

Rethinking
R A P E

ANN J. CAHILL

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*to my Weirdo
in grief, defiance, and hope
with love*



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Finally, chapter 6 considers the ethical aspects of the crime of rape. Before I approach the ethical significance of a theory that understands rape primarily as an embodied experience, I survey in detail a variety of ways the wrongness of rape has been framed. Unlike previous ethical theories of rape, the specific tools of feminist theories of the body will not demand that we understand rape as the theft of sexuality, as if sexuality is something possessed by the subject (or, more traditionally still, possessed by the male who owns the woman: the husband or the father). Departing from a discourse of property will allow for an ethical understanding of rape that does not privilege sexuality per se as a seat of identity, but rather acknowledges the (sexually differentiated) necessity of bodily integrity to the constitution of a subject. Subjects do not have bodies; subjects are bodies, and they are sexed bodies. To violate the sexed body of a woman in a way that is laden with political and sexual meanings is to attack the integrity of her person—not because, as in traditional theory, a woman is worthless without the honor of an intact sex, but rather because identity and integrity are necessarily connected to embodiment, and embodiment is marked by sexual difference.

I conclude my analysis of rape by looking to some of its possible implications with regard to the possibility of resistance. Legal reform concerning rape would benefit from an increased awareness of the significance of embodiment, and specifically the relevance of sexual difference. Most important, the best possibility for resistance against the discourses that make rape a possibility is to be found in the recodification of women's bodies themselves. Women's self-defense training holds remarkable potential not only for reducing the prevalence of rape and other types of sexual violence, but also for questioning the assumptions that make such violence both conceivable and likely. Amid the depressing facts and statistics about rape, such training constitutes a feasible and powerful means of change.

C H A P T E R O N E

Feminist Theories of Rape

Sex or Violence?

Where feminism and feminist theory have approached the problem of rape, it has almost always been described as paradigmatic of women's larger oppression. That is, the crime of rape has been understood not primarily as a specific, singular crime, but rather as the most blatant example of systematic misogyny and masculine dominance. According to Andrea Dworkin, "The celebration of rape in story, song, and science is the paradigmatic articulation of male sexual power as a cultural absolute" (1989, 23). Robin Morgan describes rape as "the perfected act of male sexuality in a patriarchal culture—it is the ultimate metaphor for domination, violence, subjugation, and possession" (1977, 163–164), and in one of the very first attempts to analyze the social phenomenon of rape, Susan Griffin claimed that "[a]s the symbolic expression of the white male hierarchy, rape is the quintessential act of our civilization" (1977, 332).

To describe in detail a paradigm, a metaphor, a quintessential act, is a proposition that tends to inspire claims bordering on the certain and the absolute. The function of a limit is to define that which exists within it, and many analyses of rape relied on its unquestionably horrific nature to demonstrate by extension other aspects of the oppression of women. Paying women less than men for identical work, the injustice of marriage laws, reproductive choice: if feminists found it difficult at times to inspire political outrage at these and other social manifestations of women's inferior status, rape was a phenomenon that all members of society ostensibly

decried. As an unequivocally unjust act, rape functioned as an effectively disruptive lever that had the potential to reveal the systematic discrimination against and devaluation of women.

The following discussion will describe and analyze two distinct feminist approaches to the problem of rape. While neither approach will prove ultimately satisfactory, it is important to recognize that both achieved important feminist insights. They brought to light the social and political nature of rape at a time when it was assumed to be not the symptom of a larger pattern of oppression, but a mere aberration among the normally pleasant interactions of the sexes. They raised sexual violence as a political and philosophical question, and in doing so they affirmed and highlighted aspects of women's oppression that had remained veiled and mystified. They spoke the unspeakable, and their efforts encouraged women to be more open and less self-blaming about the violence that had been so unjustly imposed upon them.

Susan Brownmiller and the Second Wave

The first school of feminist thought regarding rape developed in the second wave of U.S. feminism. In many ways, this aspect of liberal feminism, best represented by the work of Susan Brownmiller, is often perceived as *the* feminist perspective on rape and so has been influential in the development of reforms concerning rape law.¹

In Brownmiller's book *Against Our Will: Men, Women, and Rape* (1975), she seeks, as she claims in the work's penultimate sentence, "to give rape its history" (404). Brownmiller endeavors to place the phenomenon of rape within the context of social and biological realities, to unveil its political purposes, and to counter the persistent myths surrounding it. Above all, she seeks to counter the perception that rape is a sexual act. Until now, Brownmiller claims, rape has been understood as an act that serves primarily sexual (that is, natural and biological) needs and is a response to sexual stimuli. To the contrary, rape is inspired not by sexual stimuli, but by political motivations to dominate and degrade. Moreover, in refusing the primacy of sexuality in the phenomenon of rape, Brownmiller denies its individualistic nature. The meaning of rape cannot be elucidated by mere reference to individual cases, because rape is, in her startling phrase, "nothing more or less than a conscious process of intimidation by which *all men keep all women* in a state of fear" (15).²

Although Brownmiller does not distinguish them clearly in her work, it would appear that for her, rape has two primary political functions. First,

it ensures the continued and necessary protection of women by men. Hampered by the fear of rape—not a paranoia, but a reasonable fear grounded in empirical reality—women are incapable of moving in the social and political world without the accompanying arm of a male. Such vulnerability has produced, among other things, the institution of marriage:

Female fear of an open season of rape, and not a natural inclination toward monogamy, motherhood or love, was probably the single causative factor in the original subjugation of woman by man, the most important key to her historic dependence, her domestication by protective mating. . . . The earliest form of permanent, protective conjugal relationship, the accommodation called mating that we now know as marriage, appears to have been institutionalized by the male's forcible abduction and rape of the female. (Brownmiller 1975, 16–17)

In the institution of marriage, as codified by patriarchal law, the woman abdicates any possibility of an independent being; one symbol of this abdication is the fact that the wife takes her husband's name.³ The married woman's social status and being are thereby rendered solely derivative of her husband's; she adopts his name, prestige, and, most importantly, his protection. William Blackstone, in his 1765 *Commentaries on the Laws of England*, notes that "[b]y marriage, the husband and the wife are one person in law; that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and *cover*, she performs everything" (Blackstone [1765] 1979, 430).

If Rousseau insists on the absurdity of any contract that would involve slavery, noting that such a contract necessarily contradicts the self-interest of one of the parties ([1762] 1968, chap. 4), a similar criticism may be made of this contract of marriage. Who would sign away their self to accept a life of dependence? As Brownmiller describes, given the threat of rape, it is only by such a contract that women can hope to keep their persons safe. In addition, women's fundamental dependence on men for their physical safety justified their socially inferior status by presenting them as a priori lesser beings, as, in fact, beings who are profoundly incomplete by themselves (in a way that men are not). In Brownmiller's analysis, the very social existence of a woman, as well as her economic survival, was directly linked to her institutionalized relationship to a man, whether father or husband. Women's vulnerability, along with the fact that they do not *in and of themselves* have the power to retaliate or resist, trans-

lates into a consistently inferior social status. The fact of rape, according to Brownmiller, inspired a host of social institutions that render women necessarily derivative of men, dependent in the most profound ways, and lacking any sense of independent value or self-worth.

The second function of rape, although linked importantly to the first, considers the role of women in the context of conflicts among men. Brownmiller cites act after act of rape in the context of political strife, from world wars to urban racial violence. In every instance, she notes, the particular physical appearance of the victim was utterly irrelevant. What mattered was her status as the property of the enemy:

It is worth noting the similarity of experience, as far as women were concerned, between such disparate events in time and place as the Ukrainian pogroms and, for example, the Mormon persecutions in this country and the periodic outbreaks of white mob violence against blacks. In each historic interlude a mob of men, sometimes an official militia, armed itself with an ideology that offered a moral justification—"for the public good"—to commit acts of degradation upon women. In each interlude a campaign of terror, and a goal that included the annihilation of a people, provided a license to rape. In each interlude the symbol of the man's hatred and contempt became its exuberant destruction of *other men's property*, be it furniture, cattle, or women. Further, it mattered little to the rapists acting under the cover of a mob whether or not their victims were "attractive." This, too, is significant, since it argues that sexual appeal, as we understand it, has little to do with the act of rape. A mob turns to rape as an expression of power and dominance. Women are used almost as inanimate objects, to prove a point among men. (Brownmiller 1975, 124-25)

Here women are used as political pawns, as symbols of the potency of the men to whom they belong. To rape a woman in the context of war or other violent conflicts, Brownmiller suggests, is not (according to the ultimate intention and motivation of the rapist) an act against the woman herself. Indeed, such a formulation would demand that the woman is someone *herself*, which she clearly is not. Rather, the act is a direct threat to the ownership of the man who is the rapist's enemy. This model too can account for the phenomenon of rape during slavery, where the forcible taking of slave women as sexual partners was an assertion of the slave owner's power as well as a demonstration of the powerlessness of the male slave. Under this rubric, the *male* slave is emasculated (and therefore de-

humanized, rendered powerless) by being denied sole access to the slave women.

Brownmiller asserts that rape in all its forms is primarily political. The political motivation of rape predominant in contemporary society is directly linked with the first political purpose. Given a context wherein the institutions by which men dominate women are well established, rape is an act that expresses a political dominance that is already, by and large, accepted. It is an act by which individual men can enact and personally impose the dominant status that society has endowed on them.

