

Chapter 12

Rape as a terrorist institution

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HOW BAD IS RAPE?

A feminist critic in the United States argued recently that "while rape is very bad indeed, the work that most women employed outside the home are compelled to do is more seriously harmful insofar as doing such work damages the most fundamental interests of the victim, what Joel Feinberg calls 'welfare interests,' whereas rape typically does not."¹ This judgment takes rape as an individual act, ignoring its relationship to institutional rules and thereby its terrorist implications. Rape, *as an institution*, has severe consequences both for women raped and for women terrorized into compliance. It underlies women's willingness to do whatever work men find suitable for women to do. So understood, rape indeed damages women's fundamental interests, though information on it is less public than (other) information on working conditions in the paid labor force.

The term "terrorism" as used in public media suggests a kind of political activity, often with international significance, focused on the powers of states or other territorial governments.² The restriction to *territorial* politics, however, ignores the terrorism of *sexual* politics. Ethically, that exclusion is arbitrary and irresponsible. It maintains an invisibility of routine violence against women, underlying visible sexist stereotypes.

Rape and domestic violence are both forms of terrorism, a backdrop to the daily lives of women in sexist societies. In

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this essay I take up only the institution of rape.³ The philosophical significance of treating rape as a form of terrorism is twofold. On the one hand, philosophical discussions of terrorism can be enlarged and our understanding of terrorism's workings deepened by including the data of terrorist sexual politics. For they exemplify profoundly *institutionalized* forms of terrorism that tend to be overlooked in media portrayals of the terrorist. At the same time, the meaning and significance of rape and domestic battery can be clarified in relation to women's oppression by an appreciation of their terrorist implications.

My aim is to elucidate what it means to call rape a *terrorist institution*. I do not attempt to support empirical claims about the facts of rape. What is philosophically interesting is that without disputing the facts many do not yet apply the concept of "terrorism" to rape. Recognizing that the concept applies is yet another step in clarifying what is wrong with rape and how bad it is in relation to other abuses.⁴ It is also important to stopping rape that we learn to avoid its terrorist potentialities, which attach to the institution whether or not they also attach to individual acts of rape.

The claim that rape is a terrorist institution involves two views that some will find surprising. One is that rape is an *institution*. The other is that it is a form of *terrorism*. I take up these ideas in that order. For it is important to understand rape as an institution in order to show how it works as a form of terrorism.

RAPE AS AN INSTITUTION

Rape is an institution not in the sense that it names an organization, such as the SS, KGB, FBI, or CIA, but in the sense that war and punishment are institutions. It is a kind of practice, with many historical embodiments.⁵ As the institution of war can include the practice of punishment, both can include that of rape. As others have done, I use the terms "practice" and "institution" more or less interchangeably here and mean by both a form of social activity structured

by rules that define roles and positions, powers and opportunities, thereby distributing responsibility for consequences.⁶ The more established a practice is, the more natural it seems to refer to it as an institution.

Many participants in the institution of rape appear not to think of themselves as participating in an institution or practice, a matter to which I shall return. They encourage each other to think of their behavior as natural, at least self-originating, or, at its most complicated, as a response to provocation by women.

A practice can take root, become institutionalized, so firmly that it is not necessary for anyone to supervise the operation as a whole. Individual participants find that they have their own good reasons or, failing that, excuses, for what they do. Such institutions form the core subject matter of what Kate Millett called "sexual politics."⁷ "Sexual politics" does not refer simply to the politics of the state (or any other territorial political body) with respect to sexual activity, although it includes that. Nor is it concerned only with sexual behavior. "Sexual politics" refers to social norms that create and define a distribution of power among and between members of the sexes, considered as such. Historically, rape has been a major sexuo-political institution.

"Rape," like "punishment," is ambiguous. It can refer to a kind of act, abstracted from its institutional setting, often (not necessarily) violent and painful. The same term can refer to an institution governing that act, an institution defined by rules that establish roles and positions, distribute responsibilities and opportunities, and create or withdraw power.⁸ In the institution of punishment, some rules prohibit behaviors and specify penalties for offenses. Others govern the processes of policing, arrest, detention, and trial. Only some participants actually administer penalties. One may be hard put to say *how much* responsibility a particular individual participant bears for the punishment, or release, of any accused person. Yet communities supporting and benefiting from such institutions can be held responsible and can take

responsibility for the institution and its operations. The same is true for rape.

Although there is controversy over the goals of punishment, most grant that deterrence of would-be criminal offenders is a legitimate aim. Whatever the justifying goals, they need not be supposed to correspond with intentional aims of participants at every stage or in every role. In particular, they need not correspond with the aims of those who administer penalties. Ordinarily, one supposes, those who administer penalties do it for the money, although there is room also for sadism. Still, they participate *in the practice* to the extent that they guide and evaluate their behavior by its norms, even if they are not motivated by the goals served by the practice.

