

Sexual Abuse, Sexy Dressing and the Eroticization of Domination*

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INTRODUCTION

This article brings together two topics that may seem antipodal: male sexual abuse of women and sexy dressing. Sexual abuse is a serious, indeed a terrifying thing, and we often dismiss fashion, sexy or not, as trivial, no matter how much of our time it occupies. But the topics are linked, nonetheless, in two opposed discourses. One of these I will call the "conventional view," by which I mean the discourse of mainstream or traditional American culture about sexuality and sex. In this view, female sexy dress is linked to abuse because it sometimes causes it. The other discourse I will refer to as "radical feminism," meaning to distinguish it from liberal, socialist, cultural and post-modern feminisms. In this discourse, sexual abuse is a constitutive factor in the regime of patriarchy that is reflected and reproduced in fashion. Abuse causes sexy dress, rather than vice versa.

Although I respond in this article both to the conventional and to the radical feminist view, I don't see myself as neutral between them. Rather, I would describe myself as a straight white male middle class radical trying to come to terms with the radical feminist challenge to the sexual culture that has formed my own identity. The conventional view is a foil; the radical feminist view is a promise but also a threat.¹ It promises understanding, routes to change, and a possible political alliance toward transcending our gender regime. The threat is to the possibility of self-respect as a straight man.

1. The works that I particularly experienced this way, and to which I feel most indebted, are ANDREA DWORKIN, *INTERCOURSE* (1987) [hereinafter *DWORKIN, INTERCOURSE*], ANDREA DWORKIN, *RIGHT-WING WOMEN* (1982) [hereinafter *DWORKIN, RIGHT-WING WOMEN*], SHULAMITH FIRESTONE, *THE DIALECTIC OF SEX: THE CASE FOR FEMINIST REVOLUTION* (1970), ROBIN MORGAN, *GOING TOO FAR: THE PERSONAL CHRONICLE OF A FEMINIST* (1977) [hereinafter *GOING TOO FAR*], Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*, 8 *SIGNS* 635 (1983), Frances Olsen, *Statutory Rape: A Feminist Critique of Rights Analysis*, 63 *TEX. L. REV.* 387 (1984), and Robin West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 *WIS. WOMEN'S L.J.* 81 (1987). See generally *AGAINST SADOMASOCHISM: A RADICAL FEMINIST ANALYSIS* (Robin Linden et al. eds., 1982) [hereinafter *AGAINST SADOMASOCHISM*]. For more references, see *infra* Part III. I also want to acknowledge the impact on my thinking of two articles by Elizabeth M. Schneider, *Equal Rights to Trial for Women: Sex Bias in the Law of Self-Defense*, 15 *HARV. C.R.-C.L. L. REV.* 623 (1980), and *Describing and Changing: Women's Self-Defense Work and the Problem of Expert Testimony on Battering*, 9 *WOMEN'S RTS. L. REP.* 195 (1986).

Both promise and threat derive from the power of the radical feminist analysis of the eroticization of domination. This is the notion that the regime of patriarchy constructs male and female sexuality so that both men and women are turned on by experiences and images of male domination of women. I accept these radical feminist claims: Abuse plays a central rather than peripheral role in our mode of sexuality. Sexuality plays a central rather than peripheral role in male domination. "Merely personal" phenomena like sex and dress are forms of political participation in the regime of patriarchy. The question then is whether it is possible for straight men and women to be sexual, to experience pleasure within the regime, without collaborating in oppression.

I approach this question circuitously. Part I defines sexual abuse and describes the legal regime that restricts and also tolerates it. Part II presents a tentative analysis of the way sexual abuse law functions in the distribution of power and welfare between men and women. Part III takes up the role of sexual abuse in the regulation of female behavior, and in the constitution of male and female identities.

These parts make two points. First, there is at least an apparent conflict of interests between men and women with regard to the legal prevention of sexual abuse. Men, and particularly men who do not abuse women, are affected in many ways by the social refusal to do more against it. It seems plausible that men count many of these effects as benefits. A serious effort to reduce abuse must address in one way or another the male interest in its perpetuation.

Second, much sexual abuse is "disciplinary," in the sense that it functions to enforce patriarchal social norms. These norms cover a spectrum from the very specific (norms about sexy dressing) to the "characterological" (norms about what a man or a woman "should be like" rather than about particular behaviors). Part III also introduces (appropriates) the radical feminist analysis of how the formation of character through the sexualization of male domination functions to support the overall regime of patriarchy. It sketches a "minimalist" critique of that position, based on an analogy to the neo-marxist critique of orthodox marxism for overstating the internal coherence and homogenizing power of capitalism. It then suggests the possibility of "pleasure/resistance" in the belly of the beast.

Part IV argues that women's dress practices are the site of conflicts within the regime, rather than simply a reflection of it. There are several loosely defined subcultures that contest the conventional view of sexy dress—that it is a form of female misbehavior that explains and indeed justifies abuse. These include the feminist community, with its own version of what is wrong with the practice and with the conventional response to it. But there is also a pop subculture of sexy dress with a quite different interpretation, and other ideological tendencies

as well. Women, who have no choice but to dress somehow within this system of contending normativities, and their male and female audience, act neither as mere tools of patriarchy nor as the autonomous subjects of liberal theory.

Part V is about the sexual significance of fashion, and specifically about the complex of meanings associated with female dress that deviates in the direction of sexiness from the norm for the setting in which it is worn. A semiotic analysis of dress as the production of socially meaningful signs supports the feminist analysis that sees sexy costumes as loaded with allusions to abuse, and as a factor in eroticizing male domination of women. But the same analysis suggests the possibility of pleasure/resistance through sexy dress, and particularly the possibility of eroticizing female sexual autonomy.

The conclusion returns to an earlier theme, arguing that the reality of male abuse of women burdens or discourages the activities of fantasy, play, invention and experiment through which we have whatever hope we have of evolving or transcending our current modes of male and female sexuality. For this reason, I argue that men have at least a potential erotic interest in fighting against it.

As this summary has already made clear, my view is powerfully conditioned by my straight white middle class male social position. It seems to me unnecessary to explain or apologize for my inability to write from elsewhere than where I am. But my willingness, indeed my desire to write about this topic from this position owes a lot to the emergence in the 1980s of what I will call pro-sex feminist postmodernism,² typified for me by the work of Jane Gallop,³ Judith Butler⁴ and Mary Joe Frug.⁵ Like theirs, my approach is heavily influenced by structuralism⁶ and post-structuralism,⁷ but I do not think of myself as a feminist any more than I think of myself as a black nationalist.⁸

2. See generally PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY (Carol Vance ed., 1983) [hereinafter PLEASURE AND DANGER].

3. JANE GALLOP, THINKING THROUGH THE BODY (1988).

4. JUDITH BUTLER, GENDER TROUBLE: FEMINISM AND THE SUBVERSION OF IDENTITY (1990).

5. MARY JOE FRUG, POSTMODERN LEGAL FEMINISM (1992).

6. See, e.g., FERDINAND DE SAUSSURE, COURSE IN GENERAL LINGUISTICS (Charles Bally et al. ed. & Roy Hartis trans., 1986); CLAUDE LEVI-STRAUSS, THE SAVAGE MIND (1966); JEAN PIAGET, PLAY, DREAMS AND IMITATION IN CHILDHOOD (C. Gattegno & F. M. Hodgson trans., 1962).

7. See, e.g., JACQUES DERRIDA, OF GRAMMATOLOGY (Gayatri Spivak trans., 1976); MICHEL FOUCAULT, I THE HISTORY OF SEXUALITY: AN INTRODUCTION (Robert Hurley trans., 1980). I am following in the footsteps of David Kennedy, *Spring Break*, 63 TEX. L. REV. 1277 (1985).

8. See Gary Peller, *Race Consciousness*, 1990 DUKE L.J. 758 (1990). Some other works in this volume of the *New England Law Review* that seem to me quite similar in perspective to my own are Lama Abu-Odeh, *Post-Colonial Feminism and the Veil: Considering the Differences*, 26 NEW ENG. L. REV. 1527 (1992), Dan Danielsen, *Representing Identities: Legal Treatment of Pregnancy and Homosexuality*, 26 NEW ENG. L.

Most of what I have to say is *about* straight white middle class male existence on the terrain of sexuality. This focus may seem perverse. It engages the "perpetrator perspective," in the hope of changing it, rather than the "victim perspective."⁹ It takes heterosexuality, race and class as provisionally given systems of meanings and charges, rather than problematizing them ruthlessly throughout. And it presupposes the system of male dominance, treating it as something to be reformed or disrupted, rather than trying to see from outside it or beyond it. It is certainly open to question whether there is much if anything of value to be said within these limitations.

The first half of the article is speculation about the gains and losses to different classes of men and women that flow from the toleration of abuse, from the norms that abuse enforces, and from the particular social construction of male and female sexuality in which abuse is implicated. It seems risky to talk about this subject in this language—the language of cost/benefit analysis, or law and economics.¹⁰

That language is distancing, objectifying, flattening, alienating. It makes it sound as though all the different people with all their different costs and benefits were the same, and as though intense suffering and evil pleasure could be "aggregated" into undifferentiated masses of "utility and disutility" with "weights" to be compared. It makes it sound as though abuse were a practice with no inherent moral character, and therefore something that I might want either to condemn or to endorse, from a neutral technocratic position, according to how the numbers turn out.

It adds to the danger that sexual abuse is an eroticized topic. Many men and women, including many with strong commitments to feminism, experience some images or fantasy scenarios involving abuse, including sexual domination and rape, as sexually arousing, even though they also disapprove or fear these things, and have no conscious desire

REV. 1453 (1992), Karen Engle, *Female Subjects of Public International Law: Human Rights and the Exotic Other Female*, 26 NEW ENG. L. REV. 1509 (1992), Susan Keller, *Powerless to Please: Candida Royalle's Pornography for Women*, 26 NEW ENG. L. REV. 1297 (1992), and Karl E. Klare, *Power/Dressing: Regulation of Employee Appearance*, 26 NEW ENG. L. REV. 1395 (1992).

9. Cf. Alan D. Freeman, *Legitimizing Racial Discrimination Through Anti-Discrimination Law: A Critical Review of Supreme Court Doctrine*, 62 MINN. L. REV. 1049 (1978).

10. The works that have most influenced me are GUIDO CALABRESI, *THE COSTS OF ACCIDENTS* (1970); RICHARD POSNER, *ECONOMIC ANALYSIS OF LAW* (2d ed. 1977); and Steven Shavell, *Strict Liability Versus Negligence*, 9 J. LEGAL STUD. 1 (1980). There is a bizarre common "origin" to modern law and economics and post-structuralism in the lectures of Walras and de Saussure in pre-World War I Switzerland, the neutral, multi-cultural "hole in the doughnut" of Europe. Compare LÉON WALRAS, *ELEMENTS OF PURE ECONOMICS* (William Jaffé trans., 1954) with DE SAUSSURE, *supra* note 6. See Duncan Kennedy, *A Semiotics of Legal Argument*, 42 SYRACUSE L. REV. 75, 97 (1991).

to abuse or be abused in real life. One reason for talking about the subject only in a language of horror is that such a language is a kind of antidote to the frightening salacious power of the images the subject evokes. Ironically, the ostensibly neutral language of cost/benefit analysis suggests voyeurism.

The virtue of cost/benefit analysis is that it forces us to focus on the aspect of abuse that is denied by the language of horror—that is, on the conflicts of interests between men and women, and among men and women, that are submerged when we are reacting viscerally. These conflicts can't be willed away, and they have a deep effect on social policy, on what various institutions end up doing after they have engaged in more or less heartfelt denunciations.

If men and women benefit in various describable ways from abuse, it is important to say so, because the vulgar male *interest* in abuse is likely to get translated into action through male control of the legislative, judicial and administrative processes. If men have other, often unrecognized, non-moral, material, erotic or aesthetic interests in reducing or ending abuse, then it is important to say so. These interests, more fully recognized, might influence this same ruling male class. The goal is not to do a neutral aggregation, but to frame an argument.

There is another, more complex and problematic reason for me to use this language. I can say, and feel, that the only morally plausible attitude toward male sexual abuse of women is to be against it because it is sickening. But this way of putting it already contains a lie, because I haven't (that I remember) experienced sexual abuse. So when I say it is a horrible thing, I mean horrible *as represented* by people I believe. If I am going to talk about it, I am going to have to represent it too, and not from experience.

It seems important to avoid any rhetoric designed to get me out of my actual, morally compromising situation of being a member of the group—all men—that benefits, in some ways, to some degree, from abuse. Cost/benefit analysis provides a clearly gendered, male-developed, male-identified language, of which I am a more-or-less native speaker. I appreciate its possibilities of power, elegance and (distanced) insight, even if many other people (women and men) don't. It is more "authentic," *for me*, than the voice of role-reversed male sensitivity—the voice of total empathy with women as victims. This is so even though I am constituted in ways I don't like, and think are dangerous, by this very language ("it" speaks "me"), and wish it were a different, better vehicle.

I. SEXUAL ABUSE LAW

This section explains what I mean by sexual abuse, sexual abuse law, and the "tolerated residuum" of abuse. My definition of abuse is quite narrow, limited to conduct that most men and women in our soci-

ety view as clearly wrong or immoral. This leaves out all the cases in which the morality of the conduct is contested, and particularly those in which many or most men think there is nothing wrong, while many or most women think something is very wrong indeed. I think the conventional male definition of, say, sexual harassment or date rape is much too limited, and that much socially accepted male behavior is abusive. But my purpose is to argue that even with respect to the undisputed cases, there is a deep conflict of interests between men and women.

A. *Defining Sexual Abuse*

This article concerns two main types of male aggression against women. The first involves men using force, threats of force, non-physical frightening or degrading behavior (such as sexual insults), and threats of such behavior (the raised eyebrow that says, "Watch out or you'll get it") against women. The second involves men taking advantage of female "incapacity," including drug or alcohol induced stupor, the helplessness of female children, and the emotional vulnerability that sometimes affects female beneficiaries in fiduciary relationships.

The behavior is sexual abuse, as defined here, when (a) it is understood to be something that "men do to women" at least in part "because they are women," (b) most people in our society currently condemn it, and (c) there are, at least some of the time, legal restraints on it. I don't mean to suggest that women never do these things to men, or that they are not done by men to men or by women to women. But I am going to talk about the behaviors, their legal treatment, and its consequences only in the context of men abusing women.

The practices I will be talking about include the following: (a) Domestic—wife (or partner) murder, domestic battery, marital (or partner) rape, and father/daughter incest; (b) Professional—sexual victimization of female patients, clients, parishioners and students by male doctors, psychiatrists, lawyers, clergymen and teachers (from day care through graduate school); (c) Workplace—quid pro quo and hostile environment sexual harassment in the workplace of the type that gives rise to liability under Title VII or § 1983, and the murder, rape, physical abuse or sexual enslavement of female prostitutes and other sex workers by male johns, policemen, pimps and other sex entrepreneurs; (d) "Street"—sexually motivated male killing of female strangers, stranger rape, and male street harassment of women, with or without offensive contact; (e) "Acquaintance"—date rape and frat boy gang rapes.

The notion that "men do these things to women" at least some of the time "because they are women" is complex. The starting point is a flat assertion of fact: there are many particular cases in which observers interpret abusive behavior as motivated by something more than "gender blind" desire for money or power, "gender blind" rage, or the like.

The two most familiar gendered interpretations are (a) that the man's sexual desires, in some direct or indirect, "normal" or "perverse," conscious or unconscious form were involved, and (b) that the man's understanding of appropriate female role behavior, whether with regard to obedience or deference or nurturing or sex, was involved. Most interpretations involve both elements.

The sexual abuser chooses among possible victims on the basis of gender, but not necessarily blindly within the category of women. He may go after his daughter, or women in high heels, or meek women, or women with supervisory job power over him. Whatever the particulars, our common understanding is that gender, in some one of its infinitely complex (socially constructed) manifestations, is involved.

Moreover, the cases fall into a set of familiar categories, or scripts, that is limited at any moment in time but always open to expansion or elaboration. Some of these scripts are those for the male serial killer of women, the wife beater who rapes his wife each time he beats her, the workplace sexual harasser who decorates his office with pictures from men's magazines and asks all or many or particular women who visit his office to comment, and the subway fondler.

One of the ways we attribute a sexual motivation to the behavior is by interpreting it as a kind of communication using the code provided by the script. By killing women in a particular way, the serial killer seems to be telling us something about why he did it, about his view of women, or of a particular kind of woman (his typical victim), relying on our understanding of the *conventional* meaning the society attaches to the actions of the players of his and her parts in the script.

As with any sign system, it is always possible that his "real" intentions were quite different from those conventionally attributed to his character—the workplace sexual harasser may only care about getting a raise by intimidating his female boss. He would have used a different script if the supervisor had been a man, but he would still have done something to get the raise. And it is possible to use the language "wrong," to do things that communicate just the opposite of one's true intentions, as in the case of the genuinely "insensitive" harasser who was "just trying to be friends" and is mortified when he discovers that he has given offense.

Adding the notion of a script to that of intention has three purposes. It allows us to focus on particular patterns of behavior that have important social meanings and effects without having to worry in each case about the often unknowable inner state of the abuser. It also allows us to talk about typical women's responses to abuse. Because the scripts are part of the social knowledge of everyone in the society, it is possible for women to think and act in advance with the idea of avoiding them if possible. And there are, for every script in which the abuser interacts with the victim rather than, say, shooting her in the back with-

out warning, various different scripted female responses among which a woman *may* be able to choose.

Finally, it is hard to understand the legal regimes governing these various kinds of abuse unless one sees them as responses to a limited but variable set of patterns of interaction. The case law on sexual harassment, date rape, and the tort of intentional infliction of emotional harm makes up an elaborate, quite self-conscious collective reflection on these social patterns. The detailed civil and criminal law sub-rules within each category respond to familiar variations in both the male and female parts within the basic scripts (can it be harassment if the only acts alleged are requests for dates; what happens when the battered wife kills her husband in his sleep; is it rape if the man makes only verbal threats and the woman does not resist in any way).

B. *The Legal Treatment of Sexual Abuse*

The goal in this section is to describe the impact of two aspects of legal reality. First, there are primary rules defining what behavior by men will give rise to liability. Second, there is the impact of the whole complex of procedural rules, such as decisions about how much to invest in enforcement, and the exercise of discretion both by public officials and by lawyers. The rough notion is that of the "law in books," meaning the legal rules about the conduct we are concerned with, and the "law in action," meaning the impact of the system as a whole on that conduct.

What is left out altogether is the impact of legal discourse, that is, of what judges, lawyers, and other legal speakers and writers say about why they do what they do. My concern is with the rules developed in case law or with what the Abuse Prevention Act¹¹ says about how police officers must handle domestic violence calls, but not with legislative debates or the New Jersey Supreme Court's reflections on battered women's syndrome.

I do think the legal discourse that describes, explains, justifies and questions the legal system, and in so doing elaborately represents our whole society, is an important part of the general discourse of authority in our society. What judges say about what sexual harassment is, and about what is wrong with it, counts in shaping attitudes, just as judicial opinions in the early anti-segregation cases shaped attitudes. However, I am not going to talk about that at all. The perspective here is Holmesian.¹²

11. MASS. GEN. L. ch. 209A, §§ 1-9 (1992).

12. See generally Oliver Wendell Holmes, Jr., *Privilege, Malice and Intent*, 8 HARV. L. REV. 1 (1894); Oliver Wendell Holmes, Jr., *The Path of the Law*, 10 HARV. L. REV. 457 (1897). My perspective is also strongly influenced by Wesley N. Hohfeld, *Fundamental Legal Conceptions as Applied in Judicial Reasoning*, 26 YALE L.J. 710 (1917).

1. Formal rules governing abuse

The most important thing about the formal legal definition of abuse is that it represents a complex compromise of conflicting interests, as well as a moral condemnation of behavior of which people disapprove. There are many actions that most people would regard as clear instances of sexual abuse, and as clearly wrong, that are simply not illegal. They are *damnum absque injuria*, or injury without the commission of a legal wrong. Some obvious examples are marital rape where the law has not been reformed, rape accomplished without resistance by credible verbal threats, and single instances of sexual harassment that do not create a "hostile environment."

But in fact these relatively well-known examples are only a small part of the picture. Male co-workers can make a woman worker's life miserable, within one of the familiar scripts of sexual abuse, without conduct that falls within the EEOC guidelines,¹³ which require that the abuse have some overt sexual content. Thus *everyone* may know that her male subordinates are abusing a woman boss because she is a "stuck up bitch," and *everyone* may agree that the subordinates would not see identical behavior from a male boss as provocative. If they avoid the particular script that involves overt sexual aggression, the illegal script, they can "get away with it."

On the street, it is easy for a gang of construction workers to embarrass or terrify a passing woman without committing the torts of assault or intentional infliction of emotional harm as currently defined. The harder the victim the less likely she is to have collectable damages, even if she could establish liability in the abstract.

To measure *damnum absque injuria* at home, imagine the non-existent tort of domestic sexual harassment, which we could construct in a way closely parallel to the tort of workplace sexual harassment. It would include demands for sex backed by threats of divorce or separation (*quid pro quo*) and the creation of a hostile domestic environment through unwanted sexual advances and/or unwanted exposure to degrading sexual materials, insults or jokes. The cause of action might be available to all women in domestic situations, or only to women for whom divorce or separation would be likely to have serious adverse consequences for themselves or their children.

This exercise does not demonstrate that we should change the law to include all cases of abuse that are currently *damnum absque injuria*, although I favor major changes in that direction for the reasons developed throughout this article. In many particular cases, it is easy to explain the limits on liability, and in some cases they may be justified,

See generally Joseph W. Singer, *The Legal Rights Debate in Analytical Jurisprudence from Bentham to Hohfeld*, 1982 WIS. L. REV. 975.

13. Equal Employment Opportunity Commission, Guidelines on Discrimination Because of Sex, 29 C.F.R. § 1604.11 (1985).

given competing goals, such as preserving the administrative integrity of the legal system, conserving resources for use to combat other wrongs, and so on. "Privacy" and "autonomy" are often urged as competing interests justifying legal toleration of conduct we regard as unquestionably immoral and wrong, and this *sometimes* seems plausible to me. My point is that it is a fantasy to believe that the formal legal rules now in force forbid even a small part of what most people would regard as clearly unjustifiable sexual abuse. For various reasons, some good, some bad, they just don't do that.

2. The administration of the formal rules

It seems unnecessary to do more than outline the reasons why a woman who has suffered an unquestionable legal wrong under the formal rules governing abusive conduct might not be able to achieve any type of legal redress.¹⁴ First, there are the reasons which apply to all legal claims, not just those of sexual abuse. These include rules of procedure and evidence, including rules about the burden of proof. Taken together, they mean that it is often the case that a victim of sexual abuse just can't prove it in court.

Then there is the obstacle that the legal system delivers neither free, nor speedy, nor efficient nor humane justice. A civil suit may take six years to get to trial. There can be no suit at all unless you can afford a lawyer, or your case falls into the limited category that are profitable on a contingency fee basis. On the criminal side, police and prosecutors pursue only a small fraction of the credible allegations they receive.

For reasons that are by now familiar, the civil and criminal justice systems are particularly ineffective in dealing with sexual abuse cases. The problems that exist for any claimant are intensified by social ambivalence about the issues raised by abuse. The existence of highly charged, familiar scripts in which women either deserve or invent it, along with the profound power imbalance between men and women, make proof particularly problematic. There is also likely to be a sharp conflict in understanding between the victims and the relatively "traditional" male personnel in all parts of the legal system.

3. Toleration of abuse and its consequences

The combination of the limits of the formal law and the actual workings of the legal system has the result that men can and do commit large numbers of sexual abuses of women without any official sanction. Although, by hypothesis, most people would regard the conduct as clearly wrong, and injurious, there is no punishment and no redress.

14. In such cases, of course, the male abuser may undergo some legally generated sanction short of liability such as arrest and pre-trial confinement, or an extra-legal sanction, such as the negative reaction of a supervisor as a result of the filing of a Title VII suit.

True, it seems likely that there would be abuse within any conceivable legal system, and clear that even in the complete absence of legal sanctions there would be significant social control of this kind of behavior through other mechanisms. But it also seems reasonable to suppose that the legal system affects the practices of abuse, reducing their incidence (probably) and channeling them into particular forms (secret forms, for example), without coming close to abolishing them.

The crucial point for this paper is that *some* abuse, what I will call the "tolerated residuum," is plausibly attributed to contestable social decisions about what abuse is and how important it is to prevent it. The law defines murder quite clearly, and the "system" devotes substantial resources to catching and punishing perpetrators. It defines rape much less clearly, and devotes less resources to it, some of the time, than to less important crimes.

