulsion or with someone who is incapable of consent (i.e., mentally incapacitated or physically helpless). *Id.* §§ 9A.44.100(1)(a)–(c). Or, the prosecutor might charge the perpetrator with the crime of assault with sexual motivation. WASH. REV. CODE § 9.94A.030(39) (2003). This statute requires proof that one of the purposes of the assault was sexual gratification. *Id.* Gendered assumptions about force, consent, and sexual gratification would harmonize with a scenario involving a male perpetrator and female victim. Faced with a female perpetrator, the prosecutor would likely encounter considerably more difficulty proving the elements of the offenses.

³ 5 WILLIAM BLACKSTONE, COMMENTARIES *210.

⁴ The U.S. Justice Department defines forcible rape as “carnal knowledge of a female forcibly and against her will.” U.S. DEPT. OF JUSTICE, CRIME IN THE U.S. 24 (1999), available at http://www.fbi.gov/ucr/Cius_99/99crime/99c2_04.pdf.

⁵ *Id.* at 25.

⁶ PEPPER SCHWARTZ & VIRGINIA RUTTER, THE GENDER OF SEXUALITY (1998).

⁷ See, e.g., WASH. REV. CODE § 9A.44.010(1) (2003), which provides:

(1) “Sexual intercourse” (a) has its ordinary meaning and occurs upon any penetration, however slight, and (b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and (c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

⁸ Nathan W. Pino & Robert F. Meier, *Gender Differences in Rape Reporting*, 40 SEX ROLES 979, 981–982 (June 1999).

⁹ One means of committing second degree rape in Washington is by engaging in sexual intercourse with another person “[w]hen the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.” WASH. REV. CODE § 9A.44.050(1)(b) (2003). Mental incapacity is defined as “that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.” WASH. REV. CODE § 9A.44.010(4) (2003).

¹⁰ WASH. REV. CODE §§ 9A.44.040–060 (2003); see, e.g., *State v. Chhom*, 911 P.2d 1014, 1016 (1996) (no *mens rea* for rape of a child); *State v. Elmore*, 771 P.2d 1192 (1989) (intent not an element of third degree rape). This aspect of Washington law may be vulnerable to a due process challenge. Cf. *Morissette v. United States*, 342 U.S. 246, 250 (1952). A recent California case addresses the *mens rea* requirement under its statute, under circumstances where both the rapist and his victim were intoxicated. *People v. Linwood*, 129 Cal.Rptr.2d 73 (2003); see also *Wyant v. State*, 519 A.2d 649 (Del. 1986). Most state courts have rejected such challenges to statutory rape, holding them to be strict liability offenses. See, e.g., *State v. Martinez*, 52 P.3d 1276 (Utah 2002) (and cases cited therein).

¹¹ Michael M. v. Superior Court of Sonoma County, 450 U.S. 464 (1981) (holding that a California “statutory rape” law did not unlawfully discriminate on the basis of gender even though men alone could be held criminally liable).

¹² Patricia Searles & Ronald J. Berger, *The Current Status of Rape Reform Legislation: An Examination of State Statutes*, 10 WOMEN’S RTS. L. REP. 25, 25–26 (1987); SUSAN ESTRICH, REAL RAPE 81–91 (1987); Michelle Oberman, *Statutory Rape Laws*, 82 A.B.A. J. 86, 86 (1996).

¹³ See Cassia C. Spohn, *The Rape Reform Movement: The Traditional Common Law And Rape Law Reforms*, 39 JURIMETRICS J. 119, 122–123 (1999); WASH. REV. CODE § 9A.44.010 (2003).

¹⁴ The assimilation/resistance paradox is widely used to describe relations among a dominant culture and subordinate subcultures (e.g., white America:Native Americans, heterosexual:homosexual). The paradox recognizes that efforts by the subculture to gain power can take both the form of resistance to the dominant culture and the form of assimilation into the dominant culture. An example can be found in the debate between members of the gay and lesbian community over marriage, with some advocating a push for same-sex marriage (assimilating into the dominant culture’s paradigm for coupling) and others advocating a radical transformation of the paradigm (resisting the tainted institution of marriage). See Paula L. Ettelbrick, *Since When Is Marriage a Path to Liberation?*, OUT/LOOK (Fall 1989); and Thomas B. Stoddard, *Why Gay People Should Seek the Right to Marry*, OUT/LOOK (Fall 1989). The paradox arises in part from the fact that resistance, in these cases, is produced by the culture it resists, not by something external, or as Foucault writes, “resistance is never in a position of exteriority in relation to power.” MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY: AN INTRODUCTION* 95 (Vintage Books 1990).

¹⁵ Various commentators use the term “rape culture” to describe a society where sexual assault is both prevalent and, to a degree, tolerated. See, e.g., A. Ayres Boswell & Joan Z. Spade, *Fraternalities and Collegiate Rape Culture: Why Are Some Fraternities More Dangerous Places for Women?*, in GENDER, CULTURE, AND ETHNICITY: CURRENT RESEARCH ABOUT WOMEN AND MEN 269 (Letitia Anne Peplau et al. eds., 1999); TRANSFORMING A RAPE CULTURE (Emilie Buchwald et al. eds., 1993); Dianne Herman, *The Rape Culture*, in CHANGING OUR POWER: AN INTRODUCTION TO WOMEN STUDIES 260 (Jo Whitehorse Cochran et al. eds., 1988).

