

Policing (as) the Paradigmatic Scene of Rape

History

*D*efining rape usually has a hidden agenda of defining sex. For something to qualify as rape, it must qualify as sex; this is why most people think punching a rectum might be rape, but punching a nose never is. But to qualify as rape, something must also, somehow, be not-sex, or not just sex. For people who define rape as “sex without consent,” fisting with consent is just sex, but fisting without it is rape. Rape positively defines sex by picking out what counts as sexual and negatively defines sex by ultimately being differentiated from it.

Queer theorists don't like how rape positively defines sex, if it means closing down what activities and body parts count as sexual. Notoriously, Michel Foucault once wondered out loud whether there was, in principle, a difference “between sticking one's fist into someone's face or one's penis into their sex” [“que l'on foute son poing dans la gueule de quelqu'un, ou son pénis dans le sexe”] (“Confinement” 200). Feminists beginning with Ann Cahill have taken Foucault to task for underestimating the seriousness of rape under patriarchy; it's only possible to raise the question as Foucault does if we think violence is something rendered on anonymous bodies in an interpersonal vacuum emptied of social context. I'm not necessarily here

to defend Foucault from that charge. But Foucault's larger point was that a commonsense definition of rape actually underestimates the expansiveness of sex—and therefore, perhaps, the expansiveness of rape. By locating sexuality in the “preponderant place” of, for instance, the penis or vagina, such a definition could not see that, for some people under some circumstances, for instance players in a certain s/M scene, punching a nose is sex, too. When a definition of rape maps the proper places of violation, it presupposes a normative account of what sex, essentially, is: rape defined as the forceful penetration of a vagina with a penis, for instance, only makes sense if sex is essentially penetration of a vagina with a penis. As queer theorists have long explained, sex in which everyone has a vagina (for instance) is unintelligible as sex under this normative view, and therefore was—under almost every legal statute in every jurisdiction until very recently—invisible as a possible scene of rape. Even among straights, the development of criminal concepts deemed less serious than rape—like sexual battery, which can include sexual activity that falls short of penetration—aims to preserve “full” or “real” sex, and thus what Susan Estrich has critically called “real rape,” as requiring penetration. In this view, the baseball metaphors for sex roughly map onto gradations of sexual harm: stealing second base is not (as bad as) rape because it is not really sex.

For radical feminists, a slogan like “rape is about power, not sex” is logically incoherent not just because it wants to find rape without finding sex but because its negative definition of sex—its suggestion that sex is not itself about power—is even more wrongheaded: of course, sex is about power, too. Defining rape this way has often seemed more interested in preserving the goodness of sex than naming the badness of rape; as Catharine MacKinnon puts it, letting rape take all the heat for how power operates in sexuality means “to claim an ungendered and nonsexual ground for affirming sex (heterosexuality) while rejecting violence (rape)” (173–74). If rape is categorically distinct from sex, then we can keep fantasizing about a sex untainted by power, control, or violence, providing an alibi for “normal” heterosexual sex under conditions of patriarchal subjugation that mean even “normal” sex entails, at best, a “pleasure gap” for most women (see Rowland; West).

Because locating rape requires both concentrating the sexual into a bounded site of body parts and acts and then pouring into that site all that is politically undesirable in sex elsewhere, there has usually been a double barrier to perceiving sexual violence: either because we cannot perceive sex (as the queer critique of sexuality goes) or because we cannot perceive how sex is always already constrained by the field of power

in which it operates (the radical feminist critique). But queer and radical feminist critiques of rape imperceptivity can sometimes be obfuscated by their own paradigms of what constitutes sex or what constitutes the central axis of power along which violation can occur. For instance, discussions of Foucault's apparent inability to see sexual violence in his brief mentioning of the Jouy case in the first volume of his *History of Sexuality* (and at greater length in his earlier 1974–75 lectures at the Collège de France on the “abnormal”) have so far missed what should perhaps be a more obvious violation. In 1867, Charles-Joseph Jouy was determined by doctors at an asylum in Maréville, France, to be a forty-year-old “semi-imbecile” who could not be held fully responsible for the crime of which he was accused: paying an eleven-year-old girl named Sophie Adam to masturbate him, something he had seen boys who were Adam's age do with her before. “The thing to note” in this case, Foucault said, is how medical doctors inspected and observed Jouy with meticulous care in order to figure out what “type” of person he was, indicating an inflection point in which sexuality became an object of specifically medical knowledge (31). For feminists including Linda Alcoff and Johanna Oksala, the real “thing to note,” which Foucault unforgivably doesn't even seem to notice, is that an adult man had raped an eleven-year-old girl. Shelley Tremain has more recently complicated this critique, because if Adam's age categorically disqualifies her from consenting to sex, then Jouy's mental disability should disqualify him, too.¹ In some accounts, he may have actually been taken advantage of by Adam herself (she had initiated their conversation by asking for money and only then did he offer the terms of the exchange): perhaps the radical feminist trained to see violence across gendered difference misses violence across ability status. Moreover, since Jouy had been ostracized by other men and only propositioned Adam after seeing other boys do so too, what seems to us sex may have been for him just an attempt at social belonging, at simply joining the game others were playing: his ability status queered him from the start, making his heterosexuality aspirational rather than a privilege.

The thing to note here is not who was “really” raped, but the normative conditions under which it even makes sense to ask. We see sex (a hand on a penis) and we see a power differential (by age or by ability) that makes this not-sex, and so the question of rape emerges. No one disagrees there is sex, but we disagree on which differential correctly isolates what is not-sex. But this is not the only scene in which sex happens in this story. No one seems to have considered another scene, the one responsible for entering this story into the archive to begin with: the scene of state-mandated

medical examination. In their published medical-legal report, the doctors who examined Jouy began with a phrenological examination of Jouy's skull, measuring various diameters and features, and ended with a similarly intensive scrutiny of his penis and scrotum: "We examined his genitals. Despite his very cramped stature and arrested physical development, his organs are normally developed like those of an ordinary man. This fact is observed in fools, and it is what partly accounts for their tendencies because they have organs that incite them" (Bonnet and Bulard 10–11, my translation). Earlier in the story, we know Adam had held Jouy's penis in her hand as part of a financial agreement. At the end of this story, the doctors hold Jouy's penis in their hands, but there is no financial agreement to which he has consented. Jailed by the state and then detained in an asylum authorized by the state, he had no choice about what would happen to him.

