

Book Reviews

Songs of Innocence and Experience: Dominance Feminism in the University

The Morning After: Sex, Fear and Feminism on Campus. By Katie Roiphe*
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Feminists have had notorious difficulty handling challenges from within our ranks. The “sex wars”¹ struggle, in which opponents of pornography and advocates of sexual expression tarred each other with claims of false consciousness, produced lingering hostilities. Mainstream feminists first decried the race critique as freighting their efforts with “extra baggage,” and only slowly recognized that it exposed a dynamic of erasure within feminism itself. In the wake of the antagonism and wasted effort produced by these failures, some feminists have voiced an unsteady resolve: to give ear to the unorthodox in feminism, to attempt to reconceive feminist efforts along pluralist lines.

This resolve has been challenged by the emerging controversy over “date rape” on university campuses. Camille Paglia fired the first shot, charging that

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1. The term “sex wars” is frequently used to describe the ongoing controversy between (self-described) anti-pornography and pro-sex feminists, which began with the 1982 Barnard sexuality conference and continued through several campaigns around the MacKinnon-Dworkin anti-pornography ordinance. See Carole Vance, *More Pleasure, More Danger: A Decade After the Barnard Sexuality Conference*, in PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY at xxii (Carole Vance ed., 2d ed. 1992).

campus rape policies resurrect parental protection, creating a generation of women unable to enjoy the “sizzle” of sex or protect themselves against its inevitable excesses.² Paglia’s scattershot cultural indictment and adulation of a dark, immutable male sexuality (“Guess what, it’s hot.”)³ confounded her message and made it difficult to gauge her target. Yet Paglia’s challenge has been seconded in ways that are more difficult to ignore. Writing in the *New York Times Magazine*, Katie Roiphe warned that exaggerated claims of date rape “betray[] feminism” by portraying women as fragile, vulnerable, and unable to negotiate the “libidinous jostle” of contemporary life without paternalistic rules and restrictions.⁴ With the publication of her book, *The Morning After: Sex, Fear, and Feminism on Campus*,⁵ Roiphe adds to the date rape critique the voice of an author explicitly concerned about the future of feminism.

Roiphe’s book is ultimately unsatisfying, for both stylistic and substantive reasons. Its narrative is bathed in second-hand nostalgia for a golden age of sexual revelry that Roiphe never witnessed. Its subtext—that sexualized oppression is mainly a problem inside women’s heads—is absurd outside the rarified atmosphere Roiphe describes, and makes little sense within it. Its relentless portraits of shrill campus leaders and their sulking, maladjusted followers will try the patience of all but the most generous feminist readers. Yet the book’s larger message is one that feminists cannot afford to ignore. As a student drawing on recent experience, Roiphe speaks from the vortex of the controversy. While her rhetoric reflects the current taste for mocking “political correctness,” her concern with women’s fear-filled abdication of the sexual realm has a more established pedigree.

Roiphe’s book voices the concerns of a subset of feminists, women old enough to have participated in the “sex wars” and young enough to dominate “Generation X.” These women worry about whether depictions of pervasive male aggression and coercion imply female passivity; and whether advocacy of expanded legal protection signals a return to paternalism, or undermines a woman’s assertion of individual responsibility for her own direction and security. They want to fight against the oppression of women without surrendering their belief in the present possibility of women’s agency. The publication of Roiphe’s book provides an occasion for feminists who do not share her views to think seriously about how to respond.

2. See CAMILLE PAGLIA, *SEX, ART AND AMERICAN CULTURE* 49-74 (1992).

3. *Id.* at 57.

4. Katie Roiphe, *Date Rape’s Other Victim*, *N.Y. TIMES MAG.*, June 13, 1993, at 26.

5. KATIE ROIPHE, *THE MORNING AFTER: SEX, FEAR, AND FEMINISM ON CAMPUS* (1993) [hereinafter *THE MORNING AFTER*].

I. DATE RAPE'S OTHER VICTIM

Roiphe argues that a campus movement that depicts women as victims of pervasive male sexual aggression has transformed feminists into thought police, and women into fragile vessels. Feminism has joined hands, she contends, with both authoritarianism⁶ and the recovery movement.⁷ The result is a growing wall of legal and social restrictions, and behind it, a generation of women who obsess about trauma and violation, yet lack the will or the savvy to direct their own sexual lives.⁸

As stern as Roiphe's conclusions might seem, her argument is not structured as a polemic. It emerges from impressionistic portraits of college life, the apparently ludicrous extremes of which frame Roiphe's indictment. In form, her stories are oddly reminiscent of the narratives of Patricia Williams, an author who shares few of Roiphe's substantive perspectives.⁹ Like Williams, Roiphe is a perplexed observer, a foreign correspondent in a world gone awry; she is confident in her own perceptions, yet vertiginously aware that they challenge the sanity of all those around her.

The main thrust of Roiphe's argument is delivered in the first four chapters. The first chapter, "The Blue Light System," describes the cloud of sexual fear that has settled over many American campuses. Prodded on the one hand by campus education on date rape and, on the other, by growing concerns about the spread of AIDS,¹⁰ students' lives are pervaded by a sense of vulnerability, a new and disconcerting awareness that sexuality connotes

6. *Id.* at 60-69.

7. *Id.* at 30-38, 79-81. When Roiphe refers to "recovery," she describes a process of self-examination and reinterpretation through which a person comes to understand that she has been crucially shaped by an experience or injury, whose impact—whether because of submersion or denial—has not been consciously confronted. This process is often undertaken collectively, through groups constituted of individuals with a particular kind of injury or exposure, such as Alcoholics Anonymous, Gamblers Anonymous, or Adult Children of Alcoholics. The initial goal of such efforts is the recognition of the injury or dependence. The ensuing "recovery" process is one through which a person begins to reshape her life in relation to that recognition, to live despite it but with an awareness of the influence it exerts. In her discussions of what she calls the "recovery movement," Roiphe generally focuses her derision on its emphasis on public acknowledgement and revelation of injury, collective encouragement and support, and individual self-celebration. However, I understand her larger point to be that the effort of excavating submerged injuries and learning to accommodate their pervasive effect on one's life through a sustained, temporarily extended process can encourage one toward an identification with, or investment in one's injuries that can make it difficult to get on with the other projects that constitute one's life. I have sympathy with this point, although recovery programs may vary in the extent to which they characterize the individual as capable of asserting herself against the effects of the injury, rather than relying on some external force or power, and the extent to which they describe recovery as a finite process rather than an on-going and ultimately uncompletable journey. I am less concerned with this problem, however, than with the way that recovery can encourage an inward focus on individual injury, rather than a collective effort to address the conditions that helped give rise to it. *See infra* note 65 and accompanying text.

8. *Id.* at 30-43, 97-99.

9. Many exemplary narratives by Williams are contained in her recent book, *PATRICIA WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS* (1991). I would add, however, that Roiphe possesses neither Williams' literary grace, nor her acute eye for the normative complexity of the everyday.

10. *THE MORNING AFTER*, *supra* note 5, at 21-27.

risk.¹¹ At first, Roiphe handles this theme with poignant balance; as the chapter proceeds, however, that balance gradually tips in a single direction. According to Roiphe, college women's obsessive focus on weight and fitness reflects an effort to "elud[e] the pressures of the outside world,"¹² and the bathroom graffiti writers "aren't worried about enough freedom anymore—they are worried about too much danger."¹³ She argues that in the date rape and safe-sex workshops students don't simply learn how to make refusal or condom use less embarrassing, they also learn how to acquiesce in politically prescribed views of the world.¹⁴ "I look for signs of frustration, rebellion, dissent," Roiphe writes, "but there are only heads nodding in consensus."¹⁵ The result is that the "hard, bright, hedonistic light"¹⁶ of sexual freedom and experimentation—which Roiphe views as the birthright of the post-adolescent—has been replaced by the "blue light" of campus safety.¹⁷

The "date rape crisis," the primary protagonist in this struggle to instill fear, is the focus of the following two chapters. In "Taking Back the Night," Roiphe offers a montage of images from the yearly marches that have become a cultural ritual in American campus life. To Roiphe, these marches represent the apogee of feminism as recovery: emotion-drenched spectacles of mutual affirmation in which young women discover the revelation of sexual violation as a route to power. Roiphe is frankly contemptuous of these events, dissecting the dress and bearing of the participants, parodying their utterances of support and the homogeneity of their discourse, pointing out instances in which the emotion of the moment has led women to embroider or fabricate rape charges.¹⁸ Her frustration with these public displays contrasts sharply with her sympathetic rendition of a more personal revelation:

Once, over a cup of coffee, a friend told me that she had been raped by a stranger with a knife. I was startled. Small, neat, self-contained, she was not someone prone to bursts of self-revelation. She described it, the flash of the knife, the scramble, the exhaustion, the decision to keep her mind blank, the bruises and the police. After she had finished, she quickly resumed her competent, business-as-usual attitude, her toughness, but I could tell how hard it had been for her to tell me. I felt terrible for her. I felt like there was nothing I could say.¹⁹

11. *Id.* at 12-15.

12. *Id.* at 21.

13. *Id.* at 19.

14. *Id.* at 22-23.

15. *Id.* at 23.

16. *Id.* at 27.

17. *Id.* at 27-28.

18. *Id.* at 39. In support of this generalization, Roiphe offers only two accounts of women who fabricated rape stories. *Id.* at 39-42.

