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SEX EDUCATION, RAPE CULTURE, AND SEXUAL ASSAULT: THE VICIOUS CYCLE

Anna Lanford

One in five women will be sexually assaulted during her lifetime.¹ Most of these cases do not occur when a stranger jumps out of the bushes, but with someone familiar to the victim. In fact, statistics show that sexual assault by an acquaintance is even more common on college campuses. As stated in Furman University's Sexual Misconduct Policies, "Over 90% of campus rapes are committed by friends, acquaintances, or friends of friends."² In order to combat the high rate of sexual assault, both men and women need to have better understanding of what consent means and that it can be withdrawn at any time. In the legal context, there are various state laws and university policies that define consent and sexual assault. In the philosophical context, scholars such as Lois Pineau discuss the idea of communicative sexuality, which could transform the way we perceive both the victims and perpetrators of sexual assault. In this essay I will argue that the existing legal methods of determining consent are largely unhelpful as we can see from the overwhelming numbers of sexual assaults, especially on college campuses, and that

¹ National Sexual Violence Resource Center, "Statistics about Sexual Violence," <http://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-packet_statistics-about-sexual-violence_0.pdf>.

² Furman University, *Title IX: Gender Discrimination, Sexual Harassment & Sexual Misconduct* (Greenville, SC, August 2015), 7.

communicative sexuality should be adopted as the standard for determining whether an encounter was consensual. I believe that the way to begin implementing communicative sexuality would start with more open discussions with young people about how to lead healthy sex lives instead of the limited sex education they receive today.

I will start by addressing current laws surrounding rape and consent. By examining these issues we can better understand how to fix the problems that exist. Legislation regarding sexual assault offers little protection from abuse involving a friend or significant other, which constitute the majority of rape cases. In rape law there exists the idea of *generalized consent* in which “consent to prior sexual intercourse either indicates consent to subsequent intercourse or suggests a greater likelihood that the defendant reasonably believed the victim consented to the later encounter.”³ In fact, until recently there were many states, such as Delaware and Hawaii, that in certain cases provided a *rape shield exception* that “allow[ed] for the admission of evidence of prior sexual conduct between the defendant and the victim . . . the more sexual history between two parties, the more evidence admitted under the rape shield exception, thereby increasing the likelihood that an inference of consent [would] be made.”⁴ In other words, the evidence of a sexual history could be used against a victim. This negates the right to say no at any point in a relationship, harkening back to the days when a concept such as marital rape did not exist – when “‘I do’ translated into a blanket, irrevocable consent.”⁵ Laws like this strip all meaning from the idea that “no means no” and reinforce female subordination to any male figure, whether it be her husband, boyfriend, or just an acquaintance.

³ Nicholas Rahko (ed.), “Acquaintance Rape and Degrees of Consent: No Means No But What Does Yes Mean?” *Harvard Law Review* 117, no. 7 (May 2004): 2342.

⁴ *Ibid.*, 2343.

⁵ *Ibid.*, 2342.

In addition to the lack of legal protection from assault by an acquaintance, women face blame for their sexual assault when they consented to other sexual acts but not the intercourse itself. Cases where consent was given to acts preceding a rape “could be viewed as the victim’s assumption of the risk that her limited consent will be misinterpreted as full consent.”⁶ In the majority of cases there is no witness, and it becomes one person’s word against another’s. At this point the court must address two questions: when did either party demonstrate intent to have sex and what actions or words were used to create the reasonable belief that consent had been given?⁷ However, it may be possible for consent to sexual intercourse to be retracted once given, which further complicates these questions. Courts in Maryland, North Carolina, and California have discussed the idea of postpenetration withdrawal of consent and have all rejected it as a possibility. But there are indeed certain instances when a woman could consent to sex only on certain conditions, such as using a condom, that if ignored, might be considered sex via deception and therefore rape. In this case, there are some states that argue that postpenetration rape could be a separate category from forcible rape, in the same way as rape by use of fraud or drugs are differentiated. But most of the laws currently in place leave the victim to prove that she was raped instead of requiring the accused to show the existence of ongoing consent.