Analogous observations apply to the institution of rape. Just as deterrence from crime is a major task of punishment, a major task of rape is the subordination and subservience of women to men. Just as with punishment, the *threat* does most of the work.⁹ Not all who support or follow the rules carry out or even witness particular acts of rape. Those who do commit rape may have private motives of their own, such as revenge on other men. As with those who abide by the law, not all who follow the rules of rape need have the aims or consequences of the practice "in mind" as they do. In the case of punishment, it may be primarily judges and juries, formal and informal, backing the rules in particular cases, who have such things "in mind." Similarly, in the case of rape, it may be primarily judging observers who have such things in mind as they judge. For the most part, however, the rules become "second nature," like the rules of grammar, and those guided need not be aware of the rules as learned norms. There is also room for controversy about how much female compliance with male desire is due to the threat of rape. Just as with the relationship between punishment and motives for obedience to law, there is more than one story to be told here.

An ostensible difference between punishment in modern

democratic states and rape is that punishment as defined (if not as practiced) by modern democratic states, as a temporary or permanent withdrawal of certain rights, is meant to be humane, not terrorist. This has not always been true of state punishments. In a democracy punishment is supposed to play the role of a stabilizer, to provide people with a mutual assurance of general obedience to their common laws, and thus to make it rational for individuals to do their part. It is to be the sort of thing people might justifiably propose be carried out against themselves, should they fail to live up to their commitments, as a gesture of good faith and in recognition of their common liability to temptation.¹⁰ Rape is not this sort of thing. It is not a liability to which one might reasonably submit, fantasy notwithstanding.¹¹ Some rapes are less brutal than others. Yet rape is not meant to be humane, regardless of how it is done.

RAPE AS TERRORISM

Stereotypes of the terrorist as mad bomber or airplane hijacker present terrorism as *public*, often idiosyncratically motivated *rebellion*, and focused on the power of *state governments*. The terrorism of rape does not fit that model. It is not entirely public. It is not focused on the power of state governments. It is not ordinarily a form of rebellion. Much about rape is clandestine. Its concern is sexual politics, rather than territorial politics. Laws officially prohibit rape. Yet constant danger to women offers men a ready source of material services in exchange for "protection." Governments have been better at protecting men from accusations of rape than at protecting women from rape.

Critics of popular views of terrorism, such as Jonathan Glover and, earlier, Emma Goldman, have rightly challenged the idea that terrorism is perpetrated only by *enemies* of the state. Glover writes: "'Our' cause is usually supported by the resistance, by the underground, or by freedom fighters, while 'their' cause is often supported by terrorists. The use

of the word 'terrorism' is often so loose and so loaded that it is tempting to abandon it."¹² Recognizing state terrorism should make us realize that terrorism is not always *public*. State terrorism can be carried out by secret organizations and accompanied by public disavowals from government bodies.

When terrorism is thought of as public, it may be tempting to admire terrorists somewhat for courage and honesty or alternatively to deplore their manifest lack of shame. Thus Annette Baier has asked: "Does the fact that the killing is done openly, with an eye to publicity, make it better or worse than killings done quietly and with attempted secrecy? . . . The person we call a terrorist typically does her violence in the public eye."¹³ It may be neither courage nor lack of shame, however, so much as necessity dictated by terrorists' goals that determines whether terrorism is public or private. Terrorists working in the public eye aim to terrorize a certain public. Showing that they do not fear punishment can be necessary to success in terrorizing a government or other powerful body. Terrorists already relatively powerful need not make that point. They may have more to fear from publicity. For publicity could reveal that those terrorized into compliance were not acting voluntarily.

Terrorism is distinguished less by its ends or by the character traits it manifests than by its process. It is a tactic used to gain control of situations, or to fix or shift a balance of power, public or private. Terrorism is a shortcut to power or authority, a resort of the relatively powerless or of those unable to justify their uses of power to a public.

If humane deterrence threatens penalties liability to which one might reasonably accept, terrorism often manipulates target populations into compliance with demands they should reject, if rational, under calmer conditions. Terror as a tactic is an alternative to persuasion and argument, which are slower and riskier, and to humane forms of deterrence, also riskier and often more expensive. The work of Emma Goldman and Jonathan Glover on "state terrorism" suggests that terrorism is distinguished from the formally defined pub-

lic threat of legal punishment in modern states more by the nakedness of its appeal to the motive of terror than by the political status of its perpetrators.

Terrorism involves planned or systematic manipulation. Terror, panicky and heightened fear, makes us vulnerable to manipulation. We feel an urgent need to act before it is too late. Thus we are in a poor position to reflect, get things in perspective. We are in a poor position to be prudent or even just. Our attention is riveted by the threat of disaster and what we can do to prevent it. We are thus not so apt to pay attention to the terrorizer's situation, options, motivations, or aims, except as they define what we must do to avoid disaster. We feel our options narrowed to the point of almost no control.¹⁴ There is a danger for the terrorist of going too far, of paralyzing instead of merely terrorizing, with the result that manipulation is impossible. Terrorists, like other torturers, develop sensitivities and skills to avoid this consequence.

