



NOT GIVING UP
A FEMINIST CASE FOR PRISON ABOLITION
ON PEOPLE

BARRETT EMERICK AND AUDREY YAP

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For the ones who never gave up on us.

Contents

| | |
|---|-----|
| Preface | ix |
| 1 Easier to Love | 1 |
| 2 Against Moral Abandonment | 27 |
| 3 Sexual Violence and Carceral Logic | 57 |
| 4 Institutionalized Moral Abandonment | 81 |
| 5 Moral Repair and Restorative Justice | 105 |
| 6 Repair and Resilience | 135 |
| 7 Not Giving Up | 161 |
| Index | 177 |
| About the Authors | 181 |

Chapter 3

Sexual Violence and Carceral Logic

Chapter 2 explored some of the foundational reasons we might have for being in moral solidarity with others and not giving up on them as moral agents. While this is easy enough to accept when we consider people in the abstract, it gets harder to accept when we think about particular people, or particular kinds of actions. For instance, we might easily accept that we should be in moral solidarity with Jean Valjean, whose theft was understandable and perhaps even excusable, or with a colleague who we might not like very much but accept as well-intentioned. However, it's probably harder for most of us to think that we should ever try to cultivate the kind of empathetic understanding Harvey describes when it comes to people who have committed terrible wrongs. In those cases, reacting with anger might feel like the end of the story.

Some people, we might think, are just moral monsters and do not deserve empathetic understanding. On that line of thinking, such people would be appropriate candidates for moral abandonment, in which we understand them to be unfit members of the moral community and undeserving of moral solidarity. This suggests that the carceral system functions as a deterrent for such people to act on the monstrous impulses that they might have.

The main purpose of this chapter is to argue against thinking of people as monsters, or as constitutionally determined to be wrongdoers. In one way, it's going to be a simple argument, since part of what we think constitutes being a person is the capacity to go in a new way. To be a moral monster, fixed in one's capacities and determined to be wicked, is just incompatible with agency and personhood as we understand them. But that's also too quick an argument since many people do *not* go in a new way. What we'll argue for is the idea that we should not, as a society, foreclose those kinds of possibilities

for people; nobody should be treated by the moral community of which they are a member as though they are constitutionally irredeemable.

Understanding people to be essentially monsters and basically incapable of change makes our lives easier (assuming, of course, that we're among the people who get to stay in the moral community). After all, then we just get to think that there's something wrong with *them* that makes them unsuitable as fellow travelers. On our view, this lets *us* off the hook too easily, since it absolves us of the responsibility we all share for creating a better world.

Furthermore, the kind of thinking that writes off a kind of person as irredeemable is entirely too close to a biological determinism that has long been used in the service of racism, sexism, and transphobia. We try to follow the lead of Black feminists, like the writers of the *Combahee River Collective Statement*, who understand that our social identity plays a significant role in our lives, condemn the oppressive conduct of men in our society, but refuse the claim that it is their (biological) maleness that makes them act wrongly.¹ And the kind of harm that we're talking about in this chapter is a harm often (though certainly not exclusively) perpetrated by men against women. After all, an area in which it is easy for feminist philosophers to help ourselves to carceral logic is in thinking and writing about sexual violence. Though some feminist activism and theory are critical of rape myths—those tacit assumptions about how sexual assault and other kinds of violence “really happen”—there tends to be much more focus on debunking the myth of the ideal victim of sexual assault than on the myth of the ideal perpetrator. For instance, we know that people of any social location could be sexually assaulted, though oppressed people tend to be at higher risk. We also know that asking a woman what she was wearing or whether she had been drinking when she was assaulted can be just another form of victim blaming.²

But there are also rape myths about the *perpetrators* of sexual assault. For instance, some interviews with college-aged men have suggested that while they condemn rapists in general, they would consider engaging in some behaviors that would count as forced sex.³ The idea that there is a certain, readily classifiable type of person, who is correspondingly the type of person who might commit sexual assault, is also a factor that can lead to victims' reduced credibility and other kinds of epistemic injustice.⁴ After all, the idea that there *is* a type of person who commits sexual assault implies that people who do not fit into that category are correspondingly *not* that kind of person. Such people, then, might be seen as capable of wronging others by accident, but instead of being genuine assaults, their actions can easily be written off as misunderstandings or miscommunications (for which victims might themselves sometimes be blamed).

It is crucial that we be able to condemn predatory behavior and acts of sexual violence without seeing them as the exclusive domain of a particular

kind of person. Furthermore, beyond the kinds of harms we discuss in this chapter, traditional rape myths obscure the experiences of people who have been harmed by non-men.⁵ This means that the step we want to avoid is the inference from the fact that sexual violence is a serious matter and can do immense harm, to the claim that the *perpetrators* of sexual violence have a particular kind of irredeemable, inhuman, or otherwise monstrous nature. As mentioned earlier, a close association between sexual violence and a particular kind of moral character makes it too easy to dismiss any claims against people who do not seem to have that type of character. Even if one is not moved by the harm people face under a carceral system, we might at least be moved by the fact that some people are deeply wronged by very atypical kinds of perpetrators. Those people are also badly served by maintaining a binary with good people on one side and predators on the other.

The following section will outline the idea of active ignorance and connect it to the ways in which we maintain unjust social arrangements. Next, we will discuss the extent to which it is culturally entrenched that only a clear type of bad person (and bad man in particular) can be a perpetrator of sexual violence and outline how this sustains mechanisms of ignorance that support rape culture. We will conclude by pointing out some better ways for us to approach the dismantling of rape culture, with a greater focus on masculinities, particularly the ways in which rape culture also shapes men's sexual agency.