To be able to fix these unjust laws, we must also understand how consent is legally defined. States such as Wisconsin, Illinois, Minnesota, Washington, and New Jersey define consent as “words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact.”⁸ Colorado’s law states that consent is “cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature

⁶ *Ibid.*, 2348.

⁷ *Ibid.*, 2352.

⁸ *Ibid.*, 2351.

of the act.”⁹ In California, consent is defined as “positive cooperation [or] a continual agreement throughout the sexual encounter.”¹⁰ Instead of resistance being required to prove instances of rape, California makes a step in the right direction when it promotes consent as continuous cooperation, which does not rely on the revocation of consent for a sexual experience to be considered assault.

But state laws are not the only institutions that provide definitions of consent. Because of the high instances of sexual assault on college campuses, universities also promote their own definitions of consent. In looking at one example, Furman University defines consent as “informed, freely and actively given, and mutually understandable words or actions that indicate a willingness to participate in a mutually agreed-upon sexual activity.”¹¹ It even goes as far as to say:

Consent **cannot** be inferred from:

1. Silence, passivity, or lack of resistance alone;
2. A current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else);
3. Attire;
4. The buying of dinner or the spending of money on a date;
5. Consent previously given (i.e., consenting to one sexual act does not imply consent to another sexual act); or
6. Accepting an invitation to one’s apartment/room.¹²

This addresses many of the issues with general rape laws and concerns about determining consent. The university’s policies warn, “Consent may be withdrawn at any time,” which further supports a person’s right to change her or his mind during a

⁹ Ibid., 2350.

¹⁰ Ibid.

¹¹ Furman University, *Title IX*, 8.

¹² Ibid.

sexual encounter.¹³ However, even the best definitions of consent, as seen with Furman's example, fail to protect against assault as they are put in practice within the context of rape culture – i.e. attitudes that promote the prevalence of victim blaming, the normalization of male sexual violence, and the generally sexist attitudes that contribute to the pervasiveness of sexual assault within our society.¹⁴ Therefore, I will continue by analyzing rape culture and how it manifests itself in daily interactions between men and women.

Simply defining consent does not stop sexual assault from occurring on this campus or similar campuses across America. Instead, the existence of rape culture throughout our society prevents these guidelines from being effective at preventing sexual assault. Because of this, I will now explain the need for a change in how our society perceives gender in regard to sexuality, which would put an end to rape culture. As pointed out by Lois Pineau in her essay "Date Rape: A Feminist Analysis," we assume that the "normal components of romance include 'male aggression' and 'female reluctance.'"¹⁵ These types of damaging preconceptions can also be seen in the belief that the victim in some way "asked for it" because of her attire, flirtatious behavior, or willingness to participate in certain sexual activities with her attacker. Women are taught that a man's sexual needs are uncontrollable and that acting or dressing provocatively "generates some sort of contractual obligation" to fulfill this need.¹⁶ A provocative woman may indeed agree to participate in some sexual activity, but she has little protection from the court if she were to be assaulted. Oftentimes, this is termed *victim-precipitated rape* where "the

¹³ Ibid.

¹⁴ "Rape Culture." Marshall University. <www.marshall.edu/wcenter/sexual-assault/rape-culture/>.

¹⁵ Lois Pineau, "Date Rape: A Feminist Analysis," in *The Philosophy of Sex*, ed. Nicholas Power et al., 6th ed. (Plymouth: Rowman & Littlefield Publishers, 2012), 462.

¹⁶ Ibid., 470.

woman actually or apparently agreed to intercourse but retracted before the actual act or did not react strongly enough when the suggestion was made by the offender(s).”¹⁷ Lack of consent alone would not be sufficient evidence to prove that a rape had occurred. In many instances, there would need to be overt resistance – for example, evidence of kicking, scratching, or hitting – that would prove to a jury that the sex was unwanted. In addition to finding their way into the courtroom and affecting how the legal system deals with rape, these dangerous misconceptions perpetuated by rape culture about both male and female sexuality are harmful to the ways in which women can express their sexuality.