19. *Id.* at 43.

This abbreviated, furtive revelation, made almost without breaking stride to a listener who remains trapped behind the silence of her own discomfort is, to Roiphe's mind, a normative point of reference. It is a model that neither blunts women's individuality nor "celebrate[s] their vulnerability . . . [their] victim status."²⁰ The distance between this conversation, and the spectacles in which vulnerability and broken silence are parlayed into power, prompts Roiphe to investigate "not . . . what the marchers are saying, but . . . why."²¹

Roiphe's ensuing scrutiny of the date rape crisis takes up the following chapter of the book. In "The Rape Crisis, or 'Is Dating Dangerous?'," she argues that the "one-in-four statistic," the "epidemic" of date rape on campuses, reflects not a change in behavior but a new way of interpreting sexual encounters.²² Primed by freshman orientation programs that tout the pervasive hazards of non-public encounters, of mixing alcohol and sex, and of emotional as well as physical coercion, young women have begun to feel pressure and see danger in all heterosexual interaction.²³ Not only does Roiphe see in such warnings restrictive codes of ladylike conduct worthy of her grandmother's time, she also sees familiar images of fragility and asexuality in the portraits of guileless, bamboozled women.²⁴ "The assumption embedded in the movement against date rape is . . . [that] men want sex, women don't," Roiphe argues. "In emphasizing the struggle—he pushing, she resisting—the rape-crisis movement recycles and promotes an old model of sexuality."²⁵

To Roiphe's mind, the conviction that sex is "our Tower of Babel,"²⁶ a zone of confusion and mutual misunderstanding, and the resultant longing for a simpler time of sexual innocence and social predictability, are baggage that feminists can do without:

Imagine men sitting around in a circle talking about how she called him impotent and how she manipulated him into sex, how violated and dirty he felt afterward, how coercive she was, how she got him drunk first, how he hated his body and couldn't eat for three weeks afterward. Imagine him calling this rape. Everyone feels the weight of emotional pressure at one time or another. The question is not whether people pressure each other, but how that pressure is transformed in our mind and culture into full-blown assault. There would never be a rule or a law, or even a pamphlet or peer-counseling group, for men who claimed to have been emotionally raped or verbally pressured into sex. And for the same reasons—assumptions

20. *Id.* at 44.

21. *Id.* at 50.

22. *Id.* at 53.

23. *Id.* at 57-60.

24. *Id.* at 66-69.

25. *Id.* at 63.

26. *Id.* at 76.

of basic competence, free will, and strength of character—there should be no such rules or groups or pamphlets for women.²⁷

Into this prospective vacuum, Roiphe moves a generalized prescription for individual action: take responsibility for your own situation, resist a man when you want to resist, and take up that “hard, bright, hedonistic light” of sexual expression when you prefer.²⁸ This approach contains no grandmotherly warnings, no Victoriana; yet it is hard to miss the conflicting currents of Nancy Reagan and Erica Jong.

Feminist campaigns against sexual harassment, the subject of the chapter Roiphe titles “Reckless Eyeballing: Sexual Harassment on Campus,” represent the ultimate elevation of the trivial to the status of an injury. Shifting their attack from quid pro quo proposals by professors to jokes, leers, and epithets from classmates, campus feminists “propose the right to be comfortable as a feminist principle.”²⁹ The problem with this approach, opines Roiphe, sounding almost Paglian, is that:

[T]hough it may infringe on the right to comfort, unwanted sexual attention is part of nature. To find wanted sexual attention, you have to give and receive a certain amount of unwanted sexual attention. Clearly, the truth is that if no one was ever allowed to risk offering unsolicited sexual attention, we would all be solitary creatures.³⁰

Roiphe argues that sexual harassment education, now a staple on most campuses, deepens the harm perpetuated by date rape orientations. By suggesting that women are vulnerable to jokes or looks, and by implying that female professors can be harassed by male students, such programs teach women that they are “hothouse flowers,” unable to sustain the pressures of a frankly sexual world.³¹ These programs also exacerbate the damaging effects of the “cult of recovery,” in which women are more likely to nurse their violations than to take action to prevent them.³²

According to Roiphe, the politicization of apparently harmless acts produces codes of “etiquette,” at best absurdly straitening for all concerned, at

27. *Id.* at 68-69.

28. *Id.* at 68-69, 101-02.

29. *Id.* at 87.

30. *Id.* at 87.

31. *Id.* at 108-09.

32. Roiphe offers as evidence the story of a classmate:

She was at a crowded party, leaning against a wall, and a big jock came up to her, placed his hands at either side of her head, and pretended to lean against her, saying, So, baby, when are we going out? All right, he didn't touch me, she says, but he invaded my space. He had no right to do that.

She has carried this first instance of sexual harassment around in her head for six years. It is the beginning of a long list.

Id. at 98.

worst reminiscent of the cultural prohibitions that made “reckless eyeballing” of white women an offense punishable by lynching for black men. A better answer is to depoliticize, or at least to decollectivize, the response to sexualizing acts. “Interpreting leers and leer-type behavior as a violation is a choice,”³³ Roiphe insists, sounding perilously like that earlier avatar of racial insight, the Supreme Court in *Plessy v. Ferguson*.³⁴ For more serious offenses, she finds that an imaginative response is required:

Someone I knew in college had an admirable flair for putting offenders in their place. Once, when she was playing pinball in [a campus coffee shop] . . . a teenage boy came up to her and grabbed her breast. She calmly went to the counter and ordered a glass of milk and then walked over and poured it over his head.³⁵

After the pugnacious brio of these opening chapters, Roiphe’s narrative rapidly runs out of steam. “The Mad Hatter’s Tea Party,” which might more accurately be entitled “Lifestyles of the Rich and Feminist,” is a series of portraits of campus women and men; they highlight, with a breathtaking lack of generosity, the personal absurdities and contradictions produced by experimentation with feminist politics and academic forms of feminist discourse.³⁶ “Catharine MacKinnon, the Antiporn Star,” is a sometimes perceptive reflection on the theorist whose work informs the rape-crisis analysis. This chapter may be more interesting to a lay audience than to legal scholars who have analyzed MacKinnon at length, and who have become accustomed to her galvanizing presence on the academic scene.³⁷ “Still Looking for Mr. Goodbar” is an attempt at synthesis, a wandering, graduation-day rumination on the kinds of fantasies and nightmares created by four years of campus fear. With a brief afterword on the intermittent need to fight one’s friends, the book closes.

33. *Id.* at 102.

34. 163 U.S. 537 (1896). There the majority opinion stated:

We consider the underlying fallacy of the plaintiff’s argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. *If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it.*

Id. at 551 (emphasis added).

35. THE MORNING AFTER, *supra* note 5, at 101.

36. *Id.* at 113-37.

37. There is something disturbingly incomplete about describing MacKinnon as a superstar, with no mention of the decade MacKinnon spent moving from institution to institution, her theories reviled by colleagues and contested among feminists. While it is true that one is under no ethical obligation to document the humble beginnings of current superstars (e.g. you don’t have to talk about Madonna’s beginnings in Bay City, Michigan), Roiphe’s omission here is part of a larger pattern that is more troubling. Her reluctance to report the ways in which feminism has been embattled as well as triumphant, its leading figures pariahs more often than superstars, makes it easier for her to present “rape crisis” feminism as an ascendant, if not hegemonic, force on university campuses.

II. CRISIS? WHAT CRISIS?

Roiphe is, in some respects, a peculiar subject of attention for feminist legal theorists. An intemperate attack on feminism by a student writing in a popular vein is not the stuff of which feminist scholarship is generally made. Yet there is more reason for engaging the provocative message of this flawed book than might first appear.

The popular focus of the book may place it beyond the scope of some feminist theoretical projects, but squarely within the domain of others. The recent renaissance of popular feminist writing³⁸ may be the first to take place against the backdrop of a substantial and largely institutionalized body of feminist scholarship. If these movements are not to work at cross-purposes, feminists in both genres ought to give thought to their inter-relations: writers like Roiphe, Paglia, and Naomi Wolf might have had more difficulty making a target out of victim feminism, for example, if academic feminists had been more attentive to the way that dominance principles were being presented in popular settings.³⁹

There is likewise no reason to conclude that Roiphe's antagonistic tone places her beyond the purview of feminist response. Roiphe is, on the weight of the evidence presented, a complicated person, with a complicated relationship to the events detailed in her book.⁴⁰ She may seek to redirect

38. A range of popular books by young feminist authors have recently attracted wide attention. Many of them could be understood to address the paradox that many young women today favor a range of opportunities for women yet decline to identify themselves as "feminists." See, e.g., NAOMI WOLF, *FIRE WITH FIRE: THE NEW FEMALE POWER AND HOW IT CAN CHANGE THE 21ST CENTURY* (1993); and SUSAN FALUDI, *BACKLASH: THE UNDECLARED WAR ON AMERICAN WOMEN* (1991). While Susan Faludi blames mainstream cultural forces for the negative connotations of "feminism," Roiphe and Naomi Wolf finger the feminist tendency to depict women as victims. There are pointed differences between Wolf and Roiphe's delivery of this message: Wolf is more precise in her target, differentiating "victim feminism" from more promising varieties, while Roiphe's comparatively indiscriminate attack threatens to throw the baby out with the bathwater. Perhaps more importantly, Wolf advances an affirmative program under the rubric of "power feminism," with which one may or may not agree, but which avoids the individualistic and solipsistic aspects of Roiphe's isolated suggestions. See *infra* pp. 1546-47. However, both might be included under the rubric of what columnist Anna Quindlen has trenchantly labelled "babe feminism," which tries to expand the reach of the movement and reassure discomfited men by modifying the feminist message to make it more (hetero)sexy and less threatening. See Anna Quindlen, *And Now, Babe Feminism*, N.Y. TIMES, Jan. 19, 1994, at A21. Viewed less critically, these feminist efforts may be understood as part of a broader literature that attempts to rescue multiculturalism from victimization rhetoric. See ROBERT HUGHES, *THE CULTURE OF COMPLAINT* (1992).