ACTIVE IGNORANCE AND THE SOCIAL IMAGINARY

Ignorance can be more than just an absence of knowledge. It can be thought of as *active*, for instance in cases where someone takes steps to avoid learning about some potentially uncomfortable truths. It can also be produced and sustained by unjust background conditions, which influence the activities of institutions that produce and validate our collective knowledge. This presupposes the fact that knowledge is socially situated; as we have said in previous chapters, someone's social location bears on but does not necessarily determine their epistemic location. Also, a position of relative social privilege does not generally translate into a corresponding position of epistemic privilege. In fact, the people who are best off in a society are often the *worst* equipped when it comes to understanding its problems. If someone is in a position of social privilege, they might have the epistemic privilege of remaining ignorant of some aspects of the world around them. As José Medina writes:

There is *not needing to know* and there is *needing not to know*. The cognitive predicament of the privileged involves, in some cases, a not needing to know that leads to epistemic laziness, but it also involves, in other cases, a needing not to know that creates blind spots⁶ of a different kind: not just areas of epistemic

neglect, but areas of an intense but negative cognitive attention, areas of epistemic hiding—experiences, perspectives, or aspects of social life that require an enormous effort to be hidden and ignored.⁷

In his analysis, Medina largely connects such epistemic gaps to various epistemic vices, like arrogance, laziness, and closed-mindedness. But even given those vices, the *necessity* of epistemic hiding is an important problem. So, what is it that can result in our needing not to know certain things about ourselves or about the world in which we live?

Admittedly, some ignorance is produced and reproduced by our social institutions. This means that not all active ignorance essentially involves the motivations of individuals, or bad faith on their part.⁸ For example, a settler social imaginary of pre-colonization North America being an untouched and barely inhabited pristine wilderness masks many atrocities committed in the name of colonization. Distinctions between “savage” and “civilized” may be phrased in terms that claim to be race-neutral but come with a great deal of historical and cultural baggage. These concepts and stories are used by our knowledge-producing and knowledge-legitimizing institutions (such as schools and colleges) and popular culture more generally (like movies and TV shows) as part of the machinery that enables and perpetuates the hiding of uncomfortable truths. Even when our main consideration is individual memory (or lack thereof), individuals' memories are reinforced (or not) by collective social memory. These contribute to the hegemonic ideologies we discussed in chapter 1.

Now, racial ignorance, as Charles Mills points out, can be motivated by white group interests, and we might easily say the same for settler ignorance.⁹ Maintaining a myth of equal opportunity in North America allows successful white settlers (and others who are relatively privileged) to view themselves as self-made and as having arrived at their success through their own merits. Meanwhile, racialized income disparities, educational gaps, and incarceration rates (among other things) provide tacit confirmation, not of an unjust society but of underlying white settler superiority. At the institutional level, it is often in the interests of organizations whose brands capitalize on the language of diversity and inclusion to portray themselves as living up to those values, despite the ways in which they might simultaneously be embodying oppressive practices. For instance, university committees focusing on equity and diversity might find that the only institutionally acceptable findings are those that celebrate the university without making any anti-racist changes. Sara Ahmed, for instance, documents many instances in which pointing out institutional racism is deemed more of a problem than the racism itself.¹⁰ All of these are ways in which individuals and institutions might foster active ignorance.

What we're going to do next is to show how certain tropes about perpetrators of sexual violence can also be seen to maintain active ignorance. The claim is that drawing neat boundaries between good people and predators, where only the latter are the "kind of people" who commit sexual assault, ends up functioning as a way to exonerate people. For example, an article by Laura Kipnis characterizes sexual assault-related activism on campus and prohibitions on many professor–student relationships as fueling paranoia and moral panic. In making this argument, Kipnis also includes the following:

For the record, I strongly believe that bona fide harassers should be chemically castrated, stripped of their property, and hung up by their thumbs in the nearest public square. Let no one think I'm soft on harassment.¹¹

Kipnis' main argument is that prohibiting professor–student relationships infantilizes students and treats them as incapable of refusal on their own terms. Much more could be said about that argument; what is important here is Kipnis' baseline assumption that professor–student relationships are not typically venues for or products of sexual harassment.¹² This passage is one where she is attempting to ensure that she is not positioned as an apologist for sexual harassment. As such, it seems that she wants to make the distinction clear: there are bona fide harassers who are clearly irredeemable and entirely undeserving of moral solidarity and then there are everyone else who, despite being accusable of sexual harassment or some other kind of misconduct, are basically good people. This distinction that Kipnis draws is both very common and very reflective of a retributive ideology. On such an ideology, we accept that *some* people deserve to be hung up by their thumbs in the public square, just not the good and decent people. One problem with such an ideology is that it obscures the fact that good and decent people are often perfectly capable of committing acts of sexual violation.

Retributivism flattens and encourages less nuanced thinking about sexual violence and who could enact it; it reduces perpetrators to monsters who deserve to suffer and treats everyone who doesn't deserve to suffer as someone who couldn't commit such violence in the first place—or so we argue. Part of the problem, at least insofar as we're trying to explain the motivated ignorance of individuals, is that imagining basically decent people committing sexual violence is extremely difficult within our shared social imaginary.

One of the central examples Medina discusses is Tom Robinson's trial from *To Kill a Mockingbird*, where Robinson, a disabled Black man, is accused of raping a white woman, Mayella Ewell. Medina claims that part of Robinson's testimony may have been rendered virtually unintelligible to the all-white jury due to the social context in which they lived. A clear point in that trial at which the jury turns against Robinson comes when he responds to the prosecutor's question of why he was a regular visitor to the Ewell household, with the claim

that he felt sorry for Mayella Ewell and wanted to help her. The impossibility of this in his white audience's imagination sinks Robinson's testimony—a fact he seemed to be aware of at the time. Of course, this was not the only incredible (which is to say hard or impossible to believe) fact that emerged during the questioning. It was also revealed that Ewell was the one who made advances on Robinson, and not the other way around. Either one of these stories falls outside the social imaginary of the Southern jurors, given existing gender and racial relations, but both together must have been incomprehensible. Medina says:

Finch [Robinson's lawyer] is asking the jury to ascribe an incredible sort of sexual agency to a white woman (the agency to initiate sexual activity!) and a misplaced object of desire (a Negro!). And there is yet another hard-to-swallow proposition in the mix: that if Mayella has not been abused by Tom, she must have been abused by her own father. The jury is faced with the choice between an easily imaginable, ready-made scenario (a white girl being raped by a Negro), and something unimaginable coupled with something imaginable but shattering (the white girl desiring a Negro and being physically abused and possibly raped by her own father).¹³

As expected, the jury finds Tom Robinson guilty. Now it's important to note that an impoverished social imaginary doesn't excuse the jury's racism or make their conviction any less unjust. But it does help us understand why they might have voted the way they did, and that's important if we want to understand how such things could potentially be changed for the better. So, to be clear, when we talk about the factors that motivate someone's active ignorance and note that some of those factors are outside of a person's direct control, that is still compatible with their being held responsible for that ignorance and for the actions they commit as a result.