One such side effect of the persistence of rape culture is “the common belief that many women say no to sex, even when they mean yes, and that their protests are not to be taken seriously.”¹⁸ In fact, there exists the idea that rape gives women “the sexual enjoyment they *really* want, at the same time that it relieves them of the responsibility for admitting to acting upon what they want.”¹⁹ This sexist and unhealthy attitude has even affected the beliefs that women have about their own sexuality. Instead of being able to express themselves freely, many women feel the need to suppress their sexual desires in order to maintain a “pure” reputation. One study published in *The Journal of Sex Research* reveals that 37-39% of women have actually engaged in token resistance to sex, which is the “sexual intent to say no to sexual intercourse while meaning yes.”²⁰ In these cases, women feel like it would somehow be better for them to deny their desires because they worry about appearing

¹⁷ Rahko, “Acquaintance Rape and Degrees of Consent,” 2347.

¹⁸ Susan Sprecher et al., “Token Resistance to Sexual Intercourse and Consent to Unwanted Sexual Intercourse: College Students' Dating Experiences in Three Countries,” *Journal of Sex Research* 31, no. 2 (June 1994): 125.

¹⁹ Pineau, “Date Rape,” 469

²⁰ Sprecher et al., “Token Resistance to Sexual Intercourse,” 125.

promiscuous or they feel that withholding sex is the only way to have power in their relationship. Women who engage in this type of behavior are more likely to subscribe to the destructive patriarchal ideas that it is normal for men to use force to get what they want and that women are expected to find such forceful men attractive.²¹

The negative connotations surrounding overtly sexual women prevent them from being able to explore their sexuality and convince women that they should hide their sexual desires. At the same time, however, many women agree to unwanted sex because of “verbal pressure from their partner, need to conform to peer standards, and desire to maintain the relationship.”²² Women should be able to turn down sexual advances *and* feel able to express their sexuality without fear of repercussions. In fact, not being able to do these things may pose a threat to a woman’s psychology. In terms of agreeing to unwanted sex, Robin West demonstrates that women who engage in this behavior are more likely to damage their self-assertion, self-possession, autonomy, and integrity. Even if they do not see these negative consequences immediately, these women can face serious damage to their psyche, for as West says, “The more thorough the harm . . . the greater the likelihood that the woman involved will indeed *not* experience these harms as harmful, or as painful.”²³ Although it may not be clear on the surface, the way that rape culture affects our society damages how women can express themselves sexually and the manner with which we address sex as a whole.

Rape culture also promotes the normalization of sexual harassment, which is a further form of male power over women. According to the article “Sexual Harassment and the University” by Robert L. Holmes, sexual harassment is an

²¹ *Ibid.*, 126.

²² *Ibid.*

²³ Robin West, “The Harms of Consensual Sex,” in *The Philosophy of Sex*, ed. Nicholas Power et al., 6th ed. (Plymouth: Rowman & Littlefield Publishers, 2012), 389.

expression of sexism that reinforces the power of men over women.²⁴ In the case of universities, sexual harassment can be seen in both student-on-student and professor-on-student interactions. The sexual harassment of a student by a professor represents a violation of trust that prevents “the enrichment and empowerment of the learner to continue the process of intellectual growth in the ways he or she personally deems best.”²⁵ Student-on-student harassment is also an “invasion of privacy [that] jeopardizes the conditions under which learning can best take place.”²⁶ To protect against this type of abuse, “a university’s concern should extend equally to all of its students” by providing council to all students involved in cases of sexual assault.²⁷

In extending equal concern to all students in regards to sexual assault, some universities do not treat the accused and the accuser with the same respect. As Emily Bazelon points out in “The Return of the Sex Wars,” Harvard law professor Janet Halley discovered that certain university policies fail to handle cases of sexual assault properly when they fail to provide lawyers to students accused of misconduct who cannot afford them and choose to handle cases internally rather than giving them over to an impartial outside body.²⁸ These kinds of policies are especially dangerous for students of color, who are more frequently discriminated against. Halley also realized while working with the LGBT community in the early 90s “that both men and women could use power and violence against each other.”²⁹ Instead of pitting the sexes against each other,

²⁴ Robert L. Holmes, “Sexual Harassment and the University,” *An International Quarterly Journal of General Philosophical Inquiry* 79, no. 4 (October 1, 1996): 6.