These are two scenes that include outwardly identical acts, but the later scene does not provoke the question of whether rape is on stage. A power differential is at play—between doctors and a patient, but also between a custodial state and its ward—but not one immediately associated with the intimate relationships in which we are primed to find sex. Ironically, the very condition that makes this a scene of nonconsensual sexual contact also makes it hard to see it as such: the official state context in which it occurs. Following Mark Neocleous's influential provocation to think of the police not as a discrete institution, but as "a broad range of powers through which social order is fabricated and subjects constituted," the doctors who handled Jouy's penis are doing police work (11), and sex is not one of the actions in our normative vocabulary for what police do (or what doctors do with their patients or states do with their wards). Instead, our vocabulary includes words like "examine" or "detain." The existence of sexual violence does not arise as a question here because the context of the interaction excludes from view the existence even of sex.

You don't have to be Max Weber—who noted that "the state is that human community which (successfully) lays claim to the *monopoly of legitimate physical violence* within a certain territory" (310–11)—to hold a commonsense theory that explains why a police officer who hits a perpetrator of assault with a baton is not themselves, at least not officially, committing assault; or why a prison guard who executes a murderer is not themselves, at least not officially, committing murder. State-sanctioned police investigation of a person's genitalia would, this logic seems to go, not be rape. In fact, the doctors no doubt thought they were being humane by recommending, based on their findings, hospitalization instead of imprisonment. In the

twentieth century, this therapeutic, instead of strictly punitive, approach would come to popularize chemical castration for people convicted of sex with minors—offenders who, as Jouy was considered to be “incited” by his genitals, are considered under the control of their hormones. In 1996, California modified its penal code to require a person twice convicted of child molestation to be chemically castrated in order to be paroled. Other states, including Florida, Iowa, Louisiana, and Alabama, have followed suit. In still other states, chemical castration is sometimes offered to an offender in exchange for a reduced sentence. In these cases, offenders technically have a choice—one between freedom from prison or autonomy over their sexual organs—although we wouldn’t recognize it as a choice if, say, a kidnapper offered to set their victim free in return for a sexual favor. That would just be rape.²

What defines police power, as Micol Seigel formulates it, is not violence *per se*, but “*potential* violence,” and the authority of the doctors assigned by the state rests on this potential even as they magnanimously withhold it by recommending hospitalization: it is the possibility that their hold on Jouy’s penis could, literally, become tighter. But what the Jouy case suggests is not just the Weberian point about the state’s monopoly on violence, meaning that a state calls its actions legitimate incarceration rather than illegitimate kidnapping; it also has a monopoly on deciding what is sexual: whether manipulation of another person’s sexual organs is sex (and therefore possibly rape) or just an investigation; sex (and therefore possibly rape) or just a treatment plan. For some people, these actions count as sex; an entire category of kink paraphernalia is devoted to clinical scenes (e.g., just consult the “speculum” tag at <http://kink.com>). But they fall out of a normative account of what sex, essentially, is, much in the way two vaginas or nose punching fell out, because they are all too far removed from the central sexual paradigm of penis-in-vagina. In contrast, the question of whether (or if) Jouy or Adam were violated in their encounter naturally arises because a scene involving two persons of different genders primes us to ask it.

A queer account of sexual violence, in contrast, might begin not with the identities of actors, but with acts themselves: not the doctor or the patient, but the penis-holding. In the standard picture of sexual violence, to know if you have seen rape requires getting the right psychological account of what everyone was thinking and feeling at the time, whether it felt sexual to someone and whether someone consented and whether someone knew they consented. It is hard to see the state as a perpetrator of sexual violence because the state is not an entity, it seems, that has a psychology. To return

to rape's dual construction of sex—its condensation and purification of the sexual—disqualifying the state from participating in the scene of rape requires a dual enforcement of normative views of the sexual: that sex is something between people and that interactions with the state are benign. To focus exclusively on the scene of Jouy and Adam, but not also on the scene of Jouy and the state's police, reinforces the state's monopoly on defining sex and giving itself an alibi for sexual violence—because rape, normatively, is something one person does to another, across a power differential attributable to personal status, but not something a state does to its subject.

Aesthetics

In the 1990s, the London-based Palestinian artist Mona Hatoum began making what she called *ambivalent* sculptures, usually invoking a domestic or caregiving relationship but toggling between an appearance of “comfort” and “danger or abuse”: a crib that instead of a solid base for supporting a mattress has wires stretched taut “more like an egg slicer” (*Domestic* 28); giant steel food mills or standing graters that may seem quaint to us from a distance but, towering over us at heights of eight feet or more, come to seem threatening when we are in their shadow; and wheelchairs whose handles are serrated or have been replaced by knives, ready to slice open the hands of anyone daring to push them. As Edward Said has explained of these works, “Domesticity is [. . .] transformed into a series of menacing and radically inhospitable objects whose new and presumably non-domestic use is waiting to be defined” (82).

As in Wittgenstein's discussion of the “dawning of an aspect”—the famous example is the duck-rabbit image originally illustrated by Joseph Jastrow—the revelation that what seems innocent could actually be harmful is not motored by a change in the visual stimulus. The object does not morph between two states of being, but rather, the spectator shifts between two states of interpretation. Although the “theatricality” of lodging meaning within the spectator has been criticized by aesthetic theorists ever since Michael Fried's especially cranky assessment of minimalist sculpture in the 1960s, the point is that Hatoum directs us away from the object and toward our environment, bringing into particular focus the social structure that preprograms our interpretation of an object before we become intimate with it: our assumption that a domestic relation or an object indexing caregiving, for example, is innocent until proven guilty. Moreover, because the threatening nature of the objects only dawns on us as we near them, they allegorize

domestic violence, not just because they are domestic objects literally rendered violent but because their spatialization of “aspect-dawning” suggests that a relationship that looks peaceful from the outside, because of the ungrounded assumption that intimate partnerships are safe or nourishing, might be deadly when we’re actually in it. Hatoum has discussed her desire to “shatte[r] notions of wholesomeness of the home environment, the household, and the domain where the feminine resides.” She continues, “Having always had an ambiguous relationship with notions of home, family, and the nurturing that is expected out of this situation, I often like to introduce a physical or psychological disturbance to contradict those expectations” (68).