Today's young rapist has no thought of capturing a wife or securing an inheritance or estate. His is an act of impermanent conquest, not a practical approach to ownership and control. . . . The economic advantage of rape is a forgotten concept. What remains is the basic male-female struggle, a hit-and-run attack, a brief expression of physical power, a conscious process of intimidation, a blunt, ugly sexual invasion with possible lasting psychological effects on all women. (Brownmiller 1975, 377)

Rape is thus "a deliberate, hostile, violent act of degradation and possession on the part of a would-be conqueror, designed to intimidate and inspire fear" (391). By raping a woman, the rapist degrades and denies her being and her autonomy and in doing so (thinks he) elevates his own. The act therefore becomes an echo and an imposition of a social structure by which the full personhood of women is not recognized. Yet Brownmiller's point here is that, even in the context of an individual case, the meaning of rape is never individualistic. Rapists do not rape individuals, but members of a class; the act of rape, then, becomes a reminder to both assailant and victim that membership in one of these classes is the defining element of identity. To be a man is to be a member of the dominant class and thus to have nearly limitless power, or at least power extensive enough to include the power over the bodies of women; to be a woman is to be constantly subject to that dominant power and unable to protect oneself from its reach.

This motivation to rape allows Brownmiller to claim so persuasively that the attractiveness of the rape victim is utterly irrelevant to the rapist's motives, contrary to societal myths of a male sexuality that cannot help but respond to the stimulus of a beautiful woman. The claim that a rape makes is generic: men in general (whether attractive or not, wealthy or not, educated or not) have power over women in general (whether attractive or not, etc.). Rape is not inspired by the shapely leg or the ex-

posed cleavage of the victim, but by the desire for power and dominance of the assailant. Rape is not primarily sexual, but violent.

Separating rape from sexuality was a crucial step in developing a particularly feminist analysis of rape. As long as rape remained associated in the common consciousness with other, allegedly consensual sexual encounters, rape victims were assumed to be at least partially responsible for their own victimization. The sexual connotations of rape had made its brutality, its sheer violence and destructiveness, virtually invisible. Victims of rape were immediately interrogated regarding their sexual behavior, history, and preferences. Rather than being constructed as sympathy-worthy persons who had been viciously brutalized, they were assumed to be sexually voracious, manipulative, untrustworthy women who lied about sexual encounters that they came to regret. Since "everyone" knew how dangerous feminine sexuality was, this story made a great deal of sense. Brownmiller's theory provided a means by which the violence and cruelty of rape could be articulated without reference to the victim's sexuality, a reference that had only served to obscure the reality of women's experiences of rape.

Brownmiller's account of rape represented a significant leap forward in feminist thought and politics. However, it also contained some significant gaps and difficulties. For example, neither of the two political functions of rape that Brownmiller describes (to ensure the continued dependence of women on men by necessitating male protection, and to allow men to express their dominance and hatred of each other through the bodies of women) can sufficiently account for the pervasive phenomenon of rape in present-day Western culture.⁴ Despite Brownmiller's questionable claim that the process of intimidation is "conscious," one can hardly presume that individual men rape so that men as a class will retain their protective roles and so that those institutions dependent on women's social inferiority will remain impervious to claims of women's autonomy. While Brownmiller clearly states that the combined actions of individual rapists have precisely those effects ("Rather than society's aberrants or 'spoilers of purity,' men who commit rape have served in effect as front-line masculine shock troops, terrorist guerrillas in the longest sustained battle the world has ever known" [1975, 209]), she does not claim that those effects provide the individual motivation for rape. Nor is the present-day United States engaged in a full-out war; unless, as the above quote suggests, one chooses to perceive everyday Western culture as literally in a state of war, gender pitted against gender. However, even in such an extreme model, the conflict would be between men and women, and thus the model discussed above—where women are precisely denied a participatory role in

the conflict, but are rather mute, powerless representations of the warring factions—would be inaccurate. Even more strikingly, Brownmiller does not address, with the exception of a discussion concerning the legal status of marital rape, the phenomenon of rape within the context of familial and/or sexual relationships. Yet the majority of women raped in the United States know their attacker in a social context (almost 75 percent, according to the latest numbers from the Department of Justice; see Greenfeld 1997, iii).

The political functions of rape and the resulting definition of rape as primarily violent describe the social meanings of rape and its role with regard to existing political structures. However, they cannot sufficiently account for the origins of rape itself, that is, the specificity of rape as a particularly sexual and violent means of domination. How did this particular technique of intimidation and degradation come about? The beginnings of rape, which Brownmiller speculatively describes in her introduction, are to be found not in a specific political structure, but in the fateful accidents of biology:

Our call to sex occurs in the head, and the act is not necessarily linked, as it is with animals, to Mother Nature's pattern of procreation. Without a biologically determined mating season, a human male can evince sexual interest in a human female at any time he pleases, and his psychologic urge is not dependent in the slightest on her biological readiness or receptivity. What it all boils down to is that the human male can rape.

Man's structural capacity to rape and women's corresponding structural vulnerability are as basic to the physiology of both our sexes as the primal act of sex itself. . . . When men discovered that they could rape, they proceeded to do it. (Brownmiller 1975, 13–14)

For Brownmiller, the very facts of the male and female bodies make rape a possibility, a possibility that is then exploited on behalf of male dominance. Women, incapable of retaliating in kind, have no suitable response to rape, no similar threat they can make in turn, no corresponding ability to wield.⁵ They are marked only by a "structural vulnerability" that is undeniable and inescapable. They are—prior to the social structures that rape inspires and supports, prior to the wars and the laws and the institutions—rapable.

Brownmiller accepts this organization of male and female bodies as a fact of nature. This state of affairs (namely, that all men are, by definition, potential rapists and all women are, by definition, potential rape victims) is, as a biological reality, beyond politics. Moreover, it is a real-

ity that is universally true. How this possibility is taken up, expressed, and utilized occurs within the realm of political and social action, but the *possibility* of rape is a biological one, inherent in the human bodily condition.

Brownmiller's argument has at least two assumptions here: that the body is biologically given and is therefore not a political entity; and that understanding rape correctly necessitates the eradication of the relevance of sexuality. Let us consider each of these assumptions in turn.

The Politics of Biology

In locating the possibility of rape in the specifics of the human genitals, both male and female, Brownmiller appeals to biology as a politically innocent field of knowledge. This was generally in keeping with the feminist theory of the day, which stressed the distinction between sex (biologically determined, hence natural, distinctions between men and women) and gender (socially specific expressions of masculinity and femininity that were not reducible to the biological distinction of sex). Brownmiller accepted the seemingly indisputable fact that men qua men were equipped with the tool necessary to rape. It would be unthinkable, and somewhat ridiculous, to define rape as political all the way down to its condition of possibility. That men have penises, which can penetrate, and that women have vaginas, which are penetrable, is for Brownmiller a fact beyond all specific political structures.

Alison Jaggar (1987), among other feminist theorists, has argued that biology is not the politically innocent discipline it was once believed to be.⁶ In her consideration of the sex bias in scientific research, Jaggar writes,

I no longer view investigations into sexual similarity and difference as value neutral scientific research, as resulting in *discoveries* that logically precede or constitute the basis in some way for philosophical *decisions* about sexual equality. On the contrary, I now believe that our decisions about sexual equality are at least as much the basis for our supposed discoveries about sexual similarity or sexual difference. Indeed, on both the practical and the symbolic level, I now think that social equality or inequality may be the major determinant of our scientific conclusions about sexual similarity or sexual difference. (1987, 30).

Jaggar continues to explore the social effects on such allegedly biological realities as menstruation, upper body strength, and childbirth. She con-

cludes that "the whole nature/nurture distinction is fundamentally misleading when applied to human beings: we simply cannot identify any social phenomena that are independent of biological influence, nor any human 'natural' or biological features that are independent of social influence" (1987, 36). In this relatively early questioning of the sex/gender distinction that grounded much of the feminism of the second wave, Jaggar begins the process of approaching the body as socially constructed. She issues a twofold warning to feminist thinkers: first, feminists of all disciplines must be wary of the claims emanating from the allegedly objective sources of science and biology, for those disciplines too (even, or perhaps especially, when those disciplines fix their inquisitive gaze on sex differences) are subject to the socially accepted assumptions concerning the genders; second, an argument concerning sex equality should not rest utterly on scientific or biological claims, which are neither certain nor politically innocent.