²⁵ *Ibid.*, 9.

²⁶ *Ibid.*

²⁷ *Ibid.*, 10.

²⁸ Emily Bazelon, “The Return of the Sex Wars,” *The New York Times*, September 10, 2015, 2.

²⁹ *Ibid.*, 5.

the way to reach complete equality is to open the lines of communication. If we can all discuss sexual harassment and abuse, how to avoid it, and how to prevent it from happening, entire communities would benefit. In fact, developing mutual respect and trust within a university campus actually proves to be more “effective in ending sexual harassment than are threats and punishment.”³⁰ Having an open dialogue is important for a community, but we must also improve communication within our sexual relationships if we are ever to become comfortable discussing the subject publicly.

As I have demonstrated, most legal definitions of consent do not provide adequate protection against assault because they are warped by the pervasiveness of rape culture and lack of open communication about sex. I will continue by presenting a better concept of consent, one that includes the communicative sexuality model. Honest discussions regarding sex and consent with any and all partners is required in order to reduce or possibly eradicate instances of abuse. The first step is altering our perceptions of what consent means. We need to accept that one instance of consent is not sufficient, but that every sexual interaction requires a “reading of whether [your partner] agreed throughout the encounter.”³¹ Lois Pineau calls this continuous checking in throughout a sexual experience communicative sexuality. Rather than simply being “concerned with achieving coitus,” those participating in communicative sexuality should be focused on the desires of their partner and the ongoing interpretation of their responses.³² There also exists a mutual responsibility to “promote the sexual ends of one’s partners” and also to “know what those ends are [and] . . . how those ends are attained.”³³ This requirement of communicative sexuality does not only improve sexual experiences for one and one’s partner, but also helps pinpoint cases of sexual assault. Instead

³⁰ Holmes, “Sexual Harassment and the University,” 10-11.

³¹ Pineau, “Date Rape,” 471.

³² *Ibid.*, 474, 475.

³³ *Ibid.*, 473-474.

of relying on a victim to prove that he or she “resisted to the utmost,” the communicative sexuality model puts the burden of proof on the accused to prove the existence of ongoing consent.³⁴ This way of approaching sexual relationships helps women in a few ways that the current approach lacks, as it does not put any emphasis on whether she “was sexually provocative, her reputation, [or] what went on before the sex began. All that matters is the quality of communication with regard to the sex itself.”³⁵

But how do we begin using this method of communication? In her essay “Mutual Respect and Sexual Morality: How to Have College Sex Well,” Yolanda Estes discusses how to go about implementing communicative sexuality in a college community. Like philosopher Thomas Mappes, who argues that voluntary and informed consent is necessary for any sexual encounter to be permissible, Estes asserts, “We become familiar with our common human dignity by engaging in interactions with others. . . . Manipulating (with lies or other deceptions) or coercing (with physical or psychological force) another person to perform an action she would not otherwise perform could not promote mutual respect.”³⁶ Similar to Pineau, Estes champions the idea of reciprocal consent in which each participant in a sexual activity demonstrates clearly that they are freely choosing to engage in that particular sexual activity at that particular moment.³⁷ The first step is to start discussing our likes and dislikes with our partner before we engage in sexual activity, which decreases the possibility of miscommunication in the bedroom. Estes believes that by doing this we have a much greater chance of understanding our partner’s expressions of

³⁴ *Ibid.*, 477.

³⁵ *Ibid.*, 479.

