Consent to Rape? The Ambiguation of Sexual Consent in Contemporary World Literature

by

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This dissertation studies that which divides rape from sex: the unstable line formed by the concept of sexual consent. It combines an exploration of the promises, paradoxes and problems associated with locating the liberal subject’s sexual consent at the heart of rape law with an analysis of contested representations of consent and nonconsent in several key literary texts about rape. These texts include the paradigmatic rape novel of the eighteenth century, Samuel Richardson’s Clarissa, and four twentieth century novels from Africa and North America: J. M. Coetzee’s Disgrace, Gayl Jones’s Corregidora, Assia Djebar’s Fantasia: An Algerian Cavalcade, and Tayeb Salih’s Season of Migration to the North. This interdisciplinary and transnational work connecting law and literature draws on the theoretical perspectives of feminism, postcolonialism and trauma theory to fill an important gap in literary analysis of what is constituted as the grey zone of sexual experience between rape and consensual sex. To explore this critical space, I attend to heterosexual representations of sexual violence that cannot be categorized as rape
because nonconsent is ambiguous, and to representations that meet definitions of rape, but that critical and cultural commentary identifies as ambiguously consensual sex. Racial, sexual, colonial and national discourses among others overdetermine the female characters whose consent is at stake in these representations, obscuring their nonconsent to sex. An exploration of the problematics of the female subject’s sexual consent reveals that the liberal subject premised by rape law is an unattainable ideal compared to which actual individuals are found to be lacking. What emerges from my analysis is not just the power of rape myths, the rhetoric of seduction, and the denial of female sexual autonomy and desire, but the ambiguating force of narrative itself. The problem of representing rape is not encapsulated by a dialectic of speech and silence. Rather rape appears most indeterminable when it is represented in narrative as a sequence of events over time, for the female subject is treated as though she exists in a state of perpetual consent, and so nonconsent can only ever be a temporary action of no duration and little force.
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Chapter 1
Consenting Negatives: An Introduction to the Ambiguation of Sexual Consent

A good encouraging denial, I must own . . . And such like consenting negatives, as I may call them, and yet not intend a reflection upon my sister; for what can any young creature in the like circumstances say when she is not sure but a too ready consent may subject her to the slights of a sex that generally values a blessing either more or less as it is obtained with difficulty or ease?

(Samuel Richardson, Clarissa 44)

The precariousness of nonconsent–its transience, its dependence on social codes, its ambiguity–is brought to light in Samuel Richardson’s epistolary classic Clarissa (1747-48). In this literary world, the apprehension of another person’s communication of consent or nonconsent is not aided by appealing to a “no means no”/“yes means yes” binary. This is a world in which consent may be communicated through a negative, while at the same time genuine dissent may be taken as merely a precursor to assent. Such ambiguity is perilous for the one who gives or withholds her consent. With only equivocal communications of assent and dissent available to her, the female protagonist, Clarissa, is vulnerable to the self-serving interpretations of others who seek to read her consent in their own interests. While Clarissa is famous for being an extremely long novel about the rape of its heroine, significantly fewer words are devoted to Clarissa’s rape than to the status of her consent. From her increasingly desperate attempts to avoid appearing to consent to a marriage to Mr. Solmes, her family’s choice of husband, to her abduction and rape by her other suitor, Lovelace, it is the question of whether she consents that drives the novel’s diegesis. Whereas Clarissa’s rape is barely narrated–it is collapsed into Lovelace’s assertion that the denouement of what he calls the “affair”
(883) has been reached— the issue of her consent before and after her violation gives rise to a proliferation of discourse between the novel’s main correspondents, each of whom is preoccupied by outlining the exact purview of Clarissa’s freedom to exercise her will in the management of her self and her body. Through the epistolary form of the novel, in which the correspondents, who include Clarissa herself, attempt to establish the extent to which she consents, a profound discussion about the protean subject of consent takes place.

What emerges are questions that we continue to struggle with today: whether consent is a state of mind or a state of being; whether it is communicated through affirmative words and actions, or merely by silence. Is it even possible to know one’s own will and desires, let alone the will and desires of others? Can genuine consent exist under conditions of coercion? If a person remains in a sexual relationship with his or her violator, what is the status of his or her consent? Can we think of desire and abuse simultaneously? How is the possibility and/or foreclosure of consent and nonconsent sustained by other discourses? How might discourses about consent render certain subjects’ agency legible, while denying the agency, and so subjecthood, of others?

Though Clarissa provides no easy resolution to such questions, it does reveal what is at stake in them: more than merely determining the legitimacy of sexual contact, the power to consent is the power of the liberal subject, the power upon which the concept of the liberal subject appears to depend—perhaps even, the power that brings this subject into being. Conversely, the negation of this power through the act of rape can be the subject’s unmaking. One of rape’s many initial harms is the rapist’s repudiation of the target of

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1 Terry Eagleton describes Clarissa’s rape as “the hole at the centre of the novel” (61).


3 For an account of the subject’s experience of unmaking as a result of rape (and the possibility of a remaking of the self) from a personal and philosophical perspective, see Susan Brison, Aftermath. Although I focus upon consent in this dissertation, I concur with Brison who cautions that “the nature of the
rape’s autonomy; one of rape’s many ongoing harms is the subsequent failure of legal, political, social, and cultural institutions and discourses to give recognition to the same autonomy that was denied by the rapist. Where sexual consent or nonconsent is ambiguous or indeterminable, notions of power, agency, subjectivity and personhood are likewise cast into crisis.

1.1. Can Clarissa’s “No” be heard?

To start to unravel this crisis brought about by the ambiguity of consent, I begin this introduction to my dissertation with an analysis of Clarissa, the quintessential rape narrative in the English language, before turning to the theoretical concerns of the dissertation and the outline of its argument. As suggested above, for all that it is famous for its rape, the driving force of Clarissa is not the problem of sexual violence but the question of Clarissa’s consent. Will she agree to a marriage with Mr. Solmes or with Lovelace? Does her will (for example, not to marry) matter, if it is in conflict with her duty to obey? Will she submit to intercourse outside of marriage? To what extent is she guilty for what other characters believe to be her seduction? Does she bear any responsibility for her rape? Because she is unconscious when she is raped, what is the status of her will regarding this act of violation? Is the violence done to her a violation of her will, as well as, of her body? Why is it only after her rape that Clarissa is able to assert her autonomy forcefully enough to escape Lovelace’s power? Why does this assertion of autonomy not save her from death? If women can only communicate their desires safely through dissembling, how can their wills ever be known? Can a woman act as a liberal subject?

Throughout her ordeal, Clarissa claims the self-determining power of the liberal individual, a political, legal, and philosophical figure who had truly made his (and this
figure is gendered male) appearance on the world stage by the time Richardson was writing *Clarissa* in the eighteenth century. In fact, Clarissa must be constituted as a liberal subject for her rape to appear unmistakable: as Sue Chaplin argues, “She must . . . emerge as the sort of woman capable of giving or withholding meaningful consent within the juridical domain: she must be a proper legal subject with sufficient agency to issue a decisive, unequivocal ‘no’ within a certain legal context, the context of the definition of sex as crime” (42). This poses Richardson with a conundrum, for Clarissa’s status as a liberal subject is highly precarious. On the one hand, as Katherine Binhammer writes, Clarissa “lives as if she is in a world that would allow her autonomy and a social position other than daughter or wife” (873), and as the heiress to her grandfather’s estate such expectations are not without legal force. On the other hand, in England at this time, women held only a limited legal status separate from their male relatives. Despite the appearance of independence her grandfather’s estate bequeaths her, the power it confers is tenuous. Moreover, Clarissa’s status as female, and thus, subordinate to her male relations, continually undermines her claims to self-determination. It is in question whether her right to give or withhold her consent supersedes her duty to obey. She is always and inevitably subject to and subjected by the authority of men.

Clarissa’s seeming autonomy is only maintained to the extent to which she can continue to withhold her consent, whether to marriage or to a sexual liaison, for her autonomy, sexual or otherwise, is dependent upon her ability to retain her virtue and/or remain unattached. Clarissa’s consent would, once and for all, establish not only a man’s right to sexually possess her body, it would give him control over all aspects of her conduct. As

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5 For further analysis of the legal status of women in England in the eighteenth century, see Sue Chaplin. See also Sir William Blackstone, in *Blackstone’s Commentaries*, particularly a woman’s transformation into a *femme covert* through marriage (2: 442).

6 Her family’s repeated threats that they will contest Clarissa’s grandfather’s will reveal the precariousness of her inheritance: for example, Clarissa writes, “And my uncle Antony, in his rougher manner, that I would not give them reason to apprehend that I thought my grandfather’s favour to me had made me independent of them all— if I did, he could tell me, the will could be set aside, and should” (60)
Clarissa writes, to marry is “To be given up to a strange man; to be engrafted into a strange family; to give up her very name, as a mark of her becoming his absolute and dependent property: to be obliged to prefer this strange man to father, mother—to everybody: and his humours to all her own—” (Richardson 148-49). Likewise, to have sex outside of marriage is to lose forever the right to say “no,” for “once subdued, always subdued” (904). Either way, to consent is to irreversibly lose her autonomous self.

With male prerogatives over female bodies threatened by Clarissa’s refusals, increasingly excessive trials are imposed upon her by her family and suitors to manipulate her into giving her consent. Opportunities for nonconsent are intentionally limited as she is orchestrated into positions in which it is very difficult to provide a clear “no.” For example, when her family seek to gain her acquiescence to marry Mr. Solmes, they purposely avoid giving her the chance to categorically refuse the man himself:

His courtship, indeed, is to them; and my brother pretends to court me as his proxy, truly! I utterly to my brother refuse his application, but thinking a person so well received and recommended by all my family entitled to good manners, all I say against him is affectedly attributed to coyness; and he, not being sensible of his own imperfections, believes that my avoiding him when I can and the reserves I express are owing to nothing else—For, as I said, all his courtship is to them, and I have no opportunity of saying No, to one who asks me not the question. (62)

Likewise, Lovelace pre-empts Clarissa’s nonconsent when he kisses her on the lips without first gaining her permission to salute her, explaining that “to have waited for consent would have been asking for a denial” (413). Even when her consent is requested directly, Clarissa cannot give a definitive refusal to either marriage or to sexual intimacies, for any and every action she takes to avoid consent can be interpreted as its opposite. There is no choice to remain single, as refusing one suitor is taken to mean a preference for the other. She is caught in an extraordinary dilemma: by denying Mr. Solmes, she is taken by her family to be asserting her preference for Lovelace, and by
refusing Lovelace’s advances, he considers her to be accepting Mr. Solmes. Silence is also not an option, as saying nothing at all is interpreted as assent.

To make matters worse, Clarissa can only communicate assent or dissent in ambiguous terms in a relationship to others to whom she is always subordinate. After her abduction by Lovelace, and needing to maintain feminine delicacy when pressed in an inappropriate manner to marry him, she represents her refusal ambiguously, for if she consents she fears Lovelace will withdraw his proposal entirely. Rather than speak plainly, Clarissa, like her sister Arabella, gives Lovelace “consenting negatives” (44), hoping the ambivalent manner of her refusal will maintain his interest and indicate that she remains open to a future agreement. These attempts to ward off Lovelace’s unwanted sexual advances while at the same time leave open the possibility of marriage to him are embedded in semantics that restrict women’s direct communication in the service of men and maintains the power differential between genders.

Will Pritchard writes that “her occasional recourse to what she calls ‘consenting negatives’ and ‘encouraging denials’ can be seen as a ill-considered coyness that backfires by inviting Lovelace to take her ‘no’ as a coded ‘yes’” (Pritchard 222). However, it would be wrong to suggest that Lovelace genuinely mistakes her meaning. Rather, her ambiguous communications give Lovelace the ammunition he needs to purposefully misinterpret her intent. Lovelace is free to interpret Clarissa’s responses to his advantage–on the one hand, taking her at her word when it helps him to avoid a formal engagement, and on the other hand, taking her words and actions to be insincere when she rejects his inappropriate sexual advances. At the same time, Lovelace’s attitude towards Clarissa’s significations is one of deep skepticism–to him a blush is no more a sign of modesty, than tears are a sign of distress (691-92). He thinks women’s

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7 On the whole Clarissa would choose to remain single, but after her abduction by Lovelace marriage becomes the only respectable option to save her name.
propensity to dissemble means that all external indications of their mental attitude are to be mistrusted.\(^8\)

This a trap from which Clarissa cannot escape. Clarissa is unable to signal her distress either implicitly or explicitly such that it will be taken to correspond to her internal experience. Though Richardson as the novelist is largely sympathetic to the impossible situation Lovelace’s attitude puts Clarissa in, the novel nonetheless suggests that Lovelace’s misogynist and self-serving convictions are based on a social reality: in the novel women do, in fact, conceal their true feelings and feign nonconsent. While Clarissa critiques the fact that unequal power between the sexes “Compel our sex to act dissembling parts” (44), the only way for her to escape dissimulation would be to break the social conventions to which she is bound. The form of Clarissa’s refusals is dictated by the upwardly mobile bourgeois milieu to which she belongs and she remains “entrapped by the social codes of femininity” (Binhammer 868). Thus, the clarity of Clarissa’s nonconsent is hampered by her need to maintain propriety in her responses, despite the increasing impropriety in words and actions of her family and suitors.

Lovelace and Clarissa’s family use her adherence to these social codes against her, taking the ambiguity of her speech and actions to communicate what they want to hear. By interpreting whatever she says as consent, they seek to change her state from a single heiress, which gives her at very least the appearance of liberal subjectivity, to a wife, or, in the case of Lovelace, a “fallen” woman. Were they to achieve this transformation of her state, her consent would no longer need to be sought. Even the mere appearance of assent to some kind of a relationship with her suitors may be enough to render her

\(^8\) Lovelace’s distrust in explicit female significations is mirrored by Jean-Jacques Rousseau in *Emilius and Sophia: Or, A New System of Education*, which renders rape impossible because Rousseau takes signs of female nonconsent, whether physical or verbal, to be untrustworthy – nonetheless, for Rousseau, whatever women say, their desiring bodies will betray them: “Why do you consult their lips, when it is not through them that nature speaks. Examine their eyes, their complexion, their swelling bosoms, their timid air, their faint resistance . . . With their lips, they always say, No, as they aught; but they do not always pronounce the negative with the same accent” (vol. 4, 70). For an analysis of Rousseau’s problematic position regarding rape, see Gillian Brown (628-32); Carole Pateman, “Women and Consent” (153-55); and John Darling and Maaike Van De Pijpekamp.
subsequent consent or nonconsent to their claims upon her self and her body irrelevant, as her reformulated social status would deny her access to the power of the liberal subject. Jonathan Kramnick, using Frances Ferguson’s insight that Lovelace believes “the forms of actions–however fictitious–carry mental states like intention and consent within them” (Ferguson 101), argues that Lovelace attempts to orchestrate the appearance of Clarissa’s actions so that they seem to correspond to the consenting state of mind he seeks from her: “The idea is that if she has behaved in a certain way–run away from home, lived with him as his wife, lost her virtue–then her actions must have been with intentions, and these intentions must be those to his liking” (Kramnick 212). After the rape, Lovelace attempts “to gain his point that Clarissa’s consent is already contained within the events that have already transpired” (Ferguson 102), that her actions and situation permit what her will has not. Lovelace believes that “the woman who resents not initiatory freedoms must be lost. For love is an encroacher. Love never goes backwards” (704); for him, the last step in her seduction is folded into her first appearance of assent.

Before her rape, Clarissa herself has difficulty identifying the extent to which her actions perform her nonconsent, as she struggles to reconcile what she does with what she intends to do. At issue is whether consent is located in the internal experience of the one whose consent is at stake, or in the perception of others who observe external acts and significations. To what extent can consent be said to have been given if Clarissa’s actions imply what she does not intend? Clarissa is acutely aware of the split between her deeds and her intent when Lovelace tricks her into running away with him. In her letter to her confidant Anna Howe after this event, she writes “I HAVE, I confess, been guilty of an action which carries with it a rash and undutiful appearance” (Richardson 411). And yet, her guilt is far from straightforward. Protesting his “forcible treatment” (377) of her, she describes how, as she runs, “my voice . . . contradicting my action: crying, No, no, no, all the while” (380). Of this scene, Toni Bowers writes, “The complex, shifting relations of dominance and subordination at work throughout Clarissa

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9 For an analysis of the significance of appearance with regard to consent, see Jonathan Kramnick.
are distilled and made clearly visible when the heroine leaves—or is taken from—her parental home and, against her better judgment and oft-repeated intention, puts herself—or allows her self to be put, or is put against her will—into Lovelace’s hands” (270-71). Clarissa’s consent, here, the ambiguity of which Bowers makes apparent by offering multiple interpretations of the same scene, is striking for being indeterminable despite her vocal expressions of resistance.

Even the fact of resistance, no matter how sincere, is never enough to signify Clarissa’s nonconsent and so establish rape. In the novel, the threshold for consent is extremely low: not only does Lovelace suggest he “does not expect direct consent” (Richardson 837) from Clarissa, he asserts “there may be consent in struggle; there may be yielding in resistance” (557). Moreover, the perception that Clarissa is concealing her desire for Lovelace or may in fact be unaware of her repressed feelings, undermines her ability to effectively resist his coercive tactics, as her nonconsent is interpreted as ambivalent at best and duplicitous at worst.10 Her resistance is seen by some readers both within and without the novel as only play-acting that conceals desire. Therefore, to make sure Clarissa’s nonconsent is uncontestable and so dispel any potential doubt that Clarissa’s determination not to submit to Lovelace has been overcome, Richardson makes Lovelace resort to “some little art” (887), that is to administering a drug to render her unconscious. Clarissa has to be unconscious for her rape to register as rape, for “although Clarissa’s unconsciousness deprives her of the capacity to resist and even the capacity to know exactly what happened to her, it also ensures that her nonconsent will be inescapable” (Ferguson 100). Were Clarissa conscious, and Lovelace still successful in overcoming her resistance, her submission would stand as evidence of consent whether or not Clarissa actually experienced such an attitude.

10 Ian Watt, for example, suggests that Clarissa “withhold[s] her sexual feelings from Anna Howe, and even from her own consciousness” (228-29). Eagleton exposes some of the most egregious rape myths propagated by literary critics of Clarissa whose accounts of her violation largely explain it away as fulfilling her repressed desire.
Lovelace’s rape of Clarissa results in a crisis in his understanding that the form of an action carries the corresponding mental state. Because he bypasses her will, Lovelace fails to fully transform Clarissa into a “fallen” woman and so change her social status. Insensible at the time of the rape, Clarissa does not possess any conscious mental state and as a result, her virtue remains undamaged: “Her will is unviolated” as Lovelace says (916). Consequently, Lovelace seeks her ex post facto consent to her rape by gaining her acceptance to marry him. Marriage would legitimize his rape of her by establishing her consent to a relationship with him. And this subsequent consent would then retrospectively reformulate the rape so that it “would count as a seduction” (Ferguson 102), a conversion that would “collapse the time of narrative” according to Binhammer (864), for it would retroactively reshape his penetration of her unconscious body as desired.

Failing to achieve this transformation of the rape, the “affair” is far from concluded, despite the successful penetration of Clarissa’s body. Time, rather than collapsing, expands. Unable to bring about a change in her will, Lovelace finds that the completion of the rape is deferred. As Kramnick asserts, “For Lovelace’s designs to be finished, the action would itself need to be brought to an end with a compliant state of mind” (218). Indeed, shortly after Lovelace first indicates he has forced himself on Clarissa, he asks, “And yet why say I, completed? when the will, the consent, is wanting–and I have still views before me of obtaining that?” (Richardson 888). Lovelace convinces himself that he must attempt another trial of Clarissa’s virtue. He asserts, “if she behave as nobly in and after this second attempt (all her senses about her), as she has done after the first, she will come out an angel upon full proof, in spite of man, woman, and the devil: then shall there be an end of all her sufferings” (945). Whereas a conscious Clarissa would provide Lovelace with a victory, the disambiguation of Clarissa’s consent through her

11 See Ferguson and Kramnick.

12 With a slightly different bent, Frances Ferguson writes, “When Lovelace’s intention does not get translated into consent, his rape of her is rendered perpetually incomplete” (102).
unconsciousness at the moment of her rape ensures the continuing possibility of her future consent, and so the prolongation of her trial.

Thus, *Clarissa* reveals that female nonconsent can only ever be provisional: at every instance Clarissa’s eventual acquiescence to male authority is taken to be merely deferred. Not only are all signs of nonconsent unreliable, they have no duration beyond their utterance. Clarissa can only express dissent at a specific moment in time to a specific act, encroachment into her space, or restriction of her freedom. In contrast, acceptance or submission not only endures into the future, it also cancels out previous articulations of nonconsent or even unconsciousness by implying the presence of an ambivalent desire that was presumed all along. Nonconsent cannot be actualized once and for all, because a possible reversal of inclination is always anticipated, and so nonconsent is continually susceptible to interpretations that will morph it into its opposing term. *Clarissa* reveals that consent and nonconsent are not two opposite, but equal, sides of a binary; rather, they are orthogonal. For Clarissa, the state of nonconsent is nearly unattainable—indeed, the provisionality of any refusal means nonconsent exists only as an unreachable condition towards which Clarissa strives. In contrast, the state of consent is overdetermined, for no matter how ambiguously signaled or ambivalently experienced, it persists beyond the moment and extends retroactively, revaluing any previous indications of nonconsent, and legitimating any pressure no matter how coercive or violent.

1.2. Framing the Subject Whose Consent is at Stake

Richardson’s *Clarissa* opens an aperture onto the protean subject of sexual consent, bringing into relief the precarious boundary between consent and nonconsent that is the focus of my dissertation. While I discuss rape, my dissertation is not about rape—rather, it is an investigation of the line that divides rape from sex. This line is variously ambiguous and ambiguated. As a result, it is necessary for me, on the one hand, to give an account of sexual consent that attends to representations that do not fit easily within a
rape/not rape binary. At the same time, on the other hand, it is important to investigate the discursive strategies that ambiguate nonconsent and redefine rape as consensual sex. In the chapters that form the main argument of this dissertation, I explore the paradoxes of consent in the development of the legal definition of rape in common law jurisdictions from the eighteenth century onwards, before turning to literary depictions of ambiguous and ambiguated consent and nonconsent in four twentieth century novels: J. M. Coetzee’s *Disgrace* (1999), Gayl Jones’s *Corregidora* (1975), Assia Djebar’s *Fantasia: An Algerian Cavalcade* (1993), and Tayeb Salih’s *Season of Migration to the North* (1969). I focus on fictional narratives from a range of geographical locations to open a transnational window onto the problematics of consent that while rooted in culturally specific modes of understanding, nonetheless traverse national boundaries. Discerning consent is always a complex interpretive act that takes place both at the time of intercourse in the intersubjective space between two or more people, and in the social, cultural, historical, political, and legal spaces in which intercourse is subsequently narrated and/or fictionalized. My thesis reveals that the line that divides what is consensual from what is not consensual is in fact an often indeterminable zone about which multiple discourses work together and compete to impose an account of, and so shape, the subject whose consent is at stake.

This subject whose consent is at stake and about which my thesis revolves is multifarious. Firstly, this subject is the subject of representation—she is composed in literature. And, through literature she also becomes the subject of literary and theoretical critique. Like Clarissa, the question of her consent generates discourse. This figure is almost exclusively female. To some extent her presence in my own work results from a selection bias: in each of the novels I have chosen to examine it is a woman’s consent that is at issue. I make this choice consciously and in acknowledgement of its limitations. While traditional gender roles continue to position women as the sexual gatekeepers of heterosexual sexual interactions, it is clearly not the case that only men initiate sex and

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13 *Fantasia* was first published in French in 1983, and *Season of Migration to the North* was first published in Arabic in a Lebanese magazine 1966 and in book form in 1967.
only women assent or dissent to that initiation. Likewise, though women are more likely to experience sexual violence than men, both cis- and trans-gender women and cis- and trans-gender men are raped.\textsuperscript{14} There is a danger, as Kelly A. Malinen highlights, that in focusing on depictions of “gender paradigmatic rape” (Malinen) and gender paradigmatic sexual consent I erase non-paradigmatic and transgressive experiences and representations, such as ambiguously consensual or nonconsent interactions between sexual partners of the same sex or gender, or in which there is a female aggressor and a male victim. Nevertheless, sexual violence continues not only to be conceptualized within, but also operates under heteronormative frameworks. No matter his or her gender, “the rape victim or survivor is routinely discursively feminized” (Pamela E. Barnett xxv) and rapists often “imagine their precarious masculinity is consolidated by perpetrating sexual violence” (xxv). Sharon Marcus famously defines rape as “a sexualized and gendered attack which imposes sexual difference along the lines of violence” (397), a conceptualization of rape that is most clearly put into practice in the so-called corrective rape of lesbians.\textsuperscript{15}

By focusing on narratives that depict female consent and nonconsent in heterosexual sexual encounters in unsettling ways, I explore the mechanisms by which normative gender paradigms constrain the enactment and interpretation of consent along these restrictive heterosexist lines. While I keep in mind Malinen’s warnings that “defining rape as a technique for the creation and maintenance of binary sexuality obscures all rapes which transgress rather than uphold this structure” (368) and that “racism or ethnocentrism may be more central to any given sexualized aggression than sexism”

\textsuperscript{14} There is undoubtedly a dearth of research on male victims of rape, and even less on male experiences of their own sexual consent rather than merely their perception of their (female) partner’s consent. Such an investigation lies outside the scope of this dissertation and is reserved for future work.

\textsuperscript{15} Research on this phenomenon has largely focused on the rape of black lesbians in South Africa: see Andrew Martin et al. While the rape of lesbian, gay, bisexual, transgender and transsexual people as a means to enforce normative gender roles is widespread, in the South African context the crime is racial as well as sexual in its dimensions: “‘Corrective rape’ is the term used to describe the practice of raping African women and girls thought to be lesbians with the claimed purpose of turning them into ‘real African women’—the underlying belief being that homosexuality is a ‘disease’ imported by the white colonial empire” (Emma Mittelstaedt 354 n.8).
(371), my work on the complexities of heterosexual rape elucidates the foreclosure of non-paradigmatic narratives about sexual violence. Through this analysis, I reveal how it is that only certain subjects of sexual violence become socially, culturally, legally, and politically legible.

At the same time that I explore literary representations of female sexual consent and nonconsent, I am always aware of the many actual women and men who contend with complicated experiences of sexual consent, and traumatic responses to sexual violence and violation. With regard to these subjects, I understand that rape, especially when it is disavowed by the discursive practices of law, culture, politics, and history, can result in a traumatic splitting of the self.16 This splitting is aggravated by a division between experience and the scripts available to the subject to understand that experience.17 Scripts about sexual violence and violation tend to hold that rape is committed by a stranger and accompanied by violence, the marks of which are left upon the body; the target of rape is assertive in her nonconsent, persistent in her resistance, and of good character (preferably a virgin or faithful wife). There are few validating scripts about ambiguous experiences of sexual nonconsent, which are often framed instead, in temporal terms, as consent to sex that is regretted the next morning. Damages to psychic and bodily integrity affect the ability of these actual individuals to function as subjects.18 This difficulty is compounded by social, institutional, and legal settings in which there is the expectation that stories of rape that narrate the splitting of the self through the rapist’s use of the subject as if she were a mere object will be unambiguously and cogently

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16 For an account of the splitting of the self, for example of the self who survived the rape from the self who existed before the rape, see Brison, Aftermath.

17 A script is a commonly held “mental representation of a situation” (Louise Ellison and Vanessa E. Munro, “Of ‘Normal Sex’” 292-93) that enables the explanation of a particular scenario through the application of a sense-making chain events. Barbara Krahé, Steffen Bieneck, and Renate Scheinberger-Olwig write that “Scripts include both descriptive elements, specifying which features and actions are typically encountered in a situation, and normative elements, specifying what behaviours are expected or accepted in the situation” (687).

18 See Elizabeth Grosz for the importance of a coherent self-image, especially 48.
presented, or judiciously suppressed. Trauma inhibits a person’s ability to both act as if he or she is a coherent self and to provide a coherent narrative of his or her experience. An individual in the aftermath of sexual trauma may not only have difficulty experiencing his or herself as a subject, but may also find his or her subjecthood goes unrecognized by others because of a failure to perform victimization as expected.

Through my analysis of ambiguous consent in fictional narratives, I do not want to collapse representational sexual violence with the lived experience of sexual violence. Narratives of rape are not the same as real-life occurrences of rape and I concur with Sabine Sielke that their relationship is “highly mediated” (2). However, it is through these mediations that violence is made personally and culturally comprehensible. The failure to fully achieve consent in the intersubjective space between people only becomes accessible to analysis as and when it is subsequently transformed into some kind of representational form. What it means to give, withhold, or ambiguously communicate consent is molded in the intersection of social, cultural, political and legal discourses, among others. Sielke writes that narratives of rape “are first and foremost interpretations, readings of rape that, as they seem to make sense of socially deviant behavior, oftentimes limit our understanding of sexual violence while producing norms of sexuality in the process” (2-3). Notwithstanding the fact that fictional depictions of ambiguous consent and nonconsent belong to the discursive field in which our understanding of sex and rape is constructed and thereby limited, I also believe in the profound power of such accounts to challenge these constructions and limitations. Fictional representations of ambiguous

19 A paradox is outlined by Louise Du Toit when she points out that at trial the effects of rape are used against the victim to render her rape illegible: “By splitting her selfhood once again during cross-examination, in an attempt to prove the woman’s inconsistency (e.g., between actions and feelings) during the rape, the lawyers for the defence ironically ‘prove’ that rape did not occur, by exploiting its most damaging effect. In other words, they use the core meaning, strategy and effect of rape—the desubjectification (or objectification) and self-betrayal of the woman—to argue that she did not act like a proper subject during the event, and that she was therefore never raped in the first place” (“The Conditions of Consent” 63).

20 See Carine M. Mardorossian: “there is no homogeneous standpoint among rape victims that is available in an unmediated fashion. Their experiences themselves are steeped in historically and culturally contingent constructions and require that we attend to the signifying practices (including feminist ones) through which they are given meaning” (“Toward a Feminist Theory of Rape” 750).
consent and nonconsent are particularly charged significations that reflect, constrain, generate, and test the discourses about sex and rape that provide the frameworks for understanding the actual negotiations of consent between people.

The depiction of trauma in representations of ambiguous and ambiguated sexual consent, for example, can destabilize the frameworks for understanding actual instances of sexual violence, violation, consent and nonconsent. Trauma narratives challenge simplistic notions of the self, bringing into the open the fact that consent does not always operate under ideal subjective, as well as objective, conditions. Trauma may be experienced or relived through acts to which the subject consents, as well as through those to which she withholds her consent. Moreover, the ambiguation of sexual consent in literature about trauma asks the reader to consider not just whether oppression or coercion vitiate consent, but also the validity of consent when the self is fractured by trauma. Is sexual consent only valid if made by someone of sound mind? The limits placed on the consent of children and those who, whether due to drugs or disability, do not possess the mental competence to give legally valid consent may lead to this conclusion. And yet, where is the line to be drawn? Judith Butler argues that sexual consent is always to some extent a consent to the unknown by a subject that is never fully competent to assent – an attempt, often failing, to overcome personal limits or produce a fantasy of the self. Butler argues that

At such moments, we need to think of the ‘yes’ less as an act of consent on a legal model than as a bid, a probe, an essay, a way of lending oneself out for an experience about which one cannot say in advance if it will be good or bad. This region of ‘yes’-saying is not quite the same as ‘consent’ in a legal sense, although perhaps we will not be able to make sense of consent until we understand how a self is formed who can say ‘yes,’ and how sometimes saying ‘yes’ can lead to self-defeat or injury at the hands of another, or some complicated and terrible combination of the two. . . .

We are used to hearing that there are consenting adults and then there are those who are incompetent to consent. But perhaps incompetence is part of the very process of “yes”-saying. We are not competent to know all the
future consequences of the sexual relations to which we say ‘yes,’ or to which we willingly or ambivalently acquiesce. (“Sexual Consent” 24)

In this dissertation I am concerned with both sexual consent in the legal sense and with regions of “‘yes’-saying” and “no’-saying” that sit uncomfortably within and so disturb legal paradigms. Given that all persons are to a greater or lesser degree fractured selves, and that the belief that decisions are fully conscious and rational is deeply suspect, the ideal subjective conditions for legal consent may never be fully met. What fictions about the subject, then, must be maintained for consent as a concept to remain operable as the line that divides what is from what is not rape?

To answer this question, it is necessary to explore the dominant conceptualizations of subjecthood in constructions of rape through which notions of agency, responsibility, and consent are articulated. Therefore, I also use the word “subject” in my dissertation to evoke the abstract subject of legal, political, and theoretical discourse. In my work this is often the liberal individual, that philosophical, legal, and political entity who came into focus through the European enlightenment as a response to the erosion of faith in the monarch’s divine right to rule. At times, I also explore this individual’s successor, the subject of the neoliberal state, who over the course of the twentieth and twenty-first centuries has emerged as a response to the pervasive effects of unfettered capitalism, market deregulation and limited government.

Liberal individualism has had a significant impact upon the regulation of sexual intercourse, an impact that through the operations of colonialism and globalization extends well beyond Western liberal democracies. At the same time that the consent of the liberal individual came to be seen as the modus operandi of the relationship between the citizen and the state, the purpose of rape law shifted from the protection of (male) property rights to the respect of (female) sexual autonomy.\(^\text{21}\) In common law jurisdictions nonconsent became the essential element in rape law: the line that divides

\(^{21}\) See Susan Brownmiller 16-30; Dripps, “Beyond Rape” 1781-82.
rape from sex. As a result, the possibility of a woman’s free consent, unhindered by social and political forces, became an indispensable legal fiction. This fiction is in constant tension with the realities of constraint that limit a woman’s ability to freely give or withhold her consent. In particular, the exclusion of women from full political citizenship and their legal subordination in family law, renders even their theoretical capacity to give or withhold consent suspect.

In the twentieth and twenty-first centuries, the locus of responsibility for problems such as poverty, poor physical and mental health, low education, unemployment, and crime has been moving from the social and political realm to the site of the individual. The individual in late capitalist society is conceptualized as a completely autonomous agent who exercises her freedom through making choices from unlimited options, and so, bears full responsibility for the outcome of those choices. The danger of neoliberalism is that instances of rape are comprehended at the atomistic level of individual conduct, rather than understood through an analysis of the coercive forces of social and political discourse among others. Because multiple choices are considered free and available to this autonomous agent, the person living in the neoliberal state is thought responsible for her actions and for the consequences of those actions: neoliberal discourses understand rape not as an outcome of a culture that fosters violent masculinity, but a personal failure to avoid sexual victimization. From a neoliberal vantage point, the subject not only has the right to give or withhold her consent, she has a responsibility to manage her conduct and communications so that no ambiguity of her will can be inferred.

Like rape, experiences of ambiguous consent and nonconsent are formulated as instances of personal failure to manage the risk of sexual assault. At the same time, experiences that meet legal definitions of rape appear ambiguous, because the individual is regarded as having all choices available to her to avoid the assault, or if this is not possible, to fully establish her nonconsent. The failure to have taken all steps to avoid the assault or

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22 See Lise Gotell: “The atomized frame of criminal law is accentuated in a context of neoliberalism where risk management discourses hail women as hyper-cautious victims of sexual violence and reconstruct vulnerability as a failure of responsibilization” (“Canadian Sexual Assault Law” 221).
establish her nonconsent indicates not the unavailability of these choices, but the selection of a course of action that precipitates the act of sexual violence. Through an analysis of how consent is ambiguuated in liberal and neoliberal discursive responses to rape, I understand how the construction of the individual in discourse denies or endows persons who experience sexual violence and violation with the rights and responsibilities associated with the liberal and neoliberal state. In addition, I understand how certain subjects’ consent is actualized through their positioning as ideal political and juridical subjects, while other persons’ consent is made impossible through the marginalization or foreclosure of their subjectionhood.

An analysis of ambiguous and ambiguated consent and nonconsent in world literature enables me to bring into conversation such marginalized and foreclosed subject positions. In exploring texts from a range of different geographical, political, cultural, and historical sites I draw together the processes through which legal and cultural discourses about rape ambiguait and obscure the agency of those deemed to fall short, transgress, or exceed the ideal subject premised by constructions of rape and upon which those constructions depend. Tanya Horeck writes that “Stories of rape are essential to the way in which the body politic is imagined, serving as a site for cultural conflict and the embodiment of public concerns” (vii); rape is “an event that relates to the affairs of a community or a nation” (vii). I would add, rape is also an event that is given meaning at the intersection of intra-national, national and transnational forces. As much as notions of the nation state are useful in delineating sexual mores within a particular geographical region, especially given that rape laws both influence and reflect culture and practice within that politically defined space, the nation state is, nevertheless, inadequate to the full explication of this complex issue. When the Australian national Julian Assange, who was granted asylum in the Ecuadorian Embassy in London in 2012 over fears he would be extradited to the United States, was in a British court facing extradition to Sweden to face questioning for rape and sexual assault, he described Sweden as “the Saudi Arabia of Feminism”

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23 For an analysis of how “choice” operates discursively to ambiguate nonconsent, Susan Ehrlich 76-81.
(Colvin). From what national perspective is a consideration of such a situation to take place? What jurisdiction’s laws, what nation’s attitudes about rape and consent, and what political state’s stance on female sexual autonomy should form the basis of an analysis?

In a globalized world, there is no straightforward answer to this question. Lisa M. Cuklanz and Sujata Moorti assert that

> Whether it is the rape of young girls by U.N. peacekeepers in the Ivory Coast, the benign neglect of sexual assault and femicide within the US military, or familial violence in the European Union, every day we are bombarded by images and narratives of violation—sexual and otherwise. Representations of gendered violence are staples of media, whether on television, in print, or online. The sites of violence and the subjects of violence are equally heterogeneous, crossing cultures, continents, and national boundaries. (2)

The novels I explore in this dissertation, hailing from Africa, Europe and North America, themselves traverse such heterogeneous subjects and sites of violence, as they pose questions about consent in the cross-section of cultures, continents, and national boundaries. Each text reveals that sexual consent, more than merely a private issue to be negotiated between individuals at an isolated point in time or place, is a particularly charged construct molded in the confluence of customary, civil, criminal, and international law; the constructions of race, class, age, sexuality, gender, and ability; the divide between rural and urban; and the shaping forces of colonialism, imperialism, globalization, slavery, war, and migration.

There is a danger that in taking such a broad perspective in the exploration of ambiguous and ambiguated consent and nonconsent I decontextualize representations of consent. Nina Philadelphoff-Puren warns “that the act of consent must not be left at a general description but rather always be understood as an action inscribed in a specific context: political, legal, economic, literary” (“Contextualizing Consent” 31). By taking a scope that includes texts from Africa, Europe and North America, I am not attempting to make sweeping generalizations, but rather, to illuminate the multivalent complexities of sexual
consent and sexual subjection that would potentially be lost in an analysis that was limited to the literature from one geographical or political locality. The dividing line between rape and not rape is implicated in local, national, and global contexts. Inderpal Grewal and Caren Kaplan point out that with the increasing expansion of capitalism into all aspects of life, the modern sexual subject is a global one:

Just as goods and people come to circulate in new ways, so too identities emerge and come into specific relations of circulation and expansion. In this globalized framework of encounter and exchange, sexual identities are similar to other kinds of identities in that they are imbued with power relations. (663)

While a single national frame enables a detailed explication of sexual consent within that particular site, it misses the formation of sexual norms as a synthesis of local and national customs, imbued with the legacies of colonialism and the transnational flows of people, goods, and culture.

I approach the representation of consent in these texts from a transnational feminist position, which upholds, as Sorcha Gunne and Zoë Brigley Thompson write, “the cultural specificity of women’s experience while putting them in conversation with each other to create a feminism(s) that is more inclusive and representative” (5). As Maria Drakopoulou argues, feminist engagements with the question of consent are engagements with the questions of agency and power:

. . . consent and female subjectivity are bound together by issues of power: the power men exercise over women, women’s power over themselves and their own lives, and the belief in the need to further empower women. Endorsement or rejection of consent is therefore predicated not only upon how effectively it communicates women as autonomous, rational and responsible political, social and economic actors, but also the anticipation of what will best affirm real women’s agency and mastery over themselves and strengthen their equal standing in private and public life. (12)
My dissertation contributes to this ongoing feminist engagement with rape and consent that seeks to empower women, at the same time that it brings awareness to the widespread use of sexual violence in the continued subjugation of women. However, feminism has been criticized for only attending to the problems of white middle-class women whose relative privilege positions them as the normative female subjects against which other women’s subjectivity is compared and found to be lacking.24 Chandra Talpade Mohanty writes about the importance of a “feminism without borders” that is responsive to the many “fault lines, conflicts, differences, fears, and containment that borders represent” (2). A transnational feminist approach acknowledges women as diverse subjects whose own goals, experiences of oppression, and ability to act as agents is differently constituted.

As I traverse the problematics of consent across these various national and cultural sites, different female subjects of postcolonial literature and theory come into focus. Not only is rape a particularly common trope in postcolonial writing—a useful device for emphasizing the injustices of the imperial enterprise that, like rape, denied millions their subjecthood—but also, rape was and remains a tangible fact of colonial oppression. And yet, what in lived experience is an often, though not exclusively, male violence committed as a force of terror against a female population, becomes in the trope a metaphor for the relations of oppression between men. This metaphor often forgets the differentially gendered effects of sexual violence. I have chosen texts that destabilize this eliding of female experience through depicting sexual violence and violation in ways that problematize straightforward readings of female sexual consent and nonconsent. The ambiguation of consent and nonconsent in postcolonial literature reveals the colonial context and its aftermath to be one that doubly denies certain women their subjecthood though racial and gendered oppression. As the gendered and racial Other, the female subject in colonial and postcolonial spaces is often represented as possessing an only

24 See for example, Mohanty “Under Western Eyes” in Feminism Without Borders, 17-42.
suspect power to refuse consent to sex.\textsuperscript{25} It is important to consider the representation of sexual consent along more than the single axis of gender.\textsuperscript{26} Multiple conditions of constraint must be acknowledged. Indeed, when other factors such as class, economic status, physical ability, and mental health, as well as race, are taken into account, sexual consent as the expression of individual autonomy becomes a particularly dubious construct.

At the same time, subjects who experience rape are not necessarily devoid of either agency or desire, constrained as these forces and subjects may be. Many of the female characters I analyze in this dissertation turn to the concept of desire as an articulation of their autonomous selves that, in contrast to consent, provides them with a model of powerful sexual action. Given the problems with consent explored in this dissertation, is it possible to turn to desire as the site of the subject’s agency? I am skeptical of such a turn. Desire is not a panacea, nor is it unencumbered by other forces, powers and discourses. Trauma, for example, whether of rape, enslavement, or colonialism, is imbricated in male and female experiences of desire. Desire cannot necessarily be separated from violence or abuse; moreover, desire can be constituted through such experiences. In each of the novels I explore, there is a tension between female desire as a positive force that we might think of that drives the self towards freedom, agency and love, and desire as a force and a discourse that harms, imprisons and violates.

While I invoke desire in relation to consent and rape throughout this dissertation, a full consideration of desire is outside of its scope. I am less concerned with desire as a psychological configuration than as a discursive one. That is, I am interested in its

\textsuperscript{25} See for example Elizabeth Kolsky’s analysis of rape trials in colonial India in which racism, and indeed, classism, intersect with sexism to produce unreliable claimants: as well as Indian women being “subjected to British legal presumptions about false charges, they also had to contend with specifically colonial ideas about the unreliability of native witnesses and other prejudicial ideas about Indian culture. Indian rape victims were doubly suspect suspects” (111).

\textsuperscript{26} See Kimberle Crenshaw on the importance of intersectionality; she writes that a “single-axis framework erases Black women in the conceptualization, identification and remediation of race and sex discrimination by limiting inquiry to the experiences of otherwise-privileged members of the group” (140).
structural role in the discursive and regulatory practices that perpetuate the ambiguation of consent and nonconsent. Discourse about desire, rather than desire as psychic experience, is often deployed to deny rather than facilitate female agency. In the current understanding of rape in most common law jurisdictions, the question of a claimant’s desire is, or should be irrelevant; however, in practice her desire is made relevant as it is used to ambiguate her assertion of nonconsent. Outside the law, the subject’s desire is one of the factors that can make a rape, defined as nonconsensual sex, personally and culturally illegible. Although desire might be seen as an active and positive force that could counter to the problems associated with consent, constituted as passive acquiescence, it can also be seen as a force that women are denied (their liberal agency is tenuous, the requirements of purity, chastity, wifely submission overbearing, and their role as the sexual gatekeepers ingrained), or alternatively as a force that is used to deny women the very agency it promises (when women are structured as lascivious, desiring and in need of control, female desire negates female nonconsent, and thus the power of liberal subjectivity).

I am aware as I analyze ambiguous and ambiguated sexual consent in both Western and non-Western representations, that Western theoretical frameworks, especially those of the liberal and neoliberal individual, can be inadequate to the task of fully explicating consent in all these contexts. In a globalized world, however, it is also the case that few spaces if any have been or continue to be uninfluenced by Western hegemony, which is not to suggest a unidirectional flow of a Western culture towards non-Western cultures (Grewal and Kaplan 663). The legacies of colonialism mean that the postcolony is a hybrid space, in which the continuation of colonial institutions and laws extend beyond their initial imposition, and continue to contend with local traditions and culture. Like Louise Du Toit, whose investigation of rape takes place in the interaction between “the western patriarchal symbolic order” (A Philosophical Investigation of Rape 3) and her

27 See, for example, Jennie E. Burnet’s reservations about the applicability of Western frameworks to the Rwandan context “in which colonialism, government policies, war, and scarcity of resources have limited women’s access to land ownership, economic security, and other means of survival” (99).
“South African context” (3), I explore the intricacies of sexual consent “within the currently globally dominant western cultural symbolic, which leaves no single so-called ‘non-western’ culture intact” (4).

The subject whose consent is at stake in these contested representations of sexual violence and violation is constituted in and through discourses of power. According to Michel Foucault, power should not just be thought in terms of a top down imposition of force by the sovereign or political elites; rather power is “the multiplicity of force relations” (The History of Sexuality 92) which are tested, contested, reshaped, empowered, authorized, and overturned by state and legal institutions among others, and the working of social hegemony (92-93). In The History of Sexuality, Foucault argues that since the Victorian era in the West sex has functioned as the fundamental and secret truth of the individual. Discourses about sex do not merely produce institutions and technologies to manage and regulate the subject, they bring that subject into being by generating “a knowledge of the subject” (The History of Sexuality 70): he writes, “Causality in the subject, the unconscious of the subject, the truth of the subject in the other who knows, the knowledge he holds unbeknown to him, all this found an opportunity to deploy itself in the discourse of sex” (The History of Sexuality 70). Unlike the concept of the liberal individual whose free consent to the social contract initiates their entrance into the social and political realm as subjects, for Foucault there is no existence prior to the socially constituted subject; rather, it is as a product of power “that certain bodies, certain gestures, certain discourses, certain desires, come to be identified and constituted as individuals” (“Two Lectures” 98). Following Foucault, Butler in The Psychic Life of Power asserts “Power not only acts on the subject but in a transitive sense, enacts the subject into being” (13). This process in Foucault, as Butler highlights,

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28 See Foucault “Two Lectures:” “The individual is not to be conceived as a sort of elementary nucleus, a primitive atom, a multiple and inert material on which power comes to fasten or against which it happens to strike, and in so doing subdues or crushes individuals. In fact, it is already one of the prime effects of power that certain bodies, certain gestures, certain discourses, certain desires, come to be identified and constituted as individuals. The individual, that is, is not the vis-à-vis of power; it is, I believe, one of its prime effects. The individual is an effect of power, and at the same time, or precisely to the extent to which it is that effect, it is the element of its articulation. The individual which power has constituted is at the same time its vehicle” (98).
is one of subjugation whereby the disciplinary processes of power bring about an internalization of the norm. According to this understanding, discourses about consent partake in the production of subjects through the internalization of hegemonic scripts regarding sex, gender, and sexuality; through the articulation of (and indeed, resistance to) these norms in speech and action by the subject; and through the institutional practices in legal, clinical and governmental settings that provide recognition to certain bodies as subjects whose consent is able to be narrated, upheld, and supported; or alternatively, that fail to recognize other bodies as subjects because the mode of their consent is ambiguous, deficient, or unavailable to thought. In narratives of ambiguated and ambiguous consent the subject whose consent is at stake often occupies a liminal position in these discourses of power, as she is essential to and at the same time excluded from the socio-politico-historical text. Language about consent seeks to situate this liminal figure–policing the borders of whose voice can and cannot be given credence, whose bodies do and do not deserve protection, whose subjecthood can and cannot be recognized.

Therefore, while I acknowledge that sexual violence is an act in which the subjecthood of others can be violently denied–indeed, such denial is one of its defining harms, as the use of another’s body as though it were a mere object can be the unmaking of the self–the word “subject” enables me to think about discourses about consent and discourses about rape as processes of subject formation as well as disintegration. And it enables me to think about modes of agency that exceed social and institutional sanction. Sexual violence, then, can be understood in terms of subject making and subject unmaking processes. Rape violently inscribes gender, race, class, and sexuality onto and into the body. Mieke Bal argues that rape “is a representational act” (69), a “body language” (90) that “turns the victim into a sign, intersubjectively available” (90). As a result, she suggests, it is possible to conduct a rhetorical analysis of the semiotics of rape (90). It

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29 Subjection as subjectification is both something that is inflicted by power upon the self and the process by which the self is psychically and socially constituted. Thus, Butler identifies the dual meaning of subjection: the infliction of the will of one person upon another and the process of subject making. The experience of rape may well be the unmaking of individual subjects, but rape and rape culture can also be thought of as processes of subject formation.
generates victims, survivors, claimants, witnesses, perpetrators, investigators, judges, lawyers and others. It destroys and creates identities.

Throughout my thesis, I refer to the targets of rape as “subjects” rather than “victims” or “survivors.” While the words “victim,” “survivor,” and indeed the legal term “claimant” each have their applicable uses and appear at times in my work, they are problematic. The term “survivor” has grown in favor as a way to validate the strength of those who experience sexual violence and violation rather than imply their weakness by labelling them victims. Yet, I find both “survivor” and “victim” assume that rape transforms a person’s very identity, and while I do not want to deny the very real experiences of victimization or very real feelings of having survived rape, I am wary of ascribing identities to people who have been raped, even if the transformation of one’s identity in the aftermath of rape is one of its common effects. The word “subject” does not assume that the person who has experienced sexual violation is necessarily split from her former self, or from others who have not experienced rape. At the same time, it honours a person’s agency during and after a sexual assault.

