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## Legitimate concern: the assault on the concept of rape

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Legitimate Concern: The Assault on the Concept of Rape

A Thesis

Presented in

Partial Fulfillment of the

Requirements for the Degree of

Master of Arts

By

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Since the 1973 Supreme Court ruling *Roe V. Wade*, liberals and conservatives alike, even those identifying as pro-life agreed that rape and incest were legitimate grounds to have an abortion. In the last decade a change has occurred on the Right. The conversion in attitude was brought to the public eye by Missouri Republican Senator (and House Science Committee Member) Todd Akin. When asked a question about abortion in the case of rape or incest, Akin replied, “If it's a legitimate rape, the female body has ways to try to shut that whole thing down.” This statement was problematic enough, but its sentiment was echoed by other members of Akin’s party. In a pre-election debate, Indiana Republican Senator Richard Mourdock stated, “I think that even when life begins in that horrible situation of rape, that it is something that God intended to happen.” It is important to note that, as of Tuesday, November 6th, 2012, both of these men lost their re-election bids. Akin gave an interview which sank his career, and men like Mourdock suffered a similar consequence for espousing inflammatory comments in an election year. It would seem to the more liberal-minded onlooker that politics actually worked. The people of Missouri heard this absolutely absurd statement from a man running for senator and they voted against him. Still, the larger issues feel a bit unresolved.

In the last election cycle, especially in the cultural climate of social media and continuous headline news, what could have possibly compelled Akin, a man running in a conservative state in which he was heavily favored to win, to jeopardize his political career with one single statement? The term “legitimate rape” has several terrifying implications that are a direct rebuke to the legal and social goals made by feminists to combat rape and rape culture. By making the claim that a woman who is “legitimately” raped can automatically terminate a pregnancy through some protective biological mechanism, it is implied that a woman cannot possibly get pregnant by a rape. If adopted as mainstream discourse, this dangerous notion could seriously limit a

woman's access to abortion if she were raped. Put in a simpler way, the argument for abortion remaining legal in the case of rape or incest becomes moot if a woman cannot get pregnant from rape. It is a conservative rhetorical trick developed by a pro-life agenda to limit women's reproductive rights. In the 2012 election cycle, conservatives felt compelled enough about the issue to test the political efficacy of waging a war on the rights of women.

As the handmaiden of conservative ideology, Fox News ran a controversial segment on their morning show, *Fox and Friends*, during which it was proposed there was a "War on Men." This was of course a response to the Leftist rhetoric that the Republican Party was waging a "War on Women." In effect, Fox news was putting forth the notion that the harm and erosion being done to the American way of life was a result of feminist efforts to take rights away from men. In that segment, Fox was giving voice to a fast-growing viral movement against the progressive and liberal gains first made during the 70's by various radical political movements, one of which was feminism. This movement of Men's Rights Activists, or MRA's, indeed believes that a war on men is being waged and that feminism is the instigator. Glances at their various websites or blogs reveal multiple links to stories that accuse feminists of oversimplifying and overstating any oppression of women by men

The rhetoric of Akin and MRAs reflect, in particular, a movement to eliminate laws that were originally designed to provide better protection and justice for women who had been raped. This is a story that begins in the early 1970's in Michigan, when a landmark ruling by the Michigan Supreme Court expanded laws of consent to include not just young girls, but all women, married or unmarried. This historic ruling, for the first time in Western history, placed rape as not something based on a property violation or perversion, but on the lived experience of women and whether or not they consented to a sexual act. Interestingly enough, the 70's also saw

the genesis of a counter-revolution; the rise and development of the New Right. This new Republican Party, led by Reagan as its symbol, would run on a theme of “good old days” that never really existed, a time where men were masculine and women were renowned not for their ideas but for their ability to birth children. A time when God and Nationalism were tied together in a dogmatic tryst and liberal ideals were believed an anathema to American exceptionalism. Ironically, the rise of the New Right was a reaction to the Rights-based movements of an earlier decade.

Much has been written about how the modern Republican Party is working towards undoing the gains made by women. After the 2012 election, many on the left saw the defeat of Mitt Romney and the failure of the Republican Party to capture the Senate as an indicator of victory over this current manifestation of anti-women rhetoric. In this piece, I will explore the efforts of the Right to delegitimize the legal gains made by women in the fight against rape. I will begin with a brief context of rape law in America, and then explain exactly what precedent the judicial system in Michigan set for a woman’s ability to achieve justice legally in terms of rape. Then, I will show the response of the New Right (through multi-faceted means) to fight against the credibility of women who “cry rape,” both legally and politically. In this paper, I want to illustrate the dangers of an idea as a virus. Todd Akin made an asinine comment, but I argue that his comment regarding the concept of rape echoes a sentiment held by a very vocal minority. The most terrifying aspect is, through every YouTube video or Reddit<sup>2</sup> thread clicked, the number of those being mobilized against feminist analysis of rape and rape culture continues to grow. This story has an uncomfortable ending, for what I am about to expose in the following pages is a conservative strategy whose rhetoric has shifted in focus from convincing the powerful that their power is being usurped to convincing the powerful (i.e. white privileged men) that they

are completely powerless. The conservative Right is waging this battle for the open minds of young men with Internet access, and as I will illustrate, it is a battle that, among millennial men, they are currently winning. According to the Huffington Post, allegiance to MRA forums is showing a fervent resurgence in men ages 18-28. These men are being exposed to ideas that run counter to everything feminism has done to illuminate the concept of rape. Quite literally, “legitimate rape” as a concept is but one indicator of a growing movement that seeks to completely delegitimize rape.

### A Brief (Legal) History of Rape in Early America

Legally, rape throughout history has been viewed as a loaded concept. Therefore, the ‘legitimacy’ of a claim of rape has shifted in public discourse throughout time. For example, the code of Hammurabi, a set of codes and laws from the 17<sup>th</sup> century B.C.E., specifically and harshly punishes the act of rape. “It provided that, if a man raped the bride of an inchoate marriage while she was still living in her father’s house, the penalty was death” (Smith, 189). Babylonian law is oft regarded by historians as the first known set of codes of conduct by which a society was governed, and the fact that rape was viewed an offense worth punishing at all, and by death, shows a culture that definitely sought to prevent rape from occurring. There are many laws written on rape that follow this one. However, it is not in the interest of this piece to delve too deeply into ancient rape laws, but there are some aspects of these laws that will be important to recall when discussing the shift of rape law in America. First, these ancient laws set the precedent that rape is a kind of property violation that has to do with interruption of the binding contract of marriage. Second, the Old Testament specifically puts the burden on the woman to “cry out” during or after a rape, her failure to do this would result in punishment for her, as well. As I shall illustrate, America’s laws regarding rape prior to the nineteenth century were not much

improved. Rape, legitimate or otherwise, was commonplace.

### **Rape Law in the United States Prior to 1800**

The United States has always been a nation of immigrants. As such, these immigrants brought to this land and the colonies they would forge a myriad of ideas and codes of conduct from their homeland. Rape was no exception. Much legal thought around that time revolved around Henry de Bracton's *The Lawes Resolutions*. Bracton, a legal theorist, acknowledged that a power dynamic was at play in rape, but he seemed to have a romantic notion of the act. "On one hand the rapist is a predator, the woman his prey; on the other hand, because the rapist "ventured his life for her sake," she might be flattered and forgive him. Rape is at times reduced to nothing more than a frightening experience, "a greater astonishment than damage" (Baines, 77). This dualistic approach to rape made the act difficult to try legally. Often, the ability of a woman to gain justice depended upon issues of consent. Bracton problematically associates the conceiving of a child as implied consent. "Rape is the carnal abusing of a (d) woman against her will. But if the woman conceive upon any carnal abusing of her, that is no rape, for she cannot conceive unless she consent" (Baines, 78). Consent in sexuality was illustrated in society by the birth of a child, which was viewed as an act that both parties had to consent to in order to generate a human being. If a rape resulted in childbirth, it was not viewed as a legitimate rape. Cases were often thrown out because of the supposed implied consent necessary to birth a child. Prostitutes, too, were viewed as not being of the capacity to be raped. "For if she is a whore, consent is already given and thus she cannot be raped" (Baines, 79). These were the legal philosophies of the Renaissance that informed the minds of those who were colonizing and forming societies in what would become the United States.