At the extreme, the legal system's role in the abuse of prostitutes by johns, pimps and police seems to be more than mere toleration. The system generates the conditions for the abuses that it tolerates by criminalizing prostitution without trying to abolish it. Legalization might make it easier for prostitutes to use the legal system against rape, battery and sexual enslavement. Legalization might also lead to a great increase in the quantity of prostitution, as well as to a multiplication of its forms, including forms little better than what we have now. But it remains that the abuse of prostitutes is a direct consequence of the particular balance the society has chosen, rather than of "human nature" or the "limits of social control."

The rest of this paper is about the consequences of setting up the legal system to condemn sexual abuse of women by men in the abstract, but at the same time operating the system so that many, many instances of clearly wrongful abuse are tolerated. It explores two ways in which the tolerated residuum is a factor in men's and women's lives. First, men and women gain and lose from the practices of abuse, *whether or not* they themselves are actually abusers or victims. These gains and losses are, I believe, more far reaching than is usually implied in the rhetoric either of those who minimize abuse or of those who are mainly trying to identify and condemn it.

Second, partial prevention and partial toleration create a particular set of incentives for potential abusers and potential victims, and for everyone else in the society. These induce behavior different from what would occur *either* in a society that drastically deterred abuse or in one that legalized it across the board. Men's and women's reactions to the particular line we've chosen to draw between sanction and toleration have extensive "indirect" consequences for everything from the details of day to day behavior to the formation of male and female

identities.¹⁵

II. THE CONFLICT OF INTERESTS BETWEEN MEN AND WOMEN WITH RESPECT TO PREVENTING SEXUAL ABUSE

This section argues that there is a real, persistent conflict of interests between men and women with respect to the tolerated residuum. I present this argument in the form of a critique of what I call the "conventional," culturally general view that the problem of abuse implicates only or mainly the relatively narrow categories of men who abuse and women who suffer abuse. My response is, first, that most women, whether or not they are actually victimized, have something to gain from eliminating the tolerated residuum, and, second, that men who are not victimizers have something to lose.

A. *The Pathology/Competence Analysis*

A common popular assessment of sexual abuse is that it is "pathological" behavior. In the immortal words of Senator Orrin Hatch, the abuser "is not normal." The basic idea is that men fall into the two categories of normal and abnormal by nature, subject perhaps to "cure" of the pathological through therapy or religious experience. Sexual abuse is deviance. That there are deviants is just a fact of nature. Their conduct is defined exactly by the fact that it is not what normal people do. It has no implications for the lives of normal people except for those who are victims. In this view, most of us, most of the time, live in a universe where legal rules about sexual abuse are irrelevant because the relations between men and women, however screwed up they may be on this or that dimension, are basically pacific and friendly.

According to this understanding, the main conflict of interests in this area is that between abusers and abusees, and in that conflict there is no question that society should and does side with the victims. Detering men from abusing and compensating women financially resolves the conflict in favor of actual and potential victims and against men who abuse, at some marginal cost to taxpayers.

If one accepts this view, it at first appears that there should be little objection to a radical increase in societal efforts to end abuse. The more broadly the legal system defines it and the more effectively the system responds to violations, the better off women will be, since they will be less victimized to begin with, and better compensated when they are. The only losers are a pathological subclass of men.

15. The principal influence on this discussion is Robert L. Hale, *Coercion and Distribution in a Supposedly Non-Coercive State*, 38 POL. SCI. Q. 470 (1923) and Robert L. Hale, *Bargaining, Duress and Economic Liberty*, 43 COLUM. L. REV. 603 (1943). See generally Duncan Kennedy, *The Stakes of Law, or Hale and Foucault!*, 15 LEGAL STUD. F. 327 (1991).

But there are other elements in the popular assessment that complicate the situation. Although clear cases of abuse are wrong and pathological, it is also important to the conventional view that they are exceptional, indeed much rarer than one would think from the limited empirical evidence. Rarity is important, I suspect, for two reasons. Unless cases are rare, it is hard to sustain the notion that they are "abnormal" and pathological. And unless cases are rare, it is hard to sustain the view that they play no significant structural role in the relations between "normal" men and women.

The claim of rarity gets its plausibility, I suspect, in part from the social construction of a balance between accusations of abuse that are validated and accusations that are rejected. The notion that abuse is common and structurally important *seems* to be refuted each time a particular fact situation gets interpreted in terms of one of the scripts that shifts the focus from the alleged abuser to the woman involved.

In the popular view, it is always a real possibility that what is represented by the woman as abuse was invented, either because the woman was crazy or because she was trying to ruin the man. Other cases of abuse are provoked, in this view, by women whose sexual nature leads them to tempt or tease in ways that cause "normal" men to react with predictable violence of one kind or another. These women "deserve it," in the popular view, or at least don't deserve much sympathy, and what happens to them can't be taken as an indication of a general social problem.

Finally, some women know how to "take care of" or "handle themselves," and some don't. Competent women, in the familiar stereotypical view, know how to deal with abuse at three levels. First, they minimize its probability by avoiding the behaviors that are particularly likely to provoke it, including especially acting "like a victim" and behaving in a way that will "attract attention." Second, they know how to respond in the early part of a potential abuse script so as to shift the course of events in another direction. They know how to pass things off as jokes, but to communicate firmly and clearly what their boundaries are and when a man is "out of line."

Third, they know how to react directly or indirectly when abuse is underway to save themselves from serious harm. They walk out on the abusive husband, scream loudly enough to scare away a rapist, yell at the office harasser before he is fully committed to his course, and in appropriate cases invoke the assistance of informal networks of superiors, friends, neighbors, and relatives, as well the formal mechanisms of the law.

The conventional view concedes that no amount of knowing how to handle yourself is a complete safeguard. The pathology of some men is deep enough so that precautions won't stop them. Nonetheless, in this view, a considerable amount of abuse is "explained" by the incompe-

tence (rather than the malevolence or craziness) of the victim. It doesn't really "count," because the victim could have avoided it if she had known how to take care of herself. This shift in blame invites women to reassure themselves that they are only at risk if they do something "wrong"—that is, fall into one of the scripts of victim responsibility. There is an analogy to the culture of the test pilots in *The Right Stuff*,¹⁶ which persistently attributes death to failure of flying skill, in the face of statistics that indicate that almost all of them are doomed.

B. *The Cost of Precautions v. the Burden of Excess Enforcement*

To my mind, the main problems with the conventional view are (a) that abuse is far too widespread to be understood through the categories of abnormality or pathology, (b) that the manoeuver of blaming the victim allows both men and women to deny its reality, (c) that this denial keeps men and women from acknowledging the pervasive way that it structures relations between men and women *in situations that seem not to involve it at all*, and (d) that the result is blindness to the real conflict of interests between men and women in this area.

This section deals with the last two points. Here, the conventional view greatly understates both the costs to women of present practice and the potential costs to men of changing it. The conventional view is apologetic: it views the status quo through rose-colored glasses, and at the same time underplays the structural factors, and particularly the male interests, that support it.

1. Costs to women

Suppose that a sensible woman does not go into an unfamiliar bar in a working class neighborhood at night without a male escort, even to use the ladies' room, because her presence may be interpreted as consent in advance to some kind of sexual contact with some one of the men in the bar, and a refusal of any kind of contact is likely to lead to some kind of abuse. Suppose that a sensible woman who is deeply offended by her bosses patting her behind puts him off by gentle jokes when she would like to read him the riot act. Suppose that a sensible girl of ten with an incestuously abusive father avoids ever sitting in his lap, though she would sometimes like to in spite of the risk.

One issue here is the cost of the abuse that happens when women refuse, because they are mad or gutsy or cocky or have no choice or don't get it, to accept the restrictions and end up paying the price. A second issue is the cost to those who avoid the abuse by foregoing doing things they want to do. It seems plausible that this cost, to black and white, young and old, gay and straight, and so on, of activities fore-

16. THOMAS WOLFE, *THE RIGHT STUFF* (1979).

gone because of risk is very high. Significantly reducing the risk might well lead to very different patterns of behavior by large numbers of women who are "at the margin," but are effectively deterred by the tolerated residuum.

It seems to me that women would benefit enormously if they were free of the actual abuse, free to do the things they now can't risk doing, and free of the generalized fear that is a rational response to the pervasiveness of male violence. But the conventional view denies or ignores this whole range of costs. The various activist movements against battery, child abuse, rape, and sexual harassment, with their allies in social work, psychotherapy and the liberal media, have gradually forced them into public awareness,¹⁷ without managing to have a major impact on them in practice. The result is a situation of disequilibrium, a kind of cultural crisis for the conventional view.

The crisis arises because acknowledging the actual prevalence of abuse threatens to undermine the other elements of the gestalt: that abuse is a matter between a small class of abnormal perpetrators and a small class of victims; that apparent instances are often explained by the woman's behavior; and that the whole practice is of only marginal importance to the patterns of social life. Moreover, as the conventional view begins to fray at the edges, it has become clear that it underestimates not just the evils of the current situation but also the obstacles to changing it, and particularly the male interest in the status quo.

2. Benefits to men

Speaking as a man, it is easy to see some serious drawbacks to any attempt to change the legal treatment of abuse in a way that would significantly reduce it. But it makes me uneasy to write about them. It may appear that just by listing and describing them I am implicitly *equating* them with the things that happen all the time to women, or to the things women don't do because men make them dangerous. That's only half of it. The other half is that there is a kind of convention of silence among progressive men about the way we might lose through more protection for women. The convention may be based on the idea that to mention these costs will discourage other men from supporting reform.

Most men—I would say practically all men—have the intuition that if you wanted to enforce even the limited existing rules you'd have to enormously increase women's willingness to complain, as well as the resources devoted to investigating complaints at every level. The definitions of abuse would have to be made cruder. And there would be a "large" increase in the number of accusations, with a proportionate (or more) increase in the number that turn out to involve contestable is-

17. See the works cited *infra* Part III.

sues of interpretation or are just plain false. Because this seems obvious, and most or all men who have thought about it are aware of it (I think), it's better (I think) to acknowledge the issue and discuss it, rather than pretend it's not there.

The underlying idea has a strong paranoid quality, but even paranoids have real enemies; to name the fear is not to make it go away. The social scripts about harassment include, along with parts for the provocateur and the woman who doesn't know how to handle herself, the roles of the vindictive deceiver, the delusional hysteric and the "oversensitive" woman who systematically misinterprets innocent behavior.

These are stereotypes, and they are used constantly in a way that distorts or falsifies the reality of victims' experiences. Men use them to defeat women's enforcement efforts, and to deter women from complaining at all. Our whole society uses them in the strategy of denial of the problem. But they are not exclusively "male," except to the (significant) extent that all social imagery is male (because men dominate the whole culture). I have spent a lot of time listening to "traditional" women mock my leftist unwillingness to admit the existence of deceivers, inventors and the oversensitive. Many white and black women I know strongly believe (as I do) that there is *sometimes* reality behind the images, just as there is sometimes reality behind other gender or racial or ethnic stereotypes.

But leaving aside the paranoid images of female malevolence, what about mistaken identity? A white man (me) goes into The Gap to buy a pair of pants. The store sells men's and women's clothes, and on this day it is full of men and women. He has to wait in line for a dressing room. He tries on a pair of pants, doesn't like them, puts his own pants back on, and steps out of the cubicle. A saleswoman is standing directly in front of the door waiting for him. She tells him in an angry voice that a woman customer leaving the store has just told her that he had been peeking at her over the top of the seven-foot high partition between dressing rooms.

The saleswoman says that the store strongly disapproves of this behavior. He denies it, and begins to defend himself. The person who preceded him in the dressing room had probably indeed peeked over the partition, and left quickly when spotted, so that the next occupant (him) took the rap. But the saleswoman tells him that it is the end of her shift, that she is leaving, and that she doesn't want to discuss it any further.

The man leaves the store hurt, frightened and enraged, and for some time thereafter buys his trousers only in stores where there is no chance of another false accusation. Eventually he goes back to The Gap, hoping that the saleswoman will have forgotten him or moved on to another job. If the protagonist in this story had been a black man

and the complaining woman white, it seems plausible to me that the events would have been more highly charged, and might have gone "worse," and that the black man might have experienced more hurt, fear and rage than the white man did.

Social control involves both interpretation of rules and fact-finding. Neither will ever be perfect. Toleration of abuse eliminates any need for interpretation or fact-finding in the whole range of situations where there is *a case* that a man has done something unquestionably wrong and immoral, but where it is also obvious that the legal system will not respond.

There is a real conflict of interests here. The conflict exists even for men who detest sexual abuse, for the simple reason that the current regime does more than place the burden of the tolerated residuum squarely on women. By doing this, it spares men, abusive and non-abusive, the burden of excess or inaccurate enforcement that any significant increase in social control would almost certainly generate. And it spares them the burden of precautions against the risk of excess enforcement.

There is a peculiar symmetry between the burden of excess enforcement and the burden of tolerated abuse. To get rid of one, you have to have the other. They also have psychological elements in common, including the reactions of shame, self-questioning, avoidance, and depression. The argument that increased enforcement would make men hesitate to take altogether innocent initiatives toward women is usually put forward without considering that the tolerated residuum makes women hesitate to take altogether innocent initiatives toward men. This symmetry does not alter the fact that at present the actual burden on women of tolerated abuse seems far greater than any imaginable burden on men from excess enforcement.

But it does mean that the conflict of interests between men and women is there, even though the costs to women of complaining of abuse are high enough so that contestable or false accusations would probably continue to be extremely uncommon in a regime of effective enforcement. Men's fear of being victimized is only indirectly and ambiguously related to whatever the reality might turn out to be. The fear varies from man to man, but there is still an unmistakable group interest in avoiding having to worry about enforcement excesses; it is in direct conflict with women's interest in not having to worry about being abused.

Imagine that increased sanctions against unquestionably wrongful conduct come about in part because women as a group get a larger share of power in the legal system, including the processes of rule-interpretation and fact-finding. If men and women tend to interpret cases differently on the margins of the category of "unquestionably wrongful conduct," and if I interpret like other men, I have even more

to lose than I would if we men decided unilaterally to stamp out abuse as *we* define it.

It seems to me, without more than anecdotal evidence, that men are as likely as women to believe that the two sexes see these things differently. My own view, for what it's worth, is that the definition of the unquestionably wrong is more heavily contested between conservatives and liberals than between men and women. Even so, I am safer with the status quo than I would be if women had a lot more power in these matters, simply because the status quo is a known evil. Men who accept the feminist claim of polarized male and female understandings are likely to see the empowerment of women as a very risky business.

This brings me to another cost for men of trying to give women more protection. Such an effort would force us men into conflict with one another. It would force us to define our positions and use our resources and energy in fights about definition and enforcement. We men can avoid these fights so long as the whole level of enforcement is low enough so that most of the time women know from the beginning that they have no effective recourse.

C. *Bargaining in the Shadow of Sexual Abuse Law*

Shifting the line between toleration and prevention of male sexual abuse of women should also affect the process of bargaining between men and women.¹⁸ People in friendly or even passionate relationships in workplaces and families often experience disagreement and conflict organized along gender lines. There's no marriage without an understratum of bargaining where the parties see each other as having opposing interests. There's no workplace relationship between a boss and a supervisor, or between two co-workers, that isn't to some degree negotiated.

In those negotiations, some men routinely use or threaten violence in order to increase their "gains from trade." This means that the losses to abusive men from more enforcement go well beyond the loss of the pleasures of hurting women. There would be secondary losses in every area of life where the threat to hurt is an effective way to get what you want.

In those negotiations, some women regard the notion of a non-abusive man as oxymoronic. For such women, increasing legal deterrence of male violence would reduce the credibility of male threats that they believe are always at least implicitly present in heterosexual relationships. It should thereby increase their bargaining power vis a vis all men. Some women, on the other hand, seem to make a sharp distinction or a blurred distinction among men according to how likely they

18. See Robert H. Kornhauser & Lewis Mnookin, *Bargaining in the Shadow of the Law: The Case of Divorce*, 88 YALE L.J. 950 (1979).

are to be abusive. There may even be men from whom they categorically do not fear violence. It seems likely that such men get a better deal, *because* they are seen as not abusive, than they would get if abuse were eliminated. A better deal can be anything from deference in the workplace to the personal/political benefit of having to do fewer chores at home.

Other things being equal, a party who can leave a relationship at little cost will demand more and receive more than one who can leave only at high cost. Each party's bargaining power depends to some extent on the explicit or implicit threat to leave, in the short or long run, unless a demand is met. Opposing bargainers judge the credibility of such threats in part by reference to what they think the consequences of leaving will be for the other. In other words, if the person threatening to leave would suffer severe harm from doing so, the threat is less credible than that of a person who can leave at little cost.

For a woman in a relationship with a man, one of the costs of leaving is having to run the risk of ending up with a new man who turns out to be abusive. For women in workplaces, one of the costs of leaving is running the risk that a new job will turn out to be in a hostile environment. The seriousness of this risk depends to some extent on the legal system's commitment to prevention and compensation. Reducing the likelihood that a new man or a new workplace will be abusive increases the credibility of women's threats to leave wherever they are.

This leads to the simple law and economics hypothesis that increasing protection from sexual abuse should increase the bargaining power of women vis a vis men, *whether or not those men are seen as potentially abusive*, both in domestic situations and in the workplace. Reducing protection, on the other hand, should make women more dependent on men who don't abuse, by making leaving riskier, and thereby make them more willing to make concessions.

The existence of a real conflict of interests between women and men at the levels I have been describing does not mean that every man who knows which side his bread is buttered on opposes a realistic campaign to seriously reduce sexual abuse—or that every woman favors one. A man might believe that there are “fundamental issues of human rights” involved, or that what happens to women is so bad that the costs to men of stopping it should be regarded as trivial, or that more protection for “his” women is well worth a small extra risk for him. I'm going to argue a little later on that some men have an erotic interest in reducing abuse. But it seems plausible that the line we currently draw between toleration and prevention is in part the result of a trade-off, made by the men who run our whole system of government, between their group interests and those of women.

III. SEXUAL ABUSE AS DISCIPLINE

Up to now, I have been arguing against the idea that because male sexual abusers of women are pathological, the legal response to their conduct is a matter between the abusers, their victims and the taxpayers. I have been arguing that the interests of men and women in general are also at stake. Now it is time to look more closely at the notion that abuse is merely pathological.

The difficulty with that view is that the tolerated residuum of abuse functions to enforce social norms about appropriate female behavior. In other words, it is disciplinary abuse. In the home and workplace and on the street, the chances of being victimized are dramatically increased if the woman violates a set of customary norms of female behavior.

A. *The Disciplinary Mechanism*

It may seem paradoxical to argue that abuse is disciplinary when I have defined it as behavior that most people in our society regard as unquestionably wrong or immoral. The abuse is deviance. But it is often deviance that punishes deviance. The abstract idea of "pathology" doesn't explain by itself how abuse can be sufficiently targeted so that being competent in responding to it mainly means understanding what behaviors are likely to provoke it, and then *regulating your own behavior accordingly*. And it doesn't explain how it can be the case that when women regulate their behavior to avoid sexual abuse, it turns out that the regulations correspond quite closely to a particular patriarchal code.

At least some of the time, in other words, the pathological abuser is a kind of vigilante. The woman victim has violated a customary rule about how women are supposed to behave. Most people would agree that rape or murder triggered by the woman's misconduct is a totally inappropriate response. But we also agree that fear of some kind of abusive reaction has in fact a strong deterrent effect on women contemplating violation of a whole range of patriarchal norms.

This observation seems to be contradicted but is actually confirmed by the fact that many victims report asking themselves repeatedly what they did to bring it on, and finding no answer. The question itself presupposes the asker's understanding that there are norms whose violation creates a risk. The victim asks the question because she has been regulating her behavior, consciously or unconsciously, in a way that should have, but did not, protect her.

Abuse is disciplinary when its perpetrators, whether or not they are "pathological," are sane enough to target some of it at women violating customary rules. It is still disciplinary even if there is a great deal of it that is not targeted in any intelligible way. In other words, it makes sense both to say that "you will be abused no matter what precautions you take; it happens all the time; what you do or don't do has nothing

to do with it," and to say that "you would be crazy to do this or that given the risk of abuse." There just has to be enough pattern so that women respond by complying with the norms to a greater degree than they would if they were better protected.

When abuse is disciplinary, let us assume that it has the effect of reducing the deviant behavior at which it is aimed. The consequences will be different depending on one's position in relation to that behavior. An increase in compliance with the norm will affect people differently according to how they feel about the norm.

Women who would have violated the customary rule in spite of the risk of abuse are likely to be better off if abuse is eliminated, because they can "get away with it" at less cost than before. Women who would not have violated the norm under the old regime, because of the risk, should also be better off with more protection. Their compliance under the old regime meant that they avoided harm. But they should be happy to get rid of the risk of disciplinary abuse so they can "do what they want" at less cost than before.

The good consequences of more protection, for women who would like to violate the customary rule, are balanced by the bad consequences for people of both sexes who agree with it, and wish it were universally observed. Even supposing that they abhor abuse and would gladly abolish it, they derive an indirect benefit from its disciplinary deployment against female behavior they disapprove of.

There is yet a third group affected, consisting of men and women who benefit, according to their own assessment, from women's deviance. Disciplinary sexual abuse is often targeted to enforce norms about permissible female sexual behavior. The targeted behavior, whether quite concrete or merely symbolic, is something that the woman in question is doing with or to or for other people. Those other people may themselves be participating as deviants or they may be just spectators, but in either case they are affected when disciplinary abuse discourages conduct they get pleasure from.

For example, it seems likely that, in many parts of the United States, gay-bashing reduces the willingness of lesbians to wear very dykey, ultra-butche clothing on the street. Women who are not gay, but who would at least sometimes adopt ultra-butche styles, are also discouraged. But men and women who disapprove of lesbian sexual practices, and also of sexual minorities expressing themselves through clothing, benefit, indirectly, from gay bashing, even if they think it is terrible. Men and women who get an erotic kick from other women's butche behavior lose, as do men and women who appreciate butche fashion without being turned on by it.

As this example is supposed to suggest, disciplinary abuse may be particularly important where there is not only deviance but also a challenge to the legitimacy of a norm of female conduct. The abuse is sup-

posed to reenforce the norm that women should not be lesbians or appear to be lesbians, in a situation where the deviant conduct seems to challenge the rules as well as break them. It is one of the weapons in an ideological struggle about what values should prevail, rather than just a mechanism to enforce a moral consensus against random backsliders.

B. *Characterological Discipline*

This section presents and then critiques the theory of disciplinary abuse developed by radical feminists,¹⁹ including Robin Morgan²⁰, Andrea Dworkin,²¹ Catharine MacKinnon,²² Kathleen Barry²³ and Diana Russell²⁴. According to that theory, the various practices of abuse play a central role in constituting and maintaining the system of male domination. Abuse may be labelled pathological, but it is omnipresent not just to enforce particular patriarchal rules, but as a means to impose stereotypical or "traditional" female identity on women in the interests of men. My critique is that the abstraction "men's interests," like "the interests of capital," suppresses too many particularities to be useful in understanding the puzzling aspects of eroticized hierarchies, and that stereotypical female identity has the same problem.²⁵

The theory of abuse as one of the practices that constitutes our whole gender regime is in a sense the mirror image of the conventional view of abuse as pathological and exceptional. If forced to choose, I much prefer the theory to its opposite. I think it identifies a deep truth about the regime of liberal patriarchy, just as Marx identified a deep truth in *Capital*.²⁶ The question is how to interpret the insight.

1. Men's interest in traditional female identity

This subsection presents a reading—an appropriation and therefore

19. See generally AGAINST SADOMASOCHISM, *supra* note 1.

20. MORGAN, GOING TOO FAR, *supra* note 1.

21. DWORKIN, RIGHT-WING WOMEN, *supra* note 1; DWORKIN, INTERCOURSE, *supra* note 1; ANDREA DWORKIN, PORNOGRAPHY: MEN POSSESSING WOMEN (1989) [hereinafter DWORKIN, PORNOGRAPHY].

22. CATHARINE A. MACKINNON, FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW (1987) [hereinafter FEMINISM UNMODIFIED]; CATHARINE A. MACKINNON, SEXUAL HARASSMENT OF WORKING WOMEN: A CASE OF SEX DISCRIMINATION (1979); CATHARINE A. MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE (1989) [hereinafter MACKINNON, FEMINIST THEORY]. See generally Frances Olsen, *Feminist Theory in Grand Style*, 89 COLUM. L. REV. 1147 (1989).

23. KATHLEEN BARRY, FEMALE SEXUAL SLAVERY (1979).

24. DIANA E.H. RUSSELL, THE POLITICS OF RAPE: THE VICTIM'S PERSPECTIVE (1975); DIANA E.H. RUSSELL, THE SECRET TRAUMA: INCEST IN THE LIVES OF GIRLS AND WOMEN (1986) [hereinafter RUSSELL, THE SECRET TRAUMA].