One way that we will depart from the kind of scenario described in Tom Robinson's trial is that in his case, the unintelligible scenarios are plausible ways that the lives of others could have gone. But in this chapter, we are also considering cases in which the social imaginary might render our own lives less intelligible. In other words, a full understanding of our experiences and who we are to *others* might be in conflict with who we are to *ourselves*. Who we are to others may seem antithetical to our stated values or feel impossible to integrate with the rest of our self-conception. But, given our framework of personal identity, all of those narratives are part of the complicated fabric of our personhood.

IDENTITIES AND EXONERATING IMAGES

We already spent some time in chapter 1 discussing how Hilde Lindemann's account of personal identity underlies our work. One piece to highlight here is

the role of master narratives in our lives, and in how other people make sense of us. Master narratives, as Lindemann describes them, are:

the widely circulated stories summarizing the socially shared understandings that make communal life intelligible to its members. I claimed that the stock plots and readily recognizable character types of master narratives characterize *groups* of people in certain ways, thereby cultivating and maintaining norms for the behavior of people who belong to those groups, and weighting the ways others will or won't tend to see them.¹⁴

Master narratives are often used to justify the oppression of social groups by depicting their members as inferior in some way, or as less deserving of moral consideration. This can distort and damage group members' self-conceptions and crowd out their first-person stories, resulting in what Lindemann calls *infiltrated consciousness*. This idea can also be more broadly applicable to cases in which master narratives about a particular group identity are sufficiently pervasive and stigmatizing. We want to consider the possibility, then, that some group identities are difficult to take on because of the stigmas associated with them, and because of the difficulties in integrating such stories with one's own identity. For members of oppressed groups, this will often result in a damaged identity; for those who are relatively privileged, we argue that this can result in their refusing the group identity in the first place, as is the case with many relatively privileged men who maintain their innocence sincerely in cases of sexual misconduct.

Identities for which we have master narratives might be constructed in varying ways in different social contexts, but in many cases, they involve both “who” stories and “how” stories. Such stories can often help to constitute us—who and what we are—from a third-person perspective. For instance, even when we think about a relatively ordinary identity, like being a mother, we can see several ways in which master narratives help to enforce the high expectations and responsibilities placed on women in bringing up children. The “who” and “how” stories both play roles in propping up these expectations.

The “who” stories are those that pick out the kinds of people that mothers are “supposed to be.” Many such stories offer positive, virtually saintly, portraits of good mothers, while at the same time holding women who have not “succeeded” in becoming mothers as failing to live up to gendered ideals. Many such stories naturalize maternal instincts in women, portraying it as biologically inevitable that they will want children while men will be more reluctant. (And then, of course, the party who wants the children will be the one who bears primary responsibility for them, in some cases even attributing to women the responsibility for protecting children from their abusive male partners.) Such are the ways in which we have an awareness of the norms to

which women are to be held, and the responsibilities they bear as a result. To complement this, the “how” stories tell us how such responsibilities are to be carried out, namely telling us the ways in which women mother. But it’s important to note that the “who” and “how” stories are not just descriptive accounts of who mothers have been and how they have acted but are also prescriptive for how present and future mothers are supposed to fulfill their role correctly. In much of white middle-class settler society, this involves heterosexual marriage and corresponding patriarchal arrangements with respect to domestic duties. This means that even if women do work outside the home, they are still the ones who are primarily responsible for ensuring that children are clothed, fed, and educated. For women who face oppression along axes other than their gender, “how” stories may serve to reinforce other forms of control. Lindemann, following discussions of “controlling images” by Patricia Hill Collins, describes ways in which images of “mammies,” “matriarchs,” and “welfare mothers” have served to reinforce the racist oppression of Black women.¹⁵

With the question of third-person stories in mind, we want to consider who it is that commits sexual assault or sexual harassment and what stories we have about such people. These stories make it difficult to accept that one can simultaneously be both an ordinary person and someone who has committed a sexual assault. We will also argue that these stories serve to conceal everyday forms of gendered oppression by creating binaries between good men and sexual predators in such a way that renders very few men recognizable as perpetrators of sexual violence. Rather than being controlling images, we will call these *exonerating images*. Exonerating images function to ensure that members of the dominant group cannot be recognized (and responded to) as wrongdoers. By ensuring that sexual predators are cast as strange, deviant, and “the Other,” men who are relatively privileged and well-integrated into their society will be held at some conceptual distance apart from those who commit acts of sexual violence. Kipnis’ invocation of a “bona fide harasser” functions as one such exonerating image, because anyone who can’t clearly be labeled as such (maybe because he doesn’t deserve to be hung up by his thumbs in the public square) doesn’t really seem to count as a harasser after all. In this way, exonerating images present us with a false choice: moral abandonment of an individual because they are a predatory monster, or keeping them in our moral community and believing in their innocence.