For quite some time, even after the Constitution was ratified, rape law in the United

States echoed the statutes of British Law. Matthew Hale, a judge in Britain, was seen as the legal authority on rape. He viewed the topic as a conundrum. "It must be remembered...that it is an accusation easily to be made and hard to be proved and harder to be defended by the party accused, tho never so innocent" (Hale, 635). The dominant legal ideology of the time believed it was simple for a woman to make an accusation of rape. Women, unless they met the criteria of chaste, pure virgin brides-to-be, were suspect of using a rape accusation as a weapon against the accused. A trial was difficult, because it was essentially based upon the credibility of the accuser and the accused. Therefore, if an upper-class, white, high profile woman in a town made a rape accusation against a lower-class male, she was likely (as long as she was adherent to Christian chastity) to be able to get justice against her accuser. This was viewed uniformly as a legitimate rape. However, if the reverse were true (poor woman making an accusation against a wealthy white male), the accused would no doubt see the charges waived. Black women, only viewed as three-fifths a person, had little to no chance of even making a rape accusation.

The only statute adopted as U.S. law regarding rape prior to the 1800's was the Queen Elizabeth I statute, another leftover from British law. It defined rape as, "carnal knowledge of any woman child under the age of ten years" (Geis, 10). This statute entered common law after the American Revolution and was then codified into state law. What we now call "Statutory Rape" was the only kind of rape recognized as legitimate. The implications of this are stunning. In order for a woman to have a credible claim of rape, she had to be under the age of ten years old. Let us not be coy in believing that this law protected all ten year olds, this was a law enacted to protect the youth of the elite. As is the case in a climate wherein the idea of equality is preached, when equality is obviously not available for all persons, it is only a matter of time before discontent reaches a boiling point. These are exactly the conditions that would cause the

first meaningful rape reform in the United States. Some forms of rape apparently could be illegitimate and illegal.

Between the years of 1885 to 1900, sweeping change was fought for and enacted legally in terms of rape laws in the United States. Much like the reforms that would come nearly a century later, reforms in statutory rape legislation would be advocated for and by women. Rape reform was a large part of the overall suffragette or “First Wave” feminist movement in the United States. Many women worked valiantly to alter and expand age of consent laws, but history shows that credit is due to a specific organization, the Women’s Christian Temperance Union.

### **The WCTU and Age of Consent Reform**

In the latter part of the nineteenth century, the WCTU whose primary agenda was to render alcohol illegal in this country also became the largest women’s organization in the nation. More noteworthy, the WCTU was the first mass (as opposed to elite) political organization for women in American History, ”which represented an extremely important shift in political power,” (Geis, 3). The WCTU later joined the revolutionary fervor of the suffragist movement, because they thought if more women voted then anti-alcohol legislation had a better chance of being passed. Their agenda further expanded for a desire to see rape law amended. However, the desired reform did not necessarily emanate from a revolutionary cauldron of ideas.

In relationship to other feminist movements during that time, the WCTU, as a mass movement, was strikingly conservative. It was not made up of women who were intellectual elites, but those that held firm to tradition and temperance. The WCTU held the viewpoint where men and women were not only unequal, but belonged in separate spheres of existence. The WCTU conceptualized sex as a source of power that men were unfairly wielding over women—

hence the desire for tighter rape laws. They were not asking for greater access to sex or greater emphasis on female sexuality; quite the opposite. Members of the WCTU simply wanted men to adhere to the same standards of purity. That is, if women were to be chaste and faithful, then men should have to follow a pure lifestyle as well. To that end, prostitution was considered a dangerous line of work for women, but the WCTU sought its banning primarily to prevent married men from having access to these “soiled women.” Prostitutes were deemed responsible for an epidemic of venereal disease, a blame which their male clients were shielded from.

I feel it is crucial to point out this distinction when talking about rape reform. Rape and sex are obviously related, and their relation to each other is often contested in public discourse. If a culture is extremely sex positive, then from a legal perspective it would regulate rape more so than a sexually repressed culture. By viewing sex, not just rape, as a vehicle of power, it is safe to draw the conclusion that sex positivity was not something that the WCTU advocated for publicly. When the precedent for rape reform laws comes from a place of sex negativity it sets a precedent that can be problematic regardless of intention.

Despite the reserved attitudes toward sex, one of the greatest feats the WCTU and other women-based movements, beyond temperance, was not just their forcing male legislators to expand the age of consent, but also through their activism, forcing the realities of all kinds of rape out into the open. As criminologist-historian Gilbert Geis explains, “Specifically, these reformers asserted that the legal definitions of coercion and resistance in the existing law of forcible rape were unrealistic and harsh; that much so-called “consensual” sexual contact with women and young girls took place within the family...”(Geis, 5). To have women reveal through personal testimony the truth that most rape law was based on nothing but archaic concepts of rape, that rape in fact looks incredibly different in almost all occurrences, was enormous. As

stated earlier, rape was only legitimate if it occurred in the form of a crime committed by strangers on women they did not know with extreme malice or violence. The WCTU was illustrating a very different scenario, a scenario where less than appropriate sexual conduct could be done coercively by a family member or a spouse.

Over a fifteen year period, state-by-state more restrictive measures were placed on the age of consent. The laws state by state looked very uniform, as reflected by Gilbert Geis-

“If a girl is under the statutory age, it does not matter that she consented to, or even actively solicited, sex; the defendant incurs liability for rape by the mere fact of the sexual intercourse itself “with or against her will. But if the alleged victim is over the statutory age, she must meet the more restrictive definition of forcible rape...” (Geis, 11).

The Queen Elizabeth statute had thus been amended. Each state moved to expand the age-of-consent for sex from ten to sixteen or seventeen, in most cases, and thus curbed sexual impropriety amongst men. Even if a woman solicited or consented to sex with a man, the man, not the woman, was to be held responsible and punished. Culturally, the problem of what to do with young girls in relation to their sexuality also was better established. Unfortunately for the WCTU, their activism failed to translate into a grander legal understanding of rape. However, where the WCTU failed to fully address issues surrounding rape, white men in the South were fully committed to passing new laws and aggressively prosecuting black rapists within their midst.

### **Rape Law in the Old South**

For the purposes of this analysis, I wish to illustrate that white male anxiety resulted in the South adopting the stiffest punishment in the United States at the time. Despite the existence of slavery, and the relative separation between the wives and daughters of slave owners and their slaves, there was a palpable anxiety afoot in the minds of Southern men that their wives were in constant danger of being violated by savage brutes. Castration was not a nationally sanctioned

punishment for rape, but when it came to the idea of black men raping white women, the Southern legal system decided that, in order to address the threat of the black phallus, it must literally be eradicated. The castration punishment was eventually amended, and after 1819, states passed laws making the penalty for rape meet the humanitarian sentiment of the period. Historian Peter Bardaglio explains the shift in punishment style as follows, “Rather than prescribing castration, southern states during the antebellum period called for the execution of black men convicted of rape or attempted rape of a white female” (Bardaglio, 753). Instead of mutilating the slave through castration, the cries from Northerners and religious communities of brutality caused Southern lawmakers to prescribe death for any black man convicted of rape or attempted rape. In the South, the legitimacy of rape was determined by the skin color of the rapist.

These laws and customs around rape were meant to preserve order of property. In the South, though certainly different in context, wives and slaves were both seen as items of property, “The rape of white women by blacks provoked such profound rage among southern white men because they viewed female sexuality as property that they owned, like slaves, and protection of this property was a key to preserving their position in society (Bardaglio, 755). White women in the south were not protected so heroically under law because they were viewed as beings with autonomy and will; it is because they, like the slaves being put to death for rape, were the property of white men. A white woman’s rape was viewed as an event that reflected a man’s supposed inability to keep his property in order. White women were symbols of status and wealth, and it was important for appearances to be upheld and order to be maintained. A raped white woman lacked the purity necessary to represent her husband in social situations. Sex was not to be a part of her life outside of a marriage, especially by her father’s or husband’s other human property, that would be viewed as the ultimate taboo. Legally, the legitimacy of rape at

this time in American history was determined by the ages or races of those involved. However, regardless of age or race, a wife had little recourse if she were raped by her husband.

### **The Marital Rape Exemption**

In some cases, even if a rape did occur, women, in general, white or black, had no legal recourse. If a woman was raped by her husband, which is now known to be a fairly common occurrence, this was considered a form of legitimate rape as she had no ability to attain justice. In the nineteenth century, along with legal rape reform, marriage was legally conceptualized in a new way. Feminist legal historian Rebecca Ryan notes this shift, “The inequality of power between husband and wife came to be understood as the reflection of natural law, rather than a man-made dictate” (Ryan, 944). Marriage was still a contract, but it was now rooted in the idea of natural ordinance. Men, being viewed as superior both physically and mentally to women, were the head of the household. Notable legal scholar James Schouler describes the unit formed when a man and woman married as follows, “[Although the voluntary act of two parties brings them within the law, they cannot voluntarily retreat when so minded. To an unusual extent, therefore, is the law of family above and independent of, the individual” (Schouler, 35). Marriage was viewed as the contractual combination of two parties into one; the family. However, when marriage was redefined as a reflection of nature, it was still not viewed as a partnership, with the assumption that, in nature, men were deemed superior, and thus should be in charge. Marriage changed its definition in the United States to reflect the constitution’s emphasis on the rights of the individual. Unfortunately for women, the individual that benefited from this revision of marriage was the husband. By virtue of being a male in a marriage, the husband had certain privileges the wife did not.