25. My critique is a straight white male one, but I don't mean to suggest that it is the only response possible from that identity position. See JOHN STOLTENBERG, REFUSING TO BE A MAN: ESSAYS ON SEX AND JUSTICE (1989).

26. 1 KARL MARX, CAPITAL (Ben Fowkes trans., 1976).

inevitably a reworking and possibly a distortion—of a complex body of radical feminist work. A primary thesis of this work is that it is in the interest of men that women should have traditional identities, and that abuse is the mechanism by which men bring those identities about. But the theory bears a family resemblance to the sophisticated Freudian-marxist account of capitalism, and particularly of the rise of fascism, because it goes well beyond explanation based on simple coercion.²⁷

It goes beyond simple coercion because the particular character that men enforce through abuse is a character that embraces rather than merely submits to male domination. At a first level, men make women weak and passive, even in their virtues, by abusing them. At a second level, women embrace their own domination as part of an unequal bargain. At a third, men and women eroticize the relationship of domination so that it is sustained by (socially constructed) *desire*.²⁸

The “genius” of liberal patriarchy, in this view, is that it creates female subjects not just to suit men’s interests in particular interactions, but to suit its “system interest” in its own reproduction. Women are coerced to be a particular way, against their will, but they also consent to be that way and find themselves constructed to get off on being that way.²⁹ Like a capitalism that constructs for its own purposes workers who are alienated individualists addicted to consumption, liberal patriarchy is far more stable than a system based on force alone.

According to Catharine MacKinnon, the traits of women identified

27. HERBERT MARCUSE, *EROS AND CIVILIZATION* (2d ed. 1966); WILHELM REICH, *THE MASS PSYCHOLOGY OF FASCISM* (1946). See generally PAUL ROBINSON, *THE FREUDIAN LEFT: WILHELM REICH, GEZA ROHEIM, HERBERT MARCUSE* (1990).

28. I think this brilliant passage is one of the first clear statements of the theory: The line between rape and intercourse commonly centers on some measure of the woman’s will. But from what should the law know woman’s will? . . . Women are socialized to passive receptivity; may have or perceive no alternative to acquiescence; may prefer it to the escalated risk of injury and the humiliation of a lost fight; submit to survive. Some eroticize dominance and submission; it beats feeling forced. Sexual intercourse may be deeply unwanted—the woman would never have initiated it—yet no force may be present.

MacKinnon, *supra* note 1, at 650.

29. CATHARINE A. MACKINNON, *Desire and Power*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 46:

I think that sexual desire in women, at least in this culture, is socially constructed as that by which we come to want our own self-annihilation. That is, our subordination is eroticized in and as female; in fact, we get off on it to a degree, if nowhere near as much as men do. This is our stake in this system that is not in our interest, our stake in this system that is killing us. I’m saying femininity as we know it is how we come to want male dominance, which most emphatically is not in our interest.

Id. at 54. “The brilliance of objectification as a strategy of dominance is that it gets the woman to take the initiative in her own degradation (having less freedom is degrading).” DWORKIN, *INTERCOURSE*, *supra* note 1, at 142.

by Carol Gilligan³⁰ in her studies—empathy, the “relational” as opposed to rights focus, contextuality as opposed to abstraction, and so forth—are the strategies of victims who must minimize their vulnerability to abuse of various kinds.³¹ If women are empathic, it is because they have to be alert to the moods of the dangerous men in their lives; if they are relational, it is because they need solidarity to deal with the constant reality or threat of violence. If they shun abstraction, it is because men control the textual universe of abstraction in ways that disempower and disadvantage them when they try to enter it.

The theory suggests that the idealization of these feminine traits, by cultural feminists as well as by traditionalists, plays into the interests of men because the traits are empowering only or mainly within the context of liberal patriarchy. If the goal is to challenge and change the regime, such traits are problematic, since they involve renouncing the male-defined techniques of power that anchor the system. For this reason, it is in the larger interest of men that women should embrace an essentialist understanding of themselves as bearers of these passive virtues, even if it means men are less powerful in particular interactions at the micro-level than they might be if women were less empathic and relational.³²

It is not surprising, in this view, that women with these traits tend to accept the unconscionable bargain proposed by the culture as a whole and by “right wing women” ideologists in particular. The bargain is: A “real” woman is heterosexual, monogamous, maternal, submissive to

30. CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982).

31. See Isabel Marcus et al., *Feminist Discourse, Moral Values, and the Law—A Conversation*, 34 *BUFF. L. REV.* 11 (1985). “[I]t makes a lot of sense that we should want to negotiate, since we lose conflicts. It makes a lot of sense that we should want to urge values of care, because it is what we have been valued for.” *Id.* at 27. “Why do women become these people, more than men, who represent these values? . . . For me, the answer is clear: the answer is the subordination of women . . .” *Id.* at 74 (statements of Catharine A. MacKinnon); see also CATHARINE A. MACKINNON, *Difference and Dominance: On Sex Discrimination*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 32. “Women think in relational terms because our existence is defined in relation to men. Further, when you are powerless, you don’t just speak differently. A lot, you don’t speak.” *Id.* at 39.

32. See Marcus et al., *supra* note 31, at 74. “Given existing male dominance, those values amount to a set-up to be shafted.” *Id.* “Difference is the velvet glove on the iron fist of domination. This is as true when differences are affirmed as when they are denied, when their substance is applauded or when it is disparaged, when women are punished or [when] they are protected in their name.” CATHARINE A. MACKINNON, *Introduction*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 1, 8. “One genius of the system we live under is that the strategies it requires to survive it from day to day are exactly the opposite of what is required to change it.” *Id.* at 16. “When difference means dominance as it does with gender, for women to affirm differences is to affirm the qualities and characteristics of powerlessness.” MACKINNON, *FEMINIST THEORY*, *supra* note 22, at 51.

her man and sexually pleasing to him. If she manages to be or to appear to be these things, she can claim in return her man's protection, backed by the legal system if necessary, from other men.³³

Street hassling sometimes seems to say: "Have a man with you as your protector, in which case we'll leave you alone because that's the appropriate way for women to be on the street. If you choose to present yourself as a single woman, then you have to deal with our conception of what single women are which is up for grabs. You choose yourself to be hassled. But the minute you have a man with you, we wouldn't dream of bothering you. You won't have to worry. So get yourself a man."³⁴

Incest, rape, the sexual enslavement of prostitutes, domestic battery, and sexual harassment in the workplace are all targeted, according to this theory; they put "teeth" into the message of street hassling. They do this because playing the submissive role in a conventional marriage seems like an obvious and *sometimes* effective way to prevent them. Sometimes effective is enough; the culture teaches that the risk is reduced even if these things can happen to any woman anywhere.³⁵

In this light, the female roles in the scripts of sexual abuse take on a new importance. They are not "just" stereotypes. The provocateur, the vindictive liar, the hysterical inventor and the over-sensitive woman all fail to keep their part of the bargain and therefore forfeit patriarchal protection. Watching women victims victimized again in the legal process or just in the media teaches men and women that redress for sexual abuse is conditional on being or appearing to be a "perfect" victim, and that means conforming to patriarchal norms.

In her wild, brilliant, subtle book, *Intercourse*,³⁶ Andrea Dworkin pro-

33. See, e.g., CATHARINE A. MACKINNON, *Afterword*, in FEMINISM UNMODIFIED, *supra* note 22, at 215, 225-26; DWORKIN, RIGHT-WING WOMEN, *supra* note 1, at 21-23, 69 ("Right-wing women see that within the system in which they live they cannot make their bodies their own, but they can agree to privatized male ownership: keep it one-on-one, as it were.").

34. "Finally, for exceptionally privileged and protected young women and girls who do not learn elsewhere the threat under which they live, street hassling gets the message across. It is a potent daily reminder of the quality of the state-of-nature outside the protective institutions in which they will be expected to encase their lives." West, *supra* note 1, at 106.

35. DWORKIN, RIGHT-WING WOMEN, *supra* note 1, at 212-13 ("So each woman has to make a deal with at least one of the strong ones for protection; and the deal she makes, being based on her inferiority, originating in it, acknowledges the truth and inevitability of that inferiority."); see also West, *supra* note 1:

One way that (some) women respond to the pervasive, silent, unspoken and invisible fear of rape in their lives is by giving their (sexual) selves to a consensual, protective, and monogamous relationship. This is widely denied—but it may be widely denied because it is so widely presumed. It is, after all, precisely what we are supposed to do.

Id. at 104.

36. DWORKIN, INTERCOURSE, *supra* note 1.

poses (among many other things) that when a woman gets the message and enters a monogamous relationship with a man, the act of sexual intercourse is the microcosmic enactment of his conquest and possession of her. Her (socially constructed) experience of pleasure in being conquered and possessed, when that is her experience, is the culture's erotic reward for accepting the bargain.³⁷ If she "fails" to experience that pleasure, it is her own fault, and her problem. The bargain only works for "real," women, so if it doesn't work for you, you must not be a real woman.³⁸

In this view, liberal patriarchy can tolerate very extensive female participation in the workplace and presence in public space. Because they are "real" women, women workers and public figures will reproduce in those settings the attitudes of deference and acceptance of inferior status that are modelled in marriage. Men and women will eroticize the hierarchical element in the boss/secretary,³⁹ doctor/nurse, pilot/stewardess, actor/actress and bartender/waitress relationships.⁴⁰ Attacks on gender segregation in the workplace will seem to "go against nature."⁴¹

Thus, men use abuse directly to tilt the balance in their favor when they bargain with women, and also indirectly, to tilt women's characters so that they can't get or no longer even want what men don't want them to have. The keystone of the theory's arch is the eroticization of abuse itself, through pornography.⁴² Pornography is the "truest" form of patriarchal ideology, analogous to apologetic political economy in classical marxism. It systematically constructs male heterosexuality so that it "is" to be sexually excited not just by male dominance and female sub-

37. *Id.* at 121-43.

38. *Id.* at 149.

39. ROSEMARY PRINGLE, *SECRETARIES TALK: SEXUALITY, POWER AND WORK* 92-96 (1988).

40. JAMES P. SPRADLEY & BRENDA J. MANN, *THE COCKTAIL WAITRESS: WOMAN'S WORK IN A MAN'S WORLD* 144-48 (1975).

41. *See, e.g.*, SUSAN BIXLER, *PROFESSIONAL PRESENCE* (1991):

There is also a power aspect. Dating a superior or a superstar at the office has an allure. It is similar to a freshman dating a senior in high school. Sometimes it is almost a mentoring relationship, wherein the junior person learns first-hand from an executive. The junior person is exposed to positioned people, to exclusive locations, and high-powered situations where he or she normally would have no access.

Id. at 126. Why do the words "he or she" in the last sentence of this quote seem like a cop out?

42. *See* SUSAN COLE, *PORNOGRAPHY AND THE SEX CRISIS* (1989); DWORKIN, *PORNOGRAPHY*, *supra* note 21; CATHARINE A. MACKINNON, "More Than Simply a Magazine": *Playboy's Money*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 134, 137-38; CATHARINE A. MACKINNON, *Not a Moral Issue*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 146, 148, 155, 161-62; CATHARINE A. MACKINNON, *Francis Biddle's Sister: Pornography, Civil Rights, and Speech*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 163, 171-72, 181.

mission, but by the possibility or reality of male violence and female vulnerability to that violence.

2. An endorsement and a critique

I agree with a lot of this analysis. But it seems flawed in its insights by many of the vices that, beginning in the 1920s and '30s, radical leftists came to see as requiring a reinterpretation of the central insights of marxism.⁴³ I don't know what to make of this parallel, but it means that my critique of (my own version of) MacKinnon and Dworkin tracks, in many ways, the debate within and about marxism, and may be skewed by that prior experience.

a. Endorsement

Radical feminist theory explains how eroticized domination operates to maintain hierarchy by rendering it invisible or apparently consensual, in families and workplaces and public arenas. It explains why women often don't ask for or even seem to want what it seems to me, as a man, they *ought* to ask for and want if they were "our equals." Sometimes this seems plausibly attributed to different values that one should respect in the name of pluralism. But sometimes, especially when there is a basis of comparison because other women are making these demands and do seem to have these wants, it looks like oppression, albeit at a characterological level.

It seems there are stereotypically feminine traits that are propagated in some women I know partly by the need to anticipate, manage, and avoid abuse. Some of these seem admirable. Some of them seem to me to be negative aspects of femininity. Further, I value the occasions when women surprise, disconcert and sometimes terrify men by suggesting possibilities of identity that have nothing to do with what men think women "ought to" be like, but come at us (men) out of their irreducible differentness. The system of abuse makes these occasions less likely than they might be in its absence, and indeed seems targeted to prevent them from happening at all.

I'm not saying that all women are affected in one particular way by the multiplicity of abusive male practices. Nor am I promoting the idea that there is a way that women are. It's a question of margins, of the

43. See ANTONIO GRAMSCI, SELECTIONS FROM THE PRISON NOTEBOOKS (Quintin Hoare & Geoffrey Smith trans., 1971); KARL KORSCH, MARXISM AND PHILOSOPHY (Fred Halliday trans., 1970); Georg Lukacs, *Reification and the Consciousness of the Proletariat*, in HISTORY AND CLASS CONSCIOUSNESS: STUDIES IN MARXIST DIALECTICS 83 (Rodney Livingstone trans., 1971); JEAN-PAUL SARTRE, THE PROBLEM OF METHOD (Hazel Barnes trans., 1963); see generally ALVIN W. GOULDNER, THE TWO MARXISMS: CONTRADICTIONS AND ANOMALIES IN THE DEVELOPMENT OF THEORY (1981). For a collection of references to the playing out of this debate in legal theory, see Duncan Kennedy, *The Role of Law in Economic Thought: Essays on the Fetishism of Commodities*, 34 AM. U. L. REV. 939, 992 n.58 (1985).

way the tolerated residuum of abuse pushes traits one way or the other, increasing or reducing their statistical probability, not remaking people as single, unified beings as men or women.⁴⁴

Particular women sometimes seem to be less self-confident, less competent, less clear about what they think, less aggressive in the service of their ideals or just their interests (as I construe them), less willing to take risks where explosive male tempers are involved, than they might be if they didn't live in an abusive universe. I think men profit in all their dealings with women from this impact of the tolerated residuum on character. I think women achieve less, looking at in terms of my own values but also in their own terms, than they would in a regime less permeated by terrorism against them.

For some straight men—for many, including myself—the vulnerability of women, and phallic power in relation to it, have, sometimes, deep erotic appeal. Many straight women seem to me to be excited, some of the time, by that same vulnerability and phallic power. In all the situations in which straight men and women live and work together, there are possibilities of eroticized domination and submission constructed into male and female character.

This means that in the discussion in Part II above, the interest of non-abusing men in the toleration of abuse was drastically understated. Indeed, the male interest in avoiding excess enforcement, crude definitions, the subtle constriction of their freedom of action vis a vis women, is not the half of it. Because abuse is important to the whole regime of liberal patriarchy, the male interest in the whole regime is implicated in efforts to abolish it.

Moreover, women who have accepted the bargain of liberal patriarchy, who have tried their best to “be” “real” women and succeeded at it, have their own stake in the regime. In the MacKinnon/Dworkin analysis, they are “collaborators,” accomplices in their own oppression

44. I agree with Butler's formulation:

The presumption here is that the 'being' of gender is *an effect*, an object of a genealogical investigation that maps out the political parameters of its construction in the mode of ontology. To claim that gender is constructed is not to assert its illusoriness or artificiality, where those terms are understood to reside within a binary that counterposes the 'real' and the 'authentic' as oppositional.

BUTLER, *supra* note 4, at 32. The claim that gender is an effect does not suggest downplaying the role of force in its construction:

[A]s a strategy of survival within compulsory systems, gender is a performance with clearly punitive consequences. Discrete genders are part of what 'humanizes' individuals within contemporary culture; indeed, we regularly punish those who fail to do their gender right. . . . The historical possibilities materialized through various corporeal styles are nothing other than those punitively regulated cultural fictions alternately embodied and deflected under duress.

Id. at 139-40.

and opportunists who profit from the suffering of other women.⁴⁵

This is a harsh way to say that the successful "traditional" woman benefits, indirectly to be sure, and regardless of how much she disapproves of it, from the abuse that constitutes her social world, even though she is herself at risk. This half-conscious interest seems sometimes to translate into a sharp anti-feminist skepticism about claims of abuse, aimed to preserve the conventional understanding that it is pathological and rare.

It is at this point, with the insight that some women benefit from the regime, and thus, like men, benefit indirectly from abuse even if they loathe it, that my endorsement runs out. There is an eerie resemblance between the radical feminist response to the problem of internal division and the response of Marx and Lenin.⁴⁶ They have in common no-holds-barred polemics and a fierce willingness to split. These defend the seamless quality of the theory against the fissures of gendered existence within liberal patriarchy.

b. Critique

But that very seamlessness in interpreting "men's interests" and "female identity" are obstacles to understanding the puzzling aspects of eroticized hierarchy. One puzzle is the precise role of abuse in generating and stabilizing structures that are clearly "overdetermined"—the product of many overlapping causes. Another is that both men and women find heterosexual pleasures within them that they claim to experience as egalitarian and even redemptive, in spite of their endorsement of the critique of male supremacy.⁴⁷ Another is the persistence of resistance, compromise and opportunism as strategies for negotiating the regime, rather than buying into it without reserve, so that the image of a fully rationalized, totalitarian gender system seems paranoid.

Perhaps the deepest puzzle is that it seems that pleasure within patriarchy, for both straights and gays, can sometimes be resistance, even when the pleasure is based on the very erotic charging of domination and submission that look like main pillars of the regime. This is the

45. DWORKIN, *RIGHT-WING WOMEN*, *supra* note 1, at 227-31; DWORKIN, *INTERCOURSE*, *supra* note 1, at 143 ("Instead occupied women will be collaborators, more base in their collaboration than other collaborators have ever been: experiencing pleasure in their own inferiority; calling intercourse freedom."); CATHARINE A. MACKINNON, *On Collaboration*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 198, 205 ("It keeps the value of the most exceptional women high to keep other women out and down and on their backs with their legs spread.").

46. *See, e.g.*, VLADIMIR I. LENIN, *WHAT IS TO BE DONE?* (Joe Fineberg & George Hanna trans., Penguin Books 1988) (1902).

47. "Sex feeling good may mean that one is enjoying one's subordination; it would not be the first time. Or it may mean that one has glimpsed freedom, a rare and valuable and contradictory event." CATHARINE A. MACKINNON, *Afterword*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 218.

challenge of both lesbian s/m⁴⁸ and Nancy Friday,⁴⁹ not just to MacKinnon and Dworkin but to the vanilla quality of much liberal and cultural feminist writing about sex. This challenge strikes a chord in the subcategory of straight men who want to be politically correct but don't want to renounce *all* the possibilities of excitement, *all* the dangerous sexiness that women and men produce using unquestionably patriarchal forms. They would like to use the master's tools in dismantling the master's house.

An account of liberal patriarchy that responds to these puzzles has to be modest, compared to the strong theory described above, because it has to keep a sharp distinction between the regime, with its oppressive structure, and the men and women it constitutes and whose day to day actions *are* it. There is a regime, in this modest version, but it is not a coherent totality that manages to subsume each of its individual human parts to its system logic.

Men and women do not have the kind of freedom to be whoever they want to be that is sometimes presupposed in liberal theory. Everyone operates within the constraints of the regime. But we can't understand male and female behavior in terms of male imposition of a system within which women have no choice but to be what men want them to be.

No man wants "women" to be any particular thing, except in the context of the repertoire of roles, practices, and even wants, that condition him as soon as he begins to operate in the social world. The practices of abuse, and the general structure of the regime, are there before he is, always already a given. Abuse is prior to his interests, a condition of the development of his understanding of his interests, as well as something he can develop an interest in. We can embrace the notion of a regime and still recognize that different categories of men develop *different* interests, positive and negative, in it.

Women operate in the world through sign systems (language, dress, the scripts of abusive interaction) and social structures, and act strategically within them. They are always active, from within their intractable identities, in spite of the omnipresent constraints of patriarchy. They develop *different* identities and interests in the regime, and the interests, like those of men, are both positive and negative. The next subsection tries to make this approach more concrete.

C. *Problematizing Men's Interest in Abuse*

There is a version of the radical feminist argument in which disciplinary abuse disserves men, by promoting "feminine" traits they might

48. See COMING TO POWER: WRITINGS AND GRAPHICS ON LESBIAN S/M (Samois ed., 1982).

49. NANCY FRIDAY, MY SECRET GARDEN: WOMEN'S SEXUAL FANTASIES (1973).

prefer to see disappear, as well as serving men's interests. Robin West describes habitual lying, particularly about one's feelings, as a trait produced by abuse. The woman who defines her desires in terms of the desires of others, of men, lies about how she feels when she doesn't and can't feel what men want her to feel.⁵⁰ This idea, that a particular set of practices induced by abuse could be simultaneously beneficial and injurious to men, and differently so to different men, seems very important to me.

Most people in our culture believe that sexual abuse can have a negative constitutive effect on a woman's sexual identity. Incest victims are likely to have a particular range of "problems of sexual adjustment." *Time* magazine can report, without the need for an expert to quote, that: "Survivors of incest fall victim to extremes. They grow up unable to trust others or, alternatively, tending to trust too easily. They shut down sexually or become wildly promiscuous."⁵¹

Similar things are said about rape victims, victims of domestic battery, and women who have been sexually exploited by doctors, lawyers, psychiatrists, clergymen and teachers. It seems to be the case that a large percentage of prostitutes and other sex workers have had childhood abuse experiences.⁵² It is common to argue that their choice of sex work as a way to earn a living is at least sometimes and partly a result of vulnerability derived from early experience, and at least sometimes and partly a way to respond actively to early experience (by controlling men in the act of sex rather than being controlled by them, for example).

These female identities constituted through abuse, both "shut down sexually" and "wildly promiscuous," are "negative" in the sense that they diverge from strong social norms about what women are supposed to feel and like in sex with men. Men have had preponderance in developing these norms and in changing them through time as liberal patriarchy has become steadily more "sex positive." The very notion of a "problem of sexual adjustment" presupposes the normative project of making women who will enjoy and seek out "normal" heterosexual monogamous intercourse with men. "Low sexual desire" is a diagnostic category in part because women complain of it, but they complain of it in part because lack of sexual desire is socially constructed as something negative.

On the basis of the above, it would seem that men have both positive and negative interests in the female characters constituted by abuse. If the prevailing social norms of female identity, and particularly female sexual identity, serve men's interests, correspond to what they

50. West, *supra* note 1, at 127, 144.

51. Christine Gorman, *Incest Comes Out of the Dark*, *TIME*, Oct. 7, 1991, at 46.

52. See, e.g., RUSSELL, *THE SECRET TRAUMA*, *supra* note 24, at 167-68; ELEANOR M. MILLER, *STREET WOMAN* 114-15 (1986).

want from women, then abuse gets them what they want, but also denies them what they want. It gets them (some) women who are relational, empathic, contextual, submissive, heterosexual and monogamous. But it also gets them (some) women who don't want sex with them, or want sex only because men want them to want it, and who lie about their feelings about it. It may be that the combination of the norms with the tolerated residuum of abuse gets them both of these in some measure from all women (or just from all white women, or all straight women).

We are talking about norms rather than about the wants of particular people. We have to look at different male attitudes toward the result of enforcing the norms. The norms exist independently of the will of any particular man, and there is nothing that compels any particular man to agree with them. Some men may prefer this universe, in which abuse has turned many women off sex with them to the universe that would follow a large reduction in abuse. Other men may not care one way or the other, so long as they can find women who are submissive and who will fake orgasms to make them feel good. Many men have little erotic investment in women to begin with, and may care mainly about the complex indirect impact of male sexual abuse of women on male sexual identities.

It is certain that many men want, in the current sexual situation, for there to be women who will work at prostitution as well as women who will be "traditional" wives. If abuse is a condition of the social production of prostitutes as a significant part of the labor force, then these men profit from abuse, just as early capitalists profited from the social and economic conditions that produced a large pool of child labor.

In this model, these men have an interest in father/daughter incest analogous to some men's interest in reproductive "free" choice for women, derived from the desire for easier sexual access than they had under a regime of forced pregnancy to term.⁵³ But some of these same men may feel trapped in a situation in which it seems the only alternative to "traditional" women who are rendered submissive but turned off by abuse is "outlaw" women who are made available for prostitution by abuse.

It is possible that the whole system consisting of norms, the tolerated residuum, and the variety of female sexual identities constituted by the combination, is exactly what all men "really" consciously or unconsciously desire, and that women have played no part but that of object. But it seems to me that, for all the strength of this approach, it takes in the end too many epicycles, too many devious twists in the argument, to make it plausible.