When Brett Kavanaugh was accused of sexually assaulting Christine Blasey Ford while they were both in high school, Senator Chuck Grassley, who supported his confirmation, released a letter attesting to his good character. The letter was signed by sixty-five women who wrote that they knew him when he was in high school, claiming that they had always behaved

honorably and treated women with respect.¹⁶ It was clear that this letter was taken by many of Kavanaugh's supporters to be a significant move in demonstrating that Blasey Ford's claims about Kavanaugh were unfounded, or at least off-target. One of the few important questions about the relevance of the letter came from then Senator Kamala Harris, who asked Kavanaugh directly whether it was possible for someone to treat some women well yet harm others. Though Kavanaugh admitted this possibility, he nevertheless retreated almost immediately to holding up the many women who had offered positive assessments of his character.¹⁷ Certainly the letter signed by Kavanaugh's women friends was effective, as are character assessments in many situations in which a person has been accused of wrongdoing. And character can play an important role in deciding which accusations of sexual violence secure uptake and which are downplayed, excused, or ignored. Our point (to which we will return throughout this chapter) is not that the letter was insincere or even inaccurate; it's that it is possible (as Harris noted) for someone to treat some women well and others badly.

The "who" and "how" stories of sexual assault are often upheld by common rape myths. The exonerating images of sexual predators as mentally ill and socially dysfunctional provide us with sets of "who" stories that ensure that many men will not be seen as the type of person who could have committed sexual assault, and that the scripts of rape as involving strangers and high levels of physical force provide us with sets of "how" stories that ensure that many instances of sexual assault are not properly seen as such. For, despite the fact that the majority of sexual assaults are committed by someone known to the victim, the image of the stranger in a dark alley persists as a default stereotype of a rapist. In a study conducted among male university students, Rachel Lev-Wiesel found a likely unsurprising set of attitudes about the typical profile of rapists. She writes of the participants that they:

described rapists as displaying the following personality characteristics: high sexual needs, uncontrolled sexual urges, an external locus of control, depression, emotional instability, fear and anxiety that are projected onto helpless people, and violent-aggressive tendencies.¹⁸

Participants also tended to think that rapists had a lower educational background and had likely suffered sexual, emotional, or physical abuse themselves during childhood. It was clear from her data that the majority of these well-educated students saw rapists as being men very different in both character and background from themselves. Lev-Wiesel notes that several of the men in her study (conducted in Israel) described the hypothetical rapist as having an "Eastern look," perhaps consistent with their own ethnic stereotypes.¹⁹ Similar results were found in studies of mock jury deliberations. When presented with a scenario in which participants were asked to

deliberate on the verdict of a mock rape trial, jurors drew upon what they saw as characteristics of a typical rapist:

Among the characteristics of the defendant that were relied upon to support a lack of fit with the profile of what participants perceived to be a “typical” rapist were that he did not display an “arrogant, dominant personality,” was “probably an intelligent guy,” “has obviously got a decent job,” “knows her and they have got a good relationship” but he “wasn’t stalking her,” “hasn’t predatorily picked out somebody,” is “not like hiding in the bush with a knife,” is not a “sex beast” and, quite simply, “he doesn’t look the type.”²⁰

A relatively consistent profile emerges about who a rapist might be. Literature on rape scripts also confirms the picture of the rapist present in the current social imaginary.²¹ A dominant narrative of men who rape is that they are uneducated loners with poor impulse control and possibly suffer from mental illness. They are generally of lower-class backgrounds and seem to rape because they cannot find fulfilling relationships on their own terms.²² We can see the Predatory Stranger, then, as a kind of exonerating image that many men who commit rape will not fit. Rather than imposing this profile on men who have been accused of committing an assault, the lack of fit with this profile for many such men will serve to prove that the accusations must have been false. This is illustrated by the mock jury deliberations—even though we know that many rapists do have decent jobs and are basically intelligent people. Our dominant set of “who” stories does not, unfortunately, allow for the fact that many respectful coworkers and supportive friends nevertheless commit acts of sexual violence, sometimes even harming those to whom they have previously been respectful and supportive in the past.

Sarah Everard, a thirty-three-year-old UK woman, was murdered on her way home in March 2021; her body was found some distance away from where she went missing. The man arrested for her murder was then a police officer, and the two were not known to be acquainted. Even though a stranger abduction does fit many of the standard scripts of sexual violence, the alleged killer’s profile does not. Although, as Kate Manne notes in her coverage of the case, police violence against women (particularly their domestic partners) is relatively common, cops are often cast as the heroes of these stories, not the villains.²³ This particular police officer, at least according to his neighbor, seemed to be “a nice, friendly bloke and well spoken” as well as “a family man.”²⁴ The difficult thing that we’re suggesting here is that he could have been all of these things: a nice neighbor, a family man, and a person who abducted and killed a woman. This means that we don’t have to believe that someone was *pretending* all along to have been a nice, relatively normal person if we find out that they have been credibly accused of serious wrongdoing. Both of those things—the family man and

the murderer—might have been part of who Sarah Everard's killer was as a full person.

Our dominant “who” stories of sexual violence are often also supported by particular kinds of “how” stories. Some of these emerge in the same literature on rape scripts that gives us the picture of rapists as mentally ill loners, and some of them follow naturally from the purported psychological profile of the Predatory Stranger. Both sets of stories can have significant material consequences for credibility judgments about whether the assault happened in the first place, or whether an interaction ought to be counted as an assault. For instance, police officers surveyed about typical rapes confirmed a belief in stereotypes involving an attack, out in the open and after dark, by a stranger with psychological problems.²⁵ Given the important role that investigating officers have in convictions, the fact that many police officers seem to accept common rape myths is a significant problem for the general public who wants to rely on policing for their safety. (Furthermore, given the statistics we pointed to above about the prevalence of domestic violence committed by police officers, this might also be a problem for officers recognizing their own wrongdoings.) Moving beyond the law enforcement context, rape scripts by people of different genders still reveal relatively common themes:

It usually begins with a female who is walking alone at night. No one is around, except a man looking for a victim. He begins to follow her at first keeping at a distance. He waits to see her reactions, does she become nervous, or does she stay calm? If she gets really nervous, she'll practically be running. Then, he'll go for the attack. He'll grab her putting his hand over her mouth. Depending upon where they are, he may drag her to a more secluded area. He'll hit her a few times for a warning, and to show who is in control. He'll hold her hands back, and begin to remove her clothing. As quickly as he can, he'll force himself into her, as she struggles to prevent the act. She is scared because she does not want to be hurt or killed. He is scared that she'll fight back or he'll be caught. Then, he may beat her more to make her unable to run away and get help quickly. She is left scarred emotionally for life, he lives in fear she will get revenge. (Female, eighteen years old)²⁶