All of this is to say that to define men as potential rapists on the basis of their physiology is not merely a biological claim, but also, and perhaps more importantly, a social and political one. To view the penis as an instrument of rape is already to organize the male body in such a way as to privilege the genitals as a grounding of sexuality and to understand heterosexuality as a process of conquest, wherein women are disadvantaged by their inability to use force. Yet under different social and political rubrics, men do not exist as potential rapists, nor are women constantly under the threat of rape. Studies such as that by Schwendinger and Schwendinger (1983) and Peggy Reeves Sanday (1981) demonstrate that the occurrence of rape varies widely from culture to culture, and that there exist cultures in which it is virtually unknown.⁷

Similarly, we may imagine a different organizing model of human bodies, for example, one that emphasizes the hands instead of the genitals. Under such a model, women may be understood as biologically capable of forcibly entering a man's anus. Technically speaking, of course, women have this capability in present-day Western society, and yet it is a capability that is rarely utilized. Note too that, given proper training, many women are physically capable of overcoming an assault by a male. Such training, however, is perceived as contrary to the feminine gender identity, and so the nearly intuitive response of passivity on the part of female victims, as instinctive as it feels, is also related to the social structure. To return to our thought experiment: the capability on the part of women to forcibly enter a man's anus cannot be understood as purely biological, for it is only truly a possibility under a particular political structure. A radically different political structure *and* model of the human body than those cur-

rently in force could, conceivably, produce a perception of women as biologically capable of committing this act of violation on men. However, the mere biological possibility is not sufficient to render such an act (and surely not the pervasive occurrence of such an act) possible. That men can rape does not explain why they do; and that we understand men as, by biological definition, rapists only reflects the extent to which rape has permeated our social environment.

Another significant drawback to Brownmiller's rooting of the phenomenon of rape in biological, ostensibly unquestionable claims is that it renders her hope of denying rape a future (1975, 404) rather weak. If, at the most basic level, men rape because they can—because the bodies of men can enter the bodies of women by force and without the women's consent—then the prospect of attempting to eradicate rape seems something close to futile. The only certain way, it would appear, is mass castration, or perhaps vigilant separatism. Yet if even the biological reality of the masculine ability to rape is itself political, then there exist other possible ways of understanding the male body. It is at least theoretically possible to understand the penis as other than a penetrating, violent tool, and indeed to rid it of such meaning entirely; and it is this theoretical possibility that affords room for hope.

The Politics of Sexuality

Brownmiller's defense of the essentially political, and therefore primarily violent, nature of rape is largely dependent on the irrelevance of the attractiveness of the victim. In this aspect of her work, she is responding directly to the prevalent understanding of rape as essentially a crime of passion. Men rape, so the theory went (and sadly, in some cases, still goes), because they find themselves at the mercy of their sexual desires. They view an attractive woman and find it difficult, if not impossible, to control themselves. This model implied that because of this hormonal reaction on the part of men, the women who provided the men with the stimuli that resulted in such a reaction were themselves responsible for the ensuing assault. Hence the socially accepted relevance of the "appropriateness" of the victim's attire.

Such an understanding of rape, Brownmiller avers, is utterly mistaken. The motivation for rape is not to be found in the goal of sexual satisfaction, nor can it be reduced to the visual stimuli that rape victims present. It is rather to be discovered in the will to dominate, to degrade, to possess: motivations that relate directly to a male-dominated culture. Brown-

millers' motivations in redefining rape as primarily political (that is, as a matter of power and domination) are clear and certainly honorable, although the specifics of her argument are at times difficult to determine and therefore demand some interpolation. By locating rape in relation to political, social, and economic structures that define women as the property of men, she effectively renders moot the question of victim culpability that had, among other things, ably discouraged women from prosecuting rape cases. Because those political and social structures are developed contrary to the interests and in fact the very being of women, it is unthinkable that any result of those structures can be traced back causally to women themselves.

This is a somewhat implicit point in Brownmiller's analysis that demands careful attention. When rape was understood as primarily sexual, women were perceived as inciting the crime on the basis of their appearance. (Interestingly enough, despite the gender roles of victim and assailant, under this model of rape, the women are allegedly the active agents, and men the passive recipients of hopelessly tempting sensations that cause unstoppable actions.) In order to free women from this assumption of guilt, Brownmiller must eradicate sexuality as a motivation, or at the very least, render it subject to the political structure by which women are dominated by men. That feminism needed to answer the law's implicit assumption of the victim's guilt is obvious, and Brownmiller's theory achieved much to that end. However, Brownmiller's particular answer to this problem presents at least two difficulties.

First, this model of rape places women strictly over and against the political and social structures that underscore the phenomenon of rape, or at the very least understands women as merely objectified by them. In an attempt to undermine the prevailing assumption that women actively provoke the act of rape, Brownmiller paradoxically threatens the possibility of any female agency. She claims that women are acted on by these political dynamics, constructed as rape victims, and forbidden the freedom and mobility granted to men. Yet while all these claims are true, it is inaccurate to understand women as *only* acted on and never acting. In other words, to say that the political and social structure acts in such a way as to perpetuate rape and the threat of rape, and thus to construct women as rape victims by definition and training, is to assume that that same structure does not in some important way include women as acting subjects themselves. Political dynamics are set in direct opposition to women and are perceived as relentlessly hostile to the possibility of female autonomy, when in fact those dynamics are far more complex and are not immune to the influences of actual, particular women. Brownmiller here is hampered by the sheer ur-

gency of her need to halt the assumption of victim culpability. Pushed by this urgency, she risks overdetermining women as victims and only victims, by definition and social convention utterly unequipped to affect the political order. While her final chapter suggests some ways women can "fight back" (the inclusion of women in law enforcement, and a "gender-free, non-activity-specific law governing all manner of sexual assaults" [Brownmiller 1975, 378]), those suggestions hardly seem up to the task of purging society of its fundamentally pervasive acceptance of rape, mainly because women, as she has defined them, have little or no power to invoke.

Second, Brownmiller's own work does not sufficiently take into account the complex interplay between sexuality and politics. In her claim that rape is not primarily sexual but political, she sets up a false distinction between the two domains. This tension is reflected in an important difference between her theory and some legal theories that were developed subsequent to Brownmiller's work and relied heavily on her insights. The latter tend to encourage the eradication of the specific category of rape in favor of including it under the definition of "assault," while Brownmiller herself maintains the specific category.⁸ This distinct status implies that there is something about the crime of rape that distinguishes it from other political violence; and what can this distinction be but the sexual nature of rape? According to Brownmiller,

When rape is placed where it truly belongs, within the context of modern criminal violence, and not within the purview of ancient masculine codes, the crime retains its unique dimensions, falling midway between robbery and assault. It is, in one act, both a blow to the body and a blow to the mind, and a "taking" of sex through the use or threat of force. Yet the differences between rape and an assault or a robbery are as distinctive as the obvious similarities. (1975, 377)

These differences, it turns out, are relevant only in a court of law (that is, unlike other physical assaults, rape does not always leave physical markings; unlike cases of theft, rape involves no tangible object that can be recovered). Brownmiller's own description of rape as primarily an act of violence does not sufficiently defend its particular status before the law, that is, its legal differentiation from types of assault. Indeed, according to her redefining of rape, such a defense would be impossible, because it would drag with it the sexual questions that Brownmiller is attempting to evade.

The problem is that when one is dealing with rape, such questions are unavoidable. They need not include the question of victim culpability; indeed, Brownmiller was quite correct to insist that the emphasis on such a

perspective ignores, and in fact obscures, the larger political and social meanings of rape. It is striking that the feminine culpability often invoked in rape cases can be answered only by an eradication of any and all sexual significance. Yet the mere presence of sexual significance need not include the vilification and blame of women. It is both possible and necessary to understand rape as a particularly sexual crime as well as a politically and socially meaningful one.

The sexuality of rape differentiates it from other forms of violence and assault. The quality of the assault is marked indelibly by its invocation of not only the sexuality of the assailant, but also that of the victim. Simply put, it *matters* that sexuality is the medium of the power and violence that are imposed on the victim. It matters that the act of rape constructs male sexuality in a particular way such that it constitutes a way of imposing harm, pain, and powerlessness. It matters that the act of rape constructs female sexuality in terms of passivity, victimhood, and lack of agency.

It matters too that in the context of the assault, the rapist is sexually aroused. Brownmiller is correct to argue that the appearance of the victim is not to be blamed for the attack. However, that the rapist's actions are not an automatic, essentially understandable response to the sexualized appearance of the victim does not indicate the total absence of sexual stimuli. The rapist's sexuality is engaged: he experiences an erection and, frequently, orgasm. That these sexual experiences may be the result of the violence and the asymmetric power relations inherent in the assault makes them no less sexual in nature.⁹

Brownmiller's theory attempts to separate the effects of power (the violence, the victimization) from their means (sexuality), but such a separation seriously misrepresents the phenomenon. It is not only the case that, as Brownmiller's quotation above implies, a victim's body and mind are assaulted. Her sexuality is also assaulted, such that rape victims often find it difficult to return to the sexual behavior in which they engaged prior to the assault. To assume that the realms of sexuality and politics are easily demarcated and separable is to ignore that the violence of rape is peculiarly sexual, that the sexuality on which the phenomenon of rape feeds is peculiarly violent, and that the complex relationship between the two cannot be reduced to one factor.

Brownmiller herself is, perhaps dimly, aware of this problem, for even as she insists on defining rape as primarily political, she also continually defines it as "sexual assault." Nor, as mentioned above, would she appear to support the eradication of the particular criminal category of rape and a subsequent subsumption of such crimes under the general category of assault. Nowhere, however, does Brownmiller seriously address the question

of the sexuality present within the act of rape. In stressing the political motivations of rapists—the desire to dominate, degrade, humiliate, and control—she at times seems to forget that the rapist usually also achieves a sexual climax. The crime of rape finds its source at the cross-section of these motivations.