It twists and turns because nothing must threaten its reliance on

53. CATHARINE A. MACKINNON, *Privacy v. Equality: Beyond Roe v. Wade*, in *FEMINISM UNMODIFIED*, *supra* note 22, at 93, 97.

stereotyped, though resolutely anti-essentialist ideas of what men are like and of what their interests therefore have to be. It is in the structural Marxist tradition in which the capitalist class confronts the proletariat, knowing, without having to be conscious of, its interests, and imposes unilaterally everything from material conditions to consciousness itself.⁵⁴

It is possible to recognize the excessive power of men as a group over women as a group, and the way in which abuse serves a whole range of male interests, including interests in the constitution of particular female identities and sexualities, without agreeing that liberal patriarchy has or could have that degree of totalitarian power. "[T]he paternal law ought to be understood not as a deterministic divine will, but as a perpetual bumbler, preparing the ground for the insurrections against him."⁵⁵

In the course of writing this article, I have come to recognize another, less abstract motive behind my critique. So long as I am a straight man, a part of my being is hostage to women: I want them to exist as women, not men, as bearers of the possibility of my own sexual excitement. This same part of me is, seemingly inescapably, the plaything of the culture that "constructs" women one way or another, and then "packages" them, both as actual people and as media images, by limiting the repertoire of signs through which they can communicate and I can interpret their particular sexualities. And I am no less constrained in what I can produce as intelligible sexuality. So far, so good.

The radical feminist analysis of the eroticization of domination has the enormous value of theorizing the object in this situation. On the one hand is the longing that my own beings for women and their beings for me should multiply, turn toward transparency, and grow more powerful and surprising in generating and erasing differences. On the other are the conditions of domination that in every routine daily interaction drive both sides, that allow both sides, to lapse, in different measures, into passivity, exploitation, deception and resigned blindness.

Is it just self-interested self-deception that makes the situation seem less hopeless than that? If it's not hopeless, it seems to me the hope lies in those same routine daily interactions—for example, in the dailiness of dress.

IV. SEXUAL ABUSE AND FEMALE DRESS

This Part explores the connection between the practice of sexual

54. For an assessment of Catharine MacKinnon's theory of *Roe v. Wade*, 410 U.S. 113 (1973) that skillfully translates the critique of structural Marxism into the critique of radical feminism, see Rosalind Petchesky, *Abortion as Violence Against Women: A Feminist Critique*, 18 RADICAL AM. 64 (1984).

55. BUTLER, *supra* note 4, at 28.

abuse and the production and reproduction of sexuality through female dress and men's responses to it. In particular it is about the relationship between abuse and "sexy" or "provocative" dressing. I argue that this pairing plays a quite important role in the ideology of the patriarchal regime.

It is a part of the "conventional view" that women sometimes provoke abuse by their dress. This view is currently undergoing a serious challenge sometimes directly and sometimes indirectly inspired by feminist thinking. Within the challenge, there are ideological distinctions that correspond to the multiple possibilities of response to the norms and images of the regime.

The next Part explores a quite different connection between abuse and dress. There I take up, partially endorse, and then critique the idea that current conventions about what dress is sexy operate to reflect and reproduce the regime's eroticization of domination.

The case of sexy dress is an occasion to look, first, at the multiplicity of male and female identities within the regime, second, at the conflicts of interests between and among men and women that occur when we think about changing the regime, and third, at the practices of opposition that occur in its interstices.

A. *The Production and Regulation of Sexy Dress*

What I mean by sexy dressing is female dress-in-a-setting that large numbers of people label as "sexy" or "provocative." A person who disapproves of a particular sexy dress performance may call it "cheap," or "slutty," or "exhibitionist," or even "self-objectifying." In mainstream American culture today, costumes conventionally regarded as sexy in the sense of provocative generally choose exposure over covering, tightness over looseness, brightness (or black) over soft color, transparency over opaqueness, and symbolic shaping of breasts, waist, buttocks and feet over "natural" lines. (As put by a practitioner, "If you can't see up it, down it, or through it, I don't want to wear it.") There are similar complex dimensions for accessories, hair, make-up, and so forth.

The sexiness of a costume is a matter of degree. Women combine the elements to produce a spectrum with infinitely fine gradations from less to more. But which fashion performances people regard as sexy is also very much a matter of arbitrary convention. A revealing, tight, bright, transparent, shaped costume that doesn't follow the specific fashions of the moment is likely to be seen as weird or "gross" rather than sexy.

Finally, whether a given costume counts as sexy dressing in the sense I will be using the term depends on the setting in which it is worn. Sexy dress is sexy *in terms of* the dress codes that regulate virtually all social space. These codes pervasively regulate the degree of

sexiness permitted in each setting, but they do *not* operate to suppress female sexuality or impose a puritan morality.

Rather, we are talking about the spatial and temporal distribution of behavior that is itself socially produced. In American society today, there are *norms*, requirements of more or less sexy dressing (and sexy behavior generally) in some places at some times, as well as a variety of prohibitions of it in other times and places. A very tentative map might look something like this:

Women's Dress:

	<i>More sexy</i>	<i>Less sexy</i>
<i>Family life</i>	In bedroom before sex Dinner party	In kitchen with kids Family picnic
<i>Public space</i>	Nighttime Night club Beach Health club	Daytime Airport Church Folk concert
<i>The workplace</i>	Sales work Street prostitutes Actresses & models enacting sexuality	Professional work High priced call girls Women script writers

1. Sexy dressing as deviation from the norm of the setting

Dress codes try to match the spectrum of costumes, from less to more sexy, to the spectrum of settings, from less to more sexually charged. Within a given setting, the code specifies some part of the costume spectrum as permissible. Dress is *sexy for the setting* when it is close to, or at, or over the line that separates dress for this setting from dress for a more sexually charged one. Office wear that suggests a nightclub is sexy because it deviates in a particular direction from the office norm. Dress is conservative *for the setting* when it is at the line in the other direction.

Within a setting, to put on a costume composed of the conventional elements of dress is to produce a sign, in the same way that to speak a word is to produce a sign. The particular costume, say a halter top, like a word, will have a different meaning, and convey different things about the speaker, according to the context. In this discussion (though not in the next part) what counts is this meaning-in-the-setting. Sexy dressing is production of a sign that has the two meanings of "sex" and "deviance," because it is a sign that "belongs in" (is prescribed for) a more sexually charged setting than the one in which it is being worn. The halter top is likely to be sexy dressing when worn in the office, but may be "modest" when worn at the beach.

Once we recognize the sign-in-context as "sexy dressing," with the meaning of deviance in a particular direction, the costume will have

many other layers of meaning as well. The reading of the dresser's more complex message will vary according to all her socially significant characteristics, including, for example, race, age and body type. Given the mainstream white stereotype of black women, a provocative costume is more likely to be interpreted as a uniform indicating actual employment as a prostitute, or at least as "slutty," rather than "sexy," if worn by a black woman, than it is if worn by a white woman.⁵⁶

Old women and very large and very thin women are expected to accept the conventional social assessment that they are sexually unattractive, and dress so as to minimize their sexuality. If they dress sexy, that is, if they produce a costume-sign that is deviant in the direction of a more sexually charged setting, they are doubly provocative, and are likely to be interpreted as rebels or eccentrics or "desperate," and sanctioned accordingly. Since sexy dress calls attention to the body of the wearer, it is likely to prompt both the wearer and the audience to "apply" the conventional beauty standards of the moment. This means that sexy dressers who don't understand themselves as physically perfect will find themselves, as one practitioner put it, "trying to hide it and show it at the same time."

From what I have said so far, it should be clear that it is possible to engage in sexy dressing "by accident," that is, through ignorance or misapprehension of the dress code for a particular setting. But the dress code may also be contested or in transition, as for example when older people persist in interpreting a given costume as sexy dressing long after it has been "normalized" for a younger generation. Further, there is no necessary connection between the judgment that a particular woman has produced the sign of sexy dress and the judgment that she herself is "sexy," in the sense of sexually desirable. A woman dressed "conservatively" can be seen as "very sexy," and a woman dressed "provocatively" may be seen as "sexless."

There is, nonetheless, a conventional discourse about the sign system, things many people repeat about sexy dressing. In other words there is a discourse about why women dress sexy (deviate), about what it is to experience dress as sexy (rather than just recognizing the sign), and about the consequences of acts of sexy dressing (production of the sign). This is the discourse that justifies the dress codes that establish and enforce norms for each setting.

In this discourse, a first basic idea is that sexy dressing is likely intended to and does likely arouse sexual feelings in some men. This is what keeps the sign system from "floating" completely free of reality. Indeed, speaking as a straight man I can testify that it—meaning deviation from the norm in the direction of the next more sexy setting—does often produce an experience of sexual interest, arousal, excitement in

56. See generally Regina Austin, *Black Women, Sisterhood, and the Difference/Deviance Divide*, 26 NEW ENG. L. REV. 877, 879-85 (1992).

me and in some fraction of the men who see it. And also that I often experience it as intended to do this by the woman who is doing it.⁵⁷

It seems to me that this straight male reaction of excitement to sexy dressing (as conventionally defined sign) has something to do with both voyeurism and fetishism. The sexy dresser has modified her costume in a way that evokes or suggests looking at her in a setting that has a greater sexual charge than the one she is actually in. The associations of the more sexually charged setting are brought into the present one by the details of dress, which "represent" the costume of the other setting, and that costume in turn "represents" (as in fetishism) a part of or the whole sexualized female body.

Because sexy dressing violates the norm for the setting, the straight male reaction is complicated, indeed given a different "nature," by the addition of the particular man's reaction to the association of sexiness and deviance. Her dress is more than display. The woman who produces the sign seems to invite the watching straight man (cast as voyeur) to look at what, in that particular setting, she is supposed to hide.⁵⁸

57. Anyone, man or woman, can recognize the sign as the sign of sexy dressing without experiencing sexual feelings in response, and without thinking it is "really" sexy, and regardless of whether they approve or disapprove of sexy dressing. At this level, all we are talking about is the existence of a conventional sign system. There is no necessary link, but only an indirect and complex one, between what is conventionally understood to be "it" and what men and women experience in response. Dress can be regarded as sexy for a long time without producing the experience, or produce the experience in one or many men without acquiring the social meaning.

It is not necessary for the moment to establish the exact process that connects (some) men's experience of dress as arousing and its categorization as sexy. I will proceed on the assumption that there are mechanisms, like the market and direct negotiation among men and women, that give specific forms this designation.

58. The analysis of the last two paragraphs, which is crucial to the rest of this Part and the next, is heavily influenced by the work of Tracy Davis on the sexual meanings of Victorian actresses' clothing and by the general semiology of fashion of Roland Barthes:

While clothing functioned [in the Victorian theater] as the sign of gender and sexuality was the referent of revealing clothing, certain articles of costume were more heavily weighted by the erotic lexicography of male culture. The clothing inextricably associated with a "guilty" body part became the indexical sign of the sexual part; in other words, it was fetishized. In the opinion of Anthony Storr, a sexologist, women use fetishized objects to attract men, so "a fetish may, as it were, be a flag hung out by the woman to proclaim her sexual availability."

TRACY DAVIS, *ACTRESSES AS WORKING WOMEN: THEIR SOCIAL IDENTITY IN VICTORIAN CULTURE* 114-15 (1991) (quoting ANTHONY STORR, *SEXUAL DEVIATION* 56 (1964)).

Whether or not any particular item signifies a body part and also signifies "availability" depends on the vestimentary code of the particular culture. It might signify the "guilty" part, but not availability, or vice versa. Whether the wearer of a fetishized item of dress is using it as a "flag" to proclaim sexual availability is a

Only some men have this kind of reaction to the sign. Many men who recognize it do not respond to it at all, or react to it with panic or distaste. Many men “don’t get it,” in the sense of being oblivious. Others have voyeur-fetishist reactions that they are aware of but feel guilty about or think are politically incorrect, and fight hard against them.

Furthermore, men can have voyeur-fetishist reactions to *any* female self-presentation, without regard to the sign system, or in perverse reversal of its conventional meanings. Straight male sexuality, as we have constructed it, locks women into the role of performer no matter what they do to avoid it. Following the rules of sign-production does no more than increase the probability that a woman will produce the reaction or non-reaction she is looking for. But straight male voyeur-fetishist reaction to female dress, he notes defensively, is at worst a perversion, at best of a piece with all culture-appreciation, and not in itself abusive.

2. The sexy dress subculture and female agency

Within the feminist theory that emphasizes the total power of men to shape gendered reality in their interests, it may seem obvious that what I have been describing is men’s ideas about sexy dressing, which they impose on women who then enact them. In this model, men have (socially constructed) reactions of excitement, and they coerce women to produce them, period. The coercion may be direct (men penalize women for not being sexy for them), or work through the destruction of self-esteem so that women have no other means of feeling good, or through material deprivation that leaves them nothing else with which to bargain. In this view, there is little room for either female pleasure in sexual self-objectification or female agency in developing the repertoire of sexy dress (“why would any woman *want* to totter around on high heels?”).

Both the conventional and the feminist view have a more sophisticated variant that emphasizes the production of sexuality through a subculture—a semi-organized group—of sexy dressers. The subculture has an ideology, its own media, and relationships with other groups, including particularly women who enforce the norms from which sexy

matter of the intentions of the wearer, which cannot be conclusively inferred from either the production of the sign or the reaction to it. *See generally* ROLAND BARTHES, *THE FASHION SYSTEM* (Matthew Ward & Richard Howard trans., 1983).

But Davis seems right to me that articles of clothing operate in our culture as signifiers of sexualized body parts. For instance, brassieres and underpants get an erotic charge (for some people) from what they signify. A costume that exposes neither bra nor breasts may, therefore, get a strong sexual charge by visually *alluding to* or *evoking* a bra and the breasts it signifies (supposing that some people in the culture in question eroticize female breasts). This will be true regardless of the intentions of the woman who produces the sign.

dressers deviate and the men who are aroused by their practices. This view seems to me plainly better than the more individualist one.

The subculture exists within a situation of conflict about the eroticization of everyday life. Like others within the larger liberal capitalist system, its members only sometimes defend their practice with the argument that their way is best. More often, they play the liberal trump against majorities bent on enforcing compliance with their standards. "Women have come a long way, from burning bras to flaunting them. If a woman now chooses to look sexy, that is her right," says a *Vogue* editorial.⁵⁹

As with other subcultures (beatniks, hippies, gangs, out gays), practices get their meanings through their relationships both to mainstream practice and mainstream ideology. In this case, sexy dress has an element of defiance, both of the conventional morality about dress⁶⁰ and of the feminist critique.⁶¹ But at the same time that it defies it, the subculture influences the mainstream by providing an evolving vocabulary that can be incorporated piecemeal by sympathizers who don't want to "drop out" altogether.

It is possible to recognize the subculture but deny its autonomy. Its media—mail-order catalogues, women's magazines, soap operas, magazine and television advertising aimed at women, women's pulp fiction—are all heavily influenced by men. Men are dominant in their structures of ownership, and the male-oriented media that purvey arousal through sexy dressing (men's magazines, VH1, BET and Telemundo, movies, advertising aimed at men) obviously influence the women's media. The female subculture of sexy-dress may be best understood as an instance of women collaborating in their own oppression.

But given that sexiness is a matter not just of the setting but of the choice to move closer or further from the boundary of deviance within it, women *as a group* are not compelled to dress sexily for men. If all the women in a setting deviated toward the next sexier setting, what they did would not be deviance at all, but a redefinition of the norm. Some women deviate, but most don't. Vast numbers, traditionalist and feminist and in between, do no more than "follow" whatever the fashion may be, either not caring about sexual self-presentation or not daring it or feeling incapable of it or very consciously rejecting it.⁶²

59. Suzy Menkes, *Vogue Point of View: The Cutting Edge*, VOGUE, Jan. 1992, at 103, 110.

60. Sandra de Nicolais, *The Bra . . . Meant to be Seen!*, COSMOPOLITAN, Feb. 1992, at 174-75 ("Don't be shy—it's *fashion*, not lingerie! And you *want* to show some cleavage!").

61. "At the Women in the Law Conference, I found myself in the ladies' room with a feminist friend, smoothing my bright red lipstick on more slowly than usual so I could enjoy her horror, as though I were shooting drugs right before her eyes." (Name of practitioner withheld).

62. One might note in response that the very uniforms that define the norm in

Why dismiss the vast amount of energy, imagination and work that women put into the constant evolution of the repertoire of dress? This happens at the micro level where there are an indefinite number of possible combinations of clothes and body, with distinguishable finely graded meanings in the language of sex. Women produce themselves as gendered artifacts using this vast repertoire—indeed they produce gender itself.⁶³ And it happens at the level of the media, where the repertoire itself develops.

This work seems to me driven by numerous forces, all of which involve both men and women, without it being possible to sort out the issue of control in any simple way. For example, because sexy dressing is a subculture that influences the mainstream, it has to keep evolving or risk being “normalized.” Normalization threatens its existence as a subculture, which is dependent on deviance or defiance. It also deprives any particular sexy dress practice of its sexiness.

This is partly because sexually arousing objects have a tendency to lose their charge over time. Familiarity breeds indifference. It is also partly because moving a particular costume (or costume element) away from the margin back toward the norm for the setting undermines its suggestive power for the voyeur-fetishist. When all the women on the beach have been wearing bikinis for years, the two pieces connote “all the other women on the beach,” rather than “bra and panties.” There is a contradiction between the words “risque” and “respectable” in the view of the *Ladies' Home Journal*:

DRESSED TO THRILL

Victoria won't tell all her Secrets, but we can guess: Sales are skyrocketing. Her catalogues have made risqué undies respectable for all.⁶⁴

Men influence this constant evolution rather than controlling it. Women *negotiate* with them, trying out new ideas and responding to the response. This is not a random Mendelian evolutionary process, but one in which women conceptualize men's desires and react to them with choices of their own among possible variations, according to their own authorial impulses. Women as authors compete among themselves for male approval, but they also influence each other, stealing and modifying each others' ideas.

Some men negotiate back, influencing women with praise but also with all kinds of other rewards, ranging from marriage proposals to “unearned” job promotions. Other men negotiate in the opposite di-

any given setting are powerfully shaped by men's eroticization of femininity. High heels are often given as an example. I agree with this point and discuss it at length *infra* Part V. But high heels are only sexy dress, the topic here, when they are at least close to out of place, or adopted for the specific purpose of signifying sexuality.

63. See BUTLER, *supra* note 4, at 134-41.

64. Lynn Harris, *Behind the Bedroom Door*, LADIES' HOME J., Nov. 1991, at 114, 119.

rection, discouraging or penalizing the very same innovations. Women negotiate with other women as well, encouraging or severely punishing any hint of deviance. They are the primary enforcers as well as the violators of the codes.

All of this occurs in settings that are loaded with their own sign systems unrelated to heterosex. Every move along the spectrum of sexiness-for-straight-men is heavily constrained by the need to produce messages in all these other codes about all these other subjects. For example, dress encodes status in the workplace.

Perhaps the most important constraining context is that women dress for one another, participating in a discourse that is much more complex than that of sexy dressing for straight men, and, for many or most women, involves a greater investment of interest and energy. It is impossible to separate out the contributions of producers and consumers in this intersubjective complex, just as it is with pop culture in general. (Straight male) consumer sovereignty is a myth, as is the idea of simple imposition of mass culture by (male) taste-makers.

This is not to say that everything is all right because women have a free choice about how to dress, so whatever they actually decide to do represents what they "want" to do. Without denying that the regime gives men vastly more power than women, or that, as I will argue later on, sexual abuse has an important constitutive role both in the definition of sexy dress and in its regulation, it seems wrong to dismiss female agency in the social construction of male excitement, and the possibility of female pleasures in the construction.

B. *The Conventional View: Sexy Dress Provokes Sexual Abuse*

She is a constant distraction to the male employees, with her spiked heels, fishnet stockings and plunging neckline. Her makeup is more appropriate for a nightclub, and her skirt is so short and tight that her colleagues wonder how she ever sits down.

....

Bauer and others say that employees have a responsibility to ensure that their personal appearance—especially in the workplace—does not indirectly encourage sexual harassment.

Not everyone agrees with that position, but a recent survey of 1,769 psychiatrists suggests that many of them do believe in a link between "provocative" clothing and sexual harassment and sex crimes.

....

The survey included these statements and responses:

Female attire that appears to the male to invite direct sex attention tends to increase the risk of sex crimes. Yes: 63 percent; no: 21 percent; the rest undecided.

....

When a female minor is involved in intercourse or molestation in the home, one factor may be informality as to nudity or revealing attire.

Yes: 81 percent; no: 17 percent.⁶⁵

1. The conventional view as narrative

This story represents, I think, a complex intersection in our unstable cultural moment. Julie Hatfield's initial description of the sexy dresser's costume might conceivably be interpreted as part of the feminist critique of the regime's coercion of women into self-objectification for men. The story refers to "a debate over sexual harassment," and purports to reflect the views of "consultants who counsel management on how to curb sexual harassment in the workplace."⁶⁶ But her endorsement of female responsibility for controlling dangerous male sexual desires is firmly in the conventional camp, and disregards twenty years of feminist critique of that allocation of images and roles.

Hatfield has updated the conventional view by substituting "empirical data" for a simple appeal to "human (that is, male) nature" to establish the link between dress and abuse. The study to which she refers is truly post-modern social science: instead of attempting to gather data about the effect of dress on abuse, its authors polled "psychiatrists" about their views, with no indication that any of them had ever done or seen any empirical work on the subject. Their responses have the same kind of authority as those of the man who when asked for medical advice happily gives it on the ground that although he is not a doctor he has played one on television.

What the story does is to restate, with a slight feminist and a slight social science patina, a narrative that is both reflective of and a constitutive element in the regime's ideology of sexual relations. In this narrative, a woman wears provocative clothing and suffers sexual abuse. She demands redress of some kind from the abuser. He is put on trial on the basis of her accusations, but he is exonerated or excused on the basis of what *she* did. From within the ideology of the regime, this narrative is highly intelligible—it makes sense, in spite of the enraged and seemingly uncomprehending reactions of critics—and it is also highly functional.

The affect involved goes beyond "blaming the victim," as she might be blamed for not "taking care of herself"; she "got what she deserved." She is a bad person. In the conventional view, what she has done wrong is to produce a particular sign, the sign of sexy dress, knowing that the sign (a) has a meaning, and (b) will produce an effect. She is responsible because in the narrative of sexy dress she understands the meaning and anticipates the effect.

The meaning of the sign, in this view, is that the woman desires to have sex with men outside the context of domestic intimacy. This is

65. Julie Hatfield, *Defining Appropriate Dress in the Workplace*, BOSTON GLOBE, Jan. 16, 1992, at 31.

66. *Id.*

understood both by the woman and by the men who apprehend the sign. A secondary meaning of the sign is performative: it is, in itself, consent to having sex with some man outside domesticity, and she does or should understand that if she denies all the men in the setting, she will be forced or otherwise abused.

In this view, a woman who behaves in a sexually provocative way has agreed in advance to be raped or harassed if she decides she doesn't want sex with any of the men to whom she has communicated her availability. She has to go through with it. If she didn't want to go through with it, all she had to do was not produce the sign in the first place.

Well, why would a woman produce the sign? To traditionalists, this seems like a very naive question. The woman is a sexual mercenary or a slut or a tease. A mercenary is a woman who intends to get something out of a man by offering him sex in return. A slut is a woman who wants sex indiscriminately, like a man. A tease is a woman who pursues her mercenary or slut proclivity by exciting men, but does not intend to "deliver" on the promise that is the meaning of the sign of sexy dress. She may be uninterested in actual sex, or get sadistic pleasure from arousing and then frustrating male desire.

In each of these cases, in the conventional view, the type of female sexuality deployed is evil. It invites sex without either social legitimacy or love; it is manipulative or indiscriminate or sadistic. But it may work. When it does, the woman uses her sexual power over men, the power she exercises when she produces the sign of sexy dress, to achieve an immoral success. Abuse occurs when the woman who has set out to tease is "caught" and forced to perform her part in the bargain, or when the woman changes her mind and decides that she wants to withdraw the offer/promise she made when she produced the sign.

The man's corresponding desire for illicit sex is also immoral, though "natural", and just as wrong in the abstract as the woman's; and the abuse is wrong in itself. But there is an asymmetry in the situation which explains why she is the one most at fault. The woman in this narrative has taken the initiative by producing the exciting sign, and the man's reaction is involuntary. His violence is the expression of desire aroused and then frustrated. Women produce these anti-social reactions through their conscious acts, so both the lust and the violence are their responsibility.

But there is more to it than this. The male abuse of the sexy dresser is not just contract-enforcement or an unfortunate consequence of involuntary male excitement; it fulfills a sadistic angry impulse on the part of the blaming public. She "got what she deserved," "it served her right," "she was asking for it." This punitive reaction of traditionalist men and women seems to be related to her apparently intentional vio-

lation of the patriarchal bargain of gender in which women will be madonnas (wife/mothers or virgins) or whores.