At the center of the marriage contract was sex. Husband and wife were entering into an

agreement of monogamy. The husband agreed to curb his sexual appetite and procreate with his wife, forming a family. Victorian legal theorist William Blackstone writes on this subject, “That of husband and wife; which is founded in nature, but modified in civil society; the one directing man to continue and multiply his species, the other prescribing the manner in which that natural impulse must be confined and regulated” (Blackstone, 325). Marriage was a vehicle to promote sex for procreation. It was natural law that decreed a man must spread his seed in a monogamous arrangement with his wife. The family unit of one man and one woman was interpreted as the best way in which to raise a child.

Marriage was a social contract and a sexual contract. It was an unbreakable bond, as divorce was extremely rare, so legal theorists and thinkers had to find a way to entice American men endowed with individual rights incentive to enter a collective bond. The way to do so was to ensure men they could enjoy their individual right to sex whenever they chose. To make marriage palatable to men, marriage had to address the so called “natural urges” of male sexuality. In order to ensure that couples stayed together, a bargain was implicit within the marriage contract that allowed men to have sex with his wife whenever he desired. The wife, socialized to please her husband and be a subordinate, was expected to give him sex whenever he needed, even if she was physically ill. A husband could legitimately rape his wife. These were roles that were viewed culturally imperative for marriage to work, and because marriage was the ideal of a pure society when it came to gender relations, this was a necessary provision. It is important to stress that the arrangement was intended to produce offspring, which is why ‘healthy restraint’ was included. A man could indulge his urges, but, in the mold of the Victorian era, he had to be able to show some restraint.

This conservative view of marriage has a litany of disturbing implications. Jill Hasday, a

feminist historian well-versed in conjugal right exemptions, states plainly that all sex, as long as it was initiated by the husband in marriage, was now legally protected. “The marital rape exemption reflected and extended this dichotomy by making marital intercourse legal by definition” (Hasday, 1391). First, a woman is legally expected to give her body to her husband because it is his body to act upon, not her own. Because marriage was re-branded as being of a natural order, and men were seen as the highest in nature, their reward was legally sanctioned total access to his wife’s body. Second, because marital sex was made legal, it was impossible for women to report a rape, even if it were violent and met the criteria for forcible rape; the legal contract she entered quite literally makes her “unrapeable.”

It would be a simple move to blame the suffragettes for failing to address this, specifically the WCTU. The age-of-consent legislation did nothing to subvert the sexual imbalance of the marriage arrangement. However, it is important to consider the position that these activists were in at the time. “Feminists and non-feminists alike believed the single most important issue was in obtaining the vote; they did not wish to address a woman’s sexual oppression in marriage” (Hasday, 1400). The suffragettes were lobbying for rights and trying to win the support of the general populace. The issue of marriage was not a battle the suffragettes felt they had enough support to wage in public discourse.

Though the WCTU had real, tangible victories in getting the right to vote and the age-of-consent reform adopted nearly uniformly across the United States, there was still much to address. These victories did not make women complacent, but it galvanized them to push further. For example, women like Elizabeth Cady Stanton began speaking at length about the injustices women faced in the supposed union of marriage.

“The individual may be put in the stocks, body and soul, he may be dwarfed, crippled, killed, but his rights no man can get; they live and die with him.... These axioms prove

that woman's poverty does not add to man's wealth, and if, in the plenitude of his power, he should secure to her the exercise of all her God-given rights, her wealth could not bring poverty to him”  
(Stanton, 117)

Though Stanton was speaking directly about the ability of a wife to earn her own independent wage, she also introduced the idea that marriage was an unjust institution and, more importantly, that women should have their own rights in a union. In the above quote, Stanton does not reference sex or the conjugal exception, but the strength of an idea being put into the discursive ethers is that, as long as it remains afloat, it will grow and expand. If one aspect of a wife's oppression by her husband can be addressed, then why not address all of the oppression in marriage? This is a question that will be a catalyst, along with many other ideas and occurrences that will fuel the activism of Second Wave feminism. A legal reckoning was in store for men being able to legitimately rape their wives, one that would attempt to right the wrongdoings and misguided attempts of previous generations to define and deal with rape. Rape would not be just a matter of age, or an act committed against the honor of a woman by a minority, it would be reformed to reflect the lived experience of women. Now that I have briefly introduced the complexities and legal understandings of rape in the United States, I wish to address the rape reform lobbied for and gained by second wave feminists in the 1970's.

#### Reforming Rape Law: A Less Imperfect Solution

It should be clear at this point that the legal protection for victims of rape was severely lacking in substance and in practicality. Second Wave feminists were well aware of this. They knew that the narrative conception of what constituted rape in legal circles and in public consciousness was riddled with myths and misconceptions that drastically needed debunking and refining. The opening salvo of the second wave feminists on rape came in the form of a 1968 book; Susan Brownmiller's *Against Our Will: Men, Women, and Rape*. This work was widely

distributed and read in academic and intellectual circles across the country. Noted feminist jurisprudence scholar Morrison Torrey describes the impact of Brownmiller's work, "She critiqued all aspects of rape law, including its definition (which excluded all sexual conduct except penile-vaginal penetration), the marital rape exemption, the requirement of resistance, the determination of nonconsent, and numerous evidentiary issues" (Torrey, 36). Brownmiller put to paper what had been the subject of whispers and debates in the most progressive of circles. She described the justice system as one that enabled rape; a vehicle of the patriarchy. Her work was influential enough to bring together feminist academics and activists in a partnership with legal reformers to critique and move to change a legal system that was instrumental in their oppression. Feminists decided to put rape on trial in hopes that the probing depth of feminist analysis would be enough to challenge and overthrow the patriarchal chokehold on justice

### **The Feminist Reform of Rape**

The feminist based legal reform of rape argument was based on long-held private truths about rape and how it was handled, but it is important to understand how the argument was being made. Rape law reformers embraced liberalism and its tenants to flesh out their case against rape, taking a cue from civil rights legislation that was being argued for successfully around the same time period. Morrison Torrey perfectly explains how classical liberalism informed the discursive strategy of feminist legal reform agenda,

"(1) the concept of "consent" became the essential difference between lawful and unlawful conduct; (2) sexual coercion came to be viewed as individual and gender neutral rather than institutional and sex specific, thus remaining consistent with the liberal emphasis on gender neutral humanism; and (3) rape was characterized as "violence" as opposed to "sex" with the adoption of the sexual assault and battery approach to legislative reform" (Torrey, 39).

These arguments were a direct response to all previous work done on rape. They were specific rebuttals to specific elements in rape laws that were problematic, but they were also

revolutionary in that, for the first time, a woman's experience of rape was put at the center of rape reform. This was a discursive shift; sex and rape were argued as being separate acts. Sex was an act of consent between two adults; rape was labeled a violent crime. Sexual coercion was gender neutral, not only men had the power to coerce and women were not the only gender that was able to be coerced, thus painting women as not the quiet, polite, innocent bodies that were open to be acted upon. The gender neutrality definition of coercion was included to reaffirm women's agency, but also to shed light on homosexual rape.

The activism of these reformers saw its first success when Michigan passed the most progressive rape reform legislation in United States history. Michigan became the first state to adopt a statute that defined rape as a violent crime that was not a sexual act, but a violation. It reflected the liberal feminist definition of rape perfectly. Central to this ruling was the enactment of a "Rape Shield" statute that must be taken into account when trying a case. Legal scholar Leo Farhat best explains the details of this statute. "Rape shield statutes are aimed at eliminating a common defense strategy of trying the witness rather than the defendant. The result of this strategy was harassment and further humiliation of the victim as well as discouraging other rape victims from reporting rape to the authorities" (Farhat, 547). This was monumental and far reaching. Under this provision, the defense could not use a woman's sexual history against her. Michigan was the first state to adopt a feminist critique of this practice as an arm of patriarchal oppression meant to scare women away from seeking their rapists' prosecution, into ratified law. The rape shield statute was contested multiple times, but it was and has been upheld consistently by the Michigan Supreme Court.