Other Second Wave Views of Rape

For the most part, feminist theorists writing in the 1970s echoed and developed the insights of Brownmiller's *Against Our Will*. While some anticipated an alternative model, developed in more detail by Catharine MacKinnon, that emphasized the similarities between rape and "normal" heterosexual intercourse, most were concerned with expanding on the definition of rape as violence and aggression to the exclusion of sexual motivations. In one of the earliest volumes dedicated to the overlap of feminism and philosophy, *Feminism and Philosophy* (Vetterling-Bruggin, Elliston, and English 1977), an entire section was devoted to the subject of rape, a striking demonstration of the centrality of the issue to feminist concerns of the day. Susan Griffin's contribution to the volume, a piece originally published in 1971 and thus predating Brownmiller's work by several years, introduces many themes similar to Brownmiller's. While she differs from Brownmiller in noting that the phenomenon of rape does not in fact occur prior to the imposition of social controls via the social contract (that is, she does not locate its possibility in the biologically determined structures of male and female genitalia), she too notes that the stereotype of the impulsive, sexually motivated rape is a false one, and she insists that rape should be understood as a culturally taught behavior (Griffin 1977, 315–16). Moreover, she finds the social acceptance of rape to be rooted in familiar gender stereotypes and a refusal to see things sexual as things political:

That the basic elements of rape are involved in all heterosexual relationships may explain why men often identify with the offender in this crime. But to regard the rapist as the victim, a man driven by his inherent sexual needs to take what will not be given him, reveals a basic ignorance of sexual politics. For in our culture heterosexual love finds an erotic expression through male dominance and female submission. A man who derives pleasure from raping a woman clearly must enjoy force and dominance as much or more than the simple pleasures of the flesh. . . . If a man can achieve sexual pleasure after terrorizing and humiliating the

object of his passion, and in fact while inflicting pain upon her, one must assume he derives pleasure directly from terrorizing, humiliating, and harming a woman. (318)

Griffin here addresses what Brownmiller does not, the curious but fundamental interplay of pleasure and power of which rape consists. Yet her analysis too falls short. Although she later defines rape as "an act of aggression in which the victim is denied her self-determination. It is an act of violence" (331), the larger quotation above clearly describes the sexual moment inherent in rape. A rapist not only succeeds in physically harming a woman, in degrading and humiliating her, he also derives sexual satisfaction. Rape provides what the "simple pleasures of the flesh" cannot; but in turn, it also provides what a simple act of violence cannot. Griffin's explanation of the phenomenon of rape invokes a socially specific male sexuality that is based upon the erotic value of dominance, and as such it suggests the possibility of other ways of shaping masculinity such that dominance and degradation no longer hold erotic sway. However, her analysis still cannot account for this particular marriage of sexuality and dominance. Griffin can persist in defining rape as primarily violent only insofar as she defines culturally imposed heterosexuality itself as primarily violent (an argument that differs from that of MacKinnon in subtle but significant ways). That is, she is able to reduce the sexuality in rape to the violence in sexuality.

Note that Griffin is led to this conclusion by the exact same motivation that compels Brownmiller: the need to answer the image of the rapist as victim of his sexual desires, that is, as victim of the woman who incites those desires. In attempting to free women from the damning accusations that render the rape victim culpable, Griffin overstates the influence of compulsory heterosexuality and thus cannot sufficiently describe the distinction between rape and "normal" (here taken to mean consensual) heterosexual intercourse. For if masculine sexuality, as defined by contemporary culture, includes at its most basic level a celebration of the domination of the female, thus making the pervasive nature of rape understandable, then virtually any act of heterosexual sex could be perceived as contributing to the degradation of women. This conclusion, however, is clearly excessive.

Although Griffin claims that "heterosexual love finds an erotic expression through male dominance and female submission," we cannot infer from her analysis that the eroticization of male dominance and female submission is merely one among many moments that heterosexuality, as currently constructed, offers. The sexual politics that Griffin invokes is one that insists on the fundamental nature of this domination; that is, it

takes the oppression of women by men as socially, and therefore sexually, necessary. Indeed, it is only insofar as this domination is largely accepted that the phenomenon of rape, despite ostensible public outrage at individual cases, is even possible.

The faults in Griffin's argument foreshadow the difficulties that the theories of Catharine MacKinnon and Andrea Dworkin faced some years later. However, the real difficulty for Griffin is not the mere overdetermination of compulsory heterosexuality or the valorization of masculine dominance, but rather the failure to articulate specifically the complexity of sexual politics. Given her analysis of the erotic role of masculine dominance, it is difficult to accept her ultimate definition of rape as violence. As much as Griffin appears at first glance to be in agreement with Brownmiller, her analysis does not, in fact, eradicate sexuality from rape; quite to the contrary, it places sexuality at the very root of the phenomenon. While Griffin does not make the mistake of assuming that sexuality is defined by biological realities, nevertheless she describes a patriarchal sexual politics so pervasive that it seems hardly less potent or fixed than the allegedly necessary biological facts that have justified women's social inferiority. Like Brownmiller, Griffin is aware of the inevitably oppressive effects of sexual politics on women; unlike Brownmiller, she cannot avoid defining rape in terms of sexuality, and so her conclusion that rape is primarily violent rings hollow.

Whereas Brownmiller's tactic risks defining women out of any and all agency, Griffin's strategy risks subsuming all that is sexual under the strict delineation of the political. This is not a necessary outcome of her analysis, which initially includes a recognition of both the sexual and the violent factors of rape. However, in choosing to define rape by its violent, rather than its sexual, content, she reduces the latter to the former. As a "classic act of domination," rape is essentially viewed by Griffin as yet another method of male supremacy, perhaps the most extreme tool in the patriarchal arsenal. But rape is not just another tool, and its significance in women's lives and experience cannot be exhausted by a reference to violence, precisely because its particular violence is so explicitly and indelibly sexualized.

The Sex-Neutral Solutions of the Second Wave

Perhaps the most telling downfall of the theories of rape that derived from the second wave of U.S. feminism is their acceptance of gender-neutral legal definitions and approaches to the crime of rape. Brownmiller claims that "a gender-free, non-activity-specific law govern-

ing all manner of sexual assaults would be but the first step toward legal reform" (1975, 378), and indeed many feminist attempts to reform rape law have supported the removal of the significance of gender from the definition of the crime. Such a pattern is consistent with the liberal feminism of the 1970s, which often assumed that it was the distinctions between men and women that oppressed the latter in favor of the former. Remove the distinction, and justice would be more easily achieved. Michael Davis argues for subsuming the crime of rape under the general category of assault and stripping it of any unique status (and invokes Brownmiller to support his conclusion):

Feminists are probably right that judges and jurors have peculiar views about women and rapists. Indeed, feminists are probably right that our thinking about sex in general is often quite peculiar. There does not, however, seem to be similar peculiarities in our thinking about being threatened, beaten, choked, or the like. Rape-as-battery shifts the focus of proof away from the "sexual" moment to the first use of threat or force. Rape-as-battery tends to downplay the sex just as rape-as-forced-penetration tends to play it up. Our views about consent to battery are likely to be far more reliable than our views about consent to sexual intercourse. Everyone is supposed to like sex. . . . No one is supposed to like being threatened, beaten, choked, or the like (unless he is a masochist). (Davis 1984, 109)

Indeed, the method of subsuming rape under the category of assault is the most favored means of ridding rape of its sexual content in order to focus more directly on its more trenchant defining element, violence. In Davis's view, in fact, the sexual content of rape is relatively unimportant: "it is hard to see that the difference between a beaten man (or woman) and a raped women [*sic*] (or man) can be all that great" (78). Unlike the category of rape, the legal understanding of assault supposedly includes no emphasis on the genders of the parties involved. It is precisely the *gendered* assumptions concerning consent to intercourse that Davis is invoking, however implicitly, in the longer passage quoted above; it is not that we tend to assume that people in general often protest sexual advances even as those advances are desired, but that we expect such behavior from women in particular. Our assumptions concerning battery are perceived as more reliable *only insofar as they are free from the bias of gender*; only insofar, that is, as they do not take into account sexual difference.

I will ignore for the moment the claim that our biases concerning battery and other claims are indeed free from gender biases; a lack of gender

specificity does not in fact denote gender neutrality, since claims about persons in general or average persons are often based on a male generic that is decidedly, if surreptitiously, gendered.¹⁰ The main difficulty with this strategy is that the suggested legal definition of rape is contrary to the nature of rape as described by Brownmiller and others. That is, if the phenomenon of rape is directly linked to the oppressive structure by which women are dominated by men, if rape is a major tool of patriarchy, then a law that renders such sex-specific claims inaudible will not be able to take into account that very characteristic. Understanding rape solely in terms of violence, to the exclusion of its sex-specific meanings, will separate rape from that which defines it most deeply, that is, the sexual hierarchy by which men dominate women. Theorists such as Brownmiller articulate clearly the implication of rape in supporting such a hierarchy, but their solution of eradicating sex-specific elements of rape in the discourses of law and policy assumes that the factor of sex is irrelevant. One cannot have it both ways; either rape is merely another act of violence, with no specific relation to the sexes and sexual relations, or rape is part and parcel of a larger system of sexual domination, in which case sex remains as a significant element of the phenomenon itself.