The sexy dresser threatens the interest of traditional men and women in the stable reproduction of the regime. She is toying with the explosive, "natural" forces of sexuality outside the framework. It's not only that she is giving in to temptation or getting caught when she changes her mind; her whole course of conduct, what got her there in the first place, was a form of cheating, free-riding, selfish subversion of the tenuous arrangements that provide women in general with security against abuse and men with protection against the destructive force of their own competitive desire for women.⁶⁷

The expanded narrative—in which the woman accuses the man of rape or sexual harassment, society affirms that if he has done what she says he is an offender, the facts are investigated, it turns out that she acted provocatively, he is let off and she is disgraced—raises and resolves the questions of whether there are women like this and how they should be treated. It also raises and responds to other questions that come to mind every time a woman accuses an apparently sane man of abuse.

Is it really true that women benefit from a bargain—autonomy surrendered in exchange for protection from abuse? If men can freely

67. The following is from a supermarket tabloid. It is data only about the conventional view, since it has clearly been re-written in tabloid style and may well be an outright invention of a (possibly male) staffer:

CANDID CONFESSIONS: Extraordinary secrets of ordinary people.

Big Itch was the best revenge on class witch:

Last summer, a bunch of us high school seniors went on a two-week camping trip. We were in couples except for this tramp, Nina.

Nina was always trying to steal someone's boyfriend during the school year and she was no different on our little trip.

On the first night, my friend Donna and I caught Nina rubbing up against Donna's boyfriend Mike out in a clearing in the woods.

We read Nina the riot act, but she just laughed it off.

She kept wearing these high-cut shorts with no panties and a skimpy tube top with no bra. And when it came time to change into bathing suits for a swim, she'd find a bush you could practically see through to change her clothes behind.

After three day of this, the rest of us girls were getting edgy. Nina's sexy antics had our boyfriends steamed up and ready to pop. She was constantly rubbing up against the guys or dancing like a stripper to the radio. There wasn't one girl who wasn't afraid that her guy was going to sneak off into the woods with Nina.

Then, I caught my steady Jeff standing on the river bank and drooling as Nina splashed around in front of him—naked as a jaybird.

It was the last straw! That evening, while everyone was around the campfire, I crept into Nina's tent with an armful of poison oak. I opened her sleeping bag and rubbed the leaves all over the inside . . .

—Cherie, 18, college freshman, Wake Forest, N.C.

Big Itch was the Best Revenge on Class Witch, GLOBE, Feb. 18, 1992, at 29.

abuse women who are blameless, then perhaps there is no bargain and women give up their autonomy for nothing. On the other hand, if women who refuse the bargain and insist on sexual autonomy can get protection in their free-agent negotiations with men, then women also give up their autonomy for nothing.

What are men really like? If men will deal with women as equal bargainers in sexual transactions, then there is not that much danger in renouncing the bargain. On the other hand, if men who are not insane rape and abuse just for the pleasure of it, then even the bargain won't keep women safe.

The narrative answers these questions as follows:

1. The norm of patriarchal protection of women is clear—men shouldn't rape or sexually harass women who perform their part of the bargain.

2. The norm that women should find sexual fulfillment with a single male protector is clear—women shouldn't present themselves as sexually available outside domesticity.

3. Bad women who refuse the bargain—mercenaries, sluts and teases—are punished, by abuse and then by disgrace, so there are real benefits to the bargain even for women who feel ambivalent or angry about giving up their autonomy.

4. Men are indeed dangerous and violent, especially in relation to women who are asserting themselves as sexual free agents, so the bargain has a lot to offer.

5. But sane men are not randomly abusive—women are safe so long as they comply with the terms.

The narrative has appeal because these answers restore the equilibrium, the status quo ante, that was threatened by the woman's initial accusation. It seems plausible to me that people who hold the conventional view are likely to want, consciously or unconsciously, particular accusations of abuse in the real world to fit the narrative. They are likely to work hard at interpreting the event to promote this fit. They are likely to make assumptions, place burdens of proof, and imagine context in ways that will do all this. In short, the narrative is a tool for the ideological task of legitimating the regime.

2. Responses to the narrative

The enemies of the regime can't "disprove" the regime-narrative any more than a poll of psychiatrists can prove that "revealing attire" causes incest. The narrative is not a formal theory, but a way to understand a specific course of events in the world. In any given case, everyone might agree that it "didn't apply," or wasn't what actually happened. But it is still there to facilitate the traditionalist ideological project in the next case. The responses are no less ideological than the narrative itself, in the sense that they, too, attempt to construct tem-

plates, exemplary stories, "models," that will ease but also subtly influence future interpretations.

One response is a counter-narrative of abuse in which dress is irrelevant, a story in which it made no difference what she was wearing. In this version, male conduct is reinterpreted so that it is no longer an uncontrollable reaction to the production of a sign well understood by all participants, but rather a combination of the arbitrary sexualization of female bodies and the will to power over the victim. When men later produce the regime-narrative to explain what happened, they are lying or rationalizing. According to a letter to the editor in response to the Julie Hatfield story⁶⁸ quoted above:

Hatfield claims that female employees should leave their transparent clothing at home. But what if the harasser happens to be excited by sweatshirts and jeans, or by men's suits? . . . Sexual harassment is not caused by women's clothing. On the contrary, it is caused by a perpetrator's hunger for power. Rather than tell women how to assuage aggressors, Hatfield and her cohorts should educate those aggressors in respecting women's rights.⁶⁹

The difficulty with this response seems to me to be that it ignores the existence of the sign system. It is certainly true that some men will eroticize any form of female dress, and that there is no uniform that categorically repels unwanted sexual attention.⁷⁰ It may even be true that producing the sign of sexy dress actually provides protection against some harassers in some settings, because it intimidates them. And a woman who wears extremely modest clothes in a setting where the norm says she should dress quite sexily is likely to find herself approached coercively by men who see her as signaling sexual vulnerability. Male entrepreneurs abuse women sex workers who aren't sexy enough to sell.

So it is right to describe the regime's theory that "provocative fe-

68. See *supra* notes 65-66 and accompanying text.

69. Barbara White, *More Guidelines From the School of Should*, BOSTON GLOBE, Jan. 25, 1992, at 22.

70. Wendy Pollack, *Sexual Harassment: Women's Experience v. Legal Definitions*, 13 HARV. WOMEN'S L.J. 35 (1990).

What is provocative? . . . Whenever a woman walked through the cafeteria, especially a young woman, the place would go wild. . . . One woman in particular was a favorite target for this behavior. . . . She wore the same white painters' pants that all the other painters wore. There was nothing in her dress or manner that welcomed the men's behavior. The only possible cause of this attention that I could identify was that she had blond hair.

. . . I asked my fellow carpenters . . . 'What is going on here?' Their response was, 'She's just asking for it. Look at the way she wears those pants.' I was dumbfounded. Needless to say, the apprentice painter avoided the cafeteria after that.

Id. at 57 n.73.

male dress is a significant cause of sexual abuse" as a myth.⁷¹ It is a myth in the sense that a narrative singling out dress from the complex context of abuse is patently ideological, and in the sense that making everyone dress "conservatively" wouldn't end and (my guess) probably wouldn't even reduce the amount of abuse.

But I don't think it is just mythological thinking that explains the responses to an interview questionnaire about rape that lists possible measures the respondent might have taken "to increase [her] safety." One question asked, "when you are out alone, how often do you try not to dress in a provocative or sexy manner?" 58 percent of women answered "always," 18 percent "never," the rest in between.⁷² Short of rape, many women perceive violating the dress code in the direction of being "too sexy" as creating a particular risk of persistent propositions, unwanted touching, suggestive remarks, exhibitionism, obscene phone calls, and the like, from both "creeps" and macho harassers, on the street and in the office.

It is not that the dress "causes" the reaction the way a germ causes a cold.⁷³ But in a particular case it may be obvious that the abuser interpreted the costume as a sign, as an expression with a meaning about the woman and/or about women in general. He then reacted to—abused—the woman as he interpreted her through the sign. If she hadn't produced the sign, she wouldn't have gotten the reaction, though maybe the man would have found someone else who did pro-

71. MARGARET T. GORDON & STEPHANIE RIGER, *THE FEMALE FEAR: THE SOCIAL COST OF RAPE* 6 (1991). "[M]any people know little about the crime [of rape] except the myths pervasive in our culture. Some of the more common are: . . . Otherwise decent men are spurred to rape by the clothing or behavior of women." *Id.*

The Hatfield story in the *Boston Globe* included the following:

"Dress is quite an insignificant factor in such attacks," said Phillip Resnick, a forensic psychiatry professor at Case Western Reserve Medical School in Cleveland. "Rapists say that they decide they're going to rape that night, and they select their victim largely based on opportunity: Is the woman alone? Is it a dark street?"

Hatfield, *supra* note 65, at 31.

Myth: 'The woman asks for it—she dresses in an inviting manner.'

This is a common conclusion drawn by the harasser. It is also a rationalization that promotes harassment and retards solutions. Although there are individual cases to the contrary, limited studies available do not support a woman's dress style as a promotion of 'she asked for it.'

LOIS B. HART & J. DAVID DALKE, *THE SEXES AT WORK: IMPROVING WORK RELATIONSHIPS BETWEEN MEN & WOMEN* 77 (1983) (citations omitted). *Contra* Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57, 69 (1986).

72. GORDON & RIGER, *supra* note 71, at 17.

73. *Working Woman* is likely trying to identify "traditionalist" respondents when it includes the following question in its survey: "Sexual harassment in *your* office. . . . 2. Here are some general statements about sexual harassment. Do you agree or disagree with the following? . . . (b) Women bring harassment problems on themselves by dressing and acting provocatively." *Sexual Harassment in Your Office: The Working Woman Survey*, WORKING WOMAN, Feb. 1992, at 14.

duce it and abused her instead, or, failing that, taken to abusing on a different basis. Although I don't know what portion of all abuse happens this way, I have seen it happen this way.

This is not to say that the woman who produces the sign intends to invite sexual attention, let alone abuse. The meanings of dress signs are currently contested, and consequently highly uncertain. Another letter to the editor in response to the Hatfield story:

Enjoying what one wears is one thing, but many misguided women dress provocatively to seek attention and approval from men, not necessarily their advances. Men are told that such outfits are a signal that advances are welcome. Why, after all, would any sane person dress that way for her own comfort or pleasure?⁷⁴

If abuse sometimes occurs in this kind of interactive context, then the anti-abuse position is in part a demand for a revision of the conventional meanings of dress language, or a resolution in favor of women's freedom of action of the current contest about those meanings. Even though they are "misguided," men should allow women to produce this sign without it having the meaning that (some) men attribute to it—they should not interpret it as an invitation or as consent in advance to violence.

This position accepts that there is a sign—sexy dressing—that is mutually understood on one level (we know what it is) but whose meaning is contested at another level (is it or is it not invitation and consent?). What is proposed is that men should agree that women can produce the sign without thereby offering an excuse for any modification in "proper" male behavior. A man who responded to the sign with unwanted advances or abuse would be breaking the rules and inviting punishment, just as he would be if he claimed that a bank's advertised "friendliness" justified his robbing it at gunpoint.⁷⁵ Sexy dressing would no longer be (or at least everyone would agree that it shouldn't be) dangerous in the way it is now. Or, if you believe that there really is no connection between production of the sign and abusive reactions, imagine that this view was general, so that the imagined threat of abuse was no longer a factor in women's dress decisions.

74. Janice Zazinski, *On the Clothes Women Wear to Work*, BOSTON GLOBE, Jan. 25, 1992, at 22.

75. Leslie Martinich, *Link Between Dress and Harassment? No*, BOSTON GLOBE, Jan. 25, 1992, at 22:

There may very well be a link between dress that is interpreted as provocative and sex crimes by men, as the surveys cited by Julie Hatfield suggest, but it occurs in the minds of the perpetrators, not with the victims. Why must women continue to take responsibility for men's actions?

Id.

3. Different reactions to the relaxation of sanctions against sexy dressing

If we imagine that such a change in our social system actually occurred, so that there was no longer a developed script for the disciplinary abuse of sexy dressers, it seems likely that there would be changes in women's behavior as well as in men's. It is not that women would now be "free to dress any way they want," because even in the absence of abuse there would be the whole complex of internal and external pressures for compliance with the various dress codes. But production of the sign of sexy dressing would be less dangerous than it now is. The rest of this Part explores the hypothesis that there would be a consequent increase in violations of the dress code in the direction of sexiness. Such a change would be controversial, indeed would bring out deep ideological conflict within the camp of critics of the regime.

The cost/benefit analysis of disciplinary abuse suggests that doing away with abuse of sexy dressers would have positive consequences for women who already violate the norm, and for those who would begin to violate it once the penalties were reduced. There would be losses for those who approve of the norm, and don't want to see more sexy dressing, even though they disapprove of vigilante enforcement. The whole subculture of practitioners and advocates would gain, including those who are turned on, and like being turned on, and those who appreciate it without a turn on, and would like to see more of it in spite of the norm.

The trouble with this approach is that it simplistically assumes that women now violate the norm because they "want" to, and would violate it more, for the same "reason," if there were fewer sanctions. If we are to get at the real conflict of interests between and among men and women, we have to explore these "wants" rather than taking them at face value. To begin with, there is the problem that the behavior regulated is the production of a sign for other people, and not an activity like eating ice cream in private.

A similarity to eating ice cream in private might be that the sexy dresser is engaged in "consumption," and values her freedom from sanctions because she wants to be able to enjoy this activity at the least possible cost. But because we are dealing with symbol-production, this hypothesis is less plausible than it is with more conventional kinds of consumption. Female dress is also expression, and it may in any particular case be a misrepresentation of the speaker's inner state and a strategic one at that. Reducing disciplinary abuse of sexy dressers will affect women differently according to how they characteristically relate to this (constrained) set of opportunities.

Conventional liberal thinking about this kind of issue tends to as-

sume a sharp and unproblematic contrast between choice and duress.⁷⁶ Thus we can say that if some women respond to a reduction in disciplinary abuse of sexy dressers in the workplace by dressing sexier, they benefit because they have chosen to change their behavior. If they are within their "rights" in doing so, the private benefit is also a social good. But it seems much more plausible to suppose a continuum (perhaps a loopified continuum) between choice and duress in this case.

When we put together the variation in women's experiences of freedom or duress with the possibilities of strategic rather than simply expressive use of the dress code, it is clear that a change in incentives might be experienced in many different ways.

(a) A woman might experience a reduction in sanctions as coercing her into sexier dressing. The coercion might come from a particular man who wants her to dress deviantly for him, or from an employer, or from a clique of women friends. Sanctions against sexy dressers might be welcomed by such a woman because they counteract the pressure by giving her a "good reason" for her preferences. When she responds to the relaxation of dress discipline by dressing more sexily, she is not moving to a higher but to a lower indifference curve.

(b) The change might be experienced as allowing her to make men happy, by reducing the dangers to her of doing what they want, or of appearing to express the feelings they want her to be having. In other words, it might be the occasion for the pleasure of consent to the desires of another. In economic language, the woman's utility function might not be discrete from that of her audience. As in the previous case, no sexual feelings of the type conventionally understood to be expressed by sexy dressing are involved. It is not a question of what the woman herself, autonomously, feels and then expresses, but a question of what she thinks men want her to feel. Compliance (submission) might be eroticized or might not be.⁷⁷

(c) A woman might derive sexual pleasure from the combination of her agency in creating a representation of sexuality and the sexual reaction of her audience. In other words, she might be an exhibitionist. She might experience this as a compulsion that she would rather be rid of, or as a part of her sexual nature that she is happy with. She might regret a reduction in sanctions as putting her more at the mercy of her compulsion, or welcome the reduced riskiness of pursuing her kink.

(d) Some women might experience reduced abuse as increasing their power by allowing them to exploit an asset, the ability to dress sexily successfully, at the expense of other women (not as good at it)

76. Robin West, *Authority, Autonomy and Choice: The Role of Consent in the Moral and Political Visions of Franz Kafka and Richard Posner*, 99 HARV. L. REV. 384 (1985); Mark Kelman, *Choice and Utility*, 1979 WIS. L. REV. 769.

77. West, *supra* note 1, at 90-111. (I. Liberal Feminism: Consent, Autonomy and the Giving Self.)

and of men (putty in their hands). Again, the gain has nothing to do with the ability to express "true" sexual selves, but rather with greater freedom to exploit the asset of *perceived* sexiness. For other women, the choice to dress more sexily in the post-abuse workplace might be no more than a way to minimize the losses caused by the increase in bargaining power of the advantaged group.

(e) The conventional understanding of dress as expression might apply, so that some women experience a gain in welfare because they can now "say what they mean" in a way that would previously have been dangerous.

(f) A woman might experience an increase not in the ability to express herself, but in the ability to produce a complex sexual persona, reflecting in part her "true" feelings about her sexual being, but also in part her ideas about women, sex, fashion and everything else, and in part her desire for sexual and aesthetic reaction from others.⁷⁸ Here the pleasure is in self-objectification as performance, the pleasure of cultural creation and relationship, rather than that of being able to translate the inner sexual self into the world by representing it.⁷⁹

78. GALLOP, *supra* note 3:

The Poetics Colloquium signified the world in which as a graduate student I had longed to make it. I was the only feminist speaker at the colloquium.

Writing this paper, I tried to make it possible to speak where the men were speaking, despite my body, but also in my body. Since I experienced my inability to transcend the body, where women were trapped, I had to think a way that the body was already 'poetic,' which is to say, belonged in the realm of high literary theory where I aspired to be.

I dressed in a manner that bespoke the body as style, stylized sexuality. I wore spike heels, seamed hose, a fitted black forties dress and a large black hat. I was dressed as a woman, but as another woman. If my speech signaled an identification with a woman of another place, my clothes bespoke an identification with a woman of another time. I was in drag. My clothing drew attention to my body but at the same time stylized it, creating stylized body, what in the paper I called a poiesis of the body. The fit between the paper and the look, the text and the performance, was articulated unconsciously, and it worked.

Id. at 92.

79. BUTLER, *supra* note 4.

Gender ought not to be construed as a stable identity or locus of agency from which various acts follow; rather gender is an identity tenuously constituted in time, instituted in exterior space through a *stylized repetition of acts*. The effect of gender is produced through the stylization of the body and, hence, must be understood as the mundane way in which bodily gestures, movements, and styles of various kinds constitute the illusion of an abiding gendered self. . . .

. . . The distinction between expression and performativeness is crucial. If gender attributes and acts, the various ways in which a body shows or produces its cultural signification, are performative, then there is no

In assessing each of these six hypothetical reactions, we have to take into account that the pleasures of sex are connected with the pleasures of ideological contest and of transgression. Changing the norm might de-eroticize behavior that had the pleasures of defiance or deviance. This might be true for both the sexy dresser and her audience. When the "punk" teenage subculture adapted the working class butch lesbian look, it changed its erotic significance by switching its meaning from one form of defiance to another. When punk fashion crossed over into the mainstream, leather jackets with chains lost and gained erotic and other kinds of meaning once again.

An increase in sexy dressing in the workplace, brought about by reducing disciplinary sanctions, might end up "normalized." The sexy dress subculture and its opponents would adjust to it, as would everyone else, and the "action" would shift to the outer boundary of a new rule. Exhibitionists, whether or not compulsive, would have to test the new as they tested the old, or lose their voyeurs; self-expressers would have to defy it in order to convey their true feelings; gender artists would have to play its edges to convey their particular cultural messages.

This "semiotic" property of the norm means that there is less at stake than at first appears. Women and men will communicate and produce themselves as culturally laden objects and perform, using the opposition the norm establishes between the required and the forbidden, no matter where we choose to draw the line. But it does not mean that nothing is at stake.

First, the relaxation of sanctions might have no effect at all on the quantum of sexy dress in the sense of deviation from the norm, but have a major effect in the long run conflict over the eroticization of media, workplaces and public space. The particular types of eroticism characteristic of the regime might flourish, through the actions of the different types described above and their male collaborators, at the expense of the current variety of de-eroticized modes of female self-presentation.⁸⁰

Second, the bodies and the psyches of the abused are at stake. The

preexisting identity by which an act or attribute might be measured; there would be no true or false, real or distorted acts of gender, and the postulation of a true gender identity would be revealed as a regulatory fiction.

Id. at 140-41.

80. The norm of not dressing too sexily is a norm about where and when, rather than a straight out prohibition of a type of dress. Sanctions against women who violate the norm keep the "spheres" separate. The relaxation of dress code sanctions might change from both sides, and perhaps reduce, the sexual charge now associated with the contrasts between the various settings (daytime and nighttime street, movie set and back office, kitchen and boudoir, and so on). The consequences for those who derive pleasure from the contrast, and for those who invest in it ideologically, would be complex and far reaching.

stage for the play of signifiers is sometimes a killing field. A reduction in the total amount of violence against women, or even its delegitimation by repudiation of the regime-narrative in which "she asked for it," would have consequences, direct and indirect, for millions of women. These two sets of effects, those on the erotic quality of life under the regime, and those on the women who are the object of different kinds of disciplinary violence, evoke passionate responses. They involve the general ideological contest over sexuality.

4. Ideological conflict over the discipline of sexy dressers

The conflicts of interests over sexy dressing arise in large part from ideological differences about its meaning for the actors and watchers who are involved. There are deep conflicts among men and among women about how to interpret "women's hedonic lives,"⁸¹ about how we should respond to coercion, or engulfment in male utility functions, or exhibitionism, and so on. Likewise about how to interpret and respond to the reaction of the audience of (male and female) dominators, voyeurs, prudes, aesthetes, and so on.

A very tentative map of ideologies might look like this:

<i>Reaction</i>	<i>Liberal Patriarchy</i>	<i>Radicalism</i>
Neo-puritan traditionalism (sex = danger of sin)	Clean and dirty sex naturally separate (home and house)	Neo-puritan feminism (sex = danger of abuse)
Pro-sex traditionalism (<i>The Total Woman</i> ⁸²)	"Consensual" sex healthy not dirty (sex manuals and the "sexual revolution")	Pro-sex post-mod (<i>Pleasure and Danger</i> ⁸³)

We might lay the grid of positions across the grid of times and places for the production and expression of sexuality. In the straight workplace, for example, each ideological position has a valance, pushing for more or less permissive norms. People in different ideological positions are likely to have very different assessments of the costs and benefits of an increase in sexy dressing brought about by a reduction in disciplinary sexual abuse.

Pro-sex traditionalism endorses traditional women's roles in the home, on the job and in public space, but rejects the neo-puritan connection of sex and sin. It is an accommodation of the reactionary position to the evolution of liberal patriarchy toward greater permissiveness. Marabelle Morgan's "total woman" is all in favor not just of physical pleasure but of the sexual gestures and paraphernalia

81. West, *supra* note 1, at 90.

82. MARABELLE MORGAN, *THE TOTAL WOMAN* (1975) (brilliantly discussed in DWORKIN, *RIGHT-WING WOMEN*, *supra* note 1, at 13-37).

83. *PLEASURE AND DANGER*, *supra* note 2.

that are current in the culture. Sexiness *within marriage*, in her view, is a component of the wife's power over her husband; it is fair play in the battle of the sexes and a basis of stability (along with religion) for family life.⁸⁴ *The Ladies Home Journal* represents a milder, more sophisticated version of this position, with a strong liberal feminist element.

Men and women with this view tend to accept the conventional script according to which workplace sexy dressers invite, even if they don't deserve, disciplinary abuse—they are disregarding the God-given distinction of realms according to which a woman should be a whore only in the marital bedroom. A marginal increase in office sexy dressing in response to a relaxation of sanctions is likely to look like exhibitionism, commodification, or post-modern blasphemy. Moreover, it is a threat to marriage, to the wife's legitimate monopoly on her husband's sex life.

The neo-puritan strand in radical feminism takes a much more uncompromising attitude toward the "sexual revolution" and the liberal feminist emphasis on consent as the criterion of healthy sexuality. In this view, the relaxation of sexual prohibitions along with the general eroticization of the culture have disserved women because their "consent" takes place in a context of radical power inequality. There is inequality in the way society constructs sexuality to conform to the male model (the eroticization of domination). Men and women socialized in this way then confront each other in one-on-one encounters in which men pervasively are violent or threaten violence, deploy their superior economic status, and manipulate the discourse of consent to get what they want.⁸⁵

In this perspective, the central reality of sexual relations is danger to women from men. Moreover, "under male supremacy, heterosexuality ensures that each woman is intimately colonized by the dominant class."⁸⁶ For neo-puritan feminists, a reduction in sexual abuse is likely to be an important good, while any concomitant increase in sexy dressing is likely to look like the evil of objectification. From this ideological perspective, the change in the marginal woman's behavior is likely to look coerced or compulsive or commodified.