Words matter. As Butler reminds her reader in *The Psychic Life of Power*, to occupy the position of the subject first and foremost is to have one’s existence and agency affirmed in language:

‘The subject’ is sometimes bandied about as if it were interchangeable with ‘the person’ or ‘the individual.’ The genealogy of the subject as a critical category, however, suggests that the subject, rather than be identified strictly with the individual, ought to be designated as a linguistic category, a placeholder, a structure in formation. Individuals come to occupy the site of the subject (the subject simultaneously emerges as a ‘site’), and they enjoy intelligibility only to the extent that they are, as it were, first established in language. The subject is the linguistic occasion

30 For an analysis of how the term “victim” has come to be associated with a lack of agency and so fallen out of favour, see Mardorossian *Framing the Rape Victim.*
for the individual to achieve and reproduce intelligibility, the linguistic condition of its existence and agency. No individual becomes a subject without first becoming subjected or undergoing ‘subjectification’ (a translation of the French *assujetissement*). (10-11)

To be a subject is to be, to be made, to make oneself, intersubjectively intelligible. The ambiguity in the space between rape and consensual sex can render subjects illegible to themselves and to others. The desire to locate ambiguous acts and experiences on one or other side of the consent/nonconsent binary produces a lacuna at the site of the divide. Modes of agency that cannot be classified according the binary slip from view.

Feminist discourse has often figured the problem of sexual violence in terms of speech and silence. This silence has enormous generative power, as the proliferation of images of rape and discourse about consent reveals. As Foucault writes,

> Silence itself—the things one declines to say, or is forbidden to name, the discretion that is required between different speakers–is less the absolute limit of discourse, the other side from which it is separated by a strict boundary, than an element that functions alongside the things said, with them and in relation to them within over-all strategies. (*The History of Sexuality* 27)

Certainly, the ambiguation of consent gives rise to an interpretive dilemma that can result in the elision of violence. There is a reluctance to assign the term “rape” when nonconsent appears less than categorical. In accounting for and critiquing this reluctance, my work contributes to the feminist imperative of reading for violence against women that has been elided in representations of rape. This imperative is outlined by Lynn A. Higgins and Brenda R. Silver in *Rape and Representation* when they call for the reading of “the violence and the sexuality back into texts where it has been deflected, either by the text itself or by the critics: where it has been turned into a metaphor or a symbol or represented rhetorically as titillation, persuasion, ravishment, seduction, or desire” (4). However, whereas Higgins and Silver are primarily concerned with rape-as-ellipsis in
literary representations, my dissertation explores how largely non-elided representations of sexual violence still give rise to ambiguities that raise problems for interpretation. Counterintuitively, often the undecidability of sexual nonconsent in any given representation increases in proportion with the extent to which the sexual encounter is depicted. Whereas largely elided representations of rape often seem undisputable as representations of rape, those that do depict the intricacies of violence and violation, resistance and submission are regularly interpreted as uncertain cases.

In many parts of the world, the dominant cultural commentary about the “grey area” of sex can be dismissive of, if not outright hostile to, women’s experiences of sexual violation. Laura E. Tanner writes “Suspended between material and semiotic worlds, the reader in the scene of violence must negotiate a position relative not only to the victim and violator but to the attitudes about violation encoded in representation and experienced through reading” (3). I would add that the reader or critic must also mediate his or her own attitudes about violation informed by other discourses. These attitudes are often dominated by rape myths that take sexist, racist, classist, and ablest form. Despite changes to legal definitions of rape worldwide there remains a gap between legal requirements to gain consent and public perceptions of what counts as consent. At the same time, my work acknowledges the presence of ambivalence, feelings of complicity, and genuine ambiguity in actual and fictional sexual interactions. I provide analysis of ambiguated consent in representations of sexual violence that respects sexual autonomy and allows that violence, trauma, and abuse are experienced even when nonconsent is in question. Thus, I explore the problematics of consent that arise in depictions of sexual acts when the designation “rape” cannot be definitely applied.

Unlike the author of literature, however, I as a literary critic cannot always leave interpretation open. I face an ethical conundrum in exploring ambiguous and ambiguated consent and nonconsent in narratives of sexual violence and violation: when should I remain with the ambiguity, and when, despite evidence of ambivalence or complicity, should I state unambiguously “this is a representation of rape”? Standing on the fence can be just as injurious as misrepresenting a rape as consensual sex. As a result, there are times when I label a representation to be rape or an act of sexual violence despite its
ambiguity or ongoing controversy about that representation. In so doing, I not only risk that the reader will disagree with my categorization, but also that I appear too categorical given that my subject matter is the ambiguities of sexual consent. At worst, I risk failing to maintain proper disinterest that is the mark of academic writing that seeks not to judge but to explicate the complexity of an issue. I believe, however, in certain instances, maintaining the appearance of disinterest is not an option, for in so doing, I would replicate the very misreading of rape as consensual sex through the misplaced ambiguation of consent that I critique.

1.3. Outlining The Argument

In Chapter 2, “The Subject’s Ambiguous Consent in Rape Law,” I explore the implications of locating nonconsent as the essential element of rape and the difficulty of conceptualizing rape without appealing to the concept of consent. I trace the rise of consent, and thus, the rise of the liberal individual, in legal conceptualizations of rape around the world, particularly in common law jurisdictions. When consent marks the line that divides rape from sex, the liberal individual becomes indispensable to the construction of juridical subjectivity. And yet, this concept of the individual is in constant tension with the realities of political, social, and cultural constraint that limit many women’s access to full subjecthood. In its abstract form, the law employs the concept of consent in recognition of the importance of sexual autonomy and individual agency, and yet, in practice, legal discourse regularly fails to recognize the nonconsent of women who have been raped. An idealized abstract subject operates as a touchstone against which many actual women are found to be lacking. Thus, the location of consent at the heart of rape law endows certain individuals who most approximate the ideal with the rights, responsibilities and protections of the liberal or neoliberal state, and at the same time, denies the position of the subject to others, who do not find full political and legal recognition for their articulations of consent and nonconsent. This marginalization and erasure of female subjecthood results in part from conceptualizations of female sexual consent that remain fissured with the unknown and in part from the fact that rape
enters legal discourse as a re-presentation of a representation of nonconsent that has left no durable signs.

Chapter 3, “J. M. Coetzee’s Disgrace and The Limit of Rape,” explores Coetzee’s novel Disgrace (1999), which, set in post-apartheid South Africa, represents two distinct kinds of rape: one, an acquaintance rape, perpetrated by the novel’s protagonist, David Lurie, which he commits against his student Melanie; and the other, a stranger gang rape, committed against Lurie’s own daughter Lucy by three black men who invade her farm. I theorize why it is so hard for many critics and readers to assert that Lurie rapes his student Melanie, querying the attraction of euphemisms such “seduction” or “affair.” My argument is that rape becomes a contested territory as soon as it enters into language, into representation. The ambiguation of Melanie’s nonconsent does not just occur because her rape is focalised through the perpetrator who is unable to acknowledge what it is that he does, but also because the depiction reveals her submission to his acts of violence and coercion, rather than her continued resistance. On the one hand, because Lucy’s rape is elided and what we know of what occurs unmistakably follows a stereotypical stranger rape script, her nonconsent is easily assumed; on the other hand, because Melanie’s rape is depicted and in its depiction it deviates from a straightforward rape script, her nonconsent is ambiguated. As a result, Melanie’s rape is often located in a grey area between rape and consensual sex, despite its correspondence to past and current South African legal definitions of rape.

In Chapter 4, “Trauma and the Ambiguation of Sexual Consent in Gayl Jones’s Corregidora,” I explore how sexual consent is ambiguated by transgenerational trauma in Jones’s Corregidora (1975) set in the American South. Ursa’s childhood experiences of bearing witness to her grandmother’s and great grandmother’s testimony of sexual slavery transform her sexual relationships with her two husbands and the experience of domestic violence into repetitions of their trauma. Because her grandmothers’ memories are transmitted in narrative form, Ursa only indirectly undergoes what happened at Corregidora’s hands; however, the novel suggests that because these narratives are passed on to her without interpretation or understanding, they carry with them the affective state of one generation into the next. They, therefore, complicate Ursa’s experience when she
has apparently consensual sexual intercourse. The trauma of sexual slavery transforms consensual sexual acts into repetitions of another’s slavery and rape. At the same time, her own experiences of gender violence and sexual violation become illegible because, as a black American woman living in the legacy of slavery, she continues to be discursively reduced to and sexualized as an always consenting hole to be filled.

In Chapter 5, “The Seduction of Rape as Allegory in Postcolonial Figurations of Desire,” I examine how Assia Djebar’s Fantasia: An Algerian Cavalcade (1993) and Tayeb Salih’s Season of Migration to the North (1969) subvert the analogy between colonialism and rape. In Salih’s novel, Mustafa Sa’eed’s reverse colonialism by sexual conquest fails to transform relations of power, in part because his sexual partners collude with him in orientalist and sadomasochist fantasies; while Djebar’s novel unsettles the boundaries between rape and seduction by dangerously positioning colonial desire alongside the regulation of female desire within and without the Algerian cloister. The commingling of desire, ambiguous consent, and sexual violence does not negate the representation of colonialism as sexual violation. On the one hand, both novels ambiguously the trope of rape as a metaphor for colonialism through the rhetoric of seduction; on the other hand, the analogy between rape and seduction is also undermined, for a second analogy is drawn between the violence and violation of colonialism and marital rape. Ultimately, these novels reveal women may actually be positioned as always consenting, making nonconsent unintelligible. In Fantasia, for example, marriage, ambivalently experienced as both liberating and reinforcing traditional gender roles, forecloses the possibility of a refusal, and in Season of Migration to the North, Hosna Bint Mahmoud’s (forced) marriage makes her non-submission to intercourse incomprehensible to the villagers who answer her murder/suicide with silence. Thus, both novels blur the boundaries consent is supposed to police, revealing borders of sexual freedom to be constrained, not by individual choice, but by orientalist and patriarchal constructions of desire.

In Chapter 6, “Conclusion: Rape and The Temporality of Consent,” I conclude that the concept of sexual consent occupies a shifting and complex ground where seduction and rape, innocence and complicity can cease to operate as strictly antithetical categories. One term always at risk of transformation into the other. The danger is that violence,
resistance, and trauma are evacuated from the discourse when ambiguously consensual and nonconsensual acts are designated as “not rape.” At the same time, there is little conceptual space where the grey area of sex meets the twilight zone of rape, that is in the in-between of the rape/not rape binary. The line that divides rape from consensual sex can shift, but because of sexual consent’s importance as that which separates rape from sex, consent and nonconsent are necessarily maintained as a binary pair rather than as more or less ambiguous acts on a continuum. And yet, understood along the axis of time, consent and nonconsent are not strictly opposite acts or states of mind. Rather, consent can be thought of as a continuous state of being that an act of nonconsent more or less successfully, but nevertheless, only ever temporarily interrupts. Therefore, once a rape enters into representation, if there is any ambiguity, even just some slight evidence of ambivalence or complicity, an act of nonconsent is voided and a sexual violation transformed into just sex. Thus, although we know that rape and consensual sex exist, and we know that they are different, what separates them is less a line than a temporal incongruity which produces acts, experiences, and indeed, subjects as unnamed and unnameable.
Chapter 2
The Subject’s Ambiguous Consent in Rape Law

In Clarissa, a novel written in a century that saw significant changes to the English common law’s conceptualization of rape, Clarissa successfully prevents a second rape when she threatens to unleash the full force of the law upon Lovelace and his female accomplices by killing herself with a penknife: “The LAW shall be all my resource: the LAW, and she spoke the word with emphasis, that to such people carries natural terror with it, and now struck a panic into them” (950). The force of Clarissa’s threat is vested in her assumption of a legal discourse that provides her access to abstract juridical power—the mere mention of the law overwhelms her tormentors, stemming their rapacious intent. Yet Clarissa’s success at summoning juridical power also hinges upon her threat to annihilate the very self the law is invoked to protect. Clarissa’s threat is successful because her death would act as ultimate proof of her unwilling will, definitively performing the elusive element of nonconsent and so, activating juridical power on her behalf. The power of death to eliminate doubt as to the victim’s will arises from the fact that death does not merely stand for rape in a metaphorical sense, it is believed to be metonymically part of the event (Bal 68-70): whether death is physical or psychological, annihilation is thought to follow necessarily as the result of a real rape.31 Such a belief confuses what happens some of the time, the destruction of the subject through rape, with what happens all of the time: a fallacy that mistakes the perpetrator’s use of the victim as if they were a mere object with an actual and ongoing transformation of the subject into an object as a result of rape.

In this chapter, I focus on the development of the common law understanding of rape in different jurisdictions around the world to trace rape law’s reliance upon three mutually

31 See Bal’s analysis of the visual and poetic representations of the rape of Lucretia in Rembrandt’s Lucretia (1664) and Lucretia (1666), Ovid’s Fasti, Livy’s The History of Rome and Shakespeare’s The Rape of Lucrece in which Lucretia’s suicide confirms her nonconsent—a nonconsent that generates the political consent necessary for the founding of Rome as a republic. See also Samuel Arkin 349-50.
dependent concepts—consent, sexual autonomy, and liberal subjectivity.\textsuperscript{32} These three concepts are necessarily fictions, as the law is itself a fiction, or the performance of a fiction, in which a state tells the story of what harms committed against which subjects deserve punitive action. And yet, they are fictions with material significance. How rape law understands who a “real” rape victim is and how she comes into being affects more than just her access to and recognition by legal institutions. Through the law’s construction of the crime of rape, its application of this construct in practice when a report of rape is made, and its response at the interface between legal understandings of rape and other rape discourses, whether regressive or progressive, political or cultural, certain kinds of subjectivity are brought into being, while others are disavowed. Legal definitions of and responses to rape are of course limited in ways that others are not, constrained as they are by the competing rights of the accused and the claimant to a fair and just trial, by the kinds of evidence that can be gathered and deemed admissible, by the historical and cultural forces that shape the legal definition of rape and provide the impetus for its evolution, and by the prejudices of those responsible for the law’s practical application. At the same time and despite these limitations, legal definitions of rape are hugely influential, providing interpretive frameworks that influence how cultural representations of rape are read and understood.\textsuperscript{33} In the confluence of competing discourses—that is between the legal definition of rape in the abstract at any one historical moment, the execution of that definition or the failure of its execution in practice, and the culturally held beliefs and representations of rape that to a large extent dictate not only the outcome of a prosecution, but also whether the rape is institutionally and personally

\textsuperscript{32} By rape law I mean criminal statutes, the use of common law precedents, government reports and commissions, practices and regulations relating to rules of evidence and trial conduct, the relational discourse that proceeds from the practices and speech of legal actors such as police officers, claimants, defendants, lawyers, juries, judges, journalists reporting on rape cases, and politicians drafting rape legislation.

\textsuperscript{33} There is no one definition of rape that satisfactorily encompasses the concept for all time; generally, I take rape to mean the nonconsensual sexual penetration the mouth, anus or vagina of a man or a woman in line with its most recent modifications at common law, but this definition is itself a contested one that I challenge in this chapter. Throughout this chapter, and in much of the dissertation, I refer to rape in a more limited gender-paradigmatic sense in line with its historical definition at English common law as nonconsensual sexual intercourse involving the penetration of a woman by a man.
recognizable in the first place—gulfs open between the law’s intent and its implementation, between statutory definition and judicial procedure, between its affirmation of sexual autonomy and its failure to recognize nonconsent.

2.1. The Precarious Subject of Rape Law

In practice, legal systems have struggled and continue to struggle to recognize the individual’s sexual autonomy in the actual stories of people who have experienced sexual violence and violation. Not only are conviction rates for rape generally lower than for other serious crimes, the attrition rates remain staggering. The law’s failure to validate those who have suffered sexual violence stems in part from the need to discursively recast successful claimants as the ideal subject premised by rape law—a subject fully in control of her actions, able to make choices from freely available options, and capable of voicing her sexual preferences clearly and forcefully. This construct of the liberal individual often carries negative connotations in critical theory, and yet, despite its flaws, this liberal subject is essential to the functioning of the law. Unfortunately, the law’s reliance on liberal subjectivity can effectively eliminate the claimant’s voice, as all

34. Liz Kelly, Jo Lovett, and Linda Regan record that the national conviction rate in England and Wales in 2002 was a mere 5.6% of reported rapes while of the cases they studied only “Twelve per cent of all reported cases, or 14 per cent of those where the outcome is known, reached the trial stage” (77). They note about 25% were “no-crimed” before they even left the investigation stage (xi). Yvette Russell notes that conviction rates in England and Wales continue to hover at around 6% (256). Similar trends have been observed in Australia (see Powell et al. 456) and in Canada (see Holly Johnson “Limits of a Criminal Justice Response”). For a meta-study of these trends in various jurisdictions, see Holly Johnson, Natalia Ollus, and Sami Nevala, Violence Against Women, particularly 145-49.

35. The law is not merely concerned with “the legal person as an abstract device for endowing a capacity to bear rights and responsibilities” (Naffine, “Women and the Cast” 19), but as Ngaire Naffine shows, is continually and deeply influenced by other conceptualizations of personhood, including with the liberal individual understood to be the rational actor/citizen in liberal political and philosophical theory.

36. For a feminist critique of liberal individualism posited by contract theory see Carole Pateman The Sexual Contract and “Women and Consent.” Theorists from Foucault (The History of Sexuality), Gayatri Chakravorty Spivak (“Can the Subaltern Speak?”) and Butler “Gender Trouble” among others have from the perspectives of social constructionism, postcolonialism and post-modernism problematized this construct.
ambiguity must be excised from the successful claimant’s narrative. Furthermore, because there is a low threshold for what makes an account of nonconsent ambiguous (e.g. deviations from a traditional rape script, mere facts of gender, race, sexuality, sexual history and socio-economic status) the protections offered by rape law are unavailable to many whose nonconsent is ambiguous at best and unimaginable at worst. Indeed, as not all individuals who experience rape are afforded full legal and political subjectivity in the first place, their performance of consent and nonconsent at the time of intercourse cannot be subsequently re-presented in legal discourse.

In the modern era in common law jurisdictions, the rise of the liberal subject in rape law has produced two paradoxes, one closely related to the other. First, the continued failure of rape law to provide justice to the majority of individuals who experience sexual violence occurs not in spite of, but because of the very guarantor of sexual autonomy: consent, the ambiguity of which disrupts its function at the heart of rape law. However, there is not an unproblematic replacement to the concept of consent as the boundary marker between what is and what is not considered rape. This is especially so if the law seeks to maintain its role in the preservation of sexual autonomy. Second, the cognizance of a woman’s nonconsent, through which her juridical subjectivity is confirmed, appears both at the point of her own erasure, and at the foreclosure of nonconsent and so juridical subjectivity from those deemed other, and thus, those whose violations go unrecognized and unrecognizable.

These paradoxes run counter to the pretext of much rape law in which the subject is presumed to be upheld by the central location of nonconsent as the essential element in legal definitions of and frameworks for understanding rape. The central importance of consent arises from rape’s historical definition at common law in England.\textsuperscript{37} Because common law largely follows and builds on case law precedent, rather than merely relying on the enactment of statutes, the legal understanding of rape is in constant flux. That
said, the 1275 Statute of Westminster codified the English common law’s understanding of rape in a tri-part structure: rape is gendered, forced, and against the will. The phrase “against the will” not only implies rape takes place without a woman’s consent, but was also taken to require her active resistance. This statute marked rape, as Bruce A. Macfarlane argues, as “an issue of public interest and concern, worthy of criminal action by the state” (11-12), rather than just a private matter involving the loss of property. Thus, in legal discourse of the medieval period till relatively recently, rape at common law has been defined with some variations along the following lines: rape is “The carnal Knowledge of a Woman by Force and against her Will” (East 433).

The common law definition of rape has had a significant impact on the legal classification and treatment of rape across the globe, despite legislative changes, including in England and Wales, that have generated disparate legal definitions of rape in different jurisdictions. British imperialism ensured the adoption of common law (in whole or in part) in numerous international jurisdictions; the legal systems in Australia, Bangladesh, Canada, Cyprus, Ghana, Hong Kong, India, Ireland, Israel, Malaysia, New Zealand, Pakistan, Singapore, South Africa, Sri Lanka, Uganda, the United States and various Caribbean nations use at least some common law. The tri-part structure of the

38 “AND The King prohibiteth that none do ravish, nor take away for force, any Maiden within Age, neither by her own consent, nor without; nor any Wife or Maiden of full Age, nor any other Woman, against her Will” (Statutes of the Realm 29).

39 The Sexual Offences Act 2003, which includes the current legal definition of rape in England and Wales, defines rape in the following way:

1. Rape
   (1) A person (A) commits an offence if–
      (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis,
      (b) B does not consent to the penetration, and
      (c) A does not reasonably believe that B consents.
   (2) Whether a belief is reasonable is to be determined having a regard to all the circumstances, including any steps A has taken to ascertain whether B consents. (44.1.1)

40 The continued significance of common law can be seen, for example, in the United States in the 2008 case State v. Baby, a case in which the post-penetration withdrawal of consent was considered. The Court of Appeals of Maryland made clear that it must follow common law to understand terms in the definition of rape such as “force,” “threat of force” and “without consent” which go undefined, but keep their “judicially determined meaning” from case law precedent (Michelle D. Albert 1026).
English legal definition of rape can be seen, for example, in Canada in the 1892 Criminal Code: “Rape is the act of a man having carnal knowledge of a woman who is not his wife without her consent, or with consent which has been extorted by threats or fear of bodily harm, or obtained by personating the woman’s husband, or by false and fraudulent representations as to the nature and quality of the act” (Part XXI. 266).

As rape law has developed over the course of the twentieth and twenty-first centuries there has been a movement towards gender-neutral language and a removal of the element of force, which was deemed superfluous or unreflective of certain kinds of sexual attacks. In contrast, the element of nonconsent has remained central to common law definitions and applications of the term rape. The trend throughout the latter half of the twentieth century and the first part of the twenty-first century has been towards

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41 As it currently stands there is no definition of rape in Canada as the Canadian Parliament redefined rape as sexual assault in 1983. The relevant statute reads as follows:

**Assault**

265 (1) A person commits an assault when

(a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;

(b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or

(c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

**Application**

(2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

**Consent**

(3) For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of

(a) the application of force to the complainant or to a person other than the complainant;

(b) threats or fear of the application of force to the complainant or to a person other than the complainant;

(c) fraud; or

(d) the exercise of authority.

**Accused’s belief as to consent**

(4) Where an accused alleges that he believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused’s belief, to consider the presence or absence of reasonable grounds for that belief.

42 The element of force remains strong in many jurisdictions in the United States.
expanding what can be encompassed by the legal definition of rape. Globally, from 1945 to 2005 there were 122 changes to laws concerning rape in 77 countries, and of those 119 expanded the law’s reach (Frank 273). Common legislative changes have included extending protections to married women, expanding those who can be victims of rape to men through gender neutral language, and increasing the number of ways rape may be perpetrated (e.g. penetration of mouth and anus as well as vagina, penetration by an object other than a penis). Indeed, the South African Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 defines rape as “Any person (‘A’) who unlawfully and intentionally commits an act of sexual penetration with a complainant (‘B’), without the consent of B, is guilty of the offence of rape” (2.1.3). As can be seen in this definition the element of nonconsent has endured where both force and gender have receded. In other jurisdictions, for example Michigan in the United States, where consent has been dropped from the definition and force, or levels of force, retained, consent still operates as a defense, and so nonconsent remains a central component of the crime.43

Du Toit writes that “The intense focus in rape law on the woman victim’s state of mind correlates with the modern turn in the understanding of rape, namely when the ownership of the female sexual body property shifted from the male owner to the woman herself, which happened around the time of the European Enlightenment” (A Philosophical Investigation of Rape 36). With its focus on consent the common law definition of rape can be classified as liberal, as opposed to conservative.44 In conservative definitions of rape a woman’s sexual autonomy is immaterial because the harm of rape, often regarded as the theft or despoiling of male property, is not determined by her consent. In ancient Babylonian and Mosaic law, for example, the harm of rape was experienced by the father, husband, or other male relative of the woman whose economic worth was diminished through her violation (Susan Brownmiller 18-21). At common law, along

43 See the relevant section of the Michigan Penal Code Act 328 of 1931 Chap. LXXVI Sec. 750.520.
44 For an outline of liberal, conservative and radical definitions of rape see Keith Burgess-Jackson 443-52.
with a shift from male to female ownership of a woman’s body came a transition from it being necessary for rape to be against a woman’s will, to it merely needing to have occurred without her consent. This transition from “will” to “consent,” in turn, had the effect of de-emphasizing force as central to a finding of rape. This move can be seen in appeal court judgments before subsequent statutory codification.\(^4^5\) In the 1859 appeal case\(^5\) \textit{R. v. Fletcher}, Lord Campbell upheld a conviction of a man having intercourse with a girl “of weak intellect” (63) by making the case that it is sufficient to find that intercourse took place without the consent of the claimant, even if it did not occur against her conscious will and so did not bear the marks of force:

The question is, what is the real definition of the crime of rape, whether it is the ravishing of a woman \textit{against her will} or \textit{without her consent}. If the former is the correct definition, the crime is not in this case proved; if the latter, it is proved. \textit{Camplin’s Case} seems to me really to settle what the proper definition is; and the decision in that case rests upon the authority of an Act of Parliament. The statute of \textit{Westminster 2. c. 34.} defines the crime to be where ‘a man do ravish a woman, married, maid, or other, \textit{where she did not consent neither before nor after}’ (a). We are bound by that definition, and it was adopted in \textit{Camplin’s Case}, acted upon in \textit{Ryan’s Case}, and subsequently in a case before my Brother WILLES.

It would be monstrous to say that, if a drunken woman returning from

\(^{45}\) The Sexual Offences (Amendment) Act 1976 was the first statute in England and Wales to codify nonconsent as the essential element of rape. It defined rape as follows:

\textbf{1. Meaning of ‘rape’ etc.}

(1) For the purposes of section 1 of the Sexual Offences Act 1956 (which relates to rape) a man commits rape if—

(a) he has unlawful sexual intercourse with a woman who at the time of the intercourse does not consent to it; and
(b) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it; and references to rape in other enactments (including the following provisions of this Act) shall be construed accordingly.

(2) It is hereby declared that if at a trial for a rape offence the jury has to consider whether a man believed that a woman was consenting to sexual intercourse, the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters, in considering whether he so believed. (1976 c.81.1)
market lay down and fell asleep by the roadside, and a man, by force, had connexion with her whilst she was in a state of insensibility and incapable of giving consent, he would not be guilty of rape. (*R. v. Fletcher 71*)

By the time Thomas Hardy was writing Tess’s rape in *Tess of the D’Urbervilles* (1891) there was little ambiguity to be found in case law regarding the legality of intercourse with a sleeping woman, even if much ink has been spilt on the ambiguity of this particular representation of rape.  

At common law, then, legality turns on consent, that is whether an individual agrees to engage in any given sexual activity and not on whether that activity is considered morally or culturally acceptable in and of itself. With such an emphasis becoming more prevalent, rape is increasingly regarded as a crime against the individual, rather than as a crime against morality or society. In 1996, for example, Italy reclassified rape under “offences against personal freedom” rather than “offences against public morality” (qtd. in Fenton 183), and in a similar move, in 2004, Turkey reformed the Turkish Penal Code by removing the terms “morality,” “chastity” and “honour,” and redefined sexual violations as “crimes against the individual” from “crimes against moral customs and society” (qtd. in United Nations, *Handbook* 26).

With the individual as its focus, liberal definitions of rape pin-point the wrong of rape in the violation of sexual autonomy, which, in turn, appears to arise from and at the same time necessitate the concept of nonconsent to act as the essential element of the crime. In

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46 See for example Sarah Conly: “The question here, however, is whether he [Alec] is also a rapist” (96); H. M. Daleski: “what happens in the Chases is not, in the formulation of Ian Gregor, ‘both a seduction and a rape,’ but so ambiguously presented as to invite mutually contradictory readings” (331); Kristin Brady: “it is in the end impossible to ascertain precisely what happened during that September night on The Chase” (131). For a legal analysis of the question whether Tess was raped in the context of Victorian law see William A. Davis, Jr.

47 Italy, like other continental European nations, can be characterized as a civil rather than common law jurisdiction. Its laws and legal procedures are formed via the governing body and not case law precedent.

48 The United Nations’ *Handbook for Legislation on Violence Against Women* also notes that in Latin America Argentina, Bolivia, Brazil and Ecuador have made similar moves (26).
line with this approach to rape, in 2007 the Scottish Law Commission justified retaining a consent based definition of rape by explaining that the free choice to engage in sexual activity is an exercise of autonomy:

In trying to locate the wrongs involved in certain forms of sexual conduct the most fundamental principle is respect for a person’s sexual autonomy. Autonomy is a complex idea but in the context of legal regulation of sexual conduct it involves placing emphasis on a person freely choosing to engage in sexual activity. . . . Where a person participates in a sexual act in respect of which she has not freely chosen to be involved, that person’s autonomy has been infringed, and a wrong has been done to her. (8; Para 1.25)

Here the Scottish Law Commission describes the wrong of rape in terms that reveal the liberal underpinnings of much rape law. The concept of the subject as an autonomous agent with the right to freely give or withhold her consent to sexual acts is indispensable to rape law’s theoretical coherence in common law jurisdictions. The Supreme Court of Canada, in the landmark R. v. Ewanchuk (1999) ruling, confirmed affirmative consent was the legal standard of consent in Canada by finding that a standard of implied consent “denies women’s sexual autonomy and implies that women are in a state of constant consent to sexual activity” (335-36). Moreover, the International Criminal Tribunal for the Former Yugoslavia (ICTFY) in the Prosecutor v. Kunarac (2001) judgment focused on the principle of sexual autonomy when it reconfirmed consent as a central element of rape in international jurisprudence. Consent had formerly been excised in the International Criminal Tribunal for Rwanda (ITCR) which, in Prosecutor v. Akayesu

49 The Supreme Court of Canada asserted that the original trial judge erred in considering the complainant’s implied consent despite accepting that she was both afraid and said “no” three times, suggesting that “This error does not derive from the findings of fact but from mythical assumptions” (335). As in Canada, in South Africa there has been a move towards an affirmative consent standard; in defining consent as a voluntary and uncoerced agreement, the South African Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, according to Shereen W. Mills “emphasizes sexual autonomy rights and allows us to move towards a wider understanding of rape that incorporates a positive consent standard where only yes means yes” (86).
(1998), emphasized instead the coercive conditions under which intercourse occurred by defining rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive” (589), an emphasis that was maintained with some differences in *Prosecutor v. Furundzija* at the ICTFY in 1998. In contrast, in the *Prosecutor v. Kunarac* judgment the ICTFY returned to nonconsent as the essential element of rape:

In the view of the present Trial Chamber, the legal systems there surveyed, looked at as a whole, indicated that the basic underlying *principle* common to them was that sexual penetration will constitute rape if it is not truly voluntary or consensual on the part of the victim. The matters identified in the *Furundzija* definition—force, threat of force or coercion—are certainly the relevant considerations in many legal systems but the full range of provisions referred to in that judgement suggest that the true common denominator which unifies the various systems may be a wider or more basic principle of penalising violations of sexual *autonomy*. (148)

While not synonymous, nonconsent (the “basic underlying *principle* common” to legal systems across the world) and sexual autonomy (the “true common denominator which unifies the various systems”) are so bound together that one term presupposes the other.

The centrality of nonconsent at common law necessitates definitions of rape that employ the concept of sexual autonomy to justify the law’s criminalization of nonconsensual sexual conduct. In turn, the law predicates a subject who deploys her sexual autonomy through the act of giving or withholding her consent, producing and depending on the construction of this subject as the quintessential liberal individual. In this way rape law appears to posit no difference between the (mostly female) rape victim and the rational, self-determining (male) individual as outlined by liberal theories of the state. In England, this liberal individual of political theory emerged in response to the political upheavals of the seventeenth century, including the execution of King Charles I in 1649, when belief in the monarch’s divine right to rule was destabilized and new theories of legitimate
government needed.\(^{50}\) Traditionally consent was thought to be “a result rather than a cause of legitimate government” (Drakopoulou 19), for the King’s divine authority produced the consent of his subjects; in contrast, political theorists and philosophers after the Civil War turned to the concept of consent to locate the authority of the sovereign. From this follows the consensual nature of the social contract, which regulates relations between equal individuals, generates a person’s sense of right and wrong, and creates the possibility of contracts and economic exchange. Consent, then, is not just a private act, but also an indispensable concept belonging to and founding of the social order. At this time, a person’s consent stopped being considered evidence of a pure or corrupt soul (a person either submitted to God’s will or resisted it), and began to be thought of as an essential quality of subjecthood as such (Drakopoulou).

The subject assumed by both political and legal theory not only rests on the idea of a stable self-identity, but also a concept of political consent that founds the individual as a free and autonomous agent in both a political and legal sense. And yet, while juridical discourse in rape law assumes the female victim of rape is the same subject of action as the liberal individual of political discourse, female political subjectivity is not only precarious in practice, a woman’s political precariousness is often legislated into law. Certainly in the eighteenth century, but also as I write, it is doubtful whether many women are held to be the same “separate, self-contained, self-interested, rational individuals, each with his or her own cluster of interests and rights” (Keith Burgess-Jackson 446) capable of making free and rational choices as men in most of the jurisdictions around the world.

As Carol Pateman argues in “Women and Consent,” just as the claim that civil society is founded by consent “avoids the question of who consents, and therefore glosses over the ambiguity inherent in consent theory from its beginnings, about which individuals or groups are capable of consenting and so count as full members of the political order”

\(^{50}\) For further analysis of the development of theories of political consent and their relationship to rape at this transformative time, see Anél Boshoff.
the idea that rape is distinguishable from normal sex by nonconsent avoids the questions of whose consent the law regards as valid and whose nonconsent the law is able to recognize. Like liberal theories of the state, rape law can be criticized for constructing an illusory subject whose freedom is essentially a fiction. Because it is common for women to barely count as full members of the political order to begin with, rape law, in fact, deploys a double fiction: that of the female liberal individual. As Chaplin writes, “female legal subjectivity that existed only as a sort of fiction” represents “an impurity lodged within the heart of an emerging eighteenth century liberal legal discourse” (34).

The consent posited by liberal theory is, likewise, largely imagined. Because the consent that inaugurates the subject into the social contract can be categorized as tacit, the autonomy that consent theory posits as central to the subject’s being masks the coercion at the heart of the theory. Pateman points out that “Consent as ideology cannot be distinguished from habitual acquiescence, assent, silent dissent, submission, or even enforced submission. Unless refusal of consent or withdrawal of consent are real possibilities, we can no longer speak of ‘consent’ in any genuine sense” (150). Similarly, rape law traditionally constructs consent such that it also cannot distinguish between a free agreement to consent and tacit consent assumed from “habitual acquiescence, assent, silent dissent, submission, or even enforced submission” (150).

With regard to sex, common law has traditionally normalized heterosexual intercourse in gender-paradigmatic terms (non-heterosexual acts and relationships go largely unimagined) that inscribe female passivity and consent as default states. Therefore, while common law’s conceptualization of subjects as autonomous actors is predicated on an imaginary equality of those engaging in sexual acts, it has historically inscribed unequal gender roles that imagine only limited female agency. With the man imagined to be the initiator of sexual activity and the woman the sexual gatekeeper, accepting or declining his instigation, nonconsent is a gendered act within a legal construct that normalizes asymmetrical sexual relations. As Catherine MacKinnon writes, “when the law of rape

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51 For more a detailed analysis of this aspect of common law’s conceptualization of subjecthood see Rosemary Hunter, “Consent in Violent Relationships” 158-59.
finds consent to sex, it does not look to see if the parties were social equals in any sense, nor does it require mutuality or positive choice in sex, far less simultaneity of desire” (*Women’s Lives* 243). For MacKinnon, because of the unequal relations of power in heterosexual relationships, the law of rape fails since it does not understand that “consent is a communication under conditions of inequality” (“Rape: On Coercion and Consent” 52).

Du Toit, in her analysis of the South African definition of rape, exposes how common law definitions in general construct women as “consenting subjects” (“The Conditions of Consent”). It does so in two ways. First, the law defines a woman’s role in sexual relations as the passive recipient of sexual actions that are done to her: “If heterosexual intercourse is something men do, then the other side of the coin is that sex is something that women naturally, or normally, undergo, passively experience, and consent to” (“The Conditions of Consent” 61). As Lucy Irigaray suggests, this structuring of feminine passivity holds even when women actively seek the encounter: “Woman is nothing but the receptacle that passively receives his product, even if . . . she has pleaded, facilitated, even demanded that it be placed within her” (18). Second, according to Du Toit, a woman’s consent to sex is prima facie assumed: her agreement to engage in sexual activity is not required for her to be deemed consenting, and thus, “Rape law . . . both presupposes and naturalises women’s consent to sex—‘consent’ is the manner in which women ‘engage in’ sex, ‘have’ sex, and have a sex” (“The Conditions of Consent” 61). Common law’s construction of female consent as largely passive in heterosexual encounters results in an expectation of action only in response to an unwanted sexual act: silence, unresponsiveness and submission are encoded as consensual states. In general, it is not necessary for a man to inquire whether his advances are welcome before proceeding; rather he has an obligation to stop only if the woman’s resistance, in words and in actions, is genuine. As a result, Du Toit argues, the role of consent in rape law “presupposes what it undermines, namely women’s full-blown sexual agency, which means that rape law contains a performative paradox or contradiction, which works to the detriment of women” (“The Conditions of Consent” 59). For Du Toit, this paradox has to do with the law’s construction of women as always already consenting. If this is true then consent is neither an action nor a state of mind, but the condition of being gendered
female. And if consent is the condition of being gendered female, then whether a woman is judged to have given or withheld consent is based on something that has little to do with the exercise of her individual autonomy.

In his analysis of eighteenth century rape trials in England, John P. Zomchick writes that “Just as a person who is born in a liberal state gives his tacit consent to the laws of that state, so too the woman is assumed to be giving her tacit consent to the laws of female nature, laws that are as determining and restrictive as those other natural laws upon which the social contract is based” ("A Penetration” 545). In particular, the suspicion that women possess a secret desire to be forced has been used to deny women the power to refuse intercourse. Resistance has often been regarded as only play acting that conceals desire, as Ovid implies in The Art of Love: “She whom a sudden assault has taken by storm is pleased, and counts the audacity as a compliment. But she who, when she might have been compelled, departs untouched, though her looks feign joy, will yet be sad” (59). As Cynthia E. Garrett notes, “By asserting that women enjoy such force, Ovid transforms rape into consensual sex” (40) for the Latin phrase “subita uiolata rapina,” translated here as ‘sudden assault,’ “makes clear that the rape he refers to is forced sex, not abduction, a confusion in Latin that carries over into early modern English” (40). When female desire, located in the body, is always assumed to accompany male force no matter the signs to the contrary, then the conditions that would enable a finding of genuine nonconsent cannot be met.

52 Supreme Court of Canada in R. v. Ewanchuk (1999) asserted that consent as a state of mind and as an action constitute the actus rea and mens rea of sexual assault: “There is a difference in the concept of ‘consent’ as it relates to the state of mind of the complainant vis-à-vis the actus reus of the offence and the state of mind of the accused in respect of the mens rea. For the purposes of the actus reus ‘consent’ means that the complainant in her mind wanted the sexual touching to take place. In the context of mens rea—specifically for the purposes of the honest but mistaken belief in consent—‘consent’ means that the complainant had affirmatively communicated by words or conduct her agreement to engage in sexual activity with the accused. The two parts of the analysis must be kept separate” (333-34). See also the discussion in Legal Theory 2.2 and 2.3 (1996).
2.2. Doctrinal Skepticism

This myth of the (often unconsciously) desiring woman is at play not only in ancient cultural representations, but also in more contemporary legal discourse. In J. L’Heureux-Dubé’s dissent in *R. v. Seaboyer* (1991), a ruling in which the Supreme Court of Canada struck down Canada’s rape-shield provisions, L’Heureux-Dubé argues that prosecutors, police, judges and jurors turn to rape-myths in the performance of their duties, citing as an example judge Frank Allen, of the Manitoba Provincial Court, who in 1984 is reported to have expressed sentiments similar to Ovid’s by appealing to what he saw as the common sense position that “Unless you have no worldly experience at all, you’ll agree that women occasionally resist at first but later give in to either persuasion or their own instincts” (qtd. in *R. v. Seaboyer* 104). In 1952 the *Yale Law Journal* famously posited women may, in fact, be unaware of their unconscious desire to be forced to engage in sexual intercourse. “Forcible and Statutory Rape: An Exploration of the Operation and Objectives of the Consent Standard” concludes that a finding of rape in such circumstances would be unfair to the man, because the mental state of the woman would be better described as ambivalence rather than nonconsensual:

> To illustrate: a woman whose sexual desire and superego are in conflict may alternate rapidly between ‘approach’ and ‘rejection’ responses to the man, first scratching and pushing him, at the next moment soliciting his caress. In other women, the anxiety resulting from this conflict of needs may cause her to flee from the situation of discomfort, either physically by running away, or symbolically by retreating to such infantile behavior as crying. The scratches, flight, and crying constitute admissible and compelling evidence of non-consent. But the conclusion of rape in this situation may be inconsistent with the meaning of the consent standard and unjust to the man. There is no explicit provision in the law for the woman’s attitude of ambivalence. (67-68)

What is striking about this analysis is not just that a finding of rape is impossible because women may unconsciously desire force, but also the assumption that a hidden ambivalent
desire that may even be unknown to the woman herself has any relevance whatsoever to the question of consent. Though it is impossible to fully know one’s own mind, this is nothing less than a misuse of psychoanalytic theory to justify a patriarchal position that rationalizes and perpetuates the sexual abuse of women. This specter of an indecisive woman unsure of or oblivious to her own mind haunts legal discourses about rape and about false accusations of rape.

The writer of the above paragraph reveals a concern that a consent based definition of rape may criminalize too broad an array of acts, and so be unfair to a man accused of rape. This speaks to a wider anxiety that the emphasis on nonconsent in rape law de-emphasizes or excludes violence as a required aspect of the crime, and as a result, may criminalize normal male behaviour. This anxiety can be seen in the backlash to the rape-crisis discourse in the United States in the 1990s, a backlash that saw rape as the misnomer given to an embarrassing and regrettable encounter in the cold light of dawn. It is exactly this understanding that Katie Roiphe communicates with her title The Morning After: Sex, Fear and Feminism, a best seller polemic, in which Roiphe reconfigures nonconsensual sexual intercourse as “normal” if unpleasant consensual sex:

Regret can signify rape. A night that was a blur, a night you wish hadn’t happened, can be rape. Since verbal coercion and manipulation are ambiguous, it’s easy to decide afterward that he manipulated you. You can realize it years later. . . . ‘Rape’ becomes a catchall expression, a word used to define everything that is unpleasant and disturbing about relations between the sexes. (80)

During the 2012 United States presidential election, Republican nominee for the Senate Todd Akins commented that women’s bodies can prevent pregnancy if they have suffered

53 A similar concern is expressed by Meredith J. Duncan.

54 For an analysis of how this anxiety about stigmatizing normal male behaviour plays out in response to expansive definitions of rape in radical feminist thought, see Burgess-Jackson 427-30.
“legitimate rape” (Moore), signaling not just anxiety about women’s bodies and a desire to control them, but also disquiet about an overly expansive definition of rape. Akins’s differentiation of “legitimate rape” from other presumably less legitimate forms articulated the intent of other phrases such as “forcible rape”\(^{55}\) to restrict the referential material of the word. Such an anxiety is not isolated to men, as demonstrated by Whoopi Goldberg with her concern that because Roman Polanski was convicted of unlawful sexual intercourse with a thirteen-year-old girl it was important to make clear he had not committed “rape rape”\(^{56}\) (The View).\(^{56}\) Goldberg’s comment partly reflects the law’s power to shape perceptions by renaming acts that would otherwise be understood to be rape (e.g. in Polanski’s case a plea bargain renames statutory rape as unlawful intercourse with a minor), but the redundancy of her phrase, its tautological excess, suggest an uneasiness with the term rape itself, a worry that it may not exclude enough. Asserting “rape is rape,” the conventional response to such discourse,\(^{57}\) neither helps to provide a clear definition, nor alleviates the concerns of those who think that the term is so unspecific that it requires a qualifier. Indeed, what links Goldberg’s “rape rape” with the response “rape is rape” is not merely tautology, but that the tautology gets us no closer to understanding what rape is. It is a way of providing a politically correct response without actually having to deal with the anxieties of those who are concerned about the term’s referential content.

These concerns—that a consent based definition of rape may lead to the wrongful prosecution and conviction of innocent men for normal heterosexual behavior or because of malicious accusations—are reflected in legal proceedings at every level. Indeed, as

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\(^{55}\) In 2001 No Taxpayer Funding for Abortion Act was introduced in the United States in the House of Representatives. This act included a rape exception for “if the pregnancy occurred because the pregnant female was the subject of an act of forcible rape or if a minor, an act of incest” (U.S. Cong. House. No Taxpayer Funding for Abortion Act).

\(^{56}\) Roman Polanski was facing deportation from Switzerland to the United States to answer the charges for which he had been convicted, but then fled the country.

\(^{57}\) In 2012 President Obama responded to Todd Akin’s comments by asserting that “Rape is rape” (The Tonight Show).
Clare McGlynn and Vanessa E. Munro suggest, “Common-law legacies have bestowed a level of doctrinal and/or operational scepticism in relation to rape” (1). Even as politicians and case law have expanded rape law’s reach in response to changing social and political norms, as well as in response to the well documented difficulty individuals who experience rape have in achieving successful legal redress, other legal actors counterbalance such changes in the belief that innocent men must be protected from unfounded, false or malicious accusations of rape. This counterbalancing can be observed in the actions of law enforcement who routinely “no-crime” reports of rape and the words of trial judges who provide the jury with the additional warning that they should be wary of the uncorroborated testimony of a rape claimant.\(^{58}\) One of the most influential manifestations of the belief that women lie about rape was written by the seventeenth century judge and lawyer Sir Matthew Hale in *The History of the Pleas to the Crown* published posthumously in 1736. His famous warning that rape “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” (634) was routinely adopted by trial judges in their closing remarks to juries in common law jurisdictions until well into the twentieth century.\(^{59}\) Such cautionary instructions, along with corroboration requirements, explicitly cast doubt upon the testimony of a claimant in a rape trial. Hale’s reach can be seen from the presence of corroboration rules and cautionary warnings in instructions to the jury in jurisdictions as disparate as New Zealand, Palestine, Canada, Namibia, Guyana and South Africa to name a few.\(^{60}\) In 1872 in New Zealand a judge commenting on two

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\(^{58}\) See Kelly, Lovett, and Regan. For an analysis of this phenomena in France, as well as England and Wales, see Nicole Fayard and Yvette Rocheron. In Canada the practice of “no-criming” is known as “unfounding,” see Teresa Du Bois 191-209, Crew 211-42.

\(^{59}\) See Elizabeth Kolsky 111.

\(^{60}\) Canada removed the cautionary warning in 1976 (Macfarlane 72). The corroboration requirement was also abolished in Guyana in 2010 by the Sexual Offences Act 2010 (69), in New Zealand by the Evidence Amendment Act (No.2) 1985 (23AB) and in Namibia by the Supreme Court in *S. v. Katamba*, which argued that such warnings “may adversely infringe the fundamental rights of victims . . . which include a fair trial also in regard to such victims’ rights and interests” (26), and in South Africa by the Supreme Court in *State v. Jackson* (1998), which found that the corroboration requirement was “based on an irrational and out-dated perception. It unjustly stereotypes complainants in sexual assault cases (overwhelmingly
cases of rape instructed the jury in the following way:

Still the cases are of a kind which require more caution and circumspection than almost any others, it being common experience, from old times down to the present, that there are no charges so easy to invent and none more difficult to refute. You will therefore take care to see that the testimony given by the women in either case is not manifestly inconsistent with itself and entirely untrustworthy; and if you find, as you probably will in both cases, evidence that the women made immediate complaint, or bore marks of violence and suffering, those circumstances will go far towards supporting the charges. (qtd. in Erai 192-93).

While over time the cautionary warnings and corroboration requirements stemming from Hale’s assumptions have been phased out, these statements are not a thing of the past in some jurisdictions; for example, in Nigeria, as of 2010, cautionary statements to the effect that a conviction based upon the uncorroborated evidence of the claimant is unsafe, while not required by law, are still given in practice by the judiciary (Imasogie 14).

As Elizabeth Kolsky explains, “Hale’s definition showed a new concern for the male defendant and a prejudicial attitude towards his female accuser who was framed as a non-credible witness whose behaviour, character and body had to be scrutinised to corroborate her claim” (111). This skepticism towards the claimant placed her on trial alongside the defendant, “charged with the presumption of consent” (Kolsky 111). For a colonized woman in the British empire patriarchal assumptions about women in English law intersected with discrimination based on race and class to the effect that a claimant not only had to overcome a presumption that women in general may lie about rape, but that, in addition to being sexually lascivious, native women are particularly untrustworthy witnesses. Kolsky’s analysis of the treatment of rape in colonial India, for example, reveals that medical testimony in rape cases was regarded as particularly important

women) as particularly unreliable” (18). For the use of the corroboration rule in Mandate Palestine see Darr 187.
because an Indian claimant was seen to be a “doubly suspect suspect” (116). Without physical corroboration, an Indian woman’s testimony held little weight. Yet even medical evidence of physical injuries was not enough to overcome the prejudices against some female Indian claimants. In *Emperor v. Prabchtsang* (1907) the court, in acquitting the defendants, found that nonconsent had not be proven in this case brought by a low-caste woman, because the physical injuries she suffered could easily be explained as the effects of the kind of vigorous intercourse such a woman was likely to have:

> . . . I am compelled to think that with people of this low class, such slight injuries are explainable other than by violence. Once more the scratches on the back are easily accounted for by the fact that such persons would not be careful to prepare any fitting site for their debauchery. A slight unevenness on the ground would suffice to cause such injuries, and a tear on the petticoat amounts to virtually nothing at all in the case of a poor Koli woman. (qtd. in Kolsky 117)

Where discrimination based upon a woman’s class intersected with discrimination based on her race and sex, justice was particularly difficult to achieve.

Kolsky’s analysis reveals how texts such as Jaising Modi’s *Medical Jurisprudence and Toxicology* (1920), a text that maintains its central importance in Indian jurisprudence (Kolsky 114), established different expectations of resistance for different classes of Indian women: “a woman belonging to a labouring class who is accustomed to hard and rough work will be able to offer a good deal of resistance . . . a woman belonging to a middle or rich class of an educated family . . . will not be able to resist for long and will soon faint or will be rendered powerless from fright or exhaustion” (qtd. in Kolsky 117-18).  