It may perhaps be argued that the contradiction between the analysis of rape as a gendered act (that is, as implicated in and supportive of a gender hierarchy) and the ensuing legal definition of rape as a sex-neutral act of violence can be accounted for by the sex/gender distinction developed by liberal feminism. By distinguishing between the social organization of gender and the biological fact of sex, such that the former is understood as artificial and malleable while the latter is considered devoid of social content, one could argue that the phenomenon of rape has a place within the social construction of gender. Because that social construction is inimical to the interests and perspectives of real-life, biologically defined women, it should not be imposed on the victims themselves. From this perspective, simply because a victim is sexed female does not justify the relevance of that which is socially produced, namely, gendered meanings and significance; the just and right approach is to eradicate those gendered meanings from the process, so that the victim will be able to present her experience free from their oppressive effects.

The difficulty with such an argument is that the sex/gender distinction fails to hold, as will be discussed at length in the following chapter. For the purposes of this chapter, let us simply note that the fact that the gendered significances of rape are imposed as part of a larger sexual hierarchy (and are not, for example, "natural" or biologically necessary) does not indicate that they are any less meaningful for the victim, or indeed for the le-

gal discourse representing the society at large. The gendered aspects of rape are fundamental to the phenomenon itself and are no less "real" than biological realities. Any attempt to excavate the true, sex-neutral meaning of rape (i.e., that it is "really" about "violence," and not about sex) by discarding the artificial, socially imposed, gender-specific meanings underestimates the depth of the significance of gender, as well as the various ways sex and gender are co-constituted. If rape is socially constructed as a gender-specific method of supporting, producing, and enforcing a gender hierarchy, then that construction will be basic and essential to (although not necessarily exhaustive of) any one instance of rape.

When the sex-specific elements of rape are denied, when it is perceived as merely another kind of violence, the patriarchal aspects of rape are lost. Consider for example the argument of Christina Hoff Sommers, a self-proclaimed "equity feminist," in support of a gender-free conception of rape:

Equity feminists find it reasonable to approach the problem of violence against women by addressing the root causes of the general rise in violence and the decline in civility. To view rape as a crime of gender bias (encouraged by a patriarchy that looks with tolerance on the victimization of women) is perversely to miss its true nature. Rape is perpetuated by criminals, which is to say, it is perpetuated by people who are wont to gratify themselves in criminal ways and who care very little about the suffering they inflict on others. . . . Rape is just one variety of crime against the person, and rape of women is just one subvariety. The real challenge we face in our society is how to reverse the tide of violence. (1994, 225-26)

Note that Sommers's analysis of rape, in terms of the "root causes of the general rise in violence," has no need for or use of an overall analysis of patriarchy or structural misogyny. The problem is not men against women; the problem is violence *in general* (that, and a deplorable "decline in civility"—one wonders exactly what age Hoff Sommers is harking back to, and what opportunities such an earlier age would, or did, offer to women). Yet were Sommers's position to be applied to the law itself, it would be virtually indistinguishable from that of Davis, and perhaps that of Brownmiller, even as it seeks to disregard the very structural and gender-specific political role of rape that both Davis and Brownmiller elucidate.

The support of a gender-neutral legal approach to the problem of rape is a symptom of a problem that has haunted liberal feminism from its in-

ception. Where the distinction between men and women was utilized in such a way as to hinder women's justice or advancement, the instinctive response was to remove the distinction itself. If juries or judges are not allowed to perceive a *man* accused of rape and a *woman* accusing him, then typical gender biases that would encourage the blaming of the woman and the pitying of the man will be undermined. Presenting the crime and its assailant and victim as simply that, free from gender identification, the argument goes, will ensure that the victim will receive just, unbiased treatment.

Yet sex neutrality does not, in and of itself, guarantee justice for women; often, it has precisely the opposite effect. As Zillah Eisenstein puts it, "Men are the norm, so women *are* different (from men). But for women to be treated as equal, they must be treated *as* men, *like* men; because equality is premised on men. . . . Requirements and standards are designed with men in mind" (1988, 54).¹¹ In her analysis and history of feminist attempts to achieve justice for women by means of the law, Deborah Rhode (1989) argues forcefully that precisely because the institutions to which women seek equal access were and are historically male-oriented, feminist goals must include the transformation of those institutions, that is, a critique of the assumptions that underlie them: "If we are to make significant progress toward a more humane and egalitarian social order our focus must be not simply on access to, but alteration of, existing structures. . . . For women to attain equality without relinquishing difference, to ascend the hierarchy without losing commitment to change it, remain central objectives" (Rhode 1989, 304). To judge a (woman) victim by the standards of justice that have been developed in a distinctly male-dominated tradition that assumes that the "normal" or "average" person has predominantly male characteristics is to judge her unfairly. More precisely, it is to construct the woman victim as necessarily outside the limits of "normal" behavior and expectations. Eisenstein claims that "woman is made absent by the presence of the male standard . . . which is supposedly sex neutral" (1988, 67).

The standards of consent, violence, threat, and force, while ostensibly gender-free, are riddled with masculinist bias. When the situation in question concerns a sexual interaction between a man and a woman, the question of consent is sexualized, in that it always focuses on the purported consent of the woman. Rarely, if ever, does one question whether the man consented to the encounter. Moreover, as will be discussed in chapter 6, the concept of consent itself is embedded in an understanding of the subject as autonomous, independent, and significantly masculine, such that women's consent holds very different social meanings—and is subject to

different social standards—than that of men. Finally, the use or threat of violence and/or force is insistently sexed. Because of the persistent hierarchization of the sexes, such that men consistently wield more social *and* physical power than women, the threat of violence emanating from a male and aimed at a female is vastly different, and more trenchant, than it would be were the positions reversed. Robin L. West argues that the ways women and men experience pain (and therefore the threat of pain, or injury) are qualitatively different, and that unless legal theory addresses such differences, women's pain will continue to be dismissed or trivialized on the basis of its very incomprehensibility:

Women's subjective, internal pain, because it is so silent and invisible—and because it is so different—is quite literally incomprehensible. To state the obvious—men do not understand, have not shared, have not heard, and have not felt, the pain—the numbing terror—of an unwanted pregnancy. They have not heard, shared or felt the tortuous violence of a stranger rape or the debilitating, disintegrating and destructive self-alienation of either violent or nonviolent marital rape. . . . [M]en have no conception of what "non-violent" forms of rape are even about, for the simple reason that they have no sense of what could possibly be painful about sex, when it is not accompanied by a threat of violence. This communication breakdown is not slight or incidental, it is total. Men's conception of pain—of what it is—is derived from a set of experience which *excludes* women's experience. (West 1991a, 133)

In its current social incarnation, rape is not a gender- or sex-neutral crime, and the particular victimization that it imposes on women of this society cannot be articulated by means of sex-neutral terms. While such terms would prohibit the questioning of the victim about her attire or her (perhaps supposedly irresponsible) whereabouts—questions that are not likely to arise in other cases of battery—they would also prohibit a legal understanding of, for example, the different reactions men and women have to being attacked. Although the theoretical analyses of rape address its role in terms of sexual hierarchy, their suggested legal applications would render invisible the pervasive threat of rape that marks women's daily experiences so indelibly, and the social failure to prepare women physically to fend off such attacks. Indeed, they would obfuscate the force of sexual politics entirely, and thus reduce rape only to a set of meanings that have currency in a masculinist field, and that are likely, perhaps certain, to be incapable of accurately describing women's experiences. Maria Los writes that "such a [gender-neutral] approach negates an argument

which many women feel strongly about, namely that rape is a unique crime in that it involves predominately the victimization of members of one gender group by members of the other" (1994, 166). Rosemarie Tong argues more strongly against the redefinition of rape as assault, rather than as particularly sexual assault:

[T]here is no more reason to deny that rape constitutes *sexual* assault (a specific type of assault directed against women on account of their sexuality) than there is to deny that repeatedly calling attention to a woman's body when she would prefer it to go unnoticed constitutes *sexual* harassment (a specific type of harassment directed against women on account of their sexuality). Those who wish to stress the assaultive, nonerotic nature of rape and sexual harassment are correct to the degree that rape and sexual harassment are power plays. Nevertheless, rape is also very much related to this culture's view of women as persons who exist to serve male sexual desires and interests no matter the cost to their own female sexual desires and interests. (1984, 119)

In other words, the violence and the power present in an act of rape are particularly sexualized; they gain, at least in part and perhaps entirely, their meaning from a particular sexual hierarchy. Considering rape free from its sexed and gendered meanings is to miss the mark entirely. While the play of gender biases served to silence women's experiences, an attempt at gender neutrality would almost certainly have similar results.