Like other terrorisms, rape has two targets: "bad girls" and "good girls," those who are expendable ("throw-away women") and those to whom a message is sent by way of the treatment of the former.¹⁵ Women to whom the message is sent may not directly confront men they perceive as rapists. Some may not often *feel* terrorized by rape. It does not follow that they are not victims of terrorism. When terrorism is successful, the second target population (the one to whom the message is sent) need not experience continual terror. Women successfully terrorized, and others socialized by them, comply with men's demands. As reward and inducement to continue, they are granted "protection" that they feel they have "earned." The feeling of "earned protection" gives a sense of control. Daughters of terrorized mothers may be shielded for a long time by being "properly brought up."

Women whose encounters with violence are most immediate and most traumatic, however, are not always most liable to manipulation by fear of violence. Survivor rage can overcome fear. Having faced the apparent worst, some women become dedicated to *non*compliance. Like their sis-

ters who did not survive, such women and others who have been tortured or mutilated may be useless to men except to send a message to other women to try thereby to secure the services of those women: This is what will happen to you if you are not "good," if you fail to do as we say.

An allegedly obsolete meaning of "rape" is "to carry off forcibly," a kind of theft. Rape has historically been treated by men as a crime of theft against other men. That idea is not totally obsolete. Men still often regard the rape of a woman as an offense against her guardian – the theft of something (the woman's "honor") that has a monetary value, a prestige value, or both. From the guardian's point of view, rape is a source of anger, indignation, resentment, even bitterness, but not terror. It is only from the point of view of *women* (or of men treated as women) that rape is terrorist. Omnipresent fear of rape controls women's mobility. Rapes of prostitutes, lesbians, and other women with no male guardians – and so with no one to "steal" anything from – receive less legal uptake than rapes of women who have male guardians. Yet the terror of rape is a fact of daily life for prostitutes, lesbians, and others who have no male guardians. These are among the expendables ("throw-aways") liable to being used to send a message to women more likely to be compliant.

THE PROTECTION RACKET

Feminists aside, philosophers have said little about rape. This should be surprising, considering how much they have said about violence against men. Except for accusations invented by European Americans to "justify" lynchings of African Americans, rape has not been, until recent years, even an *issue* – that is, discussable.¹⁶ Men have officially acknowledged it as wrong, but so obviously wrong that what was there to discuss? Feminists have had to make an issue of rape.

Since Susan Griffin's classic essay on rape as the "all-American crime," it has become commonplace among fem-

inists to regard rape as the linchpin of a male protection racket in sexist societies. Griffin wrote: "In the system of chivalry, men protect women against men. This is not unlike the protection relationship which [organized crime] established with small businesses in the early part of this century. Indeed, chivalry is an age-old protection racket which depends for its existence on rape."¹⁷ Rackets *create* danger to sell "protection." Historically, organized crime expanded its power base by securing service and payment through terrorist means, from bombings to individual torture and mutilation. Historically, also, rape and the threat of rape have secured women's services for men who have represented themselves as protectors while terrorizing other women or supporting other men who did.

In an essay with the memorable title "Coercion and Rape: The State as a Male Protection Racket," Susan Rae Peterson argued that rape is a state-sponsored institution.¹⁸ Rape is a "Rawlsian kind of 'practice,'" she said, a "form of activity specified by a system of rules which define offices, rules, moves, penalties, defences, and so on, and which give the activity its structure."¹⁹ If a state fails to protect women against rape but succeeds in protecting at least certain classes of men against rape *charges*, she argued, it supports a "racket." "I would go further and say that a state supports a racket even when it penalizes rapists, if it can be shown to be responsible for the continued threat of rape and to benefit from that continued threat.

Offers of "protection" are offers women have dared not refuse. If we refuse the bargain – refuse to pay protection and insist upon moving about without a guardian – we are held responsible for dangers we meet in response to our self-assertion. When we are raped, we hear that we brought it on ourselves, as Hegel said of the punishment visited upon a criminal by the state.²⁰ For we could have stayed home or gone out only with a guardian. Our position is in some ways worse than that of the person who buys from the crime syndicate. For our success in eliciting offers of protection, the need for which we learn early, requires that we comport

and decorate ourselves in ways said to bring on and intensify the dangers from which we are to be protected. We hear that not to so groom ourselves is not to care about our appearance. Belatedly, we find that a male guardian can often protect us from no one but himself, and we are at his mercy there. The protectorate tends not to recognize rape by guardians or by males to whom we have once been accessible. Because access is controlled by the protectorate, those who pay protection are unable to control the need for protection.²¹