39. The need for some integration of popular and scholarly efforts may be particularly great for feminist legal theorists, as the hard work of litigated feminist change often depends on the understandings of "lay" women and men. The cultural developments Roiphe describes have been shaped by a particular regime of legal and regulatory enforcement: they reflect attitudes borne of legal imagery, and expectations about regulatory intervention and response. Understanding of these social and cultural currents—and how they are likely to affect activists and clients—is crucial to the performance of our professional task.

40. Tucked away in a section of "The Mad Hatter's Tea Party" is the revelation that Roiphe's views, as expressed in an early editorial in the *New York Times*, were harshly protested by some of her feminist classmates in graduate school. THE MORNING AFTER, *supra* note 5, at 128. These students circulated a petition against her among graduate students and some faculty; they posted it in the English department and placed copies in mailboxes. They then determined that to look at or speak to Roiphe "would be to betray the cause." *Id.* This level of ostracism is severe, and might be expected to have had a strong effect

campus politics—and to punish those feminists who treated her harshly, and to exploit a literary market that embraced the likes of Dinesh D'Souza. While such calculated positioning may not be what most of us look for in a feminist spokesperson, neither is it cause for excommunication. Moreover, the resonance of Roiphe's argument with earlier, less solipsistic defenses of female sexual agency makes the questions that she raises genuinely important. To my mind, the question is not whether *The Morning After* is actually a challenge from within feminism—a question we can probably never answer—but whether discussing this book, whatever its motivation and positioning, contributes to feminist thinking. I will examine this question, first by asking how the book succeeds on its own terms, and second by exploring the inquiries to which it points.

Roiphe's signal contribution may be descriptive. Her book is a dispatch, not simply from an Alice-in-Wonderland world gone awry, but from a new frontier of feminism. Roiphe's classmates are among the first to come of age at a time when feminist theory and practice have permeated many aspects of university life. College is a time for trying on roles and experimenting with personal styles—a point Roiphe seems to grasp in the realm of the sexual and miss everywhere else. It is fascinating to see young women do with Hélène Cixous or Catharine MacKinnon what my classmates and I did with Jürgen Habermas or Michel Foucault: think about the implications of their work for one's personal posture, and toy with the elements of an intellectual style. The same—though this is an older project—goes for the effort to reconcile one's personal style with one's feminist convictions, particularly in the murky waters of heterosexual engagement. The personal accommodations Roiphe indicts as being contradictory or shallow strike me as interesting and poignant: they reflect the awkwardness and transitional imbalance that social change demands of all of us, writ large on the canvas of college life.

Of course, Roiphe's main point is not to expose heterogeneity and experimentation, but to decry its opposite: the pressure for conformity, around a flawed and counterproductive image of women, that has become the hallmark of campus feminism. Here, too, Roiphe makes some important points. It is useful, although hardly novel, to be reminded of the danger that resistance and rebellion can imperceptibly be transformed into orthodoxy. It is instructive to see how feminism, a movement which originally joined personal to political, has been privatized or even depoliticized through its link to recovery rhetoric and practice. It is important to see in practice what "sex wars" partisans have long warned in theory: that exposing the pervasiveness of male sexual domination may project images of women as passive, fragile, and repelled by

on a 23- or 24-year old. Although Roiphe notes in the Introduction that "[t]his book comes out of frustration, out of anger, out of the names I've been called," *id.* at 7, she does not specifically address the impact of this episode on her view of campus feminism, supporting my impression that Roiphe is ambivalent about being a protagonist in her own drama. See *infra* pp. 1542-43.

sexuality. But whether we take Roiphe's book as she does, as an indictment of a burgeoning feminist authoritarianism, or as a warning about a tension in some strains of feminist thinking, depends upon the persuasiveness with which she makes her case.

Roiphe's narrative methodology makes her argument hard to assess. An author who offers her analysis through impressionistic images is unlikely to "prove" to readers, in the objectivist sense, that there is a campus crisis of sexual interpretation. Roiphe does not render the full texts of university "date rape" pamphlets; she doesn't tell us, on a case-by-case basis, whether this education was compulsory, whether students had access to alternative sources of information, whether there were counter-reactions, or whether all students responded with the docility Roiphe recalls among her classmates. A narrative approach cannot offer readers "hard" data of this sort. This may mean, of course, that narrative is not the optimal vehicle for supporting an indictment as broad as Roiphe's seems to be. But even if we take Roiphe's argument as a more limited critique of the few environments she has directly experienced, the success of her argument depends on whether she is a reliable narrator. On this ground, her argument leaves serious room for doubt.

Roiphe is in some respects a keen observer. She has a good eye for the telling detail, for glimpsing the numerous complicated relationships between personal style and political substance. Her dissection, for example, of the way that Catharine MacKinnon uses the word "fuck" in her speeches about pornography, is witty and revealing.⁴¹ She also has a well-tuned cynic's ear for the passive-aggressive tendencies in contemporary victimization politics: her discussion of the way in which the claim of having been silenced has metamorphosed into a claim to power should chasten feminists who reach too often for this rhetoric.⁴²

Yet, in other respects, Roiphe's narrative voice is troubling. In those passages where she appears as a character in her own narration, Roiphe functions more as a symbol than as a living, breathing protagonist. This oddly limited self-revelation extends from the classroom⁴³ to Roiphe's own life in the realm of the senses:

People have asked me if I have ever been date-raped. And thinking back on complicated nights, on too many glasses of wine, on strange

41. THE MORNING AFTER, *supra* note 5, at 150-51.

42. *Id.* at 34-36.

43. Roiphe sometimes describes being at the receiving end of feminist hostilities without telling readers precisely what she has said:

In a conversation about how terrible it is that a professor made a dirty joke in class, I offer my opinion. Someone tells me that I don't understand the humiliation, the violence of these comments. We look at each other, nothing more to say, our argument backed against a wall.

Id. at 114. Roiphe obviously did not find the joke to be "terrible," but whether her classmate's response was temperate or totalizing, depends in large part on the substance and tone of Roiphe's comment. This we are never told.

and familiar beds, I would have to say yes. With such a sweeping definition of rape, I wonder how many people there are, male or female, who haven't been date-raped at one point or another.⁴⁴

There are many ways in which an experiential narrator can establish her credibility:⁴⁵ she can say something so unconventional and potentially stigmatizing in its revelation that she could have little motive for offering it other than its truth;⁴⁶ she can offer an account so concrete and particularized in its understanding that she thereby demonstrates her own credibility and knowledge; she can tell a story sufficiently universalizable that it resonates with readers' factually distinct experiences; or she can show herself to be vulnerable to the same failings she finds in others. The foregoing narrative, however, manifests none of these qualities, and Roiphe never offers enough information to permit us to judge the credibility of her claim.⁴⁷ For example, "complicated nights, on too many glasses of wine, on strange and familiar beds" is not an experiential account; it is a gesture toward the kind of dramatic, attractively abandoned college sex life many of us would like to think we had. Narrative may be a fine tool for placing others under the microscope, but Roiphe is noticeably squeamish about using it on herself.

This suggestion of unreliability is underscored by Roiphe's handling of some of the educational materials she critiques. Her discussion of a pamphlet produced by Princeton's SHARE (Sexual Harassment/Assault Advising, Resources & Education), for example, is disturbingly selective. Focusing on the pamphlet's examples, Roiphe states that describing women subject to non-physical coercion as becoming "nervous, depressed and angry" creates "hothouse flowers [that] are going to wilt in the light of postcollege day."⁴⁸ She completely fails to note the pamphlet's first instruction on dealing with sexual harassment: "[s]peak up at the time and say 'no' to the harasser. Be direct and firmly tell the harasser to stop harassing you. . . . If you say 'no,' do so firmly and unequivocally. Don't apologize and don't smile."⁴⁹ The

44. *Id.* at 79.

45. This framework for evaluation is articulated in Kathryn Abrams, *Hearing the Call of Stories*, 79 CAL. L. REV. 971 (1991).

46. In "Taking Back the Night," however, Roiphe makes the useful point that when such revelation is not shocking but pro forma, the risk implicit in revelation itself no longer functions to guarantee the truth of the narrative. *THE MORNING AFTER*, *supra* note 5, at 36.

47. Even if we were to take this narrative as a credible account of Roiphe's sex life, her use of it to suggest that the definition of "rape" has become so expansive as to be dangerous has an additional problem. There is nothing in her account that is evocative of rape—forcible stranger rape, emotionally exploitative acquaintance rape, or otherwise. "Complicated nights, on too many glasses of wine, on strange and familiar beds" contains no suggestion of coercion, the theme that unites traditional claims of stranger rape with more inclusive versions focusing on emotional pressure. To attack the shift of focus from *physical* coercion to *emotional* coercion by invoking an account that involves *no* coercion makes no sense, except as a *reductio ad absurdum* that draws little support even from the rest of her argument.