Now, participants describing these as typical scenarios do not mean that they think these are the only cases in which rape occurs. Similarly, our describing them as atypical does not mean that they never take place. The point of this argument is just to decenter such scenarios because their dominance crowds out other possibilities and can reinforce a myth that such stranger attacks are the only genuine cases of sexual violence. Moreover, such myths can sometimes result in those who have been sexually assaulted failing to recognize what happened to them as genuine assault.²⁷ Admittedly, the extent to which we want to consider this a problem is a complicated question. For some

women, interpreting harmful events as something other than rape may in itself be an active exercise of agency and not simply denial.²⁸ But our focus is not on victims' understandings of what has happened to them—thankfully, such ground has been and will continue to be well covered. Instead, we want to question the extent to which *perpetrators* are always aware of themselves as having committed acts of sexual violence.

While many rape scripts do involve a kind of blitz attack, others bear striking similarities to scripts of seduction. Other studies asking students to characterize sexual events provided the following excerpts from a rape script and a seduction script, respectively:

Rape script:

The man would probably pick out a female who is either drunk or drinking. Their victim is probably someone they think is vulnerable. . . . The man would end up coaxing the girl away from the crowd. During the rape, the rapist is feeling control and sexual pleasure as he rapes his victim. Eventually, she will give up hope and just let it happen without fighting back. She is probably tied up or held by her attacker with ripped or torn clothing.

Seduction script:

A person who is going to seduce someone also knows that the other person is vulnerable and lonely . . . You try to say “no” but the person persists and keeps giving you a disappointed look and keeps saying how beautiful you are . . . You finally give in even though you feel really uncomfortable . . . The more you try to say no to his requests, you can't seem to say no to him, ending up doing things you don't want to do.²⁹

Some common themes in both scripts are the victim's vulnerability and compliance. Although in the rape script the victim is forcibly restrained, in both cases the sex is portrayed as unwanted. Now, while seduction along these lines might not usually count as good behavior for men, the stigma associated with it seems quite different from the stigma associated with being a rapist. Plenty of well-respected men (among them several US presidents) have reputations for being seductive, with no conflict between that reputation and their being a good person. This is another place where the “who” and “how” stories intersect. James Bond wouldn't rape a woman, both because he's the hero of the story and because he's suave and attractive. If James Bond has sex with a woman, well, we know that's not rape, in part because he is portrayed as someone for whom rape wouldn't ever be a live option: if everyone you want to sleep with wants to sleep with you, you can't rape anyone. He might be a bit of a charming scoundrel—after all, boys will be boys!—but he's no rapist. Indeed, the fact that it is Bond who has sex with someone

that tells us that it was *not* rape. For these reasons, men who identify with or aspire to be like Bond (or other similar characters in the social imaginary) don't see themselves as being capable of committing rape. As we'll see, many men want and perhaps even need to believe that they couldn't rape a woman because they understand themselves to be good guys. The same is true for the people who love and respect them since our loved ones are generally not monsters. Accepting that they might be both our loved ones and the perpetrators of significant wrongdoing can be extremely difficult to reconcile.

STRUCTURES OF IGNORANCE AND SEXUAL AGENCY

Giving up on a binary between good men and sexual predators means that one's sense of self as a basically good man is no longer exonerating in the face of potential sexual wrongdoing. It is in fact possible, as Kamala Harris suggested, to treat some women well and others very badly. So not only can rape myths affect the extent to which victims of rape recognize themselves as victims, they can also affect the extent to which perpetrators of sexual assault see themselves as perpetrators. Admittedly, plenty of people who commit sexual assault know that they have done something wrong, and many of them also know exactly what they have done wrong. But empirical data on the kinds of perpetrators we're considering here is skewed—many studies on sexual assault involve those who have been *convicted* of it. Furthermore, many assaults are not even reported, much less successfully prosecuted. So it's not as though we have clear statistics on how many people (of any gender) who have forced or coerced another into sex are totally aware of the extent to which they have harmed another person. Still, for many of those people—and for many people generally—the “who” and “how” stories of sexual assault are going to be incompatible with their own first- and third-person stories.

We at least have anecdotes of men who seem to blithely “confess” to having assaulted someone, seemingly unaware that the sex they describe themselves as having had—even under their own description of it—was not consensual. At least, that's the case for one stand-up comedian, who apparently had to be told after the show that he had just described having raped a woman.³⁰ Similarly, as a writing teacher, Aubrey Hirsch describes reading her students' writing, several of whom were young men who did not seem to realize that the sex scenes they had written amounted to rape scenes:

“The tone is a bit confusing,” you tell your student when he comes in for a conference. It seems romantic, almost. Are we supposed to feel sympathy for this character, even as he's raping her?

The student looks taken aback, surprised. “He’s not raping her. They’re having sex.”

You point out all of the evidence that he is, in fact, raping her. She’s clearly very drunk. She can’t even walk by herself. She never takes any agency, just lies there while it’s happening.

The student cuts you off. “This is, like, based off me hooking up with my girlfriend for the first time.”

It hadn’t occurred to you that the student might not have realized he was writing a rape story.

“All I can say,” you say, “is that a lot of people are going to read this as rape.”

“But it isn’t,” he says, weakly, sounding more like he’s trying to convince himself than you. “It wasn’t.”³¹

But given the similarities between our common scripts of seduction and rape, it’s not surprising that men would be so ignorant of the ways in which they had wronged women. Even if they were people who would be inclined to understand and take responsibility for their actions, the dominant narratives of sexual assault make it more difficult for them to perceive themselves accurately. After all, given the stigmas of incarceration we’ve already talked about, it is probably not in the practical self-interest of people who have committed sexual assault to perceive themselves as rapists (though maybe it’s in their epistemic best interest to have an *accurate* picture of themselves). For the people who love or are invested in the well-being of such perpetrators, it might also be difficult to perceive them as rapists, given who we think a rapist *is*. And yet.