However, even for “a woman belonging to a middle or rich class of an educated family” submission, especially submission prior to serious injury, ambiguates her

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61 For similar attitudes regarding the capacity of strong adult woman to fend off an attempt of rape if she is fully committed to resist in nineteenth- and early twentieth-century American medical jurisprudence, see Stephen Robertson.
nonconsent, as throughout common law jurisdictions consent is often defined narrowly as anything less that continuous resistance. This view was established in English case law by *R. v. Hallett* (1841):

> If . . . the jury are satisfied that non resistance on the part of the prosecutrix proceeded merely from her being overpowered by actual force, from her not being able, from want of strength, to resist any longer, or that from the number of persons attacking her, she considered resistance dangerous and absolutely useless, the jury ought to convict the prisoner of the capital charge; but if they think from the whole of the circumstances that although when the prosecutrix was first laid hold of, it was against her will, yet she did not resist afterwards, because she in some degree consented to what was afterwards done to her, they ought to acquit the prisoner of the capital charge, and convict then of assault only. (1549)

The court’s discussion of the victim’s resistance in *R. v. Hallett* is striking for its minimal approach to consent: it was open to doubt whether a victim of violence stops her resistance “from want of strength” or from “some degree of consent.”

To overcome a presumption of consent and desire for forced intercourse, even in jurisdictions where force is not an essential element of rape, successful prosecutions often require evidence of strong and continuous resistance on the part of the woman to signal that the intercourse was against her will and that force was used to overcome her. At trial there is often recourse to what has the appearance of objective evidence: physical evidence that penetration occurred and other injuries the victim sustained during the attack. Thus, even as nonconsent began to take a more central place at the theoretical heart of rape law, at a practical level, evidence of force never truly lost its import. More recently Emily Finch and Vanessa E. Munro in “Breaking Boundaries?” recorded that in the deliberations of mock jurists minimal approaches to consent are still in operation despite the 2003 changes to rape law in England and Wales, which defined consent for the first time as “a person consents if he agrees by choice, and has the freedom and
capacity to make that choice” (Sexual Offences Act 2003 sec. 74). For example:

. . . there were some participants who insisted that, even in the case of a heavily intoxicated complainant, they would expect to find some evidence of struggle to establish non-consent. As one juror put it, ‘a woman’s got to cooperate with a man to be able to do it, to have intercourse, unless he thumps her or what, and he didn’t—there was no bruising on her body anywhere. I would say she was probably drunk but at the same time she more or less consented’ (Jury I). (Finch and Munro 316)

Resistance standards, which existed as evidentiary rules in the United States until the 1970s, were designed to disambiguate forced submission (rape) from voluntary submission (not rape). They often required that women resist rape to the utmost. To cease to resist even in the face of extreme violence could be read as signaling consent. It is explained in Reynolds v. State (1889) that

Voluntary submission by the woman, while she has power to resist, no matter how reluctantly yielded, removes from the act an essential element of the crime of rape if the carnal knowledge was with the consent of the woman, no matter how tardily given, or how much force had theretofore been employed, it is not rape. (qtd. in Samaha 364)

As late as 1966 it was being argued by Roger B. Dworkin in the *Stanford Law Review* that a resistance standard yielded the most objective means for determining whether a rape had taken place. In contrast, a focus upon nonconsent, without requiring evidence of resistance, “makes no provision for moralistic denial of willingness, for ambivalence, or for unconscious complicity” (682). Dworkin informs his reader that “Focusing on resistance (active conduct) permits formulation of an objective standard and goes far toward removing conjecture, uncertainty, and the woman’s often distorted opinion from

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62 Catherine Elliott and Claire De Than criticize this definition, suggesting that the “statutory definition places an emphasis on personal autonomy, but the use of ambiguous concepts of freedom and choice leaves the definition extremely vague” (238).
the law of forcible rape” (684-85).

This throwaway comment about a woman’s distorted view of what she has first-hand experience of is indicative of the ways in which women’s voices in juridical discourse are regularly devalued and ignored. In the context of a judicial system that is largely skeptical of rape claimants, merely appearing before the court to make a claim of rape is often considered shameful and perhaps enough to bring suspicion on the woman who does so. This skepticism has a long history. Historically “Judges and juries defined a woman’s consent by her character, not by her own desire or discourse” (Clark 10), denying her the ability to determine consent and nonconsent for herself through her words and actions. As the influential eighteenth century judge and jurist Sir William Blackstone writes,

. . . if she be of evil fame, and stand unsupported by others; if she concealed the injury for any considerable time after she had opportunity to complain; if the place, where the fact was alleged to be committed, was where it was possible she might have been heard, and she made no outcry: these and the like circumstances carry a strong, but not conclusive, presumption that her testimony is false or feigned. (5: 213-14)

In eighteenth-century England, a trial compelled a woman to forego norms of modesty and decorum; to speak in ways about subjects that a woman of good character should not speak; to engage in “a discourse to which they should remain alien” as Thomas O. Beebee puts it (173). Likewise, Simon Dickie writes in his analysis of Henry Fielding’s rape jokes in *Rape Upon Rape* (1730) there was a perception that “no modest woman would actually prosecute someone for rape” (581). The historian Anna Clark blames the low conviction rate on this very perception, arguing that “the violated woman had lost her credibility as a prosecutrix along with her chastity…. juries hesitated to hang a man for rape on the testimony of a woman who admitted publicly that she was unchaste and therefore unworthy” (47). Even evidence of extreme violence and continued resistance could be dismissed if the woman’s character could be shown to less than impeccable.

Today it might seem much less likely for moral character to be explicitly used to
undermine a claimant. Various jurisdictions, most notably in the United States, have enacted rape shield laws that prevent evidence of a claimant’s sexual history from being admissible in court. However, there remains a “promiscuity prohibition” (M. J. Anderson 7), for exceptions to rape shield laws routinely allow prior sexual history of certain women—“women previously intimate with the defendant, women who frequented bars to attract new sexual partners, prostitutes, or other women deemed similarly promiscuous” (7)—to be presented in court, often rendering the rape shield law ineffective. Ruthy Lazar’s analysis of the opinions of defense lawyers in Canada suggests not only that defense lawyers subscribe to the view that the context of a past relationship with the accused is inherently and logically relevant, they use the “sexual ‘patterns’ in the relationship to help determine consent” (341). One defense lawyer interviewed by Lazar states that

It will be important to know that, for example every time they had sex she always said ‘no please stop,’ it will be important to know that when they had consensual sex they had role plays for example, it will be important to know all these intimate details, in order to evaluate as a defense counsel your client’s exposure to the allegations and also whether or not you are going to object to the non indicted facts—the narrative. (341)

Victims of sexual violence are divided between those who exemplify cultural ideals of female decorum and chastity—and so, are deserving of the sexual privacy afforded by rape shield provisions—and those who do not.

2.3. To Be a “Subject Before the Law”

Anél Boshoff writes that “To be a ‘subject before the law,’ to be a participant in the legal debate and to freely give or withhold legal consent, we must be seen as subjects in this politico-legal sense of the word” (42). Here she exposes a tautological loop: to be a subject in the politico-legal sense of the word is to be deemed capable of freely giving and withholding consent, and at the same time, to be able to freely give or withhold
consent is to be deemed a subject in the politico-legal sense of the word. Outside of this circle are those whose legal and political status is circumscribed, partial, paradoxical, and evacuated of meaning, and thus, whose access to juridical power is curtailed. While women in general have held a borderline position in relation to juridical power, the law has a history of making explicit exclusions to the detriment of other marginalized groups. On the one hand, some restrictions in rape law that limit the full legal recognition as autonomous subjects of certain groups by denying them the capacity to give valid consent appear uncontroversial, at least in principle. It is generally accepted that there is a need to regulate the age at which a child is able to legally consent to sex, even if the exact age at which a child becomes capable of valid consent is open to debate. Statutory age laws circumvent many of the problems encountered at trial where conflicting narratives of actions and psychological states compete; even if a child under the age of consent experiences the affective state of consent and acts in a way that indicates his or her consent explicitly, legally speaking that consent is deemed invalid and has no force (Ferguson 94).

On the other hand, other exclusions such as marital rape exceptions are now often deemed objectionable, at least in the West. Marital rape exceptions invert the logic of statutory rape as through such exceptions a married woman’s “no” is taken to always signify a “yes” whereas in statutory rape a child’s “yes” must always be taken to signify a “no” (Ferguson 96). Traditionally at common law, under the logic of the marriage contract, nonconsent to intercourse with one’s husband was impossible, because consent is already established by the contractual relationship between husband and wife. This thinking behind the marital rape exception was articulated by Hale in The Pleas of the Crown, in which he writes “But the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract” (628). Following this statement, it was several centuries before an attempt was made to

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63 For further discussion of this point, see Butler “Sexual Consent” 15-16.
prosecute marital rape in England (Macfarlane 31). It is not a criminal offence today for a husband to force his wife to have intercourse with him in large parts of Africa, the Middle East, and Asia. In particular, where rape is characterized as a form of adultery the protections of rape law are unavailable to wives if they refuse their consent to intercourse with their husbands. There has been criticism of the Hudood Ordinance of 1977, which aimed at aligning the laws of Pakistan with Islamic law, as the new law classified rape (zina-bil-jabr ‘unlawful intercourse by force’) under the category of zina (unlawful intercourse), which has made it extremely difficult for marital rape to be recognized as a crime, because zina is defined as intercourse outside of marriage. Moreover, an unsuccessful claim could lead to the prosecution of a rape victim for adultery (zina) if the victim failed to produce the prohibitively high burden of four male witnesses to the act of penetration. The Protection of Women (Criminal Laws Amendment) Act, 2006, altered this situation by enabling the prosecution of rape in criminal rather than Islamic court, reducing the burden of proof, and preventing the prosecution of women for zina if a woman’s claim to have been raped went unproven; nonetheless, it did not make rape by a husband of his wife illegal. However, it is important to recognize that marital rape was not illegal in Pakistan under the law’s colonial predecessor. In fact, despite the ostensible purpose of the Hudood Ordinance to bring rape, among other crimes, in line with Islamic jurisprudence, the definition of rape retained its common law legacy down to the very language of consent.

64 See Rahat Imran.
65 See Asifa Quraishi.
66 In 2010 the Federal Shariat Court asserted its jurisdiction over matters relating to zina including rape, declaring four sections of the Protection of Women (Criminal Laws Amendment) Act, 2006 to be unconstitutional (Canada, Research Directorate).
67 See Quraishi. In the Hudood Ordinance rape, zina-bil-jabr, was defined as:
A person is said to commit zina-bil-jabr if he or she has sexual intercourse with a woman or man, as the case may be, to whom he or she is not validly married, in any of the following circumstances, namely:–
(a) against the will of the victim,
(b) without the consent of the victim,
(c) with the consent of the victim, when the consent has been obtained by putting the victim in fear of death or of hurt, or
Protections for wives is a relatively recent development in common law jurisdictions. Since 1983 there has been no marital rape exception in Canada, while England and Wales removed the exclusion in 1991, and South Carolina became the last state in the United States to do the same in 1993, though it remains a lesser offence. Common law jurisdictions struggled to legally guarantee wives’ sexual autonomy until the twentieth century because the system of coverture meant that a wife’s status as a subject was undermined by the understanding that her legal person was subsumed in marriage by her husband. As Blackstone explained,

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs everything; and is

(d) with the consent of the victim, when the offender knows that the offender is not validly married to the victim and that the consent is given because the victim believes that the offender is another person to whom the victim is or believes herself or himself to be validly married.

Explanation.–Penetration is sufficient to constitute the sexual intercourse necessary to the offence of ‘zina-bil-jabr.’

Zina-bil-jabr is zina-bil-jabr liable to hadd if it is committed in the circumstances specified [above]. (Zina Ordinance section 6; P.L.D. 1979 Cent. Statutes at 52; qtd. in Quraishi 289, 303).

The common law statute in Pakistan in the 1860 Penal Code repealed by the above statute defined rape as: A man is said to commit ‘rape’ who, except in the cases hereafter excepted, has sexual intercourse with a woman under circumstances falling under any of the following descriptions:–

First.—Against her will.
Secondly.—Without her consent.
Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.
Fourthly.—With her consent when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
Fifthly.—With or without her consent, when she is under [fourteen] years of age.
Explanation.–Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.–Sexual intercourse by a man with his own wife, the wife not being under [thirteen] years of age is not rape. (Pak. Penal Code section 375 (1860) (repealed 1979); qtd. in Quraishi 302-303).

In Canada Bill C-127 was passed on Aug 4, 1982, but only went into effect on 4 Jan 1983. In England and Wales, the House of Lords judgment in R. v. R. (1991) abolished the exception in rape law. For the law regarding marital rape in South Carolina see section 16-3-615 “Spousal Sexual Battery” of the South Carolina Code of Laws. Earlier provisions in New Zealand and Australia provided some protections to wives if there was serious injury involved or if the spouses were separated (Macfarlane 38).
therefore called in our law-french a *feme-covert*. . . and her condition
during her marriage is called her *coverture*. . . For this reason, a man
cannot grant any thing to his wife, or enter into covenant with her: for the
grant would be to suppose her separate existence; and to covenant with her
would be only to covenant with himself. (2: 441-42)

Coverture only weakened through the nineteenth and twentieth centuries. By
1966, in the United States, the Supreme Court expressed its opinion that such
laws were out of date (*United States v. Yazell*).

The legal discourse of coverture found its philosophical counterpart in the patriarchal
aspects of liberal ideology, which often equated the consent of women to the marriage
contract with the submission required to enter the civil contract, but with one significant
difference: as Julia Rudolph points out, “Within this marriage contract, male authority, of
husband and then father, was seen to exist naturally before civil authority” (170). The
seventeenth century liberal theorist John Locke in *The Two Treatise of Government*
posed that women’s submission to men precedes the social contract, and thus,
positioned women’s subordination as a natural state that exists before any civil regulation
of the sexes (bk. 1: 42-43; par. 47-48; and bk. 2: 210-11; par. 82). This places women in
a paradoxical situation, as their consent to their subordination, deemed essential in the
state of nature, presupposes their entrance into the social contract and so destabilizes any
presumption of their inherent freedom. As a consequence, “Woman is both free and
unfree: she is envisioned consenting to marriage, but her choice is constrained and her
subordination necessary; she is capable of entering into a marriage contract, yet she is
unable to join the social contract” (Rudolph 170). This necessarily curtails a woman’s
liberal subjectivity for, as Pateman suggests, “if a wife’s subjection to her husband has a
‘natural’ foundation, she *cannot* also be seen as a ‘naturally’ free and equal individual”
(“Women and Consent” 152). As a consequence of her supposedly natural subordination,
a woman’s liberal subjecthood is highly precarious at best, and her capacity to give or
withhold consent rendered doubtful by liberal theory.

While Du Toit is correct to suggest that the current “intense focus in rape law on the
woman victim’s state of mind correlates with the modern turn in the understanding of rape, namely when the ownership of the female sexual body property shifted from the male owner to the woman herself” (A Philosophical Investigation of Rape 36), it can also be argued that the intense focus upon the will is facilitated through the changes in Europe and elsewhere to the regulation of marriage, property, and divorce that increased the potential for women to become property-owning individuals. Indeed, the question of Clarissa’s consent arises with such intensity, partly because she holds the position of heiress after her grandfather bequeaths his estate to her. It is this act that affects Clarissa’s “reconstitution as a juridical subject” (Zomchick, Family and the Law 58) and thus, “As both woman and abstract juridical subject, Clarissa is torn between two versions of individualism, unable to occupy either fully . . . Clarissa is caught between the contract’s enabling powers and her gender’s real liabilities” (60).

This point brings into sharp relief the plight of the slave who bears no legal right to either property or the possession of the body. The forms of relative privilege some women were, and continue to be, afforded is unavailable to female slaves under systems of enslavement. In the eighteenth century, a white middle- or upper-class European woman like Clarissa could claim the law as her ally at least in the abstract; in contrast, the slave woman’s limited legal designation as a person and status as property denied her the power to refuse intercourse and seek legal redress when that refusal was ignored. In the antebellum United States the judicial system was only able to recognize a slave’s subject status as it reflected her criminality. The law could not recognize a slave as a victim of violence, particularly not as a victim of sexual violence. Resistance to intercourse conflicted with the law’s protection of the slave master’s right to maintain absolute power over what was legally designated his chattel. Saidiya V. Hartman argues that the horror represented by this position of the law was then disavowed by recourse to stereotypes

69 For the importance of property ownership in England with regard to marital rape exceptions, see Chaplin 36-37; for the relative importance of property and divorce with regard to marital rape exceptions in the United States, see Jill Elaine Hasday.

70 See Saidiya V. Hartman.
about black lasciviousness: “Lasciviousness made unnecessary the protection of rape law, for insatiate black desire presupposed that all sexual intercourse was welcomed, if not pursued” (544). As a result, the law positioned slave women as “both will-less and always already willing” (539) and so structured slaves’ consent to sex in such a way as to deny slaves the possibility of nonconsent. A slave’s consent was completely immaterial and at the same time presumed to exist as her state of being.

2.4. Surrounding Circumstances: Excising Consent from the Definition of Rape

To say the least, the law can be extremely limited in its understanding of both consent and the subject who consents, marginalizing some women from the position of the subject and paradoxically curtailing their capacity to give or withhold valid consent by designating them as always already consenting. As Rosemary Hunter argues,

[Liberal legal philosophy] provides little middle ground between the absolutes of powerlessness and self-determination. Victims of violence either have sufficient agency to consent, or they do not and therefore cannot consent. Consent itself appears to be indivisible. Individuals are classified according to their capacity to consent, rather than instances of (apparent) consent being classified according to their surrounding circumstances. (“Consent in Violent Relationships” 159)

Such surrounding circumstances includes the social constructions, systemic inequality, and coercive conditions that circumscribe the choices of the supposedly free individual. With its focus upon the individual’s nonconsent, rape law is largely blind to these structural and social ways in which subordination is produced and how truly free consent becomes impossible for some people.

Is nonconsent’s role in rape law so problematic that a replacement should be sought? By turning to a consideration of coercive conditions as the essential element of rape, rather
than nonconsent, perhaps the fictions of the autonomous self can be replaced by something more concrete and closer to the actual experience of people who endure sexual violation. Advocates of such a change in rape law suggest that a definition of rape based on coercive circumstances would reframe the question at trial away from the claimant’s subjective mental state to the objective conditions under which intercourse occurred. Describing the difference between consent-based and coercive-based definitions of rape, MacKinnon argues as follows:

Consent definitions accordingly have proof of rape turn on victim and perpetrator mental state: who wanted what, who knew what when. This crime basically occurs in individual psychic space. Coercion definitions by distinction turn on proof of physical acts, surrounding context, or exploitation of relative position: who did what to whom and sometimes why. This crime basically takes place on the material plane. Accordingly, while consent definitions tend to frame the same events as individuals engaged in atomistic one-at-a-time interactions, coercion definitions are the more expressly social, contextual, and collective in the sense of being group-based. (“Defining Rape Internationally” 941)

Likewise, the 1999 South African Law Commission recommended taking sexual consent and nonconsent out of the picture entirely:

A shift from ‘absence of consent’ to ‘coercion’ represents a shift of focus of the utmost importance from the subjective state of mind of the victim to the imbalance of power between the parties on the occasion in question. This perspective also allows one to understand that coercion constitutes more than physical force or threat thereof, but may also include various other forms of exercise of power over another person: emotional, psychological, economical, social or organisational power. (3.4.7.3.14)

The emphasis in the second sentence here distinguishes this recommendation from Michigan’s rape law, which as the commission notes, has been criticized for merely replacing one term, “absence of consent,” with another, “coercive circumstances,”
without substantially altering what must be proved in a court of law (3.4.7.3.10). The least controversial use of a definition of rape based on coercive circumstances is in the context of war. When the ITCR in *Prosecutor v. Akayesu* (1998) defined rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive” (589) it was hailed as a breakthrough in international jurisprudence for its understanding that the question of consent in the context of genocide was irrelevant at best and obscene at worst.71

During peace time, however, a definition based on a non-exhaustive list of coercive circumstances has proved much more controversial and harder to implement. When South African legislators altered the legal definition of rape in the South African Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 to “Any person (‘A’) who unlawfully and intentionally commits an act of sexual penetration with a complainant (‘B’), without the consent of B, is guilty of the offence of rape” (2.1.3), they retained nonconsent as the essential element of rape, rejecting the South African Law Commission’s more radical recommendation to define rape through a non-exclusive list of coercive circumstances. A similar retrenchment from a definition of rape based on coercive circumstances can be seen in international law after consent-based definitions of rape were reasserted by the ICTFY in its 2001 *Prosecutor v. Kunarac* ruling and the ICTR in its 2003 *Prosecutor v. Semanza* ruling, which notes that “The mental element for rape as a crime against humanity is the intention to effect the prohibited sexual penetration with the knowledge that it occurs without the consent of the victim” (V.B.4.d.346). Of this definition, MacKinnon notes, “In defining rape exclusively by nonconsent, Semanza completed the full turn backward to the English common law” (“Defining Rape Internationally” 952).

The reluctance to dispense with nonconsent as the essential element of rape is explainable as a reluctance to dispense with the liberal subject whose sexual autonomy the law is believed to be invested in protecting; doing away with the autonomous subject whose

71 See MacKinnon “Defining Rape Internationally.”
consent is at stake in rape law is uncomfortable, because liberal subjectivity is a position of strength that those who have been marginalized continue to fight to attain and retain.\textsuperscript{72} A turn to coercive circumstances may be counterproductive in this regard, as such a turn would potentially divorce rape from experience. A definition of rape based exclusively coercive circumstances risks dismissing some women’s articulations of consent as coerced despite their experiences to the contrary. Using the example of women who experience domestic violence, Hunter notes,

> On the one hand, it is arguable that the legal system ought to recognise that survivors of violence have a diminished capacity to consent in legal transactions with their abusers. On the other hand, such a recognition risks diminishing women’s status as fully human and fully functioning citizens—a return to the days when women were not seen as legal persons and were legally incapable of engaging in independent public activity or of giving or withholding consent to a range of transactions. (159)

Likewise, to say that a prostitute can never consent to sex because of the conditions of coercion removes not only her capacity to consent, but also potentially removes the opportunity to have her express nonconsent legally recognised. Vanessa E. Munro points out “relying on an expansive analysis of coercion ignores the difficulties involved in dismissing women’s averred expressions of agency where they appear to reflect or support existing patterns of power” (“From Consent to Coercion” 26). Indeed, attending to the ways in which coercive circumstances limit the field of decisions for vulnerable groups does not solve the problem of disempowerment if agency is disregarded as coerced.

Yet, an unwillingness to consider the surrounding circumstances as they pertain to the structural forces of inequality, race, gender, class etc. in the adjudication of rape is also indicative of the intensity that neoliberal ideology currently pervades the understanding

\textsuperscript{72} For an analysis of the indispensability of liberal individualism for feminist theorists in their critiques of consent, see Drakopoulou.
of sexual conduct. Where sexual intercourse is regarded as a market transaction between two rational individuals seeking to benefit from the exchange, the subject becomes a consumer accountable for the protection of her property as well as any purchases she may make with it. Lise Gotell, responding to the proliferation of the values of market transactions into the realm of normative heterosexual conduct, argues that neoliberalism depends “on the active production of new forms of privileged subjectivity, constructing and forming individuals as rational calculating creatures, defined by their capacity for self-care and bearing full responsibility for the consequences of their actions” (874).

With regard to sexual conduct, both men and women in the neoliberal state are deemed fully responsible for managing the outcomes of a sexual exchange.

The adherence to this understanding of sex can be seen in the 2014 recommendations from the Rape, Abuse, and Incest National Network (RAINN) to the White House task force set up to address rape on college campuses in the United States, in which RAINN argues against the conceptualization of rape in terms of “rape culture” because this threatens the perception that it is the individual’s choice to commit a rape. The letter asserts that “Rape is caused not by cultural factors but by the conscious decisions, of a small percentage of the community, to commit a violent crime. . . . [Rape culture] removes the focus from the individual at fault, and seemingly mitigates personal responsibility for his or her own actions” (Berkowitz 2). While holding rapists to account for their actions is hardly reproachable, this perception of responsibility also pervades the discourse about victims whose actions are taken to have precipitated their rape through their failure to appropriately manage the risk of sexual assault. In their 2005 report on attrition in England and Wales, Liz Kelly, Jo Lovett, and Linda Regan comment that “The belief amongst some [Criminal Justice System] professionals that many complaints are false, that victims are to blame for ‘risk-taking’, places unreasonable requirements on complainants to demonstrate that that (sic) they are ‘real’ and deserving victims” (80). In a 2013 article for Slate, the journalist Emily Yoffe warns women attending college to

73 See Richard A. Posner’s “economic theory” of sexual conduct and sexuality in Sex and Reason.
avoid getting drunk because the majority of rapes that occur on college campuses involve intoxicants. She offers this as practical, common sense advice to reduce the chances of sexual assault. In doing so, she replicates rape prevention discourses that place the responsibility for positive sexual outcomes in the hands of women and suggest that rape can be prevented if only women modify their behavior.  

Rape prevention discourses, according to Gotell, portray the danger of rape as everywhere, and therefore, female agency as achievable only as it mirrors avoidance behaviors: thus, “Within a universe of rape management constituted in and through discourses of risk, the performance of diligent and cautious femininity grants some women access to good citizenship, while women who fail to follow the rules of safekeeping can be denied recognition” (878-79). What is striking is that when a woman is deemed to have failed in her task, a man’s responsibility not to commit rape is diminished. The perpetrator’s culpability is lessened in direct proportion to the extent to which the victim is deemed blameworthy for precipitating her own rape through her behavior, for “When complainant actions are constituted as risky and irrational . . . deviations from the standard of responsibilized masculine sexuality can be, and often are, excused and normalized” (885).

A neoliberal understanding of consent can be traced in the hugely popular erotic novel *Fifty Shades of Grey* by E. L. James, published in 2011. When Christian chides Anastasia for expressing discomfort after having been spanked by him to the point where she felt “demeaned, debased and abused” (James 292), not only does he diminish her experience by referring to another literary character whose rape he erases in the process—“So you felt demeaned, debased, abused–how very Tess Durbeyfield of you” (293)—he, as Meg Barker argues, also appeals to a neoliberal discourse that positions Anastasia as

74 For an analysis of how rape prevention discourses that emphasize a “just say no” approach to avoiding sexual assault pervade young women’s attitudes with neoliberal ideals, see Melissa Burkett and Karine Hamilton.

75 See Meg Barker for a detailed analysis of the connection between *Fifty Shades of Grey* and neoliberal attitudes towards sex.
fully responsibly for her experience:

For the record, you stood beside me knowing what I was going to do.

You didn’t at any time ask me to stop—you didn’t use either safe word.

You are an adult—you have choices. (295)

Here, despite an unequal relationship in which Anastasia often feels unable to articulate her desire and Christian repeatedly pushes beyond the boundaries of what she has consented to, Anastasia is framed as holding complete responsibility for any abuse she may experience and in her singular role as choice maker, “the heteronormative dynamic of the active man and passive woman is reproduced, as is the ‘no means no’ version of sex whereby anything other than saying no—or safewording—is assumed to be consent” (Barker 989).

In addition, to being regularly excused for pursuing sexual intercourse according to a romance script in which communication is largely absent, men are also excused for “taking advantage” of women who step outside the conventions of appropriate femininity. A woman who does not want to engage in sex is expected to act as an ideal sexual citizen doing everything in her power to avoid unwanted intercourse, including abstaining from risky behavior and unsafe situations. Activities and choices such as drinking alcohol, taking drugs, or wearing revealing clothes are regarded as mitigating factors that transform a sexual assault into a sexual mistake, or even sexual invitation for which the woman is responsible. Voluntary versus involuntary intoxication in Canada, for example, leads to different legal outcomes in sexual assault cases (Janine Benedet). To use Zomchick’s language, a “normative female character” is produced alongside a “non-normative other” to maintain the “distribution of power in the domestic sphere” (“A Penetration” 547). Every action is taken to be a marker of intent—and the default intent is consent to sex.

76 For further analysis of how the expectation that women act ideal subjects whose responses are reasonable in the face of a potential sexual attack, see Melanie Randall.
The target of rape is required to perform a paradox when she brings her claim before the law: she must show herself to be an agent capable of autonomous action (a subject whose nonconsent can theoretically be legally recognized), and at the same time, as a having been transformed into an object by her subjection to another’s will (a victim whose assertions of and claims to subjecthood were denied by the rapist). The latter is particularly difficult in the context of the former, for if every action and non-action is taken as a choice representative of her will, what she did not do to avoid rape becomes choices stained by the possibility of her consent. Susan Ehrlich has shown how the questioning of a claimant often presupposes an assumption that if she did not really want intercourse she would have done everything in her power, according to the standard of what a rational woman would do, to prevent it from taking place, and therefore, anything that does not further this goal is an indicator of her potential consent. She writes, “Not only do questions, with their implicit and explicit propositions, frame and structure the complainants’ ‘talk’ about their experiences of sexual assault, they also produce the complainants as particular kinds of subjects—as subjects who are ‘passive’ in their responses to sexual aggression, as opposed to strategic and active” (63). In her analysis of questions posed at a university tribunal in Canada—e.g. “Uhm what might have been your option? I see an option. It may not have occurred to you but I simply want to explore that option with you. Uhm did it occur to you that you could lock the door so that they may not uh return to your room?” (76-77)—Ehrlich points out that “Through the repeated use of the word option, GK [the questioner] not only conveys her belief that the complainants had an alternative course of action, but also that their failure to pursue other alternatives was a choice” (77). The assumption that a woman operates with total autonomy can work against a claimant if her actions counter a script of risk-avoiding behavior before the rape, absolute resistance during it, and subsequent total annihilation. The implication is that every option must be foreclosed for the claim of rape to be truly compelling.

What is even more troubling is that Ehrlich’s analysis takes place in the context of the Canadian legal system, which uses an affirmative consent standard. In Canada, consent is defined as “the voluntary agreement of the complainant to engage in the sexual activity in question” (Criminal Code R.S.C., 1985. 273.1(1)) and as the judgment in R. v.
Ewanchuk (1999) made clear, this has been taken to mean “the mens rea of sexual assault is not only satisfied when it is shown that the accused knew that the complainant was essentially saying ‘no,’ but is also satisfied when it is shown that the accused knew that the complainant was essentially not saying ‘yes’” (354). Moreover, the court found that “The accused cannot rely on the mere lapse of time or the complainant’s silence or equivocal conduct to indicate that . . . consent now exists, nor can he engage in further sexual touching to ‘test the waters’” (357). However, as Gotell demonstrates in her analysis of the continued difficulty of gaining a conviction in Canada after the adoption of the affirmative consent standard, Canadian law still produces a normative victim against whom actual victims are judged and found wanting in an institutional context deeply suspicious of the failure to live up to the standards of the ideal. She observes, “Complainants’ behaviors are explicitly measured against the normalized risk-avoiding behaviors of the ‘reasonable woman’” (880), and thus, “victims who occupy and inhabit spaces of risk” (866) particularly in a colonial context, or belong to marginalized and non-normative groups find themselves disqualified from legal protection: “Systemic relations of race, class, and gender, silenced in juridical discourses of positive consent, interact to construct some women’s bodies as violable” (882). Though Ngaire Naffine puts the disjunction between a woman and her ideal in emancipatory terms—“The vastly more complex and diverse reality of being female keeps on happening despite the efforts to make the archetype convincing” (“Possession” 12)—for the subject who has experienced rape this gap between a woman and her ideal can have devastating consequences.

Because judicial systems judge the extent to which rape claimants correspond to the idealized liberal subjects produced by rape law, a successful complainant is the one who most closely fits the paradigm, leading to the strange recession of the actual victim from view. While the law appears to offer an individual the affirmation of the subjecthood that was denied through rape, in practice, the rape victim’s juridical subjectivity, upon which rape law is predicated, is tenuous and, even when found, often involves her elimination from the field of representation. In the Alberta Court of Appeal decision in R. v. Ashlee (2006) the appeal was rejected only because the victim could be constituted as a reasonable woman through her absence, as Gotell’s analysis of this judgment reveals:
The decision in *Ashlee* is extraordinary because the defendants are convicted and these convictions are upheld on appeal without testimony from the complainant. In fact, the complainant did not even make a police statement. There was, therefore, no opportunity to attack her credibility. The complainant could not be constructed as being responsible for her own victimization because she was rendered an object. She becomes reduced to a legal hypothetical. It is this hypothetical state that allows for her to be imagined in relation to a community of responsible sexual subjects. (Gotell 896-97)

As Gotell’s comment suggests, a successful claimant, as in the *R. v. Ashlee* case, is rendered an object by the legal system in order for her simultaneous recognition as the reasonable subject of rape law. Perhaps the law is necessarily limited in this respect. It cannot achieve the affirmation of subjectivity it promises, except through the subject’s very erasure.

Unable to perceive directly what happened in the intersubjective moment between two people at the time of intercourse, rape law creates a narrative about consent that is often displaced from the significations the subject made when intercourse occurred. Nonconsent is difficult to manifest satisfactorily in this narrative in part because its representation in the moment of intercourse does not necessarily leave signs whether on the body or in the world. But the same transience of signs can be said of the representation that signifies consent to intercourse. In the potential absence of durable signs, a gulf exists between the experience and performance of consent or nonconsent, and subsequent need to re-present that performance in any legal proceedings. The legal re-presentation, therefore, can often only be effected by recourse to other signs that are dislocated from the original performance of consent or nonconsent at the moment of intercourse but which are taken to signify that act. Unlike nonconsent, consent is regularly taken to be manifested separately from what was experienced or performed by the supposedly autonomous self required by rape law. Indeed, paradoxically given the law’s dependence on the liberal individual, the kind of consent the law most easily uncovers is not the individual’s enactment of her autonomous decision to participate in a
sexual act, but the appearance of her tacit consent to that act. Tacit consent requires neither a rational choice to consent, nor a performance of consent. Rather, it can be found in the subject’s ascribed identity (e.g. her gender, sexuality, race, class or age), in her actions and choices that are dislocated from the time of intercourse (e.g. choice of outfit, decision to drink or take drugs, having had multiple sexual partners, or actions after the event including maintaining some form of relationship with the accused), and in the specific space she frequents (e.g. bar, hotel room, or dangerous neighbourhood). In this way, consent is detected not as the sexual agency the subject performs at the time of intercourse, certainly not as a subjective state of mind she experiences, but as signs diffused throughout her entire being and/or in her environment.

While the coercive conditions that circumscribe a woman’s supposedly autonomous choices often fail to be taken into account, surrounding context is used by the law to produce a story that ambiguates nonconsent and is suggestive of ultimate consent. This is less a paradox than evidence of the unequal force possessed by external factors suggestive of consent and external factors suggestive of nonconsent. Thus, while I am not fully convinced that definitions of rape which do away with both consent and the liberal individual are completely desirable because they simultaneously do away with the potential (even if it is ultimately a fictional potential) for autonomous action in some contexts, it seems clear to me that if the problems determining consent and nonconsent make the consideration of external circumstances in legal contexts inevitable, a rebalancing of which circumstances and what weight they are given is in order. As it currently stands, the persuasiveness of external factors suggestive of consent inhibits the law’s capacity to recognize women’s nonconsent, inversing the problem with definitions of rape that utilize coercive circumstance to vitiate consent, and which thereby suggest that some women never have the capacity to consent. It is fair to say that contexts such as gender inequality should be understood to impact women’s decision to submit to unwanted intercourse whether or not such intercourse constitutes rape in a legal sense.77

77 See Scott A. Anderson’s critique of Conly’s analysis of coerced unwanted sex that does not meet the legal definition of rape.
Permutations of sexual consent then are simultaneously indispensable to the construction of the subject in rape law and consistently dislocated from the actions of the victim at the time of intercourse. Consent is foundational to the self, and yet can be manifested in ways that are external to the self. Thus, sexual consent as the boundary between what is and is not considered rape at common law is a highly vexed concept that remains as indispensable as the liberal subject whose sexual autonomy the law is ostensibly designed to protect, and whose capacity to give or withhold consent is essential to her very being and to the very being of the law. Nonconsent remains at the heart of rape law and at the heart of other constructions of rape that take female sexual autonomy seriously. At the same time, nonconsent functions paradoxically in definitions of rape, furthering and inhibiting the recognition of subjects of rape.

Thus, the stories the law tells itself about rape are multifarious and at times irreconcilable. Its narratives depend on other narratives about consent and nonconsent that are not strictly legal, but may be cultural and political in nature. The continued prevalence of rape myths such as the suspicion that women possess a secret desire to be forced or that they “are asking for it” can render legal, cultural and political narratives about nonconsent impossible. If common sense, and common sense is what the jury system in common law jurisdictions relies upon, locates consent in a woman’s desiring body, no matter the indications to the contrary, there is no context in which her refusal of intercourse can be taken as sincere. Moreover, while a neoliberal discourse about consent holds sway, consent will be found in the failure to manage risk among other factors that may have little bearing on whether consent was actually given or withheld, such as the time between the rape and its first report, the location of the attack, the level of acquaintance with the perpetrator, and whether there were drugs or alcohol involved. It is the power of these narratives to which I turn in the chapters that follow.

The web of stories we tell and are told about consent and nonconsent impact upon our worlds in substantial ways. These stories are often regressive and damaging to women who experience rape, but they also have the power to shift master narratives, generating new ways of understanding sexual violence. They can offer alternatives ways of thinking about rape that include both nonconsent and coercive circumstances, while presenting
and critiquing the notion of the liberal or neoliberal individual that is both so appealing and so problematic. In particular, fictional narratives about rape and sexual violence can offer nuanced understanding of consent and nonconsent, how consent is given, how it is withheld—offering possibilities to counter the egregious myths that deny women sexual agency. Moreover, they allow for an understanding of how sexual agency may be enacted in circumstances that circumscribe the exercise of autonomy.

Cultural representations of rape are not constrained by the same limitations as juridical treatments of rape. Indeed, whereas nonconsent is often ambiguated by the law, because the law depends upon signs that are external to how nonconsent was signaled at the moment of intercourse, nonconsent can be represented and explored directly in fictional narratives in the immediacy of the characters’ experience. Moreover, creators of fictional narratives are free to imagine consent and nonconsent at the boundaries, in the ambiguity, in the gaps that the law must decide one way or another. Without the need to restrict representation to admissible evidence and able to show the sexual exchange in which consent is either successfully or unsuccessfully negotiated at the time that it takes place, literary representation can illuminate the problematics of sexual consent in ways that rape law must contend but cannot deal with directly. Finally, literature can provide a corrective to the law’s inability to recognize certain subjects’ nonconsent, particularly if they belong to non-normative and marginalized groups, by depicting rape in non-normative non-gender-paradigmatic terms. However, the different prospects offered by literary representations, nonetheless, reveal the same problems that legal articulations of rape grapple with. Just as the law produces its subject at the cost of excising actual victims of sexual violence from its representation, literary discourses, including both literature itself and literary analysis, at times replicate and produce narratives about “real” rape victims at the expense of others. They too produce the impression of consent even when, or paradoxically especially when, nonconsent is represented. The perception of consent in surrounding circumstances holds a powerful sway even over literary representation.

Thus, discourses about rape have traditionally struggled to recognize the kind of subject they premise in the messy and at times ambiguous stories of those who experience sexual
violence whether fictional or actual. In legal discourses, to be that subject is to be an ideal who is paradoxically both fully a subject, in the sense that she acts in every way to rationally prevent being raped, and is not a subject at all, having been shown to have been transformed into an object by rape, unable to make her own choices, and whose voice is eliminated by a juridical system that will tell her story for her. It would seem that the difficulty discerning nonconsent in rape law could be circumvented by the capacity for representation in literature. And yet, as I explore in the chapters that follow, representation paradoxically opens the door for the continued ambiguation of nonconsent. Indeed, the most certain of literary rapes are those that are denoted explicitly, but are not necessarily represented in detail. While the possibilities and prospects offered by the depiction of rape in law and in literature are different, the same forces that ambiguate nonconsent in law ambiguate nonconsent in literature.
Chapter 3
J. M. Coetzee’s *Disgrace* and The Limit of Rape

But where the circumstances of the encounter differ from the stereotyped attack—as when the parties were previously acquainted, perhaps to the extent of a ‘dating’ relationship, and the encounter occurred in an apartment to which they both went willingly—one cannot so easily assume the woman’s attitude of opposition. . . . sometimes the behavior, controlled by personality forces other than those which determine the consciously perceived attitude, will contradict the woman’s self-perceived disposition toward the act. When her behavior looks like resistance although her attitude is one of consent, injustice may be done the man by the woman’s subsequent accusation. Many women, for example, require as a part of preliminary ‘love play’ aggressive overtures by the man.

(“Forcible and Statutory Rape” 66)

*Disgrace*, published in 1999, is J. M. Coetzee’s most widely discussed novel, and, on a personal note, the impetus for my focus in this dissertation upon the ambiguation of sexual consent. It could be said that this novel continues to haunt me. Set in the contemporary world of the post-apartheid Republic of South Africa the novel deploys the trope of rape in particularly unsettling and controversial ways. It was initially condemned in early reviews and by the ANC for pedaling racist “black peril” stereotypes—stereotypes it ambiguously deploys and critiques—but its depiction of rape by three black men of Lucy, a white lesbian, and by the white protagonist, David Lurie, of a what in South African nomenclature is obliquely figured as a “coloured” female student, Melanie Isaacs, defies simplistic interpretations, including allegorical ones regarding the
state of South Africa since the first democratic elections in 1994. Nonetheless, against the background of the new South African constitution adopted in 1996 with its discourse of equality and human rights, and in the context of the ongoing Truth and Reconciliation Commission (TRC), which whilst promising restorative justice nonetheless privileged certain kinds of confessional narratives over others, often failing to provide a space for the articulation of past and current gender violence, the representation of rape in *Disgrace* offers a relentlessly bleak representation of the contemporary state of the young democracy. In the novel, the wounds of systematic racial, class and gender inequality not only remain raw, but also are inflicted upon the bodies of women, which are made to bear the burden of past, present, and future suffering. As a young woman I found the gendering of these wounds through the trope of rape difficult, but compounding this difficulty was a profound discomfort with Coetzee’s refusal to provide his readers with some kind of narrative solace or clear resolution to the sexual violence Lurie commits against his student Melanie. Coupled with Coetzee’s deliberate ambiguation of Melanie’s nonconsent, the text’s refusal to acknowledge that the act Lurie commits is rape results in a disturbing effacement of her rape from the text, and from much of the subsequent critical discourse about the novel.

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78 For an analysis of Coetzee’s use of the “black peril” narrative, see Lucy Valerie Graham, “Reading the Unspeakeable” 433-44; and Mardorossian, “Rape and the Violence of Representation.” Lurie’s labelling of his student as “Meláni: the dark one” (18) has been taken to signify her racially (see Jane Poyner, “Truth and Reconciliation” 68). Regarding Melanie’s racialization in the novel and its interpretation Florence Stratton warns: “Coetzee does make Melanie into a metonym for the exotic/ethnic/racial/colonized Other. Coetzee’s narrative strongly resists, however, any move to assign Melanie to a specific racial category, making each and every attempt an exercise in racial stereotyping” (85). Marais’s explication of the term “coloured” in his essay on Wicomb’s novel *David’s Story* is useful here: “The Population Registration Act of 1950, in the apartheid period of South African history, defined a coloured person as ‘a person who is not a White person or a Black.’ In differentiating coloured from white, coloured from black, and black from white, somatic appearance obviously played a crucial role. So, for instance, a white person was defined as ‘a person who (a) in appearance obviously is a White person, and who is not generally accepted as a Coloured person; or (b) is generally accepted as a White person and is not in appearance obviously not a White person.’ It follows that the body of the individual was read as a signifier of racial identity, a hermeneutic practice still prevalent in present-day South Africa” (“Bastards and Bodies” 21).

79 For an excellent analysis of the TRC’s blind-spot regarding gender see Dorothy Driver’s afterward to Wicomb’s *David’s Story*. 
Given that the violation of David Lurie’s daughter Lucy infuses so much of *Disgrace* with traumatic affect, few would argue that the novel is not deeply concerned with rape and its aftermath. But to assert there is a second rape in the narrative, to say David Lurie’s student Melanie is also raped, is to take a position that remains unsettled amongst readers of the novel. That Melanie’s rape is in question is particularly evident in papers that characterize her encounter with Lurie, but do not deal at length with what happens to her: take, for example, Gayatri Chakravorty Spivak’s summary of the novel’s main events:

David Lurie, a middle-aged male professor, sentimental consumer of metropolitan sex-work, seduces a student, and is charged with sexual harassment by the appropriate committee. He refuses to utter the formulas that will get him off. He leaves the university and goes to his possibly lesbian daughter Lucy’s flower farm. The daughter is raped and beaten, and he is himself beaten and badly burnt. (“Ethics and Politics in Tagore” 20)

By differentiating in kind between the two sexual assaults—one a seduction, the other a rape—Spivak’s apparently neutral characterization of the novel’s plot remains typical of numerous others published more recently. These summaries are characterized by a general unwillingness to name Melanie’s assault rape, and when any sexual misconduct

80 Of course, for those to whom Lurie’s act clearly appears as rape, including myself, the question of whether Melanie is raped is not an unsettled one: see, Du Toit, *A Philosophical Investigation of Rape*; Graham, “Sacrificial Responsibility,” “Reading the Unspeakable” and *States of Peril*; Margaret Herrick; Myrtle Hooper; Rosemary Jolly, “Going to the Dogs” and “Writing Desire Responsibly;” Michael Marais, “Task of Imagination,” “Little Enough, Less than Little” and “The Possibility of Ethical Action;” Mardorossian, “Rape and the Violence of Representation;” Travis V. Mason; Stephen Silverstein; Graham St. John Stott; Stratton; and Molly Abel Travis.

81 For summaries of the novel’s plot that follow this pattern see Louis Bethlehem 167-68; Diane Green 148; Louis Tremaine 594; Sue Kossew 156; Josephine Donovan 83; Michael Kochin 4; Harald Leumann 61; Mike Kissack and Michael Titlestad, “The Dynamics of Discontent” 53-54, and “Humility in a Godless World” 138-40; Kimberly Wedeven Segall 40; Margot Norris 15-16; Matt DelConte 441; Chloë Taylor 66; Michalinos Zembylas 225; Rosemarie Buikema “Crossing the Borders” 310; Poyner, *Paradox of Postcolonial Authorship* 149, and “Writing Under Pressure” 110; Robert Spencer 215; Patrick Hayes 197; Brent Hayes Edwards 5; Roman Silvani 120; Jana Maria Giles 12; Paola Splendore 152; Jeffrey Cass 36-37; and Dereck Attridge, “J. M. Coetzee’s *Disgrace*” 315.
is noted, a differentiation between the seriousness of the two acts of sexual violence depicted in the novel. While Josephine Donovan suggests that the novel’s two sexual assaults are quite similar, when she writes “The affair entails coercive sex, which parallels the gang rape of his daughter Lucy that occurs later in the novel” (83) the phrase “coercive sex” nonetheless implies something other than rape has taken place. Likewise, while Pamela Cooper admits that what Lurie commits “is, effectively, a rape” (25), the word “effectively” qualifies the assertion that Melanie is raped. Such a qualifier would, I imagine, be deemed inappropriate if used in a context to describe Lucy’s rape. These brief summaries of the novel’s narrative reveal widespread reticence to describe Melanie’s experience using the same terminology as that used to describe Lucy’s. Like Spivak, many critics leave open the question of whether Melanie suffers a sexual assault at all, perhaps noting Lurie is being investigated for sexual harassment by the university committee, but not making it clear whether anything other than an inappropriate relationship between a professor and his student has transpired. Some suggest sexual consent. Matt DelConte’s summary of the novel’s plot is notable for its language that provides the reader with little indication that in at least one instance Melanie does not appear to consent to sex:

*Disgrace* is the story of David Lurie, a jaded forty-two year old professor at Cape Technical Institute in South Africa, who, after being fired for sleeping with a female student, travels to the country to stay with his estranged daughter. During the visit, his daughter’s farm is robbed, she is raped, and he is beaten. (DelConte 441)

Such a description of their relationship largely agrees with Lurie’s own perception of what causes his exile from Cape Town, and coheres with his differentiation of his actions from those of the three black men who rape Lucy.

Yet, to assert that two women are raped in *Disgrace* is to take a position that Coetzee implies throughout the text. Though on the surface Lucy’s gang rape by three black men may seem to have little in common with Melanie’s violation in an ambiguously consensual relationship with her white professor, the parallels between the two acts of
sexual violation are hard to miss. At the level of structure, Melanie’s rape dominates the narrative’s first movement focused around Lurie’s life as a university lecturer, while Lucy’s rape dominates the narrative’s second movement after Lurie’s retreat to the countryside. Both Lucy and Melanie are violated during home invasions. Both acts of sexual violence are depicted through imagery that is carefully interlaced. Melanie is described “As though she had decided to go slack, die within herself for the duration, like a rabbit when the jaws of the fox close on its neck” (25); likewise, Lucy’s pregnancy is thought of in animalistic terms by Lurie to be the result of “seed driven into the woman not in love but in hatred, mixed chaotically, meant to soil her, to mark her, like a dog’s urine” (199). These words evoke Lurie’s meditation on “the force that drives the utmost strangers into each other’s arms” (194) upon encountering Melanie’s boyfriend in a parking lot after watching Melanie’s theatrical performance months after her violation: “The seed of generation, driven to perfect itself, driving deep into the woman’s body, driving to bring the future into being. Drive, driven.” (194). When Lucy’s links her rape to violent heterosexuality generally, her words also evoke Lurie’s acts specifically, as her language recalls the language of hunting and death used to describe Melanie’s violation:

Hatred . . . When it comes to men and sex, David, nothing surprises me any more. Maybe, for men, hating the woman makes sex more exciting. You are a man, you ought to know. When you have sex with someone strange–when you trap her, hold her down, get her under you, put all your weight on her–isn’t it a bit like killing? Pushing the knife in; exiting afterwards, leaving the body behind covered in blood–doesn’t it feel like murder, like getting away with murder? (158)

Indeed, Melanie’s experience is so often analyzed in relation to Lucy’s (though rarely vice versa) that it is uncontroversial to assert that the two experiences are thematically and rhetorically connected.

What is controversial in light of the problematic sexual relationship between Lurie and his student, is to read Melanie’s ambiguated nonconsent as enough to justify an interpretation of their second sexual encounter as rape in its own right, that is separately
from Coetzee’s careful paralleling of her violation with Lucy’s rape. However, if rape is defined as nonconsensual sexual intercourse, as in most common law jurisdictions today including South Africa, Lurie’s disregard not just for Melanie’s desires but also of her explicit refusal and resistance would seem to constitute rape. Granted, “simple rape” (Susan Estrich) cases such as Melanie’s are rarely prosecuted and when they are convictions are highly unlikely for the reasons outlined in the previous chapter. However, the shortcomings of the legal system do not alone account for the hesitancy to describe Lurie’s disregard for Melanie’s sexual autonomy as rape.