Michigan signaled a shift that echoed throughout the country. In 1980, California became the first state in the Union to directly do away with the marital rape exemption. Rape within

marriage was no longer considered legitimate. Other states followed, and by 1990, all but three states had adopted some form of the reform lobbied for by liberal feminists in the late sixties and early seventies. These laws redefined rape in the following ways:

“First, the new law initiated a gender-neutral degree structure to reflect the level of seriousness of the assault. Second, it replaced the resistance and consent standards (which tended to focus on the victim's behavior) with the amount of force and coercion employed by the defendant. Third, it abolished the corroboration requirement. Fourth, and perhaps most important, the new statutes included strict yet limited evidentiary rules which severely limited the admissibility of the victim's sexual history during the trial proceedings” (Matoseian, 670).

When reading, line-by-line, it is stunning how far-reaching the reforms in Michigan and California were. This corroboration statute not only reflected the reality that rape most often occurs in intimate situations shielded from the view of the public. Arguably, the most significant aspect of the reform was that it forced rape to be taken seriously as a crime against a person rather than a violation of property. Women's lived experiences were made legitimate under law. Women were finally humanized legally. It would seem at first that this reform would be enough to satisfy everyone. However, the enacting of reform does little to foster real change in practice unless it reflects the consensus opinion of the masses. As the studies I analyze will illustrate, law enforcement and the judicial system have been slow in adopting the feminist concept of rape.

### **Studies Show a Lack of Progress**

That recently legal reform in conceptions of rape came into existence is obviously a preferable outcome and evidence of progress, but to say that these statutes have made the difference hoped for by feminist reformers would be an overstatement. In Michigan, the birthplace of modern rape reform, a study was conducted by Berger, Searles, and Nerman to

measure the efficacy of the reform by surveying and analyzing cases in Michigan's criminal justice system.

“Criminal justice and rape crisis center personnel have indicated they believe chances for conviction have improved since the prereform period and that victims now experience less trauma during the criminal justice process. From a prosecutorial perspective, studies indicate "limited success" in reducing case attrition and in making prosecution and conviction of rape and sexual assault cases more feasible. However, since attrition rates are still quite high, "a conclusion of success is questionable" from a victim-advocate's point of view” (Berger, 333).

The study suggests that those invested in the success of rape reforms may have a slightly unrealistic expectation about the effectiveness of these reforms, at least in Michigan. Whereas rape crisis center personnel believe that conditions have improved greatly, prosecutorial data reveals that while they have had limited success in reducing rape case attrition, the numbers of attrition remain high. Why is this so? In the referencing of another study, the sociologists posited a potential reason. “The impact studies suggest that many criminal justice personnel continue to operate on the basis of traditional assumptions and that they do not always comply with the statutes” (Berger, 334). Despite the fact that laws and statutes had been passed in the hopes that reform would be automatic, there was systemic resistance to the reform. The reformers and persons who passed these statutes did not account for the possibility that those within the criminal justice system itself would operate under their own personal interpretation of what constituted a legitimate rape rather than the reformed definitions put forth by the rape reform itself.

Though reports of rape increased, oddly enough, they were punished far less severely. In a later study, Spohn and Horney conducted a study on whether more “simple rapes” were being reported to police in the post-reform era. “Simple” rape is rape that occurs with limited physical force, a less violent kind of rape, whereas aggravated rape connotes rape that falls under the

category of assault. “The percentage of simple rape cases increased from 17.6% to 24.4%. These results suggest that more cases of rape by unarmed acquaintances are "getting into the system" in the post-reform period” (Spohn & Horney, 874). This meant that rape that would fall under the label of acquaintance or intimate partner rape had increased. However, this was not resulting in more convictions.

A 1992 study by Bachman and Paternoster revealed a gap between the types of rape being reported and those that resulted in incarceration. “There is a corresponding overrepresentation of rapes involving stranger victims in the incarceration data (56%) relative to their proportion in the victimization data (45%)” (Bachman, 571). The majority of rapists going to jail for rape were strangers to the victim that had used excessive force, despite the fact that the majority of rapes reported were not stranger rapes. The reason for this trend is unsettling.

“The fact that rapists who victimize acquaintances are less likely to be incarcerated than those who victimize strangers may not be due to the fact that the former are perceived to be less serious than the latter. Rather, it may be that objectively they are less serious. Rapes committed against acquaintances may be less brutal and violent and less likely to involve another felony (such as kidnapping) than those committed against strangers” (Bachman & Pasternotter, 571).

Even though the idea of consent theoretically opened an avenue for women who had been raped by an acquaintance to see their rapist prosecuted, the successful number of prosecutions was low. This is due to jurors and the general public still holding firm to the belief that a woman in a relationship could be legitimately raped. Aggravated rape is more jarring to the ear of the jury than a ‘simple’ rape scenario. Both are indeed encompassed in rape law, but because the former sounds more brutal than the latter, that type of rape is more likely to get a conviction.

Despite the problematic implementation of rape reform, it was still a benchmark moment for feminists everywhere. This, along with abortion being protected by the U.S. Supreme Court

in the Roe vs. Wade ruling, made the 1970's a decade that illustrated a successful feminist movement that was threatening to completely alter the dominant patriarchal discourse. It will soon become apparent that the patriarchy was not prepared to exit gracefully, rather, the gains made by feminists and other minority groups had enraged and militarized the conservative right wing in America to stage a coup that would seek to undo all the work done by progressive elements of American society.

### The New Right Rises

In the 1970's, the Republican Party was a political party in need of direction. The embarrassment of Watergate and the subsequent impeachment of Nixon shook the party to its core. Gerald Ford took over, but his decision to pardon Nixon along with the general impotency of his term in office ensured he would be a lame duck. His defeat at the hands of Jimmy Carter sent Republican strategists into a full-fledged panic; they had to find a candidate who would reinvigorate the masses enough to appear in touch with the values and ideals of the American public. Enter Phyllis Schlafly. Schlafly was a prominent voice of a new strand of the Republican Party. This strand was attempting to galvanize the Southern, far-Right evangelicals who had, up until this point in history, been largely irrelevant in the national political consciousness. This "New Right" was an attractive suitor because they were motivated by the word of God. By marrying a dogmatic belief in God to politics, the Republican Party saw a large base that was easily exploitable and easy to mobilize. The "New Right" was particularly concerned with the newly gained agency of women and what that meant for male supremacy in all spheres of life. The movement would soon give rise to the men who would utter the phrase 'legitimate rape.'

### **The New Right Targets Feminism**

Nineteen seventy-seven was the year everything was about to change. As the late sixties

and early seventies saw unprecedented gains in civil rights for women and blacks, an unbridled set of optimism was apparent in progressive circles. *Roe v. Wade*, the Michigan statute, women were finally being legally recognized as autonomous beings with the right to ownership over their bodies. Their consent was legally actualized, as well as their right to choose whether or not they wanted to bring a pregnancy to term. “A growing social revolution was changing America. By 1977, 49 percent of women were employed full-time outside the home, compared to 34 percent in 1957. The majority embraced the feminist message without identifying it as such” (Melich, 145). Women did not need men to the degree they once did because nearly half of them were employed and earning living wages. As a result of this greater autonomy, women were getting divorced at a far greater rate than in previous decades. The mainstream had accepted that women were deserving of their independence from male subordination. This was a view shared by both Republicans and Democrats. It was an idea that had once been controversial but was now commonplace in political and social discourse. The future looked bright for women in America, but it would not be long until forces within one of the two parties in America would target the gains made by women as a way to galvanize a party that had lost its way. A central concern of that party was to make rape legitimate again.

Schlafly was an especially attractive mouthpiece because she was using the gains made by women in the first and second wave of feminism to undo what they had accomplished. Her major victories were mobilizing Southern voters to go out and vote against congressman who supported the Equal Rights Amendment. She was using the power afforded to her by feminism to call for a return to family values, a simpler time where women remained in the home to raise children while men were the breadwinners. Schlafly seduced the Republican hierarchy by showing that the New Right’s reactionary conservatism was popular to a vocal, mobilized

minority. The Republican Party had found its muse, and an unholy matrimony was consummated. When it came time for Carter's reelection campaign, the Party would be ready. What followed was a purging of moderates within the party and a consolidation of a platform that would remind Americans of a simpler time before the madness of feminism and the erosion of the backbone of America; the nuclear family and its devotion to a higher power. A time when it wasn't so easy for women to cry rape.

The Republican Party leadership courted those who were against women's rights that, at least on the surface, shouldn't have been. "They welcomed women attacking women's liberation in their ranks, which gave them valuable cover for those who said they were just against women" (Malich, 148). This was a brilliant strategy on many levels. It set the Republican Party as an ideological alternative to the Democratic Party, giving voters a real choice. Voters had to decide whether they wanted a society that was veering into territory that would radically change what it "meant to be American," or they could choose a political direction that would return to the glory of America; a fictitious time where Vietnam and civil unrest did not exist. A return to American values of Manifest Destiny where men were in high character and women were mothers and housewives rather than CEOs. The Republican Party realized that while many Americans liked the "idea" of equal rights for women, a picture had not yet been painted about what that might mean in practice.