At the turn of the millennium, Hatoum turned from domestic sculptures to domestic installations. The toggle between comfort and abuse remains, but this time what determines the shift resides not just within interpretation but within the object itself. In these installations, a scene is filled with (average-sized) metal kitchen utensils connected by a live electric wire, which means if we picked one up, it would electrocute us. As in the earlier sculptures, the closer we get—the more intimate we become in relationship with the scene—the more dangerous it gets, but here the specific source of danger is easier to locate. At first, the electricity may seem accidental, relatively less intentional than the placement of objects themselves. In *Home* (1999), the colanders, graters, grinders, and slotted spoons are arranged on a wooden table in a single horizontal plane with a vertical line of symmetry; the hemispheric colander, the most symmetrical of the objects, is centered in the middle, and the elevation of objects increases from the left or the right of this midpoint (see fig. 1). In *Sous Tension* (2000), the objects are less symmetrically placed, but they are nonetheless arranged into categorical groupings: four handheld colanders, all turned upside down, cluster in the lower right; a couple of plane cheese graters, upright, stand in front of each other behind the colanders; a collection of kitchen grinders are on the left side of the floor (see fig. 2). Whereas the objects seem to have been placed purposefully, the electrification in the wires is automatic, something for which the artist may not herself seem responsible. On closer inspection, however, what seems most unconscious and automatic in *Home* and *Sous Tension* is really their most socially produced component: electricity requires elaborate state infrastructure. Before it pops up automatically, literally at the flip of a switch, it was first made by generators most often subsidized by taxes, transmitted through government-regulated transformers and transmission lines that crisscross nation-states in regional grids, received by a more local substation that lowers its voltage for distribution, and eventually wired through

building service panels and outlets. The electricity brings into Hatoum's installation not the simplest, but the most socially enmeshed, element of the scene. We can simply flip on a switch because of all the elaborate state structures that come before it.

In this way, Hatoum makes the violence of domestic violence an effect not so much of the domestic but of the interface between the domestic and the state: the scene is literally charged with a danger literally empowered by the state. Historians of electricity and infrastructure such as Thomas Hughes, Christopher Jones, and Timothy Mitchell have tracked how the state development and expansion of electrical grids in the nineteenth and twentieth centuries shaped and enmeshed domestic relations; in particular, the transition from organic sources of energy (such as wood) to mineral sources (such as coal), transmitted through power lines, turned the production of energy into a social commodity to be bought rather than a natural resource to be personally harvested. As the household became dependent on the state and its markets as a provider of energy that could be bought, the gendered distribution of labor also shifted: masculinized household members no longer had to go outside to chop wood, but feminized members remained in charge of cleaning and other responsibilities for using energy. As electrical appliances like the washing machine and iron became ubiquitous over the course of the twentieth century, this burden on feminized members of at least white middle-class households increased, not decreased, both because appliances concentrated domestic labor in a single person (the "homemaker" rather than an entire household of workers) and because their greater efficiency increased expectations for how often a house should be cleaned or clothes should be washed.

Hatoum's installations do not only bring into view this sometimes unremarked, because offstage, electric infrastructure that preorganizes the domestic scene but also open up a dialectical relation between state and domestic violence, reframing both domestic violence as a kind of state violence and state violence, or more specifically what Micol Seigel calls the "violence work" of policing, as a kind of domestic violence. The dialectic would achieve its most succinct formalization in Hatoum's *Grater Divide* (2002), a giant, standing steel cheese grater composed of three connected, folding walls, like a Shoji screen or room divider (see fig. 3). Like the other sculptures, the *Grater Divide* allegorizes domestic violence, and because a Shoji screen might be used in a bedroom for privacy while undressing, this domestic violence also takes on a specifically sexual association, pointing to intimate partner rape. But the *Divide* also marks a "greater" geopolitical

Figure 1
Mona Hatoum,
Home, 1999. Wood,
galvanized steel,
stainless steel, elec-
tric wire, crocodile
clips, light bulbs,
computerized dimmer
switch, amplifier,
and speakers.
76.2 × 198.1 × 75.7 cm
(table)

Source: Guggen-
heim Bilbao Museoa.
© FMGB Guggen-
heim Bilbao Museoa

Photo: Erika Bara-
hona Ede

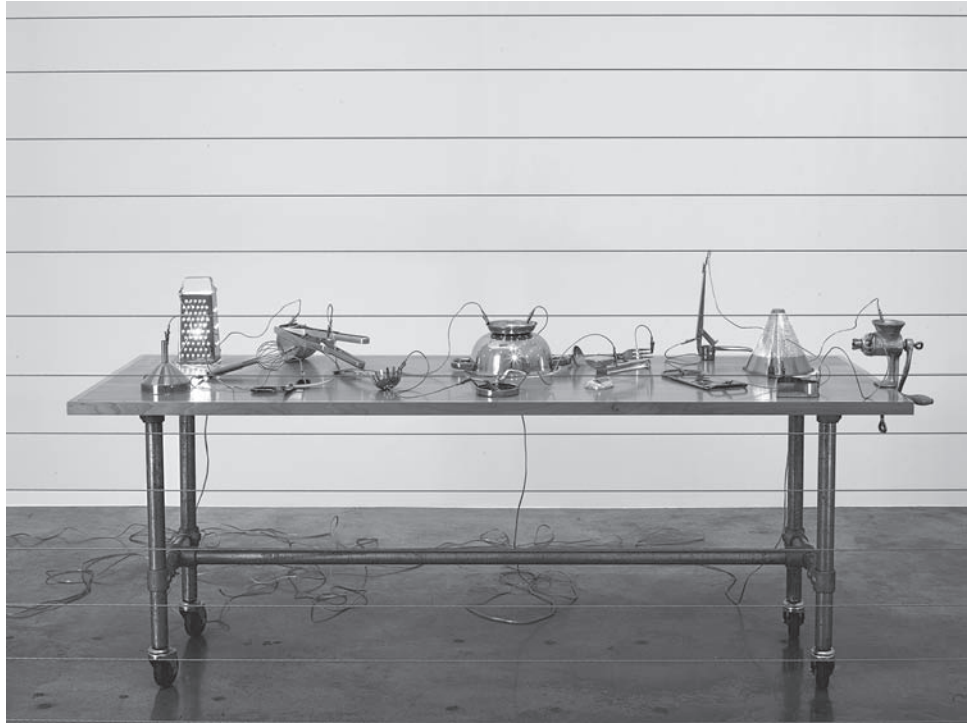


Figure 2
Mona Hatoum,
Sous Tension, 1999. Table
kitchen utensils,
lightbulbs, electric
wire, computerized
dimmer unit, ampli-
fier, mixer, speakers