In this chapter, I explore what makes Melanie’s rape appear indeterminable. While some interpretations of the novel replicate rape myths, the difficulty of naming Melanie’s sexual violation arises to some extent from Coetzee’s deliberate ambiguation of her nonconsent in the representation of her relationship with Lurie, coupled with the fact that her violation goes unnamed by the narrative. Though Lurie recognizes that there is some kind of parallel between his treatment of women and his daughter’s rapists—for example, he realizes that “he can, if he concentrates, if he loses himself, be there, be the men, inhabit them, fill them with the ghost of himself” (Disgrace 160)—he never thinks of himself as a rapist, or of Melanie’s experience as rape. The focalisation means that the reader has almost no access into Melanie’s views of the experience and Lurie is incapable of imagining her as a subject with a psychological life of her own. It is, therefore, not clear how Melanie would herself label her experience and the complaint she makes to the university, one of only a very few indications of her views, appears not to be one of rape.

The result is that some critics, reviewers and readers appear to experience considerable discomfort when they try to conceptualize what happens to Melanie. To say she is raped is to make a judgment the text conspicuously avoids, and though this judgment can be justified by textual evidence, its assertion leaves critics and readers potentially exposed. While the text carefully parallels two acts of sexual violence, it also separates them. What marks one rape certain and the other ambiguous, is the difference between an act that is named but that goes largely unrepresented, and an act that is unnamed but is represented. Unrepresented, but named, Lucy’s rape can never be in doubt. In contrast, the text not only leaves Melanie’s violation unnamed, it ambiguates her nonconsent by
depicting her submission and situating the event in the context of a complex and ambivalent ongoing relationship. Thus, for many readers Melanie’s nonconsent is perceived to be so uncertain that her rape slips into the grey area of sex. It becomes, to use Lurie’s assessment of the event, “Not rape, not quite that” (25). While Lucy’s rape is seen to be unmistakably rape, her nonconsent a given and force assumed, Melanie’s rape stands on the boundary between rape and ambiguously consensual sex, force and nonconsent both open to question. Melanie’s experience reveals not rape but the limit of rape; that is, the boundary of people’s understanding of this concept, and thus, the point beyond which it becomes unthinkable.

3.1. “Real Rape” and a Rape that is “Not Quite That”

The explicit assertion in the text that Melanie’s experience differs from rape is one of the many problems Coetzee establishes for his readers when they try to interpret Lurie’s act of sexual violence. Following the description of Lurie’s rape of Melanie, the novel describes what has just taken place as

Not rape, not quite that, but undesired nevertheless, undesired to the core.
As though she had decided to go slack, die within herself for the duration, like a rabbit when the jaws of the fox close on its neck. So that everything done to her might be done, as it were, far away. (Disgrace 25)

These thoughts, which because of the novel’s focalisation presumably flit through Lurie’s mind in the aftermath of his forced intercourse with Melanie, provide readers with an answer, if a biased one, to the question of whether a rape has just taken place. As Du Toit notes, for some of her students these words offer “an excuse for not reading this as rape: the offender himself assures them that it is not (quite) that” (A Philosophical Investigation of Rape 46). In the passage, Melanie’s rape is negated by the word “Not” even before the word “rape” is used, and an alternative definition of what has just taken place is offered in rape’s stead: “undesired” sex. But something unsettling remains, even for those who take Lurie’s words at face value: few go on to assert as Adriaan van
Heerden does that “David may pay for sex and seduce his students, but he does not force them to have sex against their will” (53), or go as far as Gareth Cornwell, who writes, “Poor David Lurie! In any other context, behavior such as his might have been accorded a measure of indulgence, treated as an unfortunate slip, a peccadillo” (316). Firstly, there is of course the realization that Lurie’s perspective is far from unbiased, and that he may be invested in denying what has taken place. Secondly, the above quote undermines its own assertion that unwanted sex, not rape, has just occurred, for it destabilizes, even as it appears to set out, the distinction between unwanted sex and rape. As Kim Middleton and Julie Townsend write,

Even as the term [rape] is denied, that denial is qualified: ‘not quite that, but…’ The text moves through a dizzying set of fine-grain distinctions in this sentence: a negation leads to a differentiation between rape and ‘undesired’ intercourse, yet at the moment that it establishes the second term, it intensifies the degree (‘undesired to the core’) and reveals a hint of self-disgust in David as he repeats the word. It returns to a simile of violence between prey and hunter, and ends with an evocation of coping mechanism for trauma—the dissociation from the body. (119-20)

Undesired or unwanted sex is not necessarily the same as nonconsensual sex— but Lurie’s knowledge of the extent to which Melanie does not desire intercourse at that moment is striking, and, for Myrtle Hooper at least, establishes his mens rea: “What makes David’s sex with Melanie rape rather than ‘not rape’ is the fact that he overrides his awareness that she does not want it” (141). As Middleton and Townsend suggest, Coetzee reintroduces the concept of rape through the simile that evokes Melanie’s victimization, and through the reference to her dissociation, “So that everything done to her might be done, as it were, far away” (Disgrace 25), a common strategy for surviving the trauma of rape (120). The assertion that undesired sex but not rape has just occurred is unsettled by Coetzee’s knowing deployment of rape imagery. Lurie may believe he has not

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82 See Kim Middleton and Julie Townsend 119-20.
committed rape, but Coetzee does not seem to take that position in *Disgrace*. Rather, as Lucy Valerie Graham writes, “Deliberately, it seems, Coetzee has invited a trial of sorts, where the reader is called upon to decide whether or not this encounter qualifies as a rape comparable to the rape of Lucy” (*State of Peril* 147). The answer, for many, seems to be that it does not.

Nicola Gavey uses the three sentences quoted above that begin with the phrase “Not rape, not quite that” (25) from *Disgrace* as the epigraph to her chapter on examples of unwanted sex, which includes experiences, like Melanie’s, that meet the legal definition of rape, but are not named as such by the victim. By doing so, she implies that the passage reflects and is, perhaps, implicated in what she calls the “cultural scaffolding” of actual rape cases. In this chapter, Gavey shows that where aspects of an assault do not fit with rape’s expected narrative, particularly with regard to female resistance, the assault fails to be understood as rape. Instead, it is mislabeled as unwanted sex. She analyzes one interviewee, Ann, who did not conceptualize her experience as rape at the time, despite the fact that “he had been rough, and had left her bleeding and, later, frightened” (Gavey 161), partly because she did not resist afraid that “he might rape me, you know. So he did anyway” (161). The response of others made it difficult for Ann to identify what had happened, because they normalized Ann’s assault as, “just a bit of nothing” (162). According to Gavey, Ann’s initial inability to name her experience as rape shows how norms—or, at least our understanding of what is normal—can even capture an obviously rape-like experience within some notion of ‘normal’ sex. What is particularly salient in this model of sex is, once again, the complete absence of any necessity for establishing a woman’s desire or interest in order for the sex to pass as ‘consensual’ from (this) man’s-eye point of view” (162).

This analysis could just as easily be said about Melanie’s rape as Ann’s; the novel’s attribution of the label “undesired” but not “rape” to her assault enables readers to convert a narrative of rape into a narrative of “normal” consensual sex.
Gavey suggests that while many rapes are effectively invisible (e.g. those that occur between people who know each other and so are labeled unwanted sex), certain kinds of rape have traditionally been hyper-visible; she notes, “Definitions of rape have historically been carefully policed and deployed in ways that allowed strict societal condemnation of certain kinds of rapes (violent attacks by strangers) committed on certain kinds of women (white, ‘respectable,’ and sexually chaste) by certain kinds of men (Black, working-class, deviant)” (18). While highlighting the racial typecasting of hyper-visible rapes, what Gavey describes here is what Susan Estrich termed “real rape.” The concept of “real rape,” which is defined by “extrinsic violence (guns, knives, or beatings) or multiple assailants or no prior relationship between the victim and the defendant” (4), describes the kinds of sexual violence that appear unambiguously to be rape. When a case of rape fits the “real rape” template those who experience rape are more likely to be believed. In contrast, Estrich notes, research from the 1960s in the United States points to juries being four times less willing to convict in cases of “simple rape,” which she defines by the absence of such aggravating circumstances outlined above (20).

There is evidence that this gap continues to persist around the world between the treatment of simple and aggravated rape: for example, Kelly, Lovett, and Regan, writing in 2005, note that in England and Wales in contrast to child rape cases “Adult rape cases have higher attrition rates, especially if they depart from the ‘real rape’ template” (31). Where there are other factors such as alcohol or drug use, previous consensual sex, a reputation for promiscuity, or mental health problems “sex without consent is normalised, as being something other than ‘rape’” (Kelly, Lovett, and Regan 81). Citing the British Crime Survey (BCS), Kelly, Lovett, and Regan argue that

The power of the ‘real rape’ template . . . continues to affect how rape is defined and understood by everyone, beginning with victims themselves (Myhill and Allen, 2002). An interesting example from the most recent BCS findings is that less than half (43%) of women who had experienced an assault that met the legal definition of rape defined it as such, and this was even lower where the perpetrator was a current or ex-partner (31%).
However, where the assault had led to additional physical injury, the proportion defining it as ‘rape’ increased markedly to 62 per cent (Walby and Allen, 2004). (33)

In South Africa, the concept of “real rape” also operates as a sense-making script about rape. The journalist Charlene Smith recounts how she was told by an officer from the sexual offences unit after she was raped by a stranger in her home that it would have been better had she resisted more forcefully:

It’s a shame that you did not fight back. He would have beaten the shit out of you, but we would have had great pictures and a strong case. He would have gone away for years longer. But because you did not fight, a judge could say it was consensual. (32-33)

Writing about South Africa, Rachel Jewkes and Naeema Abrahams note that “Discourse in communities is heavily dominated by the idea that rape is a crime of violence and commonly informants in research indicate that people often confine the word ‘rape’ to use in describing acts of strangers, particularly violent acts, or, gang rape” (“Epidemiology of Rape” 1232). Indeed, according to Wood et al. the young South Africans from an urban township in the Eastern Cape understand rape to be different from forced sex within a relationship, and therefore, “the term rape as locally understood has a significantly narrower referential field than its legal or technical English meaning” (297).³³ For one interviewee, for example:

There is the rule of law where it says that it is rape even if you do it to your girlfriend. . . . [Y]ou are penetrating her against her will, it is rape, and it is not acceptable. You would also think of it as if it was happening to your sister . . . but there is no rape with your girlfriend. The law can say it is rape, yes, it is just the law. When we are discussing this we are not

³³ See too Judith L. Singleton for an analysis of the gap between men and women’s local understanding of rape and the legal one in South Africa.
applying the law, we are talking about something that comes from the 
heart. (293)

According to Judith L. Singleton the definition of rape remains a contested one in South 
Africa between the South African state that utilizes a universalist human rights discourse, 
and the men and women she studied from the poor KwaZulu Natal township, 
Mpophomeni. The South African men she observed were more likely than women to 
express opinions similar to those given above, especially in the context of lobola 
(bridewealth): the men “believed that once lobola payment is initiated or paid, the man is 
entitled to sex. This meant that women neither consented nor gave consent to sex—that 
to them the distinction was meaningless” (67). The women she interviewed also made 
distinctions between sex that was forced, and sex that was rape based on the relationship 
status between the individuals.

In contrast to Melanie’s rape, Lucy’s rape fits very neatly into an archetypal stranger rape 
scenario. Lucy is really raped in the sense that hers is a typical “real rape” the 
characteristics of which are outlined by Estrich and Gavey: she is raped by gun carrying 
men, and is the victim of multiple assailants, who, as strangers and black, fit the 
stereotypical and racist profile of a rapist. As a result, Lucy’s rape is “hyper visible,”
despite its lack of direct representation. To read consent into her actions would be 
outrageous. Coetzee’s inclusion in the plot of a white woman’s rape by three black men 
has resulted in concern, causing some to argue that Disgrace peddles racist myths, and 
therefore, does little to help the current problem of rape in South Africa where black 
women are more likely to be raped than white, and where women of all races are more 
likely to be raped by fathers, husbands, brothers, boyfriends and friends than by a 
stranger. We do not actually see Lucy’s rape, and therefore, any violence Lucy 
experiences must be inferred from Lurie’s imaginative construction of her rape, the

84 See Bethlehem.
85 See David Attwell “Race in Disgrace” for a rebuttal of the view that the novel perpetuates racial 
stereotypes. Poyner in Paradox of Postcolonial Authorship also explores this issue.
representation of her physical condition subsequent to the rape, and her own brief
descriptions of rape. While Lurie sustains some fairly serious injuries during the attack,
he is beaten and set on fire, Lucy does not show many signs of physical injury after the
assault—however, the violence of her rape is certainly implied, as the violence sustained
by both Lurie and the dogs that are callously shot surely indicates and in some sense
stands in for the violence experienced by Lucy herself. There is little question that Lucy
experiences a very traumatic and violent violation of her self and body. Importantly,
there is a witness who confirms she was raped: Lurie, Lucy’s father, is aware of what is
taking place elsewhere in the house. Finally, both Lurie and Lucy name the act as rape—if
not represented, it is at least named. While her response to this rape, including her
decision to remain silent about it, is extremely complicated and open to multiple
interpretations, the fact that she is raped is not open to doubt.

In contrast, Melanie’s rape is perceived to be ambiguous. The reason for its
ambiguousness is in part because it deviates from the traditional rape script: she knows
her rapist; she waits to report him to some kind of authority; and she ceases to actively
resist his attack. However, though Melanie’s rape does not follow a violent stranger rape
scenario, it does, in fact, follow a pattern that is all too familiar. Melanie’s experience
corresponds to rape’s most common manifestation: she is raped by someone known to
her. In the United States 73% of rapes were reported to have been committed by a non-
stranger (“National Crime Victimization Study”). In South Africa a total of 20.1% of
women surveyed in an antenatal clinic in Soweto reported experiencing sexual abuse by a
husband or a boyfriend as opposed to 7.9% who disclosed experiencing sexual assault by
a non-partner (Kristin L. Dunkle et al. 233, 235). In the 2009 study that drew headlines
across the world for one statistic in particular (27.6% of men interviewed admitted to
perpetrating at least one rape in the last year) another statistic was passed over: 42.4% of
those interviewed admitted to intimate partner violence (Jewkes et al., “Understanding
Men’s Health” 1, 2). Since the 1980s, when Mary Koss revolutionized the thinking about
who commits rape, it has become generally accepted that women are more likely to be
raped by someone who is known to them, and yet, this has not led to a change in the dominant cultural script. As Amy P. Demorest argues, scripts “operate primarily unconsciously and are resistant to disconfirmation or change” (571).

Like some of the actual experiences of sexual violence Gavey explores, Melanie’s rape appears ambiguous partly because Melanie has had sex with Lurie before. This is the case despite the fact that Melanie, like Lucy, is the victim of a home invasion. While it is true that Lurie appears intent on some kind of sexual or even romantic relationship with Melanie, it would be a mistake to describe Melanie’s experience as a date rape. Melanie is not on a date at the time of her rape. Lurie appears unannounced at her door and forces his way into her apartment. Middleton and Townsend more accurately identify the type of rape Melanie experiences as “acquaintance rape” (116). In addition to the mere fact of her relationship with Lurie, Melanie’s rape can seem ambiguous because the representation of Melanie’s passivity the first time Lurie has sex with her makes it possible to elide the first apparently consensual sexual encounter with the second nonconsensual sexual encounter, as Cornwell does when he writes, “Melanie is largely passive in their interactions, certainly in their lovemaking” (315). Little about her consent the first time they have sex can be inferred from the short description provided, especially given the narrative’s focalisation that gives us no access to her interior. There is evidence that the intercourse is hasty: it takes places on the living-room floor and neither Melanie nor Lurie are fully undressed; Lurie still has his trousers “around his ankles” (Disgrace 19); Melanie is still wearing her sweater (19). Melanie is “passive throughout” (19), an attitude that does not decrease his sexual excitement and which is replicated during the subsequent rape event. After this first sexual encounter with Lurie, Melanie is left frowning slightly; she averts her face and leaves quickly. Melanie is certainly not depicted as experiencing much pleasure, but nor is there much to suggest whether she consents or not. What is possible to assert is that Lurie breaches his ethical responsibility to his student’s welfare at this time. That Melanie is unhappy about what

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86 See for example “Sexual Experiences Survey,” “The Hidden Rape Victim” and “The Scope of Rape.”
has taken place is evident in the juxtaposition of Lurie’s “state of profound wellbeing, which does not go away” (19-20) and Melanie’s absence from class. And yet, despite the fact that Melanie gives no indication that she wants to continue a relationship with Lurie, this first sexual encounter casts doubt on her subsequent consent during the second encounter. Some of the diction in the first scene is repeated in the second, but more importantly, it is hard to imagine such doubt over whether Lurie is a rapist if his appearance at Melanie’s apartment was the first time he had sexually approached her, or if he had not been successful in inducing her to have sex with him previously.

Unlike the hyper-visibility of Lucy’s rape, the story of Melanie’s rape “remains marginal and repressed throughout the novel” (Du Toit, A Philosophical Investigation of Rape 46) and in much of the critical response to the text. Many writers regard Lurie’s actions as ethically problematic and abhorrent, but nonetheless stop short of naming what he does as rape. Instead, they opt for euphemism and cumbersome explanation: Michael Chapman, for example, writes that “Lurie . . . refuses to apologise for his ‘disgrace’ (of sexually imposing himself on one of his–coloured–students)” (58); Chris Danta refers to Lurie’s actions as “sexual misconduct” (732); Robert Spencer characterizes the reason for Lurie’s dismissal as “an exploitative relationship” (215); Elizabeth S. Anker suggests that Lurie “rather aggressively and coercively seduces [Melanie] into a short-lived affair” (238); Eluned Summers Bremner comments on his “ill-advised sexual behaviour” (147); and Jane Poyner and Alice Brittan write that he has an “illicit affair” (“Writing Under Pressure” 109) and a “coercive affair” (484), respectively.87 Despite the oft-noted parallels between what happens to Melanie and Lucy—as Michael Marais puts it, Lucy’s gang rape “serves as a structural parallel in the novel to Lurie’s rape of Melanie Isaacs” (“Task of Imagination” 76)–the difference in the critical response to each rape is stark.88

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87 While Poyner’s wording is stronger than many who characterize the interaction between Lurie and Melanie merely as an affair or as a seduction, she nonetheless regards what happens to Melanie as falling short of rape despite her admission it “is mirrored in the text by the rape of Lurie’s daughter Lucy by three black intruders to Lucy’s farm” (“Writing Under Pressure” 109).

88 Marais’s assertion is a refinement of his earlier position that the parallels between Melanie’s experience and Lucy’s are so numerous that “The inference to be drawn from the parallels between these scenes is that the two acts are identical” (“Little Enough, Less than Little” 175). Others note a parallel between the two
This difference holds even when Melanie’s experience is analyzed as rape rather than as (coercive) seduction or an (illicit) affair. Laura Wright in *Writing out of All Camps* concludes that Melanie is indeed raped; nevertheless, for Wright, Melanie’s rape can only be comprehended retrospectively as it relates to and foreshadows the “real” rape of the text. She writes, “Only by recognizing parallels between the two young women, Melanie and Lucy—the first non-white, the second white—and the parallels between the white David Lurie and the black rapists in the latter part of the novel is the reader able to recognize David’s earlier encounters with Melanie as instances of violation” (101).

According to this argument, Melanie’s assault only appears with any certainty after the violation of Lucy, and thus, Lucy’s rape, the certainty of which is never in doubt, is the primary event around which the other act of sexual violation takes its meaning. For Wright, “after Lucy’s rape on her smallholding in the Eastern Cape, it becomes impossible to view David’s interaction with Melanie as mere seduction, his treatment of her as anything other than the ‘abuse’ (53) of which he is accused by a female member of the university disciplinary committee” (98). This position reveals an apparent blindness to the abuse it attempts to bring to light: while Lucy’s rape is straightforwardly articulated as rape, Melanie’s “abuse” (*Disgrace* 53) is only apparent after its supplementation by another assault. The word “abuse” (53) is ambiguously used in the novel, and has given rise to a myriad of interpretations including, for example, ones connected the novel’s hint that she is a “coloured” woman.89 Having made the leap to “abuse” herself, Wright then enlists the help of another critic to name Melanie’s experience as rape:

In the Freudian sense, according to Ariella Azoulay, “trauma . . . is given its meaning only when it is experienced a second time, only in retroactive fashion when it is articulated and told to an addressee (34-35), or, I would

acts: Cooper 27; Alice Crary; Jane Creighton 325; Marianne DeKoven, “Going to the Dogs” 849; Isidore Diala 56-57; Donovan 83; Alyda Faber 308-309; Graham, “Reading the Unspeakable;” and Eluned Summers-Brenner 151.

89 For this reading of “abuse” (*Disgrace* 53), see Faber 309.
contend, only when it is re-enacted and thereby performed before an audience. Azoulay argues that in Disgrace, Lucy’s rape (the second rape) becomes the narrative articulation of Melanie’s rape (the first rape). It is the second violation that reveals the trauma of the first, a trauma often unrecognized by many of Coetzee’s critics who, according to Lucy Graham, dismiss the incident between Lurie and Melanie as an affair. (100-101)

However, Azoulay’s reading reconstitutes this first event only to the extent that it looks like rape, and is, perhaps, not even that: “When the stories thus illumine each other, the first story—at the centre of which now stands Melanie Isaacs, Lurie’s student—looks like rape, or at least like sexual assault in which Lurie uses his professorial position exploitatively” (Azoulay 35). In both Azoulay’s and Wright’s arguments, it is troubling that it is only through a second trauma, a rape that is unambiguously “real,” that a rape that does not fit stereotypes is revealed.

Azoulay’s reading, which utilizes trauma theory, is interesting, because it displaces Lucy’s rape as the rape of the novel, making it possible to read Melanie’s rape as a primary traumatic event that fails to be fully known and must, thus, be repeated:

The novel’s chronological axis extends from the first story, in the framework of which Lurie is the hero involved in a ‘disgraceful affair’ with a student of his, to the second story, in the framework of which his daughter Lucy is the heroine brutally raped by ‘local inhabitants.’ The first story is presented as an almost administrative matter, the second as a traumatic event. In the reading that I propose, I will attempt to recover the traumatic standing of the first event by positing the traumatic story of the novel’s second half as a ‘second event.’ (Azoulay 35)

However, there are difficulties with reading Lucy’s rape as the traumatic repetition of Melanie’s, not least of which is the fact that the trauma of one rape is revisited on a different woman, giving rise to the question: whose trauma is being repeated in the novel’s second rape? Not Melanie’s as she, presumably, has no knowledge the second
trauma even occurs; not Lucy’s, as she has little knowledge of the first trauma except to
the extent it has impacted her father. Perhaps it is Lurie’s trauma; he is at least present to
an extent during both events, but his position as a victim of trauma is problematic with
regard to both rapes: the first, because he is the perpetrator, and the second, because
while he is physically assaulted he is not himself raped. There is perhaps an allegorical
reading in this traumatic structure. Lurie, after all, is accused by the female member of
the university tribunal of participating in “the long history of exploitation” (53), a phrase
that can be read as a racial as well as gendered critique of what she calls his “abuse of a
young woman” (53). However, such a reading is also not without difficulties given that
the novel resists a straightforward allegorical reading of both rapes as representing the
state of post-apartheid South Africa. And the question remains: why are the sins of the
apartheid past revisited upon the daughters on the new nation (Melanie, Lucy) and not the
fathers (Lurie, Mr. Isaacs, even Petrus)? Moreover, an analysis that uses trauma theory
in this way is at risk of locating the two rapes in a hierarchy, thereby forgetting that two
different crimes are committed against two different women. Such a reading must elide
the material reality of rape committed against particular women’s bodies. This is perhaps
what Lucy means when, in justification of her desire to remain silent and in response to
Lurie’s interpretation of her silence as an attempt to remind him of what women in
general suffer at the hand of men, she says “No. You keep misreading me. Guilt and
salvation are abstractions. I don’t act in terms of abstractions” (112). Lucy does not
seem to want her rape to symbolize anything beyond what it means to her personally—
particularly perhaps the confirmation of the “black peril” narrative that her neighbor
Ettinger takes it to be.

90 For an analysis of this allegorical reading, see Cooper 32-33.
91 For further analysis of Ettinger’s reaction, see Attwell, “Race in Disgrace” 336-37.
3.2. “Seduction” or “Affair”? The Problem of Labelling Melanie’s Rape

This unwillingness to read Melanie’s violation as rape has not gone unnoticed; as indicated by Wright in the quote above, in 2003 Graham criticized those who describe Lurie’s encounter with Melanie as a “seduction” or an “affair” (“Reading the Unspeakable”). And Graham continues to discuss this aspect of the critical response to the novel in her writing (State of Peril). However, such language remains common.

It may be that the interaction between Lurie and Melanie is often described as a “seduction” and an “affair” because Lurie conceives of their relationship in these terms:

92 Graham writes, “Although narrative perspective in Disgrace allows for critical distance from David Lurie, who is the ‘focaliser’ of the story, the majority of reviewers seem to read in sympathy with Lurie when he glosses his sexual encounter with Melanie as ‘not rape, not quite that.’” Lucy Hughes-Hallett writes that Lurie ‘seduces a young female student,’ and other reviewers represent his abuse of Melanie as an ‘affair.’ Overlooking the violation entirely, Albert du Toit explains that the ‘affair’ between Lurie and Melanie ‘blossoms but soon sours.’ Derek Attridge describes Lurie’s interaction with Melanie as ‘a brief liaison,’ and even lauds Lurie’s refusal to cooperate with the university disciplinary committee who call upon him to account for his behaviour. It is important to recognise, however, that Disgrace actually stages the encounter between rape in art and the reader/viewer, and thus the novel pre-empts the blindness of certain readings (“Reading the Unspeakable” 440-41).

93 Those who imply Lurie “seduces” Melanie include Elizabeth S. Anker; Attridge, The Ethics of Reading; Bethlehem; James Boobar; Buikema, “Crossing the Borders,” and “Literature and the Production of Ambiguous Memory;” Deirdre Coleman; Matt DelConte; Isidore Diala; Gillian Dooley; Giles; Ina Gräbe; Gary Hawkins; Ranjana Khanna; Kossew; Patrick Lenta; Bill McDonald; Segall; Linda Seidel; Spivak, “Ethics and Politics in Tagore;” Patrick Casey Sutcliffe; Martin Swales; and Cynthia Willett.

Those who use the word “affair” to characterize the relationship between Lurie and Melanie include Anker; Attridge, The Ethics of Reading, and “J. M. Coetzee’s Disgrace;” Brittan, Buikema, “Crossing the Borders,” and “Literature and the Production of Ambiguous Memory;” Cass (who also describes Melanie as Lurie’s “student lover” (36)); Cooper; Gareth Cornwell; Eleni Coundouriotis; DeKoven, “Going to the Dogs;” Matt DelConte; Dooley; Donovan; Edwards; Giles; Pat Harrigan; Hawkins; Georgina Horrell; Kochin; Kossew; Maria Lopez; McDonald; Daniel L. Medin; Brenna M. Munro; Foyner, Paradox of Postcolonial Authorship, and “Writing Under Pressure;” Rebecca Saunders; Segall; Seidel; Silvani; Summers-Bremner; Sutcliffe; Swales; Taylor; Willett; and Zembylas.

Some suggest Lurie both seduces and rapes Melanie: see for example, Paul J. C. M. Franssen who writes “Melanie, the student who is seduced or, arguably, raped by David” (240) and later “Pollux’s crime, raping a woman of a different colour, is a mirror image of David’s own rape of Melanie” (241). See also Eric Meljac; Marais, “Little Enough, Less than Little,” and Stratton. Likewise, some refer to both an affair and a rape: see for example, Noam Gal who comments, “Following this affair (which was actually a rape, as Lucy Graham [2003] shows)” (241). See also Cooper.
the narrative, for example, invites the reader to conceptualize his initial attempts at flirtation as a seduction: “Smooth words, as old as seduction itself” (*Disgrace* 16); and both Lurie and his ex-wife use the word “affair” to characterize the resulting relationship (27, 42, 43). While he is aware that his pursuit of Melanie is ethically problematic, Lurie utilizes the language of romance in his interactions with her, for example when he comments that Melanie does not own her beauty, and so should share it more widely. Lurie attempts to use the traditions of romance to persuade Melanie to sleep with him, as Deirdre Coleman argues: “As a professor of literature, Lurie draws on a wide range of allusions, marshaling Shakespeare to propel his seduction of Melanie Isaacs and Flaubert to ironize his romantic and sexual longings” (600).

To use the word “seduction” to describe Laurie’s assault of Melanie is problematic unless it is used in a way that distinguishes between flirtation and rape, for it is dismissive of Melanie’s violation. Coleman’s use of the word “seduction” above is appropriate because it is tied to Lurie’s attempts to ingratiate himself with Melanie at a specific point in the narrative. However, to characterize the entirety of their interaction as a seduction, mutates a narrative of sexual violence into the sexual script of a romance novel, in which Lurie is cast as romantic hero overcoming a woman’s resistance by achieving her submission. In such a reading, Lurie is the typical male protagonist of romance who “will tend to be overbearing, violent and able to execute his intentions, while the heroine will be passive, divided and dissimulating” (Philadelphiaff-Puren, “Contextualizing Consent” 32). This story of romance de-legitimizes the story of rape. Philadelphiaff-Puren, in a paper that explores not only the way in which romance fiction masks rape as consensual sex, but also how legal arguments and judgments use concepts from romance fiction to discursively transform non-consensual sex into consensual sex, argues that “the harm of rape continues to be textually doubled by a discourse which has the power to negate it: the discourse of romance” (39). What is revealed in *Disgrace* is not so much, “the terrible proximity of rape and love” (150, 159) as Ido Geiger puts it in his analysis of the novel, but the terrible conversion of rape into love. While it may be true that Lurie attempts to seduce Melanie when he brings her back to his flat, provides her with wine and recites poetry to her, to imply that Melanie is seduced after he appears at her apartment unannounced and forces her to have sex is to convert nonconsent into consent.
Graham argues that the novel anticipates the readings that describe Lurie and Melanie’s interaction as a “seduction” or an “affair” as misreadings through the text’s own critique of art’s tendency to represent rape as romance (“Reading the Unspeakable” 441). She notes that Coetzee stages the failure of art to represent violent violation appropriately when Lurie is confronted by the painting *The Rape of the Sabine Women* and he realizes that traditional Western representations of rape mask rape’s sordid reality (441). Standing before the painting he wonders, “What had all this attitudinizing to do with what he suspected rape to be: the man lying on top of the woman and pushing himself into her?” (*Disgrace* 160). Graham argues *Disgrace* “assesses the disjunction between allegiance to an ideology of aesthetics and allegiance to the ethical, revealing Western artistic traditions and perspectives that may condone unethical acts” (441). Likewise, Coleman notes “After Lucy’s rape, high romantic conceptions of art and literature lose their authority, as can be seen in the mismatch between the representation of rape and its reality” (608). On the one hand, the novel shows how rape has too often been romanticized through art, and yet, on the other hand, the conversion of a rape narrative into a romance narrative is what happens when critics continue to characterize Melanie’s experience as a seduction.

Such a conversion of rape into seduction cannot take place without unsettling many of those who make this move. There is evidence of discomfort with terms such as “affair” and “seduction” when they are used. The use of quotation marks around these words, in particular, often suggests a sense that Lurie’s “affair” involves something other than an affair, that his “seduction” of Melanie is not quite a seduction. Moreover, the inconsistent use of quotation marks within a paper can indicate the difficulty of discerning where one should stand on the matter. Derek Attridge writes the word “seduction” both with and without quotation marks, suggesting a particular uncertainly with the word’s appropriateness. The first use without quotation marks signals his own

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94 I am aware that I too use quotation marks around these words at times; I do so for the sake of clarity or to signal their use by another critic, not to indicate my discomfort or that they may not be quite appropriate descriptors of what transpires between Lurie and Melanie.
The turning points are the seduction (and on one occasion near-rape) of a 20-year-old coloured female student by a white man in his fifties, and the gang rape of his lesbian daughter by three black intruders” (“J. M. Coetzee’s Disgrace” 315). The second use of the word, this time with quotation marks, shows his understanding that from a feminist position this word is deeply problematic: “Feminist readings also tend to regard Lurie as an unsympathetic character. His ‘seduction’ of Melanie Isaacs is seen as a wholly improper exercise of male institutional power that deserves the name he avoids giving it—rape—and as unequivocally associated with the rape of his own daughter by the intruders” (“J. M. Coetzee’s Disgrace” 317). In both cases the word “seduction” appears near to references to Melanie’s and Lucy’s (near or actual) rape: if one accepts that Melanie is seduced she cannot have been raped, but if what happens to Melanie is rape (as feminist readings tend to suggest) then the word “seduction” is inappropriate and so must be marked off. Molly Abel Travis, likewise, includes quotation marks around the word “seduction,” to indicate that there is something not quite right about this word in relation to Lurie’s interaction with Melanie, but does not include them when referring to Byron’s seductions:

He clings to the delusion that his ‘seduction’ of Melanie was more like the ‘old-fashioned’ seductions of Lord Byron: ‘there were no doubt those who called [Byron’s seductions] rape. But none surely had cause to fear that the session would end with her throat being slit’ (160). (239)

It is not clear what Travis sees to be the distinction between Lurie’s “seduction” of Melanie and Byron’s seductions, but it is implied that while Byron’s victims have little cause to name their violation rape (they were not in danger of losing their life), Melanie may well have experienced something other than a seduction. In a similar vein, Sue Kossew uses the word “affair” both with and without quotation marks (156, 158), and Michalinos Zembylas not only does the same—writing the word “affair” without quotation marks when referring to the relationship in the body of the text (225) and then using quotation marks in a footnote—he employs multiple quotation marks to indicate his inability to resolve the text’s ambiguity:
Lurie’s relation with Melanie is definitely one filled with ambivalent desire (on both sides). This ambivalence is evident in that Lurie is having an ‘affair’ with a student and then is signaled as a ‘rapist.’ But it is precisely this ‘vacillation,’ this inability for the reader at first to ‘decide’ or pronounce ultimate judgment on desire itself (because it is so messy) that is carried throughout the book and into Lucy’s rape and its transformative aftermath. (226 n.3)

Zembylas’s use of the word “desire” conflates two kinds of judgments: the first, whether Lurie’s desire is appropriate; the second, whether Melanie can be said to desire intercourse with Lurie. Moreover, not only do the quotation marks indicate Zembylas does not necessarily mean that Lurie is a rapist (he is signaled a “rapist,” but is not an actual rapist), the footnote prevaricates confusingly over the words “decide” and “vacillation.” While the quotation marks around the words “affair” and “rapist” imply neither word may be an appropriate descriptor, the marks that surround “vacillation” and “decide” portray Zembylas’s own extreme discomfort with characterizing the interactions between Lurie and Melanie, even as he attempts to distance that discomfort as the general reader’s.

With this kind of treacherous territory to navigate in the interpretation of the novel, it is not surprising that critics who struggle to decide what happens to Melanie have started to signal the ongoing debate over whether Melanie is raped without entering into that debate themselves. Ranjana Khanna, for example, stays firmly on the fence with the following description of Lurie’s actions: “Lurie then either seduces or rapes one of his students” (64). Marianne DeKoven, like many others, feels the need to explain her reasoning when she labels Lurie a “sexual predator” (“Going to the Dogs” 849), as she worries that some may find the word “predator” overly strident. She justifies her use of the word by commenting, “it is important to understand Coetzee’s careful paralleling of Lurie with his daughter Lucy’s rapists” (849). Calling Lurie a rapist, however, is a step too far for DeKoven, who, without coming down one way or another on the issue, opts instead to note that there is an ongoing debate over whether during Lurie’s “affair” with Melanie he actually rapes her. She writes, “Whether or not one accepts the argument, widely
discussed, sometimes in contentious terms, in criticism of the novel, that he actually rapes her . . . it is impossible not to see that Coetzee gives ample evidence that Lurie’s sexual relationship with Melanie is unethical” (849). It is a reasonable and understandable strategy to highlight the controversy and then dismiss it by emphasizing the morally problematic nature of the interaction between Lurie and Melanie—to suggest that whether she is raped or not does not really matter. But it does matter. It matters not just because finding that she is raped shapes the ground for the interpretation of the novel, including the second rape, Lucy’s, but also because it shapes what is recognizable as rape; that is, it shapes what can be given its name.

Like DeKoven, Patrick Lenta draws attention to “Lurie’s aggressive seduction of Melanie Isaacs” (2) as an unsettled question when he writes that “Commentators are divided on whether Lurie’s coercion of Melanie during an unscheduled visit to her flat constitutes rape,” before going on to suggest that deciding one way or another is not necessary for his argument given that “even if Lurie’s actions fall short of rape, properly understood, they nevertheless represent an abuse of power” (2), an assertion that, like DeKoven’s, “Lurie’s sexual relationship with Melanie is unethical” (“Going to the Dogs” 849), seems to assume a consensus making position. While the use of the word “seduction” throughout the argument, as well as, the above hesitancy to name the act as rape, “properly understood,” suggests that Lenta thinks it is reasonable to find Lurie’s actions fall short of rape, a position not unlike Attridge’s characterization of the event as, “seduction (and on one occasion near-rape)” (“J. M. Coetzee’s Disgrace” 315), Lenta provides a very coherent argument that Lurie rapes Melanie in the footnote that accompanies the comment on the division between critics above. After citing Rosemary Jolly and Sue Kossew’s divergent positions, Lenta provides the following analysis that is worth quoting at length:

95 DeKoven also points to the controversy in her article “Why Animals Now” that appeared in PMLA in 2009 (365).
Much depends on how rape is defined. Assuming a definition of rape as non-consensual sex, is Lurie guilty of rape? Melanie’s ‘No, not now!’ (25) is an explicit refusal of sex. There is no indication that she thereafter explicitly consents to sex or that, relenting, she explicitly revokes her refusal of sex. The reader is informed that she ‘does not resist’ and that ‘she even helps him, raising her arms and then her hips’ (25). In South African law, consent may be implied by conduct as well as express consent. Nevertheless, submission by a victim to the threat of sufficient force to overcome resistance is not equivalent to consent. As Murray AJA observed in *R v Swiggelaar* (1950 [1] PH H61 [A]), ‘if a man so intimidates a woman as to induce her to abandon resistance and submit to intercourse to which she is unwilling, he commits the crime of rape.’ South African law recognizes that the application of pressure other than the threat of physical violence to induce consent may vitiate the victim’s consent (*S v S* 1972 [2] SA 591 [A]). Under South Africa’s Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007, ‘sexual violation’ is defined to include ‘abuse of power or authority by A to the extent that B is prohibited from indicating his or her unwillingness or resistance.’ The fact that for Melanie sex is ‘undesired to the core’ and the description of her behavior—‘she had decided to go slack, die within herself for the duration, like a rabbit when the jaws of a fox close on its neck’ (25)—suggests submission to power: this appears to be an act of rape. (14-15 n.3)

That Lenta is not truly concerned with whether Lurie rapes Melanie provides part of the reason this analysis is relegated to a footnote. But this does not explain why the conclusion—“this appears to be an act of rape”—fails to make it into the body of the argument, or why after a coherent and detailed analysis of the past and present South African legal position Lenta weakens his assertion that it is rape with the word “appears.” It seems likely that the reason this assertion is located in a footnote and not in the body of the text is because something about the rape’s presentation in *Disgrace* prohibits its
straightforward articulation despite its alignment to past and current legal definitions of rape in South Africa.

3.3. The Language of Non-Agency

Coetzee’s use of free indirect discourse in this novel is partly responsible for the difficulty apparent in referring to what happens to Melanie, for this narrative style makes it hard to take a position outside of Lurie’s subjective experience. The interpretation that Melanie is wholly passive and non-articulate in her interactions with Lurie and in response to his sexual pursuit of her rests almost entirely on Lurie’s perception of her. Thus, as Jolly points out, critics are liable to participate in his “delusion” (“Writing Desire Responsibly” 99). As Michael G. McDunnah writes, “Several critics and reviewers have commented that the narration of Disgrace is so closely attuned to Lurie’s perspective that it approximates a first-person narration” (18). McDunnah argues that rather than create skepticism of Lurie’s subjective perspective, as a first-person narrative would do, the mechanism of free-indirect discourse in the voice of a third-person narrator “acts as the guarantor of the truth of Lurie’s subjective reality” (18).

The power of this narrative style is evident in the alignment of some readings with Lurie’s perspective on everything from his “not rape” of Melanie to her motivation for bringing forward a complaint against him. Lurie’s imaginary construction of Melanie’s actions with regard to this complaint, which includes the role of her father, cousin, or boyfriend in bringing it forth, is taken as actual narrative fact by some critics: for example, Rosemarie Buikema writes, “The affair ends in disaster for Lurie when Melanie’s boyfriend takes the matter up with the office of Student Affairs” (“Literature and the Production of Ambiguous Memory” 189); likewise, Mike Kissack and Michael Titlestad attribute the complaint not only to Melanie’s father, but also to Melanie’s relationship with her boyfriend and academic difficulties rather than to Lurie’s sexual assault of her: “The complications of her relationship with her boyfriend and her ambivalence towards her own studies, result in an exposure of the relationship to the
Technical University’s authorities by Melanie’s father, and charges of harassment are laid against David” (“Humility in a Godless World” 138). Such interpretations reveal how tempting it is to take Lurie’s biased perspective which maintains Melanie’s passivity as authoritative. Mr. Isaac’s threat that “You have not heard the last of it, I tell you now!” (Disgrace 38) the section before Lurie is informed of the complaint may imply some parental input in Melanie’s decision to go to the university authorities, but this threat is far from definitive proof that Lurie’s subsequent suppositions are correct. Lurie chooses to conceptualize Melanie’s accusation against him as the machinations of Melanie’s cousin and father—not as the actions of an autonomous woman. When he first hears of the tribunal at the university he rationalizes that “Melanie would not have taken such a step by herself” (39), and later, when talking about the upcoming tribunal he suggests that Melanie must have been swayed by external pressure from her “jealous boyfriend” (45), or her “indignant parents” (45), and so “must have crumpled in the end” (45).

Perhaps attributing agency to Melanie is beyond him–Lurie, paternalistic and patriarchal, has a hard time conceptualizing women outside the economy of men: “a woman’s beauty does not belong to her alone” (16) he informs Melanie the first night he brings her back to his apartment; he is unable to imagine what Lucy and her female lover do together; and he apologizes to Melanie’s father and not to her. With regard to the latter instance, I concur with Margaret Herrick:

To go to the house of a young woman you have sexually assaulted and speak to her father of how she ‘kindled fire’ in you betrays a shocking self-absorption, and a demand to have one’s own feelings and thoughts recognized seemingly without considering the possibility that such an act might be quite painful to the other people involved. (5)

Lurie erases all agency in his imaginative construction of Melanie’s accusation: Melanie is imagined to have been persuaded by others to make the complaint; to have been

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96 Likewise, Horrell writes, “Melanie and her father lodge a formal complaint with the university and Lurie is called before a disciplinary committee” (28).
“marched” (39) by them to the office. He goes on to imagine a conversation in which Melanie is entirely silent, her father and cousin speaking for her, even “daring her to object” (39). What follows effaces Melanie’s agency, as her accusation against Lurie is recast through the language of coercion and dissociation from mind and body as a reiteration of her assault, whereby she is rendered entirely passive. Not Melanie, but “a hand he has kissed” (39) takes up a pen and slowly, carefully, like a child following the directing “finger of her father” (40) places an inarticulate, almost illiterate, X in the correct box. The X, two names, an occupation, a signature and a date, slowly and carefully spelled, is all that is required of the hand to form the accusation. Then, “The deed is done. Two names on the page his and hers, side by side. Two in a bed, lovers no longer but foes” (40). With these words, Macbeth-like, Melanie is transformed from sexual victim into traitorous victimizer—yet a strange kind of victimizer, one who fails to be the agent of the deed. Roles are reversed, and the moment of transition from lover to foe is located at the time of accusation for sexual harassment and not at the time of the rape that likely triggered the accusation.

Moreover, Lurie’s refusal to read Melanie’s statement either before or during the disciplinary hearing not only silences her, but also maintains the fiction Lurie has created that she is passively coerced into making the complaint, barely able to articulate what happened to her except to place an X in a box. By not reading Melanie’s testimony, Lurie sustains his fiction that it is Melanie’s father and not his violation of her that precipitates her complaint; as Jolly points out, in Coetzee’s fiction, “It is not that the rapist has no fiction-making ability; it is that his act of fiction-making is despotic, precisely because his fiction is imposed on his victim, denying her an alternative ‘reading’ of the violation” (“Writing Desire Responsibly” 94). In this way, Lurie oppressively controls the narrative of their relationship, and thus, the interpretation of his assault of her—a rape he seeks to transform into consensual sex through the application of a romance script.

Lynn A. Higgins suggests that
rape is a special kind of crime in relation to narrative. It differs from other kinds of crimes in the kind of alibis it permits. To prove his innocence, someone suspected of murder must show he himself was elsewhere or that the murder was committed by another person. He can rarely claim that no crime occurred. Murder is not a crime whose noncommission can be narrated. Rape, on the other hand, can be discursively transformed into another kind of story. This is exactly the sort of thing that happens when rape is rewritten retrospectively into ‘persuasion,’ ‘seduction,’ or even ‘romance.’ (“Screen/Memory” 307)

Whether or not Higgins is correct with regard to murder, this retrospective rewriting of rape is certainly what Lurie attempts to do at the university tribunal that is convened to assess the charge of sexual harassment laid against him by Melanie. During his “trial” Lurie seeks to cast his interaction with Melanie in terms of a heterosexual seduction narrative in which Eros plays the active part:

I was walking through the old college gardens and so, it happened, was the young woman in question, Ms Isaacs. Our paths crossed. Words passed between us, and at that moment something happened which, not being a poet, I will try not to describe. Suffice it to say that Eros entered. After that I was not the same. (Disgrace 52)

In this story he tells of their first meeting, Lurie constructs a romance by utilizing the “grammar of non-agency” to borrow a phrase used by Ehrlich in her linguistic analysis of a Canadian rape trial and university tribunal. Ehrlich argues that the defendant in the trial and tribunal used “unaccusative constructions,” that is “intransitive verbs which take as their grammatical subjects non-agents or non-causers of the actions or processes designated by the intransitive verbs (Haegeman and Gueron 1999)” (49). These unaccusative grammatical formations (e.g. “the glass broke” (50)) can be distinguished from agentless passives (e.g. “the glass was broken” (50)) in that “while agentless passives suggest that an agent is lurking in the background, unaccusative constructions completely eliminate the agent from the representation of the event” (50). Moreover,
Ehrlich points out, unaccusative constructions not only mask the cause of an event (e.g. what caused the glass to break), they also imply the subject of the sentence (e.g. the glass) has some kind of agency (50). Lurie, like the defendant Ehrlich studies, uses unaccusative constructions during the tribunal to efface himself as the agent of action: “Our paths crossed” (*Disgrace* 52), “Words passed” (52), “something happened” (52), “Eros entered” (52). Lurie’s speech is a language of passivity that Coetzee seems particularly interested in. Indeed, in his essay “The Rhetoric of the Passive in English,” he writes “my concern here will be with the rhetorical potential of the passive . . . . I start with the question: In the hands of writers who use the passive in a complex and systematic way, what can it be made to do?” (*Doubling the Point* 159).

In *Disgrace* grammatically passive constructions are made to remove Lurie as the agent of action and divest Melanie of her subjectivity. As Carrol Clarkson suggests, “Since the syntactic subject is not that easily disaggregated from the idea of a semantic subject, the use of the active or passive voice has repercussions for our understanding of the importance we attach to subjective agency in the sentence” (117). Similarly, McDunnah takes note of the novel’s “subjectless sentences” (26) that form the “Not rape, not quite that” (*Disgrace* 25) paragraph analyzed above, suggesting that “the syntax here denies both their subjectivities” (McDunnah 26). I would qualify this assertion by noting that Melanie is not grammatically effaced in this paragraph but transformed into the object: “So that everything done to her might be done, as it were, far away” (my emphasis 25). In this sentence, Melanie appears as the grammatical object; it is Lurie as the agent of action who is missing: what is being done to her is done without an agent.

Thus, Lurie obscures his own agency and avoids responsibility, even as he declares his guilt. As Cooper writes,

Lurie’s identification of himself as a ‘servant of Eros’ and his powerful sense of erotic possession–“he is in the grip of something. Beauty’s rose: the poem drives straight as an arrow” (18)–operate ambiguously in the novel. They are dubious and moribund yet strangely prescient figurations. On a metafictional level, they foreground interpretation–with its corollary,
representation–as potentially coercive. The conventions of Western love poetry–‘She does not own herself; perhaps he does not own himself either’–permit Lurie to elide Melanie’s subjectivity, dispossessing her of a ‘self’ while absolving himself of responsibility for what is, effectively, a rape. (25)

Suffusion by Eros–later he will say to Lucy that his “case rests on the rights of desire. . . . On the god who makes even the small birds quiver” (Disgrace 89)–is used to obscure Lurie’s responsibility for his abuse of Melanie, to convert a narrative of rape into one of seduction. Throughout the tribunal, Lurie attempts to establish himself as the victim of external forces; though he denies he is appealing to an ungovernable impulse, Lurie claims to have been altered by something external that penetrates him from the outside. He becomes “a servant of Eros” (52), because “Eros entered” (52, my emphasis). He seeks to have it both ways: on the one hand, he conceptualizes himself as the masculine heterosexual subject who pursues his desires and seduces a passive female object, an object that does not “own” (16) itself; while on the other hand, he appeals to the rape script that heterosexual men are not quite themselves when they are aroused, and therefore, cannot own their actions. Because he describes the moment something happened to him (penetration by Eros in the college garden), he leaves the actual penetration of Melanie to the imagination of those on the tribunal who Lurie believes absurdly envision, “a great thick-boned male bearing down on a girl-child, a huge hand stifling her cries” (53). The discrepancy of age, but more so, the hand over the mouth indicate unequal power and an unwilling victim; violent silencing implies nonconsent. Lurie finds this imaginary scenario preposterous, because in actual fact, after she first objects, Melanie remains silent during her rape–there is no need to silence her cries.