The same was true with the abortion issue. Most Americans were pro-choice, but Republicans approached the issue by asking what the ability for a woman to make sexual and reproductive choices would do to affect society. They painted a terrifying vision in which women were not just equal, but rather infringing on the rights of men. This dystopic future was tested at the polls, and in the 1980 elections, its first test run would reveal what direction

Americans wanted their country to go in. The results were unanimous, and the election of 1980 saw the beginning of the Reagan revolution propelled by the momentum of the New Right. The last fifteen years of progress were about to face their first major political and socially discursive affront. It was a battle that, arguably, feminists weren't prepared enough to fight.

### The New Right Wages a Holy War

I am not using this section of my thesis to attack religion or religious belief, but what I am attempting to illustrate is how religion was co-opted by the New Right as a political justification to wage a war on feminist gains. In the 30 years since Reagan, Republicans have entered a political tryst with an evangelical base that insists what they are trying to do isn't just political, but is also a return to Christian values. In a profile on Far-Right organizations, Hedy Dexter explains the rationale of these groups "According to Focus on the Family's James Dobson (1994), "turn[ing] hearts toward home by reasonable, biblical, and empirical insights...to discover the founder of homes and the creator of families. Jesus Christ: it's who we are and what we stand for." (Dexter, 98). Focus on the Family is just one lobbyist group that espouses this supposedly apolitical message of informing Americans about the Lord, not political candidates or movements. Of course, this is patently absurd when looking at facts. During election years, these organizations are the first to mobilize their followers to go out and vote for anti-choice, anti-LGBT, and anti-women's rights candidates. Dobson and the New Right are engaging in a war they see being waged in this country for the souls of Americans. This is a war they feel has the highest stakes possible; in their view, Jesus is watching and judging the moral erosion of the country, and only a return to a fundamentalist interpretation of the Bible that governs American social policy will stave off the wrath of the Almighty. This fundamentalist view has decidedly harsh words for feminism and the women's rights agenda. The number one target in the

crosshairs of this New Right is feminism, with its support of reproductive rights and sexual freedoms.

### **The Divine Plan to Disempower Women**

The autonomy of women poses the greatest threat to a return to the fundamentalist ways of the Bible. The Bible, according to these fundamentalists, is very clear that a woman's role is to be subservient to all men, especially her husband. These fundamentalists explicitly attack the so-called feminist dismantling of the moral code of America. "The feminist agenda is not about equal rights for women. It is about a socialist, anti-family political movement that encourages women to leave their husbands, kill their children, practice witchcraft, destroy capitalism, and become lesbians" (Dexter, 102). Implicit in these comments is the idea that feminism is an attack on male rule of society and culture. "What they fear really is loss of control (e.g., over women's sexuality, reproduction, and domestic labor), control that is protected within the confines of the male-headed traditional family" (Dexter, 102). If women can choose who they have sex with, where they work, if and when they are ready to have children, it nullifies the patriarchal hold on everyday life in America. What fundamentalists are doing is targeted at men. They want to convince men that voting for anti-women's rights candidates will insure male power will never be usurped. The New Right is trying to appeal to men directly.

The New Right, at least through their fundamentalist wing, is trying to stress that God talks to men and has a unique relationship with them. They want to foster a relationship with man and God that empowers men specifically to hold power of women. The following passage by Dexter shows the relationship between husband and God, "By making God and husband equivalents, husbands are authorized to demand from wives what God demands from us all; obedience. Mandated by God and thus seldom challenged, men wield their God-given authority

in the private, economic, and sociopolitical arenas” (Dexter, 106). Through the empowerment by God, men may reassert his unquestioned dominance over women. The secular gains by women are rendered moot by the authority of the divine authority granted men. Man is thus instructed to domineer over his female subject in all areas of life. Her sexuality (and all aspects of her life) becomes private, an unspoken aspect of life that is unquestioned based on this divine ruling. This is an extension of the New Right rhetoric around privatization. Conservatives regularly lament the reach of social programs, sexual education, and other initiatives that impact what goes on behind the closed doors of the home. They want to desperately return to privacy what feminism has long fought to expose publicly; the abuses and subordination of their person and sexuality by men. Was the implication that God approves rape if it helps to put a woman in her place? Does God have a plan like Mourdock claimed? According to New Right, their rhetoric certainly appears to clearly and emphatically state “yes.”

The New Right shows its hand further in this regard by constantly challenging measures that work to undermine what happens in the home. To them, everything that happens to women in the home is between husband, wife, and God. As feminist writer Rosalind Petchesky shows, this holds true even in the case of domestic violence

“While accepting that domestic violence exists, they dispute fem-inist theories about its causes. Domestic violence is not, they argue, “the result of sexist cultural norms that dominate American society,” but, like homosexuality, the product of individual deviance—in other words, pathology, brought on by alcohol and drug abuse. Behind the New Right’s opposition to the Domestic Violence Prevention and Services Bill is their desire not to further subsidize a national network of battered women’s centers, often run by feminists, which encourage battered women to leave home” (Petchesky, 226).

This statement perfectly illustrates the ideology of the New Right. Domestic abuse exists not because of a patriarchal system that demands female obedience, but because of alcohol, drugs, and family erosion. They would rather stand against providing services for women because those

services might be run by so-called “feminists” that would attempt to break up the institution of marriage. The rights of men are thus viewed as more important than a few cases of domestic violence. The New Right is taking a militant stand on the privatization of the female body. The goal of these groups is to redistribute power back to the male in the form of a dogmatic embrace of the traditional family model. It is a model that must not be abandoned, even in the case of domestic violence or marital rape. It is a model of living that they are seeking to indoctrinate children with by speaking out against sexual literacy in the form of teenage sexual education.

In the public discourse, the debate around abortion is often framed as being about the right to choice versus the rights of a fetus to live. That would be true if the focus of the New Right was just on abortion, but that issue of control of a woman’s personal autonomy is only a front for the real war on women, a war over their sexuality. “Not only abortion but also birth control and sex education programs sponsored by clinics and schools are seen as giving official government sanction to “illicit” sex-and, therefore, as interfering with parents’ control over the moral behavior and values of their children” (Petchesky, 229). The right-to-life debate is about policing women’s sexuality and access to abortion. In being able to choose whether to keep or abort a fetus, she subverts the men’s power to hold her captive in a loveless relationship for the sake of childbirth. Of course, shielding women from the realities and freedom of birth control and abortion is the start of first step in desexualization. Keeping teens from access to information that would help them better understand their body renders them vulnerable to uninterrupted sexual subordination. The so-called promiscuous woman, in the eyes of the New Right is empowered by sex education and birth control. A woman with sexual freedom is free from the bonds of patriarchy; she is unruly and untamable by men because she can choose who she wants to have sex with and do so in a way that frees her from the biological consequence of such an

interaction. A woman's sexual liberation gives her the central element of power that the New Right is trying to give back to men; total heterosexual autonomy and authority.

The New Right, in their desire to appeal to men, has utilized their ideology of privatization and religious fundamentalism in an attempt to undo the idea of consensual, mutually enjoyable sexual relations between men and women. "For his physical and emotional stamina, a husband depends on his wife's sexual surrender. He gets a metaphysical experience; she, if she is lucky, gets pregnant. As usual, men's sexuality is for pleasure. Women's sexuality is for procreation. (Dexter, 109). The New Right appeals to men by telling them that God has given them a special sexual stamina unique to the male species. Sex is a transcendent, euphoric experience for men; his pleasure is at the forefront of sex because it is decreed by divination that he enjoy it. A woman's role in sex is to give herself to a man in whatever way he needs to experience this divine connection. The orgasm of the woman and her sexual agency do not matter, she exists solely for his pleasure. The most a woman can hope for in a sexual transaction is pregnancy. The New Right seems to agree to believe that a man can legitimately rape his wife. Think about the implications of this idea. If this was adopted as a legal standard of sexuality, rape reform and ideas of consent become entirely delegitimized in public discourse. If a woman's sole purpose is to be penetrated for the pleasure of a male, as long as he claims to be in a relationship with her, his divine orgasm as a way to get closer to God becomes the primary goal. This is a patriarchal side-step to make rape an acceptable form of sexual intercourse, because it makes a woman's consent or pleasure completely irrelevant in the equation of a sexual relationship.