³⁶ Yolanda Estes, “Mutual Respect and Sexual Morality: How to Have College Sex Well,” in *College Sex: Philosophy for Everyone*, ed. Michael Bruce and Robert M. Stewart (West Sussex, UK: Wiley Blackwell, 2010), 210.

³⁷ *Ibid.*, 212.

consent and desire. By reading our partner's reactions, we in turn have a better chance for sexual fulfillment, "while also improving our sexual technique and our opportunity for a repeat performance."³⁸

Even though this may be a difficult task when pursuing a much more casual relationship, Estes believes that it is not completely impossible to practice communicative sexuality while hooking up with your Tinder date. Instead, she argues, "There's nothing intrinsically morally wrong with casual sexual interactions, but the participants must be morally responsible and honest enough to communicate openly and respond considerately."³⁹ As long as we are open and respectful with all of our sexual partners, no matter how brief our connection, there is the possibility of responsible, pleasurable, consensual sex. To emphasize just how important communication with your partner is, Estes ends her essay by stating:

If you aren't man or woman enough to communicate about sex and to exert yourself with consenting and eager partners, then you aren't man or woman enough to get laid. If you aren't prepared to be a morally conscientious sexual partner, start a vigorous exercise regimen, become a masturbatory virtuoso, or donate your time to a good charity, but don't muck up something as important as another person's sexual experience.⁴⁰

From exploring the opinions of Pineau and Estes, it is clear that communicative sexuality is the best method for ensuring our partner's (and our own) comfort during every sexual encounter. Seeing as adopting communicative sexuality as the norm would provide a better sexual experience for both men and women, how do we then go about promoting this idea so that it becomes more widely accepted? I believe that an important component to achieving this would be to improve the quality of sex

³⁸ *Ibid.*, 213-214.

³⁹ *Ibid.*, 217.

⁴⁰ *Ibid.*, 219.

education for young people and begin having discussions about what a healthy sex life means before people become sexually active.

The next step in becoming more open about sexuality is to be comfortable talking to our children about how to build a healthy sexual relationship. Peggy Orenstein discussed this topic in her NPR interview titled “‘Girls & Sex’ and the Importance of Talking to Young Women about Pleasure.” Nowadays, girls hear mixed messages about how to approach their sexuality – they must not be overtly sexual but at the same time should always be available for male pleasure. When Orenstein spoke with teenagers about this topic, one girl even said, “Usually the opposite of a negative is a positive, but when you're talking about girls and sex, the opposite of slut is prude, both of which are negative. So what are you supposed to do?”⁴¹ Through the difficulty that girls have with navigating between both of these damaging terms, Orenstein sees that they are taught to view sex as a way to please their partners but not themselves.⁴² And this problem starts with how we teach girls about their sexuality beginning at a young age. Parents of little girls tend not to even name their daughter’s genitals as they would with their son, as Orenstein realized, “For boys, they'll say, ‘Here's your nose, here's your shoulders, here's your waist, here's your pee pee,’ whatever. But with girls, there's this sort of blank space — it's right from navel to knees, and not naming something makes it quite literally unspeakable.”⁴³

This situation does not seem to improve as girls grow up, even within an educational setting. As young people begin puberty and move into middle and high school sex education classes, teachers address the changes that take place in the male and female bodies much differently. Girls are taught about their

⁴¹ Peggy Orenstein, “‘Girls & Sex’ And The Importance Of Talking To Young Women About Pleasure,” *Fresh Air* Interview (*National Public Radio*, March 29, 2016).

⁴² Ibid.