A reading that indicates Melanie ultimately consents to intercourse rests on this lack of resistance and on her silence. Proponents of this interpretation are likely to emphasize Melanie’s passivity: Buikema, for example, writes, “Lurie seduces her, and Melanie experiences his advances without much pleasure but also without much resistance” (“Literature and the Production of Ambiguous Memory” 189). This interpretation hangs on the narrative’s assertion that “She does not resist” (Disgrace 25) after her initial
refusal of sex. Evidence for her submission after this point can be found in that she allows, and even helps Lurie, to remove her clothes; however, this is done joylessly, and between behaviour of aversion:

All she does is avert herself: avert her lips, avert her eyes. She lets him lay her out on the bed and undress her: she even helps him, raising her arms and then her hips. Little shivers of cold run through her; as soon as she is bare, she slips under the quilted counterpane like a mole burrowing, and turns her back to him. (25, my emphasis)

That nonconsent is different from resistance, and that consent is different from submission are logical, if often forgotten, facts. As the South African Law Commission, published the same year as Disgrace, notes, “it has to be remembered that there is a difference between consent and submission; every consent involves a submission, but it by no means follows that a mere submission involves consent” (3.4.4.5.5). And yet, for Lurie’s actions not to constitute rape, this must be the moment consent is read into her actions.

The text supports a reading such as Buikema gives in her article “Literature and the Production of Ambiguous Memory” through its shift in tone after Melanie ceases to resist. As McDunnah explains, “Once he overcomes her resistance . . . the brutality is gone” (25); he notes that the language following her submission is “softer, even tender” (25), casting Lurie as the seducer and Melanie as the seduced in a romance plot. Likewise, referring to the description of Lurie kissing Melanie’s feet, Middleton and Townsend comment that, though the novel initially establishes the details of a rape script, “Subsequent language in the scene . . . complicates the ease of those initial references to the predominate script” (119).

The ambiguation of Melanie’s nonconsent is furthered by Melanie’s appearance several days later at Lurie’s apartment and the apparently consensual intercourse that takes place between them thereafter. This intercourse is signaled as consensual and reciprocal: “He makes love to her” (29); “She is quick, and greedy for experience” (29). But it is important to remember that we are still locked inside Lurie’s perspective and he has
already been shown to misapprehend the nature of his sexual relationships. With the prostitute Soraya, for example, he imagines mutual affection to have arisen between them. With Melanie, he clearly has no understanding of her motivations or feelings—he is surprised, for example, when her father suggests that she takes things to heart. He has not imagined her as having any depth of feeling or thought before. There is certainly evidence from the classroom that consent is retrospectively read into the second sexual encounter because the third is figured as a consensual one; as Middleton and Townsend note, “Many students who refuse to categorize this scene as rape use the instance of Melanie’s return to David as proof” (120). Gillian Dooley believes that too much attention has been paid to the forced intercourse between Lurie and Melanie, and too little to the subsequent consensual intercourse that takes place, “the ‘good’ times” (131) as she puts it. Though she accepts the second time Melanie and Lurie have sex is “to all intents and purposes rape” (131), which she qualifies, “Not wishing to quibble with definitions” (131), she argues that Melanie’s return to him several nights later reveals, “Melanie has far more ambivalent feelings towards David than Lucy has to her attackers . . . . However limited and unequal in power, there is some mutual feeling between them” (132). The implication is that Melanie’s ambivalent feelings ambiguate her rape. This implication seems to bear a strikingly similar logic to that used by the author of “Forcible and Statutory Rape” who suggests that at times a woman’s “behavior, controlled by personality forces other than those which determine the consciously perceived attitude, will contradict the woman’s self-perceived disposition toward the act” (66).

Dooley argues that it is a fact not open to interpretation that the third instance of sexual intercourse between Lurie and Melanie is consensual; I would contend, however, that while there is little doubt Lurie and Melanie have intercourse a third time, Melanie’s consent can only be perceived through the dubious filter of Lure’s perspective, which is subjective, biased and self-serving. The text’s free indirect narration does imply

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97 Middleton and Townsend’s comment reflects my own experience as a student in a graduate class where the same reason for discounting Melanie’s expressed nonconsent was used, and my experience teaching Disgrace to second year undergraduate students.
consensual sex during this third act of intercourse as the following clauses make clear: “He makes love to her one more time” (Disgrace 29); “It is good, as good as the first time” (29); “She is quick, and greedy for experience” (29); “One moment stands out in recollection, when she hooks a leg behind his buttocks to draw him in closer” (29). These are indications of Melanie’s desire, such that it is, from which the reader can infer consent. However, it must be remembered that the perception of consent remains an interpretative act, and the novel even hints that Lurie may not have it quite right: the description of Melanie as “greedy for experience” (29), is followed by a line that undermines this perception of her desire: “If he does not sense in her a fully sexual appetite, that is only because she is still young” (29). Melanie’s desire remains mostly absent from the narrative, as the focalisation gives almost no insight into Melanie’s motives and feelings.  

Melanie’s consent cannot be judged definitively, because we do not have access to her subjective point of view at any time in the text. Furthermore, whether Melanie consents or not to the third time Lurie has intercourse with her, the quality of her consent at this time should have no bearing on whether the previous encounter is judged to be consensual. However, as Middleton and Townsend write,

For some readers, the myriad possible reasons for Melanie’s return are elided by an all-too-common rape script: the victim would never return to the perpetrator. While this belief is convenient and supportive of widespread devotion to the integrity of an autonomous individual, it ignores reams of data that document women who, on social, economic, and personal grounds, are compelled to return to abusive partners or husbands, and, in a similar theme and for like reasons, women who return to their rapists. (121)

Likewise, Lucy’s lesbian desire is unimaginable to Lurie and so absent from the text. Were he able to imagine female desire, it is not clear what form it would take in a novel focalised through a man for whom desire is represented through the images of diseased and broken animals.
Aside from evoking doubt that a rape victim would not return to her attacker, the novel also reveals that while it is widely accepted in the abstract that victims of sexual violence should be allowed from shock or fear of additional harm to cease to resist, the representation of submission arouses skepticism. This skepticism is generated despite the fact that Melanie does more than merely submit to Lurie’s application of force: she makes her desire not to have sex with Lurie verbally known to him from the outset. Though we are told that Melanie “is too surprised to resist the intruder who thrusts himself upon her” (*Disgrace* 24), she does in fact struggle physically when Lurie appears at her apartment, and resist verbally, when she uses a postponing, yet explicit, refusal, “No, not now!” (25) and an excuse, “My cousin will be back!” (25). This excuse is similar to the one that had been successful in deterring Lurie before when she says “I think my flatmate is home” (20). But this time Lurie disregards her protests and the reader is informed that “nothing will stop him” (25). At no point does Melanie indicate that she has changed her mind and now desires intercourse with Lurie. In Buikema’s reading of Melanie’s passivity she does not refer to Melanie’s explicit articulation of nonconsent, and so, a moment of active resistance is passed over in favour of a reading that aligns itself with Lurie’s assessment of Melanie’s character. Coetzee’s diction reveals the force and violence Lurie uses in the moments before he carries Melanie to the bedroom and she ceases to resist: Melanie is given “no warning” (24); she is “too surprised to resist” (24); Lurie is an “intruder who thrusts himself upon her” (24); Melanie’s “limbs crumple” (24), while “Words heavy as clubs thud” (24-25) in her ear; she is described as “struggling” (25), but “nothing will stop him” (25) and she gives up. As Middleton and Townsend write, “A familiar dynamic of rape emerges in this paragraph: the fragile young woman struggling against the aggressive intruder, voicing her refusal of his actions” (119).

Thus, the idea that Melanie may not be raped persists in spite of her explicit articulation of her desire not to have sex at that time, her “No, not now!” (*Disgrace* 25), among other evidence of her nonconsent, including her physical resistance and behavior of avoidance. So why is Melanie regarded as an ineffective communicator by those who do not think what takes place next is rape? Heerden, for example, justifies his assertion that “David
may pay for sex and seduce his students, but he does not force them to have sex against their will” (53) by calling Melanie out for her failure to clearly communicate:

Of course, David is not a sensitive person and seems to be a bit of a manipulator: he knows that Melanie is “too young. She will not know how to deal with him; he ought to let her go” (18), and he does not pick up from her body language that she does not want to have sex with him (25). However, I think we have to assume that he would not have pursued the affair if she had sent clear rather than ambiguous signals (11). (Heerden 62-63 n.40)

Like Cornwell, Heerden draws his reader’s attention to Lurie’s sense that Melanie is too immature to assert herself in the relationship that is developing to imply that Melanie is in some way ineffective at communicating. Her worded expressions of nonconsent when Lurie appears at her apartment are reduced in Heerden’s reading to body language and the ambiguous signals she gave early in their relationship–perhaps her reportedly “sly rather than shy” (11) smile. These examples of what is taken to be Melanie’s ambiguous and immature communication are enough for Heerden to take the position that Lurie would not have pursued the “affair” (63 n.40) if she had asserted herself more clearly and by extension that he would not have forced her (and, therefore, did not force her) to have sex with him against her will. Here Heerden conflates Melanie’s apparent consent to some kind of intimacy with her nonconsent to intercourse at a particular moment in time. This position lays the responsibility for acting as sexual gatekeeper firmly in the hands of Melanie, while Lurie is excused as a somewhat insensitive misreader of Melanie’s signals. Melanie is regarded as incapable of giving clear signals (because she is too young) at the same time that she is blamed for not providing a stronger assertion of her desires.

Could Melanie be a better communicator of her desires? Perhaps. She could certainly have said, “No, never,” instead of “No, not now!” (Disgrace 25), as Carine M. Mardorossian points out (“Rape and the Violence of Representation” 79). Does her rather weak excuse that her cousin will be back imply that if this were not the case then
she may be interested in sex after all? It is possible, but does not seem likely. Gavey persuasively argues that an outright “no” in response to an invitation to do something contravenes standards of femininity, which require women to be receptive, and let others down gently. Citing Celia Kitzinger and Hannah Frith’s research, she shows that the “just say no” tagline in rape prevention discourse is not particularly helpful because it does not respond to how a “no” is communicated in everyday speech (Gavey 70, 145). Through conversation analysis, Kitzinger and Frith found that the desire to refuse a sexual interaction is rarely communicated through an outright articulation of the word “no.” Rather the women in the focus group expressed refusals in more complicated, tentative forms by using “dispreferred” language. According to Kitzinger and Frith, “dispreferred” language is marked by delay and indirection (302) and in “a typical pattern which generally includes delay in responding, some kind of preacing of the refusal (with words like, ‘well’, or ‘ahhh…’), a palliative remark, and some kind of account aimed at softening, explaining, justifying, excusing, or redefining the rejection” (302). These refusals were sometimes accompanied by token or weak agreements (301, 308-309). Put simply, if the women Kitzinger and Frith studied did not want sex, they were unlikely to “just say no.” Instead, they would give a token agreement and then provide an excuse why they could not have sex at this time. Gavey writes that “The advice to ‘just say no’ to sexual pressure, then, completely contravenes the normative conversational rules for ‘saying no’ in the English language” (145).

Melanie’s excuses take a “dispreferred” form. Her suggestion that her cousin will be back mirrors her refusal given several days earlier, when she does not give him access to her apartment (an implicit refusal of intercourse) by responding to Lurie’s question, “Aren’t you going to invite me in?” (Disgrace 20) with the prevarication, “I think my flatmate is home” (20). In that earlier instance, Lurie does not take this answer seriously, and continues to press, forcing Melanie to provide another excuse:

‘What about this evening?’

‘I’ve got a rehearsal this evening.’

‘Then when do I see you again?’
She does not answer. ‘Thanks,’ she repeats, and slides out. (20-21)

He sees her twice after this, once in class and once at the theatre where she is rehearsing her performance in a play, before he returns to her apartment and rapes her. On neither occasion does he talk to her, and she gives no signal that she has changed her mind and wants to continue a personal and sexual relationship with him. He understands what he is doing is objectionable: “An unseemly business, sitting in the dark spying on a girl (unbidden the word *letching* comes to him)” (24), but this does not deter him.

It is my contention that *Disgrace* reveals how nonconsent can be read as consent even where there is no miscommunication; that is, *in spite of the perpetrator’s knowledge that consent has not been given and sex is unwanted*. Indeed, Lurie appears cognizant of Melanie’s state of mind with regard to the rape. In a novel in which it is often difficult to distinguish between narrative voice and Lurie’s thought, the words, “Not rape, not quite that, but undesired nevertheless, undesired to the core” (25) imply Lurie’s understanding of Melanie’s lack of desire. Elsewhere, Coetzee has suggested that desire is not necessarily knowable to the subject, and thus, he criticizes Catherine MacKinnon for implying that men are always aware of and comprehend their desire: “The interests and desires of human beings are many times more complex, devious, inscrutable, and opaque to their subjects than she seems to allow” (“The Harms of Pornography” 62). Jolly suggests that the representation of Lurie, likewise, reveals that “desire cannot know itself,” and yet, her admission that Lurie “realizes at the time that his attentions are ‘undesired to the core’ (1999a: 25)” (“Writing Desire Responsibly” 100), suggests that at this moment Lurie is not acting blindly.

In this way, *Disgrace* reveals the limitations of the theory that miscommunication lies at the heart of sexual violence.\(^9\) Such a theoretical model is characterized by the idea that men and women communicate differently, and therefore, risk misunderstanding each other’s intentions (Frith and Kitzinger, “Talk About Sexual Miscommunication” 517); in

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\(^9\) For a proponent of the theory that man and women communicate differently, see Deborah Tannen.
particular in heterosexual interactions the man “misinterprets her verbal and nonverbal communication, falsely believing that she wants sex; she fails to say ‘no’ clearly and effectively” (518). This explanation for sexual violence fails to acknowledge the ethical responsibility of each partner to make sure of the other’s consent. Moreover, it typically excuses men for unethical conduct and apportions responsibility to women to prevent rape, who are viewed as ineffective, or even, defective communicators. Indeed, the miscommunication theory of rape offers a neoliberal account of sexual violence that not only spreads the responsibility equally, at best, between victim and victimizer, but also fails to account for the complex ways in which indications of nonconsent are ignored, or retrospectively read as their opposite. Disgrace shows just how easily a representation of rape can be read as a representation of consensual sex despite both implicit and explicit signals that sex is unwanted.

While it is true that Coetzee knowingly employs various strategies to ambiguate Melanie’s nonconsent, there also seems to be a powerful desire in interpretations of the novel to read for ambiguously consensual sex instead of rape. This is a desire for a narrative of sexual violence that fits with what is “known” about what rape is. As Middleton and Townsend write,

In sum, narratives are crucial to the ways that we understand rape. Rape narratives may not themselves be inherently political, but they enter into the public space with the power to shape material effects. As such, there is a powerful public compulsion for a narrative that makes a scene of rape comprehensible; arguably, any scene may engender multiple narratives that make motivations, events, and identities contested territories. (122)

The representation of Melanie’s assault, thus, results in her rape’s unraveling, as its depiction fails to fit with narratives that make rape comprehensible. As Higgins and Silver suggest,

100 See Susan Hansen, Rachael O’Byrne, and Mark Rapley “Young Heterosexual;” and Rachael O’Byrne, Mark Rapley and Susan Hansen “‘You Couldn’t Say ‘No’.’”
The insistence on taking rape literally often necessitates a conscious critical act of reading the violence and sexuality back into texts where it has been deflected, either by the text itself or by the critics: where it has been turned into a metaphor or a symbol or represented rhetorically as titillation, persuasion, ravishment, seduction, or desire (poetic, narrative, courtly, military). (4)

This violence must be read back into *Disgrace*, not just by those who are interested in exploring this event in detail, but also by those who want to refer to what happens between Lurie and Melanie in passing, for to characterize Lurie’s actions with Melanie as a “seduction” or an “affair” deflects from her violation, but also contributes to discourses about rape that dismiss nonconsensual sex as something other than rape if it takes place in the context of a relationship and if the violence used to commit the act is less than extreme.

There has been a trend in the theorization of rape, particularly in literary theory and trauma theory to claim that rape is uniquely unrepresentable—that the act is silencing and the representation silenced. You can see this clearly in Higgins and Silver’s comments on the way cultural depictions of rape elide what they represent, revealing an anxious gap at the centre of the text; this they identify as the “obsessive inscription” and simultaneous “obsessive . . . erasure” (2) of rape. In a similar way, Bal has suggested that

[Rape] cannot be visualized, not because a ‘decent’ culture would not tolerate such representations of the act, but because rape makes the victim invisible. It does that both literally—first the perpetrator covers her—and figuratively—then the rape destroys her self-image, her subjectivity, which is temporally narcotized, definitively changed, and often destroyed. Finally, rape cannot be visualized because the experience is, physically as well as psychologically, *inner*. Rape takes place inside. In this sense, rape is by definition imagined; it can exist only as experience and as memory, as *image* translated into signs, never adequately objectifiable. . . .
Because of this difficulty in representing rape, its depiction is often displaced. (68)

Trauma studies has, of course, contributed to this discourse of silence, often emphasizing the silencing of the trauma victim, and the inability to access the traumatic event through the normal processes of memory and recollection.  

Disgrace appears to fall largely in line with this orthodoxy. Indeed, Disgrace actively engages with the discourse of the silence and unrepresentability of rape, in many ways adhering to what Higgins and Silver identify as the rhetoric of elision. Lucy’s rape is not represented at the moment it occurs, because Lurie, to whose perspective the narrative is tied, remains locked in the bathroom at her farm while it is taking place. Because Lucy’s rape takes place out of Lurie’s sight, we have only Lurie’s imagination to go by: “A vision comes to him of Lucy struggling with the two in the blue overalls, struggling against them. He writhes, trying to blank it out” (Disgrace 97). This imaginary depiction of rape in Disgrace corresponds Bal’s position that rape takes place on the inside, yet this inside is weirdly displaced, as it is located in the mind of the father rather than the body of the daughter. Lucy refuses to report the assault to the police, a reticence that causes Lurie to imagine the perpetrator’s perspective: “It will dawn on them that over the body of the woman silence is being drawn like a blanket” (Disgrace 110). At this moment, the replacement of “the woman” for “Lucy” or “his daughter” gives the sentiment an archetypal quality—Lucy comes to stand for all women whose rape has silenced them. Lucy will not engage with Lurie in a detailed discussion about her rape. She is unwilling to represent it to him, aware, perhaps, that he will convert it into an aspect of his own trauma; at one point she impatiently dismisses his desire for her to tell him her story (in this case about her pregnancy) arguing, “You behave as if everything I do is part of the story of your life. You are the main character, I am a minor character who doesn’t make an appearance until halfway through” (198). This silence on Lucy’s part, Lurie realizes, gives over narrative control to her rapists: “Like a stain the story is spreading across the

101 See Cathy Caruth, Unclaimed Experience.
district. Not her story to spread but theirs: they are its owners” (115). A narrative control that is mirrored by Lurie’s own. Coetzee seems acutely aware that real rape is “a representational act” (Bal 69) that gives voice to the rapist and silences the victim; as Bal writes, “Rape is a speech act that reduces its sign to silence” (85).

Yet, despite the elision of the actual event and Lucy subsequent silence, we know with absolute certainty that Lucy is raped. How is this so? Is it because her rape takes place offstage and is silenced in the novel? Melanie’s rape, on the other hand, is represented. It is in the representation of Melanie’s rape that it becomes ambiguated. Melanie’s assault is also silenced. However, its silencing is significantly different from Lucy’s. Certainly, like Lucy’s rape, Melanie’s rape is silenced partly because the narrative is tied to Lurie the focaliser; however, unlike Lurie’s location with regard to Lucy’s rape (he is not present, and therefore, must imagine it), he is present during Melanie’s assault. He, thus, has the power to mislabel rape as unwanted sex, to perceive Melanie as entirely passive, and to refuse to read her testimony. Melanie is silenced not because there is no witness to her experience—indeed, Lurie as rapist is intimately present—nor because she does not speak—she brings a sexual harassment case against him and writes a statement for the tribunal. No, Melanie is silenced not because she chooses (as far as we know) to be, but because Lurie chooses not to understand his actions from her perspective. This failure to be the women even after the rape of his daughter when the parallel becomes clear to him and even in the face of what can be assumed to be her written testimony. 102

Despite many parallels between them, the novel depicts the two rapes differently: Lucy’s rape is not represented, but it is named; Melanie’s rape is not named, but it is represented. While Lucy’s rape is hidden from the reader by the narrative perspective, Melanie’s rape is represented through the mind of the perpetrator. And yet, Melanie’s rape remains the more hidden of the two. What makes readers, even sophisticated readers, even sophisticated feminist readers, view Lucy’s rape as an unproblematic event, whereas

102 After his daughter’s rape and upon realizing that he can imagine himself into the bodies of her rapists, Lurie wonders, “The question is, does he have it in him to be the woman?” (160).
Melanie’s rape as contestable? The disturbing truth may be that the representation of rape is impossible, not because rape belongs to the non-representability of trauma, but because representation gives rise to ambiguity, ambiguity that more often than not hinges on poorly conceived notions of consent and nonconsent. Unfortunately, in representations of rape there may be a moment of submission, which, even in the face of a violent attack, can and will often be read as consent–resistance to the utmost has ceased to be required by courts in many places in the world, but it remains a necessary requirement of literary representations, particularly in the context of what is depicted as a romantic relationship, lest rape be read as seduction.

103 By unproblematic event I mean the mere fact that Lucy’s rape occurs is not at issue.
To a woman the definition of rape is fairly simple. A sexual invasion of the body by force, an incursion into the private, personal inner space without consent... constitutes a deliberate violation of emotional, physical and rational integrity and is a hostile, degrading act of violence that deserves the name of rape.

(Susan Brownmiller, *Against Our Will* 376)

When a woman says she wasn’t raped, but describes an experience of forced unwanted sexual intercourse, what are we to think? Was she ‘really’ raped, despite disowning that label for her experience? Or, does her refusal of that label suggest that her interpretation of the experience as other than rape made it so? And, what does it say about our culture(s) that there can be so much ambiguity over the differential diagnosis of rape versus sex? How should we conceptualize and judge the myriad of coercive sexual acts that lie somewhere between rape and consensual sex? And finally, is being the target of violence or coercion always the same thing as being the victim of such violence or coercion?

(Nicola Gavey, *Just Sex* 169)

Susan Brownmiller’s suggestion that “To a woman the definition of rape is fairly simple” (376) rings intuitively true. These words, from her seminal work on the history of rape *Against Our Will*, published in 1975, imply that it should be relatively easy for a woman to know that she has been raped, because she will know if sex was forced upon her without her consent. Though proving nonconsent in a court of law is notoriously
difficult, it seems to go without saying that a person who has experienced rape will have, at the very least, the private knowledge that she did not consent. Consent to rape is quite simply oxymoronic.

However, the line between rape and consensual sex is sometimes indeterminable. Indeterminable, that is, not just in a legal sense, but to those who might otherwise be characterized as victims of a sexual assault, as Gavey’s questions quoted at the opening of this chapter suggest. Men and women subjected to acts that meet the legal definition of rape can experience their nonconsent ambiguously or not at all. While the legal discourse of consent and nonconsent presupposes a liberal subject fully knowing herself and her desires, such a subject is, as I argue in Chapter 2, largely fictional.

In Gavey’s study, Pat’s experience of “more or less” (159) consenting to a man who verbally coerced and physically hurt her is telling. In the following exchange with Gavey, Pat, an interviewee, describes her passivity in the face of both psychological and physical pressure to have intercourse that she did not want as signifying an ambiguous consent that prevented the experience from becoming rape:

Nicola: So when you look back on that do you consider that to be sexual assault,

Pat: Oh yeah,

Nicola: Yeah, or rape?

Pat: Well I wasn’t raped, raped, because I did- I- See, I’ve actually never been raped, but I mean it’s a fine line, isn’t it, between saying yes, whether you want to or not, to somebody like that, that I didn’t really want to go to bed with. Ah, I’ve, I mean I suppose I’ve been (pause, sighing) sort of pushed around (pause) but, but not hurt. Just (pause) manhandled (long pause) but not (pause) violently. [gap] He, he didn’t rape me, because I really more or less consented.
Nicola: And how did you consent?

Pat: I (pause) acquiesced, in my actions, but not my words. I didn’t say ‘oh, okay,’ I just let him get on with it. (159)

Despite not labeling this act rape, Pat, as Gavey points out, “was still subjected to intercourse against her will–and it could be argued that this was forced or, at least, carried out through threat of force or implied threat of force” (160). Gavey argues that the ambiguity of Pat’s “more or less” consent to intercourse is actually a form of self-preservation, for “In Pat’s case, above, it seems that the critical element to be avoided was the potential to be in a situation in which it was unambiguously clear that she had absolutely no control” (160). By maintaining ambiguity Pat makes a “strategic decision” (160) that “somehow saved her from the same experience of forced sex, constituted as rape” (160). A rape’s indeterminability, then, has the potential benefit of protecting the subject who experiences sexual violence from having to take on the identity of a rape victim inaugurated by unbearable helplessness when her nonconsent is overcome. At the same time, this fails to protect the same subject from sexual violence that she is helpless to prevent. The liberal subject may be a fiction, but it is a fiction that the ambiguity of acquiescence can help the subject maintain in a way that may seem preferable to the clarity of nonconsent effected through continuous unambiguous resistance. In a situation of extreme powerlessness, “consent” can paradoxically take the form of a strategic assertion of power–a denial of the rapist’s power to produce a rape victim through the act of rape. Such a strategic decision is evident in Zoë Wicomb’s novel David’s Story (2000) in which Sarah, an operative in the South African liberation movement, agrees to intercourse to prevent the act from being constituted as rape: “because she would not let him force her, lord it over her, she forced herself and said, Okay, if you want” (123). This power to deny the rapist his rape is meaningful, but perhaps also illusory. Indeed, Pat takes control of the narrative, wrestling it from one of rape to one of unwanted sex by passive acquiescence, but to do so she nonetheless endures deeply unwanted intercourse, and must survive its physical and psychological consequences either way.

Pat’s experience reveals how ambiguous consent and nonconsent may not just be
imposed upon a narrative of rape by a perpetrator who seeks to diminish his act, or by juridical power that is often incapable of recognizing the nonconsent of women in the narratives they tell, or by an author as a conscious strategy of representation as in the previous chapter; but rather, ambiguous consent and nonconsent may also constitute an aspect of the very experience of sexual violence and violation itself from the perspective of the person subjected to it. Such ambiguity can arise from a strategic choice to acquiesce, as in Pat’s case, or as the result of other affects, for example the confusing mixture of attachment and/or desire that attends to intimate relationships, despite the violation of the bonds of affection that occurs through sexual violence. Power, desire, agency, even love in situations and relationships of extreme powerlessness trouble the legibility of consent and nonconsent alike.

In this chapter, I explore the ambiguation of consent and nonconsent in circumstances of extreme circumscription of choice, rape and abuse. I ask how the deployment of power and agency unsettles a subject’s understanding of consent and nonconsent in experiences of sexual violence and violation. Can we account for a subject’s desire and assertions of sexual agency within experiences that are or could be constituted as rape? And is it possible to do this without misreading or negating the traumatic impact of sexual violence and violation whether or not such experiences are constituted as rape?

4.1. Intergenerational Trauma and the Ambiguation of Sexual Consent

Gayl Jones’s *Corregidora* questions whether it possible to think of desire, agency, and abuse simultaneously. By doing so, the text dangerously unsettles categories of rape, unwanted sexual acts, and wanted consensual sex. Its depicts a range of acts from what is clearly rape—in particular the rape of slaves by a slave owner—to wanted and unwanted sexual contact in intimate relationships, particularly between husbands and wives. Through its representation of a traumatized subject’s sexual desire and agency simplistic readings of consent and nonconsent become impossible.
Corregidora, published the same year as Brownmiller’s Against Our Will in 1975, asks its reader to consider whether an African American woman suffering from traumatic symptoms can constitute herself as a desiring subject whose consent or nonconsent can be known to herself as well as to others. The novel is told over a twenty-two-year period from the mid-twentieth-century onwards from the perspective of Ursa Corregidora, a jazz singer descended along her matrilineal line from black Brazilian slaves. In the novel, the traumatic legacy of slavery in the Americas bleeds into the present, as the narrative moves back and forth between the contemporary moment of Ursa working as a singer in Kentucky, and her grandmother’s and great grandmother’s experiences of slavery. Narrating in the first person, Ursa must come to terms not only with her own difficult experiences—domestic violence, a miscarriage, and an emergency hysterectomy—but also with the historical trauma of sexual slavery that her foremothers suffered at the hands of the slave owner Corregidora.

The text possesses a postmodern skepticism regarding the adequacy of a single truth or point of view from which to unravel a story of such suffering. Ursa’s first person narrative is destabilized by memories of her great grandmother’s and grandmother’s voices recounting their memories, which interrupt her narrative, as well as, by Ursa’s fantasies that include imagined and remembered conversations between Ursa and her first husband, Mutt. Ursa’s problems, then, are complex, because the traumas she suffers both do and do not belong to her. She is haunted by Gram’s and Great Gram’s stories, and by her biological relationship to Corregidora himself. A collective and biologically determined identity threatens to subsume Ursa’s individual identity: as she puts it, she is “Stained with another’s past as well as our own. Their past in my blood. I’m a blood” (45). Corregidora moves rapidly between Ursa’s linear narrative, in which she describes the aftermath of her hysterectomy, and her italicized traumatic narrative that collapses distinctions of past and present, real and fantasized, narrator and narrativized. These

104 Brazil was a hub of the transatlantic slave trade with an estimated 4,864,400 African men, women and children arriving on its shores, accounting for 45.5% of all slaves arriving in the Americas (Slenes 3). It was one of the first colonies to deploy slaves in the 16th century (Bergad 1) and the last in the Americas to fully abolish slavery in 1888 (Slenes 9).
italicized sections highlight the ways in which Ursa’s sexual experiences evoke her foremothers’ stories of sexual slavery, transforming the events in her life into distorted repetitions of another’s past. Trauma, reflected in the fragmented and cyclical narrative style of the text, is figured as more than merely a single extreme event that psychically wounds one individual. Rather, this trauma is intergenerational and complex. Indeed, the novel is about the intergenerational transmission and refraction of trauma—its potential to provide evidence for the crimes of the past, and its dangers: the possibility for testimony to leak traumatic affect in the present.  

There has been little written about consent and trauma. Like rape, consent to or in trauma seems oxymoronic. At first glance it appears that trauma cannot be consented to, even if one consents to the act that traumatizes. Particular symptoms of trauma, for example dissociation, flashbacks, unremembered memories, shame, guilt, and aphasia, generate problems not just for the articulation of consent and nonconsent in the moment, but also for the knowing of whether one has given or withheld consent in the past, or whether it is desirable, or even possible, to give or withhold consent in the present. Can consent be given or nonconsent be experienced in conjunction with the severing of mind, body and experience associated with dissociation? Given that the symptoms of trauma are ongoing, do they continue to affect whether consent or nonconsent are known and/or enactable by the subject long after the traumatic event? Does trauma fully negate agency, or is there a form of agency that can be deployed despite or even through the experience of trauma and in its repetition?

The very language of trauma—accident, fright, possession, compulsion, force—implies that it is a force that invades the mind from the outside and occupies from within. Sigmund Freud’s interest in Beyond the Pleasure Principle, for example, is on the dreams that force themselves upon the patient with traumatic neurosis whose compulsion to repeat is outside of his or her control. Cathy Caruth argues that “To be traumatized is precisely to

105 For more on the intergenerational transmission of trauma see Selma Fraiberg, Edna Adelson and Vivian Shapiro; Nicolas Abraham and Maria Torok; Gabriele Schwab; and Michael O’Loughlin and Marilyn Charles.
be possessed by an image or an event” (“Trauma and Experience” 4-5) and Dominick LaCapra, discussing the breakdown of distinctions between absence and loss, writes that in trauma “one remains possessed or haunted by the past, whose ghosts and shrouds resist distinction” (699). Theorized as a delay between a traumatic event and its subsequent repetition, the structure of trauma appears to preclude consent. The return that characterizes trauma is not within the individual’s control. The delay between the event that was so frightful that it was not recorded properly in the mind and its experience later in the form of a repetition means that trauma is known only “belatedly,” to use a term emphasized by Caruth in Unclaimed Experience. Temporal and spatial distance between past and present collapses in the moment of traumatic return: “the response to the event occurs in the often delayed, uncontrolled repetitive occurrence of hallucinations and other intrusive phenomena” (Unclaimed Experience 181). As Gabriele Schwab writes, “Trauma as a mode of being violently halts the flow of time, fractures the self, and punctures memory and language” (42). This conceptualization of trauma as an imposition or a possession of the individual by the past in the present suggests that trauma is a phenomenon that is independent of the discourses that structure our understanding of consent and nonconsent.

What, then, is the status of a traumatized subject’s consent? If “trauma, with its concomitant strategies of survival, becomes a chronic condition” (Schwab 42), then can the traumatized individual ever take up the subject position upon which liberal notions of consent depend? How do we conceptualize what happens to a subject’s consent when consensual acts trigger traumatic repetition? What if consensual sex triggers flashbacks of nonconsensual rape? Is the experience of consent completely voided in such an instance? Is it possible to think of traumatic repetition and sexual agency simultaneously, or, does one necessarily negate the other?

In Corregidora, Ursa’s traumatic experiences correspond to what Marianne Hirsch calls “postmemory,” which “characterizes the experience of those who grow up dominated by narratives that preceded their birth, whose own belated stories are evacuated by the stories of the previous generation, shaped by traumatic events that can be neither fully understood nor re-created” (“Past Lives” 659). Postmemory has been criticized for
suggested that the second generation’s experience of their parent’s trauma is such that they possess literal memories of the past, but in a recent article, Hirsch explains “Postmemory’s connection to the past is thus not actually mediated by recall but by imaginative investment, projection, and creation” (“Generation” 107). Postmemory is a useful paradigm, argues Elizabeth Yukins, for analyzing African-American literature because it “describes a disorientation in time and place . . . by persons who feel they cannot directly access the past that so powerfully bears upon their present, cannot refuse the responsibility of memory, and cannot ignore the resonating political effects of trauma in history and contemporary culture” (226). This conceptualization of postmemory reveals how intergenerational trauma describes the ongoing reverberations of historical trauma that cannot be consigned to and isolated in the past, but rather whose affects persist materially at individual, political, social, cultural, and economic levels.

In *Corregidora*, the possession of Gram’s and Great Gram’s memories disorientates Ursua’s relationship to her own memories, by either comparatively minimizing their import, or, as with the loss of her womb, failing to reflect their content. Ursua’s childhood experiences of bearing witness transform events in her life into repetitions of her foremothers’ trauma. Madhu Dubey suggests that, “Although the events in Ursua’s life occur more than half a century after the 1888 abolition of slavery in Brazil, the novel’s structure so thoroughly fuses Ursua’s story with the history of her foremothers that any distinction between past and present becomes inoperative” (251). As Gram’s and Great Gram’s experiences continually “erupt into her narrative” (Dubey 252), past and present events seem to occur at the same temporal moment. Sexual acts which may be consensual in Ursua’s present are experienced in connection to and as repetitions of her grandmother’s and great grandmother’s experiences of slavery and rape. Ursua struggles to formulate a narrative of her own life that takes account of her foremothers’ impact upon her, and also acknowledges what is separate, different, and private. She has “Always their memories, but never my own” (Jones 100). Ursua is haunted by horror that does not belong to her “lived life” (108).

At the same time, the very experience of being made to bear witness to Gram’s and Great Gram’s testimonies of trauma at such a young age is its own horror—a horror that does
belong to her “lived life” (108). Ursa is very young, perhaps even an infant when the familial story of trauma is transmitted (77); indeed, she seems conceived for this very purpose, so that the story of trauma can be passed down (114-17). In response to Ursa’s suggestion that Great Gram may not be telling the truth when she indicates that she was made to sleep with Corregidora’s wife, Great Gram violently asserts the evidentiary nature of her oral testimony:

*She slapped me.*

‘When I’m telling you something don’t ever ask if I’m lying. Because they didn’t want to leave no evidence of what they done—so it couldn’t be held against them. And I’m leaving evidence. And you got to leave evidence too. And your children got to leave evidence. And when it come to time to hold up the evidence, we got to have evidence to hold up. That’s why they burned all the papers, so there wouldn’t be no evidence to hold up against them.’

*I was five years old then.* (14)

Great Gram’s intentions may be admirable, but the comment at the end of this italicized section—*I was five years old then* (14)—alerts the reader to Ursa’s very young age.  

At a conscious level Ursa’s grandmother and great grandmother wish to preserve through testimony the evidence of both rape and incest that they suffered. Testifying is an act of resistance, a refusal to accept the official effacement of history in Brazil, where, the novel suggests, the documents attesting to the system of slavery were burned. And yet, Dubey argues “in making a history for themselves, the Corregidora women become imprisoned in a history that is not of their own making, for what their possession of history gives

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106 The relationship of Corregidora’s wife with Ursa’s foremothers evokes the elements of sexual abuse and barely repressed violence in Harriet Ann Jacobs’s account of her relationship with the wife of her master in *Incidents in the Life of a Slave Girl* (54).

107 For a more detailed analysis of this scene, see Donia Elizabeth Allen 269.
them is nothing other than the history of their own dispossession” (252-53). Theirs is a testimony through which they attempt to cauterize the pain: “We got to burn out what they put in our minds, like you burn out a wound. Except we got to keep what we need to bear witness. That scar that’s left to bear witness” (72). Yet the wound continues to seep. Moreover, by situating Ursa’s body as a testifying text, the act of bearing witness becomes an act of wounding, for, as Caroline Streeter highlights, it is not just the familial narrative that is seen as evidence by the Corregidora women, but also the body upon which “Mulatto skin is the visible scar of slavery and rape” (777).

While testimony may seem to aid Great Gram in particular by replacing memory with words (11), this substitution does not allow Gram or Great Gram to break the cycle of repetition. Though proving somewhat helpful to the grandmothers, their story is a calcified narrative that does not respond to a different and changing present. Maja Milatovic argues that “As a survivor of rape, abuse, and the violence of enslavement, Great Gram retells an inflexible story that keeps her anger unmitigated. Her insistence on singularity consequently obstructs any critical reflection or interpretation which could allow integration and healing” (3). Emptied of “referential capacity” (“Mother’s Milk”), as Naomi Morgenstern suggests, their narrative ceases to represent the past, and instead enacts the past in the present. Within the family, the trauma returns, not just as the psychic wounds Gram and Great Gram cannot heal, but also as an intergenerational wounding of daughters by mothers and grandmothers. When in the first italicized section Great Gram gives a rather affectless account of how Corregidora made her work in the whorehouse when she was still a child, her story’s emotional residue is communicated through her hands which she rubs against Ursa’s thighs: “Once when she was talking, she started rubbing my thighs with her hands, and I could feel the sweat on my legs. Then she caught herself, and stopped, and held my waist again” (11). This rubbing physically communicates and repeats something of that which Great Gram herself has suffered. As Elizabeth Swanson Goldberg writes “Restraining from moral judgment, Jones represents this gesture as the (almost unconscious) repetition of the cycle of abuse, a repetition which Great Gram stops just short of enacting” (466). In its obsessive retelling, Great Gram’s narrative is rubbed into and so takes possession of each new generation. As Selma Fraiberg, Edna Adelson, and Vivian Shapiro write, “In every nursery there are
ghosts. They are the visitors from the unremembered past of the parents, the uninvited guests at the christening” (387), but in some families, in the most terrible way, these ghosts occupy the nursery permanently, “claiming tradition and rights of ownership” (388).

As an adult, Ursa struggles to experience her own sexuality and desire outside the violent framework of her grandmother’s and great grandmother’s memories of rape and slavery, and as separate from their reproductive imperative to make future generations. Gram and Great Gram teach Ursa that the most important thing, indeed the reason for her very existence, is to produce children, so that their testimony will be passed down from one generation to the next, each providing, in words and in blood, evidence of their foremothers suffering: this is Great Gram again: “...The important thing is making generations. They can burn the papers but they can’t burn conscious” (22). This imperative restricts Ursa’s identity just as surely as her first husband Mutt’s appropriation of her body as his pussy or his piece of ass limits her self-image. Moreover, Ursa foremothers’ project can be seen as perpetuating the very violence they seek to resist. As Tadpole, her second husband, remarks upon hearing the words above, “Procreation. That could also be a slave-breeder’s way of thinking” (22). As in systems of slavery in which women are reduced their economic worth through objectification, prostitution and reproduction, female identity in Gram’s and Great Gram’s imperative is “reduced to a physical function and alienated from any notion of personal desire or sexual pleasure” (Li 133). Gram’s and Great Gram’s focus on reproduction rather than pleasure is understandable given their history, but it gives Ursa no model of female sexual desire through which to understand her own. Amy Gottfried asserts that because the Corregidora women literalize bearing witness as “the bearing of witnesses” (560) through bearing children they become “self-defined as womb” (560) thereby foreclosing the possibility of sexual enjoyment or agency outside of reproduction (560-61). For the Corregidora women, the female body, “No longer a sexual commodity . . . has become a political commodity” (Gottfried 561).

A crisis of identity is brought about at the beginning of the novel when Ursa loses both a
pregnancy and her womb after Mutt causes her to fall down a flight of stairs.\textsuperscript{108} Unable to bear children, Ursa begins the novel at a point of incommensurability with the imperative of her grandmothers’ reproductive narratives. Ursa has what her mother and Gram have, Corregidora’s blood in her veins, but after her hysterectomy she realizes “I am different now . . . I have everything they had, except the generations. I can’t make generations” (60). It is the loss of her reproductive body and what this loss means for her sexual body that Ursa must come to terms with after her hysterectomy, as she struggles to understand sexual desire separately from her family’s reproductive imperative. Asked by Tadpole what she wants, she can only assert that she wants what every Corregidora woman wants: to make generations. When asked irreverently about how much fucking she is going to do now that she has a hysterectomy, Ursa thinks to herself, “It wasn’t so much how much fucking I was going to do now, I was thinking, but the consequences of that fucking” (40). Without the ability to reproduce, Ursa is uncertain what the consequences of heterosexual intercourse are for her—can she experience sexual desire and pleasure without reproductive desire?\textsuperscript{109}

Plagued by the unequal consequences of gender violence, Ursa implies that the defining feature of her identity has been done away with as a result of her hysterectomy. When she muses what might have happened had the situation been reversed, she wonders “And what if I’d thrown Mutt Thomas down those stairs instead, and done away with the source of his sex, or inspiration, or whatever the hell it is for a man, what would he feel now?” (40-41). If castration is equivalent in Ursa’s mind to a hysterectomy, then the dubious consolation, “At least a woman’s still got a hole” (41) rings literally and figuratively hollow. Voiced in the third person, this thought in Ursa’s narrative signals a

\textsuperscript{108} The novel leaves it uncertain whether Mutt pushes Ursa intentionally or causes her to fall unintentionally.

\textsuperscript{109} She rejects non-heterosexual desire as an option, repelling the teenager Jeffy’s advances, which it should be noted take the form of nonconsensual touching while Ursa sleeps. That Jeffy herself is in “a physically abusive and emotionally violent relationship” (Athey 184) with Ursa’s friend Cat suggests that lesbianism offers no sanctuary from the terrible mixture of desire, violence and attempts to dominate that form Ursa’s sexual experiences.
dissociative movement that is continued by the childlike taunts that follow it: “Finger-pop it. Your mama’s a bitch, she was laid in a ditch” (41). The effects of intergenerational trauma are evident at a structural level in this unitalicized section, as the taunts return Urs to the stories of slavery that haunt her present day experience and thus, to the reproductive imperative that she can no longer carry out:

Naw, dropped you in one. And what they had to do in those days. I always get back to that. The tobacco fields or coffee ones . . . . What’s bothering me? Great Gram, because, I can’t make generations. (41)

The taunts above and the memory they trigger reveal the inadequacy of locating female identity in the female genitals and reproductive organs. In the novel, this is the site of degrading ridicule informed by historical trauma. The consolation that at least she still has a hole is reductive, for the hole, possessed by another, husband or slave master, can be filled by finger or penis, but, as figured in the novel, it is certainly not the location of sexual pleasure, autonomy or desire. Urs herself experiences very little feeling during intercourse with Tadpole after her hysterectomy. Indeed, throughout the novel the female genitals are represented as either the possession of men, or else, as an absence, a hole.

Mutt’s comments that the pussy is “The center of a woman’s being” (46) and that Urs’s is “a whole world” (45) are undercut by both his language possession, “his pussy” (46; emphasis original), and the pun with the words “hole” (41) and “whole” (45). Neither her grandmothers’ investment in the reproductive womb, nor, Mutt’s positioning of the female hole as “a whole world” (45) offer Urs a model of female sexuality that enables her to understand her sexual desire and experience sexual pleasure. Tellingly, Urs’s own comment—“The space between my thighs. A well that never bleeds” (99)—unites the emptiness of her hole to the loss of her womb, revealing the inadequacy of both her grandmothers’ and her husbands’ ways of thinking as all four seek to separate the enmeshed significations of womb, vagina, desire and sex. For Urs, vagina and womb cannot be conceptualized in isolation from each other.

Urs’s difficulty separating her ancestral trauma from the present moment is evident from the outset of the novel, and yet, at first Corregidora seems to go out of its way to
disambiguate Ursa’s consent. Tadpole, in particular, seems concerned to ascertain how Ursa is feeling during intercourse. This is not an experience of rape, Jones appears to want to establish. For example, the following exchange occurs during the first time they have sex after her hysterectomy:

‘Does it hurt?’

‘Yes, a little.’

‘Did they say you could do it?’

‘Yes, we can do it.’

‘How does it feel now?’

‘Go on.’ (49)

Repeatedly the moments before and during intercourse follow this same pattern of question and response; and yet, Ursa’s responses become, increasingly, held back, cut short, or disregarded. After responding to the question “Are you relaxed?” with the affirmative, Ursa is about to say something else, but decides against it as Tadpole gets between her legs (55). When Tadpole seems to be having difficulty penetrating her, Ursa’s objection, “I don’t know if you can . . . you can’t . . . I don’t know if you . . .” (82), is ignored. In these interactions Tadpole’s disregard and silencing of Ursa’s words to indicate her desire troubles her ostensible consent to sex. These moments are both upsetting and ambiguous as neither Jones nor Ursa give us their opinion of Tadpole’s actions. There are no explicit authorial or narrative judgments to aid our understanding of the nature of these acts.

As well as disregarding Ursa’s responses, Tadpole’s questions become increasingly violent and insistent. Swanson Goldberg suggests that “in Corregidora, the interrogative mode of address helps to translate female desire and the female body into male pleasure and power” (454). For example, in the following exchange, Tadpole’s questions enable him to assert his subject position by transforming Ursa into the passive recipient of his sexual actions:
‘What am I doing to you, Ursa? What am I doing to you?’

. . .

‘Am I fucking you?’

‘You fucking me.’

‘What are we doing?’

‘We fucking.’ (75)

Tadpole’s interrogative mode during intercourse—“What am I doing to you, Ursa? What am I doing to you? . . . Am I fucking you? . . . What are we doing, Ursa?” (75)—is a repetition of Mutt’s (76), which is, in turn, a repetition of Corregidora’s questioning of Great Gram while he rapes her (76, 128). The question and response, then, evokes historical rape within the current encounter. This exchange occurs between Ursa’s word “Please” (75), indicating that she wants Tadpole to continue to stimulate her clitoris to help her to feel what she is not feeling, and his disregard for that desire by the violent insertion of a finger in her anus. The language used to describe this violent act—“He dug his finger up my asshole” (75)—as Swanson Goldberg notes (456), recalls the language used by Great Gram to describe her rape at the hands of Corregidora. And so, the novel yokes a rape in the past to a present moment of violation that is not named and does not seem to be experienced as rape in the present. This makes for uncomfortable reading, as it raises, without answering, the question whether consent to sexual intercourse extends to the unexpected penetration of Ursa’s anus instead of the clitoral stimulation she desires and indeed asks for. It also recalls Ursa’s experience as a child playing “doctor” with a local boy after which she claims not to have felt him “feeling up your asshole” (Jones 42) as her mother puts it.

The increasingly difficult, ambiguous and violent descriptions of intercourse in the novel are certainly a comment by Jones upon the damaging construction of female sexuality as passive. In the dreamlike segment that follows the above account of intercourse with Tadpole, Ursa says to Mutt “That’s what a woman waits for. To be fucked. A woman
always waits to be fucked” (76), a sentiment that is echoed later when she says “A man always says I want to fuck, a woman always has to say I want to get fucked” (89). In Ursa’s experience, as the object rather than agent of sex women may act as passive sexual gatekeepers, although the power of refusal is periodic at best, but they do not initiate or actively seek satisfaction for female sexual desire. Thus, with no model of female sexual agency available to her, Ursa struggles to understand and express her own sexual desire.

Is it even possible for Ursa to experience sexual desire when she experiences her body to be so contaminated by memories and by Corregidora’s blood? Her body is literally and metaphorically stained with the past. She is stained by her foremothers’ memories and, it is implied, by her physical appearance, which attests to Corregidora’s impregnation of both Gram and Great Gram. Morgenstern suggests that what disturbs Ursa is the way in which her body, particularly its colour, bears witness to Corregidora’s sexual violence: “it both enables testimony and is itself the testifying text” (Morgenstern “Mother’s Milk”); thus, Ursa embodies “the history of her own contamination” (“Mother’s Milk”). Arguing that “Both victim and abuser exist within her frame” (359), Jennifer L. Griffiths helps to clarify Ursa’s traumatic nightmare in which she gives birth to and is raped by her grandfather, Corregidora:

*I dreamed that my belly was swollen and restless, and lay without moving, gave birth without struggle, without feeling. But my eyes never turned to my feet. I never saw what squatted between my knees. But I felt the humming and beating of wings and claws in my thighs. And I felt a stiff penis inside me. ‘Those who have fucked their daughters would not hesitate to fuck their own mothers.’* (77)

In a scene reminiscent of Sin’s birth of and rape by Death, who she conceives through incest with her father in John Milton’s *Paradise Lost* (47-48; 2.776-802), Ursa, the daughter, gives birth to Corregidora, her “own father” (77), a man who claims sexual possession of her as a “Corregidora woman” (77) through incest. Griffiths suggest that “The union, or reunion, that occurs at birth traps her in a cycle of pain, and her body’s seeming complicity threatens her psychic integrity” (78). Ursa’s reproductive and sexual
body both act as a traumatic force that generates that which violates her.

In her dream, Corregidora asks provocatively whether what Mutt did to her is worse than what he has done, drawing an explicit connection between his acts of violation and Mutt’s violence. This question is repeated by Ursa rather unanswerably at the end of the novel: “But was what Corregidora had done to *her*, to *them*, any worse than what Mutt had done to me, than what we had done to each other, than what Mama had done to Daddy, or what he had done to her in return, making her walk down the street looking like a whore?” (184). By even posing this question at all, the novel seems to imply that there is some kind of uneasy equivalence between the crimes and abuses of slavery and the suffering of African American men and women in the present.