While a great majority of this discourse and rhetoric is patently absurd to the majority of the population, I come to the concept of an idea as a meme. A meme may appear in its original

form, in this case the fundamentalist ramblings of the New Right. However, the insidious aspect of a meme is that if it is strong enough, it can change and adapt to survive in any environment. The ideas of the New Right around feminism and rape have manifested and reached their intended male target. They have reached this target in a way they never intended or envisioned; through the Internet. A burgeoning social movement is speaking to the deepest held fears of men everywhere on YouTube, Twitter, and a myriad of blogs. This movement does not have the political power (yet) that the New Right evangelicals possess, but its ideas are disseminated in a way and medium that the New Right has not yet mastered. In the final section of this essay, I aim to expose the viral idea and movement that is attracting the support of male millennials at a record pace. This is the culmination of the backlash against rape reform and feminism; the Men's Rights Movement.

### The Men's Rights Movement

Ironically enough, the Men's Rights Movement started around the same time as the Second Wave Feminist movement in America. "One of the first organized responses by U.S. men to the reemergence of feminism was the organization of "men's liberation" consciousness-raising groups, workshops, and newsletters" (Messner, 256). Men were trying to interpret what the rise of second wave or radical feminism meant to them. The resurgence of feminism was a confusing development for all men, even those who were socially progressive. Men were trying to understand how the patriarchy forced men to be harmful to women and themselves. They were attempting to co-opt feminism and stand in solidarity with feminists over issues of rape, gender roles, and equality.

### **The Genesis and Fragmentation of MRAs**

The men's rights movement started as a way to identify with feminists and progressives

by interrogating male power and complacency in oppressing others. These men's meetings and consciousness-raising sessions quickly devolved into a bickering war over whether or not the claims by feminists that all men were actively complicit in the oppression of women were rooted in reality or simply the fever dreams of overtly aggressive women. Sociologist Michael Messner pinpoints the ideological split as follows, "On one hand, an overtly anti-feminist men's rights movement emerged. Men's rights organizations stressed the costs of narrow conceptions of masculinity to men and either downplayed or angrily disputed claims that patriarchy benefited men at women's expense" (Messner, 257). These men's rights groups disputed what they saw as a narrow concept of masculinity being attacked by feminists. They were tired of being characterized as rapists or oppressors because they enjoyed sexual relations with women. They also challenged the notion that patriarchy benefited all men equally. These groups argued that patriarchy oppresses men just as much as women, because it forces men to conform to sexual and gender roles in order to attract women. They found it hypocritical that the same women arguing for gender equality still held expectations of men to conform to the roles assigned to them by the patriarchy.

Specifically, these men's rights groups believed that feminism was a conspiracy donned by females to make them less culpable in their systemic oppression of men. One of the first major voices to articulate this point of view was Herb Goldberg. Goldberg's *The Hazards of Being Male* was a largely anecdotal work with a profound thesis statement. "Goldberg directly asserted that male privilege is a myth. Men actually have it far worse than women, because the male role is far more rigid than the female role, and women have created a movement through which they can traverse culturally imposed femininity" (Messner, 265). Goldberg articulates a reality in which men are truly oppressed because they have historically been forced to take the

mantle of breadwinner. If men did not earn a living wage, they were seen as less attractive and desirable to women. Goldberg asserted that society was largely matriarchal, because most social organization benefited women. Messner quotes Goldberg's thesis as follows, "Men's lower life span, health problems, military conscription, and divorce and custody laws are evidence of men's oppression" (Messner, 266). According to the men's rights discourse, the stresses of the maintaining the type of masculinity necessary to attract and maintain a relationship with women was literally killing men. Women were complicit in this social organization, and feminism was a vehicle for misandry.

The writings of Goldberg and others in this shifting movement gave rise to even more voices eager to express their discontent with how feminism had emasculated men. Poet Robert Bly, for example, started what was to be known as the "Mythopoetic Men's Movement." Bly's work was aimed at exposing a wrong he saw in the world; specifically, the eschewing of masculinity in favor of femininity. In an interview with Robert Bly, Minnesota Public Radio describes the aim of his seminal work, *Iron John*, "His book "Iron John" urged men to be more self-aware and assert the positives of manhood" (MPR, 8/1/11). Through drum circles, poetry readings, and analysis of classic mythos featuring strong, rugged male protagonists, Bly assembled and influenced groups of white, middle to upper middle class men to never shy away from the positives of masculine manhood. Bly's influence is still felt today in organizations such as the ManKind Project. Their literature echoes Bly's wish for a return to the type of masculinity the ManKind Project believe is being washed away from popular culture by feminism. The centerpiece of this group is "The New Warrior Training Adventure." It is a retreat exclusively for men to re-enact the heroes' journey, a facsimile rite of passage that allows men to get in touch with the inner man that Bly sought to awake in the American male.

## **Father's Rights and Anti-VAWA Activism Online**

While Bly and the ManKind Project address what “kind” of man one should strive to be, Groups like the National Coalition for Men combine Herb Goldberg’s assertion that men are truly oppressed with these ideas of masculinity to inform their outlook. The National Coalition for Men started in 1977 as a reaction to feminism. On their website, under their ‘philosophy’ section, the NCM echo Goldberg’s sentiment that men’s gender roles bring with them far more expectations and pressure than do women, and that Second Wave feminism wrongly asserts that women are the gender being oppressed in society. The NCFM goes farther than Goldberg, proposing a ‘Free Men’ agenda. The agenda is presented on their website as, “The Free Men agenda includes support and/or sponsorship of meetings, workshops, lectures, and other information disseminating vehicles, and groups whose aims are consistent with the organization’s objectives” (NCFM.org). The goals of this organization become much more transparent when looking at a few of the tenants of this agenda.

The NCFM desires freedom; “From divorce laws which presume the naturally superior capabilities of women to care for children and which stereotype men as wallets. From harsher treatment under law for criminal violations than the treatment accorded to women in matters of arrest, conviction and sentencing” (NCFM.org). The two main aspects of the Free Men Agenda are a direct response to Second Wave feminism. The latter call for freedom from harsher sentencing for crimes is in direct response to the legal protection and punishment for committing the act of rape<sup>3</sup>. However, it is the former I wish to address first. The critique by the NCFM of divorce proceedings led the group to become a major advocate in the Father’s Rights Movement. Father’s Rights advocates want more fairness in divorce proceedings, but most of all, they want to prevent divorce from ever occurring. One of the major elements of the Mythopoeitics, the

NCFM, the Mankind Project, and other organizations is the re-emphasis on the father's role as patriarch; including access to children and a belief that wives should treat their husbands with respect and obedience. By embracing Father's Rights, the NCFM was being influenced directly by discourse from an arm of the New Right.

The emphasis on restoring the family through the reinforcement of the patriarchal role is a key strategic element of the Promise Keepers. The Promise Keepers utilize a strategy adopted from New Right evangelical discourse. On their website, they describe the group as, "a Christ-centered organization dedicated to motivating men to influence their world through a relationship with Jesus Christ...When we reach men, we reach families" ([promisekeepers.org](http://promisekeepers.org)). This rhetoric is borrowed directly from the likes of Pat Robertson, Focus on the Family, and other influential New Right Organizations. The concept of Christ as the center of the family (as interpreted by the man of the household) is a thinly-veiled attempt to restore power to men. The "Rights" being advocated here by the NCFM and the Promise Keepers are simply another set of attacks on women's autonomy. Nowhere is this made clearer than by assessing these groups' reaction to the Violence Against Women Act.

Originally passed into law in 1994, the Violence Against Women Act was enacted as a reaction to advocacy groups that asserted not enough was being done to prevent or provide support for sexual assault or domestic abuse survivors. In its first decade plus as an act, it was renewed each congressional term with little to no objection from either political party. However, with the rise of the Internet as a vehicle for Men's Rights groups like NCFM and the Promise Keepers, resistance to the Violence Against Women Act began to spread online. For example, on the website Safe4all (a website linked up with NCFM), a call is made to formally introduce gender neutral language into the act." Throughout the Act and in all revisions to the Act, the

term, men, be added when women are specifically named as victims to reflect the legislative intent. The legislative intent could be significantly strengthened by legislation renaming the act: "The Family Violence and Sexual Assault Act" (Safe4all, 2005). The argument was being made through message boards like these that women were unfairly overrepresented in the VAWA legislation. What these groups were forgetting is that the language was made gender specific precisely because women were not being protected from their husbands or boyfriends who would beat them. The VAWA legislation was a response to evidence that illustrated a culture of non-compliance by police. VAWA was introduced because the justice system was not protecting women from abuse and there were no punishments for police officers that failed to report and act accordingly when confronted with a domestic abuse or rape case. These officers were now held accountable by law to uphold the standards of what congress had deemed 'legitimate' cases of rape, assault and abuse regardless of their personal qualms. Because police were not adhering to these standards prior, men were being protected at a much greater rate before VAWA.