RAPE MYTHOLOGY UNDERMINED BY AMIR'S RESEARCH

Important to rape as a terrorist institution is the myth that rapists are weirdos lurking in the bushes or stalking beautiful innocent (or naughty) women who walk alone. According to this myth, rape serves only the perverse desires of *madmen*, who are always mysterious strangers. Sociologist Menachem Amir, whose study of 646 rapes reported in Philadelphia for the years 1958 and 1960 was published in 1971, has done much to discredit this madman myth and the "irresistible impulse" theory of rape as well.²² Amir found that the majority of the rapes he studied were planned, not spontaneous (in gang rapes, 90 percent were planned; in pair rapes, 83 percent; in single rapes, 58 percent), that nearly half the rapists were personally known to the women they targeted, that a high proportion of rapes occurred in the homes of either the perpetrators or the women targeted, and that 43 percent involved multiple rapists.²³ Defending his *situational* – as opposed to *psychological* – approach to studying rape, Amir reported that "studies indicate that sex offenders do not constitute a unique clinical or psychopathological type; nor are they as a group invariably more disturbed than the control groups to which they were compared."²⁴ It appears that men convicted of rape are no more crazy than other men. It does not follow, of course, that other men are not crazy, or even that they do not rape. On the contrary, such

studies raise the question how common rape is among men who regard each other as respectable.

Amir's research is a turning point. Prior studies focused on the psychologies of rapists and the women they targeted, assuming that individual rapes had sufficient explanations in individual eccentricity. Patriarchal tradition blames, ultimately, the women in the case – women targeted for rape, rapists' mothers, rapists' wives – and reserves sympathy for rapists, who "have a problem." Amir focused on situational aspects, rather than individual psychologies: where the rape was done, when, how, and what were the prior relationships, if any, between the perpetrators and the women they targeted. His findings upset popular mythology about who rapists are, whom they target, and where and when they do it.

Imagatively, it is a short step from searching for social patterns, understood as statistical generalizations (as Amir did), to formulating social norms defining an institution by which people *guide and evaluate* their behavior.²⁵ The alternative to individual separate explanations of rapes is not necessarily a conspiracy, although Amir's study certainly turned up enough conspiracies. A more interesting alternative is that of a sexuo-political institution, rules of which, learned by example and precept, are presented as though they were empirical generalizations about women and men, or even scientific claims about female and male nature.

Combining Amir's research with Griffin's protection racket theory yields the idea of rape as a terrorist institution. This is a relatively optimistic view. It demystifies rape; it does not rest upon conjectures about the mysteries of male biology but presents rape as learned behavior. It suggests that rape, like slavery, can be abolished, however inconceivable that may seem to those whose material well-being presently depends on its existence.

DOUBLETHINK AND ILLEGITIMATE INSTITUTIONS

Rackets are illegitimate institutions. Illegitimate institutions involve clandestine operations. The sense in which agents

carrying out clandestine operations *participate* in institutions generating the operations can be problematic. Some are clear that they are committing, condoning, or supporting rape, but not that it is part of a political operation. Others seem unclear about whether what they did was rape. Many do not care.

The clandestine nature of the institution is part of the explanation why many do not imagine that they are taking part in an institution. Some, manipulated by others, may not be aware of roles they play. Secret terrorism authorized by institutions that have governing bodies can help us get a fix on how terrorist policing institutions work. Participants in secret state practices or crime syndicate operations act with varying degrees of awareness that they are participating in a large and complex institution. Institutions with clandestine operations launder evil deeds like dirty money, passing them through a series of agents with ever-decreasing information about what is being done and why. Agents administering violent deaths and torture are sometimes paid or coerced outright. But sometimes they are punished, instead of rewarded, by those whom they have served, as a public disavowal of responsibility by the latter. Unpunished rapists may be like hangmen doing the dirty work of others who, perhaps not loving them for it, nevertheless see that they are enabled to go on doing what they do.

What George Orwell called "doublethink" is a common institutional tool of manipulation.²⁶ Doublethink makes a thing seem its opposite. The rules of rape use doublethink to shield participants from having to recognize rape when doing so might be counterproductive. Consequently, women often find it impossible to convince officials that a rape was really a rape. The problem is *not* a slippery slope from polite refusal to teasing seduction on women's part. The problem is that women's wills in rape situations become *irrelevant*. Despite clear demonstration of undisputed, unwanted violence, rape rules can block official recognition, especially when the assailant is no stranger to the woman he targets.²⁷ Consider the following case, known to me personally from

about a decade ago. I choose it because it is not unusual and so is helpful in making a point about rape generally. A female university student did not understand until a full week later that she had been raped by the male student with whom she went home to study, even though she was completely conscious that he forcibly detained her, threw her to the floor, pinned her in place by methods that I will spare you, and sexually penetrated both ends of her body, causing her physical injuries and loss of blood. How could she not know she was raped? She was in shock afterward. But that was not it. She said *she went voluntarily to his apartment*, in response to his invitation. Woman who do this hear that they have "asked for it."

In the city of this assault, police have been taught not to disregard a rape charge for that kind of reason. Hearing this, the student went to the district attorney. I watched the jury return a verdict of "not guilty." The defense attorney denied only that the woman withheld consent. He argued that because she was angry instead of ashamed, his client had probably made her feel *rejected* and that she probably invented the rape charge as revenge.

