

“Dead to the World: Rape, Unconsciousness, and Social Media”

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**Abstract:** A recent popular focus on sexual assault cases involving women who are unconscious—whether because drunk, drugged, anesthetized, in a coma, or asleep—has drawn attention to the role of social media in both exacerbating and gaining redress for the harms of rape while unconscious. This article intersectionally situates cultural anxiety about women's unconsciousness and sexual assault while offering a phenomenological analysis of its harms. Sexual assault in these situations, and especially rape, exploits and reinforces a victim's lack of agency and exposes her body in ways that make it especially difficult for her to reconstitute herself as a subject. It damages both her ability to engage with the world in four dimensions (through a temporally persisting body schema) and her ability to retreat from it into anonymity. The way the assault is played back to her after the fact can draw out the experience in a way that forecloses her future, and this is especially true given contemporary communications technologies. Sexual assault of this kind can make the restful anonymity of sleep impossible, leaving only the violent exposure of a two-dimensional life. By providing a richer phenomenological analysis of the lived experience of rape in these circumstances, and by showing its complexity and ubiquity, I hope to undermine the trivialization of this kind of offense, and to challenge pervasive attitudes of victim blaming that permeate popular commentary on sexual violence against women who are unconscious or semiconscious.

Recent media attention to sexual violence against unconscious women has largely focused on a certain kind of victim, the photogenic high school student assaulted by her male peers at drunken parties. In North America the most widely publicized case was in Steubenville, Ohio, where several teenage boys sexually assaulted an unconscious girl whom they carried between locations, slung between them like a dead animal—as a notorious photo showed. There was also the case of Rehtaeh Parsons, the Canadian teen who committed suicide after being photographed being raped from behind by a male peer while simultaneously vomiting out of a window.<sup>1</sup> Then there's Audrie Pott—a high school sophomore who got drunk at a party, fell asleep, and woke to find herself partially undressed with drawings on her body. Photos of Pott became the talk of the school, and she killed herself the following week.

The main journalistic angle on these cases has been “youth rape culture” and the role of social media.<sup>2</sup> In particular, reporting focuses on the paradox opened up by communications technology: cases that once would have been dismissed as unfortunate but unprosecutable now turn into crimes with evidence, but that very evidence is the medium of a new kind of pornographic violence against the person. In the best known cases the girls have had advocates—their families and friends, Anonymous, feminist bloggers, an outraged public—who have pressed cases forward (typically also using the Internet and social media) that otherwise would have languished.<sup>3</sup> More critical media have addressed the way these crimes are nonetheless still not taken seriously. Commentators point to the reluctance to prosecute or otherwise punish offenders, as well as to ways the experience of the victims is downplayed and the consequences for the offenders exaggerated. The Parsons case, for example, was controversial because police and prosecutors initially decided there was not enough evidence to press any charges, and it took a petition signed by more than 450,000 people to initiate a review of police conduct, and,

eventually, charges of creating and distributing child pornography against two teen boys (Hess 2014). Ultimately, the most contentious aspect of the first legal judgment in Steubenville (short terms in juvenile detention for two of the attackers) was the subsequent media slant that the lives of star football players had been ruined.<sup>4</sup>