Photo: Jean-Baptiste
Béranger



Figure 3
 Mona Hatoum,
Grater Divide, 2002.
 Mild steel. 80 × 76 ×
 35 in. Installation
 view at Museum of
 Fine Arts, Boston

Source: Leslee on
 Flickr



division, restaging the West Bank barrier Israel had begun to construct on appropriated Palestinian land. Like the *Grater Divide*, the Israeli barrier is primarily built from connected rectangular blocks whose proportions can even be said to roughly mirror those of Hatoum's sculpture (see fig. 4). In this context, undressing takes on added connotations, including the strip searches often authorized by policing agents at national borders as people go through customs or border patrol. (In the United States, these have been legal ever since the 1985 Supreme Court decision in *United States v. Montoya de Hernandez*; in Israel, their legality was recently affirmed by the passage of the *Authorities for Protecting Public Safety [Amendment No. 5 and Temporary Provision] Law, 5777-2016* in 2016). Hatoum does not just call attention to the high rates of rape in state border detention, as scholars including Sylvanna

Figure 4
Section of Israel's
West Banker barrier

Source: Minamie on
Flickr



Falcón and Eithne Luibhéid have documented; by conflating intimate and police violence, *Grater Divide* also reframes all violence at the border as sexual. We are used to finding rape in the bedroom, and we may think we know what that looks like. By asking us to find rape at the border, too, *Grater Divide* prods us to expand what we think it looks like. The police's invasive body searches begin to look like a kind of rape, too.

In *Sous Tension*, the conflation of state and intimate violence through the interface of electricity also conjures the specter of electricity as a state weapon of war with a particularly long track record of colonial suppression. As critical scholars of policing have meticulously documented, modern policing emerged not, as one myth suggests, in metropolitan areas to contain crime, but in colonies to control indigenous peoples and enable

transnational markets. For instance, the major British colonizing companies, from the East India Company to the Royal Nigerian Company, each deployed their own private police forces. In the later twentieth and twenty-first centuries, domestic policing technologies in Western states have usually first been tested in so-called counterinsurgency campaigns to suppress decolonization (see Khalili; McCoy); many French policing practices, for instance, can be traced back to surveillance techniques developed during the Algerian struggle for independence in the late 1950s (see Fassin). Although Hatoum is of Palestinian descent and her works often reference colonization by Israel, where electricity has frequently been reported as a form of torturing Palestinian detainees (see Punamaki), she was born in Beirut. The installation's French title and the fact it was first installed in Paris might well reference France's prior colonization of Lebanon. But the electricity more viscerally summons France's war against Algeria, where electricity and electrical appliances were often used as a means of torture in what Kristin Ross has called "violent housecleaning" (108). The use of electricity was so common that Frantz Fanon devotes an entire section of *Wretched of the Earth* to its psychiatric consequences, noting that many of his Algerian patients formerly detained by French forces reported that "from September 1956 onward certain interrogations were conducted exclusively with electricity" (210). Even in the Algerian mountains and desert, where there was no wired electricity, electric shock torture was carried out using the so-called *gégène* (also known as the Tucker Telephone after the Arkansas prison in which it was first invented), utilizing power generated from pedaling. The centrality of the *gégène* in the French colonial arsenal was registered in Gillo Pontecorvo's classic 1966 *The Battle of Algiers*, where it is featured throughout and is visually foregrounded already in the opening scene (see fig. 5).

Beyond its simple deployment of electricity, *Sous Tension* harbors a visual allusion to the *gégène* through its ample employment of kitchen grinders, a favorite instrument of Hatoum's and one that recurs throughout many of her works. The standing grinder she favors is the French Mouli-Julienne, a rotary food mill that includes three legs supporting a core structure attached to a lever that rotates the grinding plates. So, too, is the *gégène* a three-legged instrument that generates electricity—and thereby the means to harm, much how the grinder grinds—through rotating (see fig. 6). The torture device usually applied electrical currents to genitalia, particularly the penises of people deemed enemy combatants. In his famous autobiographical account of being tortured by French troops, written while

Figure 5
 Frame from the
 opening torture
 scene of *The Battle of
 Algiers* (1966) featur-
 ing the *gégène* in the
 bottom left-hand
 corner



detained at the Barberousse prison in Algiers, Henri Alleg recalls feeling “as if a savage beast had torn the flesh from my body” when a guard “attached the clamp to my penis” [“m’avait branché la pince au sexe”] (55). As with the *Grater Divide*, this echo between the state sexual torture of detainees such as Alleg and the domestic labor cited by a kitchen utensil opens up a dialectic. It is not just that the interface between state and domestic violence reframes domestic violence as a state product (through charging the scene with state electricity). It is also that state violence is reframed as a kind of domestic violence: we should not only see rape’s enmeshment in state violence but should also see the electrical torture of a penis, for instance, as itself a kind of rape. To speak with Jacques Rancière, this is an aesthetic “re-distribution” of what constitutes the political category of rape, from which the assault of penises is usually excluded: even when rape is defined in gender-neutral terms, it is always defined by state institutions as penetration. Nonconsensual use of a penis, including the act of being forced to penetrate someone or something else, does not qualify.