The situation described above with the student and his girlfriend shows us how the “who” and “how” stories are mutually reinforcing. In this case, the “who” narratives might well make all the difference between understanding his story as rape or as a seduction. He didn’t write or live a story about a stranger blitz attacking a young woman and raping her by force. But surely part of his understanding of the story was shaped by its outcome. He ended up dating this woman in the end, and that’s not usually how rape scripts go; the Predatory Stranger might escape or be caught, but we often don’t think of rapists as waking up next to their victims, much less becoming their romantic partners.

It’s easy to think that rapists always fully understand or plan what they’re doing and understand it as rape. But it seems clear that there are also plenty of situations in which perpetrators and victims have a deeply different understanding of the experience. Furthermore, we aren’t in a world where men are typically trained, or even encouraged, to pay attention to women’s sexual desires. Reddit once hosted an extremely long thread inviting perpetrators of sexual assault to (anonymously) outline their stories and describe their motivations. A lot of the posters seem fully aware of the other party’s

unwillingness to participate. But others describe only being aware either after or during the act itself. One post on the now-deleted thread, quoted in a *Jezebel* article, reads:

I'm a good man. I have a wife and a couple of kids now and I'm a good father and husband. I'm a pretty moral guy. But I think the thing that has always stuck with me . . . is how close I came to actually doing it. If I hadn't looked up at her face and seen what she was feeling, I might have continued. In my mind, at the time, she wanted it.³²

We could speculate a lot about whether this person really is a good man, father, or husband. But the point we're trying to make here is that we don't have to disbelieve him on this point, at least not to believe that he came extremely close to raping someone and might well have sexually assaulted her anyway. This is the other side of the Kamala Harris question we brought up earlier. It *is* possible to treat some women well and others very badly. By his own admission, this person treated at least one woman very badly. We don't need evidence that he has done so in other cases to believe that he did so in that particular instance. That is exactly why we think that the predator/good guy dichotomy ought to be rejected. It's because we don't need to fit people like this into some mold of a "genuine rapist" in order to believe that they have caused real harm to another person.

Feminists have done a lot to diversify victim narratives, making it easier and easier to reject the idea that there is only one type of person who is assaulted. We are becoming increasingly aware, as a society, that "what were you wearing" is an unacceptable question to ask someone who tells you they have been assaulted. But if we only focus on victim narratives, we leave open the possibility of attributing these kinds of actions to a small minority of men. We then run the risk of letting the dominant "who" and "how" stories go unchallenged and maintaining the status quo. That means instead of thinking about what victims were wearing or how much they had to drink, we might instead ask why perpetrators thought what they were doing was okay—or if they didn't think it was okay, why they didn't stop. We could (and should) ask why the ones who didn't stop themselves didn't pause to make sure their partner was okay with what was going on.

One extremely important thing that we lose if we think of perpetrators as monsters rather than as ordinary humans is the fact that they could have done otherwise; they could have gone another way. While some might emphasize agency here as a reason for punishment or to blame the perpetrator, we do so to remind ourselves of their future possibilities. Some wrongdoers might not change their ways, even when barriers to do so are removed—that's just how things go, and as we noted in chapter 1, none of what we argue implies giving people free rein to do as they please. But moral abandonment virtually

guarantees that they won't change. The next chapter, focusing on the carceral system, will do more to highlight the structures and systems that hold people in a criminal or otherwise monstrous identity, further increasing the chances that they will harm others in the future.

Another problem with focusing on perpetrators as people who fit a monstrous and criminal profile is that our stereotypes of criminals are deeply racist, ableist, and classist. Given the striking demographic contrast between the currently incarcerated population and the population as a whole, it's worth noting that many men who already face oppression are easier to perceive as having committed crimes. As Linda Martín Alcoff notes, while we might as a society have made progress in taking women's testimony seriously, it is still disproportionately men of color who actually face the consequences of wrongful actions. This call to diversify our social understanding of perpetrators is not a call to subsume more people under the legal label of "sex offender," which is itself a category whose history has been touched by racism and homophobia.³³ Difficult as it might be, the suggestion is instead to consider the relative ordinariness of sexual assault.

Alcoff provides a framework for understanding sexual violence and rape culture more generally as damaging to victims' sexual agency. Women, after all, become accustomed to constraints in the name of safety. But we can see a corresponding effect of rape culture on men's agency too. In a society that values men's sexual success while providing scripts ("how"-stories) like the seduction scripts mentioned above, men are encouraged to violate others (particularly women). This is not to excuse the people who do so but rather to highlight the social factors that encourage that kind of behavior. Many people never commit sexual assault. But someone who does not think of themselves as a typical perpetrator could still concede that they had been too pushy in a sexual situation or failed to respect another's wishes or boundaries. This does not fit dominant "how"-stories of sexual assault, and so may fail to be recognized as assault by one or both parties, even if what took place fits the definition of nonconsensual sex. The person who had pushed sex on the other may have previously (or even subsequently) had a reasonably good and respectful relationship with the person they wronged. But in a society in which even men who feel uncomfortable with traditional masculinity nevertheless feel pressured to live up to its standards, we should see this as a structural problem rather than just an individual one.³⁴

Survivors sometimes also recognize that the people who harmed them can themselves be deeply wounded. As Blyth Barnow criticizes carceral responses to sexual violence, she notes that what she really wanted was healing (for both her and her abuser) rather than for him to suffer. He was still her friend, she writes, and someone she continued to love. The day before he raped her, he told her a story about getting placed in the psych ward during

boot camp and finding a friend there who he related to—a friend who had killed himself. Boys like him, he thought, were too weak to live. As Barnow writes:

When he raped me, I could see the way he was grasping for power, for some sense of control over his life. Part of me wanted to give it to him. The rest of me wanted to run. But I couldn't. I couldn't for all of the reasons that only a person raped by someone they love can understand. Shock, terror, fear, shock, shame, pity, shock, pain, embarrassment, shock, politeness, love, care, shock, disbelief, disbelief, disbelief.³⁵

This isn't the story of a serial predator driven by pathological urges, but the story of a person in pain trying to escape it and inflicting yet more pain on others in the process. As we will argue throughout the rest of this book, a carceral response to situations like this only compounds harm rather than prevents it.