A final feature of these cases is my focus in this essay: the victims were sexually assaulted while unconscious or semiconscious. This is a longstanding feature of sexual assault, whether the victim is asleep, drunk, drugged, anesthetized, asphyxiated, head-injured, or in a coma. In her history of rape since 1860, for example, Joanna Bourke describes popular concern in Victorian England about cases of sexual coercion involving alcohol or “stupefying draughts” (54), as well as briefly treating popular concern that the new anesthetic drugs chloroform and ether were being used by unscrupulous dentists and physicians to take advantage of their women patients (Bourke 2007, 53-61). The temperance movements of the late 1800s and early 1900s were intimately tied to emerging feminist concerns about the sexual dangers posed to women by alcohol—most commonly the danger of violence from drunken husbands but also the danger of getting drunk for women’s vulnerability and moral reputation (see Masson 1997; MacLean 2002). The dangers posed by loss of consciousness for women are a theme of public discussion of sexual assault through to the present day. For example, in May 2014 a man in Indiana named David Wise was sentenced to twenty years (twelve suspended and eight under house arrest) for drugging and raping his unconscious wife over a period of several years and making videos of the assaults. (The case made headlines because Wise received an unusually light sentence and will not actually spend any time in prison, and the judge advised his now ex-wife, Mandy Boardman, that she should forgive him [see Pearce 2014].) In 2011 the Canadian Supreme Court heard the final stage of a case that had provoked a tremendous amount of jurisprudential and

media attention: in *R. v. J. A.*, the accused was charged with sexual assault against his spouse. The background to the case is complex and involves a history of violence (including violence against his spouse) on the part of the respondent. In short, on the day in question J. A. choked his spouse into unconsciousness—probably consensually, as part of a practice of erotic asphyxiation—and when she regained consciousness she found him penetrating her anus with a dildo (an act to which it was unclear whether she had previously consented). The court was then required to decide whether consent could be provided in advance of sexual activity anticipated to occur after someone is unconscious. Although *R. v. J. A.* was widely treated as unusual and titillating, it has become part of a long jurisprudential trail in Canada, with precedent indicating that sexual activity requires a kind of ongoing, active consent that unconsciousness precludes (for discussion of the case see Benedet and Grant 2010; Young 2010; Gotell 2012).

I could continue to provide examples from the news media or the legal record, and indeed the single most common response I've received in discussions of the material in this paper has been a first- or third-personal anecdote about being sexually assaulted while unconscious. The examples I've given so far, while not atypical in this broad sense, do not, however, capture all the specific vulnerabilities that place some women at higher risk of sexual assault while unconscious than others. Many cases do involve very young women (girls, really), who are certainly vulnerable to peer pressure and inexperienced with alcohol or drugs. In addition, however, women with addictions, homeless or underhoused women, disabled, ill, and institutionalized women are all multiply vulnerable to sexual violence while unconscious. All of these categories are in turn over-represented among certain racialized groups—especially Indigenous women in Canada and African American women in the United States—who are also typically stereotyped as sexually promiscuous and morally unreliable. Cases involving women

from these groups are much less likely to make the press, or to be pursued by police, or to result in a conviction.<sup>5</sup> Given what we know about the low rates of follow-up for all sexual assaults, and the powerful discourse of victim blaming that attaches to women who are sexually assaulted while drunk or using illegal drugs, or who are raped by someone they know well, it also seems likely that there are many more cases that none of us have heard of or ever will.<sup>6</sup>

The question that came to preoccupy me after thinking about this litany of examples was: what is distinctively bad about the experience of being sexually assaulted—especially being raped—while unconscious, or semiconscious, or transitioning between states of consciousness? A certain thread in popular representations of these cases makes it seem as though being sexually assaulted while unconscious is less serious than under other circumstances—again, because the cases typically involve consenting consumption of alcohol and an offender known to the victim, which are generally the scenarios that receive the least public sympathy. There also seems to be a tacit belief, however, that being less aware of one’s assault while it is happening makes it less damaging.<sup>7</sup> In this essay I want to argue against this view by providing a phenomenological analysis of the harms of rape while unconscious. Phenomenology’s central method is to provide descriptions of lived experience from a first-personal perspective, attempting to bracket the subjective particulars in order to find some essentially shared qualities. This often apolitical and ahistorical project has of course been adapted in the feminist phenomenological literature, which takes methods and insights from phenomenology’s canon while situating lived experience within temporal and cultural horizons. This essay is part of that literature, but it faces a novel challenge: in the cases I am interested in, “lived experience” might seem notably lacking. In these cases, the sexual assault becomes known to the victim because she wakes up while it is happening (the most common situation, as far as I can tell) or because there is some *post facto* evidence of it—