The *non-abusive* regulation of sexy dress, through negotiation among women and the application of merely social sanctions to deviants, looks to me, as a male observer, to be a common feminist practice. Many feminists enforce dress codes among themselves and work for their

84. Consider bars with male strippers, and lingerie parties on the model of Tupperware parties. BARBARA EHRENREICH ET AL., *RE-MAKING LOVE: THE FEMINIZATION OF SEX* 134-60 (1986).

85. See generally *AGAINST SADOMASOCHISM*, *supra* note 1; SHEILA JEFFREYS, *ANTICLIMAX: A FEMINIST PERSPECTIVE ON THE SEXUAL REVOLUTION* (1990).

86. Kay L. Hagan, *Orchids in the Arctic: The Predicament of Women Who Love Men*, Ms., Nov./Dec. 1991, at 31.

more general acceptance because they think they express a healthier, better attitude toward sexuality than that of the sexy dress subculture. They see the particular conventions of sexy dress, the actual content of the sign system, as expressing patriarchal views about female attractiveness, and particularly the view that what makes women attractive is vulnerability to domination and accessibility to male sexual appropriation.

I would put myself in the pro-sex po-mo (post-modern) box in the diagram. This position affirms not just the possibility but the actual occurrence (sometimes) of great pleasure in heterosex, and the (sometimes) liberatory, oppositionist character of that pleasure. But it doesn't privilege heterosexuality, affirming the same possibilities in the practices of sexual minorities, as well as in the day to day practices that are coded to permit erotic life to flourish in everything from cooking to teaching to dressing.

An important difference from the neo-puritan strand in feminism (and from much of the rest of left thought) is a post-modern take on the meaning of the phrase "social construction." The cliché version is: "Until we elect to take over the job, the dominant culture constructs our reality and forms our values."⁸⁷ But the "dominant culture" never has either the coherence or the power to construct us in the way suggested, and we never achieve the "outside" position vis a vis ourselves-in-the-culture that would allow us to "take over the job." We are positioned at any given moment by everything that has gone before so that we can only do and be some things, and not others. When we most fully experience ourselves as choosing, as improvising, we are ringing the changes on the limited scripts the culture makes available. But we nonetheless sometimes change those scripts.⁸⁸

The pro-sex po-mo manifesto has already been written, by Marny Hall, under the rather mysterious name of "anti-sex":

Anti-sex, despite its oppositional designation, is apposite, rather than opposite, patriarchal sex. Consequently, at the same time that anti-sex challenges old constructions, it contains elements of the old which may be teased and twisted into new pleasure scripts that are tailored to the histories, fantasies and neurophysiologies of intimates. In this scrambling process, old phallogentric practices, instead of serving as the invisible template of lovemaking, can be impelled into consciousness, rearranged, refurbished, and combined with elements from other dimensions of experience.⁸⁹

87. *Id.* Another example: "If sexuality is socially constructed, it both changes and it can be changed. . . . Of course, such processes take time, but the social-constructionist position opens us to the possibilities of transformation, including to the responsibility to account for our own sexuality." Michael S. Kimmel, *Introduction: Guilty Pleasures—Pornography in Men's Lives*, in *MEN CONFRONT PORNOGRAPHY* 1, 6 (Michael S. Kimmel ed., 1991).

88. BUTLER, *supra* note 4, at 147.

89. Marny Hall, *Ex-Therapy to Sex-Therapy: Notes from the Margins*, in *GAYS*,

People in the pro-sex po-mo position are no less attached to making moral and political judgements about social structures and individual conduct than anyone else. The pro-sex po-mo idea is not that "anything goes," but rather that "anything *might* go." Coercion, engulfment, compulsion and sexual abuse are real, there to hate. Pleasure and resistance relate to them (it seems) symbiotically, even parasitically, rather than through a permanent obliteration and replacement of the regime.

The next section develops this idea in the context of sexy dress, with the focus now on the ways in which the language of dress simultaneously promotes eroticized male domination of women and permits its subversion.

V. ABUSE AND RESISTANCE IN THE LANGUAGE OF SEXY DRESS

In our culture, particular items of dress are used to signify the abstract ideas "man" and "woman." This is not a complex or mystical idea. How do you know, when you want to pee, which is the Ladies' and which the Gents'?

x	x
xxx	xxx
xxx	xxx
x	x
xxxxxxxxxxxxx	xxxxxxxxxxxxx
xxxxx	xxxxx
xxxxx	xxxxx
xxxxx	xxxxxxx
xxxxx	xxxxxxxxxxx
xx xx	xxxxxxxxxxxxx
xx xx	x x
xx xx	x x

Not all women wear dresses, but a dress or a picture of a dress is a sign, which when used along with the opposite sign of pants or a picture of pants, has the conventional meaning "woman." Particular items of dress—a skirt with a particular cut, a hat with a particular shape—have similar functions as signifiers in the system of oppositions within the lexicon consisting of all items of female dress.⁹⁰ Items of dress (or pictures thereof) signify that the woman who wears them is a particular type of woman. This is obvious in the case of uniforms, in the literal sense, specified for particular occupations (policewoman, show girl). But dress signifies "character types" as well.

As a type, the man's woman may or may not be a vamp; but she is defined by her relations with men, and it is in their presence that her

LESBIANS, AND THEIR THERAPISTS: STUDIES IN PSYCHOTHERAPY 84, 91 (Charles Silverstein ed., 1991).

90. This is what Roland Barthes, in his horrendously abstract semiology of fashion, calls the "real vestimentary code," distinguishing it from the "written vestimentary code" of the discourse of fashion. BARTHES, *supra* note 58, at 34-35. Throughout what follows, I use the written code as evidence of the real code.

fire blazes. Essential to her aura is a hyperfemininity; by implication she sets herself apart from women who are 'mannish' or homely or too smart, or who have malelike ambitions, or who might otherwise threaten the hegemony of men. This siren has suffered something of a setback with the rise of feminism, which places a premium on more direct and non-sexual routes to power. . . . Think of the stars of the '80s: Meryl Streep, Sally Field, Sissy Spacek, Goldie Hawn, Mia Farrow—good girls all. None of them would wear a torpedo bra or a waist cincher, or call when you're out of town on a business trip and, finding your husband/lover alone and lonely, suggest a rendezvous.⁹¹

Yet a third signifying mode is that in which a particular woman says something about her state of mind by what she chooses to wear on a particular occasion. The *Ladies' Home Journal* recently asked its readers their "advice for keeping a marriage really passionate," and published ten responses. In one of them the wife-respondent "smuggles" a suitcase with her "sexiest lingerie" on a romantic getaway, and in another the couple "do special things for each other." The wife would "wear a pretty nightgown or fix a romantic dinner."⁹² This is the pro-sex traditionalist version of the sign system, and people of other ideological persuasions or from different sub-cultures might choose radically different signs to express different things. The point is that dress signifies day-to-day attitudes (for both men and women) as well as gender and character type.

Items of clothing do more than signify, however, even in the simplest case of the signs on the men's and women's room doors. Dressing is one of the most important ways in which people reflect, reproduce, and change through time our particular social constructions of the differences between men and women, of the appropriate relations between men and women, and of hetero- and homosexuality.⁹³

91. Molly Haskell, *Mad About the Boys: Big Screen Femmes Fatales Reflect Our Deepest Desires*, LEAR'S, Jan. 1992, at 100.

92. *The Romance Report*, LADIES' HOME J., Feb. 1992, at 118, 120, 121. "Racy, lacy lingerie—in pink or red—puts everybody in the mood!" Andrea P. Lynn, *Pour on the Passion! A Valentine's Eve Seduction*, COSMOPOLITAN, Feb. 1992, at 184, 187. "I knew it was over when . . . I heard that my friend Erin, who had a crush on my boyfriend, had taken him lingerie shopping with her the day I left for vacation. — Susan, twenty-six, writer, Philadelphia." Sue Campbell, *I Knew It Was Love When . . . I Knew It Was Over When . . .*, GLAMOUR, Feb. 1992, at 154, 155.

93. Everyday dress practices, particularly those of the subcultures discussed in Part IV, respond to, but also powerfully influence the "gender media images" described in the following:

[T]here is an important way that gender media images have become an essential for heterosexual sexuality. Since the capitalist patriarchal nuclear family has given way to a raft of alternative family forms, another material base is required to perpetuate the heterosexual 'masquerade' of the innate attraction between men and women. Since the contents of heterosexual desire are socially learned and there is no longer a hegemonic patriarchal family to provide the content of masculinity and femininity, there must be some other social arena which teaches males and females what the oppo-

I'm not going to provide an elaborate gloss on reflection, reproduction and change. The notion is that if you want to figure out the regime of gender, you will find it set forth, or reflected, coded, in dress. But to dress is more than to reflect an order located elsewhere: it is to produce a sign, willy-nilly, to act, to express something.

As an expression, it is double. On the one hand, it says something about or represents the dresser, fits the dresser into one of the available, intelligible categories of people. But this is only half of it. Dress is performative in the sense that it does something in the world, rather than just representing an "interior." When a man or a woman puts on a costume, he or she implicitly affirms the ideas coded into it, not just as ideas about the self, but as ideas about gender. Dress is both an operation carried out using the conventions, and a comment on them.⁹⁴

It may express adherence to the regime, or it may express some form of disengagement or opposition. It is like voting. It puts the wearer on one side or the other. When a dress performance reflects the ideas of the regime, it also reproduces the regime, in the sense of extending it in time as "the same thing." Where the ideas are divergent, they may change the regime, though usually they don't. I'm not sure whether this has to be so, but it seems clear to me that it is an aspect of our particular cultural situation.

For example, sexy dress (deviation from the norm in the direction of a more sexy setting) may be read as a critique of the boring, utilitarian asexuality of the setting and the people in it. Conservative dress may seem to be a critique of the gender stereotypes coded into the female fashions conventions of the setting. It may also be read as a critique of the conventionally feminine behavior of the other women in the setting.

A dress or a picture of a dress functions quite unambiguously, when opposed to pants, as a signifier of the idea "woman," and a person who fails to correctly interpret the sign is likely to be thought stupid or weird. But the theory that there are ideas beyond "woman" that are reflected, reproduced or resisted by this particular sign is obviously contestable. The women in the above examples might well deny that

site sex desire from them. Thus, fashion and media images, once merely the perpetuators of images generated by the patriarchal family, have become the semi-autonomous social arena in which sexist and heterosexual desire are constructed.

ANN FERGUSON, *BLOOD AT THE ROOT: MOTHERHOOD, SEXUALITY AND MALE DOMINANCE* 118 (1989). This is the level of connotation or "rhetoric" in Barthes' semiology. See BARTHES, *supra* note 58.

94. Dressing is analogous, in its impact on its "audience," to movie-making: "Thus, one's gendered subjectivity is not only implicated, such as it is, in the spectator's encounter with each film, but also constructed, reaffirmed or challenged, displaced or shifted, in each film-viewing process." TERESA DE LAURETIS, *TECHNOLOGIES OF GENDER: ESSAYS ON THEORY, FILM, AND FICTION* 96 (1987).

they meant any such thing by their dress ("it's personal, not political"). Among those (most people) who engage in the contested practice of interpreting dress "ideologically" at least some of the time, there is no consensus about what particular ideas particular items of dress affirm.

This means that any given act of dressing can have different meanings for different observers, and different effects on them. It can look like opposition to one person but like conformity to another. A particular act of dress interpreted as conformity can incite one person to disgusted resistance and persuade another that resistance is hopeless. What acts will change the culture rather than reproduce it can never be predicted with certainty, and the very definition of change is likely to be contested in its turn.⁹⁵

The following example of unintended ideological effect is from an article in *Time* about whether sex differences are innate:

Even professional skeptics have been converted. "When I was younger, I believed that 100% of sex differences were due to the environment," says Jerre Levy, professor of psychology at the University of Chicago. Her own toddler toppled that utopian notion. "My daughter was 15 months old, and I had just dressed her in her teeny little nightie. Some guests arrived, and she came into the room, knowing full well that she looked adorable. She came in with this saucy little walk, cocking her head, blinking her eyes, especially at the men. You never saw such flirtation in your life." After 20 years spent studying the brain, Levy is convinced: "I'm sure there are biologically based differences in our behavior."⁹⁶

Feminist reactions to dress issues often seem to me to assume that women are to men as this toddler is to her mother. Women's dress acts, like speech acts, produce the world, reenforcing or undermining gender stereotypes just as the toddler converts her mother from a nurturer to a nature position, and a traditionalist one at that. I often feel this kind of feminist critique of female dress hovering in the air, but rarely hear it directly stated. It goes something like this: All women's

95. *Id.*:

If gender is a representation subject to social and ideological coding, there can be no simple one-to-one relationship between the image of woman inscribed in a film and its female spectator. On the contrary, the spectator's reading of the film (including interpretive and affective responses, cognitive and emotional strategies) is mediated by her existence in, and experience of, a particular universe of social discourse and practices in daily life. Thus, for instance, feminist criticism has shown that readings emerging out of a politically radical or oppositional consciousness can significantly alter the interpretation and the effects of filmic representation, as well as the spectator's self-representation, and may contribute to changing the social meanings and finally the codes of representation themselves.

Id.

96. Christine Gorman, *Sizing Up the Sexes*, *TIME*, Jan. 20, 1992, at 42, 42, 44.

dress that is clearly women's dress simultaneously demarcates the sexes and *defines* them. Women's dress reflects and reproduces the regime's stereotypes about women: they are supposedly softer, warmer, more emotional, expressive, mercurial, nurturing, exhibitionist, and so on, than men.

Women's dress (in this interpretation) also reflects and reproduces a theory about how men should and do relate to women. Skirts and dresses differ from pants at a primary symbolic level: skirts mean vulnerability and pants mean protection. Skirts mean: my sex is hidden from you but it is not protected by clothing that, like pants, can be removed only by a complex series of unzipping, pulling down and pulling off. My sex in a dress is symbolically accessible to another in a way it is not in pants.

This partly reflects (in this interpretation) a straight male idea, or value: that women should be sexually accessible to men. Yet it reflects a more complicated idea as well. Why should dress that means "protection" (pants) be worn by the sex that is the less vulnerable of the two? Answer: men are responsible for protecting their own genitals from aggression by other men, and pants provide protection. Women can't defend themselves against men even if they are wearing pants. Their protection is not self-defense, but social relations.

It is based (in this interpretation) on men's possession of and consequent willingness to defend "their" women. Women don't have to wear pants because the men who own them, towards whom their skirts and dresses express vulnerability, protect them against other men. A woman is a person who can't defend herself but can get defense by accepting a male protector, or by relying on the protective role of men in general.⁹⁷

An interpretation of this kind can't really be "true" or "false" in a straightforward way, unlike the interpretation of which is the men's and which the ladies' room. Who's to say whether it's more or less valid than the typical male voyeur-fetishist version of the skirt?:

Long skirts are like a secret waiting to be unraveled. Among the things that men love: the sensual rustle of fabric against leg, the romance and sophistication of a lengthened silhouette, the mystery of what's beneath. The more modern versions are all about danger. Most of the new designs are slit, up the sides, back or front, and there is always the shifting drama of these openings.⁹⁸

I think my interpretation needs to be taken in counterpoint, so to speak, with women's readings, and with other male ones. Before attempting that, I want to try a feminist interpretation of sexy dress

97. This theory helps explain the erotic significance—for men—of garter belts: the garter belt is to panty hose as a skirt is to pants.

98. Woody Hochswender, *A Man's-Eye View of the Long Skirt*, N.Y. TIMES MAG., Jan. 12, 1992, at 38.

(deviation within the setting) as reflecting and reproducing the eroticization of domination in general and sexual abuse in particular.

My interpretation is based on the idea that a costume, or a particular item of dress, produces its effect by making an allusion, or reference, that evokes a character in a narrative that is known to the audience.⁹⁹ Here and in what follows, I'm claiming that the straight male audience "reasons" subconsciously that: "This person chose this costume, which makes reference to the costume worn by a character in a narrative, so she must be saying that she is like that character. Why wear it if you aren't the person that it says you are?"

One of the things that makes a female costume sexy for the straight male audience is the idea that the wearer has chosen, through the production of the sign of her dress, to signify herself as "the woman to

99. This approach is based on the analogy between dressing and other kinds of performance:

Recently, sexuality has been theorized as an assigned encoding (socially produced, not inherent), historically particular and heavily laden with the preoccupations of the time. [S]exuality exerts a strong influence on interpretation, and as Annette Kuhn notes "meanings do not reside in images . . . they are circulated between representation, spectator and social formation." Spectators' ability to read impropriety into the stage appearance of the [Victorian] actress—to scandalize the idealized femininity—required knowledge of the referential context of female erotic topography. . . . This lexicon can be rediscovered, allowing the visual performance text to be read through its historical codes

. . . . It is impossible to say whether the theater supplied visions that became invested with eroticism in the context of pornography, or whether the theater employed motifs already infused with sexuality What is important is that because of the existence of this large body of literature documenting, justifying and enacting the erotic fictions associated with actresses it is impossible to claim that actresses were in control of all the signs they gave off. No matter how scrupulous their conduct was as private citizens, actresses had no authority or control over their public sign-making of bodily coverings, gestures, and spatial relationships lodged in a separate but symbiotically dependent source.

DAVIS, *supra* note 58, at 106-08 (quoting ANNETTE KUHN, *THE POWER OF THE IMAGE: ESSAYS ON REPRESENTATION AND SEXUALITY* 6 (1985)). The same idea can be used in the interpretation of representations of women:

[The bare bottom thrashing of nuns during the French Revolution] constituted public political and religious humiliation, yet when they were translated into the visual realm, they entered the domain of the sexual and the pornographic, implied in the print by the exposed breast of one market woman thrashing a nun. The buttocks were pictured as the locus of desire in works ranging from Watteau's *The Remedy* . . . to the illustrations of pornographic literature Within this context, the political prints that center on the bottoms of nuns, for example, can thus be placed in a chain of erotic behavior and imagery that focuses both on flagellation and on the erotic.

Vivian Cameron, *Political Exposures: Sexuality and Caricature in the French Revolution*, in *EROTICISM AND THE BODY POLITIC* 90, 94 (Lynn Hunt ed., 1991).

whose costume this costume alludes," and, by implication, as "a woman who would like to have the sexual experience that woman had in the narrative in which she wore it." The sign does not mean that she is *available* for this experience. Indeed, the context may indicate the contrary.¹⁰⁰

A skirt or dress that suggests a soft animal skin, a zebra or leopard pattern (or a mere allusion to those patterns), an irregular or biased hem or bustline, wrapping, or ostentatiously crude stitching, may have the connotation: "Me Jane, you Tarzan." This reference is complicated because it evokes not only the relationship between Tarzan and Jane in books and movies, but also the image of the "pre-historic" man with a club throwing his woman over his shoulder and carrying her to his cave for sex. The effect may or may not be cut by allusion to *The Flintstones* (in which this scenario was suburbanized).¹⁰¹

In a notorious series of Jordache/Guess advertisements, a young woman (Claudia Schiffer) is hooked up to an older man. Susan Faludi was asked, "Why were Guess ads popular among women?" She answered:

They tap into this ancient vision that if you're a coltlike, knock-kneed, wide-eyed little girl, men will flock around you and you'll be protected and safe and taken care of by all these cowboys. Everyone wants to be loved, everyone wants to be admired and pursued, and, boy, there's a really easy way to do it—all you have to do is buy these jeans.¹⁰²

Guess still advertises. The powerful ads to which the question refers, however, have been replaced. Not because of the portrayal of the young woman, but because the older "cowboy" had a sinister, sensual, lower class but criminally rich, brutal aura. She did seem like a "wide-eyed little girl," but she also looked like Brigitte Bardot and her clothes had older "sex kitten" allusions. The whole strongly suggested sexual exploitation of the model by the older man, with an undertone of incest, as several letters to the editor of *Elle* pointed out at the time.¹⁰³

The current Jordache/Guess ads, often using the model from the earlier series, construct a different, less sexually disturbing universe. Yet they contain persistent allusions to the earlier one. A woman who dresses and makes up to look like the model in these ads seems to be

100. See text accompanying *infra* note 141.

101. DAVIS, *supra* note 58:

By freeing the torso from stiff boning, the costumes also signified a refusal to suffer and be still; the well-disciplined mind and well-regulated feelings that were associated with tight lacing gave way to connotations of loose morals and easy virtue, which also fuelled the misapprehensions of performers' accessibility and sexual availability favored by men.

Id. at 109 (footnote omitted).

102. Roger Trilling, *The New Face of Feminism*, DETAILS, Feb. 1992, at 75.

103. Consider Laura Dern's encounter with Diamond Tooth in WILD AT HEART (Polygram/Propaganda Films 1990).

inviting the “taken care of” relationship that is pictured in them, but also the more exploitative relationship the original pictures suggested.

I think it is possible to catalogue in a rough and ready way some of the main sexual narratives to which female costumes and particular items of dress refer in order to achieve their exciting effects. The process of allusion operates in two dimensions, the synchronic (to current narratives) and the diachronic (to past narratives).

“Sexy dress” as I have been defining it means dress that diverges from the norm for the setting in which it is worn “in the direction” of the next sexier setting. This means that the dress alludes to that sexier setting, and then to the next after that, all in the direction of settings in which men and women actually engage in sex. The sexy dresser invites the straight male audience to imagine being with her in the setting her dress alludes to. This is the synchronic dimension.

The diachronic dimension is more complicated. One can arrange narratives in “genealogies,” meaning sequences in which clothing and text in the present refer to an earlier combination which in turn refers to another still further back in time. Starting points are not “origins,” but merely where we get to when we reconstruct backward as far as we can.¹⁰⁴

One costume genealogy “begins” with *Frederick’s of Hollywood*, moves on to the *Cosmopolitan* girl, and culminates in *Victoria’s Secret*. *Frederick’s* was the mail order catalogue associated with middle class stereotypes of “animal” working class sexuality, with “girlie magazines,” strip joints and street prostitution.¹⁰⁵ *Cosmopolitan* was originally a complex attempt to formulate a sexual style for lower middle class pink collar employees that would combine elements from the world of *Frederick’s* with the sex-positive ideology of the liberal intelligentsia and the “youth culture” of the 1960s.

The mass success of the lingerie section of the *Victoria’s Secret* catalogue represents the gentrification of this cultural terrain—its simultaneous appropriation and transformation by the middle class. However, its name suggests the catalogue’s aspiration to a position in a second genealogy. This one begins, perhaps, with *The Memoirs of Jacques Casa-*

104. MICHEL FOUCAULT, *Nietzsche, Genealogy, History*, in LANGUAGE, COUNTERMEMORY, PRACTICE: SELECTED ESSAYS AND INTERVIEWS (Donald F. Bouchard ed. & Donald F. Bouchard & Sherry Simon trans., 1977).

105. Beth Wolfensberger, *Destination Romance*, BOSTON, Feb. 1992, at 40, 72.

Trashy or Sexy? Men, salesclerks report, gravitate toward black things, red things, sheer things, garter belts, and push-up bras. . . . These are articles women seldom buy for themselves as most of them don’t care to look like prostitutes when undressing in the gym. There is a time and a place for them, but if you are worried about sending the wrong message, stick to pastels, anything silk and simple, or robes.

Id.

nova,¹⁰⁶ and continues in the sexualization of actresses through their representational association with middle and upper middle class pornography and prostitution during the nineteenth century.¹⁰⁷

Here the allusion is to aristocratic decadence and kinky sexuality, rather than to the "animality" of the working class. Queen Victoria's secret was that beneath the repressed exterior of nineteenth century life there was "rampant" illicit sex. The late twentieth century Victoria's secret is that she is a middle class professional woman dressed in a conservative business suit with "naughty" underwear underneath.

Some intermediate terms in this genteel progression include the upper class institution of expensive "French lingerie" and the 1960s reception of *My Secret Life*,¹⁰⁸ *Fanny Hill*¹⁰⁹ and *The Story of O*¹¹⁰ as "erotic classics" rather than "hard core." The mass success of *Victoria's Secret* lingerie is a comedown in this sequence, an appropriation of upper class sexual culture from below.

A third "outlaw" genealogy, androgynous and sadomasochistic, begins with Elvis Presley, Marlon Brando, James Dean, *Scorpio Rising*,¹¹¹ *Last Exit to Brooklyn*¹¹² (the '60s book, not the '80s movie) and the iconic Hell's Angel "biker girl." It passes through groupies and plaster-casters¹¹³ into lesbian s/m,¹¹⁴ punk, Mapplethorpe, and the "metallica" subculture. The women in the *Rolling Stone* photos of the "heavy metal societies of New York and L.A.," by Mark Seliger,¹¹⁵ look strikingly like the *Vogue* photos accompanying the Declaration of the Right to Sexy Dressing. According to *Elle*:

Hell's Angels and Hollywood starlets have one thing in common this year—Harley hunger. Brando started it, of course, when he straddled his gleaming road hog in "The Wild One. But what used to be a symbol of in-your-face rebellion is fast becoming the ultimate fashion accessory. Whether it's the '92 Sportster 1200 or the latest model Softail Custom, a Harley-Davidson looks both classic and sexy, even standing still. That's not to say it isn't a serious machine.¹¹⁶

This genealogy reaches the present, momentarily enters high fashion, and momentarily fuses with the other genealogies in Madonna's *Blond Ambition* tour costumes designed by Gaultier and in the current work of Karl Lagerfeld.¹¹⁷

106. GIACOMO CASANOVA, *THE MEMOIRS OF JACQUES CASANOVA* (1929).

107. DAVIS, *supra* note 58, at 78-86.

108. FRANK HARRIS, *MY LIFE AND LOVES* (1963).

109. JOHN CLELAND, *MEMOIRS OF A WOMAN OF PLEASURE* (1963).

110. PAULINE REAGE, *STORY OF O* (Sabine d'Estree trans., 1965).

111. *SCORPIO RISING* (1964).