48. *Id.* at 108-09.

49. SHARE, *WHAT YOU SHOULD KNOW ABOUT SEXUAL HARASSMENT* (on file with author). The pamphlet notes that if contemporaneous verbal communication is "uncomfortable or unsuccessful," women

image conveyed by this instruction contrasts sharply with Roiphe's vision of cowering victims; it suggests many women will be able to communicate their disapproval of harassing behavior with energy and resolve. This kind of selectivity, as Katha Politt has observed, also afflicts Roiphe's treatment of the social science data on rape, and her single brief excursion into the law.⁵⁰

These difficulties indicate a lack of self-awareness that afflicts Roiphe's narration throughout. So bent is she on exposure and critique, so eager to see herself as the lone voice howling in the wilderness, that she misses the way in which her rhetoric and posture begin to converge with those of her opponents. Her claim to have been silenced by campus feminists ("[t]his book comes out of . . . all the times I didn't say something I was thinking because it might offend the current feminist sensibility")⁵¹ sits oddly next to her indictment of the political tyranny of the "silenced." Her lament for bygone days of uninhibited sexual experimentation reflects the same trope of "paradise lost" that informs the campus feminists' lament for a time of lost innocence. Even her plaintive shifting under the shackles of campus sexual fear is caught up in contradiction. She says of the "Take Back the Night" marchers:

These students say again and again, "It's not fair that I should feel afraid." This is an idea that springs from privilege. . . . Considering how many things there are to be afraid of and how many things are not fair, being afraid to walk around Princeton, New Jersey late at night does not seem like one of God's great injustices.⁵²

One wonders why she does not heed her own advice. It is difficult to place one's trust in a narrator so unself-conscious as to miss these contradictions, or so puerile as to resent AIDS primarily for cramping her sexual style.⁵³

But Roiphe's convergence with the posture of her opponents also extends to matters of substance. The analysis that emerges from her stories displays a totalizing bent, conflating the threatening and the innocuous in ways that make illumination difficult. She sees paternalistic control and female fragility in many places where they do in fact exist: injunctions restricting dating to public places and depictions of college women as virginal innocents are surely a problem. But she also sees these failings in places where the links between

should attempt the same communication in the form of a letter.

50. See Katha Politt, *Not Just Bad Sex*, NEW YORKER, Oct. 4, 1993, at 220. In a searing critique, Politt argues that Roiphe's case for date rape as a "problem of interpretation" relies on a single study, neglecting a range of studies that problematize that conclusion. *Id.* at 222-23. She also explains that Roiphe's discussion of a New Jersey rape case, which ostensibly demonstrated how feminist definitions have infiltrated the law, mischaracterizes certain facts: the relationship between the parties, the age of the victim, and the extent to which the victim offered resistance to the attack. *Id.* at 221-22. Politt concludes that Roiphe may be "that rare grad student who has actually read 'Clarissa,' but when it comes to rape and harassment she has not done her homework." *Id.* at 221.

51. THE MORNING AFTER, *supra* note 5, at 7.

52. *Id.* at 45.

53. *Id.* at 24-26.

concern about male aggression, on the one hand, and female infantilization and authoritarian enforcement, on the other, are far more tenuous.

Roiphe argues, for example, that campus feminists' claim that female faculty members can be sexually harassed by male students is "insulting" to women:

The mere fact of being a man doesn't give the male student so much power that he can plow through social hierarchies, grabbing what he wants, intimidating all the cowering female faculty in his path. The assumption that female students or faculty must be protected from the sexual harassment of male peers or inferiors promotes the regrettable idea that men are natively more powerful than women.⁵⁴

The notion that male students can "sexually harass" female faculty members might, in fact, mean many things. It might mean, for example, that male students experience "sex-role spillover,"⁵⁵ as a result of which they treat women faculty members according to the roles to which they most frequently assign women—wife, sister, date—rather than according to the role their position in the academic hierarchy suggests. It does not necessarily mean that the women recipients of such treatment "cower"; this is Roiphe's own negative image of the sexual harassment victim, not the response of the average sexual harassment victim, nor a response the legal term implies or requires. And it does not mean that the conduct necessarily requires an enforcement response: one might imagine an educational effort or an individualized response alerting male students to the possibility that they may be categorizing female faculty members in inappropriate ways. Yet Roiphe yokes the three inexorably together, thereby suggesting that the use of the term in this context has authoritarian and infantilizing implications that need not, and often do not, follow from it.

Another troubling example is her indictment of the American College Health Association's advice that "if someone starts to offend you, tell them firmly and early."⁵⁶ In an amusing but dubious leap, Roiphe compares this advice to the counsel of the 1857 pamphlet, *The Young Lady's Friend*.⁵⁷ One could view the ACHA advice as fostering brittle and prudish attitudes among college women—the word "offend" is perhaps ill-chosen in this regard. But one could also view it as authorizing women to speak their minds and set their own rules for social interaction. Roiphe's classmate, who showered milk on her harasser, did little more than "tell [him] firmly and early" that his behavior

54. *Id.* at 89.

55. This term comes from BARBARA GUTK, *SEX AND THE WORKPLACE* 134 (1985).

56. *Id.* at 66 (quoting AMERICAN COLLEGE HEALTH ASS'N, *ACQUAINTANCE RAPE: IS DATING DANGEROUS?* (1991)).

57. *THE MORNING AFTER*, *supra* note 5, at 66.

was unwelcome.⁵⁸ Roiphe's leap from ACHA advice to Victoriana places educational efforts inevitably on the side of authoritarian protection, and neglects the extent to which they can assist women's own efforts at self-assertion.

Roiphe also offers totalizing explanations for the strength of "rape crisis" feminism on campus, explanations that are not only unitary but wrong. A recurring theme in her narrative is that campus sexual fear reflects a displacement of inevitable anxieties about entry into the world of sex. Consequently, the appeal of "rape crisis" feminism lies in the certitudes it offers to the sexually ambivalent, guilt-ridden, or unsure:

The idea of date rape comes at us fast and coherent. It comes at us when we've just left home and haven't yet figured out where to put our new futon or how to organize our new social life. The rhetoric about date rape defines the terms, gives names to nameless confusions, and sorts through mixed feelings with a sort of insistent consistency. In the first rush of sexual experience, the fear of date rape offers a tangible framework in which to locate fears that are essentially abstract.⁵⁹

Some forms of feminism may offer reassurance to women whose sexual experience has left them uncomfortable or ambivalent. But at a time when women are organizing to protest practices ranging from stalking to abuse in intimate relationships, reducing campus concern about male aggression to sexual confusion reflects a post-adolescent view of the world. It makes sense for Roiphe to focus on feminism within the university; but to read that effort in isolation from women's struggles throughout society is a solipsistic mistake.

Finally, Roiphe's effort founders in articulating a new direction for feminists on campus. Having wielded her analytic wrecking ball on the current campus movement, Roiphe has little to put in its place. In no sense does she offer programmatic suggestions; her view of a more heterogeneous and dignifying feminism must be drawn from between the lines. The two suggestions that can be glimpsed in this manner offer scant reason for optimism. The first is exemplified by Roiphe's own professed conduct: a kind of sexual "carpe diem" that harkens back to the golden age of the sexual revolution. Even setting aside the threat of AIDS—which only the foolish would actually do—the problems with this re-creation are precisely those of the original. For the most part, the sexual revolution was concerned with removing attitudinal barriers to the kinds of sex that people already had—not with changing what men expected or women wanted from sexual encounters. Unlike her "sex wars" counterparts, who draw on feminist insights to depict

58. *Id.* at 101.

59. *Id.* at 82-83.

a desiring female subject, Roiphe has little critical distance on conventional sexual practices. In one faint attempt at re-imagining female sexuality, Roiphe describes a campus fad of dancing without shirts at parties:

I remember the parties, dark rooms, beer, cigarettes, dancing shadows dressed in mostly black. . . . Girls were dancing with girls, some because they were interested in each other, others because they were trying to catch the attention of the boy across the room. That spring girls had started taking their shirts off at parties. I remember the bras, black lace, white lace, pink lace. There was a drama in dancing in bras, in crushing taboos beneath our feet. For most people, boys were in the background those nights. They were not the point. Dancing without shirts was intended as a bold statement about the triumph of the female body, an eye-catching, spirit-lifting display of sexual availability.⁶⁰

It takes a peculiar angle of vision to see stripping down to lace brassieres in front of a room filled with men as “crushing taboos beneath our feet.” Perhaps these women show more enthusiasm about the prospect of sex than some who rally to take back the night; but if displaying one’s availability is the closest women can come to sexual self-assertion, I can only hope this revolution will not be televised.

Roiphe’s other answer is a strange kind of equality feminism: one that asserts not that women are just like men, but that all might be well if they could be. The problem with women’s response to male sexual aggression is that it is, for lack of a better term, too feminine.⁶¹ Women faced with coercive sexual behavior become anxious; they cry, they withdraw, they express their lack of control by starving or distancing themselves from their own bodies.⁶² The heroines of Roiphe’s narrative are women who eschew this kind of “cowering” for the casual sense of self-possession one associates with social privilege, and for the easy physical self-assertion one most frequently sees in men.⁶³ They don’t demand restrictive legislation or sit around in self-help groups. They simply and firmly say no, and if the guy doesn’t like it, they pour a glass of milk on his head.