Mutt is extremely uncomfortable with such a correlation between past and present abuses. The words that immediately follow Ursa’s thought: “Their past in my blood. I’m a blood” (45), are these: “*Are you mine, Ursa, or theirs? What he would ask*” (45). These words are Mutt’s and they interject at the moment when Ursa’s identity threatens to be subsumed by her identification with her family’s history, by history as blood. Repeatedly Mutt attempts to assert the present’s difference from the past–his and Ursas’s separation from, rather than traumatic identification with, the history of slavery. He wants her to “Get their devils off your back. Not yours, *theirs*” (61). He seeks to carve out their own personal history that is not overdetermined by the legacy of slavery, by repeatedly asking Ursa to engage in acts of remembrance with him over things they have done together.110

However, his assertion “Whichever way you look at it, we ain’t them” (151), falls on deaf ears, and Ursa cannot respond, because “the way I’d been brought up, it was almost as if I was” (151). Moreover, Mutt’s language of possession–“*Are you mine, Ursa, or theirs?*” (45)–undermines his attempt to separate his relationship with Ursa from the history of slavery. In actual fact, Mutt’s language of possession either reflects or directly repeats

110 For further analysis of Mutt’s attempt and ultimate failure to separate his relationship with Ursa from the past see Stephanie Li 14-41.
Corregidora’s. When he threatens to sell Ursa, his “piece a ass,” in a fit of sexual jealousy, he re-enacts the purchase and prostitution of Great Gram as a child (159). In the novel, the language of patriarchal oppression intersects with the language of racial oppression. His reduction of Ursa to his piece of ass, echoes the way in which Corregidora called Great Gram: “A good little piece. My best. Dorita. Little gold piece” (10)–words Mutt repeats almost exactly when referring to Ursa later in the novel: “Your pussy’s a little gold piece, ain’t it, Urs? My little gold piece” (60). These resonances create a kind of spatial and temporal disturbance. It is not immediately apparent on page 60 whether it is Mutt or Corregidora who speaks to her. Ursa recounts these words without introduction immediately after evoking Corregidora when she thinks that she only ever gave “pieces” (60) of the story of Corregidora’s incest to her husband. Repeatedly, the distinction between the male characters in the novel is difficult to discern. The lines between Tadpole, Mutt and Corregidora become blurred, for example, when Tadpole, waiting in the doctor’s office, is mistaken for Ursa’s husband, Mutt, who is in turn mistaken for Mr. Corregidora: “‘He thought you were Mutt,’ I said quietly. ‘I mean my husband. He thought you were Mr. Corregidora’” (19). In this way, Jones draws lines between the sexual possession of each generation of Corregidora women including Ursa.

And yet, despite these resonances with her foremothers’ experiences, Ursa does not appear to experience herself to be raped in the novel. In fact, she explicitly writes that Mutt does not force her even when she thinks he will. Nevertheless, as Swanson Goldberg writes,

While Ursa is not herself raped, the conflation of Old Man Corregidora with Ursa’s first and second husbands, Mutt and Tadpole, into one figure of violent male sexual expression (effected through an echoing of patterns of speech and desire over the course of the novel) creates a parallel—or better, a continuum—of brutal heterosexuality based upon the violent penetration and consumption of female genitalia characteristic of rape. (451)
What is interesting is that “parallel” and “continuum” conceptualize the conflation of Ursa’s experiences with those of her foremothers and her husbands’ actions with those of Corregidora in two distinctly different ways: while “parallel” suggests the potential for equal but different traumatic experiences, “continuum” indicates that Ursa’s “not rape” by her husbands exists on a spectrum of sexual violation with “normal” heterosexual sex at one end and sexual slavery on the other. Swanson Goldberg’s difficulty in assigning either “parallel” or “continuum” to the traumatic repetition of sexual slavery during (at times ambiguously) consensual heterosexual encounters results in part from Ursa’s own sense that what she suffers is less than, not different from, her foremothers’ suffering. At the same time, Ursa’s experiences (domestic violence, miscarriage, hysterectomy and sexual violence that is not understood as rape) do not fit neatly within the paradigm of subjection provided her by her foremothers’ narratives. As Morgenstern notes, “a traumatized Ursa might confuse Mutt and Corregidora, but Mutt is abusive all on his own” (“Mother’s Milk”). Swanson Goldberg tries to put aside the ambiguation of Ursa consent in the eruption of her grandmothers’ rape into her life by redefining the historical rape as torture, so that Swanson Goldberg can use torture and not rape as a paradigm to analyze Ursa’s traumatic repetition of sexual slavery. And yet, the problem of consent in the novel cannot be fully suspended. As Swanson Goldberg writes,

... sex between Ursa and Mutt-Tad as an encounter between equally desiring subjects is defined in Corregidora as an impossibility: while it is consensual, it also resembles the kind of sexual encounter under slavery, the very essence of which depended upon a lack of bodily consent doubled by the woman’s status as a slave, removed from the more general sphere of consent (to the law and the state) accompanying personhood and citizenship. (453)

4.2. Slavery, Rape and the Question of Desire

As Swanson Goldberg’s analysis reveals, it is not just Ursa’s consent that is
problematized in the novel, but Gram’s and Great Gram’s as well. Sexual slavery made obsolete both their will and their desire, as they were “removed from the more general sphere of consent . . . accompanying personhood and citizenship” (Swanson Goldberg 453). In discourses buttressing slavery in the Americas, forced intercourse with a slave woman was not considered rape, because both male and female slaves were denied the position of the subject. Thus, a female slave’s consent or nonconsent to intercourse was rendered not just irrelevant, but entirely illegible. Indeed, in her analysis of Corregidora, Milatovic’s revealing comment that under slavery “Consensual relationships between blacks and whites were forbidden by law, legitimized only in cases of rape and exploitation” (14) exposes the inversion of the law that enabled and sanctioned rape for the purpose of “procreating to increase the slavemaster’s stock” (14), while banning consensual relations. The law thereby disregarded a female slave’s nonconsent, at the same time that it invalidated her consent.

Saidiya V. Hartman’s analysis of slave law in the United States reveals how the law regulating slavery purposely rendered a slave’s sexual nonconsent an impossibility.\textsuperscript{111} She suggests that the capacity to give or withhold consent presupposes a subject whose will has material and legal power, which could not describe the position occupied by a slave. Not only does the concept of the will connote the ability to act intentionally, it is also integral to legal, social and political definitions of autonomy that separate the free from the enslaved (Hartman 539). To accord a slave with an autonomous will would threaten her partial-personhood and definition as property, and so would undermine the entire system of slavery, bringing down its legal edifice (539). According to Hartman, for the system of slavery to function, the will of a slave, such as it could be imagined, must be in accord with the will of the master. Otherwise, a slave’s will was understood to be worthy of such punishment that would bring it into conformity. In the master’s right to bring about the submission of the slave’s will to his own, there was no limit to the

\textsuperscript{111} While slave law in Brazil, where Gram and Great Gram were enslaved, was different from that in the United States, Hartman’s analysis of the negation of the female slave’s will in the law has relevance across all systems of slavery.
force deemed appropriate, no excess of violence that could be not constituted as the “rightful” use of his property. The only time a slave could be considered a subject under the law, and therefore able to assert a will, was when he or she was considered legally culpable of criminal intent (540).

By constructing the person of the slave in such a way, the law denied the horror of what Hortense J. Spillers calls “a scene of actual mutilation, dismemberment, and exile” (67). In this scene, the scars left upon the body made flesh through “eyes beaten out, arms, backs, skulls branded, a left jaw, a right ankle, punctured; teeth missing, as the calculated work of iron, whips, chains, knives, the canine patrol, the bullet . . . . render a kind of hieroglyphics of the flesh whose severe disjunctures come to be hidden to the cultural seeing by skin color” (67). Spillers argues that slavery imposes “meanings and uses” (67) upon the captive body that deny subjectivity and personhood, while at the same time producing the slave as a sexuality and an object for use by the slave master:

1) the captive body becomes the source of an irresistible, destructive sensuality; 2) at the same time—in stunning contradiction—the captive body reduces to a thing, becoming being for the captor; 3) in the absence from a subject position, the captured sexualities provide a physical and biological expression of ‘otherness;’ 4) as a category of ‘otherness,’ the captive body translates into a potential for pornotroping and embodies sheer physical powerlessness that slides into a more general ‘powerlessness,’ resonating through the various centers of human and social meaning. (67)

This produces according to Spillers a “symbolic order” that she calls an “American grammar” (68), which perpetuates the symbolic and literal devaluing of and violence committed against African American bodies in the present. For African American women in particular, as Kavita Daiya writes, Spillers’s analysis “illuminates how the racial violence of slavery is imbricated with a form of patriarchal violence that grants the black female subjective presence only as a reproductive female body, so making femininity inaccessible for subjective identification (65–81)” (393). For both male and female African Americans, Spillers reveals how “it is as if neither time nor history, nor
historiography and its topics, shows movement, as the human subject is ‘murdered’ over and over again by the passions of a bloodless and anonymous archaism, showing itself in endless disguise” (Spillers 68). What Spillers articulates here, alongside ongoing systemic racism and racial oppression in American society, is trauma, a trauma originating in the horrors of the past, a trauma that has never been consigned to the past, a trauma that is enacted in the present—the trauma of the African American subject still subjected to annihilation in a symbolic order still invested in its destruction.

Hartman shows that the courts were somewhat aware of the deep violation of humanity that resided at the heart of slave law. In the Supreme Court ruling in State v. Mann (1829), the court legitimized the right to any force necessary “to render the submission of the slave perfect” (qtd. in Hartman 549) even if “as a principle of moral right, every person in his retirement must repudiate it. But in the actual condition of things it must be so” (qtd. in Hartman 549). What eases the conscience is not just “the protection already afforded by several statutes (which made it illegal to murder slaves in cold blood),” but also the belief in “the private interest of the owner, the benevolence toward each other, seated in the hearts of those who have been born and bred together, [and] the . . . deep execrations of the community upon the barbarian, who is guilty of excessive cruelty to his unprotected slave” (qtd. in Hartman 549; emphasis Hartman).” Expanding on the minimal protection the law afforded the slave, that is the protection against murder in cold blood, Hartman cites Thomas Cobbs’s legal tract Inquiry into the Law of Negro Slavery, in which Cobb denies the applicability of the crime of rape against slaves in the following way:

The law, by recognizing the existence of the slave as a person, thereby confers no rights or privileges except such as are necessary to protect that existence. All other rights should be granted specially. Hence, the penalties for rape would not and should not, by such implication, be made to extend to carnal forcible knowledge of a slave, the offense not affecting the existence of the slave, and that existence being the extent of the right which the implication of the law grants. (86)
As Hartman argues, such a position of American slave law with regard to the enslaved was justified by an appeal to myth of the hypersexual African. This myth of the hypersexual African enabled the monstrosity that was the law’s denial of the position of the subject to the enslaved to be disavowed. In *Black Skin, White Masks* Frantz Fanon describes this fantasy of black sexuality from the perspective of racist colonial discourse as follows:

> As for the Negroes, they are sexually promiscuous. Not surprisingly, running around like that in the bush! Apparently they fornicate just about everywhere and at all times. They’re sexual beasts. They have so many children they’ve lost count. If we’re not careful they’ll inundate us with little mulattoes. (135)

The fear of being overrun by “mulattoes” that Fanon identifies here is striking for revealing the absence of any acknowledgement of white men’s role in the impregnation of black women who are subject to the oppressive conditions of slavery and/or colonialism. The correlate of the rapacious black man, who possesses “a hallucinating sexual power” (Fanon 136) that is “out of reach of morals and taboos” (154), is the lasciviousness of the black woman. This lascivious black woman offered the beneficiaries of slavery an interpretive frame that negated evidence of the will of the enslaved under the belief that the slave is always willing, thus always consenting. As Cobb writes “The occurrence of such an offence [of rape] is almost unheard of; and the known lasciviousness of the negro, renders the possibility of its occurrence very remote” (100). The question of nonconsent, and therefore rape, was thereby made irrelevant:

> Lasciviousness made unnecessary the protection of rape law, for insatiate black desire presupposed that all sexual intercourse was welcomed, if not pursued. The state’s crimes of omission and proaction, the failure to extend protection and the sanctioning of violence in the name of rights of property, disappeared before the spectacle of black concupiscence.

(Hartman 544)

This discourse about black sexuality removed the necessity of the law to step in, as the
female slave was considered so suffused with sexuality as to be both without a will and always willing at the same time (539). Not only was her seduction inevitable, her role as the seducer of her master was inescapable, for “The non-existence of rape as a category of injury pointed not to the violence of the law but to the enslaved woman as guilty accomplice and seducer” (544). Thus, American slave law fell back upon notions of lascivious black female sexuality to transform rape into the legitimate, consensual and mutually desired use of property. The discourse of seduction locates the responsibility for any and all formations desire may take in the abused and not in the abuser. Therefore, as Hartman writes, “The sexual exploitation of the enslaved female, incredulously, served as evidence of her collusion with the master class and as evidence of her power, the power both to render the master weak and, implicitly, to be the mistress of her own subjection” (545). A slave woman was not only completely unrapeable, her object position was consolidated by the supposition of her desire the sexual acts to which she was subjected without regard for the status of her consent.

In Corregidora, sexual objectification that presupposes the slaves ever willing desire renders Great Gram’s nonconsent not only impossible, but transforms it into its opposite. Corregidora uses language as a form of violence against Great Gram to interpret her suffering as arousal, and so transform, at least in his mind, his rape of her into an act of mutual desire. In one particularly horrific scene, Great Gram’s voice takes possession of Ursa’s mother, who narrates Great Gram’s rape by Corregidora. This act—a response to seeing Great Gram talking to a young black man who is being hunted down at the same time Great Gram is being raped—is an assertion of his ownership of her body and desire:

But he was up there fucking me while they was out chasing him. ‘Don’t let no black man fool with you, do you hear? I don’t wont nothing black fucking with my pussy.’ . . . And then there I was kept crying out, and ole Corregidora thinking it was because he was fucking me so good I was crying. ‘Ain’t nobody do it to you like this, is it?’ I said ‘Naw.’ I just kept saying Naw, and he just kept squeezing on my ass and fucking. And then somehow it got in my mind that each time he kept going down in me would be that boy’s feet running. And then when he come, it meant they
caught him . . . (127-28)

Corregidora interprets Great Gram’s cries of anguish as signs of pleasure, registering her “Naw” as agreement with his assertion that no one fucks her like he does. Not only does he lay claim to her body as his absolute possession, as “my pussy,” he denies her the language of resistance. He reduces her to her sexual genitals—he denies her self, and personhood. She becomes an object for him, without will or desire of her own.

Neither Gram nor Great Gram can be considered to have had any sexual agency in their youth, as their desire was rigorously policed by Corregidora. Not only did he repeatedly rape them from childhood, he did not allow them to follow their own desire by controlling who they slept with; even talking to a black man was grounds for sadistic sexual punishment. In reference to Corregidora’s use of them as prostitutes, the reader is told that Gram and Great Gram were made to “make love to anyone, so they couldn’t love anyone” (104). In particular, Corregidora controlled and constrained Great Gram’s desire, as he did her consent, so that she could have no expression of desire outside of reference to her rapist and abuser.

Yet, the novel also raises the effacement Ursa’s grandmothers’ desire as a series of problematic questions that Ursa’s mother and then Ursa herself asks:

*How can it be? She was the only one who asked that question, though. For the others it was just something that was, something they had, and something they told. But when she talked, it was like she was asking that question for them, and for herself too. Sometimes I wonder about their desire, you know. Grandmama’s and Great Gram’s. Corregidora was theirs more than hers. Mama could only know, but they could feel. They were with him. What did they feel? You know how they talk about hate and desire. Two humps on the same camel? Yes. Hate and desire both riding them, that’s what I was going to say.* (102-103)

Jones refuses to “submerge desire under a history of abuse” (561) as Gottfried reminds us, arguing that the novel takes its greatest risks by indicating that desire and abuse can
coexist. As Deborah M. Horvitz claims, “Jones’s most radical and political question is why the women remain psychologically attached to Corregidora” (47), suggesting that the answer lies in the potential for hate and desire to be so enmeshed as to be identical. As a neo-slave narrative concerned with both rape and female sexual desire, early reviews of the book were quite critical of its focus on black female sexuality and eroticaism. Raymond Sokolov in *New York Times Book Review* suggested that *Corregidora* “is a book with virtually no other subject than sex” (qtd. in Clabough 634). And Jones, responding to criticism that the novel’s focus on female desire perpetuates stereotypes of black female sexuality, says, in an interview in 1982, “I had assumed that when one wrote modern/contemporary literature that a black woman could write about eroticism the same way as any other writer” (Rowell 46). In *Corregidora* eroticism is depicted in particularly disturbing ways against the backdrop of rape, sexual slavery and domestic violence. The text, therefore, raises Ursa’s desire, and indeed her great grandmother’s and grandmother’s desire, not as an overdetermined stereotype— that of the black lascivious woman and her counterpart, the rapacious black man—but as a problem that Ursa and therefore the text cannot completely solve.

To answer the problem of hate and desire in *Corregidora* it is helpful to turn to a contemporaneous novel that also ambiguates apparently consensual sex in the present by tying it to trauma and the legacy of slavery. *Thereafter Johnnie*, a neo-slave narrative written by Carolivia Herron in the 1970s but not published till 1992, revolves around a familial secret in which the boundaries between abuse and love are broken. This novel represents the incestuous relationship between the African American patriarch John Christopher and his daughter Patricia, beginning when she is seventeen. Patricia’s consent to intercourse with John Christopher is ambiguous. The incest is represented multifariously as a daughter’s seduction of her father, as the traumatic repetition of an

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112 This focus has understandably made some critics extremely uncomfortable. Some have attempted to explain that the novel focuses on Corregidora’s hate and desire instead of the grandmothers’ (Swanson Goldberg 453: Milatovic 5). While there is some evidence for such a reading, I believe it to be incomplete. It is true that the phrase “Hate and desire both riding them” (103) may suggest Corregidora’s rape of both women; it is also possible to read hate and desire as states that occupy both grandmothers.
earlier nonconsensual act in her childhood, as the result of a father’s desire for sovereignty, as the legacy of rape in slavery, as a parallel to Patricia’s sister Eva’s rape by a white vagrant, as a rape itself, as the consequence of a curse, and as an act portending the apocalypse. Thus, it is depicted as consensual and nonconsensual, desired by Patricia and John Christopher, determined and unavoidable.

In the chapter “The First Time” Patricia appears to consent as a teenager to intercourse with her father. She seeks her father out in San Juan, enters the bathroom while he is bathing, strips and kneels before him in the bath. Yet her consent is not clear cut. As her father bathes her, Patricia’s fear becomes overwhelming and she attempts to escape. She struggles against him but he will not release her and he carries her over to the bed. There she resists: “She struggles to push him away, kicks and twists from under him wrestling his arms from around her body, she turns him away from her and she means it” (119). However, the next moment Herron describes how Patricia changes her mind:

... as strangeness begins its slow circles within her and she opens herself above him, suddenly panting as she moves her leg over him, kneeling above him, suddenly grasps him in her hand and sits upon him, squeezing and massaging him with her tightness, pulling him into herself, with warm liquid oozing down upon him, dripping down his thigh. (119)

In this sentence Patricia is figured as not only consenting, but active and aroused. It is she that takes hold of her father’s penis and places it inside herself. In the next paragraph the intercourse is described in highly erotic language—her coming orgasm is described as “a circle of passion” (119) that “explodes from the center” (119).

Then just as quickly as Patricia’s decision to have intercourse with her father, the narrative reverberates with horror. Patricia is described in a language that evokes captivity. She is “Caught in that sensual music, caught, the golden bird, caught by touch” (120) and it is in this state that she begins to whisper. She is possessed in her forgotten baby voice... ‘I don’t know you, stop hurting me, don’t you hurt me any more, you’re mean to me, if you hurt me any
more I’m going to kill you when I grow up, what are you doing to me
Daddy, that hurts me, is it a fire Daddy? it hurts me, did your finger put a
fire on me Daddy?’ Shaking and trembling and no one to hold her as she
shakes and trembles in her first orgasm, not this time but the first time, the
first time, hidden, forgotten, violated by the touch of her father’s fingers
upon her two-year-old clitoris. (120)

Here is the voice of a little girl whose body was incomprehensibly put on fire by the
touch of a father whose hands should have held her instead. These painful words that
spill forth uncontrollably from her lips, express the trauma “she had no words for in the
beginning” (121) and as they do so, “her body stiffens into a catatonic X of horror,
vioation violently enforced pleasure and pain” (121). The scene suggests that her
molestation by her father is a horror that is “hidden” and “forgotten,” but that is also
sought out and relived by Patricia when she is a teenager. It is possible, then, to read her
consent as negated by a compulsive need to repeat this “first time.” Her body, thus,
returns to the X of horror that her mother would at times find her in as a toddler and that
her sister recalls seeing her recreate as a child. This X represents an unbearable
confusion of love, hate, fear, attachment, dependency, pleasure and pain, mirrored by
what she says in her forgotten baby voice.

This X of horror is linked in the novel to, among other things, the family’s ancestral
trauma of rape and incest during slavery. The last chapter recounts the story of an
African woman whose name has been forgotten, but whose infant son died during the
Middle Passage and was cast overboard: a woman who, raped by the captain, is then,
after her arrival in Virginia, raped again by a “young lawyer availing himself of his
property rights” (235). This chapter also narrates the story of her daughter, Laetitia, who
is sexually used by both the lawyer, her father, and his son, her half-brother. In one
particularly violent and perverse image, the two masters are described
standing with their private parts exposed, holding the naked Laetitia
horizontal between them. The young master between her legs with his
hands gripped around her thighs, the old master at her head, his hands
hooked under her shoulders and Laetitia was held in the air in the shape of an X in order to be fornicated. (238)

These events are not consciously remembered by the family, but Patricia’s traumatic repetition of the sign of the X suggests this ancestral narrative of violence and abuse is a history with a claw-like grip upon the present.

In Thereafter Johnnie it is suggested that the trauma of slavery is re-enacted in the incestuous relationship between father and daughter. The contemporary events of the novel actualize a traumatic legacy that takes the form of a curse:

And from these origins has there come this great curse upon our house:
‘The females shall be raped and the males shall be murdered.’ And the males that are not murdered shall be sold, and to certain ones of the males that are neither murdered nor sold, to certain of those few males come late into the house marrying . . . to these shall be given the power of revenge upon the females of their own house who consented with the white males for their destruction, the males shall be given the female children of their own house, and these shall be raped. And raped again. (239-40)

This curse confuses the categories of rape and consensual sex. What begins as the rape of female slaves, becomes a perverse consent to their own destruction. Meanwhile the incest that is often figured as consensual between John Christopher and Patricia is signified here as rape. This transformation of the category of rape into consensual sex and vice versa is figured in the narrative by the effacement of the nameless African woman’s nonconsent when the lawyer uses his property according to his legal right. Her will is presented as completely irrelevant and her nonconsent erased. Likewise, the incest her daughter is subsequently subjected to collapses the boundaries between rape and consensual sex, as well as between love and abuse, and between father, brother, lover and rapist.

Slavery’s transgression of boundaries is figured through incest. As Elizabeth Breau argues, Herron “force[s] an acknowledgment of how the sexual exploitation practiced by
white slave owners distorted the sexuality of both master and slave and blurred the familial boundaries that ensure observance of the incest taboo” (92). This disruption of categories is mirrored in the tale of Laetitia’s relationship with her two masters in which sadomasochistic desire is described: “In passion did the three of them play together and it was joy for the three of them in their sin” (238). Installed in her own house and raising her child to pass as white, Laetitia seems to make a deal with the younger master so that her daughter will not be sexually used by him as well:

> Forever will I receive upon my body the father and the son my masters nor will I say I have no pleasure in them for I have pleasure to give myself to father and brother, infolding the life of the one with the other until I know well how deeply we have sinned, but not shall you lift your hand to touch my child, which is the child of US. (237)

Despite her desire to protect her daughter from the same sexual abuse that she endures, Laetitia’s assertion of pleasure in suffering is disturbing. Her sadomasochistic desire troubles notions of rape and force. It suggests that the realm of the erotic has for Laetitia been saturated by her abuse such that sexual mistreatment and sexual desire are hardly distinguishable.

In *Thereafter Johnnie*, does Laetitia’s desire for her abusers indicate consent? Conversely, does the fact that her nonconsent has no power to stop the sexual use of her body render her consent immaterial? The young lawyer’s claim to her body as well as her daughter’s body as his right highlights how her and her daughter’s consent or nonconsent, their pleasure or pain, is completely irrelevant to him. To her daughter he says:

> Yeah, now you know, you and your Ma both are niggers, we can fuck her like this ’cause she’s our nigger, and you’re our nigger too, you’re a nigger slave, your grandma’s a nigger African, we got papers to show that you and your Ma both are niggers. You think you’re white but you’re a goddam nigger, you ain’t white, you’re black, you’re our black nigger bitch. We can sell you or rape you any day of the week. (238)
In *Thereafter Johnnie* “the unremembered past” (Fraiberg 387) that haunts the text is at once the unimaginable horror of slavery in the United States and at the same time the forgotten trauma of a father’s molestation of his daughter at the age of two. Both are figured as incest, as rape and as ambiguously consensual intercourse– as transgressions of boundaries that produces a perverse and sadomasochistic inversion of love and hate.

Is it possible to think of desire and abuse simultaneously without losing sight the horror of physical and sexual violence and violation, and without attributing responsibility for abuse to the abused? Dorothy Allison’s representation of sexual desire and abuse in *Bastard Out of Carolina* is useful here. In this novel about an impoverished white family in the United States, Allison’s female child-protagonist Bone begins to masturbate to fantasies that reproduce her step-father’s violence against her body:

> My fantasies got more violent and more complicated as Daddy Glen continued to beat me. . . . I was ashamed of myself for the things I thought about when I put my hands between my legs, more ashamed for masturbating to the fantasy of being beaten than for being beaten in the first place. . . . I couldn’t stop my stepfather from beating me, but I was the one who masturbated. I did that, and how could I explain to anyone that I hated being beaten but still masturbated to the story I told myself about it? (112-13)

Horvitz argues that by revealing how Bone’s “sexual desire is actually shaped or constructed by violence” (244), Allison exposes “the secret that her protagonist shares with Jones’s Ursa: a link between physical pain and sexual pleasure” (244). She reveals the perversion of sexual desire through sexual abuse. This link is confusing for Bone: while she cannot prevent her step-father’s abuse, it is she who uses the fantasies of nonconsensual violence to become aroused, generating in her a misplaced sense of responsibility.

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113 For a more detailed analysis of the production of Bone’s sexual desire in relation to her abuse in *Bastard Out of Carolina*, see Horvitz 244-47.
I am aware that this is uncomfortable and dangerous territory. As Spillers writes,

Whether or not ‘pleasure’ is possible at all under conditions that I would aver as non-freedom for both or either of the parties has not been settled. Indeed, we could go so far as to entertain the very real possibility that ‘sexuality,’ as a term of implied relationship and desire, is dubiously appropriate, manageable, or accurate to any of the familial arrangements under a system of enslavement, from the master’s family to the captive enclave. Under these arrangements, the customary lexis of sexuality, including ‘reproduction,’ ‘motherhood,’ ‘pleasure,’ and ‘desire’ are thrown into unrelieved crisis. (76)

To Spiller’s suggestion that the meaning of words such as “reproduction,” “motherhood,” “pleasure,” and “desire” are brought into a perpetual state of crisis under the conditions of slavery (76), we might add, then, with reference to Hartman, the words “consent” and “force.” As Hartman writes, “the extremity of power and the absolute submission required of the slave, not only renders suspect, or meaningless, concepts of consent and will, but the sheer lack of limitations regarding the violence ‘necessary’ to the maintenance of slave relations, that is, black submission, unmoors the notion of ‘force’” (539). Spillers’s warning that “Whether or not the captive female and/or her sexual oppressor derived ‘pleasure’ from their seductions and couplings is not a question we can politely ask” bears repeating (76). Indeed, to return to Corregidora, the question of Great Gram’s and Gram’s pleasure is not asked politely when Ursa’ father Martin inquires of Ursa’s grandmothers: “How much was hate for Corregidora and how much was love” (131). Martin’s question is posed in the grammatical structure of a question, but, perhaps indicating its rhetorical or rather unanswerable nature, Jones resists punctuating it with a question mark.

Yet, the question of Gram’s and Great Gram’s desire is posed in Corregidora. Its answer resides in that which was never spoken of. Rather than answer Martin’s question, the novel explores Gram’s and Great Gram’s desire by displacing it–by representing the problem of their desire as a problem of Ursa’s desire. Jones has more leeway to explore
the complexities of eroticism and desire from the perspective of a time connected to, but also separate from the conditions of slavery. Yet this leeway is always complicated by the conflation of Ursa’s experiences of her own life and those of her foremothers. Ashraf H. A. Rushdy argues that Jones explores through the ancestral slave narrative the way in which the modern desiring subject is constructed by intersubjective familial relations that have been impacted by historical slavery. Jones, she writes, “focuses on the subject of desire as constructed historically in order to show how both the spectacular and the hidden experiences of slavery, especially the historical subjection of desire, operate in the formation of contemporary African American subjectivity” (274). It is, therefore, not possible for Ursa to experience her desire and her sexuality from the position of the completely autonomous self.

When Ursa says to Mutt, “I have a birthmark between my legs” (45) she represents her genitals, as Yukins argues, “as a liminal site of both creative pleasure and traumatic repetition” (228). The focal point for sexual pleasure bears the mark of sexual possession and the sexuality to which her foremothers were reduced through slavery, that is, the sign of their sex. Asking a question of her great grandmother, Ursa wonders,

And you with the coffee-bean face, what were you?  You were sacrificed. They knew you only by the signs of your sex. They touched you as if you were magic. They ate your genitals. (59)

Ursa’s birthmark brings us back to the problem of desire and identity—the foreclosure of Great Gram’s desire precisely because her body was so suffused with the projection of sexuality by Corregidora’s “genital fantasies” (59) that being reduced to the sign of her sex becomes the same as losing her sex through its consumption by others.

4.3. Filling the Gap: Sexual Agency in Traumatic Repetition

In Corregidora intergenerational trauma creates a kind of vertigo as distressing events become distorted symptoms of a prior and primary trauma that does not belong to the
lived life. That which escapes or exceeds the traumatic narrative resides in the silences that also constitute the story that is told. Nanette C. Auerhahn and Dori Laub, in their exploration of children of Holocaust survivors, suggest that though children create representations of the Holocaust from the stories that are told to them by their parents, such representations include parts of the traumatic experience that have not been expressed, and perhaps cannot be expressed, in language:

But the children are exposed not just to what is said but also very much to what is not said—to the split off state in which the feeling of nothingness is retained. The children are exposed, in ways they also cannot articulate, to the absence that is covered over by parental myths (cf. Bollas, 1987). Beyond the story that is told, children sense the actual trauma that has yet to be made into a narrative. (365)

After they leave the plantation Ursa’s great grandmother and grandmother live a life that is “spoken, and only spoken” (103) and yet, Ursa realizes that there is also that of which they would not speak, which they would not share: “Still there was what they never spoke, Mutt, what even they wouldn’t tell me. How all but one of them had the same lover? Did they begrudge her that? Was that their resentment? There was something, Mutt” (103). Indeed, at the heart of the ancestral narrative of rape and slavery is a family secret that takes the form of a riddle: “What is it a woman can do to a man that make him hate her so bad he wont to kill her one minute and keep thinking about her and can’t get her out of his mind the next?” (184). The riddle posed by Gram cannot be answered by anyone in the family, least of all Great Gram who cannot tell a story that accounts for her own desire and sexual agency. This story is one of how it was that she remained with Corregidora after slavery was abolished in Brazil; how it was that she finally left him after performing, Ursa believes, a forced sexual act upon the slave owner, an act that asserted her power over him making him simultaneously want to kill her and continue to desire her; how it was that in leaving him she left behind her daughter to whom his rapacious desire then turned. This unfathomable problem of desire, of power and powerlessness, of sexual agency and rape, of pleasure and pain, is posed in the novel as a problem without an answer; or rather, as a problem with only an oblique answer that Ursa
finds at the end of the novel in the ambiguous re-enactment or traumatic repetition of her great grandmother’s act of defiance and desire by threatening her first husband with castration when performing fellatio.

The ambiguation of Ursa’s consent is particularly clear in this final traumatic repetition. In the novel’s last pages, Ursa finally reunites with Mutt after twenty-two years of separation. They return to the hotel in which they stayed while they were married and Ursa performs fellatio upon him. The novel constructs this moment as an act of agency and of resistance, as Ursa finally thinks she has worked out what Great Gram did to Corregidora to make him hate and desire her at the same time:

in a split second of hate and love I knew what it was, and I think he might have known too. A moment of pleasure and excruciating pain at the same time, a moment of broken skin but not sexlessness, a moment just before sexlessness, a moment that stops just before sexlessness, a moment that stops before it breaks the skin: ‘I could kill you.’ (184).

Gottfried sees this moment as one in which Ursa asserts her agency reclaiming both desire and body for herself. Likewise, Dubey argues that, despite the paradoxes in the scene, because Ursa repeats her great grandmother’s exercise of power over her slave master and because the act escapes the reproductive imperative imposed upon Ursa by her foremothers, it involves an agency “that can at once contain and transcend the contradictory history of American slavery” (252). Horvitz goes so far as to suggest that having discovered her mother’s story Ursa not only transforms the power dynamic between herself and her husband, but “Conscious of her past, Ursa no longer needs to compulsively repeat it; she can abandon the mandate and, to a greater extent, choose her future” (50).

Such readings potentially underestimate the difficult ambiguity of Ursa’s reunion with Mutt: the achievement of power over Mutt is simultaneously an act of traumatic repetition, during which, as Ursa says, “It was like I didn’t know how much was me and Mutt and how much was Great Gram and Corregidora–like Mama when she started talking like Great Gram” (184). Like Patricia’s return to her father in Thereafter Johnnie,
Ursa’s consent is rendered problematic by traumatic repetition. So Bruce Simon emphasizes Ursa’s repetition of sexual trauma by highlighting her mother’s re-possession by Great Gram, and thus, the difficulty of escaping the mandates of the past. He is critical of readings that see Ursa’s enactment of Great Gram’s moment of resistance “as a kind of choice” (101).

What is the status of Ursa’s consent at this moment? What does it mean to repeat a moment of resistance to a nonconsensual act as a moment of agency in a consensual one? Jones suggests in her interview with Charles H. Rowell that Ursa desires a connection with her history that acknowledges its importance in constructing her identity but which does not dictate her actions in the present. One potential reading of the last scene would emphasize Ursa’s imaginative engagement with Great Gram’s act of resistance. This repetition is potentially an act of agency because it fills the gap created by Great Gram’s silence about what actually occurred between herself and Corregidora. Ursa has never been told what this act is, but in a moment of imaginative engagement she thinks she has worked it out. Yet her description as Simon has pointed out is ambiguous. She moves from considering it to be a moment of pleasure and pain, to a moment of broken skin that is not sexlessness, to a moment that stops short of sexlessness, to a moment that stops short of breaking the skin.

The alternatives Ursa offers suggest a return with a difference—she returns not to the narrative that possesses, but to the gap in this narrative. And she fills this gap with her own act of sexual domination over her husband. This is not trauma’s literal repetition but a highly ambiguous creation. This opens the possibility that this repetition may be a break from the past, although the violence suggested in it renders this break ambiguous. At this moment the novel does two things simultaneously; it represents sexuality as the site of subjection—subjection to another’s desires and to another’s past—but it is also, and importantly, at the same time, represents it as the site of potential agency and resistance. Butler’s comments regarding the subjectification of the prisoner in Foucault’s *Discipline and Punish* helps to somewhat unpack this moment in the novel. She writes “The term ‘subjectification’ carries the paradox in itself: *assujettissement* denotes both the becoming of the subject and the process of subjection—one inhabits the
figure of autonomy only by becoming subjected to a power, a subjection which implies a radical dependency (The Psychic Life of Power 83). This paradox of agency and subjection, of becoming subject through subjectification, appears both at the moment of Great Gram’s initial act and in Ursa’s repetition of her act. It is a moment that is not free from power, from past and present abuse. It is simultaneously figured as a moment of autonomous action and a becoming—a moment that breaks Corregidora’s hold over Great Gram (if not her daughter), and a moment that inaugures a potentially new kind of relationship between Ursa and Mutt.

Stephanie Li argues that

Ursa’s act of fellatio metaphorically represents the fundamental tension of the blues: the merger of opposing emotions and the conflation of desire and danger. Mutt’s sexual position involves a simultaneous vulnerability to pain and pleasure. It demonstrates the precise convergence of opposites, which is at the center of Ursa’s relationship with Mutt as well as Great Gram’s with Corregidora. (146)

And like when she is singing the blues, Ursa when she performs fellatio takes the position of a creative storyteller. While she represents trauma through her act, indeed, returns to the historical trauma that haunts her, she does so as much as possible as a sexual subject who seeks to communicate and understand her complexity of feeling, the mixture of hate and desire, and the impact of trauma in all of its ambiguity. Jones suggests that throughout the novel the dilemma for Ursa is how to contend with a history that threatens always to collapse the distinction between past events and contemporary experience—how to retain a sense of herself as a subject and agent of action, without denying the importance of her family’s history to her identity. Jones says, “Her story is connected to theirs but she also wants her own choices and acts of imagination and will—most of which come through singing her own songs” (Rowell 45). Ursa’s use of the blues transforms her grandmothers’ narratives from static artifact into culturally shared ways of giving witness to the past but that can also alter it to speak to the present. In doing so she attempts to follow the following aphoristic sentence, which appears to be connected with
Ursa’s singing: “Everything said in the beginning must be said better than in the beginning” (54). Ursa’s singing does not resolve the complexities of trauma and of her relationships, but it does communicate their ambiguities. In an interview with Michael S. Harper, Jones says

The relationships between the men and women I’m dealing with are blues relationships. So they’re out of the tradition of ‘love and trouble.’ . . .
Blues talks about the simultaneity of good and bad, as feeling, as something felt. . . . Blues acknowledges all different kinds of feelings at once. . . . That’s what interests me. Ambiguity.

Somebody said Corregidora was ambiguous. I think I wanted it to be.
(360)

It is this ambiguity that the novel maintains in the final chapter.

Thus, I am skeptical of readings that suggest Ursa moves on from the trauma that has so impacted her in the final sexual act with her husband. There is no resolution to the ambiguity of love and trouble, hate and desire, that she experiences with Mutt. Moreover, I am not sure that trauma can be moved on from in such a way that it never returns. But I do think that the individual can develop different relationships with trauma—that it is not always or necessarily a static force that time, understanding, and imaginative engagement cannot impact and transform. Thus, I see in the final scene a traumatic return in which Ursa comes into a somewhat new kind relationship with the trauma, both her own and her grandmothers. She returns to it. She touches and embodies it. She imaginatively fills the traumatic aporia that haunts her with her own story and so provides herself with a new way of understanding it. As Ursa says, “I wanted a song that would touch me, touch my life and theirs. A Portuguese song, but not a Portuguese song. A new world song. A song branded with the new world. I thought of the girl who has to sleep with her master and mistress” (59). Like singing the blues, Ursa seeks a way to communicate her pain without being possessed by trauma, taking her grandmothers’ calcified narrative and retelling it so that she can understand something about her lived life as well as theirs.
Chapter 5
The Seduction of Rape as Allegory in Postcolonial Figurations of Desire

In over simplified form, allegory can be understood as a mode of representation that proceeds by forging an identity between things, and it reads present events, whatever the signifying system in which they are found, as terms within some already given system of textualised identification or codified knowledge. As Paul de Man points out, allegory consists of semantic repetition in a rhetoric of temporality, and within this rhetoric the sign is always grounded to another sign which is by definition anterior to it. . . In allegory, signs are interpreted as modalities of preceding signs which are already deeply embedded in a specific cultural thematics, and they work to transform free-floating objects into positively identified and ‘known’ units of knowledge.

(Stephen Slemon “Monuments of Empire” 7)

At the interstices where national metaphors that allegorize rape meet depictions of sexual violence between characters, the ambiguation of nonconsent in postcolonial novels challenges our understanding at both levels of representation. In this chapter, I explore the unusual treatment of rape tropes in Assia Djebar’s Fantasia: An Algerian Cavalcade and Tayeb Salih’s Season of Migration to the North. Both novels condemn colonial and patriarchal power through the exploration of proscribed desire and the ambiguation of female nonconsent. They destabilize rape tropes by exploring how consent and nonconsent do not always act as clear delineators between legitimate and illegitimate sexual acts. Female desire, like Ursa’s desire in Corregidora, is represented as provisional, discombobulating, perplexing, unspeakable, unrecognizable, and at the same time, necessary to the normalization of sexual violence. These two texts represent crises
of identities, particularly of sexual and sexualized identities, in the colonial and postcolonial space. These crises are brought into relief by the depiction of sexual relations between colonizer and colonized, but also between Algerian men and women in *Fantasia*, and Sudanese men and women in *Season of Migration to the North*. These depictions of rape and of seduction as that which characterizes the intercourse between the subjects in these relationships, and as that which is refracted in the discourse about the violence and violation of colonialism produce irreconcilable mixtures of violence, desire, force, and complicity. Both novels suggest that the female subject when transposed into national allegory becomes lost in her symbolic function as a sign that circulates between men.¹¹⁴ Woman as metaphor for land or nation is exposed as an unstable fantasy. This fantasy paradoxically posits women as so suffused with sexuality and desire that temporally they are always consenting, and at the same time, as will-less non-agents whose consent is absent because it is completely irrelevant. These novels connect the allegory of colonialism as rape/seduction to the unacknowledged rape of female subjects in relationships legitimated through the institution of marriage, rapes both colonial and patriarchal power sanction through disavowal.

*Fantasia* and *Season and Migration of the North* resist, even as they appear to replicate, colonial discourse, in which allegories of ambiguated rape produce knowledge about the Other by appealing to Western cultural beliefs about heterosexual relations that normalize sexual violence. As Stephen Slemon writes, “if allegory literally means ‘other speaking’, it has historically served as a way of representing, of speaking for, the ‘other’, especially in the enterprise of imperialism” (“Postcolonial Allegory” 161). In rape tropes, the Other is discursively constructed by the European colonizer as female, and therefore, sexually available; but this tells only part of the story, for such discourse also assumes the inevitability of female desire in response to sexual force. Imperialist language casts European colonialists in a romance plot in which the colonial man acts out the heroic

¹¹⁴ Fredrick Jameson has famously argued that “All third-world texts are necessarily... allegorical, and in a very specific way: they are to be read as what I will call national allegories” (69). For a rebuttal of Jameson’s totalizing position that “the story of the private individual destiny is always an allegory of the embattled situation of the public third-world culture and society” (Jameson 69), see Aijaz Ahmad.
penetration of either a virgin land or a sexually lascivious and secretly consenting Other. When Sir Walter Raleigh claims that “Guiana is a country that hath yet her maidenhead, never sacked, turned, nor wrought” (142), he figures colonialism as a romantic endeavor, in which Guiana is a woman whose anticipated rape is justified through her desirability as a virgin. The virgin’s desire for penetration is not a question that requires inquiry. It is either irrelevant or assumed. In the colonial metaphor, rape is never quite rape. European assertions of proprietary rights to the colonial body through the language of gender violence largely rely upon the trope’s evocation of rape myths that deny the validity of female nonconsent. Rape tropes are evoked in order to suggest ultimate consent, hidden desire, and heroic seduction.  

Monique Y. Tschofen argues that the use of rape tropes in postcolonial discourse remains oppressive even if they are used to denounce colonialism. She suggests that postcolonial allegories of rape do nothing to challenge the “master code” that subordinates women through a discourse of sexual violence and violation. Taking Slemon’s insights into allegory, Tschofen makes the case that the “colonialism-is-rape” equation should be criticized for leaving unchallenged the violent imposition of gender hierarchies: “The ‘code of recognition’ that underlies such post-colonial allegory is not merely racial or cultural, but rather, is gendered and sexual. Of course, the underprivileged term in the binary oppositions that structure the code is female and always female” (Tschofen 509). By allegorically substituting colonial violence with sexual violence, postcolonial

Another permutation of rape tropes in colonial discourse is analyzed at length by Jenny Sharpe in *Allegories of Empire*. This permutation—white women under threat from dark men—results from the fact that “The binarism of Western civilization and Eastern barbarism is difficult to maintain when the colonizer is an agent of torture and massacre” (Sharpe 6) and therefore, A discourse of rape—that is, the violent reproduction of gender roles that positions English women as innocent victims and English men as their avengers—permits strategies of counterinsurgency to be recorded as the restoration of moral order. . . . When articulated through images of violence against women, a resistance to British rule does not look like the struggle for emancipation but rather an uncivilized eruption that must be contained. In turn, the brutalized bodies of defenseless English women serve as a metonym for a government that sees itself as the violated object of rebellion. (6-7)

See Jameson, *The Political Unconscious* 25-33; Slemon “Post-Colonial Allegory” 161.
discourse can efficiently figure concepts of violent penetration, possession, and loss of autonomy. However, as Lydia Liu writes, “In such a signifying practice, the female body is ultimately displaced by nationalism, whose discourse denies the specificity of female experience by giving larger symbolic meanings to the signifier of rape” (44). It is all too easy for the allegory to use “gender difference between women and men” (McClintock 354) to symbolically establish “the limits of national difference and power between men” (354) and so for the story of a violated woman, in Harveen Sachdeva Mann’s words, to be “exploited so that the story of the nation can be enunciated” (131).

*Fantasia* and *Season of Migration to the North* critique colonial history by challenging the terms of the allegory that links the penetration of colonized space to the penetration of the female body. They represent the uncertainties of desire, the complexities of identity, and the opacities of Self and Other to stage an intervention in discourses of power that uncritically allegorize colonialism as gender-paradigmatic sexual violence. Both novels portray sexual consent in ambiguous, disjunctive, and unsettling ways to reveal the twisted trajectories of desire and power involved in both colonial and heterosexual relationships. And they question whether the individual, pulled to the extremes of rapacity or purity by colonial and patriarchal discourses, can experience and express desire in a way that is not harmful to self and other. In so doing, a paradox comes into view: the available language of (female) subjectivity is the language of subjection, whether to colonial, patriarchal, or nationalist power. Power deploys rape as a fact and as a trope, but it also denies the violence and violation of rape’s imagery and rape’s reality. These novels reveal that sex and sexual desire are shaped and regulated by colonial, national, and patriarchal discourses as a form of sexual violation that is disavowed. The rhetorical maneuvers that ambiguate rape have the capacity to reveal not just the

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117 Thus, literary critics often praise authors who represent the “real” suffering of rape victims rather than transforming that suffering into national allegory. Graham appears to praise Coetzee when she argues that “Mapping female bodies onto the landscape, colonialism propagated a myth of territories as ‘virgin land,’ but Coetzee’s fiction exposes the violence literally inflicted on bodies in the colonial encounter” (“Reading the Unspeakable” 442). Kerry L. Johnson argues, after citing Liu, that Wilson Harris is not guilty of such a move but rather “retains the specificity of the woman’s experience of rape while writing about it at the moment of Guyanese independence” (83).
contradictions of colonial discourse, but also the problematic ground which supports such discourse—the normalization of violent heterosexuality through the disregard for the female subject’s consent. Thus, the language of seduction and of rape in these novels critiques the very code to which such language belongs.

5.1. *Fantasia: A Language of Love and Rape*

*Fantasia: An Algerian Cavalcade* (1993), published first in French as *L’amour, la fantasia* in 1985 is a difficult novel to summarize. The language is lyrical, structured like a musical fantasia making interpretation particularly difficult. As Anne Donadey writes, “The complex syntax, the almost Proustian sentences with their many subordinate, coordinate, and juxtaposed clauses, also contribute to the difficulty in reading—and even more so in translating—Djebar” (34). Semantically unstable, Djebar’s language transcends dichotomies. Speech and silence, the spoken and the written word are not, or not always opposed, for the novel articulates in writing the silences that speak.

The text, the first in a quartet, is part autobiography, part historical compendium, part transcription of oral testimonies of women who fought against France in the twentieth-century. To write that the novel is separated into three parts, each involving several chapters or movements does not convey its structural complexity. Djebar’s chronological retelling of the French invasion of Algiers in 1830 and subsequent military actions over the course of the next century is juxtaposed against oral accounts of female resistance and experiences of violence in the twentieth century. These Djebar translates from spoken Arabic into written French in the latter part of the novel. Both these textual and oral explorations of past and present are interspersed with Djebar’s autobiographical account of intellectual and sexual awakening, and meditations on the process of writing in the language of the colonizers. Throughout she cites and comments upon the historical

118 The first three novels of the quartet have been published: *L’amour, la fantasia* in 1985, *Ombre sultane* (A Sister to Scheherazade) in 1987, and *Vaste est la prison* (So Vast the Prison) in 1995.
documents and testimonies of Algerian colonization and resistance to reveal the absences in official and unofficial national narratives. What occupies the gaps are ghosts, liminal figures of the silenced voices of women whose narratives have not been heard and whose experiences of rape and violence have been denied by Algerian patriarchy as well as by French colonial discourse.

Djebar reveals what colonial discourse attempts to conceal: the actual violence and violation committed against both Algerian culture and Algerian bodies. She suggests that the official history of Algeria after the French invasion does epistemological violence to Algerian society. While actual physical violence is undoubtedly harmful, Djebar asserts that the words of the colonizers “will become their most effective weapons” (45). With words,

Hordes of interpreters, geographers, ethnographers, linguists, botanists, diverse scholars and professional scribblers will swoop down on this new prey. The supererogatory protuberances of their publications will form a pyramid to hide the initial violence from view. (45)

These words, although coded in the language of romance, “like the carnations they wear in their buttonholes” (45), cannot fully conceal the horror of what the French do:

Their words, lodged in volumes now gathering dust on library shelves, present the warp and woof of a ‘monstrous’ reality, that is made manifest in all its unambiguous detail. This alien world, which they penetrated as they would a woman, this world sent up a cry that did not cease for two score years or more after the capture of the Impregnable City . . . . (57)

Rape, Djebar suggests, is the unambiguous fact of colonial violence and violation. In Fantasia, the trope of rape communicates the atrocities of colonization. The novel reveals through the language of sexual violation, in Katherine Gracki’s words, “the

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119 See Mona Fayad 154.
resistance and the screams of refusal muffled by the colonial discourse of conquest” (836). When Algiers falls, Djebbar allegorizes the city as both Africa and personifies it as a rape victim: “Penetrated and deflowered; Africa is taken, in spite of the protesting cries she cannot stifle” (57). And the subsequent economic exploitation and colonization is likewise described explicitly as rape: “The invasion has become an enterprise of rapine: after the army come the merchants and soon their employees are hard at work; their machinery for liquidation and execution is already in place” (45). At the level of national metaphor, rape is the “‘monstrous’ reality” of a wrong that will not be silenced.