If anything, this anti-VAWA backlash can be seen as a reaction to the fact that the goal of this legislation was to ensure that men were held accountable for how they treated their spouse or significant other. More specifically, at least when taking into account the Free Man Agenda's belief men were being unfairly punished for crimes, this activism was a response to Second Wave feminisms' claim that any sexual contact where consent was not given was a 'legitimate' rape. One of the central successes of VAWA as highlighted by the Government is, "holding rapists accountable for their crimes by strengthening federal penalties for repeat sex offenders and creating a federal "rape shield law," ([whitehouse.gov](http://whitehouse.gov)). Before the Violence Against Women Act, states like Michigan adopted Rape Shield legislation to ensure that when a rape goes to trial, a woman's sexual history is not acceptable to use as evidence. The idea of federally-mandated

harsher punishment for men accused of rape incensed Men's Rights Activists. MRAs used this rage to fuel their presence online to form the modern incarnation of their movement. A movement that is anonymous, amorphous, and desperate to enact a reconceptualization of 'legitimate' rape.

### **Reddit and the Online MRA Community**

The Internet can often reveal harsh truths about the cultural zeitgeist. It can at once act as a resource for users to access progressive and innovative thinkers and ideas while also providing spaces for those with dark and discriminatory beliefs to gather. As it is now constituted, the Internet is a legitimate "free market." When searching the Internet for "Men's Rights," "Rape Culture," and other topics related to my thesis, I consistently found myself directed towards the pages of reddit. Reddit is an online bulletin board system where users post content. It has a "front page" where the most popular and talked about items of the day can be viewed. The site consists of an endless number of pages devoted to specific topics. The pages devoted to these specific topics are named "subreddits." Popular subreddits include such topics as politics, hockey, and conspiracy theories. One of the largest growing subreddits is the Men's Rights subreddit.

Topics in the Men's Rights subreddit include, "I'll just leave this here... Woman makes false rape accusation after traffic stop," "Consent to sex is consent to fatherhood," "Teen threatens false rape claim for \$1500," and so on. At the time I checked this subreddit, it had 70,956 subscribers and over 100,000 "lurkers," people who were viewing the subreddit but were not subscribers. The lurkers on this site could be treated to such lively discussion points as, "women who make false accusations should be publicly shamed or jailed," "But this almost never happens, right guys!? Less than 1%, right!?" "It bothers me to no end that some women think they can always whip out the "rape card" and get away with anything because who will believe

the man? They think it's a fool-proof way to wipe away a mistake or get what they want and end up ruining an innocent man's life in the process. I can't, I just can't..." Of course, one redditor summed it up perfectly when discussing women making false rape accusations, "I hope she rots until she dies," to which another poster countered, "Be reasonable. She dies first, then she rots." This forum, more than any other, represents the true intentions of Men's Rights Activists as they are currently constructed online.

The online MRA community on reddit is similar to neo-Nazi or white pride reddit communities; their message may be cloaked in a twisted sense of awareness or advocacy, but what they are truly representing is a virulent hatred. The men who are posting online are legitimately upset because, in their universe, they see rights as extremely finite, and women gaining rights means that men lose theirs. Though the MRA subreddit espouses no specific political affiliation, this concept of rights as limited certainly echoes the ideology of the New Right. Because of their lack of affiliation politically and the medium through which they are sharing ideas, it is difficult to know just how many members there are and, more importantly, who they are. The anonymity of reddit makes it almost impossible to discern one's background, race, or class associations. One thing can be certain; the reddit MRA community shows a repeated insistence that all women crying rape are illegitimate.

This idea as a virus has hit the academic mainstream. Published in an academic journal out of Loyola University, Edward Greer wrote a piece entitled, "The Truth behind Legal Dominance Feminism's Two Percent False Rape Claim Figure." His thesis was that organizations like Legal Defense Feminism underreport false rapes to meet their own political agenda of not exposing that women lie about rape far more than believed in public discourse.

One of his arguments directly refutes the idea of consent, eschewing it in favor of a long-disproven rape myth.

“Functionally, adoption of a rule that criminalizes all acts of sexual intercourse that occur after the woman has said "no" means that all of those many millions of real life instances occurring daily in which women use that locution become potential strict liability crimes. By simply averring that the "magic word" was spoken, any very difficult rape case to prove would be transformed into a relatively simple one” (Greer, 966).

Greer’s objection is rooted in the belief that women say “no” when they mean “yes.” His simplistic version of rape and consent would be laughable if not for the fact that ideas like this are extremely popular on the Internet. There are topics on reddit that talk about, for example, the ridiculous notion that “no” doesn't mean “yes” or “no” in almost all sexual situations. They argue that, because women are shy and not sexualized, men have to assume that once intercourse begins, “no” is a coy flirtation rather than a statement meant to stop sex from occurring. While it is certainly accurate that, in general, women are not socialized to articulate their sexual wants and needs, it is a logical fallacy to extrapolate that “no” is never intended to be taken literally. Still, this is seen as a legitimate argument against getting actual consent by men who post and frequent men’s rights websites and forums.

The horrifying reality of articles like the one Greer wrote or the men’s rights subreddit is that a sizable portion of men are deciding what type of rape is legitimate and what type is not by having conversations with other men who are like-minded. Conversations about sex and rape are not being had by these men with women. Not all women are feminists; it would be simple to have a dialogue online between men and women around the subject of the difference between sex and rape, but in reality, such dialogues in men’s rights spaces are not inclusive to a female perspective. Here again I reference reddit. On a thread entitled, “The Myth of Rape Culture,” a discussion broke out between a male and female poster over where the line is between

consensual sex and rape. The dialogue was started by a self-identified female poster, who said, “Hey! Totally sex positive woman here! Sex is really fun and amazing. I personally like rough sex that borders on rape, but my partners and I always establish consent before and during! It’s easy and it makes the experience 100 times better!” ([reddit.com](https://www.reddit.com)). The response by the other posters (overwhelmingly male) was brutal, swift, and hurtful. Slut-shaming, wishes of rape happening to the poster, violent language and threats all directed at a woman who dared enter a space where, unbeknownst to her, she was not welcome. The men’s rights movement is a group militantly opposed to the voices and input of women. These men have “heard enough” from the female perspective, feminist or otherwise. They see the cultural discourse in this country dominated by feminine voices. The goal of the men’s rights movement is to reassert what they feel is a lost male voice. According to MRAs, the reality that feminism has perpetuated is actively harming men.

### **The Millennial Male and the Influence of MRAs**

The Internet offers a large sample size of what the ideals and beliefs of MRAs actually are. However, it is easy to discredit the beliefs and views shared on the Internet, especially by those who comment on message boards. The anonymity and free-for-all environment offered by the Internet makes it a space where people often recognize the ability to say whatever they want is an opportunity to be cruel or hateful. The stereotype of a commenter usually conjures images of a man in his mid-thirties, alone in his basement, overweight and undereducated, spewing hateful, misspelled rhetoric simply because he can. This stereotype is not entirely accurate when actually looking at how MRA’s organize in public. The same men who wrote the men’s rights manifestos of the late seventies and early eighties are being invited to college campuses across America and Canada. Men’s rights groups are organizing in Liberal Arts programs and college

campuses at an alarming rate. In a piece that ran in the Huffington Post, an organizer of a men's rights group that invited a speaker to campus was interviewed:

“Iain Dwyer, 28, remembers a poster in his high school that proclaimed: “Boys are stupid, throw rocks at them.” He went to high school in the 1990s when messages about girl power were everywhere and gender equality was a given, said Dwyer, a spokesman for CAFE and one of the organizers of the Farrell lecture. He says that as Millennial men like himself grew up, they realized that the world was not as equitable as they had been led to believe. Men and boys, they would find out, were suffering too” (Huffington Post, April 2013).

Dwyer is a perfect symbol for men attracted to the discourse of men's rights activism. He is a millennial male that came of age and was educated in the 1990's, a time when “feminist” ideals of “girl power” were co-opted by corporations, re-packaged, and sold to women in a way that subverted the equality message of feminism by making the claim that women were superior to men. This was and is a consumerism trick that has been utilized for decades by advertisers, empowering a generation of consumers to think themselves superior to those who do not consume the product. Apparently, if Dwyer and those like him are to be believed, this “girl power” sentiment had a profound effect on how they view feminists and women's rights. It makes sense if thought about in a certain way.