Catharine MacKinnon and the Radical Feminist Strategy

If the liberal feminist perspective on rape risked defining any and all terms of sexuality out of rape in favor of its violent characteristics, the arguments of radical feminists such as Catharine MacKinnon and Andrea Dworkin reverse the emphasis. The theoretical positions of MacKinnon and Dworkin place the phenomenon of rape squarely within the confines of so-called normal, but imposed, heterosexuality. Such a strategy raises important questions concerning the violence inherent in imposed heterosexuality, the erotic centrality of dominance to such an imposed heterosexuality, and the relation between what is perceived as "normal" heterosexual sex and rape. However, my analysis of MacKinnon and Dworkin will demonstrate that their position depends on a theory of power and social construction that does not allow for the possibility of fe-

male sexual agency. The radical feminist strategy is correct in drawing links between compulsory heterosexuality and rape, but as exemplified in the writings of MacKinnon and Dworkin, it overestimates the influence and coherence of the patriarchal construction of heterosexuality such that it identifies that construction with the impossibility of feminine agency.

MacKinnon approaches rape directly in a chapter from her work *Toward a Feminist Theory of the State* (1989). Her analysis questions the legal perspective on rape that defines it as nonconsensual, forced, and coerced sex. MacKinnon notes that it is not legally sufficient to define rape as merely forced, but that the crime must be marked by a distinct and proven lack of consent as well. Such a demand "assumes the sadomasochistic definition of sex: intercourse with force or coercion can be or become consensual" (172). In legal, political, and social realms, that is, a certain level of force or coercion can be expected in "normal" heterosexual sex, or at least the presence of force does not necessarily indicate a lack of consent. Thus the demonstration that force was used will not necessarily convince a judge or jury that rape occurred; because the scope of what is considered "normal" heterosexual sex includes the use of (only male) force, the judge or jury may well assume that the alleged (female) victim may have consented to the use of force.

Moreover, for MacKinnon it is not merely the case that heterosexuality as currently constructed allows for the possibility of the mutual coexistence of force and consent. What lies at the heart of the problem of rape is a construction of heterosexuality wherein the use of force is at the very least prevalent, and perhaps endemic. She notes that "rape is not less sexual for being violent. To the extent that coercion has become integral to male sexuality, rape may even be sexual to the degree that, and because, it is violent" (1989, 173). Given the central and privileged place that (male) force (utilized against females) has in the construction of compulsory heterosexuality, the question becomes not how to distinguish between rape and "normal" heterosexual intercourse, but whether the two are in any significant way distinguishable.

The convergence of sexuality with violence, long used at law to deny the reality of women's violation, is recognized by rape survivors with a difference: where the legal system has seen the intercourse in rape, victims see the rape in intercourse. The uncoerced context for sexual expression becomes as elusive as the physical acts come to feel indistinguishable. Instead of asking what is the violation of rape, their experience suggests that the more relevant question is, what is the nonviolation of intercourse? To know what is wrong with rape, know what is right about sex. If

this, in turn, proves difficult, the difficulty is as instructive as the difficulty men have in telling the difference when women see one. Perhaps the wrong of rape has proved so difficult to define because the unquestionable starting point has been that rape is defined as distinct from intercourse, while for women it is difficult to distinguish the two under conditions of male dominance. (174)

Because women are hard pressed to describe sexual encounters that are not coerced, rape appears not as an exception to, but merely a variation on, normal heterosexual activity. This indicates that forced sex is not merely possible within the scope of women's experiences of heterosexual sex, but that, given male dominance and compulsory heterosexuality, intercourse is virtually always accompanied by a degree of coercion or force. "If sexuality is central to women's definition and forced sex is central to sexuality, rape is indigenous, not exceptional, to women's social condition" (172). Given the central nature of force to heterosexuality itself, women are already implicated in terms contrary to their interests (assuming those interests include physical well-being and the freedom from both rape and the fear of rape) as soon as they enter and participate in the heterosexual world.

The violence in rape, then, is virtually indistinguishable (that is to say, indistinguishable in kind) from the violent imposition of compulsory heterosexuality that serves the needs of male supremacy.¹² Indeed, MacKinnon suggests that it is precisely in rape's sexual meanings that one finds its violence embedded. To define rape solely or primarily by its violent characteristics to the exclusion of its sexual qualities, then, is paradoxically to miss the specific violence that rape represents. "Considering rape as violence not sex evades, at the moment it most seems to confront, the issue of who controls women's sexuality and the dominance/submission dynamic that has defined it" (1989, 178).

MacKinnon is making two distinct points about heterosexuality as currently constructed, although she does not always delineate the two explicitly. First, heterosexuality itself is forced, that is, socially compulsory. One cannot speak of women freely choosing a heterosexual identity (or, more poignantly yet, a "lifestyle") in a culture where alternative sexualities are not equally valued, accepted, or institutionalized. By means of social pressure, encouragement, and at times crass manipulation, women are both urged and expected to be heterosexual. If they respond positively to the various means of persuasion (which are themselves veiled and subtle, for compulsory heterosexuality must be portrayed as natural and inevitable), they receive social rewards that are barred to those who resist. When it comes to heterosexuality, there is no moment of "true choice."

Second, heterosexuality is defined primarily as a dynamic of masculine domination and feminine submission. Specifically, heterosexual intercourse and the social rituals and habits pertaining to it are constructed in such a way as to endow the male with the role of conqueror and the female with the role of the conquered. Women are properly courted, and they risk a loss of their feminine appeal should they appear overly aggressive or even active; men are properly the pursuers who seek to convince women, by whatever means necessary, to surrender the sought prize. Feminine sexuality is thus constructed as primarily reactive or derivative of masculine desire. It has no independent ontological status of its own, but is a means to an end (that end being, for women, among other things, social status and/or financial security). Feminine sexuality, MacKinnon writes, is "socially, a thing to be stolen, sold, bought, bartered, or exchanged by others. But women never own or possess it. . . . The moment women 'have' it—'have sex' in the dual gender/sexuality sense—it is lost as theirs" (1989, 172).

MacKinnon is here emphasizing the erotic role of the dominant/submissive structure. Given the twin and intertwined demands of compulsory heterosexuality and male privilege, domination itself must ground erotic experience. Women are implicated in the system of their own domination precisely as they participate in a constructed heterosexuality that assumes, even requires, that they respond erotically to masculine aggression. Indeed, the possibility of women's positive sexual response to sexually and otherwise physically aggressive men (a response that is socially expected and accepted) is directly linked to their inferior social status. Hence MacKinnon's claim, somewhat the inverse of that of Brownmiller, that "[a] feminist analysis suggests that assault by a man's fist is not so different from assault by a penis, not because both are violent but because both are sexual" (1989, 175).

For MacKinnon, then, if women inhabit a world where their (hetero)sexuality is already and always predicated on an assumption of the regular use of force and coercion, then to blithely invoke the omnipotence of consent in references to matters sexual is nothing short of farcical. Virtually every aspect of the heterosexual woman's experience is pervaded by a valorization of her submissive position. She has no true choice in becoming heterosexual; moreover, once constructed as heterosexual, she is automatically subject to a discourse that defines both her appeal and her desire in terms of her passivity and vulnerability (men, of course, are also subject to compulsory heterosexuality; however, in their case the imposed sexuality reiterates their socially endowed superiority over women by defining their desire in terms of control and activity). She cannot choose to redefine her sexuality according to some alternative paradigm without

risking literal social nonexistence. A failure to accept her passive, submissive role is a sure indication of antisocial and perhaps pathological behavior, and at the very least it places her at odds with the dominant heterosexual institutions and behaviors.¹³ Thus the consent that women believe they wield—the illusion that they actually have choices with regard to sexuality and sexual encounters—serves to obscure the extensive degree to which women's sexuality is imposed. Valid consent has no place in this model of constructed heterosexuality, where there are only various types of force and coercion, the most explicit and blatant being the pervasive phenomenon of rape.

According to MacKinnon, rape varies from normal heterosexual intercourse only in quantity (its violence is more palpable, its level of coercion more blatant and explicit), not in quality. The law's confusion in determining the difference between rape and consensual sex is due to its masculinist assumption that sex is, by definition, consensual, and that most women, most of the time, freely consent to heterosexual intercourse. That assumption reflects the expectation on the part of heterosexual men that women will, even as—and perhaps because—they desire sex, protest it. The more force, the sexier the encounter; hence, women's protests can easily, and sincerely, be read as implicit consent, and perhaps even encouragement:

Many women are raped by men who know the meaning of their acts to their victims perfectly well and proceed anyway. But women are also violated every day by men who have no idea of the meaning of their acts to the women. To them it is sex. Therefore, to the law it is sex. . . . [T]he law assumes that, because the rapist did not perceive that the woman did not want him, she was not violated. She had sex. Sex itself cannot be an injury. Women have sex every day. Sex makes woman a woman. Sex is what women are for. (MacKinnon 1989, 180–81)

MacKinnon's response to this legal perspective is, in essence, a pithy one. The truth that the law and the institutions that produce and support compulsory heterosexuality and male dominance refuse to recognize is that sex itself can be an injury to women. In fact, virtually every detail surrounding the social construct of heterosexuality—its alleged naturalness, its assumption and celebration of masculine aggression, its institutional and social incarnations—is a blow to female autonomy. Until sex, as currently constructed, can be understood as contrary to women's social and political independence, the law will remain forever confused as to the line between heterosexual sex and rape.

MacKinnon's analysis indicates that it is not the violence surrounding a particular act of rape (the threatening weapon, the bodily weight that immobilizes the victim, or the threat of worse violence if the victim does not submit) that gives rape its peculiar character. Rather, the violence of rape is to be found in its (hetero)sexual characteristics. Rape is violent insofar as it is a moment on the continuum of heterosexual experience, which is pervaded through and through by the presence of coercion and force. Its sexual nature is not set against its violent nature, but the latter is equated with the former.