fragmented memories or periods of mysterious amnesia, inexplicable traumatic responses, symptoms of having consumed drugs involuntarily, photos or video, pain, injury, disturbed clothing, marks on her body, witnesses, gossip, pregnancy, disease.<sup>8</sup> Sexual assault in these situations, and especially rape, I'll argue, exploits and reinforces a victim's lack of agency and exposes her body in ways that make it especially difficult for her to reconstitute herself as a subject. It damages both her ability to engage with the world in four dimensions (through a temporally persisting body schema) and her ability to retreat from it into anonymity. In this way, I argue implicitly, unconsciousness *is* part of lived experience.<sup>9</sup> Deviations and interruptions in the stream of sensory perception, and the anonymity unconsciousness (usually experienced as sleep) provides are just as important to subjectivity and to feminism as discussions of waking agency and the cultivation of individuality. Sexual assault while unconscious can make the restful anonymity of sleep impossible, leaving only the violent exposure of a two-dimensional life. There is a final temporal aspect here: the way the assault is played back to a victim after the fact can draw out the experience in a way that forecloses her future, and this is especially true given contemporary communications technologies. Of course women do reassemble their lives and recover from the trauma of sexual assault, as for example Susan Brison (2002) and Karyn Freedman (2014) have described in their philosophical memoirs. With such courageous texts, I want to counteract contemporary attitudes of victim blaming, which I think is made possible in part through the erasure or trivialization of women's lived experience. Simultaneously, I hope to articulate an equally philosophically rich and explanatory language for the particular harms of rape while unconscious.

## **Rape, agency, and embodied subjectivity**

In her book *Rethinking Rape*, Ann Cahill argues that rape denies the intersubjectivity required to sustain self-identity. She maintains rape as a distinctive category of sexual assault, although she broadens it beyond the traditional definition of nonconsensual vaginal penetration by a penis to “the imposition of a sexually penetrating act on an unwilling person,” which includes the penetration of any bodily orifice by any bodily part or nonbodily object (2001, 11). For Cahill, this subgroup of wrongs has special embodied significance, which emerges from the meanings attributed to sexual difference and the special damage to bodily integrity that comes from penetration of the body’s depths. In all cases of rape, she argues, the agency of the victim—her capacity to develop her own desires, beliefs, or preferences, and to have those receive uptake (even if she is disputed or refused)—is eclipsed by the rapist. In denying those expressions, he denies her the recognition that she is a subject, defined in those moments through complex and mutual negotiation with him as a subject. Of course, this is a negotiation shaped from the beginning by a history and political context, which includes norms about men’s sexual rights and women’s sexual responsibilities to men, men’s lack of sexual control and women’s role as sexual managers, and so on. During rape, on Cahill’s analysis, the victim ceases to exist as an agent—to the rapist and to herself. As Cahill says:

When one person rapes another, the assailant utilizes his power to affect, destructively, another person’s being and experience—a power that is a necessary aspect of embodied intersubjectivity. At the same time, the assailant severely limits (and assuming he is successful, effectively albeit temporarily nullifies) the power of the victim to practice her intersubjective agency.... Because that intersubjective agency is essential to embodied personhood, an act of rape is more

than a temporary hindrance of one's bodily movement, more than a merely unpleasant sexual encounter. The actions of the rapist eclipse the victim's agency in a particularly sexual manner. (Cahill 2001, 132)

Cahill's analysis is not explicitly phenomenological, although it is clearly indebted to thinkers in that tradition. It is a basic claim of existential phenomenology after Maurice Merleau-Ponty that my subjectivity is necessarily embodied and that this embodied self is the ground of any possible lived experience. My body is not something "I" "have," but it is the condition of possibility of any I. I always experience the world from my body, as a *here* in relation to which everywhere else is *there*. This embodied self also necessarily relies on other embodied selves to allow it to build an ontological and ethical world. A body schema is for Merleau-Ponty the total of my prereflective experience of my felt self (Merleau-Ponty [1945] 2002). It is the organization of my embodied experience that makes it possible for me to walk casually down the street without thinking, "left leg, now right leg," or to know that I can squeeze through that gap, or move to hug my crying child.