The thing to notice is what makes it standardly impossible to answer the question what really happened and how this impossibility functions in a terrorist practice. Doublethink turns rape into something the perpetrator and target did together or into an "event" that "happened between us," as the man in this case put it to the woman who later charged him with rape. This is achieved by rules defining "consent," defining it out of existence.

THE RULES

Many of the rules of rape are unwritten, although the first, pertaining to wives, is still found explicitly in jurisdictions not yet affected by recent feminist criticism.²⁸ The first rule, embedded in older legal definitions, is that husbands cannot rape their wives. Or, alternatively, husbands are permitted to rape their wives with impunity. The rule permits husbands

carnal access regardless of their wives' wills. When rape is defined as forcible carnal knowledge by a man of a woman not his wife, nothing a man does to a woman married to him is allowed to count as "real" rape.²⁹ If we understand "forcible" in its ordinary sense, this is doublethink. Wives *can* be sexually forced, "accessed" against their wills. Only if wives are *normatively disabled* from withholding consent is it not rape.

This is an example of rules defining categories of women who are not allowed to count as rape targets, at least for certain men. No matter what the men do to them, it is not really rape, because *the rules give the women's status itself the value of consent*. Other examples are prostitutes, women who are not "virgins" (including women previously raped), a woman who has had past voluntary sexual relations with a particular man (nothing *he* does to her afterward counts as "real" rape).

Another kind of rule gives female appearance, rather than status, the value of consent. Consider the rule that women who dress or move "provocatively" are "asking for it." There are basically two ways for women to "provoke" male sexual aggression. First, there is the "sexy" way, where our clothes and manner accent femininity. Second, there is the "catering bitch" way, where our clothes and manner manifest, rather, a refusal to make a feminine or "sexy" display of femaleness, and we consequently need to be "taught our place." The implication might seem to be that women should wear nothing. Yet we hear that this is the most "provocative" of all — except when it is disgusting.

Most interesting, perhaps, are the situational rules, such as the rule that a woman alone is "asking for it." There are three ways of being alone. First, a woman may be unaccompanied by anyone at all. Second, women who are accompanied by other women are represented as being "all alone," which sounds even more alone than before (although it can be the safest situation in fact).³⁰ Third, a woman may be *alone with* a man. "Alone with" sounds like a self-contradiction. Yet the description is apt. A woman alone with a man is

physically present with someone – as the female student was physically present with the male student in his apartment – who is not, however, presumed to be with her in the sense of being on her side. The alternative to these three ways of being alone is to be accompanied by a guardian – who can, of course, do anything he pleases without it counting as rape.

These rules confer the value, or part of the value, of consent upon a woman's status, appearance, behavior, or situation. Still others confer that value simply upon the female body itself and upon its involuntary experience. Contemporary patriarchal society treats the female body itself as provocative. There are rules to the effect that a woman who is sexually aroused is willing and that one who experiences pleasure is likewise willing. As empirical generalizations, these claims are false. But they are not simply false empirical generalizations. They are political norms, redefining "consent" and thereby the meaning of "rape."

Yet another rule is that consent once given cannot be withdrawn.³¹ We have already seen this implicitly in the cases of status, such as marriage, which may be acquired through consent. But it also comes into play on an ordinary date if a woman wishes to change her mind in the course of an evening. Contrast this with acceptance of an invitation to have lunch together. If I no longer feel like eating at the time, I may just keep you company and have something to drink while you eat. It is difficult to imagine wanting a woman to eat anyway, just because she agreed to earlier, if she no longer wants food when the time comes. Force-feeding as a way of handling such disappointment would be found neither natural or excusable. Yet the rules of rape legitimize its analogue regarding sex.

Related to the rule that consent once given cannot be withdrawn is the rule that men once sexually aroused are no longer responsible for their conduct. As an empirical claim, this is less plausible than corresponding claims about men who are hungry or thirsty. Self-gratification is readily obtainable in the case of sexual arousal. It makes sense, however, once we recognize it as not an empirical claim but a

political norm. Men sexually aroused are, by the rules, *absolved* of responsibility for their behavior.

Considered one by one, most of the rules do not ask the impossible. They thus create the impression that failing to meet their requirements is doing something bad. Yet taken together they leave no alternatives by which women can be genuinely secure against sexual violation by men. Trying our best to live up to them still leaves us at the mercy of men (as men have long believed they were at the mercy of their God), who can always find a "violation" if they wish, but who may spare us if we are evidently trying to be "good," that is, if we are sufficiently deferential. Curiously, the result has not been to rob women of motives for trying to please. Inexperienced women may not appreciate the incoherence of the large picture. But experienced women often see no better alternative than trying to please those in power, accepting the humiliating position of being "wrong" no matter what, and trying by ingratiation to reduce the likelihood of abuse.