112. HUBERT SELBY, JR., *LAST EXIT TO BROOKLYN* (1964).

113. PAMELA DES BARRES, *I'M WITH THE BAND* (1987).

114. *E.g.*, PAT CALIFIA, *DOC AND FLUFF* (1990).

115. Mark Seliger, *Heavy Metal Nation*, *ROLLING STONE*, Sept. 19, 1991, at 51-52.

116. *Great Style*, *ELLE*, Jan. 1992, at 18, 20.

117. Maureen Orth, *Kaiser Karl: Behind the Mask*, *VANITY FAIR*, Feb. 1992, at 116:

It should be clear from my examples that the genealogies of sexy dress involve a double movement—backward through time and outward toward the social margins as defined by the straight white middle class. There is the upper margin of Victorian aristocracy, the lower margin of proletarian sexuality, and the horizontal margin of outlaw culture. There are also geographic margins—the France of “Oo-la-la,” the South Seas (the sarong), and the “Latin Firecracker” (Flamenco skirt, fan, headdress). In the United States there is a racial margin—the locus of white fantasy representations of black male sexual athleticism (for example, the movie *Mandingo*¹¹⁸) and black female promiscuity.¹¹⁹

Genealogies connect sexy dressing to abuse through a four step process. The first step is an item of dress. The *Ladies' Home Journal* article that credits Victoria's Secret with making “risque undies respectable” lists the “biggest undercover best-sellers”:

1. Lacy pushup bras
2. Teddies/camisoles
3. Slinky slip gowns
4. Bikini panties in hot colors
5. Bustiers¹²⁰

The costume item in the setting evokes, perhaps only by a minor detail, the costume worn by women in another setting in a different period. A hint in the shape of the bodice of an otherwise “conservative” dress might evoke a Victorian bustier. Second, the bustier might evoke an image of a woman wearing a bustier in an upper class boudoir in a Victorian “naughty” postcard. Third, the image of the Victorian woman in the postcard wearing a bustier in an upper class boudoir might evoke a female character in a narrative, specifically a narrative from Victorian pornography. The woman in the bustier is a maid, or a young woman of good family. Fourth, the image of that character might evoke what happened to her in the narrative: she was seduced, devirginized, looked at, bound, whipped, shared, enslaved—against her

That's how Lagerfeld answers the critics who say his recent work for Chanel—which borrows liberally from downtown hookers and hustlers as well as from uptown debs on drugs, in tank tops and tulle ballerina skirts—is vulgar. . . . Maybe you are longing for those chic-of-the-week \$1,000 Chanel motorcycle boots?—exact replicas, except for the trademark C's, of the \$70 variety he appropriated from the look of S&M boys in leather bars fifteen years ago. But in Lagerfeld's head they are already gone, out.

Id. at 157.

118. *MANDINGO* (Paramount Pictures Corp. 1979).

119. See generally PATRICIA H. COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 77-78, 166-79 (1991); BELL HOOKS, *BLACK LOOKS: RACE AND REPRESENTATION* 61-77 (1992). Why isn't there the close connection between white sexual stereotypes of black women and dress that exists for the others?

120. Harris, *supra* note 64, at 119.

will until she lost control and loved it.¹²¹

The *Frederick's-Cosmopolitan* genealogy has the same movement backwards in time and toward the social margins (still viewed from the perspective of the straight white middle class). Two narratives evoked by the push-up bra and the too red slit skirt are those of the small town "tramp" from the other side of the tracks and of the sailor and the bar girl. The tramp chews gum and any boy can have her in the back of the family car. She is "hot" but powerless—no one has to marry her and if she gets pregnant, his Father-Mill-Owner will take care of it (*Peyton Place*).¹²² The sailor and the bar girl meet in a raunchy dive where she has been sexualized by abuse (forced by a pimp who beats her, and holds her baby hostage, to dress like a whore who "wants it"). He gets her true, liberated desire in exchange for rescuing her, only to leave her for the desexualized women of home.

The biker men in the outlaw genealogy of sexy dress beat their "old ladies," and pass them around among themselves in a gang rape ritual loaded with homoeroticism (their bond among themselves is stronger than any biker's bond with a woman). The women are group slaves and love it, defying the straight world by advertising their submission. Their black leather or vinyl lingerie signifies masochistic partnership with sadistic biker jacket men, and they enact it by displaying themselves on command so that non-biker men can "eat their hearts out."

Given these fashion references, it is not hard to construct the feminist rationale for the (non-abusive) social regulation of sexy dress. There is a lot more at stake than a generalized critique of self-objectification or "appealing to men." The particular forms we collectively designate as sexy dressing are particularly connected—to abuse. When a woman dresses sexily, she reflects and reproduces an idea: that men and also women are sexually excited by abuse, that women want to produce that excitement in men, and that the complex of female communication and male response is a legitimate and perhaps even a "natural" aspect of male and female sexuality.

In Susan Bordo's article, "Material Girl," this position is put forward in self-conscious opposition to pro-sex po-mo:

All the elements of what I have here called "postmodern conversation"—intoxication with individual choice and creative *jouissance*, delight with the piquancy of particularity and mistrust of pattern and seeming coherence, celebration of "difference" along with an absence of critical perspective differentiating and weighting "differences," suspicion of the totalitarian nature of generalization along with a rush to protect difference from its homogenizing abuses—all have become recognizable and familiar elements of much of contemporary intellectual discourse. Within this theoretically self-conscious universe, moreover,

121. Cf. DAVIS, *supra* note 58, at 108-36.

122. GRACE METALIOUS, PEYTON PLACE (1956).

these elements are not merely embodied . . . but are explicitly thematized and *celebrated*—as inaugurating new constructions of the self, no longer caught in the mythology of the unified subject, embracing of multiplicity, challenging the dreary and moralizing generalizations about gender, race, and so forth that have so preoccupied liberal and left humanism.¹²³

She has me dead to rights, I thought. Bordo goes on to analyze the video *Open Your Heart*, in which Madonna plays a dancer in a peep show:

I would argue, however, that despite the video's "hedging along the lines of not communicating a clear signified," there is a dominant position in this video and it is that of the objectifying gaze. . . . Indeed, I would say that ultimately this video is entirely about Madonna's body, the narrative context virtually irrelevant, an excuse to showcase the physical achievements of the star, a video centerfold. On this level, any parodic or destabilizing element appears as utterly, cynically, mechanically tacked on, in bad faith, a way of claiming trendy status for what is really just cheesecake—or, perhaps, pornography.

Indeed, it may be worse than that. If the playful "tag" ending of "Open Your Heart" is successful in deconstructing the notion that the objectification and sexualization of women's bodies is a serious business, then Madonna's *jouissance* may be "fucking with" her youthful viewer's perceptions in a dangerous way. Judging from the proliferation of rock lyrics celebrating the rape, abuse and humiliation of women, the message—not Madonna's responsibility alone, of course, but hers among others, surely—is getting through.¹²⁴

These last two paragraphs are a good example of the kind of thing pro-sex po-mo types see as "totalitarian" and "homogenizing." In an ideological conflict, each side tends to think the other's position is based on mistakes, and it is tempting here to go after the role played in Bordo's argument by words like "ultimately," "entirely," "virtually," "utterly," and "just" (cheesecake). But I don't think her reading of the video is "just" wrong—I can see what she's getting at, though my own reading is utterly different. I think the problem with her attribution of causal responsibility is that it is speculative and paranoid, not that it *couldn't* be true.

In other words, I don't think it is wrong to read sexy dressing in general, and this supreme example in particular, as reflecting and reproducing (some) men's, and the regime's, "celebrat[ion] of the rape, abuse and humiliation of women."¹²⁵ Many men, including me, have rage at women and at least a streak of violence somewhere in their character, and sexy dress, like a million other things, may, in a particular real life context, provoke either. But the video has other meanings as

123. Susan Bordo, *Material Girl*, in *THE FEMALE BODY: FIGURES, STYLES, SPECULATIONS* 106, 127-29 (Laurence Goldstein ed., 1991).

124. *Id.* at 128.

125. *Id.*

well, constructed by its male viewers at the intersection between its images and their associations. These meanings involve other aspects of sexuality than male abuse of women, and I think they are at least as important, probably more important components of the "objectifying gaze" to which Bordo refers. Madonna's sexy dressing facilitates these meanings by allusions, or *references* to past and present narratives familiar to the audience, in other words through the same mechanism that links her costume to abuse. Four such references are: to masturbation, to social margins, to women's sexual power over men, and to female defiance of patriarchy.

I am going to describe the way these references operate for (some) straight white middle class men. They may operate in similar ways for people in other identity positions, but not in the same way, because the references (such as to social margins) presuppose the *self-imagined differences* between straight white middle class men and various "others." I haven't tried to describe how the systems of reference might work for people in these "other" positions, because I don't think I can do it convincingly. For example, it seems obvious to me that the racist stereotyping that goes into the white middle class construction of the margin between races as a locus of sexual excitement, as well as of hate and violence, must affect the ways people of color "read" and also the way they "do" sexy dress. But I don't trust my fragmentary impressions enough to put them forward even in the armchair vein of this piece.

1. *The Reference to Masturbation*: Though she is dancing in a peep show, Madonna never comes close to exposing her breasts or sex in *Open Your Heart*. She wears a heavily constructed, high cut, black leather Merry Widow, fishnet stockings and high-heels—a costume that, in the setting, brings together all three genealogies of sexy dressing. It suggests simultaneously a Frederick's red light district, designer lingerie, and a biker girl.

Many straight white male middle class men react to this triple play with embarrassment, shame, and distaste. They don't want to watch the video and wish it didn't exist. Maybe they oppose the "objectification and sexualization of women's bodies."¹²⁶ If so, they know this video does that. It does it because Madonna's corset strongly evokes pictures in girlie magazines (centerfolds, cheesecake) and movies (*Paris, Texas*¹²⁷), just as Susan Bordo suggests. But the narrative associated with the pictures involves not sexual intercourse, abusive or otherwise, but masturbation.

Many men associate masturbation with sexual deprivation, rejection by women, dirtiness, shame, secrecy, the danger of discovery and punishment by Mother or Father, the constant danger of addiction

126. *Id.* at 118.

127. *PARIS, TEXAS* (Twentieth-Century Fox 1984).

(*Portnoy's Complaint*¹²⁸). It “ought to be” (though the “data” shows it isn’t) transcended in “normal” heterosexual relationships (“If you really loved me, you wouldn’t need to masturbate”). Moreover, the good things about masturbation, physical, narcissistic, and fantastical, are deeply connected to its transgressive, solitary, anti-social character as practiced in our society.¹²⁹

Many, many straight white middle class men don’t want any of this to enter mainstream culture. They honestly disapprove of masturbation, though they do it, and they are just as much repelled as fascinated by the “dirty” images associated with it. The sexualization of the media disturbs them, in the sense of provoking unwanted excitement, shame, and confusion. They feel guilty as charged with respect to sexualization and objectification of the female body, but don’t feel guilty of wanting to abuse women.

Further, if going to porn films or arcades were emblematic of male power, one might expect that the experience would be characterized by an easy confidence reflective of macho security.

For me, however—and, I’m guessing, for many men who have visited porn arcades or film houses—these periodic visits are always minor traumas. While there is erotic excitement involved in the decision to attend and in the experience itself, this is mixed with considerable amounts of fear and embarrassment. From the instant my car is carrying me toward pornography, I feel painfully visible, as if everyone who sees me knows from my expression, my body language, whatever, precisely where I’m going.¹³⁰

2. *The Reference to Social Margins*: Sexy dress, for straight white middle class men, evokes danger, as well as or instead of male power. The danger is coded in sexy dress’s allusion to social margins. *Frederick’s* allusion to the red light district evokes robbery or assault by a prosti-

128. PHILLIP ROTH, *PORTNOY'S COMPLAINT* (1969).

129. David Steinberg, *The Roots of Pornography*, in *MEN CONFRONT PORNOGRAPHY*, *supra* note 87:

I believe that these issues—sexual scarcity, desire for appreciation and reciprocation of desire, and fear of being sexually undesirable—are the central forces that draw men to pornography. While violent imagery, by various estimates, accounts for only three to eight percent of all pornography, images that address scarcity, female lust, and female expression of male desirability account for at least seventy-five percent of porn imagery.

.....

Finally, I think it is important to acknowledge that pornography provides a victimless outlet for the basic sexual rage that seems to sit within so many men, whether we like it or not. This is the rage that sadly gets vented at specific women through rape and other forms of sexual assault. It will not go away from the social psyche, pornography or no pornography.

Id. at 54, 55-56, 57.

130. Scott MacDonald, *Confessions of a Feminist Porn Watcher*, in *MEN CONFRONT PORNOGRAPHY*, *supra* note 87, at 34, 35.

tute or pimp, and the possibility of venereal disease. It evokes the imagined physical milieu of run down small hotels, organized crime, blackmail, drugs; and the possibility of being caught doing something vile, and exposed. It evokes racial fears as well, of the black underclass culture of street hustlers and pimps.¹³¹ The same white middle class straight man for whom the reference to the lower class suggests a sexuality more animal than his own or that of "his" women may associate everything lower class with fear, for his safety, for his social standing, for his sense of racial superiority, for his self-respect.

The same is true of the biker genealogy, but this time with the added thrill/danger of abusive gay sex. The stronger bikers, in the straight white middle class fantasy, bugger the weaker ones. The upper class decadent genealogy of sexy dressing evokes more subtle fears, of embarrassment and exclusion. It is only the peacetime geographic margins (the South Seas, or France) that are truly benign, but maybe also less powerful as references, today, than they used to be.

3. *The Reference to Women's Sexual Power over Men*: In simplest terms, the interpretation of fashion as eroticizing male domination of women ignores the fact that fashion signs that are understood to refer the "reader" to images of men dominating women are combined with fashion signs that invite the opposite. The reference is sometimes direct:

Metallica is in fashion this season, whether your taste runs to the precious or the proletarian. . . . Silver accessories range from the classic to the subversive: . . . a sterling bondage bracelet (chain attached) is by Gregg Wolf. There's a touch of the dominatrix—albeit a rich one—in Cartier's platinum and diamond choker, too.¹³²

The more complex references to proletarian sexuality, to the kinky decadence of upper class Victorian pornography, and to the b&d, s&m biker genealogy all evoke narratives of female domination of men, as well as the reverse. The most basic are those of Adam and Eve and the Sirens, in which women exercise sexual power to make men do the wrong thing "against their will." Female nudity, alluded to in all the complex modes of stereotypically sexy dress, evokes the paintings that illustrate these narratives, and thereby the narratives themselves. Women use their nudity to make men do things.

Sexy dress that alludes to prostitution conjures images of unlimited male access to women's bodies on male terms, along with the world in which pimps control women through abuse. But the allusion is also to the extreme version of Adam and Eve in which a "respectable" man becomes obsessed with a "fallen woman" and sacrifices not just his money but also his job and his social standing in a vain attempt to win her heart. Marlene Dietrich in *The Blue Angel*¹³³ and the Boston story of

131. See, e.g., the movie *STREET SMART* (Cannon Group 1987).

132. *Great Style*, *supra* note 116, at 18.

133. *THE BLUE ANGEL* (Ufa 1930).

*The Professor and the Prostitute*¹³⁴ are examples. Every biker girl is a potential dominatrix, ready to turn the tables on the fantasy biker who is a wimp in real life. The appeal of her imagined entry into the life of the sex slave of the group includes her adoption of leather jacket "attitude." (Melanie Griffith in *Something Wild*.¹³⁵)

In these stories, men eroticize female domination and exploitation. In the images associated with them, we get an interpretation of why the men in question submit: it is because women present themselves, their costumed and uncostumed bodies, in a way that makes men want them so badly that they lose their reason. It is clear that the body and the costume are *media* through which the women as *subjects* deploy a power that is intersubjectively based—they know how to drive men crazy. The point is that women are capable of offering men something that other men cannot offer—they have a base of power in dealing with men that men can't neutralize or escape.

One of the writers Susan Bordo criticizes for being soft on Madonna is Catherine Texier, a novelist who writes a lot about sexual danger, and pleasure:

It's a tease, the slit that opens and falls with each step coming down with the high heel hitting the pavement. Eva has it down to an art. The tilt of the hip, the tightening of the calves, the line of the seam up from the heel, an arrow pointing up to her ass. While the cinched jacket points down to the waist, then curves round to the crotch.

There is something in her walk. A bounce, if you know what I mean, that attracts men. Not like an exaggerated hip swing that some women develop starting at age three and perfect later with the use of five-inch high heels.

Why do you women dress like that?

How can you ask such a dumb question?¹³⁶

134. LINDA WOLFE, *THE PROFESSOR AND THE PROSTITUTE* (1986).

135. *SOMETHING WILD* (Orion Pictures Corp. 1986).

136. CATHERINE TEXIER, *PANIC BLOOD* 14 (1990). In the following description, we have only the accessories, with the barge playing the part of the motorcycle in the quote from *Elle*, *supra* text accompanying note 116. But there is an answer to the dumb question:

The barge she sat in, like a burnish'd throne,
 Burn'd on the water; the poop was beaten gold,
 Purple the sails, and so perfumed that
 The winds were love-sick with them; the oars were silver,
 Which to the tune of flutes kept stroke, and made
 The water which they beat to follow faster,
 As amorous of their strokes. For her own person,
 It beggar'd all description: she did lie
 In her pavillion,—cloth-of-gold of tissue,—
 O'er picturing that Venus where we see
 The fancy outwork nature
 . . . From the barge
 A strange invisible perfume hits the sense

The male response to sexy dress is a response to the possibility of being overpowered as well to that of power.¹³⁷ I think it's totally great that feminism has, in Molly Haskell's phrase, put "a premium on more direct and nonsexual routes to power."¹³⁸ Women might, conceivably, altogether *renounce* the sexual route. Anything is possible.¹³⁹ As long as they haven't, and perhaps even if they did, fashion will sometimes convey to some men exactly the opposite message from that ascribed to it in the radical feminist analysis.

4. *The Reference to Female Defiance of Patriarchy*: "And if a man chooses to misinterpret the signals, that is his problem. Corsetry on the runway is not about fashion titillation but about a world in which sexual harassment is a burning issue."¹⁴⁰ I thought this was a joke. It seems obvious to me that corsetry on the runway is in part about fashion titillation (it titillates me). Then I got it: the editors of *Vogue* are asserting that sexy dressing makes a statement against sexual harassment because it defies the threat of abuse. It says that the woman in question refuses to allow her dress to be dictated by the conventional view or to accept its sanctions.

Sexy dress (deviation within the setting) sometimes seems to me to have just this meaning. The woman seems to be saying that a norm of patriarchy deeply grounded in men's interests doesn't apply to her. This is the norm that a woman should not excite men except in contexts in which they have at least a chance of real or imaginary sexual access to her. Corsetry on the runway defies this norm, and sometimes looks to me like a feminist statement, *because* it is titillating.

According to the regime, women are allowed (or required) to call attention to their sexuality only in some contexts—for example, within

Of the adjacent wharfs. The city cast
Her people out upon her, and Antony,
Enthron'd i' the market-place, did sit alone,
Whistling to the air

WILLIAM SHAKESPEARE, ANTONY AND CLEOPATRA act 2, sc. 2.

137. "[E]roticism itself remains ambiguous: it is at once the domain of women's mastery by men and, as Rousseau saw, the domain of women's mastery over men." Lynn Hunt, *Introduction*, in *EROTICISM AND THE BODY POLITIC*, *supra* note 99, at 1, 12.

138. Haskell, *supra* note 91, at 100.

139. *But see* Haskell, *supra* note 91:

For all their apparent man craziness, the men's women we like, and those who endure, are ultimately women with whom we identify and feel a sense of kinship. They are passionate, emotionally intense: We can't take our eyes off them, and they command the screen. They are not bimbos or pinups with vacant stares and wet lips but women with an instinctual awareness of what they're doing. They are individuals yet archetypal. And whether they'll admit it or not, they're looking over their shoulders at us, their competition, their sisters. In our imagination, we live together. They are our doppelgängers, our other halves.

Id. at 98.

140. Menkes, *supra* note 59, at 110.

marital privacy, when they are single women looking for men in bars or clubs or at parties, when they are prostitutes, and when they are producing images of sexuality in movies or advertisements or the like. In other settings—the street, the workplace, the classroom, the supermarket—they are to desexualize themselves.

Dress that deviates toward sexiness in a desexualized setting carries with it the message of the setting: that the woman is *not* sexually available. She is wearing a costume. It may say a lot about her, and about what her attitude might be in a different setting, but it most definitely does not have the meaning in this one that it would have there. Indeed, the meaning of sexy dress out of place sometimes seems to be that the woman claims the right to present herself as sexual without the permission, which she can have only at the cost of being available, that goes with being a wife alone with her husband, a single person on the make, a prostitute, or an actress acting. And then she claims the further right to deny sex to the men she has aroused.

Of course, this is not *the* meaning of sexy dress. It might mean something entirely different. Moreover, women are not equally free to signify in this way. Bell Hooks claims that since black women “are coded always as ‘fallen’ women in the racist cultural iconography we can never, as can Madonna, publicly ‘work’ the image of ourselves as innocent female daring to be bad.”¹⁴¹ But sexy dressers do sometimes put men in the position of picking up an allusion to settings in which women are available, while having to obey the norms of the actual setting, which make them unavailable. There are many possible male reactions to this kind of female defiance—for example, this one:

[D]uring a sojourn in San Diego as a visiting professor, I was astonished by the rather relaxed outfits of some of my students. Seated in the front row, they sported here a miniskirt, there extremely short shorts, which pushed against the limits of decency (by European standards) and made it very difficult for me to concentrate. Yet what I thought I heard was this, spoken with great temerity (or with terrific unconcern): “I am beautiful, young, practically nude, and this is of no importance.”

Their casualness, which in Europe would have been heavy with insinuation, did not seem to provoke any excitement among the men in the class. . . . Could it be that in the United States women exhibit their bodies in order to make their sexuality banal? In matters of the flesh, after all, to display what’s usually hidden can be the best way to detoxify desire in the act of arousing it.¹⁴²

This Frenchman’s reaction is oblivious to the current women’s discourse of sexy dress—not to the familiar argument that “no matter how” a woman dresses, she has a right not to be abused, but to the

141. HOOKS, *supra* note 119, at 160.

142. Pascal Bruckner, *Airbrush Dreams: A French Toast to American T & A*, LEAR’S, Jan. 1992, at 65, 66-67.

sexual interpretation of what's involved. According to Heather Bradshaw, 20, of Tallahassee, Florida:

I, and any other woman, can dress as skimpy as I want, flirt my head off and let a man buy me expensive dinners, and I don't owe him a thing. Women have the right to control their bodies no matter how hot they've gotten a man. There are plenty of men who are full of desire for women, and they don't rape.¹⁴³

Ms. Bradshaw's defiance is not aimed at making "sexuality banal," or for that matter at moving toward an ideal feminist vanilla sexuality, but at changing a social structure. One American male reaction is described in a survey question to the "1,769 psychiatrists" in the *Boston Globe* story quoted above:

A male may interpret sexually teasing attire as uncaring and unfair. This may result in thoughts of revenge against the female who brought on the distress, sometimes expanded to hostility against females in general. Yes: 85 percent; no: 11 percent.¹⁴⁴

The charge that sexy dress is "uncaring and unfair" is a reaction to the apparent intent to convey neither availability nor unavailability. She is not available in the sense of inviting or needing or being vulnerable to sexual advances. She is not unavailable in the sense of "taken by someone else" who has proprietary rights over her sexuality, or in the sense of being asexual. She conveys sexuality, and at the same time, defiantly, autonomy.

It seems to me that many men react to this apparent message not with fantasies of dominating or abusing women, or even with hostility, but with disquiet or fear. It is not fear of the particular sexy dresser, but fear for their investment in women particularly conceived—as beings whose sexuality is open to their appropriation, as beings whose love for particular men abolishes their autonomy, or who are the common property of all men. The sexually autonomous woman disrupts the madonna/whore diad by advertising her refusal to be either one.