If the penis were understood to be violable and not just potentially violating, much of what we take for granted about sexual violence would risk shifting. In particular, we might center sites of state detention as spaces in which sexual violence has become ordinary. As Lara Stemple and Ilan Meyer have found in the United States, the first results of the National Intimate Partner and Sexual Violence Survey (NISVS) launched by the Center for Disease Control and Prevention (CDC) in 2010 found that about 1.3 million women had been raped, or penetrated against their will, in the

Figure 6
 French *gégène* (left)
 and close-up of a
 kitchen grinder from
Sous Tension (right)

Source: <https://fr.wikipedia.org/wiki/gégène>



previous year and that 1.3 million men, too, had been “made to penetrate” in the previous year. Although the CDC’s press releases emphasized only the rape of women, their findings had actually estimated identical rates of nonconsensual sex for both men and women.³ Notably, because NISVS data is collected through household phone surveys, these incidence rates only apply to noninstitutionalized populations, thus they exclude, for instance, people detained in prisons and mental health hospitals. The most recent National Inmate Survey and National Survey of Youth in Custody, both administered by the Department of Justice’s Bureau of Justice Statistics as mandated by the Rape Elimination Act of 2003, found excessively higher rates of penis assault. For instance, institutionalized male youth in 2018 reported that they had undergone staff sexual misconduct in the previous twelve months at a rate of seven times that of noninstitutionalized women reporting rape in the previous twelve months. Although the number of detained people in the United States is significantly lower than the general population, rates of sexual victimization are high enough that, within a given calendar year, the number of adult and juvenile male detainees who are sexually victimized is more than triple the number of individuals in the general population, of any gender, reported by the CDC as victims of rape or sexual assault.

Excluding penis assault from rape has not just hidden from view the actual widespread victimization of people with penises: the point to be made here is not the banal one that “men are raped, too.” Rather, the exclusion of the penis as a site of injury has hidden from view one of the places where rape is most common: scenes of policing. Although the CDC-run NISVS is part of a public health intervention into sexual violence, and although this public health initiative has often been framed as an alternative to criminalization, emphasizing education rather than punishment, the “public” of its surveys has always been defined as a population of nonincarcerated

citizens. From this perspective, prison rape is anomalous, a separate issue; and because outside the purview of “public” health, prison rape would seem to have little to teach the public about “normal” rape. But if prison is the space most pressurized with rape—the space where rape is most common or ordinary—we might, in contrast, consider the prison as a distillation of the essential logic of rape.

In front of the installation of *Sous Tension*, what we can barely make out in installation photographs is a grid of horizontal wires. This barrier separating spectators from the artwork has the immediate purpose of preventing visitors from actually getting close enough to the electrified wires within the installation to be harmed—or from holding the installation site liable for alleged harm. The effect of keeping the visitor safe also keeps the electrified domesticity detained, behind a fence. By positioning the domestic scene within its own kind of prison, the installation therefore calls attention not only to the electric infrastructure that has charged the scene but to infrastructures of population management that contain the scene. These include not just the prison—a paradigmatic police scene of sexual violence—but also other state institutions. Such as marriage.

Activism

In June 1975, four months before Susan Brownmiller’s *Against Our Will: Men, Women, and Rape* was published, Angela Davis wrote an article for *Ms.* magazine, “Joan Little: The Dialectics of Rape,” often credited for bringing national attention to the trial of the twenty-year-old incarcerated black woman who killed her white jailer Clarence Allgood when he attempted to rape her, something he had done with some regularity to other women detained at the Beaufort County Jail in Washington, North Carolina. Just as Shulamith Firestone’s *Dialectics of Sex*, whose title Davis echoes five years after its original publication, aimed to demonstrate a sexual substratum more fundamental than other forms of oppression, one of the insights Davis developed from the Little case, an insight that would evolve in the following years before being incorporated into her groundbreaking *Women, Race, and Class* (1983), was that beneath what seemed to be the gendered violence of rape was a more enduring form of violence: “[R]ape is not one-dimensional and homogeneous—but one feature that does remain constant is the overt and flagrant treatment of women, through rape, as property” (154). Rape was a mechanism of training bodies for the “smooth operation” of a capitalist system geared above all else toward profit maximization. Its

logic of property production was inaugurated in slavery, and “the same institutionalized form of rape is present today in such vestiges of slavery as domestic work” (155). Domestic workers, disproportionately women of color, are disproportionately victims of sexual violence.

Although Davis’s article remains a classic, it was Brownmiller’s book that would have the greatest influence on the reception of a feminist analysis of rape in mainstream U.S. culture because its magisterially ahistorical claim that the purpose of rape “from prehistoric times to the present [. . .] is nothing more or less than a conscious process of intimidation by which *all men* keep *all women* in a state of fear” confirmed something intuitive about sexual violence: that it was *gender* violence, a weapon in the permanent war of the sexes (15). Brownmiller’s definition is often misquoted to say that rape itself is this process of intimidation, but in the full quotation, this seems instead to be its “critical function.” For Davis, the critical function was not the terrorism of women, but the production of property, connecting the contemporary scene of domestic work to enslavement. As she and other abolitionists argued at the same time, the other major scene linked genealogically to enslavement was the prison, which is why Davis’s analysis began with the case of Joan Little. By connecting the logic of rape-as-property-production across time in a genealogy that extended from enslavement to the “vestiges” of slavery in the scene of prison, it was possible for a moment to imagine the antirape movement as a part of, rather than a separate issue from, the prison abolition movement. Davis’s argument was not just the one that the antilynching campaigns of Ida B. Wells and others made familiar in the preceding century, namely that scapegoating black men for the crime of rape was one motivation for continuing the logic of slavery in the institution of the prison. Davis’s argument, more radically, was that the logic of rape was internal to the logic of the prison. Prison wasn’t just where those scapegoated for rape were sent; it was the place where rape, paradigmatically, happened.

Perhaps the most important aim of the radical feminist antirape movement in the decades following *Against Our Will*—and one of its enduring legacies beyond the institution building of rape crisis centers and, less estimable, the increasing criminalization of sexual violence—was shifting a commonsense cultural understanding of the paradigmatic scene of rape: the logic of rape was best understood not in the scene of the stranger in the alley (Susan Estrich’s “real rape”), which blamed sexual violence on urbanization’s proliferation of, especially, black strangers, but in the scene of the acquaintance or intimate partner in the bedroom (“simple rape”),

which blamed the conditions of intimacy itself. If the former scene made rape seem like the problem of extraordinary perversion, the latter made rape seem like the problem of ordinary heterosexuality, a problem whose solution could not be merely locking up (or, if we were being as generous as Charles Jouy's state-mandated doctors in Maréville, therapizing) the "psycho" (Brownmiller 176), but instead required the subversion of heterosexuality itself, from the gender roles it administered to the institutions of intimacy, like marriage, it erected. And this subversion is not on the side of, but encompasses the problem of, stranger rape: because if we solved heterosexuality—the training in aggression and entitlement of which the violent serial rapist represents an intensification but not a totally distinct kind—then stranger rape would go away, too.