The most blatant rule, summing up the spirit of the institution of rape, is that when a woman says no she means yes. What must she say to mean no? Nothing she says counts for much. Historically, she was expected to resist physically to her utmost, a process that was also a turn-on for the rapist. If both no and yes mean yes, neither means anything. The net result is that women are politically disabled from withholding consent to male sexual access.

Whereas most rules make it impossible for women to withhold consent, a few do just the opposite: Girls cannot give consent – clearly, a political norm, not an empirical claim. Likewise, the unofficial racist rule that white women cannot consent to black men is a transparently political norm. Like the others, these rules also divorce consent from the will. However, their functions are different. Rules that disable women from giving consent enable some men to control other men by marking certain females as off limits to them. Such rules may seem to offer women real protection. However, white racist rules have been designed to protect the

"purity of the (white) race." In this area they control white women as well as men of color. Jailbait rules, which might also seem to offer young women some real protection, are designed to protect female marriageability, a commodity of value to guardians and potential guardians, by controlling men who are not (yet) a woman's guardian. Such rules have not protected girls from abuse by adult men in their homes.

Rules that disable women from withholding consent help to make sense of myths about rape that are otherwise puzzling, even mutually contradictory although simultaneously believed. For example, rape is popularly considered both normal and impossible. The myth that it is impossible to rape a woman means that no man could physically succeed with a woman who really did not consent. Taken empirically, this claim appears to deny that women are forced at gunpoint or knife-point or by gangs to submit to acts to which they would otherwise not submit. However, guns, knives, muscles, and so on are irrelevant to the consent. It is sufficient that the woman either is or is not wearing clothes that highlight her femaleness, that she is alone either with or without other men or women, that she says either yes or no, and so on. If it is impossible to rape a woman, that is because the rules of rape discredit her refusals. They thereby make a certain sense of the myth that only a crazy man would rape, that the act is not normal. A man would have to be crazy not to fit his behavior into rules under which nothing he did would count as rape. Because of those rules, however, rape also appears normal, because it is very ordinary. For women unable to withhold consent are also unable to give it.

The rules also make sense of male paranoia regarding women falsely crying "rape." Offhand, this paranoia is puzzling, considering how much rape goes unreported. However, since the rules do not meaningfully distinguish between women who really do consent and women who do not, it should not be surprising that men wonder whether women have any way to make that distinction in reporting what men did to them.

A CONCLUDING NOTE ON STOPPING RAPE
TERRORISM AND ON THE LIBERALISM OF JOHN
STUART MILL

It is commonplace among feminists that *preventing* rape should not be women's responsibility. Preventing rape should be the responsibility of those who commit it, support it, are served and empowered by it. Women's energies are needed for healing, mutual support, and getting on with our lives. Yet women have an interest in *avoiding* rape and rape terrorism.³² Exposing the rules of the institution is helpful toward this end, suggesting strategies of avoidance – such as self-fulfilling prophecies that women who say no mean no, and that women together are not alone. Women's transit organizations, rape crisis centers, and battered women's shelters, heavily dependent on volunteer work, confront the protection racket directly by offering alternative sources of protection so that women need not seek protection from those who create or benefit from the existence of the danger. The critic who found women's working conditions more harmful than "typical acts of rape" could still make this point: If women cease to *value* the "sexual purity" that has historically caused rape to reduce women's value to men, there is one thing less to *fear* from rape. Reevaluating the significance of rape is one strategy for avoiding rape terrorism.

Despite the belief that preventing rape should not be women's responsibility, many are taking aggressive steps to combat it, in addition to learning to avoid it. The most popularly controversial strategy of combating rape may be feminist attacks on media propaganda that set up women for rape by conveying to men the message that women like to be handled and by encouraging women to develop rape fantasies. Pornography is the vehicle of this propaganda, not only dirty books and magazines but also pornographic scenes sprinkled commonly throughout modern theater entertainment and commodity advertising. A little more than a decade ago a low-budget documentary film entitled *Rape Culture*

showed scenes glorifying rape from popular movies in the United States, including *Gone with the Wind*, *Straw Dogs*, and *Butch Cassidy and the Sundance Kid*.³³ In each, rape is presented as thrilling and fulfilling for a woman. Scarlett O'Hara is never more radiant than the morning after Rhett Butler rapes her. In *Straw Dogs* the rapist beats up a woman and drags her about by the hair before he finally rapes her, and at the moment of penetration, her agonized face melts into ecstatic pleasure. These scenes remind us how women learn to develop the kinds of "rape fantasies" that facilitate real rape.

One may wonder whether rape fantasies fit the idea of rape as a *terrorist* institution. Some, of course, clearly do. Not all rape fantasies are of being raped; many are of killing the rapist or getting various sorts of revenge. Yet even the kinds of rape fantasies encouraged by pornography fit the idea of rape as terrorism. The word "rape" is not used in the film scenes just mentioned. Rather, they present the rapist as a woman's protector. The fantasy that pornography teaches women to enjoy is of rape by a "prince" who then protects her from other men, who are sources of terror. The "prince" is the "good rapist," although even he *was* a source of terror prior to the act.