Andrea Dworkin too invokes the relentlessly coercive nature of socially constructed heterosexuality when she writes that "[a]ny so-called choice for [heterosexual] sex is a choice for prostitution" (Dworkin 1989, 151). Like MacKinnon, Dworkin defines the phenomenon of rape as predicated upon a wholly derivative feminine sexuality. Pornography, which Dworkin considers to be directly and causally linked to the occurrence of rape, serves to veil this derivative nature of feminine sexuality even as it is proclaiming it. That is, although pornography explicitly portrays women solely as sexual objects created for the consumption of masculine desire, at the same time it insists that the women it portrays voluntarily choose such a status, and that in fact, most women make identical choices. Although pornography demonstrates in the clearest way the dominance inherent in heterosexuality, its power demands that the agency of the women involved be assumed:

The essence of rape, then, is in the conviction that no woman, however clearly degraded by what she does, is a victim. If the harlot nature of the female is her true nature, then nothing that signifies or reveals that nature is either violating or victimizing. The essence of rape is in the conviction that such [pornographic] photographs—in any way, to any degree—show a female sexuality independent of male power, outside the bounds of male supremacy, uncontaminated by male force. (138)

Dworkin asserts that the feminine sexual identity portrayed by pornography and assumed implicitly or explicitly in various defenses or understandings of the phenomenon of rape is not in fact independent of male power, but rather is the most blatant expression of the extent of masculine dominance. Not only do women not choose to be degraded or violated, but in fact, according to Dworkin, (heterosexual) women cannot choose anything when it comes to sexuality. The two concepts are mutually exclusive, for women's sexual experiences, the contexts in which those experiences occur, and the social meanings and ramifications produced by

those experiences are all manifestations of and elaborations on women's social inferiority and powerlessness. Women cannot choose to have (heterosexual) sex for physical pleasure, as a demonstration of affection, or for any other reason. Their heterosexuality can only be used for other purposes, traded for social status, bartered for other, nonsexual goods; insofar as they are heterosexual, they are necessarily prostitutes.

The theories of MacKinnon and Dworkin effectively served to caution feminist thought against presuming that women's sexuality, sexual preferences, and sexual practices are somehow unconnected to, and therefore protected from, larger discourses of sexual inequality. They pushed the envelope of the insight that "the personal is political" by linking what seemed to be the most private and personally held desires to a political system so comprehensive as to be virtually transparent. In doing so, they encouraged feminists to challenge more deeply their assumptions concerning the criteria that must be met in order for women's sexual choices to be truly freely made. One of the strengths of compulsory heterosexuality as a political institution is its ability to conceal itself, such that women believe that their desire for marriage, for example, is authentically their own, untainted by coercive forces. MacKinnon and Dworkin undermine that concealment, and thus expand the scope of the visible effects of patriarchy. However, their theories tend to overstate the power of patriarchal discourse to such an extent that they actually serve to render impossible women's subjectivity. By defining rape as essentially similar to other heterosexual practices, their theories assume not only that women's sexual desires are affected by compulsory heterosexuality, but that they are wholly constituted by it.

For both MacKinnon and Dworkin, rape is virtually (or, at the very least, importantly) indistinguishable from "normal" heterosexual intercourse. MacKinnon has vehemently refuted those who interpret her theory as a claim that "all sex is rape" (1997). Clearly, to reduce her complex theory to such an oversimplified statement is inaccurate and perhaps ambiguous, as David Estlund notes (1997, 167). Yet it is clear that the theoretical perspectives of MacKinnon and Dworkin are compelled by the fundamental similarities between rape and consensual intercourse; those similarities are emphasized so strongly and are so central to the theories being developed that they render those theories incapable of accounting for a differentiation between the two phenomena. Perhaps more exactly, the theories cannot account for such a differentiation within the context of sexual inequality, and MacKinnon's analysis certainly states that such a context is pervasive in contemporary Western society. As Estlund remarks, "It is certainly possible that the view attributed to MacKinnon under the

phrase 'all sex is rape' is the view that all intercourse under present conditions is rape. And that is pretty close to her view" (1997, 167).

In reducing the violence of rape to the violence inherent in compulsory heterosexuality, both MacKinnon and Dworkin fall prey to theoretical dichotomies that ultimately cannot hold. The first clue to the weakness of their position is that it renders virtually all heterosexuality misogynistic. While noting this implication does not in and of itself constitute a sufficient argument against their theory, it does ring some fairly serious warning bells. If we are to give women's experience any credence in a theory of rape, it must be acknowledged that for most women, in most cases, to be raped is a strikingly different experience than to engage in voluntary heterosexual sex. Even women who are involved in relationships that have consistently included forced sex can, for the most part, conceive of heterosexual encounters that are enjoyable and centered around their sexual pleasure. Some women, it is true, may learn to associate dominance with eroticism and may in fact eroticize their own submission and inferior status. But MacKinnon and Dworkin assert that such eroticization is fundamental to any and all heterosexual experiences on the part of women; it is just as theoretically significant that in fact, heterosexuality and women's heterosexual experiences are far more varied and complex than their account allows.

Moreover, such a theory of rape pits female sexuality and female agency strictly against each other. Given that, as MacKinnon herself notes, sexuality is integral to identity, the denial of the possibility of heterosexuality in favor of the possibility of autonomy seems a poor choice indeed. If MacKinnon is correct, if heterosexuality as currently constructed is hopelessly pervaded by notions of female inferiority and by the valorization of masculine dominance, it is impossible for women to be both actively heterosexual and actively pursuing their equality and autonomy. Nowhere in her account is there an emphasis on, or even the hope for, reconstructing heterosexuality in such a way as to rid it of its insistently misogynistic values. If we take her theory to its ultimate application, even assuming that such a reconfiguring of heterosexuality was possible, it is difficult to imagine how it would be undertaken, or, more significantly, who would undertake it. Women, insofar as their heterosexual identities were formed contrary to their own desires and interests (so much so that even their desires are not their own), could hardly be capable of envisioning an alternative, for they have virtually no capabilities outside those determined by the masculinist paradigms. Considering the privileges that accompany the present system of compulsory heterosexuality and male dominance, the possibility of a masculine undermining of the system is far-fetched indeed. It

would appear that insofar as women participate in the heterosexual paradigm, they themselves are undermining the possibility of their own agency; and yet if that paradigm is as powerful and pervasive as MacKinnon and Dworkin imply, to exist outside it is not to exist socially at all.

Again, that such ramifications are merely distasteful or pessimistic does not, as some seem to think, in and of itself constitute a sufficient answer to the theories of MacKinnon and Dworkin. After all, it is theoretically possible that feminine agency is a literal impossibility. However, such implications should give us pause. Is the power of patriarchy unlimited? Where, in this model, is the possibility of resistance?

The theoretical structure outlined by MacKinnon and Dworkin cannot, ultimately, account sufficiently for the possibility of resistance precisely because it endows male dominance with a potency that is virtually infinite. It adopts a dichotomous model of power dynamics whereby, by definition, women are victims and men are oppressors. For this reason, Drucilla Cornell (1995, 104, 125) argues that MacKinnon's perspectives on male and female sexuality correspond to, rather than contradict, the rigid gender identities that mainstream heterosexual pornography portrays. For MacKinnon and Dworkin, power is a strictly straightforward matter, a means wielded by men to dominate women, a force that infuses all aspects of social interaction and is therefore inescapable. In this model of power, women are only acted on, not acting; they are at the whims of a society that studiously ignores their true desires and even goes so far as to construct those desires that women (perhaps foolishly) believe to be their own. Yet if women are so diligently constructed, how is it possible that some women end up questioning their own situations? How do we have a history of feminist consciousness existing within (even as it is sometimes opposed to) Western culture? As Cornell observes, "In MacKinnon's account . . . nothing of women's personhood is left over with which we could organize so as to begin the feminist process of becoming 'for ourselves.' There is in MacKinnon's account of silencing no space at all for the woman's aspiration to become a person. We have been effectively shut off from ourselves by the imposed fantasies of others" (1995, 144).

Carol Smart has pointed out that "there is a difference between saying that we should not call rape violence because this means we fail to face the larger and more difficult problem of phallocentric sex, and saying that we should not call rape violence because all (hetero)sex is violence" (1989, 44); continuing, and quoting the work of Kelly (1987), she notes that the fact that "normal" heterosexual intercourse and rape share some common elements does not indicate that they are identical (Smart 1989, 44). In the process of overstating their case, MacKinnon and Dworkin fall prey

to some philosophically traditional dichotomies. Because power is, for MacKinnon and Dworkin, an essentially repressive force, with a single source (men) and a well-defined target (women), it is theoretically impossible to construct women as anything other than the victims of that power. The very existence of women, and certainly any possibility of feminine agency, will, or desire, is pitted directly against the overwhelming authority of society. Were a woman to insist on the validity of her heterosexual desires, for example, a theory such as MacKinnon's would dismiss such a defense on the basis of false consciousness. Robin L. West, in criticizing radical feminist legal theory, notes that

to radical legalists generally, and to radical feminist legalists in particular, the extent to which the disempowered desire anything other than their own empowerment, and anything at odds with an equalitarian idea, is the extent to which the disempowered are victims of false consciousness. Phenomenological reports by the disempowered of pleasure and desire that counter the radical correlation of equality and subjective well-being thus reinforce, rather than cast in doubt, the radical's definitional assumptions. They reflect the permeating influence of our objective condition, not the limit, imposed by subjective pleasure and desire, of the normative ideal. (1991a, 125-26).