Another reason to reject dominant narratives about the kinds of people who commit sexual assault is that these exonerating images protect some of the most privileged perpetrators. For example, mental illness is a common element of the “who” stories of rapists; however, disabled people are much more likely to be the *victims* than the perpetrators of assault.³⁶ What that means is that, in general, the people who benefit from exonerating images are the men who are already held to be “normal”—white, cis, non-disabled, heterosexual. It is no accident that those with the most social power are also the ones who benefit from—can be exonerated by—the dominant narratives of rape myths and rape culture more generally.

It is sometimes controversial to claim that perpetrators and victims of sexual assault are not really two different kinds of people. Yet, we have seen in so many cases of lateral violence and intergenerational trauma that victims of abuse can certainly continue to perpetrate it. To disrupt the exonerating images we have been describing, we need to understand the fact that many perpetrators of abuse are ordinary people who might have been harmed themselves but could also still have done otherwise. This leaves open the possibility that we ourselves (or people we love) may have wronged someone by being overly sexually aggressive or failing to respect a partner. It leaves open the possibility that an act we might have recognized as wrong—but not *so* bad—was experienced by another as deeply traumatic. This realization encourages us to approach the problem of sexual violence with the belief that we can and should expect better of people and that treating perpetrators as monsters is not a way of holding them or ourselves to account.

MOVING AWAY FROM CARCERAL FEMINISM

So, what follows from all this? In this chapter, we have argued that sexual violation is disturbingly ordinary and that many people who commit sexual assault probably don't think of themselves as rapists. Someone could take this argument as a sign that sexual assault laws need to be strengthened and that we need to expand the extent to which the "ordinary guys" that we've discussed in this chapter should be punished for their actions. But that's not the way we're going to go. In fact, we're going to argue against this approach in the next chapter, explicitly distancing ourselves from carceral feminism, which takes the "carceral state as the enforcement apparatus for feminist goals."³⁷ The grounds for this are going to be as practical as they are principled—the carceral state doesn't help. We're going to argue that it's not so much a mechanism for holding people to account as it is a mechanism for warehousing some of the most oppressed people in society. Furthermore, rather than treating wrongdoers as people and thus capable of going in a new way, it institutionalizes moral abandonment by expelling them from a larger moral community and sending them to places that do not generally invest in their well-being or moral redemption. They will further be shaped (for better or worse) by those carceral communities just as we are shaped by all communities in which we find ourselves.³⁸ And some who have experienced incarceration argue that its conditions often encourage rather than rehabilitate misogynistic or patriarchal attitudes among men, giving all feminists reason to be skeptical of incarceration as an appropriate response to sexual violence. For example, Anders E. Benander III writes about his experience of prison as a "woman haters club":

The men in prison are heavily invested in male dominance and superiority as a foundational aspect of their philosophy. Since they have experienced inordinate levels of powerlessness throughout their lives—which I will discuss further—they are anxious to cling to an ideology which supports a sense (appearance) of power in their lives and relationships.³⁹

Assuming that such men aren't going to be incarcerated for the rest of their lives, putting them in places where patriarchal attitudes and toxic gender roles are encouraged seems like a bad way—*on feminist grounds*—of preventing them from committing future wrongs. If one of our goals as a society is to prevent sexual violence, then we should not try to put more men in environments that encourage misogyny and train them to think that a tendency to sexual violence is a natural or inevitable part of masculinity.⁴⁰

Even if you don't end up agreeing with the eventual anti-carceral conclusion we reach, this chapter has shown that the harms of sexual violation do

not always track legal categories of guilt or innocence of sexual assault nor do the penalties for it necessarily track the wishes of victims or prevent future harms. As proponents of restorative justice argue, our present retributive justice system is mostly silent on repairing the harms done to victims, given its emphasis on the punishment deserved by perpetrators. While some victims might benefit from the validation of a guilty verdict, in many cases, the harm done to them is only of concern to the court system insofar as it helps determine the consequences for the perpetrator.⁴¹ And while some people who have been wronged might desire some kind of retributive consequence, there are plenty who do not but who had no non-carceral options for holding people responsible.⁴²

We'll say more about what accountability and repair might look like in practice in later chapters. Chapter 5 will focus on restorative justice practices and moral repair, and chapter 6 will consider how we can strengthen overall communities to make them more resilient in the face of wrongdoing. But it's also worth recalling our notes at the end of chapter 1 in order to head off some potential concerns about the implications of our view for victims of violence. We've been arguing in general terms that we ought to build a society in which being a perpetrator of sexual violence does not automatically lead to moral abandonment. That happens at the broad social/structural level; none of what we're saying means that individual victims must stand in any kind of interpersonal relationship with or feel any particular way about those who harmed them. In our view, there is space and need for both: it can be possible for a moral community to both protect and care for a victim and to give the person who wronged them the space and opportunity to refrain from harming others in the future.

An individual, particularly one who's been harmed, might well take a cynical stance toward the person who hurt them. But the system we aim at is one in which nobody is treated as or presumed to be a moral monster, even if they have caused immense suffering. Though we acknowledge that not everyone who causes suffering *will* change for the better and work to repair the damage they've done, our present justice systems preclude such possibilities for all but a privileged or fortunate few. And a preferable system would be one in which all of those who commit wrong (indeed all of us) are treated as people who have the capacity for both change and the enactment of moral repair. We also do not presuppose that punishment for perpetrators of harms is a necessary condition for enabling victims to heal, and we argue for a system in which holding people accountable for their actions includes providing them with the tools (though we understand they may not take them up and use them) to go in a new way. This, as we will argue in the next chapter, is absolutely not the function of our present carceral system, to whose harms we will now turn.