There is an appeal to this imagery: scores of women cheered it in “Thelma and Louise.” I liked “Thelma and Louise,” too: it is satisfying to watch the tables turned, to see what happens when women behave like Clint Eastwood. But “Thelma and Louise” was fantasy; things are likely to be a good deal more complicated in the real world. To begin with, there is the problem of socialization: women who have come of age in this culture will have to be

60. *Id.* at 15-16.

61. *Id.* at 68-69.

62. *Id.*

63. *See, e.g., id.* at 101, 120.

exposed to a lot more than Katie Roiphe before all of them will feel comfortable meeting a sexual advance with verbal or physical force. Beyond that, Roiphe's analysis distorts the character of sexual threats in a way that makes the more prevalent female responses less plausible than they should be. In Roiphe's view, the problem of male coercion means that he wants it and she doesn't, or has been brainwashed into thinking she doesn't. In the world outside of Roiphe's imagination, coercion means that he controls your job, your scholarship, your letters of reference. He may be blocking the door, holding your car keys, or grabbing your shoulder too tightly on a deserted street. Recognizing these inequalities of power—inequalities that make unwanted sexual conduct truly anguishing—is a step Roiphe declines to take, stating that “rules and laws that are based [on this premise] . . . only reinforce the image of women as powerless.”⁶⁴ Perhaps, but laws can communicate inequalities in ways that encourage transformation, as well as ways that perpetuate complacency and stasis. To ignore such inequalities, however, is simply to blink reality.

Finally, even if an Eastwood-style response were socially plausible and contextually prudent, it would only address the coercive behavior in the individual case; it would do little to mitigate the broader social problem. The recovery emphasis Roiphe decries in “rape crisis” feminism is problematic not simply for its self-indulgence but for its self-referentiality. As women nurse their grudges or heal their wounds, they fail to turn their efforts out towards the institutional structures and social norms that helped to produce their injury in the first place.⁶⁵ The same is true of Roiphe's primary reliance on the individualized response. The glass of milk may prevent a man from putting his hands, or his penis, where you don't want them. But it will do little to keep him from putting them where another woman doesn't want them, still less to affect the cultural images, the social expectations, attitudes and sanctions, or the interlocking economic inequalities that make it acceptable for him to impose and costly for women to interject their preferences.

This last failure underscores the way in which, for Roiphe, the problem of male sexual aggression truly is a problem of interpretation. It is *because* she sees sexual coercion as a problem in women's heads—a leer we are free to interpret as we please, a bad night reflecting one of the many ways in which gender-neutral individuals put emotional pressure on each other—that she can propose privatization and de-politicization as solutions. For those of us who see “rape crisis” feminism as a response to a social and political problem, more collective and outward-looking forms of action are required. It is to the questions raised by these forms of action that I now turn.

64. *Id.* at 89-90.

65. A similar point is made in Martha Minow, *Surviving Victim Talk*, 40 UCLA L. REV. 1411, 1441-45 (1993).

III. VICTIMIZATION, AUTONOMY, AND LAW

In the past decade, “dominance” feminism has become an influential framework for understanding gender inequality.⁶⁶ The sexual harassment analysis that Catharine MacKinnon built on the experience of victims has become federal law.⁶⁷ The dominance-based anti-pornography ordinance remains mired in First Amendment challenges.⁶⁸ Yet its central insight—that our popular culture reflects and fuels an eroticization of sexualized dominance that is implicated in such widespread practices as rape and spousal abuse—increasingly informs the way feminists and others think about sexual and social interaction. Even if Roiphe’s indictment of an emerging feminist authoritarianism falls wide of the mark, we may still read her work as reanimating longstanding questions about whether addressing a pervasive male sexual dominance by resort to law reinforces images of women as vulnerable or sexually passive.

A decade ago, Ellen Willis warned that regulating pornography would reinforce images of “sex as an aggressive, unladylike activity . . . an exercise of erotic power . . . taboo for women.”⁶⁹ Joan Nestle assailed Andrea Dworkin’s “litany of the penis” as a threat to the legacy of determined, sometimes costly, sexual agency exemplified by her mother.⁷⁰ More recently, Sharon Marcus has argued that women’s vulnerability to rape is neither biologically nor socially inevitable, but a socially constructed, legally endorsed cultural “script” that women should “disrupt” by aggressive resistance.⁷¹ Roiphe’s account lacks the theoretical sophistication of these earlier critiques.

66. I use the term “dominance” feminism to describe that strand of feminist (legal) theory that locates gender oppression in the sexualized domination of women and the eroticization of that dominance through pornography and other elements of popular culture. Dominance feminism proposes to address this issue through legal regulation or prohibition of particular oppressive practices. Dominance theorizing provides at least part of the academic underpinning for the political movement that Roiphe refers to, pejoratively, as “rape crisis” feminism. While Catharine MacKinnon would probably be described as the primary—and most visible—exponent of this theory, the following discussion applies not merely to MacKinnon, but to the entire range of feminists who have worked theoretically, and often through political practice, to raise consciousness about male sexualization of and aggression against women. I consider myself loosely within this group, although I find dominance theory more persuasive in explaining some practices, such as rape or sexual harassment, than in explaining others, such as work-family conflict or the regulation of fertile women.

67. See *Meritor Sav. Bank v. Vinson*, 477 U.S. 57 (1986).

68. See *American Book Sellers v. Hudnut*, 771 F.2d 323 (7th Cir. 1985).

69. See Ellen Willis, *Feminism, Moralism, and Pornography*, in POWERS OF DESIRE 460, 464 (Ann Snitow et al. eds., 1983).

70. Joan Nestle, *My Mother Liked To Fuck*, in POWERS OF DESIRE, *supra* note 69, at 468.

71. See Sharon Marcus, *Fighting Bodies, Fighting Words: A Theory and Practice of Rape Prevention*, in JUDITH BUTLER & JOAN SCOTT, *FEMINISTS THEORIZE THE POLITICAL* (1992). In fact, in its critique of culturally ascendant notions of women’s vulnerability to rape and its advocacy of individualized, often physical resistance, Marcus’ argument bears some similarity to Roiphe’s. However, Marcus reflects none of the solipsism or self-importance that mar Roiphe’s presentation. Marcus is temperate in her criticism of those who have highlighted women’s vulnerability, and is careful to identify feminists on both sides of the debate. Moreover, for Marcus the individual aspects of disruptive resistance are tied to a larger, collective project of contesting and pluralizing dominant understandings of women.

It does not begin to disentangle the complicated assumptions that underlie the connection between dominance-based regulation and perpetuation of female sexual passivity. Yet it is framed in a way that has garnered considerable attention.⁷² Thus it is important that feminists who value the contributions of dominance theory explore the assumptions of Roiphe's challenge, and think about their implications for feminist activism and education.

A. "Down by Law"?

Feminists might begin by disaggregating the parts of the negative imagery Roiphe invokes. One reason that women within the dominance framework are viewed by critics as passive or dependent is that they rely on mechanisms provided by the state, the university, or other institutions to challenge sexualized injury. We might ask, first, why the resort to state or other quasi-legal protections should connote dependence, vulnerability, or passivity. In fact, recent memory offers potent counter-examples of groups whose resort to law was not associated with images of vulnerability or dependence. Black litigants in 1960's school desegregation suits were not viewed by observers as "cowering" behind a wall of legal rights. They were depicted as asserting themselves, claiming their rights, and pressing strongly for the rectification of injustices. Why are 1960's blacks (a group that included women) and 1990's women (a group that includes blacks) depicted in such different ways? One explanation may be that civil rights activists were prepared to rally, march, engage in non-violent resistance, and expose themselves to considerable

72. The parallels between Roiphe's work and that of theorists such as Willis, Nestle, and Marcus raise the question of why Roiphe's deeply flawed critique has been able to call wider attention to these issues than earlier, more cogent critiques. One answer lies in the increasing prevalence of dominance-based imagery. At the time that Willis and Nestle wrote, this imagery was comparatively new in feminist circles; it had not become the subject of more widespread discussion, nor had it yet been embodied in legal or regulatory regimes. With the advent of sexual harassment regulation and rape crisis activism, this vision of women's oppression has become more familiar to the general public; this greater familiarity—and the resistance it has wrought—have made Roiphe's critique a subject of more widespread interest.

A second factor has to do with Roiphe's accessibility and appeal to a broader public. Sharon Marcus' powerful critique, for example, is contained in a collection of essays in postmodern feminist theory, known mainly to academics; even were it more widely available, its reliance on academic forms of discourse ("rape is a language" is only one particularly stark example) would make it inaccessible to many readers. Katie Roiphe, on the other hand, uses a story-telling mode that is accessible to a range of readers; her clearly drawn thematic bottom lines create no ambiguity or confusion for a nonprofessional audience.