In recent years pornography has been defended by appeal to the liberty principle of John Stuart Mill, a use of that principle which Mill seems not to have foreseen.³⁴ His principle is that interference in someone's conduct (other than by persuasion and argument), whether by the state or by an individual, is not justified except to prevent the agent interfered with from harming others. He interprets "harm" as injury inflicted without the informed consent of those on whom it is inflicted. Mill applied his principle to religious and political censorship as well as to undefined "experiments in living," but did not explicitly apply it to such things as pornography or prostitution. Those who make the latter applications tend to assume that viewers, users, and those participating in production and exchange are not "harmed" in the relevant sense, as long as they are *consenting adults*, and that no one else need be harmed because no one else need

be involved. However, Mill himself was not content to rest his evaluations of women's choices at this level. In *The Subjection of Women*, he argued that the fact that adult women seem to consent to certain arrangements, such as marriage without the possibility of divorce or lack of the political franchise, is not a sufficient basis for the conclusion that they are not harmed by those arrangements.³⁵ He gave several reasons why not: One is that what is interpreted as consent (frequently only the absence of protest) is often motivated by realistic fear that protest will bring reprisals. Another is that "consent" often is no more than a ranking of alternatives in the construction of which the chooser had no part, none of which are tolerable but one of which must be chosen and is chosen as least intolerable. Still another is that many desires and ambitions underlying the "consent" are socially constructed by practices that stifle rather than foster women's development. In pursuing such questions as "Why are there no great women artists?" and "What if women don't *want* to vote?" Mill was led to inquire into the foundations of women's apparent consent to exclusionary practices and into the social processes by which ill-founded views of women's nature are constructed. His liberalism is, in principle and in practice, significantly qualified by these inquiries. Studies of the clandestine and domestic terrorism to which women have been subjected for centuries would be more in keeping with Mill's social ethics than defenses, in the name of his liberty principle, of the sale and inhumane portrayal of women who consent, or appear to consent, to such things.

NOTES

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thank Marcia Baron, Victoria Davion, Lynn McFall, and Richard Mohr for helpful comments, and the editors of the present volume for encouraging me to focus this material around the concept of terrorism.

- 1 Harriet Baber, "How Bad Is Rape?" *Hypatia: A Journal of Feminist Philosophy* 2, no. 2 (Summer 1987): 125.
- 2 Representative of current literature that understands terrorism in this way are Walter Laqueur, *The Age of Terrorism*, rev. and expanded ed. (Boston: Little, Brown, 1987); Benjamin Netanyahu's anthology, *Terrorism: How the West Can Win* (New York: Farrar, Straus and Giroux, 1986); and Gayle Rivers's *War Against the Terrorists: How to Win It* (New York: Stein and Day, 1986).
- 3 I focus on men's rape of women. Analogous observations can be made about men's rape of men within male prisons. See Jean Genet, *Our Lady of the Flowers*, trans. Bernard Frechtman (New York: Grove, 1963); and various prison biographies of men. (Interestingly, women's prisons exhibit an entirely different phenomenon with respect to same-sex intimacies, a friendly phenomenon that sociologists have called "family-ing," whereby women who fall in love with other women adopt each other's friends as "mother," "father," "sister," etc., complete with "incest" prohibitions. See Rose Giallombardo, *Society of Women: A Study of a Women's Prison* [New York: Wiley, 1966], chap. 9.)
- 4 For silence-breaking philosophical inquiries into what is wrong with rape, see the four essays in the "Rape" section of *Feminism and Philosophy*, ed. Mary Vetterling-Braggin, Frederick A. Eliston, and Jane English (Totowa, N.J.: Littlefield, Adams, 1977), by Susan Griffin, Pamela Foa, Carolyn Shafer and Marilyn Frye, and Susan Rae Peterson. The earliest theorists I know to connect rape with terrorism are Susan Griffin (see, also, n. 17 below) and Barbara Meinhof and Pamela Kearon in their essay "Rape: An Act of Terror," in *Radical Feminism*, ed. Anne Koedt, Ellen Levine, and Anita Rapone (New York: Quadrangle, 1973), pp. 228-33.
- 5 A memorable chapter of Susan Brownmiller's *Against Our Will* (New York: Simon & Schuster, 1975) documents the routine-ness of rape by the victors in war.
- 6 Compare John Rawls's definition of "practice" or "institution"