It is easy to dismiss the negative male reaction as the consequence of patriarchal indoctrination. The regime does indeed demand that men be "proprietors" for whom their women's "morals are always in question and decency always invoked: 'Why did you look at that guy like that?' 'You're really going *out* in that short skirt?'"¹⁴⁵ But anyone, man or woman, who has experienced intense sexual jealousy knows better than to be patronizing about it. The sexually autonomous woman is potentially threatening to all men because her defiant existence

143. Lynn Minton, *What We Care About: A Fresh Voices Report*, PARADE, Jan. 26, 1992, at 4, 5.

144. Hatfield, *supra* note 65, at 31.

145. Dalma Heyn, *The Intelligent Woman's Guide to Sex: Sex is Not Enough*, MADEMOISELLE, Feb. 1992, at 46, 48.

suggests that no woman is "true" in the way patriarchy promises that the madonna type will be true.

In some men, the reference to defiance of patriarchy evokes not only fear and anger, but also a set of positive reactions. I think these are rooted in a paradoxical combination of connection and disconnection. The woman whose dress defies patriarchy conveys the comforting message that women are more like men in their sexuality than either patriarchy or feminism have much acknowledged. No woman will be true in the way the culture promises that the madonna type will be true. But neither are women the aliens they would be if they *could* be like that.

Second, there is the allusion to sex without either the whole range of domesticating, regularizing, defining roles and rules of the regime, or the context of prostitution. By this I don't mean sex without responsibility or intimacy; sex without either is widely available within the regime, both in and outside of marriage. The (straight white middle class) male fantasy of the female free agent is of a woman who doesn't owe you sex under the terms of the patriarchal bargain (not "a wife") and isn't looking to get something out of you (not "a whore"). The reference is to sex in which the man doesn't have to worry whether the woman "really" "wants it."

Third, the sexy dresser is doing something the man would do if he could. His stereotypical feminine traits—*forbidden by the regime*—get projected onto the woman who enacts femininity against the norm of the setting. Whatever she may actually be feeling, the sign of sexy dress is the sign of narcissism, exhibitionism and desire, body power. We (men) can have it through identification with women, if only women will "take it on." Most (straight white middle class) women don't seem to want to. And why should they?

But wanting women to enact body power, and enjoying—being sexually excited by—their performances when they do, is not the same thing as wanting to dominate or abuse them. Indeed, sexy dressing *sometimes* affirms the possibility of this kind of female power brought home from the temporal, spatial and racial margins; in other words as a possibility within straight white middle class life in the present, rather than located necessarily, only and forever in the abusive narratives of the red light district, the Victorian boudoir and the motorcycle gang.

What about abuse? It is all very well, I hear my feminist critic insist, to celebrate the collaboration of the defiant anti-patriarchal sexy dressing woman with the man in the audience whose fantasy is that her free agency will free him, too. But in the eyes and minds of *most* men and women in the audience, "the dominant meaning" is that women are exciting, dangerous, irresponsible creatures who want and need sexualized abuse and protection in about equal measure. Some men will respond to the sign by raping or harassing; many more men will respond

to it as confirming (reflecting, reproducing) the regime's version of the sexes.

Anne Wagner, in a brilliant essay on Rodin, points out that his art and the popular understanding of his life fit a particular contemporary stereotyped version of the natures of men and women and their natural relationship.¹⁴⁶ Rodin was a sculptor whose work and life could be and often were interpreted "to endorse both male mastery of woman and the fiction of male sexuality that takes mastery as its premise."¹⁴⁷ But Rodin also elicited another interpretation. "What, then," Wagner asks, "for the female convert, of the charges of brutality, the metaphors of penetration and violation?"¹⁴⁸ I like her answer a lot:

[T]hese selfsame drawn and modeled bodies were also seen by certain [women] viewers, at least, to give heterosexual relations a new inflection. . . . [T]he sculpture offered . . . an imagery confirming and celebrating the very existence of an unbridled female sexuality as the complement, rather than the object of male desires. . . . [T]he bourgeois woman could embrace her carnality without it being equated with the pathetic and dismissible pleasures of a Nini or a Popo. . . . [F]emale sexuality is reclaimed as bourgeois, and the centurywide gap between woman's identities as Madonna or Magdalen begins, ever so slowly, to close. . . . That the same representations could give rise to two such varying accounts—the patriarchal and the bourgeois feminist—should not strike us as odd or unexpected It is when alternative accounts can no longer feed themselves on the imagery proposed by the dominant culture that there is cause for concern.¹⁴⁹

As with all pleasure and all interstitial resistance, there is a "dark side" to this collaboration. There is the problem that the male fantasy of the female free agent is only apparently disentangled from the madonna/whore duality. She is defined only negatively. The minute the woman is a real person, we are caught again, inevitably, in the web of roles. People do owe each other and want things from each other as soon as they know each other even a little. This stuff has to be negotiated, and the fantasy of free agency on either side can make this harder rather than easier.

The web of roles is given (at least for the time); the reality of inequality between men and women within the regime is given (at least for the time); inequality between particular men and women (with women sometimes advantaged) is given; and that a sign is not a signified is given. Given all this, even the most purely pleasurable, purely oppositional reference of sexy dress is shadowed, for the male audience, by the possibility that the signifier (dress) is a lie about the signified (the

146. Anne M. Wagner, *Rodin's Reputation*, in *EROTICISM AND THE BODY POLITIC*, *supra* note 99, at 191, 235-36.

147. *Id.* at 235.

148. *Id.* at 230.

149. *Id.* at 235-36.

woman). She is “really” coerced or a commodifier or engulfed or compulsive, rather than the self-expresser or gender artist we let ourselves hope she was. It turns out she was only masquerading as a masquerader.¹⁵⁰

I think this is often the case for the woman herself; she does not know whether or not she’s lying, or whether it is possible either to lie or to tell the truth.¹⁵¹ I also think that any particular woman’s pleasure in her defiant sexy dress is often shadowed by the possibility that no one, not one single person, experiences it as she would want—that the whole audience consists of “dirty old men,” abusers lying in wait, and critics who think she is a slut or politically incorrect or too old or not pretty enough or doesn’t really know how to do it right.

I think nonetheless that some of the time, some sexy dressers and some of their audience are engaged in pleasure/resistance in the interstices of the regime. They are eroticizing female autonomy. In so doing they undermine not only the structure that opposes madonna and whore but also that which opposes straight white bourgeois vanilla sexuality to the (imagined) kinky, animal, androgynous sexuality of the margins.¹⁵²

This must be always an uncertain form of politics because the signifying woman may be doing more harm than good, feeding the conventional view in which the tease deserves what she gets and men get off on woman-wanting mixed with woman-hating. For both men and women,

150. On the different interpretations of femininity as masquerade, see MARY ANN DOANE, *FEMMES FATALES: FEMINISM, FILM THEORY, PSYCHOANALYSIS* 25-26, 37-39 (1991); BUTLER, *supra* note 4, at 46-54.

151. BUTLER, *supra* note 4. “If the inner truth of gender is a fabrication and if a true gender is a fantasy instituted and inscribed on the surface of bodies, then it seems that genders can be neither true nor false, but are only produced as the truth effects of a discourse of primary and stable identity.” *Id.* at 136.

152. I argued above that this can happen because the woman wears clothing whose message of erotic availability is contradicted by the well-understood norms of the setting, so that she is neither available nor unavailable, but autonomous (male) and simultaneously the repository of body-power (female). This might be an example of what Judith Butler is talking about in the following passage:

In the place of a ‘male-identified’ sexuality in which ‘male’ serves as the cause and irreducible meaning of that sexuality, we might develop a notion of sexuality constructed in terms of phallic relations of power that replay and redistribute the possibilities of that phallicism precisely through the subversive operation of ‘identifications’ that are, within the power field of sexuality, inevitable. . . . If there is no radical repudiation of a culturally constructed sexuality, what is left is the question of how to acknowledge and ‘do’ the construction one is invariably in. Are there forms of repetition that do not constitute a simple imitation, reproduction, and, hence consolidation of the law . . . ?

BUTLER, *supra* note 4, at 30-31. “If the regulatory fictions of sex and gender are themselves multiply contested sites of meaning, then the very multiplicity of their construction holds out the possibility of a disruption of their univocal posturing.” *Id.* at 32.

it seems to me, the experience is compromised because it occurs within, is indeed dependent for its meaning on, the larger web of references to male sexual abuse of women and to male degradation in relation to them. It is never just "the truth" (something to be relied on) that the experience is indeed pleasure/resistance rather than something else, something bad, instead.

Doing and appreciating sexy dress is flawed as pleasure/resistance in another way. It is asymmetrical. The (straight white middle class) men (or man) watch and the woman performs. It seems plausible to me that this pattern reenforces, helps reproduce one of the bad aspects of patriarchy: its construction of woman as the object of the attentive, adoring, excited male gaze, the actress active by being-for-the-men, while the men dispose of her fate, and the fate of the world, on the side.¹⁵³

What is wrong with this is not that men and women should be-for-themselves, whatever that would mean. What is wrong with it politically is that it contributes to disempowering women as actors within the "male sphere." What seems to me wrong with it *erotically*, as a (straight white middle class) man, is that it requires each party to give up a possible pleasure—that which might be found in the activity the regime allocates to the opposite sex. To say this is to make a choice between two plausible routes beyond asymmetry.

One is to try to get rid of sexual objectification and to deerotize power in sex. Getting rid of objectification on the male side means avoiding experiencing the woman as the involuntary bearer of multiple sexual significations hooked up to multiple sexual narratives, and trying to experience her as a "real person." From the woman's side, it means sacrificing the possible pleasure, avoiding the possible degradation, and renouncing the possible power that are to be had by playing the sexual fantasy object.

De-erotizing power in sex means looking for the sexual charge, the excitement, that is sometimes present when the other is "just the same" while at the same time "different," without difference implying hierarchy. It also means trying to "deprogram" one's own excitement at images of domination and submission. Though this is unmistakably the liberal humanist sexual program, it seems to me what is often behind cultural and socialist feminist theorizing about sex as well.¹⁵⁴

153. DE LAURETIS, *supra* note 94, at 99. "[B]oth visually and narratively, cinema defines woman as image: as spectacle to be looked at and object to be desired, investigated, pursued, controlled and ultimately possessed by a subject who is masculine, that is, symbolically male." *Id.*

154. See AGAINST SADOMASOCHISM, *supra* note 1, *passim*; see also SANDRA L. BARTKY, FEMININITY AND DOMINATION: STUDIES IN THE PHENOMENOLOGY OF OPPRESSION (1990):

The right, staunchly defended by liberals, to desire what and whom we please and, under certain circumstances, to act on our desire, is not an

But there is another way to imagine getting beyond asymmetry, beginning with Judith Butler's point that:

The pro-sexuality movement within feminist theory and practice has effectively argued that sexuality is always constructed within the terms of discourse and power, where power is partially understood in terms of heterosexual and phallic cultural conventions. The emergence of a sexuality constructed (not determined) in these terms within lesbian, bisexual, and heterosexual contexts is, therefore, *not* a sign of a masculine identification in some reductive sense. . . . If sexuality is culturally constructed within existing power relations, then the postulation of a normative sexuality that is 'before,' 'outside,' or 'beyond' power is a cultural impossibility and a politically impracticable dream, one that postpones the concrete and contemporary task of rethinking the subversive possibilities for sexuality and identity within the terms of power itself.¹⁵⁵

Robin Morgan, appropriating Samuel Johnson's critique of Donne, wants us to accept as aesthetic-social ideal "[t]he most heterogeneous ideas . . . yoked by violence together—such as struggle with the person one loves."¹⁵⁶ In her discussion of the politics of women's masochistic fantasies, she starts from her own determination: "If the fantasy-theme seemed enjoyable to me, I was not about to punish myself with guilt for that pleasure."¹⁵⁷ She proposes a mythical female program which seems to me better (meaning I agree with it) than getting rid of sexual objectification and de-eroticizing power: "The possibility of their naked minds and bodies engaging one another—a joyous competition which must include an assumption of defeat as (1) temporary and (2) utterly lacking in humiliation; of any triumph as, obversely, impermanent and meaningless. *The taking and giving of turns.*"¹⁵⁸

It seems to me that what this means, put simply, is restoring symmetry by men dressing sexily for women, and women watching, and vice versa, rather than restoring symmetry by rooting out male voyeurism and female exhibitionism (so that no one is performing and no one watching). Yes, of course, this is an utterly utopian idea, within the

issue here; the point is that women would be better off if we learned when to refrain from the exercise of this right. A thorough overhaul of desire is clearly on the feminist agenda: the fantasy that we are overwhelmed by Rhet Butler should be traded in for one in which we seize state power and reeducate him. . . . Samois in effect advises P. to ignore in her own life a general principle to which, as a feminist, she is committed and which she is therefore bound to represent to all other women: the principle that we struggle to decolonize our sexuality by removing from our minds the internalized forms of oppression that make us easier to control.

Id. at 51.

155. BUTLER, *supra* note 4, at 30.

156. ROBIN MORGAN, *Metaphysical Feminism*, in *GOING TOO FAR*, *supra* note 1, at 290, 301.

157. *Id.* at 232.

158. *Id.* at 237 (emphasis added).

regime. And though utterly utopian it doesn't even promise getting beyond—it merely “assumes” away—the real possibility that accepting competition, defeat and triumph in the “battle between the sexes”¹⁵⁹ as erotic will slip over the boundary into the plain and simple eroticization of male domination of women.¹⁶⁰ (For the straight man, it doesn't promise release from *Blue Angel* fear.)

Yet taking turns is no more utopian than trying for unalienated relatedness, within the regime—and, still within the regime, it is no more dangerous, either. In the very restricted domain of sexual signification through dress, taking turns is even a real tendency in contemporary (American) life, because there are overlapping gay and black male sub-cultures that have made it part of their program to appropriate the female prerogatives of self-objectification and fashion exhibitionism.

CONCLUSION: AN EROTIC INTEREST IN ENDING ABUSE

As consumers, men and women operate on the cultural map by picking and choosing among the kinds of arousal the culture offers them. In this mode they do more than simply register their personal relationship to the social field they are born into. They participate willy-nilly. But they are more passive than in the modes of self-creation, such as fantasy, play, experiment and invention. In our active being on the map, whether in public or in private, we seek sexual excitement and also moral value, and produce them, in all these four ways, or flee them, rather than merely registering them in ourselves or choosing among pre-set alternatives. Like it or not, we find ourselves changed by the experiences that ensue, and sometimes we change our surroundings.

We fantasize, play, experiment and invent using the repertoire our culture makes available. Fantasy and play involve the reversal of expectations and of social valuations, and entering imaginatively into situations that one might flee in real life. Experiment and invention are not either unless they contravene a norm of some kind. It is part of the dark side that the connected repertoires of stereotypical gender identities, archetypal narratives, and costumes associated with the identities and the narratives, all allude to the real life practice of abuse. Because there is no way to operate without these tainted repertoires, there is

159. *Id.* at 235.

160. Susan E. Keller, *Review Essay: Justify My Love*, 18 W. ST. U. L. REV. 463 (1990):

Madonna's [*Justify My Love*] video runs the risk of reinforcing the stereotypes of male power precisely by showing that women get that power only by dressing up as men, and of teaching rather than revealing the alternative meaning of the closing epigraph; that pleasure may derive from violation. It is a necessary risk, however, if we want to challenge the assumptions of gender.

Id. at 468.

always the risk that what we think is escape or daring resistance in the interstices is turning us into victims or victimizers.

It seems to me that for many people, myself included, the relationship between what it is exciting to produce or consume and what is "good" is profoundly complex, and problematic. The relationship is not as simple as a perennial conflict between an internal moral code and a set of internal propensities to excitement. It is always hard to tell whether the code that says "no" or "yes" is "really" inside us or an imposition from outside, from an authority that is open to question. The same is true for the charges we find associated with things we want or equally passionately don't want to do. Our turn-ons are conditioned, always open to the critique of external imposition, just as codes are sometimes mere indoctrination.

Moreover, even what we "really" believe is open to our own interpretation and reinterpretation. This can be, as in legal opinion writing, *ex post* rationalization, or casuistry, or "evolution of timeless principles to meet new circumstances," or what we ourselves regard as our own moral growth. The same is true of erotic charges. We learn them, and unlearn them. Abuse, tangled into the cultural images through which we produce and interpret our own and other people's sexuality, seems to me to weigh heavily on this tricky, risky enterprise.

I think that men and women might fantasize, play, experiment and innovate more, and *perhaps* more happily, if there was less of this danger. By this I mean specifically if there were less incest and rape and sexual harassment. I don't mean that there would be fewer fantasies involving these things. Rather, I mean that the positive uses of such fantasies, for both men and women, would be less impeded by guilt and fear. Sexual abuse is, as the radical feminists have rightly, rightly insisted, an instrument of male disciplinary terror against women, and, as the radical feminists have rightly insisted, our culture inculcates erotic pleasure in male domination of women in every aspect of life.

These fantasies, and play, experiment and innovation that use them as elements, including the practice of sexy dress, sometimes reflect and reproduce the most hateful aspects of the way men treat women under the regime. But they are not just, or essentially, or always, politically incorrect. According to Ann Ferguson, there are two ways to interpret the recent increase in the male pornography industry:

Either one can see it as a relatively benign male fantasy "backlash" to the increased sexual autonomy of women or else as a determined attempt by male chauvinists to sexually objectify women so as to legitimize sado-masochistic gender roles in heterosexual sex.

Though it cannot presently be proved which of these two analyses is correct, the sexual symbolic code as presented in the public media is clearly a site of contestation¹⁶¹

161. FERGUSON, *supra* note 93, at 116 (citations omitted).

On the other side, the choice is just as stark:

Is it true that persons who get off on masochism in bed are by that practice perpetuating a vulnerable ego in other areas of their social life? Or is that person merely venting an unconscious (and possibly unchangeable) aspect of her emotional life thus expurgating its influence from the rest of her life? . . .

Despite the heated claims by both proponents and opponents of S/M that it is empowering *vs* disempowering to the women who engage in it, there is no clear proof either way¹⁶²

There is more wrong with this than the insistence that fantasy *must be* one thing or the other, and that someone might prove which one it is. It might be one *or* the other for a particular person in a particular context. It might be other things as well. Here are three others, from the straight white male side, the first from Scott MacDonald. He starts from the idea that "the same cultural history which has defined women as Beautiful has had . . . as its inevitable corollary, the Ugliness of men; women have been defined as beautiful precisely in contrast to men."¹⁶³

To me, the nature and function of pornography have always seemed understandable as a way for men to periodically deal with the cultural context which mitigates against their full acceptance of themselves as sexual beings. The fantasies men pay to experience in porn arcade booths and movie houses may ostensibly appear to be predicated on the brutalization of women. But from a male point of view, the desire is not to see women harmed, but to momentarily identify with men who—despite their personal unattractiveness by conventional cultural definitions, despite the unwieldy size of their erections, and despite their aggressiveness with their semen—are adored by the women they encounter sexually.¹⁶⁴

Second, what of the theory that upper middle class white male mas-

162. *Id.* at 215.

163. MacDonald, *supra* note 130, at 40.

164. *Id.* at 41. He adds:

In [some] instances the fantasy is in punishing resistant women for their revulsion. Of course, the punishments—usually one form of rape or another—often end with the fantasy woman's discovery of an insatiable hunger for whatever has been done to her. This frequent turnabout appears to be nothing more than a reconfirmation of the stupid, brutal myth that women ask to be raped or enjoy being raped, but—as sadly ironic as this seems—it could also be seen as evidence that, in the final analysis, men don't mean harm to women, or don't wish to mean harm to women: their fantasy is the acceptance of their own biological nature by women. I've always assumed that porn and rape *are* part of the same general problem, though I've always felt it more likely that porn offers an outlet for some of the anger engendered by men's feelings of sensual aesthetic inferiority, than that it serves as a fuel for further anger. But I'm only speaking from my own experience. I've rarely spoken frankly about such matters with men who use porn.

Id. at 42 (footnote omitted).

ochism boomed in the 1980s, along with the New York dominatrix business, in response to the social insistence that these men behave in a super-macho way while working as Michael Douglas in *Wall Street*?¹⁶⁵ The inverse of this theory is that *sometimes* male fantasies of dominating women represent not backlash, but symbolic compensation for male efforts to comply with the feminist ethical demand that they renounce their super-macho stance in relation to women. Signe Hammer suggested, fifteen years ago, a parallel theory about women: "Our basic rape fantasy reflects our anxiety about asserting ourselves in all areas—in work, sex, and relationships."¹⁶⁶

Third, many written pornographic narratives of male humiliation, domination and abuse of women are told relentlessly from the female point of view (*The Story of O*)¹⁶⁷. They invite the male reader to participate in the consciousness of the victim, and particularly in her experience of overwhelming, ego-obliterating pleasure when she surrenders to the will of the male abuser.

It seems obvious to me that *sometimes* the goal is to permit the male reader vicarious access—access safely distanced by the combination of the gender and the helplessness of the victim—to the pleasure he might derive from giving up the fight to dominate other men. This might be pleasure/resistance, however distorted, in a regime that tells him competition with men is his reason for being and greatest role-appropriate pleasure. In this interpretation, it is men, rather than women, who can fantasize their own pleasure in self-surrender only when they fantasize it as forced, and only when they can pretend that it is they themselves who are doing the forcing.¹⁶⁸

I don't mean to suggest that a given fantasy (or a given costume) has one or another of these meanings for its audience because that is the meaning that is "in" it. Quite the contrary, my point is that men and women *use* fantasies (and costumes), constrained by the elusive requirement of some minimal "fit," on the way toward these diverse imaginary pleasures. In the extreme case, abolishing real life male sexual abuse of women would reduce the dangerousness of this enterprise, for both

165. WALL STREET (Twentieth-Century Fox 1987).

166. Signe Hammer, *The Rape Fantasies of Women: Up from Disrepute*, VILLAGE VOICE, Apr. 5, 1976, at 11, quoted in ROBIN MORGAN, *The Politics of Sado-Masochistic Fantasies*, in GOING TOO FAR, *supra* note 1, at 227, 230 n.1. Morgan comments: "It . . . provokes the startling thought that assertive women in general and feminists in particular might be especially prey to such culturally implanted self-punishing devices." *Id.* But it seems to me wrong to see the "devices" as "self-punishing." The self-punishment is in guilt about one's fantasy, which is pleasure, whether it involves punishing or being punished.

167. REAGE, *supra* note 110.

168. The work that seems to be most clearly inspired by some such idea is the 1985 trilogy by A.N. Roquelaure [Ann Rice], *The Claiming of Sleeping Beauty*, *Beauty's Punishment*, and *Beauty's Release*. For yet another take, see JESSICA BENJAMIN, *THE BONDS OF LOVE* 51-84 (1988).

men and women, by cutting the connection between rape fantasies and real life rape, between incest fantasies and incest.

In such a world, some people would stick fast to what turns them on, and others would "stretch the envelope." I would feel freer to fantasize the boy hooker in myself if I weren't so scared of pimps—but also freer to fantasize the john in me. Whichever way one chose to go, Susan Keller's image of the process of gender change would be easier to accept:

I suggest that there is no pure gender culture. Instead, I think of all cultural artifacts as being like the Watts Towers in Los Angeles, a structure/sculpture in the middle of Watts that was decorated over many years with various throwaways—pieces of plastic medicine bottles, pottery shards, used tile, Seven-Up bottles. Everything, like the Watts Towers, is a re-creation from stuff that was already created, which itself was recreated from stuff that was already created. Every possibility that exists, and that we will be transformed into, will be, like the Watts Towers, composed of the leftovers, scavenged treasures of the dominant culture.¹⁶⁹

The argument for a male erotic interest in reducing the sexual abuse of women is thus quite complex. Abuse screws women up sexually, and that's bad for men. It discourages women from risking, disciplines them not to risk the forms of pleasure/resistance through which we might eroticize autonomy and soften the contrast between the straight white middle class cultural center and the imagery of exciting but dangerous margins that are often real-life sites of oppression. And it burdens both men's and women's fantasy, play, experiment and innovation with questions, risks, fears, and guilt that trap us in the reproduction of patriarchal sex. Being against abuse is not, for men, just a matter of human rights, empathy, protecting "our" women, romantic paternalism or political correctness, however valid and important each of those may be.

Both the idea of reducing the violence so we can get on with playing within while evolving the repertoire, and the idea of overthrowing the repertoire altogether, are open to the critique that people would end up worse off in fact with more freedom and less repression. We would still have our inner demons, and lots of outer ones as well. There is no hors-repertoire. Power to the imagination all the same. When Madonna hurries down the hall at the end of the *Justify My Love* video, smiling to herself, it would be better on balance that she not end up . . . dead.

169. Keller, *supra* note 160, at 468 (citations omitted).