The radical feminist cultural (not necessarily legal) intervention was therefore twofold, first extending and second recentering the concept of rape: both include previously occluded sexual harms (especially the acquaintance rape that had originally seemed outside "real rape") in the category of "rape" and then show that this apparently new harm is in fact paradigmatic of the category itself. Rape is, as Eric Reitan has argued by building on Walter Bryce Gallie's terminology, an "essentially contested concept" whose definition is a political terrain, and radical feminists argued for acquaintance rape—ordinary, heterosexual intimate violence—as an even "better example" of what rape, essentially, is (57). This entails, as Joanne Conaghan puts it, "approaching rape through an agonistic rather than consensus-seeking paradigm," one that understands the very concept of rape to be a site of political conflict (181).

Davis, too, offers a politics that is about contesting the paradigmatic scene of rape and therefore shifting a larger cultural commonsense of what the problem of rape is, but she located a different scene: not the acquaintance in the bedroom, but the police official in the prison. And like radical feminists who suggested acquaintance rape was not beside, but encompassed, other forms of rape, her presentation of the prison as paradigmatic was not to suggest that here was something external to other forms of rape—or, in one possible misunderstanding, that we needed to understand prison rape for black subjects and acquaintance rape for others—but to reveal rape's essential logic, its essential motors, and its possible sites of sabotage. Furthermore, just as radical feminists suggested heterosexuality was always at play in rape even if heterosexuals were not, Davis's analysis suggests that policing is always at play in rape even if police officers are not.

The prison memoirists supported by the abolitionist movement of the time confirm Davis's analysis, including the only two memoirs published by Scottsboro Boys: Haywood Patterson's *Scottsboro Boy* (1950) and Clarence Norris's *The Last of the Scottsboro Boys* (1979). Although the Scottsboro Boys are remembered as the premier example of the black man falsely accused of rape by a Southern white woman, their memoirs are just as interested in exploring actual sexual violence within the jails and prisons in which they were detained—which is not to suggest women lie and these men are the real victims, but to reconceptualize women's experiences of rape outside prison as anticipated and modeled by the experience of black men raped inside prison. This was also the politics of James Baldwin's contemporary novel *If Beale Street Could Talk* (1974), in which a black man is falsely accused of rape only to experience sexual violence while imprisoned. Significantly, no one in the novel denies or disbelieves that the woman who has accused him was, indeed, raped; rather, the novel's protagonist is scapegoated for a crime that happened but that he did not commit. When, while incarcerated, "he is placed in solitary for refusing to be raped," the novel suggests that the condition of entering into sociality is consenting to sexual violence (190).

Regina Kunzel's *Criminal Intimacy* has paved the way for thinking about the "situational homosexuality" of the prison, and Patterson and Norris flesh out the larger state architecture of this situation. Both Patterson and Norris narrate homosocial prison environments bifurcated into "men" or "wolves," on the one hand, and "women," "punks," or "gal-boys," on the other. Patterson explains of his time at Atmore prison, "Soon after I got there I saw how a wolf would trick a young boy. They all worked the same way. First the wolf, he gave the new guy money and bought him what he wanted from the commissary. He told the boy he was a friend. He would protect him from tough guys." After indebting the boy, the wolf would eventually proposition the boy sexually: "What the hell I'm spending money on you for?" He would then rape and beat him: "The other prisoners just looked on. [. . .] They knew a young woman was being born" (83). This scene of creating gender through violence, exploiting an apparently inherent difference in physical strength between the "tough" older wolf and the "young boy," might at first seem to anticipate Brownmiller's analysis of prehistoric men discovering their genitals as physical weapons to terrorize women. Such a view, as Sharon Marcus later explained, "takes violence as a self-explanatory first cause" (387), a material fact from which all other social facts follow. But for Patterson and Norris, rape turns out to be a second cause, itself caused

by the institutional design of the prison itself. “The prison authorities, they were for it,” explains Patterson: “It helped them to control the men” (80).

The location of the first cause also expands our understanding of what sexual violence in this scene entails. It would probably not be very controversial to say that all of the “gal-boys” who were broken in by a “wolf” were raped. What has been more difficult to see is how the wolves, too, were coerced into sex. Patterson explains how he became a wolf himself:

No one would ever take and beat me like some of those boys were beaten. No one would ever get the chance to go to the warden about me like that. If I had to be part of this life I would be a man. Soon I brought myself to try it out. I patronized one of the week-end whores. I didn't like it the first two or three times. It went against all my nature. But it set me as a man among the prisoners, not a gal-boy. (83)

In the gender dynamics set up by the guards, incarcerated men were essentially given a choice: either penetrate someone else or be penetrated yourself. More bluntly: rape or be raped. But just as we should deny that someone who was coerced into agreeing to sex under threat of violence had consented and therefore not been raped, it is hard to see how someone who was essentially threatened with rape was consenting to sex either. It is a banal point but one perhaps missed in scenes like the prison: when someone is offered a choice between participating in sex or being a victim of violence, choosing sex is still choosing violence.