Such a dismissal of the empirical experience of the disempowered group, namely, women, is not identical to the patriarchal stereotype of the lying, untrustworthy woman, but it is uncomfortably close. Moreover, it rests upon a dichotomy of power versus powerlessness that is altogether too simple.

The point is not that MacKinnon and Dworkin are incorrect about the deep links between compulsory heterosexuality and masculine dominance. The point is rather that they assert that those links are bonds of identity, to the extent that heterosexuality (and therefore any participation in heterosexual activity) is *identified strictly* with misogyny. That heterosexuality is not constituted as a true choice (that is, an option among other equally valid options) in contemporary Western society is clear; however, the absence of absolute choice does not necessarily indicate the presence of totalizing coercion. West's (1991a) analysis of radical legal feminist theory notes that it shares with liberal feminism an essential belief in the possibility of autonomy, and indeed a view of the human being as essentially autonomous (given a just political structure). Indeed, the autonomy that the radical legal feminist position seeks is an all-or-nothing affair; hence MacKinnon's implicit claim that heterosexuality can

be a valid, real choice or experience only in the context of the eradication of all sexual dominance and hierarchy. However, as West (1991a) points out, the concept of a profound autonomy, the ability to act in complete independence from the influence of others and of society as a whole, is faulty, not to mention deeply masculinist. A belief in profound autonomy or utterly free choice is an illusory one that ignores the real and complex matrix of relationships, social and political as well as familial, sexual, and so forth, that constitute the context of any decision. If autonomy and valid choice are not the all-or-nothing affairs that MacKinnon implies, then the choices and sexual experiences that women make and have, *even within the context of sexual hierarchies*, cannot be dismissed as invalid.

To claim that free choice, understood in an absolutist sense, is illusory is not to claim that any agency is impossible. Rather, it is to situate agency within a defining context; while I am not free to choose anything at any time (precisely because my context is specific, and therefore limited), nevertheless my context is never, or rarely, so limited as to preclude any options whatsoever. Compulsory heterosexuality does indicate that women especially do not have unmitigated choice in terms of their sexual orientation or experience, and MacKinnon and Dworkin are quite correct to articulate the various ways society imposes limitations on those choices. However, that women's choices are limited does not necessarily indicate that women are precluded from making any choices whatsoever; that particular extension of the argument assumes a polarity (choice versus coercion) that is more properly a continuum. Defending herself against critics, on both the left and the right, who claim that her analysis implies that all sex is rape, MacKinnon pithily sums up her position by stating that "sexuality occurs in a context of gender inequality" (MacKinnon 1997, 103), and indeed, that is an irrefutable claim. However, that sexuality takes place in such a context does not indicate that (hetero)sexuality and women's experiences of (hetero)sexuality are wholly derivative of or strictly reducible to that inequality.

In seeking to describe the very real ways women's experiences are formulated and determined by and with patriarchy, MacKinnon and Dworkin have risked portraying women as solely derivative of masculine power. In terms of their theory of rape, this has resulted in a necessarily wholesale condemnation of heterosexuality, at least for the present time; and indeed, if the power of compulsory heterosexuality and masculine dominance is as fundamental and pervasive as MacKinnon and Dworkin indicate, it would be a long, hard, and perhaps even impossible road to its undermining. In this way their attempt to define rape as primarily sexual by reducing the violence of rape to its sexual nature serves to call into

question the possibility of a female agency that includes sexuality. By pitting women's agency strictly against the social agenda of masculine dominance, and by assuming that the presence of force and coercion necessarily includes the absence of the possibility of choice, they assume dichotomies that are philosophically dubious. Their attempt to reduce the phenomenon of rape to only one of its aspects does not, ultimately, elucidate the full social and political meanings of rape; nor does it serve the interests of women, who, although certainly subject to discourses hostile to their experiences, abilities, and desires, nevertheless are not utterly devoid of agency.

Power and the Body

Both attempts to theorize rape discussed above can be accurately termed reductive. The definition of rape as primarily violent seeks to rid the crime of sexual significance and meaning, and redefine it solely within the existing legal framework of assault. The definition of rape as primarily sexual claims that the violence inherent in the crime is directly due to its particularly sexual nature, and that its wrong is to be found in the context of an overarching system of compulsory heterosexuality and masculine dominance. Neither theory sufficiently accounts for the significance of rape, and the threat of rape, in women's lives.

Lorenne M. G. Clark and Debra J. Lewis, writing in 1977 with regard to Canadian rape law, state even more strongly Brownmiller's thesis concerning the primarily violent nature of rape: "To [the rape victim], the fact that this assault was direct against her sexual organs is—at least at the time—irrelevant. Rape is a physical attack on her person, and she believes she has the right to be protected from such attacks" (Clark and Lewis 1977, 167); not surprisingly, Clark and Lewis strongly urge that rape be redefined as assault. Yet this appeal to female experience does not, it seems to me, hold true. Rape victims are not apt to view this assault, either in the moment or subsequently, as essentially similar to any other type of physical assault. The sexual component of the assault distinguishes it from a beating and endows it with meanings that cannot be achieved through other types of assault (although I agree with MacKinnon that a beating that does not necessarily include or focus on the genitals may also be, properly speaking, sexual; I arrive at this conclusion in importantly different ways, however, later in this work). The reduction of rape to sexuality also speaks against women's experience; for most heterosexual women, the act of noncoerced intercourse does not appear as fundamentally sim-

ilar to rape. This is not to deny the existence of cases where the victim herself is either loath or uncertain about terming her experience "rape," for the social and legal ramifications of being a rape victim are horrific enough that the victim herself may be eager to deny or ignore the crime that has been committed against her. Such hesitation or uncertainty, however, is due to the social and legal response that a victim can expect, a response that more likely than not will only extend, rather than assuage, her victimization. It has little or nothing to do with the specific phenomenon of the act of rape itself, which cannot be reduced to the "normal" act of heterosexual intercourse.

Indeed, it is the specificity of rape that both theories fail to approach. This failure is essentially due to faulty, or perhaps simply absent, understandings of the intersection of political power and female bodies. It is striking indeed that in both of these theories there is a marked lack of attention paid to the role of the body in agency and social and political being. Although MacKinnon gestures toward the formation of feminine sexual desire in relation to patriarchy's valorization of masculine dominance, the details of this formation are decidedly murky. Likewise, Brownmiller's attempt to distinguish strictly between things sexual (i.e., biologically determined) and things political leaves unaskable the question of the body as politically and socially constructed. Finally, neither theory speaks substantially to the role of rape in the formation of the feminine body, and to the implications of that role in the experience and phenomenon of rape itself.

To begin to locate the place of the body not only in relation to the phenomenon of rape, but also in relation to the dynamics of power, agency, and politics, involves its own potential hazards as well. The body is notoriously difficult to theorize, and the dangers of assuming it to be natural or clearly determined are well documented. Yet the politics of the body and the politics of gender are deeply intertwined, and rape, as a crime against specifically female bodies, takes place at the intersection of the two. Before we can articulate the ethical relevance of rape, its phenomenological significance, or its social and political functions, we need a detailed analysis of the social, political, and phenomenological aspects of the body.

Moreover, given the deep implication of the body and gender politics, this analysis must retain sex and gender as central to its questioning. Insofar as the body and embodiment are significant, sexual difference cannot be far behind, and indeed, any allegedly sex-neutral theories of the body are rightfully suspect. Men's and women's bodies are accorded radically different social significance, subject to radically different discourses, and presented with radically different demands. It is likely, then, that men and women experience their bodies in radically different ways. Class, race, sex-

ual orientation: these axes also distinguish bodies and produce different bodily experiences; therefore, those axes produce differences in the experience of rape and the threat of rape.

By understanding the role of the body in sexual and social politics, we will gain a clearer and more nuanced understanding of rape as that bodily assault that is a disproportionate threat to women. Rather than reducing rape to either sexuality or violence, a coherent and detailed analysis of the body will elucidate the relation of both factors, while also serving to articulate the sex-specific meanings of rape. Most important, it will articulate the relation between the body and agency, thus serving to argue against theories that preclude the possibility of feminine subjectivity, even as, or perhaps precisely because, subjectivity itself becomes redefined.

The theories of Brownmiller and MacKinnon fail on the basis of their inattention to the body. What tools, then, do current feminist theories of the body have to offer to the task of unraveling this knot of violence, embodiment, masculinity, and sexual difference? If those previous theories imply problematic definitions of women, usually to the extent that feminine agency is exposed as a necessary contradiction, what can feminist theories of the body tell us about the subjectivity of those beings subjected to a pervasive threat of rape?

Who are the beings being raped? What is the status and quality of their being? What can their being tell us of the phenomenon of rape?