During the formative years in the lives of millennial males, many were exposed to the idea that women were/are better than they were. This added to the anxiety of growing up in a transitional time period where income inequality became even greater. Indeed, much of the men's rights movement is convinced that it desires equality; they just see feminism as the greatest impediment to gender equality because they believe that women are trying to game the system in a way that lessens men. It would be easy to psychoanalyze men's rights members in this context, and its context is important. Millennial men do not have the advantages economically and socially that men have had in the past. Women outnumber men in post-

secondary education and they are more likely to stay in school and graduate. Men are going into a job market that is flooded with more women who are more qualified for the positions that men are seeking.

The fact that the white male stranglehold on the job market is less apparent than in previous decades evokes anxiety among these men. As the New York Times states, this anxiety over economic viability is part of a larger struggle for men, “the men's rights movement is unified by a sense of ontological anxiety: in a post-modern world lacking clear-cut borders and distinctions, it has become hard to know what it means to be a man and even harder to feel good about being one” (New York Times). The latter part of the twentieth and early twenty-first century has seen a radical diversification of America, and the men in this movement are convinced that the elevation of oppressed groups has made being male difficult, ambiguous, and unpopular in culture. Their ontological anxiety is a reaction to a perceived and tangible dent in hegemonic power structures. Rather than embrace this time of change and evolve with the culture, this strain of men's rights activists are desperately attempting to reassert male dominance, and central to that goal is the subservience of women. In their conception of reality, MRAs believe that the only way to return to “the good old days” is a complete eradication of the rights gained by second wave feminism, including delegitimizing rape.

According to MRAs, the implications of feminist discourse warned about by men’s rights movements in the seventies have come true. This is why fearful, white college educated men are inviting the original MRA architects onto campus; to tell them where men went wrong and how the feminist movement can be stopped. The men’s rights movement is made up of fearful, educated men with Internet savvy skills. It has no political party affiliation, but its discourse is extremely attractive to millennial-era men who have discovered that the supposed equal society

that America purports itself to be is a lie. Rather than focus on Neoliberal Capitalism or other systems of oppression within the country, they blame women and feminism.

It would seem that the MRA groups online and in academic circles have taken it upon themselves to perpetuate the ideology and rhetoric about women and feminism concocted by the New Right. Both strands of rhetoric rely on the same source of inspiration; fear. The New Right capitalizes on God-fearing, (largely) uneducated Americans to go to the polls to ward off the evils of a secular society. MRAs focus on one specific enemy of the New Right, the increasing independence and autonomy of women assisted by the feminist movement. Rather than focus on the excitement and challenge of a more equal reality, these groups advocate fear-based reactions in the form of anger and aggression towards women. The anonymity of the Internet allows these men a space to vent their frustrations and prejudice without consequence or responsibility. Even the legitimate concerns of women and feminists about the frequency of rape and the prevalence of 'Rape Culture' are met with bile and accusations of a hidden intent to victimize men. The corollary to the New Right's response to women voicing the need for greater access to resources when faced with domestic violence is obvious and troubling. An idea with troubling implications for the legal gains made by Second Wave feminists started in the political cauldron of a party desperate to find a base has spread to a group of men whose generation will one day be in charge of legislative decisions/ If this viral idea holds, the consequences in not only the political arena but the everyday lives of women could be terrifying.

### Conclusion: The Virus Has Spread

Todd Akin's mistake when he uttered the words "legitimate rape" on national television was not that he made the statement but the public medium in which he made it. Had he posted his comments in a reddit forum or a message board under an anonymous pseudonym, his

comments would not have been met with laughter or outrage, but with acceptance. As this is being read, hundreds of thousands (if not millions) of men are being exposed to claims and anecdotal evidence that rape is rare, that most rape statistics are fabricated, that the majority of rapes brought to trial are thrown out because women lie about their experiences to get men in legal trouble because of a need for attention or a psychopathic level of jealousy. Still, it is important to acknowledge the goals and voices of feminists still working to address rape legally. For example, pressure from activists has pressured Congress to investigate the military and its handling or lack thereof of rape cases. Those that follow politics understand the reticence of Congress to pry too deeply into military matters involving rape. The fact that feminists and activists have forced Congress to address this issue is a definite success that is a result of the hard work done to legally evolve the concept of rape. Whether out of these discussions actual legislation gets passed that is designed to lower the incidence of military rape and improve the reporting structure, remains to be seen.

Legally, rape is supposed to be viewed as a crime, not a sex act. Sex is thus redefined as a consensual agreement between two equal partners. Any sex that is non-consensual is rape. The representative of the defendant can no longer badger the witness and use her sexual history with or without the defendant to destroy her credibility. The conjugal right is correctly defined as rape, where before it had been seen as a natural right afforded a husband regardless of his wife's consent. Women were no longer sexual objects to use for men's own benefit regardless of a woman's consent; there were now consequences for treating them as such. Desperate to galvanize and identify a base that would go out and vote for its candidates, the Republican Party embraced social conservatism and evangelical Christians who saw these rape reforms as part of a systemic erosion of an idealized vision of America. These groups floated about ideas that sought

to rein in female sexuality and redistribute sexual power to men. Part of this rhetoric revolved around the concept of a good woman, one whose consent was implied when she entered into a relationship or marriage with a man. The justification for these beliefs was centered on a political co-opting of fundamentalist readings of the Bible that instruct a pure way of living is dependent upon men being in power. While the ideological religious root did not take in mainstream discourse, the idea spread like a virus into academic circles, where men nervous about their dwindling status in American society clung to it. The Men's Rights Movement was born, and it continues to grow as more and more millennial men identify the source of social ills as borne about by feminists.

The Men's Rights Movement could be thought of as a small, fringe movement that lacks any real power, but consider the following; in another piece on the Huffington Post website, a study was discussed that showed an overwhelming number of millennial men believe in rape myths. This may not be alarming at face-value; men have always believed rape myths and perpetuate them in public discourse. The alarming aspect, though, is that feminist conceptions of rape and rape culture have failed to reach men en masse. Even worse, millennial men are reacting against the feminist concept of rape, meaning that rather than expose themselves to the idea through gaining new information, they are rebelling against it. This movement is alarming in that it is re-shaping discourse around the concept of rape in mainstream public discourse.

On the Internet, rather than hide what they've done, rapists are posting their actions online as a sort of trophy. Comedians freely toss around rape as a tool or device in their act. Had the feminist analysis of rape taken hold in our culture, it would be safe to assume that even though rape would still happen, these facets of our culture would show themselves much less often, and most certainly would not defended in public discourse. They are happening, they are

being defended, and as a greater number of people support and champion the ideas and beliefs of MRAs, even if that is not the specific term they give the set of beliefs, a potential groundswell is forming that should frighten anyone with a vested interest in fighting rape and rape culture.

The problem with the Internet as a place where ideas are spread is, once that space grows large enough, it can have its own realm that can attract the like-minded, an impenetrable ideological force-field. Their ideas are not being challenged in these force-fields, and when they are, a militant uprising engulfs the challenger and the discourse is validated. Todd Akin and the other senators that espoused biologically ignorant opinions about rape may have been defeated in their bid for elections, but what happens in twenty years? Could it be possible that a candidate could run on a men's rights platform?

One thing is certain, on the legal level; states such as Arizona and Alaska have repealed their version of the Michigan Rape Shield statute. Even though marital rape is technically a crime in all fifty states, thirty states still have statutes in place which exempt husbands from prosecution. The legitimate rape meme has most successfully been implemented regarding its original target; women's reproductive rights. States like South Dakota, Arizona, and most recently, Texas have all attempted and succeeded in adopting restrictive laws blocking or limiting a woman's access to abortion services. Though derided and mocked, Akin's words have inseminated themselves as legislative standards for the Republican Party. If a rape is legitimate, and a woman's body has a biological mechanism to prevent a pregnancy automatically, then there is no need for abortion access in the case of rape or incest. A woman who wants an abortion is thus viewed by Republican lawmaker as a person who uses abortion as a form of birth control. Given the doctrine of the New Right regarding women's sexual agency, the legitimate rape concept is a convenient smokescreen to make sure women stay subordinate and pay for their

promiscuity. 'Legitimate rape' and an overall resistance to Second Wave feminisms' gains for women's reproductive autonomy has manifested itself in a myriad of ways. Voting in an election against Republicans sufficiently satisfied with risking their political careers to limit women's rights may not be enough to combat an idea and sentiment that has spread to a disenfranchised element of male youths. A disturbing shift is occurring in the way in which a number of men are talking about and interpreting concepts of rape. 'Legitimate Rape' may not only be a turn of phrase that dashed the political hopes of a candidate in the 2012 elections, rather, it may be a symptom of a growing sentiment that, even on an interpersonal level, could have terrifying implications.

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