- in *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), p. 55.
- 7 Kate Millett, *Sexual Politics* (New York: Random House, 1970).
- 8 Philosophical essays of the late 1950s and early 1960s discuss this ambiguity of "punishment," e.g., H. L. A. Hart's "Prolegomenon to the Principles of Punishment," reprinted in his *Punishment and Responsibility: Essays in the Philosophy of Law* (Oxford: Clarendon, 1968), pp. 1-27.
- 9 See J. D. Mabbott, "Punishment," *Mind* 48 (1939): 152-67.
- 10 See Rawls, *A Theory of Justice*, pp. 241, 314, 575, for sketches of such an understanding.
- 11 I take up issues raised by rape fantasies in the last two sections of this essay.
- 12 Jonathan Glover, "State Terrorism," in this volume. Emma Goldman made similar points in her essays, "The Psychology of Political Violence" and "Anarchism: What It Really Stands For," reprinted in Goldman, *Anarchism and Other Essays* (New York: Dover, 1966), pp. 79-108, 47-67.
- 13 Annette C. Baier, "Violent Demonstrations," in this volume.
- 14 See, e.g., Marilyn Frye's discussion of pimps' seasoning of new prostitutes, "In and Out of Harm's Way: Arrogance and Love," in Frye, *The Politics of Reality* (Trumansburg, N.Y.: Crossing Press, 1983), pp. 52-83; and accounts in Kathleen Barry's *Female Sexual Slavery* (Englewood Cliffs, N.J.: Prentice-Hall, 1979), including the terrorizing of Patty Hearst (chap. 7). I am indebted to Onora O'Neill, "Which Are the Offers You Can't Refuse?" in this volume, for the point about the two targets in relation to terrorism in general and for noting the different skills called upon to reach each target.
- 16 On rape and lynching, see Ida B. Wells-Barnett, *On Lynchings* (New York: Arno, 1969), reprinting pamphlets from her anti-lynching campaigns of the 1890s and the turn of the century.
- 17 Susan Griffin, "Rape: The All-American Crime," in Vetterling-Braggin et al., eds., *Feminism and Philosophy*, p. 320. This essay, from *Ramparts* magazine in 1971 (shortly after the publication of Menachem Amir's *Patterns in Forcible Rape* [Chicago: University of Chicago Press, 1971], which it discusses), is a classic used in rape crisis center training programs across the United States. It appears as the first chapter of Griffin's book, *Rape: The Power of Consciousness* (New York: Harper and Row, 1979).
- 18 Susan Rae Peterson, "Coercion and Rape: The State as a Male

- Protection Racket," in Vetterling-Braggin et al., eds., *Feminism and Philosophy*, pp. 360-61.
- 19 Ibid. The idea is not that rape meets Rawlsian principles of justice, of course, but only that it fits Rawls's understanding of the concept of a practice.
- 20 G. W. F. Hegel, *Hegel's Philosophy of Right*, trans. T. M. Knox (Oxford: Oxford University Press, 1942), pars. 99-104 and Additions, pp. 246-7.
- 21 See Marilyn Frye's discussion of access as a face of power in "Some Reflections on Separatism and Power," in her *Politics of Reality*, pp. 95-109.
- 22 Amir, *Patterns in Forcible Rape*.
- 23 Ibid., p. 143.
- 24 Ibid., p. 314.
- 25 Amir seems to move somewhat in that direction in the theoretical discussion at the end of the book.
- 26 George Orwell, *Nineteen Eighty-Four* (London: Secker and Warburg, 1949; New York: Harcourt, Brace, 1949).
- 27 See Susan Estrich, *Real Rape* (Cambridge, Mass.: Harvard University Press, 1987), on "simple rape" as nearly impossible to establish in court as *real rape*. "Simple rape" contrasts with "aggravated rape," i.e., aggravated by such conditions as the assailant's being a stranger to the victim or using a weapon.
- 28 As a result of liberal feminist criticism, some jurisdictions now use the language of "sexual assault," breaking down the possibilities into degrees of seriousness, and have abandoned the term "rape." Many radical feminists retain the concept of rape because it conveys, in a way that "sexual assault" does not, who, historically, has assaulted whom.
- 29 In the sense meant by Estrich, *Real Rape*, i.e., actionable rape.
- 30 Lily Tomlin says she actually saw a man walk up to four women in a bar and ask, "What are you doing here sitting all alone?" in *Lily Tomlin: On Stage* (New York: Arista Records, 1977), act 1 (side 1), end of band 4.
- 31 This rule is discussed in Carolyn Shafer and Marilyn Frye, "Rape and Respect," in Vetterling-Braggin et al., eds., *Feminism and Philosophy*, p. 335.
- 32 For practical strategies that have worked, see Pauline Bart and Patricia H. O'Brien, *Stopping Rape: Successful Survival Strategies* (New York: Pergamon, 1985).
- 33 I was shown the film more than ten years ago but have been

- unable to find documentation on it. Critics soon pointed out that all the imprisoned rapists interviewed in it appeared to be black (one white rapist's face was in shadow), so that it contributed to a racist stereotype. The film seems to have disappeared from circulation shortly thereafter.
- 34 J. S. Mill, *On Liberty* (1859, many editions), chap. 1.
- 35 J. S. Mill, *The Subjection of Women* (1869, many editions); see, especially, chaps. 1 and 3.