¹⁶ Spohn, *supra* note 13, at 120–21.

¹⁷ *Id.* at 121–22.

¹⁸ See, e.g., Ronet Bachman & Raymond Paternoster, *A Contemporary Look at the Effects of Rape Law Reform: How Far Have We Really Come?* 84 J. CRIM. L. & CRIMINOLOGY 554, 556–560 (1993); Cassia C. Spohn & Julie Horney, *The Impact of Rape Law Reform on the Processing of Simple and Aggravated Rape Cases*, 86 J. CRIM. L. & CRIMINOLOGY 861 (1996).

¹⁹ See Lisa Miller & David France, *Sins of the Father*, NEWSWEEK, Mar. 4, 2002, at 42.

²⁰ A Web search on Mar. 31, 2003, for “male survivors of sexual abuse” using Google, produced 55,400 results, including: Male Survivor, at <http://www.malesurvivor.org> (run by the National Organization against Male Sexual Victimization) (last visited Apr. 27, 2003); MenSurviving, at <http://www.mensurviving.org> (provides information, support,

and discussion forums for sexually abused men) (last visited Apr. 27, 2003); Survivors UK, at <http://www.survivorsuk.co.uk> (a London based organization that provides support, information and counseling) (last visited Apr. 27, 2003).

²¹ State v. Letourneau, 997 P.2d 436 (2000); see also the Official Internet Home of Mary Kay Letourneau, at <http://www.marykayletourneau.com/> (last visited Apr. 24, 2003); The Mary Kay Letourneau Story, at www.usanetwork.com/movies/marykay/ (last visited Apr. 24, 2003).

²² THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, *Sexual Harrassment Charges, EEOC and FEPAs combined, FY 1992-2002*, (on file with Seattle Journal for Social Justice), available at <http://www.eeoc.gov/stats/harass.html>.

²³ See, e.g., Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998); Wrightson v. Pizza Hut of America, Inc., 99 F.3d 138 (4th Cir. 1996); Quick v. Donaldson Co., 90 F.3d 1372 (8th Cir. 1996); Hopkins v. Baltimore Gas & Electric, 77 F.3d 745 (4th Cir. 1996); McWilliams v. Fairfax Co. Board of Supervisors, 72 F.3d 1191 (4th Cir. 1996); Garcia v. Elf Atochem N. America, 28 F.3d 446 (5th Cir. 1994).

²⁴ See Margaret Talbot, *Men Behaving Badly*, N.Y. TIMES, Oct. 13, 2002, § 6 (Magazine), at 52.

²⁵ Mary E. Larimer et al., *Male and Female Recipients of Unwanted Sexual Contact in a College Student Sample: Prevalence Rates, Alcohol Use, and Depression Symptoms*, 40 SEX ROLES 295 (Feb. 1999), available at http://www.findarticles.com/cf_0/m2294/3-4_40/54710018/print.jhtml (last visited Apr. 27, 2003).

²⁶ *Id.*

²⁷ The Borg is a cybernetic/biologic race from the sci-fi series *Star Trek*TM with a bad case of herd mentality and a remarkably effective imperialist ambition. The Borg operates as a collective, with one common consciousness controlling countless bodies. Persuaded of their superiority and just about the most powerful kids on the block, they run around the galaxy in the boxy, aesthetically challenged space ships assimilating other cultures. As both cold comfort and stern warning, the Borg advise their victims that “resistance is futile,” which, indeed, proves overwhelmingly true.

²⁸ ANTONIO GRAMSCI, SELECTIONS FROM POLITICAL WRITINGS (1921–1926) (Quintin Hoare trans. & ed., Int’l Publishers 1978); ANTONIO GRAMSCI, SELECTIONS FROM THE PRISON NOTEBOOKS (Quintin Hoare & Geoffrey N. Smith trans. & eds., Int’l Publishers 1971).

²⁹ Gramsci’s conception of hegemony develops throughout his writings, prominently in PRISON NOTEBOOKS, *supra* note 28, at 57–60, 79, 180–185. An extensive discussion of “common sense,” by which he meant generally accepted beliefs and assumptions (not necessarily a certain problem-solving sensibility, as our mothers probably meant by the term) may be found in PRISON NOTEBOOKS, *id.* at 323–343.

³⁰ Bush v. Gore, 531 U.S. 98 (2000).