Perhaps more to the point, however, Roiphe is a highly mediagenic "sex warrior." Unlike her earlier counterparts, many of whom were frank sexual subversives—sex workers, users and makers of pornography, practitioners of sado-masochism, radical gay and lesbian activists—Katie Roiphe is a sexual adventurer you can take home to mother. Her carefully cultivated "bad girl" image is saucy enough to legitimate her critique of rape crisis feminists as latter-day Victorians, but sufficiently privileged, heterosexual and bland ("complicated nights, on too many glasses of wine") to pose little challenge to mainstream sexual sensibilities. It is unlikely that this quality has been lost on the editors of such publications as the *New York Times*. The *Times* has spotlighted Roiphe's book on the front page of its Book Review section, run her editorials on its op-ed page, and featured a lengthy interview of Roiphe and her mother, feminist essayist and novelist Anne Roiphe, in its Style section—a red-carpet treatment not usually extended to first-time authors, which has no doubt contributed to the book's visibility.

physical danger, in addition to litigating their cause. Yet feminist activists also rely on methods other than litigation; critiques of feminist rallies and educational initiatives occupy much of Roiphe's book. Other factors seem to be at work in shaping contrasting images of these two overlapping groups.

One factor may be the mediating stereotypes through which the actions of each group are interpreted. Most people interpret the actions of those around them in light of stereotypes, which include not only stigmatizing caricatures, but also shorthand explanations that help people to assimilate complex aggregations of facts. One factor that encourages the disparate imagery remarked above is that the actions of the groups "blacks" and "women" tend to be interpreted according to different stereotypes. Women invoking legal protections may be characterized as dependent or vulnerable because women, as a group, have often been characterized as vulnerable and dependent.⁷³ Moreover, such characteristics have explicitly been invoked, sometimes by women, in seeking state intervention on their behalf.⁷⁴ An additional piece of the puzzle—that explains why black litigants have not been characterized in this way, although some of them are women, and female litigants have, although some of them are black—is provided by the analysis of Kimberle Crenshaw.⁷⁵ Crenshaw argues that cultural imagery relating to blacks reflects popular perceptions of black men, whereas cultural imagery relating to women reflects popular perceptions of white women, thereby dichotomizing the relevant imagery in ways that would not be possible were these images to address the experiences of black women.⁷⁶

Changing social views of government intervention may be a second factor shaping these divergent perceptions of the resort to law. Black civil rights litigants may have escaped characterization as vulnerable or dependent because the government protection invoked by litigation was not, at that time, understood to imply dependence. A Reagan-era mobilization of public sentiment against Great Society programs has resulted in a reconceptualization

73. One reason for this characterization has been the continuing power of the ideology of "domesticity" in shaping images of women, particularly women of racial and socioeconomic privilege. According to the imagery of domesticity, women are appropriately sequestered in the home because of the nurturing qualities that make them good familial caregivers, and the delicate sensibilities that make them vulnerable in a turbulent public world. Women's relegation to the home, of course, makes them economically dependent on men, who support and represent their families in the public world. For a thoughtful recent discussion of the ideology of domesticity, see Joan Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797 (1989). As black feminists since Sojourner Truth have observed, however, the ideology of domesticity is neither appropriate nor frequently applied to black women, who have historically worked in large numbers outside the home and have not generally been depicted as delicate or vulnerable. See, e.g., BELL HOOKS, *AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM* 160 (1981).

74. See AILEEN S. KRADITOR, *THE IDEAS OF THE WOMAN SUFFRAGE MOVEMENT* 65-71 (1965).

75. See Kimberle Crenshaw, *Whose Story Is It Anyway? Feminist and Antiracist Appropriations of Anita Hill*, in *RACE-ING JUSTICE, EN-GENDERING POWER* 402 (Toni Morrison ed., 1992).

76. Crenshaw's analysis may explain why initial accounts of civil rights activism neglected the contributions of women, and why recent black victims of sexualized injury have been evaluated—sometimes to their detriment—according to norms reflecting popular perceptions of white women. See *id.* at 407-16 (making latter point with respect to Senate testimony of Anita Hill).

of governmental protection: it is now more likely to be construed as conferring an unearned advantage, or as connoting the dependent character of the beneficiary.⁷⁷ As the increasingly acrimonious debates over affirmative action and welfare reform have demonstrated, these images now impede African-American men and women, as well as women of a variety of races.

A third reason for the divergence in these images may be the unexamined assumption of a public-private distinction. Exclusion from a school system is, according to this framework, a public wrong, which makes (public) legal redress entirely appropriate. However, sexualized injuries—particularly those such as date rape and sexual harassment that occur between acquaintances—are thought to be private wrongs. Despite the fact that they have been rendered public by the creation of a legal claim, some critics persist in seeing their prevention or rectification a private matter, a matter of individual responsibility. Thus, the resort to legal means in such cases represents the failure of individual responsibility—the woman's responsibility—to prevent or resolve the problem. Feminist theory attempts to explain why reliance on this distinction is inappropriate. It is shortsighted to call a sexualized injury private when the creation of a legal claim acknowledges its social consequences. Interactions in the "private" realm are so critically shaped by influences that have their origins in the "public"—from economic inequalities to institutional sanctions that reinforce gender role expectations—as to make a rigid boundary between the two incoherent. This analysis explains why private responses may be unavailing, and why the resort to law itself represents no failure. Yet it also highlights a different aspect of the negative imagery in question: a female victim so multiply compromised that she is unable to avert or address such injuries herself—an image that is inconsistent with some women's experience of or aspiration for autonomy.

B. *Women's Victimization and Women's Autonomy*

But why is a given woman's experience of, or aspiration for, autonomy inconsistent with the recognition of socially created obstacles that prevent many women from addressing sexualized injury on an individual basis? When feminist theorists say that we should permit women recourse to law without requiring them to address offenders on their own, they are not necessarily saying that women are intrinsically unable to resist acquaintance rape or speak straightforwardly to sexual harassers. It is important, in light of critiques such

77. It might be argued that this emergent stigma applies mainly to government assistance programs, as opposed to the kind of constitutional protections invoked during the civil rights period. Yet I think this distinction is too simplistic: affirmative action programs, which represent a remedial response to the kinds of constitutional challenges to restricted institutional access that began in the civil rights period, have been subject to some of the same negative imagery as public assistance programs.

as Roiphe's, to ask how these positions have become confused, to the detriment of feminist efforts at reform.

How the revelation of constraints on a group comes to be understood as a statement implicating any given individual is the first question that requires attention. This confusion reflects, in part, a misapprehension by feminism's critics. The decision to authorize legal intervention in response to particular acts may imply no statement whatsoever about the acts' victims. Laws that make theft or assault a crime make no statement about the capacity of victims, and require nothing more than that victims give evidence.⁷⁸ Even laws that premise intervention in part on the difficulties faced by victims in effecting private resolution do not claim to describe all members of the victim class. They may be based upon the probability of barriers to individualized response, or the probability of barriers in the most serious cases. But they are not inconsistent with the possibility of an assertive response by an individual victim, nor does the existence of such a response cast doubt upon a legislative scheme.

However, the connection between group-based statements and individual inferences is not based wholly on a misunderstanding. The emerging link between dominance theory and the rhetoric of recovery may also contribute to this confusion. A recovery approach supplements the social-victim message of feminist theory with an emphasis on individual victimization. Its focus on individualized response to injury, as Roiphe notes, can make the experience of the victim central to participants' self-conceptions. Its suggestion that the world is full of "walking wounded" who have not yet discovered their injuries creates a personal parallel to dominance feminism's political claim that practices such as rape and spousal abuse are more pervasive than most people suspect. Yet, contrary to Roiphe's suggestion, this conjunction is neither the intentional product of dominance theorists nor the inevitable result of their arguments. One can read reams of dominance theory without encountering the rhetoric of recovery; even in Roiphe's critical exposition, MacKinnon prods students toward concerted political action rather than self-absorption. If this merger has become a problem, it is more indicative of a reversible mistake in feminist strategy than a substantive flaw in the theory of women's sexual victimization.

How the notion of constraints on women's ability to respond comes to be understood as an "insult" is a more important question. Here, a crucial factor is the widespread assimilation of liberal precepts. According to liberal theory, the qualities that are most distinctive and valuable in human beings are those that inhere by virtue of their universal human nature. Prime among these is

78. Some forms of legal recourse informed by dominance feminism impose similarly weak requirements of individualized action. The claim for sexual harassment, for example, requires the victim to show "unwelcomeness," *Meritor Sav. Bank v. Vinson*, 477 U.S. 57, 68 (1986) (citing 29 C.F.R. § 1604.11(a) (1985)), which is frequently, though need not always be, demonstrated by reference to a response by the victim to the harasser at the time.

autonomy, the ability to direct one's life through the exercise of unencumbered choice. For those who have been socialized to an incompletely reflective acceptance of such precepts, there is something doubly insulting about being identified by apparently contingent, non-universal, group-based qualities, and being described as unable to transcend the psychological or economic constraints that these qualities impose on autonomous self-direction.⁷⁹ To be a woman constrained by the incidents of a sexist society, in this view, is to suffer a kind of compromised personhood. Addressing this argument has proved a difficult task, as dominance feminists have been obliged to respond both to its underlying premises, and to the complicating contexts in which they have been applied.