It seems as if from the analysis above that Djebbar’s use of rape tropes to condemn colonialism is straightforward. However, Djebbar’s language also oscillates between images of rape and images of love. And this oscillation complicates her analogy between colonialism and rape. At times she portrays colonialism ambiguously as a form of seduction. On the one hand, this portrayal results from Djebbar’s knowing replication of colonial discourse that downplays the violence of rape through the rhetoric of seduction. A series of substitutions are necessary for the allegory of rape justifying colonial violence to work: the allegory suggests that the violence of colonialism is rape; but rape is already understood to be seduction, and seduction is understood to be the desired/desirable outcome of sexual force. Dispersed between citations from French documents and letters, Djebbar’s writing often takes colonial metaphors, images and logic as its own. In so doing, she draws out the subtext of the French colonialists’ language. For example, in the first historical chapter of Fantasia, Djebbar describes the sight of Algiers emerging from the dawn mist as a desirable oriental woman ready for sexual penetration:

As the majestic fleet rends the horizon the Impregnable City sheds her veils and emerges, a wraith-like apparition, through the blue haze. A distant triangle aslant, glinting in the last shreds of nocturnal mist and then settling softly, like a figure sprawling on a carpet of muted greens.

...
The first confrontation. The city, a vista of crenellated roofs and pastel hues, makes her first appearance in the rôle of ‘Oriental Woman,’ motionless, mysterious. (6)

In this passage, Djebar utilizes colonial orientalist discourse to depict the scene of invasion as though the French are embarking upon an act of seduction and not an act of rape. Djebar, already writing in the language of the colonizers, writes in this passage from the perspective of the French to reveal the fantasy of Algeria as feminized and penetrable land. This is the city’s “first appearance in the rôle of ‘Oriental Woman’” (6) because she only exists as such in the minds of those for whom the city and its inhabitants are Other. That Algiers is a city rich in history before this inaugurating moment hardly needs asserting. As Edward Said so famously points out “The Orient . . . had been since antiquity a place of romance, exotic beings, haunting memories and landscapes, remarkable experiences” (1), helping Europe to define itself through a contrasting image. The rhetoric of oriental space, which is figured as feminine and passive, positions Algiers as available for the sexual penetration of the male and virile Europe. The coming violence of colonialism in the above passage draws upon “the erotics of ravishment” (McClintock). French violence is deflected onto the inert horizon that is rent by the fleet. Meanwhile, Algiers, seen from afar, is at once a passive odalisque and agent of her own unveiling. Thus, the passage positions the city-yet-to-be-captured as already subject to the rapacious gaze of the invaders and as the desiring subject of action: “the Impregnable City sheds her veils and emerges” (6).

On the other hand, the text also questions whether this sexual agency and desire on the part of Algiers is only a fantasy or whether it reflects some aspects of the actuality of Algerian experience. In addition to critiquing colonialism as rape and co-opting the imagery of seduction to reveal the omissions and fantasies of the invading French, Djebar explores the possibility of Algerian desire for the colonial Other. The text refracts the rhetoric of seduction, locating the language of desire and attraction not just in the perspective of the invading French, but also in the personified city of Algiers, in individual Algerian figures, and in the narrator herself. Donadey suggests that by shifting perspectives within the same novel Djebar reveals “linguistically how a postcolonial
consciousness inhabits different spaces, at the same time outsider and insider” (31). And so, Djebar implies that while the colonial encounter is characterized by rape and death, the desire for a fantasized Other is not unidirectional. For example, the first historical chapter concludes on the following ambiguous note:

On this thirteenth day of June 1830, the confrontation continues for two, three hours, well into the glare of the afternoon. As if the invaders were coming as lovers! The vessels sail so slowly, so quietly westward, that they might well have been planted there above the glassy surface of the water, by the eyes of the Impregnable City, blinded by mutual love at first sight.

And the silence of this majestic morning is but the prelude to the cavalcade of screams and carnage which will fill the ensuing decades. (8)

The perspective from which the narrative is told has shifted; now the eyes of the Impregnable City look out upon the fleet. In the above passage, the speculative “As if” only does so much to mitigate the shock of the transformation of the personified city of Algiers from soon to be victim of rape and slaughter, to a desired and desiring woman. Perhaps the “As if” does enough to signal an appearance–it is only as if they come as lovers, when in fact they come as rapists–but at times Djebar seems to offer rape and seduction as equally plausible descriptors, as when she asks of those who wrote down their experiences of the invasion whether “their writings allow them to savour the seducer’s triumph, the rapist’s intoxication” (45). Yet, any positive exchange is usually foreclosed by colonial violence and orientalist fantasies of the Other. In the indented quotation above, the possibility of mutual love appears to be shut down in the second paragraph by the sentence “And the silence of this majestic morning is but the prelude to the cavalcade of screams and carnage which will fill the ensuing decades” (8).

Throughout the novel, the language of mutual desire complicates the trope of rape. Djebar’s language is often ambiguous despite the unambiguous violence she depicts. When she asks “why, above the corpses that will rot in successive battlefields, does this first Algerian campaign reverberate with the sounds of an obscene copulation?” (19), the
question evokes sexual intercourse, obscene as it may be, rather than the one-sided imposition of rape. Djebar does not deny the horror and violence that is to come, nonetheless she imagines the possibility of a mutually constituted and constituting desire for both the French and the Algerians—the progeny, as it were, of colonialism’s obscene copulation. Her language of ambiguous seduction has led at least one writer to critique Djebar for replicating and colluding in the Western patriarchal rape myth that women desire to be raped: “Djebar’s treatment of Algerian colonial history leaves a slightly bitter taste in the reader’s mouth, and not simply because the author illuminates the Western patriarchal ideology that equates rape and love but because she herself seems to become fascinated by this disturbing equivalence” (Andrea Page 48).

This oscillation between the language of rape and the language of love is most explicit and most dangerous in the analogy Djebar draws between the colonialists’ desire to possess and control Algeria and forms of female heterosexual desire controlled by patriarchal injunctions—an analogy she draws together through her meditations on the interdependence of writing and desire. Fantasia unsettles the boundaries between rape and seduction, consent and nonconsent by positioning Djebar’s analysis of desire and rape in the colonial encounter alongside her autobiographical experiences of desire and its regulation before and after marriage within Algerian society. This autobiographical part of the project is pain-filled and elliptical. Djebar’s narrative of her young self’s coming into being resounds with ambivalence, paradox, and ambiguity. It begins and ends with her holding her father’s hand as she walks to the French school where he teaches, follows her summers cloistered with her cousins secretly writing pen letters to young men, traces her engagement and marriage to an Algerian revolutionary in France, and describes her work collating the oral testimonies of female freedom fighters. Through this account of her life, Djebar reveals her identity to be embroiled in Algeria’s history—in the official and unofficial narratives about colonialism and about women’s relationship to family, to nation and to themselves.

Already delimited by the discourses of colonialism, patriarchy, and nationalism, Djebar’s identity as a woman cannot be separated from the history of other women’s bodies and voices that she recuperates in the historical chapters—that is from a history both of rape
and of desire. Her response in the form of this novel, is to attempt to overturn the terms that delineate her subjectivity, as H. Adlai Murdoch argues: “Given her position as a bicultural, postcolonial subject, Djebar undoes centuries of overdetermination, while at the same time putting into place a self which draws on the complicitous dialectic of the colonial encounter in order to express the multivalency of its subjective codes” (72). Djebar’s retrieval of female experience exposes colonial practice and discourse that silenced women’s voices and disavowed the violation of their bodies by sexualizing, raping, mutilating, murdering, allegorizing, and abstracting. She does so by establishing a dangerous analogy between colonial desire for the racialized Other—the expression of which is rape that is disowned—and Algerian patriarchal desire to control and possess the gendered Other—the expression of which is the veiling and cloistering of women and the sanctioning of marital rape. At the same time, she explores the contradictions of her own position as a postcolonial woman, educated and writing in a language that does and does not belong to her. She reveals her desire for freedom that the French language makes possible for her, and the irreconcilable experience of that language as a force that has been used to subjugate her. In so doing, Djebar exposes the colonizers’ unacknowledged desire for an Algeria that exists only as their fantasy, and critiques the circumscription of female expressions of desire and of agency in Algerian society, as well as reveals her ambivalence towards the liberating possibilities of the French language.

In these personal sections, the narrator describes her absorption by “this business of love, or rather by the prohibition laid on love” (4). The patriarchal injunction against female desire is taught early in the novel by her father who tears up a letter that contained a request from a French male student to engage in an exchange of letters with the narrator. This is her “first experience of love” (3) expressed in writing. Yet, her father sees this letter as “not merely completely indecent” but as “tantamount to setting the stage for rape” (4). Here Djebar quickly establishes the link between letter writing, desire and rape that will become such significant motif in the novel. It is implied that her father’s interdiction warps the narrator’s perception of both writing and desire; it “only served to encourage the intrigue” (4), she writes. The injunction also stunts the narrator’s ability to express herself in the language of love and to respond when that language is addressed to her. She writes, “from the time of my adolescence I experienced a kind of aphasia in
matters of love: the written words, the words I had learned, retreated before me as soon as the slightest heart-felt emotion sought for expression” (128). By destroying the letter her father increases her fascination with the Other, as well as her confusion in matters regarding desire: “Simply because my father wanted to destroy the letter, I interpreted the conventional French wording used by this student on holiday as the cryptic expression of some sudden, desperate passion” (4).

This perception can be traced in her writing about the French documents in which she also finds the cryptic expressions of hidden desire. The words the French colonialists’ pen about the invasion and occupation of Algeria are compelling to her not so much because the suffering of Algerians can be traced between their lines, but because they are evidence of the French colonialists’ own impossible sexual longing:

> It is as if these parading warriors, around whom cries rise up which the elegance of their style cannot diminish, are mourning their unrequited love for my Algeria. I should first and foremost be moved by the rape or suffering of the anonymous victims, which their writings resurrect; but I am strangely haunted by the agitation of the killers, by their obsessional unease. (57)

The French colonialists’ letters “speak of Algeria as a woman whom it is impossible to tame” (57) and whom it is impossible to possess, whether through rape or through mutual exchange. The segregation of women through the institution of the cloister in Algerian society becomes an actual and symbolic marker of a divide that breeds patriarchal and colonial fantasies, producing a warped desire for an Other that cannot be attained. Indeed, the narrator writes, “Never did the harem, that is to say, the taboo, whether it be a place of habitation or a symbol, never did the harem act as a better barrier, preventing as it did the cross-breeding of two opposing worlds” (128). When Baron Barchou de Penhoën composes his account of the French invasion in 1830, according to Djebar, he writes as a soldier, eyewitness, and unrequited lover: “he sets down his impressions as a combatant, as an observer and even, with unexpected insight, as one who has fallen in love with a land of which he has glimpsed the fiery fringes” (16). She suggests that
those, like Barchou, who experience this “first encounter” (16) are haunted, but what
haunts both the French and the Algerian camps is open to doubt: “are these the ghosts of
the raped, flitting over the piled-up corpses? Is this the spirit of an unacknowledged love,
felt only in an intuitive sense of guilt?” Djebar asks (16). With these questions remaining
unanswered, I find myself pondering whether for Djebar, these two possibilities—the
ghosts of the raped and the spirit of an unacknowledged love—are indistinguishable.

Murdoch argues that in Fantasia “The interstices foregrounded between writing,
conquest, and desire cause desire to emerge as the primary mediator of this encounter
between self and Other” (79). Desire produces a compulsion to write. And with desire as
the mediator, Djebar explicitly links the writings by the French colonialists with the pen
letters the narrator’s cloistered cousins send to men who have advertised in women’s
magazines. Referring to the letters the colonialists compose, she writes

This correspondence, dispatched from day to day from the
encampments, offers an analogy with love-letters: the recipient
suddenly becomes the excuse for taking a good clear look at oneself in
the muted light of one’s own emotions . . . . War and love leave similar
impressions: the hesitant courtship dance before the image of the one
who takes flight: and this flight gives rise to fear: and one writes to
suppress this fear. (56-57)

The implication is that both forms of letter writing belong to the politics of love and the
politics of rape: that love, rape and writing are different manifestations of the same
impulse. War-letters, like love-letters, are “a preliminary to a seduction” (62) in which
the impossibility of equality between nations, peoples, and lovers produces the conditions
for violence and rape. The French who write in response to the invasion of Algeria
“reveal a contrario an identical nature” (45) to the narrator’s cousins. Both the
colonialists and the cousins write in response to and out of desire for an Other. Whether
Despite being acts of fantasy, “love-letters” are also acts of resistance for the women in Djebar’s novel. The narrator’s own letters “fly far away in an attempt to widen the boundaries of my confinement” (58); they are “like slats of blinds through which the sun’s glare is filtered” (58); they are “sweet words that the hand sets down, that the voice would whisper against the wrought-iron bars” (58). For a woman, writing is an act of defiance against Algerian and colonial patriarchy. To write reveals female agency and desire as forces that are impossible to tame. The cloistered cousins’ letters, for example, do not merely express naïve adolescent fantasies, but resist their father’s and brother’s control of their bodies. Djebar is highly critical of the desire to “blot out women’s bodies” (180) by veiling and cloistering them. She suggests that what is denied by these practices is Algerian women’s subjectivity—the locus of agency that is intimately interwoven with the emergence of their sexual and desiring bodies. Wondering “What happened to the baker’s daughter?” (183), Djebar answers “Certainly veiled, withdrawn overnight from school: betrayed by her figure. Her swelling breasts, her slender legs, in a word, the emergence of a woman’s personality transformed her into an incarcerated body!” (183). Djebar implies that Algerian women are denied the subject position; “muffled up, tightly swathed, swaddled like infants or shrouded like corpses” (180), they are allowed to exist only at the extremes of dependency—at birth or death—and so, are disallowed their autonomous subjectivity. Moreover, the exposed woman’s body is not just seen as a sexual invitation that denies the possibility of rape, but also as a sexual

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120 See Fanon:

I came into this world anxious to uncover the meaning of things, my soul desirous to be at the origin of the world, and here I am an object among other objects.

Locked in this suffocating reification, I appealed to the Other so that his liberating gaze, gliding over my body. . . would give me back the lightness of being I thought I has lost, and taking me out of the world put me back in the world. But. . . the Other fixes me with his gaze, his gestures and attitude, the same way you fix a preparation with a dye. . . .

In the white world, the man of color encounters difficulties in elaborating his body schema. The image of one’s body is solely negating. It is an image in the third person. (89-90)
threat, for “Exposed, a woman’s body would offend every eye, be an assault on the dimmest of desires, emphasize every separation” (180).

Throughout the novel, Djebar makes an analogy between writing and the unveiling of a woman’s body. Because writing signals a freedom that the cloistering of the female body seeks to deny, it is not without risk: “there will be more danger in love that is committed to paper than love that languishes behind enclosing walls” (3). This danger is real. Letter writing is not just tantamount to setting the stage for a rape, it may provoke violence from within a woman’s family: “There had been numerous cases in our towns of fathers or brothers taking the law into their own hands for less than this; the blood of an unmarried daughter or sister shed for a letter slipped surreptitiously into a hand” (12).

The narrator’s own writing is also dangerous. It has both emancipatory and violative associations. It is the means through which the narrator asserts her identity and claims her freedom. Through her education, she becomes “the one who had permanently escaped cloistering and never had to stamp and protest at being forced to wear the shroud-veil, or else yield meekly like my cousins” (213). The symbolism of unveiling represents her agency as a woman in French and Algerian social and political space, as Soheila Ghaussy argues: “Djebar’s French education . . . provides her with the means of stepping out into the public, into the male and the colonizers’ sphere, by enabling her to write–moreover, to write in French” (458). Despite these emancipatory associations, her French education positons her as an outsider with regard to both Algerian and French culture. The liberty her schooling provides separates her from her female companions as it “alienates her from the female sphere of the harem” (Ghaussy 458). She dons the veil only “as if it were a fancy dress” (Djebar 213).

Because writing is associated with the unveiling of the self in the novel, it does not merely separate the narrator from her culture, it also opens her up to the possibility of sexual violation:

Speaking of oneself in a language other than that of the elders is indeed to unveil oneself, not only to emerge from childhood but to leave it, never to
return. Such incidental unveiling is tantamount to stripping oneself naked, as the demotic Arabic dialect emphasizes.

But this stripping naked, when expressed in the language of the former conquerer [sic] (who for more than a century could lay his hands on everything save women’s bodies), this stripping naked takes us back oddly enough to the plundering of the preceding century. (156-57)¹²¹

The act of disrobing through language is figured as a stripping naked that leaves her socially and sexually vulnerable and returns her to the real and allegorical rape of Algerian women described in the historical chapters. Writing, whether the colonialists’, her lovers’ or her own, repeatedly leads the narrator to these violated women. These figures haunt Djebar’s narrative. Given voice by her writing, they return in the form of screams that, silenced in official accounts of history, continue to cry out. Writing about female sexual desire and about love links the present moment of the novel’s narration to these voices and reveals that female sexual emancipation from both colonial and patriarchal oppression, which is linked to the narrator’s act of writing in French, is inextricably tied to these women and the violence, sexual and otherwise, they experienced in the past:

Words of love heard in a wilderness. After several centuries of cloistering, the bodies of my sisters have begun to come out of hiding here and there over the last fifty years; they grope around, blinded by the light, before they dare advance. Silence surrounds the first written words, and a few scattered laughs are heard above the groans.

‘L’amour, ses cris (s’écrit)’: my hand as I write in French makes the pun on love affairs that are aired; all my body does is to move forward,

¹²¹ I take Djebar to be referring to the institution of the cloister here when she suggests that “the former conquerer [sic] . . . could lay his hands on everything save women’s bodies” (157); she is not suggesting that the rape of Algerian women was not perpetrated during colonial conquest.
stripped naked, and when it discovers the ululations of my ancestresses on
the battlefields of old, it finds that it is itself at stake . . . (214)

With her body at stake, autobiography reveals her experiences of love and desire to be
wracked with ambivalence. Writing exposes a crisis in self-identity. French words act
upon her body as kind of violent unveiling that strips her self bare. The narrator reveals
that to write the story of oneself—particularly in the language of the enemy, “A language
imposed by rape as much as by love” (216)¹²²—is to expose the self to terrible injury:

To attempt an autobiography in French words alone is to lend oneself to
the vivisector’s scalpel, revealing what lies beneath the skin. The flesh
flakes off and with it, seemingly, the last shred of the unwritten
language of my childhood. Wounds are reopened, veins weep, one’s
own blood flows and that of others, which has never dried. (156).

As Spivak implies, Djebar writes “Identity as a wound, exposed by the historical
hegemonic languages” (“Acting Bits/Identity Talk” 770). To write in the language of the
enemy is to flay the flesh from the skin.

The association between rape and writing in French is extended when Djebar links her
use of French to Algerian patriarchy by suggesting that writing is French is analogous to
a forced marriage with all that implies:

I cohabit with the French language: I may quarrel with it, I may have
bursts of affection, I may subside into sudden or angry silences—these are
the normal occurrences in the life of any couple. If I deliberately provoke
an outburst, it is less to break the unbearable monotony, than because I am
vaguely aware of having been forced into a ‘marriage’ too young, rather
like the girls of my town who are ‘bespoke’ in their earliest childhood.
(213)

¹²² Although the language Djebar is referring to here is Arabic, which was also imposed upon the region,
she is making an association with the violent imposition of French.
In this passage an analogy between Djebar’s relationship with the French language and a married couple is established as a mundane normal relationship if not a happy one. But in the second sentence, the specter of marital violation is intimated—the relationship with French is revealed to have been imposed upon her too young, the marriage is forced, and the intercourse a rape that cannot be understood as such. She was, she implies, like those daughters who are abandoned by fathers “to an unknown suitor” (213); she was “‘given’. . . before I was nubile . . . into the enemy camp” (213). Here, casting both French and Algerian men as the enemy, she views herself as a pawn in their relationship. Hers is a sacrifice that does not bring peace, rather it brings about an internal split. Djebar as the narrator finds herself “caught in the snare of the old war between two peoples” (216) and “So I swing like a pendulum from images of war (war of conquest or of liberation, but always in the past) to the expression of a contradictory, and ambiguous love” (216). She also swings, like her narrative, from present to past, such that time appears to collapse within her frame.

Djebar’s desire to write in the language of the enemy may be an attempt to reclaim the language of the colonizers as her own, but it is experienced as an act of complicity. Female desire for liberation and for love finds its expression in French in Fantasia, but French is a language that is opposed to the orality of Djebar’s female ancestors and companions, and is a force of colonial subjugation through which Djebar’s identity is discursively produced as Other. The French language, therefore, is not completely emancipatory; to write in French, Djebar suggests, is to clothe herself in another veil. The language that enables her (partial and conflictual) liberation is the language of colonial suppression. By connecting the trope of rape/seduction to writing in French, a language that facilitated and denied the rape of her ancestors, Djebar conveys the deep ambivalence within herself as she too oscillates between experiences of war and of ambiguous love. Fantasia is in many ways a love letter to the French language. It is an expression of Djebar’s desire for the freedom and for the love that French and French literature promises. But the French language is always also experienced as a violator—moreover, a violator that is analogous to the male violators of female subjects within Algerian society, those who give their daughters “to an unknown suitor” (213) and those who receive them.
5.2. Rape as Seduction in *Season of Migration to the North*

Before returning to the associations Djebar draws between French colonial discourse and practice that denies the rape of Algeria in the abstract and Algerian women in the concrete, and Algerian patriarchal discourse and practice that denies the rape of women through the negation of female consent and nonconsent in marriage, I want to outline Tayeb Salih’s comparable ambiguation of rape tropes through the rhetoric of seduction and his reinstatement with a difference of sexual violence as the “code of recognition” (Tschofen 509) in allegories of colonialism by drawing an analogy to marital rape in *Season of Migration to the North*. In both texts, the “code of recognition” (509) is disrupted by the revelation that the rhetoric that denies the rape of the female subject in allegories of colonialism that deploy the trope of rape/seduction is analogous to the practice of disavowed rape in marital sexual relations.

Over a decade after Sudanese independence *Season of Migration to the North* was published in Arabic as *Mawsim al-Hijra ilā al-Shamāl* in 1966 and translated into English in 1969. Afis A. Oladosu argues that in contrast to earlier Sudanese work which tended to “treat sexuality as a forbidden remit” (135), Salih’s *Season of Migration to the North* “in one breath, unfetters our recollections of the Arabs [sic] classical discourse on sexuality even as it brings us face to face with the hypocritical tenors and textures of the contemporary Arab world” (135). This explicit sexual discourse resulted in the novel’s initial prohibition in Egypt and the Gulf States (Kolk 130). In this text, the character Mustafa Sa’eed becomes complicit in a colonial discourse that sexually oppresses Sudanese women. The novel is implicitly critical of Mustafa Sa’eed’s disinterest in his lovers’ experiences of either pleasure or violation as he embarks upon

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123 *Season of Migration to the North* was serialized in *Hiwar*, a Lebanese magazine and then published as a book in 1967 (Lalami ix). Salih had significant impact on the English translation working intimately with the novel’s translator Johnson-Davis (Lalami ix, xviii). Salih wrote *Season of Migration to the North* prior to the separation of South Sudan from Sudan in 2011; when I refer to Sudan in this chapter I am referring to the political and geographical region that existed prior to this change.
his undertaking to reverse English colonialism in Sudan. By literalizing the trope of rape through the sexual conquest of English women, he transmutes his relationship with each of them to the level of national allegory, and in so doing, he elides the actual experiences of Sudanese women who were in fact raped in the colonial encounter.

As in Fantasia, in Salih’s novel, the rape and seduction of women is linked to colonialism through a series of complex images at the intersection between concrete event and abstract allegory. This novel explores sexual desire as the desire for the racial and gendered Other warped by the fantasies and violations of imperialism and racist ideology. It depicts these fantasies and violations through the trope of rape, but it also undermines its language of rape by deploying the rhetoric of seduction. In this regard, Salih’s work appears to align with colonial discourse that deemphasizes the violence and trauma of colonialism by intimating that rape is really only ever a seduction. However, the rhetoric of seduction in Season of Migration to the North, like the imagery of rape, is also undermined. The analogy established in the novel between colonialism and rape—figured—as-seduction is paralleled with another analogy between colonialism and the unacknowledged curtailment of sexual choice in sexual relationships. Thus, the text reveals that seduction belongs to the same discourses, practices and institutions that deny the female subject the power of her nonconsent, and so, disregard her sexual desire and facilitate her sexual violation.

Only somewhat less structurally complex than Djebar’s text, Season of Migration to the North narrates the events of the novel from more than the singular perspective of the unnamed narrator. The dual perspectives of the narrator and his interlocutor—and doppelgänger—Mustafa Sa’eed disrupts the perception of time in the novel. Mustafa Sa’eed’s recursive and invasive narration of his experiences throws into confusion the present moment of the narrator’s chronological account of the events that follow his own return to his village in Sudan after an interim of several years while he pursued a doctorate in English Literature. This narrator expects all to be the same upon his return,

124 For an analysis for the complex structure of Season of Migration to the North, see Joseph E. Lowry.
but he soon feels disturbed by the presence of the stranger, Mustafa Sa’eed who has married Hosna Bint Mahmoud, a local woman, and settled in the village. Mustafa Sa’eed’s account of his own time in England, where he too studied and worked, forms much of the novel’s narrative, and his story and person continue to haunt the narrator well after Mustafa Sa’eed’s death in the Nile: as the narrator says, “Mustafa Sa’eed has, against my will, become a part of my world, a thought in my brain, a phantom that does not want to take itself off” (42). In his often elliptical narrative, Mustafa Sa’eed describes the events that culminate in his murder of his English wife Jean Morris by stabbing her through the heart during what appears to be sexual intercourse. This sexualized murder is preceded by his colonial education in Sudan, Egypt, and England, where he becomes the toast of the wealthy bohemian London society in the 1920s, and his cruel seduction of several English women–Ann Hammond, Sheila Greenwood, Isabella Seymour–for whose suicides, the novel implies, he bears at least partial responsibility. Though the novel does not suggest that these women are raped, these sexual conquests are represented through the rhetoric of sexual violence and violation as acts that literalize the trope of colonialism as an act of rape/seduction. As Africa was raped–the title of one of Mustafa Sa’eed’s books is The Rape of Africa (114)–so, Mustafa Sa’eed jokes “I’ll liberate Africa with my penis” (100).

Tschofen critiques Salih’s novel, arguing that by representing Mustafa Sa’eed’s resistance to British colonization in Sudan through sexual violence, Salih condemns one form of exploitation (colonial) by uncritically reproducing another (patriarchal). She criticizes Salih for presenting the confrontation between nations in gendered terms. While I find Tschofen’s general point insightful, the ambiguation of female sexual consent in Season of Migration to the North renders Salih’s depiction of sexual violence complex. Although it is possible to read the novel as unwittingly replicating rape myths, such an interpretation does not account for Salih’s careful paralleling of ambiguously consensual sexual violence with unambiguously nonconsensual sexual violence. As Mike Velez asks of Salih, “Why did he refuse to settle for a simplistic denunciation of colonialism and why does everything remain uncomfortably ambiguous in his world?” (191). At times, the representation of female ambiguous consent and complicity to sexual violation appears to stand as a trope for the complicity of some Sudanese to the
colonial administration of their land and peoples. However, drawing an analogy to the ambivalent desires of some Sudanese elites only partially accounts for the novel’s ambiguation of the trope of rape. This analogy is troubled by the parallel drawn in the text between Mustafa Sa’eed’s first wife Jean Morris and her apparent consent to her sexualized murder, and the rape and murder/suicide of his second wife Hosna Bint Mahmoud, who is forced into an unwanted marriage to Wad Rayyes after Mustafa Sa’eed’s death. Indeed, the rape of Hosna Bint Mahmoud at the end of the novel exposes the lie at the heart of rape/seduction tropes: the lie that the female subject, like the racial Other, is in a perpetual state of consent.

Throughout the novel, the rhetoric and practice of sexual violence and sexual desire is figured in both interpersonal relationships and geo-socio-political metaphors. As in Fantasia, both national and city spaces are personified and sexualized. In parallels with Joseph Conrad’s Heart of Darkness, Mustafa Sa’eed describes his life as though he were penetrating ever deeper into a foreign land; but in Season of Migration to the North, rather than an African nation standing for the Other, it is England that is the unknown land to which the Sudanese man Mustafa Sa’eed comes “as a conqueror” (50). Reversing European orientalism, Mustafa Sa’eed directs a desirous gaze back at Europe and at European women. This first occurs before Mustafa Sa’eed has even left the African continent when he meets Mrs. Robinson upon arriving in Cairo to pursue his secondary education. Her embrace triggers sexual desire that mingles with his experience of Cairo, a city, which, foreign to him in this moment, appears not as an African, but as a European woman:

At that moment, as I stood on the station platform amidst a welter of sounds and sensations, with the woman’s arms round my neck, her mouth on my cheek, the smell of her body—a strange, European smell—tickling my nose, her breast touching my chest, I felt—I, a boy of twelve—a vague sexual yearning I had never previously experienced. I felt as though Cairo, that large mountain to which my camel had carried me, was a European woman just like Mrs. Robinson, its arms embracing me, its perfume and the odour of its body filling my nostrils. (22-23)
Mustafa Sa’eed’s sexual arousal returns upon his arrival in England where “The smell of the place is strange, like that of Mrs. Robinson’s body” (24).

Once in London, Mustafa Sa’eed personifies the city as the exotic and passive female Other that he has come to debauch. His language is territorial as he lays claim not merely to English women, but, through the possession of their bodies, to London and by extension the British Empire. In a paragraph describing his pursuit of his wife Jean Morris and his seduction of Sheila Greenwood, Mustafa Sa’eed describes how “The city was transformed into an extraordinary woman, with her symbols and her mysterious calls, towards whom I drove my camels till their entrails ached and I myself almost died of yearning for her” (30). Then, a few pages later, upon describing his first encounter with Isabella Seymour he uses the image again: “The city has changed into a woman. It would be but a day or a week before I would pitch tent, driving my tent peg into the mountain summit” (34). Here Isabella Seymour becomes a geographical abstraction; she symbolizes London where Mustafa Sa’eed will “pitch tent” (34), a potent symbol for sexual intercourse, as well as for the declaration of territorial dominion. Mustafa Sa’eed’s sexualized imagery of the tent peg driven into the mountain summit or body of the woman, recalls the beginning of his narrative when he describes his experience of freedom from affective relationships: “I used to have–you may be surprised–a warm feeling of being free, that there was not a human being, by father or mother, to tie me down as a tent peg to a particular spot, a particular domain” (18). As an agent free from emotional connection to person or to place, Mustafa Sa’eed feels no compunction in asserting his ownership of England through his possession of women.

This rhetoric mimics even as it inverts colonial discourses that vindicate colonial violence as the rational exercise of the male liberal individual’s power, as Anne McClintock suggests when she argues that European explorers and colonialists charted the world that was unknown to them through “a metaphysics of gender violence” (23), thus making sense out of difference. Through imperial rhetoric the supposedly inherent male and female characteristics of dominance and subordination are transfigured onto the colonial realm, while indigenous resistance is figuratively morphed into a seduction script. Not only does consent transform rape into seduction at the last moment, the desire of the
seduced is imagined in, not despite, the act of resistance. The representation of consent in rape tropes, then, de-legitimizes all forms of resistance whether to sexual violence or to colonial domination by intimating the desire for, and so ultimate necessity of, European rule. The intimation of desire does imperialism’s ideological work by allegorizing the history of actual violence and violation as an act of mutually desired seduction.

In his analysis of *Season of Migration to the North*, Wail S. Hassan argues that Mustafa Sa’eed treats the women he seduces as though they are abstractions in a discursive war. Mustafa Sa’eed fights colonialism not in the realm of ideas as an academic, but physically upon women’s bodies; he appears to literalize the trope of rape in order to condemn European colonialism: “Mustafa fails to grasp the metaphoricity of ‘the rape’ of Africa, or the difference between the discursive trope (the speaking) and its reality (the doing)” (Hassan 312). Mustafa Sa’eed collapses the distinctions between the abstract metaphor of rape and the sexual use of women, just as the trope of rape collapses the distinction between the bodies of women and geo-socio-political space.

Northrop Frye writes that “the metaphor, in its radical form, is a statement of identity: ‘this is that.’ In all our ordinary experience the metaphor is non-literal: nobody but a savage or a lunatic can take metaphor literally” (151). Using Frye, Paul Huebener implies that Mustafa Sa’eed is mad, for “Madness, in this sense, is metaphor taken to the extreme; if metaphor is the process of experiencing one kind of thing in terms of another, madness is what happens when the boundary between things disappears altogether, leaving no coherent ‘essences’ in place” (21). And yet, even as he acknowledged getting caught up in the madness of his fantasies, Mustafa Sa’eed rejects madness as an excuse for his violence against women. When his lawyer at his trial attempts to attribute his murder of Jean Morris to a crime of passion provoked by an emotional breakdown in response to the clash of civilizations—“Mustafa Sa’eed, gentlemen of the jury, is a noble person whose mind was able to absorb Western civilization but it broke his heart” (29)—Mustafa Sa’eed rejects this interpretation: “This is untrue, a fabrication. It was I who killed them” (29). All the same, in the next breath, when he accounts for his destruction of white women not on account of a breakdown, but by attributing it to his coming from the South through the geo-spatial metaphor of the desert, his metaphor folds the
discursive into the concrete: “I am the desert of thirst” (29). In fantasy, Mustafa Sa’eed loses touch with the symbolic—the implied as if—and so the symbol becomes concrete.

Mustafa Sa’eed implies that his lawyer sought to locate the blame for the deaths of his lovers not in his own person, but elsewhere, in “a conflict between two worlds, a struggle of which I was one of the victims” (29). Indeed, the lawyer attributes culpability not to Mustafa Sa’eed, but to a disease—“These girls were not killed by Mustafa Sa’eed but by the germ of a deadly disease that assailed them a thousand years ago” (29)—an image that becomes a trope for colonial desire and colonial violence throughout the novel. Later, the narrator remembers Mustafa Sa’eed drawing together the colonization of Sudan, the indoctrination of Sudanese children through their colonial education, the loss of life in the First World War, and Mustafa Sa’eed’s own enterprise of reverse colonization through disease as a metaphor:

The ships at first sailed down the Nile carrying guns not bread, and the railways were originally set up to transport troops; the schools were started so as to teach us to say ‘Yes’ in their language. They imported to us the germ of the greatest European violence, as seen on the Somme and at Verdun, the like of which the world has never previously known, the germ of a deadly disease that struck them more than a thousand years ago. Yes, my dear sirs, I came as an invader into your very homes: a drop of poison which you have injected into the veins of history. (79)

Here Salih critiques both the violent and non-violent coercive tactics of British colonialism that produced Sudanese submission to and complicity with the colonial administration: railways are built to transport troops, while schools are built to produce “consent,” that is “to teach us to say ‘Yes’ in their language” (79). R.S. Krishnan writes “This disease—political, economic, cultural—is the consequence of the colonial invasion of the body politic of the subject nation, and Sa’eed is a manifest failure of the ‘covert’ aspect of colonialism” (11).

The metaphor of disease also takes on sexual and gendered connotations. Despite rejecting his lawyer’s account of his actions, Mustafa Sa’eed uses the extended metaphor
of disease to describe what transpires between himself and the women he seduces. He describes how “My bedroom was a spring-well of sorrow, the germ of a fatal disease. The infection had stricken these women a thousand years ago, but I had stirred up the latent depths of the disease until it had got out of control and had killed” (30). Through contact with Mustafa Sa’eed, Sheila Greenwood becomes sexually infected: “She entered my room a chaste virgin and when she left it she was carrying the germs of self-destruction within her” (30). The temporality of this infection is complex—time collapses as infection occurs both at the moment of contact with Mustafa Sa’eed and a thousand years prior. Mustafa Sa’eed links this metaphor to sexual desire for the gendered and racialized Other, and suggests that by arousing this desire in white women he is able to control them. Speaking of Isabella Seymour, he says,

You, my lady, may not know, but you—like Carnarvon when he entered Tutankhamen’s tomb—have been infected with a deadly disease which has come from you know not where and which will bring about your destruction, be it sooner or later. My store of hackneyed phrases is inexhaustible. I felt the flow of conversation firmly in my hands, like the reins of an obedient mare: I pull at them and she stops, I shake them and she advances; I move them and she moves subject to my will, to left or to right. (34)

Mustafa Sa’eed’s imagery transfigures Isabella Seymour into female horse, whom he rides in a sexually suggestive image, and their conversation into reins that enable Mustafa Sa’eed to fully control her. Infected with the desire for Mustafa Sa’eed as the racialized and gendered Other, Isabella Seymour is at his mercy.

At his trial for murder, Mustafa Sa’eed sees himself as having reversed the relation of power between colonizer and colonized through his sexual relationships. He asserts that he is not so much subject to the decision of a court of law, but architect of that court’s presence before him: “I had a sort of feeling of superiority towards them, for the ritual was being held primarily because of me; and I, over and above everything else, am a colonizer, I am the intruder whose fate must be decided” (79). Yet, as Huebener points
out, “While Mustafa’s deadly seductions of white women are a form of revenge for the European colonization of Africa, a pointed reversal of power relationships, they also represent a decision to perpetuate acts of violence and domination” (25), making Mustafa Sa’eed “both perpetrator and victim of imperial conquest” (25).

Mustafa Sa’eed’s reverse colonialism by sexual conquest fails to transform relations of power in part because he continues to collude with European orientalist fantasies about himself. While it is true that Mustafa Sa’eed’s lovers eroticize his racial difference, Mustafa Sa’eed’s encourages and returns their objectifying and dehumanizing gazes. He transforms his room into an oriental cliché, “heavy with the smell of burning sandalwood and incense, and in the bathroom were pungent Eastern perfumes, lotions, unguents, powders, and pills” (27). For Isabella Seymour he produces it seems almost every stereotype about Africa and African men:

I related to her fabricated stories about deserts of golden sands and jungles where non-existent animals called out to one another. I told her that the streets of my country teemed with elephants and lions and that during siesta time crocodiles crawled through it. Half credulous, half-disbelieving, she listened to me, laughing and closing her eyes, her cheeks reddening. Sometimes she would hear me out in silence, a Christian sympathy in her eyes. Then came a moment when I felt I have been transformed in her eyes into a naked, primitive creature, a spear in one hand and arrows in the other, hunting elephants and lions in the jungles. This was fine. Curiosity had changed into gaiety, and gaiety to sympathy, and when I stir the still pool in its depths the sympathy will be transformed into a desire upon whose taut strings I shall play as I wish. (32-33)

As Hassan points out, Mustafa Sa’eed’s successful seduction of Isabella Seymour echoes Othello’s production of pity and desire in Desdemona in Shakespeare’s Othello (I.iii, 134-68):125

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125 Wherein I spoke of most disastrous chances:
The structural parallel between these passages, the lies about fantastic creatures and monsters . . . and the sympathy elicited from the mistress only to be transformed into passion for the exotic reveal Mustafa’s calculated performance of the kind of exotic masculinity that plays itself out ‘at the edge’ of civilization and even humanity, feeding European fascination with barbarism and monstrosity, and confirming Europe’s sense of civilizational superiority. (315-16)

It is fair to say that Mustafa Sa’eed indulges in a fair amount of megalomaniacal and omnipotent self-mythologizing. He announces, for example, his success at seducing Isabella Seymour with false tales of his exotic upbringing as “The Nile, that snake god,

Of moving accidents by flood and field,
Of hair-breadth scapes i’ th’ imminent deadly breach,
Of being taken by the insolent foe
And sold to slavery, of my redemption thence
And portance in my [travel’s] history;
Wherein of antres vast and deserts idle,
Rough quarries, rocks, [and] hills whose [heads] touch heaven,
It was my hint to speak–such was my process –
And of the Cannibals that each [other] eat,
The Anthropophagi, and men whose heads
[Do grow] beneath their shoulders. These things to hear
Would Desdemona seriously incline;
But still the house affairs would draw her [thence],
Which ever as she could with haste dispatch,
She’d come again, and with a greedy ear
Devour up my discourse. Which I observing,
Took once a pliant hour, and found good means
To draw from her a prayer of earnest heart
That I would all my pilgrimage dilate,
Whereof by parcels she had something heard,
But not [intently]. I did consent,
And often did beguile her of her tears,
When I did speak of some distressful stroke
That my youth suffer’d. My story being done,
She gave me for my pains a world of [sighs];
She swore, in faith ’twas strange, ’twas passing strange;
’Twas pitiful, ’twas wondrous pitiful.
She wish’d she had not heard it, yet she wish’d
That heaven had made her such a man. She thank’d me,
And bade me, if I had a friend that lov’d her,
I should but teach him how to tell my story,
And that would woo her. Upon this hint I spake:
She lov’d me for the dangers I had pass’d,
And I lov’d her that she did pity them. (Iiii, 134-68)
has gained a new victim” (34). Thus, “by perpetuating colonial binaries and stereotypes both in his characterization of the women he seduces and in his means of seduction, which entail his inhabiting the colonial image of the African” (17), as Byron Caminero-Santangelo argues, Sa’eed fortifies the very imperialist epistemic structures he fights against and reproduces without thought gender hierarchies that oppress women. By so doing, he also perpetuates a colonial “discourse of power capable of coding anticolonial struggle as the violation of white women” (130) as Jenny Sharpe writes in her analysis of E. M. Forster’s *A Passage to India*.

Mustafa Sa’eed participates in the kind of fantasy of black male sexuality explored by Fanon in *Black Skin, White Masks*. He seems to have internalized the racist logic of European colonialism that identifies the black male body with impurity, primitivism, degeneracy, and hyper-sexuality. For Fanon, the white gaze transforms the black man into an object, imprisoning him in his sexual body and causing a disturbance in the black man’s body image, a process he names as the “epidermalization of . . . inferiority” (xv). In the white imagination, black men are not only reduced to non-rational bodies, they are a sexualized synecdoche: “He has been turned into a penis. He *is* a penis” (147).

Meanwhile, white women become the symbolic markers of purity and chasteness, and thus the desire to sexual possess white women arises from a desire to possess the aspects of the self that have been denied to black men by the racist imperial hegemony: as Fanon explains, “Between these white breasts that my wandering hands fondle, white civilization and worthiness become mine” (45). By seeking mastery over “white civilization” (45) through the sexual possession of women, Mustafa Sa’eed colludes with “the very principles of the Eurocentric desire to conquer, control, and civilize other nations and cultures” (Krishnan 11).

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126 Sharpe notes that the myths of the black rapist and the oriental male are different: “The myth of the black rapist presupposes even as it reproduces the Negro’s lustful bestiality; the Oriental male, by contrast, is constructed as licentious rather than lustful, duplicitous instead of bestial” (128). Mustafa Sa’eed purposely inhabits both figures.
Alongside Mustafa Sa’eed, the women he seduces participate, in Spivak’s words, in “the project of imperialism” that “has always already historically refracted what might have been the absolutely Other into a domesticated Other that consolidates the imperialist self” (“Three Women’s Texts” 253). Sheila Greenwood is attracted to Mustafa Sa’eed’s Otherness—his black skin is for her “the colour of magic and mystery and obscenities” (115)—but her desire is for Otherness that bolsters, even as it tantalizingly exoticizes, her own self-image. Sheila Greenwood’s portending death is associated with her pleasure in viewing and possessing Otherness as a form of self-adornment—the putting on of a costume: “The smell of burning sandalwood and incense made her dizzy; she stood for a long time laughing at her image in the mirror as she fondled the ivory necklace I had placed like a noose round her beautiful neck” (30). Here Sheila Greenwood exemplifies how “The process of Orientalization is based on fetishism, on the ‘scopic drive’ to render the other visible for pleasure and erotic domestication,” to use Youssef Yacoubi’s discussion of Homi Bhabha (211).

The relationship between Mustafa Sa’eed and the women is erotically charged with binaries: master/slave, hunter/prey, white/black, god/devotee, civilized/savage, violator/violated. The women he seduces ascribe to the kind of orientalising fantasies that involve their own violation. Anne Hammond, for example, plays the part of the slave and Mustafa Sa’eed the master in an orientalist fantasy that leaves both the fantasy and the relation of power between the two unchanged:

‘Come here,’ I said to her imperiously. ‘To hear is to obey, O master!’ she answered me in a subdued voice. While still in the throes of fantasy, intoxication and madness, I took her and she accepted, for what happened had already happened between us a thousand years ago. (121)

Still in the throes of colonial and masochistic fantasy, Anne Hammond can do nothing but accept. Play-acting her part, to hear is to obey; her acceptance of violation is dictated by a fantasy that participates in a historical fantasy that the two of them are compelled to repeat. While Ann Hammond only play acts the part of a slave, the fantasy is described as though it in fact determines her submission—and yet, the fantasy remains pleasurable
only in so far as Ann Hammond maintains her racially privileged position as a white woman.

By participating in orientalist fantasies that require their submission to Mustafa Sa’eed, figured as master, savage, or god, the English women negate their ability to give or withhold their consent. Even the word “No” in the novel does not represent an unambiguous articulation of refusal. According to Mustafa Sa’eed, when Isabella Seymour calls out “No. No” (37) during intercourse with him the time for a refusal has passed–she has already walked down a path from which there is no return:

The critical moment when it was in your power to refrain from taking the first step has been lost. I caught you unawares; at that time it was in your power to say ‘No.’ As for now the flood of events has swept you along, as it does every person, and you are no longer capable of doing anything. (43)

This is similar to the logic of seduction that Lovelace articulates in Clarissa: the last step in a woman’s seduction is collapsed into her first, between which there is no possibility of a reversal. Isabella Seymour is figured as being swept along by a flood that enforces her passivity; her will is immaterial. That moment that voided her ability to say “No” is the moment she accepted Mustafa Sa’eed’s oriental illusion and thus, like Anne Hammond, was infected with a disease that binds fantasy and desire. However, the temporality of this disease, the fact that it infected colonizer and colonized alike a thousand years ago, implies that it has never been in Isabella Seymour’s power to say “No.”

Mustafa Sa’eed’s disregard for what appears to be a moment of nonconsent in this scene is complicated by the next paragraph when he describes her relaxation and surrender to intercourse with the words “I love you” (37). At which point, it is not Isabella’s voice that rises up in protest against intercourse, but Mustafa Sa’eed’s–there is “a weak cry from the depths of my consciousness calling on me to desist” (37). Later, Isabella Seymour appears to articulate a rape fantasy when she says “Ravish me, you African demon. Burn me in the fire of your temple, you black god. Let me twist and turn in your
According to Fanon, the racist fear of black men, experienced by both white men and women but mainly analyzed by Fanon in terms of white women, is the fear of rape: “whoever says rape says black man” (143). This fear of rape he suggests represents an unconscious desire for rape, which arises from the fact that black men, reduced to pure sexuality, become the repository of fantasies and desires that white women in particular, reduced to pure chasteness, are required to disavow (156). In *Season of Migration to the North*, the appearance of rape fantasy ambiguates the representation of Isabella Seymour’s consent. To actively consent would shatter the fantasy of ravishment. Rape fantasy suggests erotic role-play rather than undesired violation, and yet, for the fantasy to be acted out, consent must be withheld at least in its performance if not in actual fact. During the enactment of such fantasy, saying “No” becomes meaningless play-acting, obscuring both consent and nonconsent alike.

In *Season of Migration to the North*, love, like desire, is experienced as something over which the individual has no control. Indeed, after Mustafa Sa’eed falls in love with Jean Morris “against my will” (129), he, like Isabella Seymour, could no longer “control the course of events” (129). Mustafa Sa’eed describes the events that lead to the murder of his wife fatalistically: “Everything which happened before my meeting with her was a premonition; everything I did after I killed her was an apology, not for killing her, but for the lie that was my life” (26). Not for the first time, everything that exists before and after her death takes its meaning from what happened between them.

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127 It is implied Isabella Seymour says these words to Mustafa Sa’eed, but her desire to be violated is ambiguously located in the narrator’s musings and not in Mustafa Sa’eed’s reported speech.

128 While there are parallels to the representation of white women’s desire in *Season of Migration to the North* here, needless-to-say Fanon can be criticized for perpetuating rape myths. Not only does he imply that white women desire rape, but also that some ask for it: “Basically, isn’t this fear of rape precisely a call for rape? Just as there are faces that just ask to be slapped, couldn’t we speak of women who just ask to be raped?” (134). Such a position may be contextualized by Fanon’s concern with the lynching of black men for false accusations of sexual transgression upon white male prerogatives over white female bodies; nonetheless, his use of psychoanalytic theory denies both black and white women their capacity to give or withhold consent and their experiences of violation. The desire to be raped he extends to black women of whom he famously admits he knows nothing about (157) and of whose experiences he shows little interest in exploring beyond what he has to say about their supposed desire to whiten the race.
Mustafa Sa’eed does not see Jean Morris as herself. When the unnamed narrator enters Mustafa Sa’eed’s property at the end of the novel, he notes upon discovering an oil painting of Jean Morris that “Though [Mustafa Sa’eed] had kept photographs of all the other women, Jean Morris was there as he saw her, not as seen by the camera” (128). From the first time he meets her she is an image, a chimera: “she appeared to my gaze under the faint lamplight like a mirage shimmering in a desert” (26). She is a receptacle for his projection. Twice she approaches Mustafa Sa’eed only to suddenly disappear like a mirage. If there is any doubt that this mirage is one of desire, later he says “the mirage shimmered before me in the wilderness of longing” (29). Jean Morris remains always out of his grasp – Mustafa Sa’eed can possess neither her authentic self, whatever that may be, nor his fantasy of her.

Mustafa Sa’eed’s relationship with his wife is particularly violent: “When I slapped her cheek, she kicked me and bit into my arm with teeth like those of a lioness” (128). At times, Jean Morris appears to incite Mustafa Sa’eed to even further extremes of violence. She flirts with other men and falsely accuses one man of “making passes at me” (133) to provoke Mustafa Sa’eed’s anger. She even leaves a man’s handkerchief for Mustafa Sa’eed to find in an apparent attempt to goad him to repeat Othello’s murder of Desdemona. At this time, she asks him,

What’s stopping you from killing me? What are you waiting for? Perhaps you’re waiting till you find a man lying on top of me, and even then I don’t think you’d do anything. You’d sit on the edge of the bed and cry.