³¹ Dustin Hoffman plays Benjamin in *The Graduate*, plays a hapless “boy” in hands of the “older” Mrs. Robinson (played by Anne Bancroft, who is six years older than Hoffman), then completes his rite of passage to manhood by dumping Mrs. Robinson and pursuing (some might say stalking) Miss Robinson, the daughter, played by Katharine Ross. See THE GRADUATE (Metro-Goldwyn-Mayer Studios Inc. 1967). Several years later, in 1971, fifteen-year old Gary Grimes made love to a twenty-something Jennifer

O'Neill, his married, then widowed, neighbor, in the *Summer of 42*. See *SUMMER OF 42* (Warner Brothers Studios 1971). The bolder French went a step further in Louis Malle's *Murmur of the Heart*, portraying a mother-son sexual relationship, which Blockbuster describes as "a comedy on the subject of incest!" See *MURMUR OF THE HEART* (Metro-Goldwyn-Mayer Studios Inc. 1971); see also *Murmur of the Heart*, Blockbuster Inc., available at <http://www.blockbuster.com/bb/movie/details/0,7286,VID-V++++33866,00.html> (last visited Apr. 13, 2003).

³² Larimer, *supra* note 25.

³³ Mary P. Koss & Cheryl J. Oros, *Sexual Experiences Survey: A Research Instrument Investigating Sexual Aggression and Victimization*, 50 *J. CONSULTING & CLINICAL PSYCHOL.* 455 (1982); See, e.g., MARY P. KOSS ET AL., *NO SAFE HAVEN: MALE VIOLENCE AGAINST WOMEN AT HOME, AT WORK, AND IN THE COMMUNITY* (1994); Mary P. Koss et al., *The Scope of Rape: Incidence and Prevalence of Sexual Aggression and Victimization in a National Sample of Higher Education Students*, 55 *J. CONSULTING & CLINICAL PSYCHOL.* 162 (1987).

³⁴ Larimer, *supra* note 25.

³⁵ Angela Carter's description of one extreme on this predator/prey continuum captures the idea vividly:

The murderous attacks on the victims demonstrate the abyss between the parties to the crime, an abyss of incomprehension that cannot be bridged. The lamb does not understand why it is led to the slaughter and so it goes willingly, because it is in ignorance. Even when it dawns on the lamb that it is going to be killed, the lamb only struggles because it does not understand that it cannot escape; and, besides, it is hampered by the natural ignorance of the herbivore, who does not even know it is possible to eat meat. The lamb could understand easily enough how mint sauce might be delicious but it does not have the mental apparatus to appreciate that its own hindquarters are also nourishing food if suitably cooked, for those with different tastes. Which is why we prefer to eat the herbivores. Because, under no circumstances, could they eat us.

The relations between men and women are often distorted by the reluctance of both parties to acknowledge that the function of flesh is meat to the carnivore but not grass to the herbivore.

ANGELA CARTER, *THE SADEIAN WOMAN: AN EXERCISE IN CULTURAL HISTORY* 138–9 (1978).

³⁶ REBECCA GILMAN, *BOY GETS GIRL: A PLAY* (2000).

³⁷ Spohn, *supra* note 13. Rape law reform took place against the backdrop of rising feminist activism around violence against women. See, e.g., SUSAN BROWNMILLER, *AGAINST OUR WILL: MEN, WOMEN, AND RAPE* (1975); KATE MILLET, *SEXUAL POLITICS* (1970); TIMOTHY BENEKE, *MEN ON RAPE* (1982).

³⁸ However, as Miss Abigail advises, risks remain, including a risk that a boy who is invited out by a girl will be emboldened to take greater liberties. See *missabigail.com, Selection of the Week*, at <http://www.missabigail.com/selection/selection106.html> (last visited Apr. 23, 2003). See also *t-Talk Dating Advice*, at <http://www.liveworld.com/transcripts/tNBC/1-24-2001.1-2.html> (last visited Apr. 23, 2003).

³⁹ See *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130 (1872).

⁴⁰ Women marching off to war still make the news. See, e.g., Margaret Talbot, *The Way We Live Now: A Woman's Work*, N.Y. TIMES, Mar. 30, 2003, § 6 (Magazine), at 7; Jodi Wilgoren, *A Nation At War: Women In The Military; A New War Brings New Role for Women*, N.Y. TIMES, Mar. 28, 2003, at B1.

⁴¹ Lani Guinier and her co-authors make this point in the context of legal education. GUINIER ET AL., *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* (1997).

⁴² Camille E. LeGrand, *Rape and Rape Laws: Sexism in Society and Law*, 61 CAL. L. REV. 919, 919 (1973).

⁴³ See, e.g., CNN.com/Entertainment, *Reviews: 'Thelma & Louise'*, at <http://www.cnn.com/2003/SHOWBIZ/Movies/02/04/ew.review.dvd.thelma/> (last visited Apr. 27, 2003); Rotten Tomatoes.com, *Tomatometer Reviews: Thelma & Louise*, at <http://www.rottentomatoes.com/m/ThelmaLouise-1035837/> (last visited Apr. 27, 2003); Slant Magazine.com, *DVD Review: Thelma & Louise Special Edition*, at http://www.slantmagazine.com/dvd/dvd_review.asp?ID=104 (last visited Apr. 27, 2003).

⁴⁴ GRAMSCI, *SELECTIONS FROM THE PRISON NOTEBOOKS*, *supra* note 28, at 58–61.