This prison space that Hortense Spillers might call “vestibular” to the official culture of white gender difference, a space that inherits the legacy of enslavement in which not just “female flesh” is raped and not just “male” flesh is lynched, scrambles gendered logics of the distribution of violence—rape for women, battery for men—a scrambling that Sarah Haley has also tracked in the afterlife of slavery in what she calls the “forced queering” of black women incarcerated under Jim Crow. In the case of the Scottsboro Boys, the prison guards profit from “the male body becom[ing] a territory of cultural and political maneuver, not at all gender-related, gender-specific” (Spillers 67) in the “marriages” that resulted from wolf/gal-boy relationships. This profit is both material, when the guards sell inmates everything from lipstick to lube (Norris says they “had a good business selling Vaseline. A large jar cost about thirty cents but they could get from twenty to thirty dollars for it” [183]); and immaterial, when the relationships present them with entertainment (Patterson: “The prison authorities, they got a lot of fun out

of the prison marriages. Sometimes they put a gal-boy in a dress and made him parade around the place with his husband. For the husband they had a special bow tie and smart hat” [199]). The prison guards put on not only a literal parade for these couples but also a sort of drag show, called a “medical show,” during holidays: “I guess it was called that because the shows were supposed to be good medicine for them,” Patterson explains. “They’d rig up a little stage, with curtains and sets, and put on skits. Gal-boys dressed up like real women and put on singing and chorus shows. They made up their bosoms like girls and put on dresses provided by the wives of the guards” (208). Such a stage enforces what Zakiyyah Iman Jackson has called the *plasticity* of the black subject: just as the enslaved subject was not so much excluded from the “human” but included in a multiple and incoherent fashion, “cast as sub, supra, and human simultaneously”—“coerced formlessness as a mode of domination” (71)—so, too, does rape and its theaters function in the Scottsboro memoirs to manufacture bodies whose flexibility is endlessly appropriable: cast as both the wolf and the boy.

To summarize the institutional motivations at play in this plasticizing situation: (1) promoting the couple form redirects possible aggression incarcerated individuals might have against prisons into violence against other incarcerated individuals instead; (2) the police state is in turn protected by securing violence as a quasi-domestic issue instead of a possible political tactic; (3) the “heterosexual” couple forms that result similarly provide incarcerated individuals with a set of depoliticized subject positions to perform, which are rewarded by being publicly intelligible, so that pleasure becomes attached to such things as wearing the properly gendered clothing or makeup; (4) to enable the pleasures of gender performance, the prison becomes essentially organized as a market; and (5) in supervising this market, the guards exoticize the dressed-up couples even though they are really ordinary mirrors of their own heterosexuality, which is to say “true” heterosexuality, sanctioned by law, becomes a white prerogative. We return, by a different route, to the aspirational heterosexuality of Charles Jouy detained by the state in the hospital in Maréville.

Mark Neocleous has argued that one of the primary functions of policing is maintaining the colonial boundaries of primitive accumulation on which capital “permanently” relies (84). One way of thinking about the convergence of the market and the body in the Scottsboro Boys’ memoirs is that the rape of policing similarly maintains a boundary between those who “have” gender and those who have to work to achieve it, putting those who aspire to heterosexuality in a position of exploitation founded on the

expropriation of their bodies. In her own feminist expansion of Marx's theory of primitive accumulation, Silvia Federici has argued for women's being "expropriated from their bodies" as fundamental to the conditions of possibility for capital (*Beyond* 14), which means that "the body has been for women in capitalist society what the factory has been for male waged workers: the primary ground of their exploitation and resistance, as the female body has been appropriated by the state and men and forced to function as a means for the reproduction and accumulation of labor" (*Caliban* 16). The Scottsboro prison scenes, too, suggest a dynamic in which the sexual violence of policing has taken from the incarcerated not only their bodies but their genders, so that they must work to regain them.

Rape primitively accumulates in part by stealing value, whether the reproductive labor of women or the entertainment that the imprisoned Scottsboro Boys provide the guards. But it also accumulates by making the people it exploits have to work harder to achieve a minimal norm others take for granted. First, rape produces trauma work: the extra labor required of the victim to reclaim their body. Second, when rape degenders, as in the case of the prison, it also requires extra (in this case remunerative) labor to secure gender performance. Rape sets the terms of labor not only in the bodies it exploits—for reproduction, for entertainment—but also in the extra labor it requires in order to continue showing up even for this exploitation, exhausting victims to prime them for more.

Both Patterson and Norris comment on the ordinariness of this structure: "Gal-boy stuff went on at Kilby and at Birmingham jail too. All prisoners all over, I guess" (Patterson 79). But just as prison activists in the 1970s would say "America is the prison" (see Bernstein), the dynamic within the prison is not exceptional from, but prototypical of, noninstitutional spaces. Kunzel has warned how the midcentury focus on the prison "as *the* home of what came [. . .] to be termed 'situational homosexuality' may [. . .] have worked to relieve the pressure to acknowledge and consider sexual instability in other less stigmatized and more dispersed domains" (2). In contrast, Patterson and Norris look to prison rape not to suggest its exceptionality—and therefore to provide an alibi for sex outside prison, as if rape only happens in prison—but its generalizability. When the gal-boys receive their materials from "the wives of the guards," they suggest a resonance between the physical institution of the prison and the cultural institution of marriage: another form of state-sanctioned, gender-differentiated, capitalist-supporting, depoliticized coupling. Just as the radical feminists' turn to acquaintance rape reframed even stranger rape as a problem of

heterosexuality, the structure of violence in spaces of policing reframes even acquaintance rape as a function of state population control. It is through the coercive conditions set up by policing, including the relations of dependency it authorizes through such institutions as marriage, that vulnerability is distributed and the violence required by the market is made “domestic.”

Rape Paradigms: A Cultural Battle

Thirty years after she wrote about Joan Little, Angela Davis provided the opening anecdote for the groundbreaking abolitionist volume *Color of Violence*, edited by INCITE! Women, Gender Non-Conforming, and Trans People of Color against Violence in 2006. It is the story of a black woman Davis met driving down the highway in San Diego: “Despite her uncontrollable weeping, we were able to surmise that she had been raped and dumped along the side of the road. After a while, she was able to wave down a police car, thinking that they would help her. However, when the white policeman picked her up, he did not comfort her, but rather seized on the opportunity to rape her once more” (1). Building on Davis’s example of police-as-perpetrators, the editors consider incarceration as a site of violation, too: “[F]or all women prisoners, the state acts as a punitive perpetrator of violence, subjecting women to invasive body searches” (4). *Color of Violence* begins with these scenes of violation—in temporary police custody, in prison—in part because they tend to fall out of a normative cultural repertoire of stories of sexual violence (see also Ritchie). We learn and share many genres of rape stories: the stranger in the alley, the stranger jumping out of the bushes, the fraternity brother who ignores your incapacity to consent while drunk, the person who roofies your drink at the bar, the intimate partner who coerces you into sex through emotional abuse. The woman Davis met had probably learned to be on the lookout for the generic characters in these stories. But there wasn’t a widely shared genre of police rape that had taught her to be suspicious of a squad car that pulled over on an isolated section of highway. And although there may be a genre for rape in prison, that story does not usually center the actions that the INCITE! editors focus on: a guard conducting an invasive body search, which legally can include the penetration of the anus or vagina with fingers or a speculum (on the “colonial travel narratives” of the speculum and its observational regime, see Haraway 40–45).