This response has enjoyed the greatest success in the realm of political theory, where liberal precepts are subject to the clearest articulation and response. Dominance feminists and others have challenged the notion of autonomy as the incident and measure of personhood from a range of different starting points. Theorists more sympathetic to liberal premises have sought to integrate descriptions of partially compromised autonomy into liberal theory, depicting unencumbered choice as a human potential that is only incompletely and differentially realized under present circumstances.⁸⁰ Other theorists have rejected the notion of a universal, pre-social human nature, in favor of a view emphasizing social construction. In this view, the most salient characteristics of persons are forged in the limitless domain of the social, by singular or multiple structures of oppression. Group-based characteristics⁸¹ and constraints are neither exceptional nor demeaning; they are, rather, predictable incidents of social construction. Such theorists, in general, seek to displace liberal precepts, but may also endeavor to accommodate them. Seeking partly to explain the possibility of resistance under assumptions of social

79. My emphasis here is on the popular assimilation of liberal precepts. This assimilation inevitably obscures important lines of analysis that inhere in some liberal theorizing. For example, although liberal theory generally stresses the human potential for autonomous self-direction, and this element is incorporated in popular conceptions of human capacity, some liberal theorists describe with considerable nuance the factors that limit or compromise the capacity for autonomous self-direction. Theorists such as John Rawls and Thomas Nagel have argued, for example, that notwithstanding this human potential, many people are constrained in their ability to execute their chosen projects by factors that are beyond their immediate control, such as discrimination and class-based inequalities of resources. See JOHN RAWLS, *A THEORY OF JUSTICE* 71-75 (1971); and THOMAS NAGEL, *EQUALITY AND PARTIALITY* 102-05 (1991). Moreover, even when one considers the popular assimilation of liberal precepts, one sees occasional departures from the insistence on autonomous self-direction. Many people, including most of those who would describe themselves as "liberal," favor consideration of the backgrounds of those who commit crimes in sentencing and/or adjudication of guilt or innocence. However, it is possible that such arguments may simply reflect a pathologization of those who commit crimes, and that a person's resort to such argumentation might be consistent with a desire not to be viewed herself as a product of constraining circumstance.

80. See Nancy Hirschmann, *Revisioning Freedom: Relationships, Context and the Politics of Empowerment*, in *REVISIONING THE POLITICAL: FEMINIST RECONSTRUCTIONS OF TRADITIONAL CONCEPTS IN WESTER POLITICAL THEORY* (Nancy Hirschmann & Christine DiStefano eds., forthcoming 1994).

81. For a theorist who embraces a post-structuralist view, group-based characteristics or affinities are, in fact, shifting and contingent, rendered unstable by intersecting social influences.

construction, some theorists have described in this context a limited human agency—the capacity to maneuver within institutional or cultural constraints.⁸²

These efforts at revision, modestly successful at the level of theory, have encountered greater barriers in the areas of law and popular discourse. Lay critics of a dominance-based vision do not always understand the extent to which dichotomous assumptions about autonomy and incapacity affect their thinking, or the fact that alternative assumptions are possible. Those who understand their assumptions in a more self-conscious way may cling to the notion of unencumbered choice, if not as a present description, then as a statement of aspiration or an expression of potential.⁸³ They may find notions of partially compromised autonomy discouraging, or see notions of a complex, divided self as inaccessible and offputting.

In the legal context there are other problems. Feminist legal advocates do not simply, or even primarily, advance arguments about autonomy, social construction, or the decentered self. They seek instead to win discrete legal battles. This latter goal may initially be furthered by accepting rather than challenging the liberal assumptions of legal decisionmakers.⁸⁴ Feminists working in the area of spousal abuse, for example, chose to counter decisionmakers' assumption that battered women exercise unencumbered choice by interposing images of unusual passivity or incapacity (i.e., "learned helplessness").⁸⁵ This strong account of compromised capacity did not challenge judges' assumption of autonomous choice, but highlighted the possibility of exceptions created by extreme circumstances. While this strategy was initially successful, it set in motion a series of damaging dynamics. Battered women recoiled in confusion and denial from the images of

82. See Vicki Schultz, *Room To Maneuver (For a Room of One's Own? Practice Theory and Feminist Practice)*, 14 LAW & SOC. INQUIRY 123 (1989) (articulating vision of feminist political resistance beginning from premises of structural and post-structural theory).

83. For some observers, particularly those with a legal focus, the entire concern about the "insult" of dominance theory may be less about the incapacity it describes than about the incapacity it encourages. Law is sometimes viewed as more than a means of obtaining compensation (or retribution) for injurious acts: it is also viewed as a system of incentives for encouraging socially optimal behavior. The objection to a theory that authorizes legal recovery without requiring strong individualized response on the part of women may be that it encourages passive or powerless behavior by failing to attach negative sanctions to it when it occurs. This analysis opens up an interesting line of inquiry, but it has important drawbacks. First, in its suggestion that legal incentives should be directed at the behavior of plaintiffs as well as defendants, it reflects the assumption that women's conduct is at least implicated in sexualized injury. Second, it neglects the problems inherent in using law to punish victim behavior, without comprehensively addressing the conditions that produce victimization. Lenore Weitzman highlighted this problem when she studied a California alimony regime that provided displaced homemakers with financial "incentives" to return to the workforce. See LENORE WEITZMAN, *THE DIVORCE REVOLUTION* (1984). Because not simply attitudinal diffidence, but also discrimination, lack of training, and other tangible barriers made it difficult for longtime homemakers to enter the workforce, legal insistence on financially independent behavior that might be the goal of the future was severely punitive in the present. What is true of divorcing homemakers may also be true of victims of date rape or sexual harassment.

84. In a recent article, I refer to this as the "law reform" vision of feminist legal advocacy. See Kathryn Abrams, *Unity, Narrative and Law*, 13 STUD. L., POL. & SOC. 3, 27 (1993).

85. See LENORE WALKER, *THE BATTERED WOMAN* (1979).

exceptional passivity; judges who used such images in an exculpatory fashion in the context of battered women's self-defense began to use them punitively in related custody proceedings.⁸⁶ When battered women's advocates offered more complex, less fully compromised images of their clients, judges heard unqualified images of incapacity.⁸⁷ Their commitment to a dichotomous world of autonomous individuals and pathological exception, reinforced in some cases by the early arguments of battered women's advocates, made it hard to understand that advocates were interposing an unfamiliar image of human possibility.

A related dynamic may play a role in the acquaintance rape debate. To counter the widespread belief that women exercise free choice in the context of sex with acquaintances, dominance feminists have stressed a pattern of cultural and institutional practices, culminating in the actual sexual encounter, through which women's autonomy has been largely negated by male sexual coercion.⁸⁸ Women's constraint, in this account, is no longer a narrow exception; it is, rather, part of a dichotomous depiction in which autonomy remains the norm, but women, as a class, are prevented from achieving it. The topsy-turvy social world of *The Morning After* attests, in exaggerated form, to the responses that may be generated by this depiction. Although some women feel vindicated by the revelations of male domination, others have begun to recoil from the wholly compromised image of women they believe it suggests.⁸⁹ In addition, many participants, habituated by their own dichotomous premises and by this strong account of the domination of women, have become unable to discern the more qualified accounts of both male and female agency that have sometimes been offered by feminist advocates.

Feminists must consider how to integrate the more complex accounts of human nature and agency that have informed recent theoretical discussions into popular and legal debates. Although this task is only now in its inception, it is possible to sketch its general outlines. It will require, first, mobilizing the appropriate imagery in describing the lives of women. Contradiction and complexity, shifting combinations of choice and restriction, will need to be depicted in concrete terms that a range of audiences can understand.⁹⁰ This

86. See Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 43-49 (1991).

87. *Id.*

88. For an interesting discussion of this strategic strain in Catharine MacKinnon's work, see Frances Olsen, *Feminist Theory in Grand Style*, 89 COLUM. L. REV. 1147 (1989) (reviewing CATHARINE MACKINNON, *FEMINISM UNMODIFIED* (1987)).

89. I expressed concern about this possible result in Kathryn Abrams, *Ideology and Women's Choices*, 24 GA. L. REV. 761 (1990).

90. For a discussion of the role of narratives in introducing these feminist understandings, see Abrams, *supra* note 84, at 3. For particularly good examples of narratives depicting partially compromised autonomy or decentered, divided selves, see Mahoney, *supra* note 86; and Vicki Schultz, *Telling Stories About Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Title VII Cases Raising the Lack of Interest Argument*, 103 HARV. L. REV. 1749 (1990).

task will also require an interpretive framework that emphasizes that such complex, constrained images are not exceptional or pathological: though the particular constraints may be specific to the circumstances of a group, the distance from a condition of unencumbered autonomy is more widely shared. Finally, feminists will need to address the features of the legal world that make accounts of partially compromised autonomy, or complex, divided identities difficult to accommodate or comprehend.⁹¹ As this larger task of conceptual transformation proceeds, however, feminists must also respond to the need for a more practical education, particularly in the university setting.

C. *The Challenge of Feminist Education*

Dominance feminists' educational efforts have aimed primarily to produce the social understanding that justifies the resort to law; and to demonstrate that the problem is pervasive enough to require, or conceptualizable in terms that permit, state intervention. This has meant that only intermittent attention has been given to the ways in which women should negotiate the terrain of their daily lives—a terrain marked less frequently by dramatic attacks than by banal offenses and on-going coercive pressures. The vacuum created by this strategic choice can be filled too readily by recovery counseling, or by student leaders experimenting with the extremes of a political stance. If Roiphe's book tells us anything, it is that dominance feminists should be more concerned with the way that their message applies to the practical challenges of women's lives.