(134)

Throughout their relationship Jean Morris and Mustafa Sa’eed do not come together as two equals; nor do they seek to do so, as what they appear to desire is dominance over the other. Incommensurate, both Mustafa Sa’eed and Jean Morris engage in a mutually destructive battle in which love and hate are hardly distinguishable from each other. After his marriage to her, his bed is transformed into a sexual battleground:

My bedroom became the theatre of war; my bed a patch of hell. When I grasped her it was like grasping at clouds, like bedding a shooting-star,
like mounting the back of a Prussian military march. That bitter smile was continually on her mouth. I would stay awake all night warring with bow and sword and spear and arrows, and in the morning I would see the smile unchanged and would know that once again I had lost the combat. (29)

For the first two months of their marriage, Jean Morris withholds her consent to sexual intercourse with Mustafa Sa’eed, triggering his first murderous rage and her first response of desire to his threat to kill her:

‘I’ll kill you,’ I told her. She glanced at the knife in my hand with what seemed like longing. ‘Here’s my breast bared to you,’ she said. ‘Plunge the knife in.’ I looked at her naked body, which though within my grasp, I could not possess. (131)

Were he to rape or murder his wife at this moment, these acts of violence would not give Mustafa Sa’eed what he desires—complete power over his wife. Even when she does agree, consent to intercourse has little power to make things right between them. Indeed, their relationship is premised upon a struggle for mastery, and consent has little power to reconcile as it is used as a weapon to taunt and torment. Their “murderous war” (131) continues. Though he does not rape his wife, Mustafa Sa’eed’s relationship with Jean Morris allegorizes the colonial encounter as sexual violence. As Caminero-Santangelo argues, “Mustafa’s and Jean’s words and actions manifest an imperial epistemic violence; because they define, separate, and fix identity based on place, they become an allegory of the objectifying and destructive colonial relationship” (16).

Mustafa Sa’eed’s story culminates in Jean Morris’s ambiguously consensual death as she is penetrated by a knife during or simulating intercourse. Sexual violence and murder are conflated in this act. During this scene, Jean Morris is depicted as both volitionless and as desiring her death by kissing the knife and inviting her husband to penetrate her.

129 For analysis of the associations between the “images of ritualized sex” (Quayson 765), Othello’s murder of Desdemona and the ambiguation of consent in this scene see Ato Quayson 764-76.
Laila Lalami calls this “a bizarre act of erotic fulfillment” (xi). On the one hand, Jean Morris’s will appears absent. Even her gaze is completely controlled by Mustafa Sa’eed: “I looked at her breast and she too looked at where my glance had fallen, as though she too had been robbed of her own volition and was moving in accordance with my will” (135). And on the other hand, his desire to kill her appears to be orchestrated and invited by her:

She continued to look at the blade-edge with a mixture of astonishment, fear, and lust. Then she took hold of the dagger and kissed it fervently. Suddenly she closed her eyes and stretched out in the bed, raising her middle slightly, opening her thighs wider. ‘Please, my sweet,’ she said, moaning: ‘Come–I’m ready now. (135-36)

Though violent, the murder is erotic, weirdly consensual and sexually arousing for both Mustafa Sa’eed and Jean Morris. The penetration of the knife mimics the penetration of the penis—it is as though they are the same weapon: “I put the blade-edge between her breasts and she twined her legs round my back. Slowly I pressed down” (136). As he drives the knife in, again time collapses: “the universe, with its past, present and future, was gathered together into a single point before and after which nothing existed” (136). In its collapse the entire history of colonial and gender oppression is concentrated into a perverse single act of violence and violation—a condensation that blurs the boundaries between victim and persecutor, murder and suicide, desire and hate, rape and sex.

5.3. Subverting the “Code of Recognition:” Marital Rape and Its Disavowal

Further complicating Jean Morris’s consent to her violent and sexualized death in *Season of Migration to the North* is the death of Mustafa Sa’eed’s second wife, Hosna Bint Mahmoud, who at the end of the novel after Mustafa Sa’eed’s apparent suicide, is forced into marriage with Wad Rayyes, a man several years older than her and to whom she has refused her consent. Wad Rayyes is revealed by the novel to be a philanderer and rapist,
who jovially recalls sexually assaulting women in his youth. He becomes fixated upon possessing Hosna Bint Mahmoud after she is widowed. He states in response to the narrator’s objection, “She’ll marry me whatever you or she says or does. Her father’s agreed and so have her brothers. This nonsense you learn at school won’t wash with us here. In this village the men are guardians of the women” (82). Indeed, because of the patriarchal rural culture in which “Women belong to men, and a man’s a man even if he’s decrepit” (83), Hosna Bint Mahmoud’s refusal to marry Wad Rayyes is never taken seriously—the perception is that she has no right to refuse her consent, because she belongs to men who have the right to use and exchange her body as they see fit.

Upon hearing Wad Rayyes’s plans, the narrator conflates Hosna Bint Mahmoud with Jean Morris in a disturbing sexual fantasy:

> The obscene pictures sprang simultaneously to my mind, and, to my extreme astonishment, the two pictures merged: I imagined Hosna Bint Mahmoud, Mustafa Sa’eed’s widow, as being the same woman in both instances: two white, wide open thighs in London, and a woman groaning before dawn in an obscure village on a bend of the Nile under the weight of the aged Wad Rayyes. If that other thing was evil, this too was evil, and if this was like death and birth, the Nile flood and the wheat harvest, a part of the system of the universe, so too was that. (72)

The narrator resists calls, including Hosna Bint Mahmoud’s, to take her as his second wife and so save her from an unwanted marriage to Wad Rayyes. He rejects this solution partly because he is uncomfortable with the idea of polygamy, but also because he is uncomfortable with his own desire for her—desire he describes in the same motif of the fatal disease that Mustafa Sa’eed stirs up: “I—like [Mustafa Sa’eed] and Wad Rayyes and millions of others—was not immune from the germ of contagion that oozes from the body of the universe” (86).

After being forced to marry Wad Rayyes, Hosna Bint Mahmoud, like Jean Morris, maintains her nonconsent, refusing him entry to the marriage bed and into her—a right Wad Rayyes believes to be his. When Wad Rayyes decides to force her, Hosna Bint
Mahmoud kills him and herself in a repetition and an inversion of Mustafa Sa’eed’s murder of Jean Morris. The collapse of distinction between Jean Morris and Hosna Bint Mahmoud in the narrator’s mind when he hears of Wad Rayyes’s plans to marry foreshadows the disintegration of the distinction between their sexually violent deaths. In a breakdown of chronological time, the two events are synchronically brought together by the contagion of sexual and colonial desire that operates like a curse throughout the novel. The novel links Hosna Bint Mahmoud’s unambiguously nonconsensual experience of sexual violence with Jean Morris’s ambiguously consensual experience of sexual violence, forcing the reader to evaluate one in light of the other. Therefore, “just as the violence of phallocentric colonialism is literalized in the trail of blood Mustafa leaves behind in the North, so does the violence of traditional patriarchy assume a horrifically concrete form in the South” (Hassan 321). Jean Morris’s consent, like Hosna Bint Mahmoud’s, is revealed to be meaningless in a system, whether colonial or patriarchal, that does not recognize the female subject’s right to refuse intercourse after marriage and which justifies violence to bring about her submission.

As I argue in Chapter 2, where rape is defined as a form of adultery marital rape is oxymoronic, but it should be noted that marital rape remains difficult to conceptualize and prosecute even where there are explicit prohibitions against it. Season of Migration to the North and Fantasia are both critical of the traditional social, cultural and legal structures that deny female agency in marriage by not recognizing a woman’s right to refuse her husband. As in England and Sudan at the time Season of Migration to the North was written, marital rape was not considered a crime in Algeria and France at the time Fantasia was written. In Fantasia, the inability to refuse intercourse to her future husband is the youngest cousin’s fear. As the youngest cousin whispers as night,

130 In South Africa, in S. v. Mvamvu the Supreme Court of Appeal decided that “the sentences imposed in respect of the rape counts were disturbingly inappropriate” (par. 18) when the original trial judge had given the accused a light sentence because “the accused and the complainant had different perceptions of whether they were still married to each other or not” (par. 11) among other mitigating factors. Marital rape was only outlawed by R. v. R. in England and Wales in 1991, and South Carolina, which waited until 1993 to outlaw marital rape still regards it as a lesser crime (South Carolina Code of Laws sec. 16-3-615).
I’ll never, never let them marry me off to a stranger who, in one night, will have the right to touch me! That’s why I write all those letters! One day, someone will come to this dead-and-alive hole to take me away: my father and brother won’t know him, but he won’t be a stranger to me! (13)

Her cousin’s comment helps to elucidates the liberal and conservative understandings of rape: the latter defines rape as intercourse outside of sanctioned relationships; while the former, defines rape as nonconsensual sex whatever the relationship. This cousin understands that for her father and brother once the control of her body has been passed to a man of their choosing, he will have the right to use it sexually whether she consents or not. Sexual relations outside of this relationship would likely be regarded by the men in her family as rape. Indeed, the scene she imagines in which a man whom she knows comes to take her away would constitute a rape in the traditional sense irrespective of her consent.131

In Fantasia the narrator’s “deflowering” on the night of her wedding is experienced as a paradoxical liberation from modesty and as a violation in which nonconsent—and therefore, consent—cannot be voiced. The cry she utters upon penetration contains within it the latent force of a refusal that cannot be uttered aloud:

The cry, pure pain, secretes an inner core of wonderment. It soars in a swelling curve. Wake of thrusting dart, it rises in the air; falling at its nadir, in multi-layered sediment, lurks an unspoken ‘No!’

Did I manage one day to ride the surging tide to reach this crest? Did I feel this refusal tremble on my lips? On these banks, the body stiffens in denial, pouring its passion to the current of the nearby river. What matter then if the soul’s cry pours forth without restraint?

131 In contrast, in understandings of rape that depend on nonconsent, marriage does not act as the delineator between the legitimate and the illegitimate, the legal and the illegal and thus, marital rape becomes possible.
And I must tell also of my victory, its taste of lost sweetness as the wave swept over me. Victory over modesty, over reserve. (107)

The ambiguity, compounded by the unanswerable questions, is not lessened by the narrator’s privilege to choose a husband, as this choice once made does not free her from the irrelevancy of sexual consent within marriage. And yet, she is all too aware that her cry, which “unfurled its spiral of refusal and reached up to the timbers of the ceiling” (107), is even more stifled for others. Djebar writes that “Normally the bride neither cries out nor weeps: she lies an open-eyed victim on the couch, after the male has departed, fleeing from the smell of sperm and the idol’s perfume; and the closed thighs prevent any cry from escaping” (108).

The “unspoken ‘No!’” (107) at deflowering is akin to the unspoken word “rape” in Djebar’s discussions with women who resisted France during the war for independence. In both marriage, as an institution that maintains patriarchal power, and colonialism the “No” of nonconsent cannot be heard and the word “rape” cannot be spoken. The women who suffered sexual violence in the liberation movement can only refer to it obliquely as “damage” and not in Arabic but in French:

*The word suggesting rape—the euphemism: after the soldiers passed close to the river, the soldiers whom the young woman lying hidden for hours could not avoid. The soldiers whom she met. And ‘submitted to’, ‘I submitted to ‘France’,’ the thirteen-year-old shepherd-girl might have said. Cherifa, who in fact did not submit to anything, unless it be today, the present emptiness.* (202)

What does it mean to submit in this context and how is this connected to the submission of a wife to intercourse? In both cases a woman’s nonconsent is not just immaterial, it is inconceivable. Rape is silenced by both discursive language and by concrete practices that do not permit women agency except to submit to the desire of the Other. In *Season of Migration to the North*, for example, the villagers do not have a way of understanding both the violence inflicted upon Hosna Bint Mahmoud and the violence she returns: “it was all without rhyme or reason. She accepted the stranger—why didn’t she accept Wad
Rayyes?” (106). It becomes a thing “that shouldn’t be spoken about” (108), a crime that is hushed up, buried along with the bodies. Rather than understood it is regarded as something other than human: “The thing she did wasn’t the act of a human being” (109). Meanwhile consent becomes a problematic frame for understanding either Jean Morris’s or Hosna Bint Mahmoud’s death. Indeed, while I classify Hosna Bint Mahmoud’s experience as rape, the novel suggests that such a conceptualization is not available to those who witness the violence inflicted upon her. Female subjectivity is revealed by both texts to be constrained by the linguistic and cultural constructions of and prohibitions against female sexual desire and autonomy. There is, as Djebar writes, an “absence of expressions of love (love received, ‘love’ imposed)” (202), and no way for women to truly separate them. Love received and love imposed cannot be separated, because that which is received in marriage or in the colonial encounter can never be by autonomous choice.

5.4. Postcolonial Allegory and the Problem of Consent

Gender oppression intersects, but is not necessarily coterminous, with other forms of oppression, such as those founded on race and class. As a result, when violence against women is used as a trope for violence against the nation, the differential positions of gender are asymmetrically and imperfectly mapped onto systems of racial and political inequality that effect both men and women. As Hassan writes, “The convergence of colonial and racial stereotypes, therefore, produces a troubled gender configuration in which an African man occupies masculine and feminine subject positions and in which, conversely, a European woman occupies the equally uncertain positions of masculinity and femininity” (309). Rape tropes operate as though at the place where race and gender intersect one sign can be exchanged for the other. Postcolonial theory often attempts to be sensitive to hierarchies and prejudice that subordinate categories of difference. However, as Clare Counihan points out, “Despite this aspiration to accommodate all versions of (racial, sexual and gender) difference as irreducible to each other, in practice postcolonial theory loses differences along the way: either racial difference or sexual
difference or gender difference—usually racial difference—functions as the primary and paradigmatic difference while all other forms of difference become additive or tropologically related” (162). Counihan argues that once “postcolonial theory translates sexual difference into racial difference” (162) the figure of woman becomes a ghostly apparition: “the figure of woman, in her oscillating presence and absence, functions within postcolonial theories of difference as the moment at which these translations become visible and haunting” (Counihan 162). This haunting body, transposed into allegory, is crisscrossed and overdetermined by the discourses, institutions, and practices that buttress colonial and patriarchal power, facilitating the continued denial of the position of the subject to actual women. This ghostly form appears most evocatively in Fantasia, but her figure also haunts Season of Migration to the North. She appears in the form of women whose violations cannot be recognized as such within the social and institutional worlds of both novels.

Fantasia and Season of Migration to the North differ from other postcolonial discourse that dismisses the association between rape and seduction entirely by resisting colonial language that justifies colonialism through allegories of rape/seduction. In colonial discourse, rape can act, in Sharpe’s words, “as a concept-metaphor for imperialism” (137), especially in “representations that authorize a European claim of ownership through a feminization of the colonial body” (137). As McClintock writes, “In these fantasies, the world is feminized and spatially spread for male exploration, then reassembled and deployed in the interests of massive imperial power” (23). Like Henry Rider Haggard’s map in King Solomon’s Mines, which, forming the outline of a woman, “abstracts the female body as a geometry of sexuality held captive under the technology of imperial form” (McClintock 4), colonial discourse transfixes its subject through symbols that tie the colonization of peoples and lands to the already fixed significations of the female subject as a body that is desiring, that consents, and/or is will-less. It, therefore, obscures and abstracts concrete experiences of rape, denying the violence and violation of both rape and colonialism.

Postcolonial discourse has tended to emphasize the violence of rape and the victims’ lack of consent. When British imperialism in India is characterized through personification as
an act in which the British “seized her body and possessed her, but it was a possession of violence” (qtd. in Kolsky 109) by the first prime minister of India Jawaharlal Nehru the second clause makes clear that the seizure and possession of India’s personified body should not be confused as a seduction. Desire where signified is shown to have belonged to the colonizer alone. So, in *The Colonial Harem*, Malek Alloula reads back through the erotic postcards of Algerian women sent by French colonialist to the desire of the photographer. The photographer presents the women in the postcards as if they were “available and consenting, welcoming and exciting, submissive and possessed” (122). However, the photographer only reveals the colonizers’ own orgiastic fantasies of women as the spoils of war, where “bodies are taken without any possibility of refusal” (122). The imagery of seduction is revealed to disguise the brute reality of colonial violence in which women’s bodies become symbolic objects of desire and markers of possession in an exchange that ignores their subjectivity. Yet, Alloula can be criticized for replicating the colonial use of the women in the postcards to make his point. Indeed, he is largely uninterested in their experiences and histories as he uses them to read their existence as evidence for colonial desire. Of their own desire and of their own experiences of violence and violation he has little to say.

Anti-colonial discourse does not always do away with the imagery of seduction when deploying the trope of rape. In David LaChapelle’s anti-colonial photograph “The Rape of Africa” (2009) the image’s allegorical meaning appears transparent for LaChapelle provides an excess of visual signifiers—the ripped dress, the mine and digger in the background, the diamond, the gold, the child soldiers, the farm animals, the super model Naomi Campbell’s “African descent” (Andreasson) as LaChapelle puts it. Campbell is Africa as stereotype—a personification of the continent reducible to the trite signs offered by the long history of orientalist representation: primitive, natural, exotic, sexual, static, female. LaChapelle’s photograph makes Africa legible to his Western audience as a desirable object of possession whose very desirability both sexually and economically accounts for her victimization. Inna Arzumanova argues that David LaChapelle’s imagery is not particularly “surprising as the ‘the dark continent’ is not without its sister metaphor—Africa as eroticized and exoticized, dark woman, both primitive and cunning. The colonial legacy, in fact, is far from a cursory connection here” (370). She implies
that in LaChapelle’s image liberal outrage is activated through the reproduction of an orientalist fantasy that links rape to seduction, though the extent to which LaChapelle is aware of this reproduction is unclear. Based upon Sandro Botticelli’s painting “Venus and Mars” (1485), LaChapelle’s image reverses the direction of power. In Botticelli’s painting, Venus sits erect, fully clothed, and victorious over a vanquished Mars who, mostly naked, lies spent after their lovemaking, while Satyrs play with his symbols of power. In contrast, in LaChapelle’s image Africa possesses little power—the violence depicted by the three child soldiers signals not resistance to the exploitation the picture protests, but their victimization. Moreover, Campbell’s passivity alongside symbols of luxury depict rape in such a way as to leave the victim open for further consumption. In this image, Campbell’s torn dress completely exposes one breast and rides high on her thighs, a metonym for the rape alluded to in the title. The unclothing of Campbell is particularly significant—the exposure of her body signals rape and at the same time invites the viewer to take sexual pleasure at the beauty of the supermodel. The rip in the fabric of her dress is echoed by the rip in the backdrop of the photograph, which exposes the mine behind—drawing together the penetration of the female body and the plunder of the land.

Gunne and Brigley Thompson express concern with the kind of deployment of rape tropes in anti-colonial discourse like LaChapelle’s. They point to feminist analysis that suggests it is potentially “exploitative” (2) and dehumanizing for a writer to substitute rape for colonialism. Allegorically replacing the land with the female body maintains “the view of women’s bodies as a resource, property or guarded secret belonging to men” (2). As the vehicle of the metaphor the female gender as a subjugated class is maintained: thus, “to read post-colonial allegories of rape as resistance against racial or cultural systems, one must recognize a hierarchy in which women are always already subordinate” (Tschofen 509). In contrast, it has been my contention in this chapter that the ambiguation of the trope of rape in Fantasia and Season of Migration to the North trouble this “code of recognition” (509) upon which postcolonial analogies that link gender oppression to colonial oppression depend.
Strikingly, Gunne and Brigley Thompson must also contend with the ambiguity of rape in Seamus Heaney’s poem “Act of Union,” which they cite to highlight the problem of deploying rape as a trope to reveal the wrong of colonialism. Largely they dismiss the poem’s sexual ambiguity as irrelevant, arguing that the potential interpretation that the poem represents a seduction is “…overpowered by the violence embedded in the structure and language of the poem” (2). As Tschofen argues, if sexual intercourse is used to figure violence, violation, and domination, that representation of sexual intercourse deploys the trope of rape and can be analyzed as such, despite any potential indeterminability of nonconsent at the level of event or imagery:

Because the trope occurs within representation where it is often impossible to determine (and often irrelevant) whether a female character has, or has not, issued her consent to sexual acts, (particularly in texts that are narrated and focalized through a male perspective), the trope encompasses a spectrum of represented relations that ranges from seduction at one end to violence at the other. Thus, despite the desires and will of the characters involved, represented sexual relations can be called rape when they signify violence, violation, and domination. (503)

Nevertheless, the ambiguity of rape in anti-colonial discourse is not irrelevant to the interpretation of rape tropes, even if it is irrelevant to the question of whether the trope can be analyzed as rape in the first place. Certainly, some (often male) authors may fall back on the rusty metaphors of female complicity and desire, and so unwittingly replicate colonial use of patriarchal logic that rape is always a seduction or uncritically parrot rape myths. It could be argued that this is what Coetzee does in Disgrace, though I see Coetzee’s work as too self-conscious in its reproduction of rape myths for this reproduction to be un-reflexive. Of more interest is the possibility that the rhetoric that ambiguates rape can be used to undermine the “code of recognition” (Tschofen 509) upon which the analogy that justifies colonialism as rape/seduction relies. To be effective such rhetoric has to subvert the associations to do with Otherness, willingness and insatiable female desire that the category of “woman,” as the underprivileged binary term, carries. Indeed, Gunne and Brigley Thompson’s analysis points to this very
potential. Despite arguing that Heaney’s use of seduction imagery does not negate the
depiction of rape in the poem, they contend that the suggestion of seduction also forms a
“partial redemption” (2) of his use of gender violence to serve an anti-colonial critique:
“By hinting at seduction only to consequently emphasize violence and violation, Heaney
subtly critiques the rape culture that defends itself by characterizing rape as ‘seduction’”
(2) they write.

*Fantasia* and *Season of Migration to the North* set in motion parallel, complex, and
multiple analogies that are at times in conflict. These analogies link the fantasies as well
as the violence of the colonial encounter to the inscription of desire and seduction in
discourse and in writing. Given the destabilization of the trope of rape through rhetoric
of seduction at the level of allegory and the ambiguation of female consent at the level of
event in both texts, it is perhaps surprising that their critique of colonialism as rape does
not collapse altogether. Yet, the representation of complicitous desire and ambiguous
consent does not negate either novel’s condemnation of colonialism. If the trope of rape
is undercut by the language of seduction, it returns as rape when sexual violence and
violation is revealed to be the grounds upon which female agency and sexual desire is
policing.

Both Djebar’s and Salih’s texts ambiguate rape tropes by deploying the rhetoric of
seduction at the level of national allegory and obscuring female sexual nonconsent at the
level of event. At the same time, they maintain the allegory that connects colonialism to
rape by depicting heterosexual relationships that are legitimized by social, cultural and
legal institutions as perpetuating the violence and violation of women. In particular,
consent to intercourse after marriage is represented in *Season of Migration to the North*
and *Fantasia* as ambiguous at best and meaningless at worst. Within the patriarchal
societies depicted in each text, in which men administer women’s sexuality through
marriage, female sexual nonconsent has no force because it has no meaning. Consent is
irrelevant if legitimate sex is defined as that which occurs within marriage and
illegitimate sex is everything that falls out with the bounds of marriage. Yet, the
traditional patriarchal familial structure, particularly in *Fantasia*, cannot contain female
sexuality even as it attempts to deny female agency. Ultimately, these novels reveal
women may actually be positioned as always consenting, making nonconsent unintelligible. In *Fantasia*, for example, marriage, ambivalently experienced as both liberating and reinforcing traditional gender roles, forecloses the possibility of a refusal, and in *Season of Migration to the North*, Hosna Bint Mahmoud’s forced marriage makes her non-submission to intercourse incomprehensible to the villagers who answer her murder/suicide with silence. Thus, both novels blur boundaries consent is supposed to police, exposing borders of sexual freedom to be constrained, not by individual choice, but by orientalist and patriarchal responses to desire. Control of women through rape is revealed to be conducted by colonial and patriarchal forces, discourses, institutions, and practices that confine female bodies and prohibit the female subject from the free expression of consent and exploration of desire. By offering marital rape as the anterior “code of recognition” (Tschofen 509) upon which allegories of colonialism as rape/seduction depend, both novels critique patriarchal as well as colonial power which deny the female subject her sexual autonomy by positioning her as a person whose consent is always already presumed or entirely moot. Meanwhile, metaphors that link women to land and thus to nation are exposed as a language of dispossession—a reclamation of both the female body and voice is revealed to be inherently ambiguous, its authority suspect and its language permeated by the very discourses it resists.
Chapter 6
Conclusion: Rape and The Temporality of Nonconsent

The line drawn by the concept of consent to divide rape from sex appears upon examination like a chasm into which a whole host of acts, experiences, and indeed, subjects, fall, unrecognized, unnamed, and unnameable. At the intersection where the grey area of sex meets the twilight zone of rape there is a theoretical lacuna. My thesis explores this aporetic void—it examines how representations of penetrative sexual violence and violation fall and are made to fall into the gap. The distinction is important. In both actual experience and representation an individual’s nonconsent to penetrative sexual violence and violation can be utterly ambiguous and a designation such as rape impossible to make. But there are also experiences and representations of sexual violence and violation that meet legal and/or culturally held definitions of rape, yet are not deemed easy to characterize as such. The reasons for the failure to label such cases are numerous and the consequences enormous. The novels I explore in my thesis reveal that the rhetoric of seduction, the power of rape myths, the force of external factors taken to signify consent, the application of neoliberal thinking to all aspects of sexual conduct, and the denial of subjectivity (for example, of the racialized female subject in colonial discourse) ambigu late nonconsent. And this ambiguation produces the conditions amenable to the continued sexual violation of many women in a multitude of different contexts, and facilitates the disavowal of the harm inflicted by the ongoing practice of sexual violence and violation.

Throughout this dissertation I have been faced with a dilemma: when the subject of a sexual violation’s nonconsent is ambiguated or ambiguous, should I assert, often against voices that say otherwise, “this is rape”? Or should I leave the categorization of the act of sexual violence in doubt? The stakes are high. I like many women have had to learn to label a personal experience of sexual violence “rape.” This is an unremarkable fact, and were it not for the lessons I have drawn from it regarding the opacity of nonconsent
even to those who have suffered violation I would not mention it here. These lessons have revealed to me the potency of discourses that render rapes uncertain and the necessity of finding alternative narratives—yes, those that disambiguate rapes that do not fit the paradigm of “real rape,” but also those that remain open to ambiguity without repudiating experiences of violence, violation and trauma.

The literary and legal sources that form the material of this dissertation contend with the concept of consent—at times illuminating and at times obfuscating, but always revealing its multivalencies. Thus, these sources belong to the vast national and transnational networks of signification that constitute sexual violence and violation both as objects of knowledge and as practice. There is an important distinction between the representational or rhetorical use of rape and rape as it is actually experienced by so many individuals. But acts of rape are inextricably tied up in significations of rape. My work contributes to the very same discourses about sexual violence and sexual consent that enable or restrict the exercise of autonomy by actual subjects. I am conscious that my own discourse in this dissertation is embroiled in the comprehension of concrete sexual experiences many of which are deeply painful. As my work makes clear, the practice of actual rapes can be supported or impeded by the cultural, legal, and political discourses about sexual consent. The danger when making the decision to label is not only that violence, resistance, agency, and trauma may go unacknowledged, but that I may participate in the continued denial of subjectivity to individuals subjected to sexual violence or violation.

My interdisciplinary analysis of sexual violence and violation in law and literature reveals the problematics of sexual consent to be particularly complex, because the concept of consent is protean. It is not always clear to what extent coercive circumstances vitiate consent. And depending on whether consent and nonconsent to sex are considered mental states, performative acts, or performative acts that communicate mental states, the calculation to label an act “rape” may change. A clearer understanding of representations of ambiguous and ambiguuated nonconsent might be reached were it possible to do away with binary thinking entirely—to understand consent and nonconsent on a complex continuum between a freely given affirmative agreement on the one hand,
and a direct rejection and active resistance on the other. Where and whether an experience of consent or nonconsent falls on this spectrum is, of course, open to debate and deeply influenced by other discourses whether legal, political, social or cultural. Nevertheless, it seems uncontroversial to declare that something as variable as sexual conduct may be experienced and represented with differing degrees of consent. However, while it is possible to conceive of a continuum from consent, to ambiguous consent, to nonconsent, a continuum from rape to just sex is significantly harder to imagine. There is little conceptual space in the in-between of the rape/not rape binary.

And thus, while the line that divides rape from consensual sex can be moved, for example by legislative or cultural changes, it cannot necessarily be collapsed. Where nonconsent is the essential element in rape, as in numerous common law jurisdictions and in much feminist thought, any decision to label an act rape appears to necessarily maintain the dichotomy between sexual consent and nonconsent as two sides of a binary structure.

In cases of actual rape, the ambiguities that give rise to doubt result in attrition at every level of the legal process from the low levels of reporting, to police decisions to “no-crime;” from the failure of a case to go to trial, to the final verdict of not guilty. Such high attrition levels have an effect beyond the legal sphere as they can result in the excision of numerous experiences of nonconsent from social and cultural narratives about sexual violence and violation. As I reveal in Chapter 2, the law would ideally establish the facts, but to do so in cases of rape it must produce a coherent narrative from the potentially competing stories that are presented to it. Without such a narrative the law cannot ascertain whether a crime has been committed, attribute culpability and mete out punishment. But the effect of “the need to have a single ‘truth’” (Higgins and Silver 2) is that “undecidability, at least in the courts, may lead to the disappearance of rape from the social text” (2).

The problem of finding “truth” in the legal system was laid bare in the final months of writing this dissertation by the claimant in the second of two prosecutions of Jian

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132 See Gavey.
Ghomeshi in 2016. Kathryn Borel, who waived her right to anonymity, made the following assertion shortly after the prosecution ended when Ghomeshi apologized for his actions and signed a peace bond:

In a perfect world, people who commit sexual assault would be convicted for their crimes. Jian Ghomeshi is guilty of having done the things that I’ve outlined today. So when it was presented to me that the defence would be offering us an apology, I was prepared to forego the trial. It seemed like the clearest path to the truth. A trial would have maintained his lie, the lie that he was not guilty and it would have further subjected me to the very pattern of abuse I am currently trying to stop. (Borel)

Here, Borel presents the legal system as a failure in which the “truth” is more visible in Ghomeshi’s ambiguous apology for undisclosed actions, an apology that is not an admission of guilt, than in a trial in which Ghomeshi would maintain his position of innocence. It seems likely that the complete failure of Ghomeshi’s prosecution a few months previously for the sexual assaults of three different women was on Borel’s mind as she made her statement.

One might expect that this first unsuccessful prosecution would have turned on the question of consent. Ghomeshi, himself engaged in the discourse of consent when

133 In 2014, Ghomeshi, a well-known public figure in Canada and host of the popular radio show Q, was fired by CBC, Canada’s national broadcaster, for sexual conduct resulting in “physical injury to a woman” (Houpt). Subsequently, several women came forward to the police alleging Ghomeshi nonconsensually assaulted them. This led to two prosecutions for multiple sexual assaults the first of which ended in an acquittal in March 2016 and the second of which ended in May 2016 before it reached a trial. The charges in the first case were of four counts of sexual assault and one of overcoming resistance to sexual assault by choking, and the charges in the second was of sexual assault. While the act of rape is subsumed in the Canadian criminal code under the category of sexual assault, in this case the charges brought against Ghomeshi were not for violence involving sexual penetration (810.3 Criminal Code of Canada).

134 A peace bond is not an admission of guilt, but a court order to “keep the peace and be of good behaviour” with legal consequences if the terms of the bond are broken (810 Criminal Code of Canada).

135 While the question of whether there was consent was largely ignored by the judge in his decision, the case nonetheless reveals how the law remains a powerful interface that translates the practice of sexual violence into sense-making narratives about consent. The claimants’ credibility was attacked by the
publicly defending his actions by asserting in a Facebook post that though he had engaged in “rough sex (forms of BDSM),” his violence was consensual: “I only participate in sexual practices that are mutually agreed upon, consensual, and exciting for both partners” (“Full Text”). However, the question of consent was rendered irrelevant at his subsequent trial, as the judge found the claimants to be lacking credibility as he noted in his concluding remarks:

[138] The success of the prosecution depended entirely on the Court being able to accept each complainant as a sincere, honest and accurate witness. Each complainant was revealed at trial to be lacking these important attributes. The evidence of each complainant suffered not just from inconsistencies and questionable behaviour, but was tainted by outright deception.

[139] The harsh reality is that once a witness has been shown to be deceptive and manipulative in giving their evidence, that witness can no longer expect the Court to consider them to be a trusted source of the truth. I am forced to conclude that it is impossible for the court to have sufficient faith in the reliability or sincerity of these complainants. Put simply, the volume of serious deficiencies in the evidence leave the Court with a reasonable doubt. (R. v. Ghomeshi 24)

The trial, ostensibly of a man’s actions, became in practice a trial of the claimants’ conduct prior to, during, and after the alleged assaults, including their conduct and implication that they concealed actions that implied their consent. In particular, the defence used the claimants’ actions after the alleged assaults as well as their failure to be forthcoming with this information, to retroactively imply consent to the assaults themselves. It was suggested that because the claimants’ relationship or attempts to maintain a relationship with Ghomeshi were elided in their police statements, they had been intentionally deceptive in their accounts of sexual assault. This was a successful strategy for not only were the claimants’ discredited on the witness stand, the judge felt that they tried to conceal evidence that would itself undermine the prosecution’s case. Indeed, he asserts “Each complainant in this case engaged in conduct regarding Mr. Ghomeshi, after the fact, which seems out of harmony with the assultive behaviour ascribed to him” (24; par.136). Here the judge appears to ascribe to the claimants conduct that was not in keeping with the standards of ideal victimization, the characteristics of which I outline in Chapter 2.
statements after coming forward to the police.\textsuperscript{136} This was compounded by the fact that not only did Ghomeshi provide no testimony, “he called no evidence in defence of the allegations” (23; par. 134). The result was that the claimants’ testimonies were the only narratives that were told and so the only narratives to come under attack. Most of all, the requirement that the women speak while Ghomeshi remain silent did the most work to undermine what was already a difficult case to prosecute. As the judge states, it was Ghomeshi’s right “not to be conscripted into building a case against oneself” (23: par. 134), yet the effect was that any explanation Ghomeshi might give for his conduct never came under scrutiny. It was therefore not possible to question whether he had taken steps to ascertain his partner’s consent or whether his belief in their consent was reasonable as is required by Canadian law.\textsuperscript{137} In his silence there was power. Indeed, we are so used to hearing about how sexual violence silences women that I had not appreciated until reading this verdict the extent to which in this context the right to maintain one’s silence is the position of strength, while conversely, the requirement that a claimant represent her nonconsent in unambiguous and complete detail places her in a position of untrustworthiness and extreme vulnerability.\textsuperscript{138}

Like the above analysis, my thesis as a whole reveals that the dichotomy between speech and silence that characterizes so much of the advocacy regarding rape somewhat mischaracterizes the problem. As Coetzee’s careful paralleling of the two rapes in \textit{Disgrace} shows, rape can be rendered uncertain by going both unnamed (silenced) and represented (spoken), whereas in contrast, it can appear unequivocal by being both named (spoken) and unrepresented (silenced). Rape may not be unrepresentable as much

\textsuperscript{136} The judge was particularly scathing of the contact the second and third claimant had with each other (18; par. 107-110).

\textsuperscript{137} See sections 265(4) and 373.2(b) of the Canadian Criminal Code of 1985.

\textsuperscript{138} Linda Redgrave, who also waived her right to anonymity after the trial, has asserted that claimants should be given information regarding their rights prior to making a police statement and it should be made clear that what they claim in their statement will be their only opportunity until the trial to tell their story, and that even small discrepancies between that statement, any subsequent conversations with the police and their testimony can be used by the defence (Boesveld).
theoretical writing might suggest, but it is vulnerable to ambiguity once it enters into representation, that is once it becomes narrativized.

This problem of representation relates in no small part to the peculiar temporality of nonconsent. I argue in Chapter 2 that the telling of the story of rape whether in literature or in a legal setting is a process of re-signification after the fact that produces doubt. The real acts that trigger subsequent representations of nonconsent occur elsewhere, occupying different spaces and times. To give or to refuse to give consent can be thought of as an act of signification that leaves no durable mark, and so, as a signification that cannot be subsequently and transparently read. Juridical power in particular only has access to what may have happened between two or more individuals by recourse to external signs and to narratives after the fact. These signs and narratives produce accounts of sexual violence and violation not as singular events at discrete moments in time, but as series of events over time. External factors before and after an alleged sexual assault that are disconnected from the moment of nonconsent tend to signify a general consent over time. Which is not to say that rape can never be represented unambiguously, but that even the faintest hint of consent no matter how ambiguously presented has the power to derail interpretations of sexual violence and violation despite other evidence that directs the interpreter strongly towards an understanding of that representation as rape. This is because while both consent and nonconsent can be thought of as only temporary actions that leave no lasting signs, consent alone can also be thought of as the enduring condition of the subject, especially of the subject gendered female. Consent is anterior to the transitory exercise of nonconsent, and it is to consent as a state rather than as an action to which female subjects are often returned after nonconsensual actions have ceased. Where it is not regarded as an impossibility, nonconsent is treated as aberrant—it can only be a temporary act that disrupts, but ultimately does not transform, the status quo.

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139 Even evidence of injury to the body may not be enough to depict nonconsent sufficiently. After all, it is possible to consent to rough sex.
The rise of consent in liberal legal definitions of rape from the eighteenth century onwards in common law jurisdictions can be regarded as a positive force in that it locates the female subject’s nonconsent and so her autonomy at the centre of rape law. However, as the analysis in Chapter 2 demonstrates, the continued failure of juridical power to provide justice and so recognition of women’s subjectivity reveals the promise of consent at the heart of rape law is largely hollow. Most jurisdictions around the world do not have affirmative consent standards and even those that do struggle to enforce them. Liberal subjectivity is not only a political and legal fiction, it is a fiction from which women have historically and to this day been wholly or partially excluded. Moreover, the denial of liberal subjectivity to certain groups of individuals, for example enslaved, colonized, racialized, sexualized, and married women, binds some even more tightly to a perpetual state of consent or else renders the concept of consent in relation to these groups completely unworkable.

My analysis of the definition of rape in common law jurisdictions reveals that it is not enough to move the legal dividing line between what is and what is not considered rape with the aim to reduce levels of sexual violence and violation against women. Not all penetrative acts of sexual violence and violation can be defined as rape. Moreover, as problematic as definitions of rape that use nonconsent as the essential element are, there is not an unproblematic substitute as my analysis of definitions based on coercive conditions reveals. A focus upon sexual consent does at least enable a world in which the sexual autonomy of women can be imagined as significant. Liberal individualism is a fiction, but it is a fiction that places those who are deemed to possess it in positions of power. Yet, in an era of neoliberalism, the law will continue to regularly fail to manage the prosecution of violence in heterosexual relationships and provide an inadequate perspective from which to understand and respond to sexual violence and violation. Thus, legal frameworks continue to offer only limited responses when sexual acts and experiences do not correspond to stereotypical “real rape” scenarios.140

140 For a comprehensive analysis of the law’s difficulty to respond to “non-traditional” targets of rape, see Michelle Alexander.
In contrast, cultural discourses open myriad apertures onto the protean area of sexual consent that are unavailable in legal discourses. To comprehend the nuances and opacity of sexual consent in relation to female subjectivity, I close read four twentieth-century transnational and postcolonial novels in Chapters 3, 4 and 5. Unlike in actual instances of rape, literary rapes can depict nonconsent in the direct representation of rape as it occurs. Thus, J. M. Coetzee’s *Disgrace*, Gayl Jones’s *Corregidora*, Assia Djebar’s *Fantasia: An Algerian Cavalcade*, and Tayeb Salih’s *Season of Migration to the North* make accessible insights into the experience of sexual consent and rape that are not easily offered by much legal discourse. Nevertheless, it is clear to me that the transitory temporality of nonconsent remains a powerful factor that ambiguates depictions of sexual violence and violation in literature as in law.

In this regard, *Clarissa*, analyzed in the introduction, remains archetypal of the rape narratives I subsequently explore. Clarissa’s nonconsent is only ever a temporary act in response to a specific claim upon her body and upon herself as a subject at any one point in time. It has no lasting effect. Moreover, her nonconsent is revisable through her subsequent actions. There is no definitive interpretation of her violation: Lovelace seeks to transform his rape of Clarissa while she was drugged and unconscious into her seduction by achieving her subsequent agreement to marry him, or producing her submission to physical and psychological force. Thus, the question of whether Clarissa is going to give or withhold her consent, to marriage or to a sexual liaison, remains in force even after her rape by Lovelace.

Clarissa’s right to have her consent taken seriously rests upon her precarious status as a liberal individual, which is secured through the device of her grandfather’s will. Yet, her position as an heiress has the appearance of impermanency, for her possession of her grandfather’s estate may be successfully challenged. With its loss would be the loss of her identity as a juridical subject of rights (*Zomchick Family and the Law*). Clarissa’s subjecthood is secondary to her female nature, as well as her state as a daughter and as a future wife. Thus, Clarissa’s natural state and her juridical subjectivity are at odds. And, it is to this anterior state that her family and Lovelace seek to return her—a state where her
consent is immaterial because it is always already given to be in accordance with the will of those who possess her and to whom she has a duty to obey.

This partial personhood of Clarissa, which renders her consent either irrelevant or already given, remains a problem for all the women in the texts I have examined—a problem compounded by the de-subjectifying discourses of colonialism, race, and class. Unlike Clarissa, the female characters in these novels are not in a position to lay claim to the language of liberal individualism. *Disgrace, Corregidora, Fantasia* and *Season of Migration to the North* are novels concerned with the contradictory construction of identity as a sexual, political, social, and postcolonial self. The liberal subject whose consent is so essential to notions of rape whether legal or aesthetic is indeed a fiction in these texts—a fiction whose impossible realization in narratives of ambiguous sexual violence and violation becomes a central conundrum. These texts are deeply skeptical of any claims to a transparent epistemology of the self and of the other, of desire and of consent. Identity is revealed to be overdetermined by discourses of race, sex, gender, and class. These discourses, which crisscross both body and mind with paradoxical inscriptions, produce aporias that cannot necessarily be resolved. The characters’ self-construction is always restricted by their prior fictionalization by patriarchal, colonial and nationalist discourses about sexuality, that lay claim to, allegorize, or deny their sexual agency and their violations. Thus, determinations of rape are undermined by the rhetoric of seduction, by the suggestion of complicity, by the unknowability of trauma, by the opacity of desire, and by what is suggested are the impossible conditions for (female) subjectivity in the colonial and postcolonial state.

In *Clarissa* the reinterpretation of her rape as a seduction, which would result if she were to consent to marriage or submit to intercourse with Lovelace, does not materialize as her escape and death thwart Lovelace’s goals. In contrast, in *Disgrace*, the perception that a rape is really a seduction is present in numerous readings of the novel. As with Clarissa, it is Melanie’s subsequent actions after her refusal of Lurie that do so much to ambiguate her nonconsent. It should be clear from my analysis in Chapter 3 that Melanie does not consent to intercourse with Lurie when he appears unannounced at her doorstep; indeed, she vocally and physically resists and denies him. Though she does not revoke her
nonconsent, for some interpreters the lifting of her hips to help him undress her, her posture of avoidance rather than resistance in the bed, her return to Lurie afterwards and the apparently consensual intercourse that then occurs render her rape uncertain. Melanie’s consent can be seen as the rule to which her nonconsent is the ambiguous and importantly only temporary exception. When Lurie’s violence is regarded as a violation-less-than-rape, her words and acts of nonconsent are revealed to be of little force and certainly of no duration.

In trauma narratives, the temporal relationship between consent and nonconsent is extremely complex. In the experience of trauma, the past bleeds into the present, and the contemporary moment of consent can be ambiguated as the repetition of a prior nonconsensual act. As I show in Chapter 4, in *Corregidora* it is not Ursa’s rape that is misread as consensual sex as in *Disgrace*, but consensual sex that is experienced through the traumatic lens of her grandmother’s and great grandmother’s historical rapes. This appears to reverse the temporal difference between consent and nonconsent that I have been tracing in this conclusion. However, the legal sanctioning of the sexual use of slave women, coupled with the stereotype of the lascivious black woman effectively erased Gram’s and Great Gram’s sexual agency and so their nonconsent from the social script. Reduced to pleasurable flesh by the system of slavery, their consent was simultaneously immaterial and presumed to be the anterior state of their bodies. *Corregidora* suggests that if these patterns of abuse go collectively unmourned, they are repeated in the violent and violating relationships between black men and women in contemporary America. Indeed, Ursa’s conundrum is markedly similar to her foremothers’: is it possible to act as a sexual subject when black women are reduced to the sign of their sex? Ursa’s consent is ambiguated by the temporal disruptions caused by the traumatic transgenerational repetition of her grandmothers’ rapes; at the same time, the conditions for sexual agency, including conditions that would make nonconsent a possibility, are absent for all the Corregidora women. This renders their nonconsent illegible, their desire incomprehensible, and their assent to sexual subjugation always already presumed.

*Corregidora* reveals the impossibility of a traumatized subject acting as an autonomous liberal agent free from the traumatic legacy of the past and the coercive constraints of
racism, sexism, and violent heterosexuality. At the same time, the novel seeks the activation of female sexual agency in relationship with trauma, which is different from healing or moving on from trauma, popular clichés that are meaningless to those subjected to their ancestors’ suffering. Likewise, Fantasia and Season of Migration to the North reveal the impossible conditions of the colonized subject’s agency within the discourses of colonialism, nationalism, and patriarchal heterosexism, while simultaneously exploring sexual desire and power, including the power of sexual refusal, as that which potentially exceeds the limits of such discourses. As I argue in Chapter 5, in Season of Migration to the North Mustafa Sa’eed’s conquests do not possess the power of refusal because they are already victims of a deadly disease, the contagion that is desire for the Other as a warped fantasy, that is a thousand years in the making. This desire is not just colonial desire, but also heterosexual desire as it manifests within patriarchal societies. Through the institution of marriage, Hosna Bint Mahmoud’s nonconsent is rendered incompressible. Likewise, Fantasia reveals the silenced “no”–the nonconsent–that underlies heterosexual and colonial relationships, which are premised upon the denial of the colonized woman’s sexual subjectivity. I reveal that through the careful layering of analogies, both novels connect the disavowed violence of colonialism with the disavowed violence of rape in culturally sanctioned heterosexual relationships. Thus, both texts reconfigure colonial discourses that already allegorize colonialism as rape-that-is-really-seduction. These discourses depend on the assumption that sexual intercourse is always the desired outcome of sexual force.

This allegorical use of rape depends on the differential temporality of consent and nonconsent, the understanding that while the latter is only a temporary act, the former is the enduring state of the female gender. Within colonial discourse, the colonized’s consent not only succeeds their nonconsent, but precedes it as well. Both novels analyzed in Chapter 5 undercut this analogy by linking it to the denial of a woman’s right to refuse intercourse in sexual relationships sanctioned by marriage. As in Clarissa, marriage represents a denial of the female subject’s individual will, which cannot be separated from that of her husband’s. As I show in Chapter 2, marital exceptions from rape law allow the penetration of the female subject without regard for her desire in the moment. Within such a construction of marital relations, rape is an impossibility. Thus,
*Fantasia* and *Season of Migration to the North* critique the colonial endeavor, its adjoining metaphors, and its legacy in the postcolonial state by revealing sexual violence and violation at the heart of sexual acts legitimated by institutions such as marriage and sanctioned by patriarchal discourse.

My analysis of the multivalencies of sexual consent and nonconsent in legal discourse and in literary texts reveals that the meaning of and battles against sexual violence and violation takes place at the confluence of local, national, and transnational flows and in the meeting of specific cultural, legal, political, social, and economic discourses. The transnational and postcolonial focus of this dissertation enables me to explore the ambiguous, ambivalent, and uncertain aspects of sexual experience in relation to diverse female subjects who are situated in specific legal, political, social, economic, and cultural contexts. Yet, geographically and temporally diverse as they are, *Clarissa, Disgrace, Corregidora, Fantasia, and Season of Migration to the North* express common concerns with the problematics of female subjectivity and sexual desire. These novels reveal that legacy of patriarchal and colonial law and practice, marital rape exceptions, laws prohibiting interracial relationships while sanctioning the rape of slaves, even where they have been abolished, enable the continued denial of the female subject’s will in numerous specific contexts around the world. They suggest that sexual violence and violation reinforces the view of women as penetrable bodies and contributes to social structures that benefit from the limited political, social and legal subjectivity of women. Even as these novels reveal consent is largely the default state of the female subject, they also suggest that the construction of female subjectivity is not inevitable but produced and fluid.

Though the paradoxes, inadequacies and promises of the supposedly universal liberal subject informs my reading of female sexual subjectivity in these novels, my thesis decenters the West as the location where knowledge about sex and sexuality is located. While an entirely comprehensive study of all literature that depicts sexual violence in ambiguous ways is not feasible, additional insight and new avenues of investigation would be opened up by further analysis of the construction of the subject’s ambiguous nonconsent in other geographical regions and localities not covered by this dissertation. I
am also conscious that I explore only “gender paradigmatic” (Malinen) representations of sexual violence and violation. There is a danger that sexual violations that exceed this paradigm are subsumed by a framework of sexual violence that masks their differences and erases them as objects of investigation. Further analysis could look at male and female same sex relationships as well as male nonconsent to female sexual aggressors, to understand the differential factors that ambiguately nonconsent and render rape illegible in these instances.

A line, a boundary, a space, or a gap—the divide between consent and nonconsent continually shifts its shape and cannot be fully delineated. Consent and nonconsent might be better thought of as states of being with temporal durations. If this is so, then the disambiguation of rape lies in the cultural, social, political and legal reconceptualization of nonconsent along the axis of time not as a momentary refusal, but as a continuity that only an act of consent can disrupt. My work moves towards this recalibration of the temporal positioning of female sexual subjectivity as an enduring state of consent. As I have argued, the line between rape and consensual sex can be thought of as a chasm into which numerous acts, experiences, representations and subjects of ambiguous and ambiguously consent fall. But my thesis reveals that in this chasm such acts, experiences, representations and subjects do not lie quiet. They trouble much of the discourse concerning rape. Rape myths exploit the real and imagined complexities of heterosexual (female) desire to suggest that unwanted sexual intercourse is really wanted sexual intercourse. Within the hegemonic discourse of heterosexuality, the rhetoric of seduction and desire overlies the realities of rape transforming the latter into the former. In cultural representations, only the most unequivocal depictions of rape are not at risk of being misread as ambiguously consensual and so not rape at all. I argue that these problems regarding the representation and apprehension of rape are not, or not only, problems of silence (non-representation) that can be solved by speech (representation). Rather, the very act of narrative ambiguates nonconsent. Nevertheless, in these particular novels narratives about sexual violence and violation expand rather than contract the conceivable. Each offers an exploration of sexual violence and violation that is at turns compelling, disturbing, perturbing, ambiguous, and undetermined. Importantly, they challenge their readers to hold in mind the ambiguity of
nonconsent and the reality of sexual violence and violation simultaneously. At times, I, like other readers, do not feel up to this task, but in managing to maintain what can sometimes appear to be contradictory and incommensurate positions, new understandings of sexual experiences that fall into the grey area of sex are possible. Thus, my dissertation sheds light on the chasm of sexual experience generated at the boundary between rape and sex. It illuminates the sexual experiences and representations that fall into the gap—that otherwise are lost to the discourses that fail to acknowledge rape through the ambiguation of nonconsent.
Works Consulted


---. Lucretia. 1666. Oil on canvas. The Minneapolis Institute of Arts, Minneapolis.