NOTES

1. Combahee River Collective, "The Combahee River Collective Statement," 269.
2. Though whether the law "knows" that is another story. In many US states, someone who is too intoxicated to consent will only be deemed "mentally incapacitated" for the purposes of consent if they were given the drugs or alcohol against their will. See Morales, "Court Overturns Sex Crime Conviction Because Victim Was 'Voluntarily Intoxicated.'"
3. Lev-Wiesel, "Male University Students' Attitudes Toward Rape and Rapists." See also Osland, "Likelihood to Rape in College Males"; Abbey et al., "Attitudinal, Experiential, and Situational Predictors of Sexual Assault Perpetration."
4. Yap, "Credibility Excess and the Social Imaginary in Cases of Sexual Assault"; Falbo, "Hermeneutical Injustice."
5. In one very prominent such case, Professor Avital Ronell was found responsible for sexually harassing one of her male graduate students and was defended in ways that echoed many defenses of powerful men, by prominent scholars, including feminist scholars like Judith Butler. The letter in defense of Ronell talked about what its authors had seen in terms of her relationship with students—but just as we argue in this chapter, it's clearly possible to treat some people very well and others very badly. See Greenberg, "What Happens to #MeToo When a Feminist Is the Accused?"
6. The foreword to Medina's book acknowledges the underlying ableism of connecting ignorance to blindness. Though he acknowledges several benefits to using the term "insensitivity" instead, he often uses visual metaphors in continuity with the literature with which he engages. When describing his account directly (and others in the literature that use similar visual metaphors), we will use their terms, but for the sake of moving away from ableist language, we use terms such as "ignorance" and "insensitivity" whenever possible.
 7. Medina, *The Epistemology of Resistance*, 34.
 8. Mills, "White Ignorance," 21.
 9. Mills, 34.
 10. Ahmed, *On Being Included: Racism and Diversity in Institutional Life*.
 11. Kipnis, "Sexual Paranoia Strikes Academe."
 12. Though Kipnis' arguments are addressed in much more detail by Yap, "Conceptualizing Consent: Hermeneutical Injustice and Epistemic Resources" as well as on Jonathan Jenkins Ichikawa's blog in many posts such as this one: Ichikawa, "Kipnis on Assault Allegations."
 13. Medina, *The Epistemology of Resistance*, 68.
 14. Lindemann, *Damaged Identities, Narrative Repair*, 106.
 15. Lindemann, 143–46; Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 72–81.
 16. Golshan, "65 Women Who Knew Brett Kavanaugh in High School Defend His Character."
 17. Zhou, "Kamala Harris Asked Brett Kavanaugh If Men Could Be Friends with Some Women—While Hurting Others."

18. Lev-Wiesel, "Male University Students' Attitudes Toward Rape and Rapists," 203.
19. Lev-Wiesel, 207.
20. Ellison and Munro, "Of 'Normal Sex' and 'Real Rape': Exploring the Use of Socio-Sexual Scripts in (Mock) Jury Deliberation," 298–99.
21. Littleton and Axsom, "Rape and Seduction Scripts of University Students: Implications for Rape Attributions and Unacknowledged Rape"; Ryan, "The Relationship between Rape Myths and Sexual Scripts: The Social Construction of Rape."
22. Evidence of how race factors into this image is mixed. There's evidence supporting the fact that racialized stereotypes influence how victims are going to be perceived, but it's not so clear how they influence stereotypes about perpetrators. See Foley et al., "Date Rape"; Varelas and Foley, "Blacks' and Whites' Perceptions of Interracial and Intra-racial Date Rape"; Donovan, "To Blame or Not To Blame."
23. Manne, "What Sarah Everard's Murder Illuminates—And Might Obscure—The Atlantic."
24. McBride, "Police Officer Wayne Couzens Accused in Murder of Sarah Everard."
25. Krahé, "Police Officers' Definitions of Rape: A Prototype Study," 233.
26. Ryan, "The Relationship between Rape Myths and Sexual Scripts: The Social Construction of Rape," 775–76.
27. Ryan, 776.
28. Alcott, *Rape and Resistance*, 115.
29. Littleton and Axsom, "Rape and Seduction Scripts of University Students: Implications for Rape Attributions and Unacknowledged Rape," 470.
30. Carmon, "Is This Comedy Monologue a Rape Confession?"
31. Hirsch, "Fragments," 5–6.
32. Baker, "Rapists Explain Themselves on Reddit, and We Should Listen."
33. Wooten, "Keyword 4: Sex Offender." Not to mention that many moral panics around LGBTQ+ people center around the idea that they are somehow predatory.
34. There are plenty of important criticisms of the expectations imposed by contemporary masculinity. For one autobiographical account, see Sexton, *The Man They Wanted Me to Be: Toxic Masculinity and a Crisis of Our Own Making*.
35. Barnow, "Isolation Cannot Heal Isolation."
36. Centers for Disease Control and Prevention, "Sexual Violence and Intimate Partner Violence Among People with Disabilities"; Government of Canada, "Experiences of Violent Victimization among Persons with Mental Health-Related Disabilities in Canada, 2018."
37. Bernstein, "The Sexual Politics of the 'New Abolitionism,'" 143.
38. Dorado, "Prison Is Not Just a Place."
39. Benander III, "Women Haters Club: Maximized Misogyny in Men's Prisons and Its Tie to the Patriarchy."
40. Cisneros, "Criminal Masculinity: Race, Gender, and Sexuality in the Age of Mass Incarceration."
41. Spelman, *Repair: The Impulse to Restore in a Fragile World*, 54–56. There's also a broader argument to be made about how our legal categories of sexual assault

(and relatedly, our concept of consent) are inadequate for tracking harms. For instance, Audrey Yap and Jonathan Ichikawa each problematize the concept of consent in different ways: Yap, “Conceptualizing Consent: Hermeneutical Injustice and Epistemic Resources”; Ichikawa, “Presupposition and Consent.” Also for a desire-based alternative account of what makes sex unjust, see Cahill, “Recognition, Desire, and Unjust Sex.” For another helpful alternative to the consent model of just sex that provides an account of sexual negotiation instead, see Kukla, “That’s What She Said.”

42. One of the authors of this piece falls into that latter category.

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