The contemporary antirape movement is usually offered two lines of redress for sexual harm. The first is legal, which is why the success

of the #MeToo movement, despite the original intentions of Tarana Burke who coined the phrase, is usually judged according to whether someone like Harvey Weinstein goes to jail. But the law would seem to have little to offer the women in these new stories: it is as an agent of the law that the police officer has control over the woman in San Diego, and invasive body searches are legal in the United States not only for people who are convicted of a crime but even for someone passing through Customs and Border Control who is merely suspected of having committed a crime. The second line of redress is the public health approach, largely responsible for ubiquitous statistics like “1 in 5 women,” identifying factors that put people at risk for sexual violence (in the case of this statistic, identifying as a woman) and factors that could prevent violence. This approach is behind the CDC surveys mentioned in the previous section, which categorically exclude prisons from consideration, and it drives, for instance, educational efforts as part of first-year orientations at colleges and universities, teaching students about consent and healthy relationships. But the sexual harm in police or prison custody, outside of the context of an intimate relationship, has usually been harder to see through a public health approach, because statistical tabulation is already filtered through the more common generic stories of sexual violence, like the emotionally abusive intimate partner. The current United Nations guidelines for collecting data on violence against women advise asking respondents to identify the perpetrator with the following question (60–61):

Could you please tell me about the relationship you have with the person who committed the violence against you?

- 1. Relative*
- 2. Acquaintance*
- 3. Supervisor, co-worker*
- 4. Teacher, school official, schoolmate*
- 5. Civil or military authority*
- 6. Stranger*
- 7. Other*
- 8. No answer*

Although providing a number of options, the question’s guiding language of a “relationship” suggests that it is the first option, a relative or intimate partner, that is considered paradigmatic. It is hard to see how someone might consider “having a relationship” with a prison guard. Indeed, it is precisely because the relationship to the state official does not conform to what we

normatively think we know about intimacy (as a meeting of partners) that it has evaded inclusion in the realm of the sexual whose borders the definition of rape positively surveils.

To be able to see the police officer or the prison guard more readily as a perpetrator of sexual violence, the opening pages of *Color of Violence* suggest we need not so much a legal or a public health reform, but a cultural battle over the genres of stories we tell about sexual violence and, most importantly, over which genre we take to be paradigmatic of sexual violence. A paradigm does not mean that something is endlessly repeated (it is not that all rapes happen by this type of person in this type of place), but instead that something is modeled: a paradigm picks out a central example that explains the larger set to which it belongs. Acquaintance rape made sense to radical feminists as a paradigm because it captured an element of ordinary heterosexuality endemic to all rape, whereas the paradigm of stranger rape could only capture individual perversion. So, too, does viewing rape as paradigmatically the problem not of heterosexuality per se, but of the policing whose accumulation of bodies organizes the aspiration of heterosexuality—the aspiration of Jouy, the aspiration of the Scottsboro Boys—bring in an element of a racial-capitalist state’s organization of bodies that is missing from the paradigm of the interpersonal intimate encounter, reframing even acquaintance rape in a larger context. From the rape of Joan Little in her jail cell, to the assault of Jouy’s penis in the mental hospital or the penis of the anticolonial freedom fighter in Fanon’s psychiatric studies alluded to by Hatoum’s *Sous Tension*, to the invasive cavity searches alluded to by *Grater Divide* or named as sexual violence by INCITE!, policing provides the recurring and paradigmatic scene of rape.

These aesthetic and activist works point toward keeping “rape” open as a site of political contestation over what counts in order to include genres of story that tend to fall out of our normative cultural repertoire, such as the story of the assault of penises or the story of the state agent and the invasive cavity search. Other feminists have, for good reason, been protective of the concept of rape, lest it be extended so far as to become meaningless or, worse, trivial (the frat brother who says, “that test raped me”).⁴ But this has risked not only depoliticizing rape but preserving the state’s monopoly on defining what rape is. Repoliticizing rape as a space of conceptual contestation, expanding the genres of stories we tell about rape, would not just offer better analysis of the racial-capitalist state as a paradigmatic perpetrator but would also proliferate strategic sites—in what we might call the expanded “antirape commons”—to contest the state and organize against rape.

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Notes

- 1 Citing Tremain, Alcoff has revised her earlier critique of Foucault in her more recent *Rape and Resistance*. See esp. ch. 5.
- 2 On the longer entanglement of rape and castration in u.s. history, see LaFleur, “Sexual Violence and the State,” the first chapter of her manuscript-in-progress, *A Queer History of Sexual Violence*. The “eye for an eye” logic of castration as a punishment for rape has the queer effect of recognizing castration as itself a kind of rape. In his 1779 “A Bill for Proportioning Crimes and Punishments in Cases Heretofore Capital,” Thomas Jefferson had offered that “Who-soever shall be guilty of Rape, Polygamy, or Sodomy with man or woman shall be punished, if a man, by castration.” Jefferson thought he was being humane by offering castration instead of execution as a punishment. The idea was that castration and rape were “proportionate”: castration is what
- 3 you could do for a man that was the “eye” commensurable with the “eye” that was the rape the man had done to a woman.
- 4 The most recently published results of the NISVS, from 2015, did not confirm this perfect gender parity, instead estimating that, in the previous year, 1.5 million women had been penetrated and 800,000 men had been made to penetrate. But the results nonetheless continue to indicate that when sexual violence is not narrowly defined as being penetrated, but more broadly defined as nonconsensual sexual contact, one in five men will be victimized at some point in their lifetime.
- 5 For a limited defense of rape metaphors, when they expand our understanding of the convergence of structures of violence rather than the identity of acts, see Dango.

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