⁴³ Ibid.

internal anatomy with charts and diagrams, about periods and unwanted pregnancies. Boys are taught about erections and the “emergence of a near-unstoppable sex drive.”⁴⁴ Orenstein sees an issue with this, posing the question, “When do we address exploration, self-knowledge?”⁴⁵ There is no discussion about what a healthy sex life is or how to communicate sexual desires with your partner. Many times the only instruction on safe sex is to abstain from sexual activities all together. This lack of education doesn’t mean that young people still aren’t curious about their bodies. Oftentimes, young girls and boys will turn to pornography to further understand how sexual relationships are supposed to work when they don’t get enough information from their teachers or parents. In Orenstein’s *New York Times* article “When Did Porn Become Sex Ed?” she says, “According to a survey of college students in Britain, 60 percent consult pornography, at least in part, as though it were an instruction manual, even though nearly three-quarters say that they know it is as realistic as pro wrestling.”⁴⁶ Young adults who have no real sex education, many armed with abstinence-only teachings and the instruction of pornography, go to college with no idea how real sexual relationships are supposed to work and attempt to navigate their newfound sexual freedom. The lack of a good sex education, one that includes discussion of communicative sexuality, leaves rape culture assumptions unchallenged and perpetuates the negative stereotypes of male and female sexuality.

Because this lack of sex education is so widespread, especially in America, most college-aged people do not understand the nuances of discussing desire, pleasure, and consent with their partner as required in the communicative sexuality model. This tends to lead to dangerous consequences when hookups on college campuses often involve dangerous amounts of alcohol.

⁴⁴ Peggy Orenstein, “When Did Porn Become Sex Ed?” *The New York Times*, March 19, 2016.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

Although I have determined that it is possible to have casual sex in combination with a communicative sexuality, the heavy use of alcohol decreases our ability to be good communicators. At colleges across the country, alcohol has become the “No. 1 date drug,” as hookups have become increasingly dependent on the social lubricant.⁴⁷ Explanations of the dangers of alcohol are often heavily gendered, which creates further problems. On the one hand, girls are warned to never leave their drinks unattended because someone might slip something into their drink. On the other hand, boys are pressured to drink more to appear more masculine, oftentimes without being aware of the possible repercussions. In most instances, alcohol “reduces a person's ability to read social cues” and reduces inhibitions, which gives boys the courage to commit assaults they might otherwise not commit and makes them more aggressive in general.⁴⁸ In addition, alcohol makes boys (and girls) less likely to intervene as bystanders when they see such aggressive behaviors. The lack of knowledge about sex in combination with a lack of understanding about alcohol contributes to the existence of a non-communicative sexuality that frequently leads to instances of sexual assault. These issues relating to college sex show us that we need to be more open as a society about talking about sex. If we were open about sex earlier, then it is more likely that, as a whole, we would practice safer sex. It is a proven fact that the earlier parents, teachers, and doctors start talking to kids about sex “the more likely they are both to delay sexual activity and to behave responsibly and ethically when they do engage in it.”⁴⁹ This is what we need if we are going to expect teenagers or even adults to engage in healthy sexual relationships.

The legal, moral, and philosophical issues stemming from sexual assault and consent have deep roots in our societal perceptions about women and sex. Over the course of this

⁴⁷ Orenstein, “Girls & Sex.”

⁴⁸ *Ibid.*

⁴⁹ Orenstein, “When Did Porn Become Sex Ed?”

essay, I have argued that the current legal definitions of consent do not protect against instances of assault because of the existence of rape culture, which damages female sexuality, promotes sexual harassment, and allows for the high rates of sexual assault that occur each year. The way to fix these issues would be to adopt the communicative sexuality model. I believe that if we stopped being afraid to have open and honest discussions with young people about the benefits of communicative sexuality and pleasure instead of constantly focusing on the potential negative consequences, men and women could have healthier sex lives. If we taught boys and girls the same things about pleasure and consent, everyone would respect the right to say no to sex just as much as the right to say yes. If we started these conversations at an early age, to practice communicative sexuality as an adult would become natural. If this were to become the norm, I believe that cases of sexual assault would decrease, and instances where it did occur would be more easily prosecuted and properly punished. Without the harmful effects of a rape culture that assumes that a victim “asked for it,” cases of sexual assault would be based on the idea of ensuring ongoing consent instead of what she was wearing or how much she resisted. In order to change how the law handles sexual assault, we need to change how our culture views sex. In order to change how our culture views sex, we need to educate young people about the benefits, not just the risks, of sexual activity.

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