An appropriate education familiarizes women with legal or administrative norms, so that they can identify and curtail violative practices. Yet such technical knowledge can only be viewed as a beginning. Legal standards in areas such as sexual harassment and acquaintance rape are still emerging. Even where greater clarity exists, many acts lie in the grey areas created by the law; others annoy or intimidate without approaching the standards required for enforcement. Helping women to think about and respond to acts that may not rise to the level of a violation is a crucial component of any educational program. Yet, in this area, the consciousness-raising portion of the dominance program has created tension with the need for more practical guidance.

Exposing the dynamic of domination within a variety of acts that may not, technically speaking, reach the level of illegality is an important tool for

91. A growing body of legal scholarship has attempted to attend, in one way or another, to this task. One portion of this literature has sought to address those legal standards that assume unencumbered choice, so as to permit accommodation of partially constrained subjects. See Schultz, *supra* note 90; Joan Williams, *Gender Wars: Selfless Women in the Republic of Choice*, 66 N.Y.U. L. REV. 1559 (1991). Another group of articles has attempted to challenge the inflexibility of legal categories that prevent accommodation of a subject with complex or contradictory characteristics. See Kathryn Abrams, *Title VII and the Complex Legal Subject*, MICH. L. REV. (forthcoming 1994); James Boyle, *Is Subjectivity Possible? The Postmodern Subject in Legal Theory*, 62 U. COLO. L. REV. 489 (1991); Steven Winter, *Indeterminacy and Incommensurability in Constitutional Law*, 78 CAL. L. REV. 1441 (1990).

increasing awareness. It illustrates the pervasiveness of sexualized oppression, highlights the strength and variety of influences that impede autonomous response, and demonstrates the appropriateness of (some) legal regulation. But this strategy, which feminists have designed to convince audiences who are wed to liberal precepts, or are only beginning to perceive the dynamic of dominance, may not be the most appropriate for young women who are at least partially aware of this dynamic.⁹² Educational programs designed for this group require a different emphasis: one that makes clear that the pervasiveness of this oppressive dynamic does not make all acts touched by it equally problematic. Not all coercive or sexualizing acts create legal violations, and not all of them require the same kind of response.⁹³ Having a teenager grab your breast in a diner is not the same as having your academic mentor grab your breast in his office. Young women need an education that empowers them to make these kinds of distinctions and to act on them.

This is a difficult task, whose flexibility and contextuality makes it continually vulnerable to the force of conventional understandings: if you won't state unequivocally that a particular act was date rape or sexual harassment, it becomes easier for others to insist that what happened was simply a courtship ritual or harmless horseplay. Yet, in contexts where dominance theory has begun to problematize a range of sexualized behaviors,⁹⁴ encouraging contextualized judgments about the presence and extent of coercion can be appropriate and beneficial. Not only is it illuminating for participants and observers, but it can also be authorizing for the target of sexualized behavior, who learns to see a spectrum of coercive pressures, not all of them incapacitating, and to explore a range of possible responses.

92. As I note above, this approach may backfire for those committed to liberal precepts as well. *See supra* note 79 and accompanying text.

93. My own experience watching MacKinnon in public lectures is that she encourages just these kinds of discriminating, and empowering, judgments when she answers questions from the audience; I have no doubt that this is true of other dominance feminists as well. The problem is not what they have done on an ad hoc basis, but what they have done to institutionalize these understandings in university programs.

94. What I am proposing here is not so much a "yes/no" judgment about the influence of dominance theorizing as a "sliding scale" approach. The stronger the awareness of the pervasiveness of sexual coercion in a particular setting, or within a particular population, the greater the need to emphasize the distinctions among particular acts and the different possibilities of response. For example, this emphasis would be more appropriate in a university setting which already featured well-established date rape and sexual harassment counseling programs. Moreover, even in such settings, the message described above might be more suitable to programs aimed primarily at women than to those directed toward men. The latter might require a more systematic introduction to the insights of dominance feminism, and a discussion of context-specific judgments that reflected a different emphasis (the ease, for example, of "stepping over the line" into coercive pressure). Because this essay is concerned primarily with the attitudes of women toward sex and sexual victimization, I focus in this section on educational efforts directed at women. I do not mean to suggest, however, that educating women is the only, or even the primary means of reducing sexual coercion. Because men are usually the perpetrators of such coercion, addressing and changing their understandings of sexuality and masculinity is crucial as well. A number of programs aimed specifically at college males have begun this important work. *See MEN AND RAPE: THEORY, RESEARCH AND PREVENTION PROGRAMS IN HIGHER EDUCATION* (Alan Berkowitz ed., forthcoming 1994).

The initial step in fostering such judgment is to discuss criteria that might assist in differentiation. Factors such as a hierarchical relationship between the perpetrator and the target; threat to physical safety or bodily integrity; pervasiveness and targeting of non-physical coercion; and opportunities for and costs of avoidance or exit should all be considered in assessing the seriousness of a sexualized act. Considering the possibility of individual resistance in cases where the behavior is not physically threatening and the physical context is not isolating may be one way of building confidence or encouraging feelings of agency in the target of offensive behavior. But thinking creatively about responses to more serious acts is also important. Roiphe's oppositional juxtaposition of regulatory intervention and individualized response is a fictional creation that serves her rhetorical ends. The invocation of legal remedies can be combined with individual objection or political protest in ways that preserve the agency and voice of the person aggrieved. Conversely, the fact that an act may not be sufficiently coercive or severe to trigger regulatory intervention does not relegate the target of the behavior to an individual objection or a glass of milk. Individual letters, joint statements, political protests, and advocacy of regulatory change are all transformative and self-affirming options that should be given greater visibility in campus discussions.⁹⁵

Another important task facing dominance feminists is to rethink the images of women and sexuality that educational programs project. Such images may be crucial to the sense of self-possession that helps women navigate situations of coercive pressure. They may also shape women's ability to enjoy the non-coercive aspects of sexual experience. This task must begin with decisions about how to present women in rape education pamphlets and simulations. Any program that fails to portray women's varying degrees of sexual assertiveness, sexual experience, and self-possession in the face of aggressive or coercive behavior, is simply off the mark. It risks misinforming less knowledgeable women, and alienating those, like Roiphe, who are savvy enough to know better. But this task must also include more far-reaching reflection on appropriate stances for women toward a sometimes dangerous, sometimes exhilarating sexual world. MacKinnon's refusal to engage in affirmative imagery, however reasonably justified, has been a palpable drawback in this area.⁹⁶ Roiphe's Manichaeian contrast between timorous fixation on risk and heedless embrace of experience simply recycles a dichotomous stereotype. At

95. Such efforts may already be more widespread than Roiphe is willing to admit. My own perception, based on evidence no more anecdotal than Roiphe's own, is that "dissenters" such as Gillian Greensite and Marjorie Metsch, *see THE MORNING AFTER*, *supra* note 5, at 81, who encourage critical reflection on coercive behavior and decline to put words in students' mouths, are in fact in the mainstream of campus educational efforts. My point, however, is that building these kinds of programs should be a central part of dominance feminists' task.

96. For a succinct iteration of this position, see CATHARINE MACKINNON, *FEMINISM UNMODIFIED* 219 (1987).

this transitional juncture, women may need to reject this dichotomizing tendency for images that combine alert attention to risk with exhilaration or enjoyment. Many people who become adept at risky, but gratifying activities develop such a posture: keen, well-schooled awareness operating in the background of thoroughgoing interest or enjoyment.⁹⁷ It may be precisely the sexual discomfort Roiphe describes that prevents us from experimenting with this and other transitional metaphors for sexual experience. Abandoning that discomfort for a more unencumbered exploration of what sex for women might mean—in an age of AIDS, coercion and still-unabated pleasure—remains a crucial object of educational efforts.

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It would be wrong to view Roiphe as the primary instigator of the kinds of inquiries outlined above. At best, her narrative reiterates, in less nuanced form, critiques that were offered a decade ago by Ellen Willis, Joan Nestle, and others; at worst, it reduces the vexed territory of contemporary women's lives to a problem of their own making. Yet seizing the attention of a politically complacent public, as we learned in the aftermath of Anita Hill's testimony, is a large part of the battle. If Roiphe's book is vivid and tendentious enough to bring these issues before a wider public, even so flawed a work can make an important contribution.

97. AIDS activist Robin Gorna has argued that thoroughgoing enjoyment of and comfort with sexuality, and judicious response to risk go hand in hand. Citing the work of another activist, Sven-Erik Ekeid, she notes that "only an individual who has the strength to say yes to sexuality, has the strength to say no to risky sexual behavior." See Robin Gorna, *Delightful Visions: From Anti-Porn to Eroticizing Safer Sex*, in *SEX EXPOSED: SEXUALITY AND THE PORNOGRAPHY DEBATE* 175 (Lynne Segal & Mary McIntosh eds., 1992). In one sense, this may sound similar to Roiphe's advocacy of sexual abandon, yet closer scrutiny reveals important differences. For Gorna, "saying yes" to sexuality means understanding it in all of its variety, distinguishing those forms which have been stigmatized for their coercive qualities from those which have been stigmatized for failure to conform to mainstream heterosexist norms. It is from the position of knowledge, born of critical investigation, rather than from heedless experience, that one develops the comfort necessary to say "yes" to sexuality and "no" to risk.