Other philosophers have explained and applied this model in the context of feminist thought (Young 1980; Salamon 2010), so I'll just make one, less obvious connection with Cahill: on this model, agency is not (or not only) the capacity of an individual so much as an embodied possibility that emerges from much larger social contexts. We all make those contexts, usually in small ways, at the same time as we are constrained by them. Rape massively emphasizes this latter moment, where an individual woman's choices have become narrowed to the point of (what Michel Foucault calls) a situation of domination, where dynamic power relations are completely frozen. That process of narrowing is shaped by individual decisions only in a very



small way, although of course the way rape is talked about makes them seem huge: if only she hadn't gotten drunk, if only she hadn't gone to that party, if only she hadn't fallen asleep on that couch. The feminist counterclaim that "only rapists cause rape" is truer, but also not the whole story. That whole story is complicated, and emerges from multiple connected actors who are making systems within which any identifiable decision (to defund women's emergency shelter services, to pass a law on consent, to institute a new sexual assault policy on campus, to move in with one's boyfriend, to drink, to go to sleep, to rape) is a part of that whole. Cahill's account also posits that agency isn't just intellectual, it is embodied. For example: to freeze and smile politely when a man pushes into your personal space is an embodied habit more than an intellectual decision. If I decide that habit of action is antithetical to my interests, I will probably need an embodied corrective—maybe a martial arts class, or feminist self-defense. Cahill's analysis thus correctly emphasizes both embodiment and intersubjectivity, but it doesn't pursue the way we make the world together through our bodies as far as it might. Nor does Cahill consider cases of rape where the victim is unconscious—cases that I think incorporate a denial of agency with specific phenomenological import.<sup>10</sup>

### **Sleep, "night," and anonymity**

Before I turn to sleep and rape, I need to address a prior philosophical question: What is significant about sleep to subjectivity in general? Some of the contemporary social preoccupation with managing and minimizing sleep views it as a necessary obstacle to productivity, a hindrance to all the things I might get done if only I were awake. On this view, sleep is both the absence of my agency and a block to its continuous exercise. For example, the US Army is apparently continuing research into drugs that will enable soldiers to stay awake for ever-longer periods

while maintaining cognitive function (Crary 2013). When I ask students if they'd take such a drug—during exam period, say, or even as a long-term proposition—many of them say yes. Those who say no often find it difficult to articulate why sleep is important to them beyond its mere biological necessity. If we *could* function without sleep, why wouldn't we? There is a phenomenological answer to this question that makes sleep necessary to my continuing coherent existence. Recall that existing as an embodied subject, for Merleau-Ponty, involves existing in relation to space: I gauge my own body schema by referencing objects as out there, apparently separate from me yet a part of my perceptual world, and the boundedness and determinacy of those objects shapes my self-perceptions. Further, it is not just a matter of looking out at those objects: I must be able to move among them, to touch them or engage with them through my senses, to realize their dimensions and interrelation, in order to form a body schema. Likewise, I need other embodied subjects to join me in this project, to confirm through their words and movements that our shared world is real.

If this is the basic lived experience of space, then is there an experience of unbounded or indeterminate space? The phenomenological psychologist Eugène Minkowski labels this experience of depth “dark space,” or sometimes “night,” and describes it not as a third spatial dimension so much as a mysterious and immediate apprehension of density and totality in which distance collapses and I cease to perceive myself as separate from objects (1970, 405-33). This account of the (dis)orienting significance of “pure depth” is taken up by Merleau-Ponty in his *Phenomenology of Perception* ([1945] 2002, 330-347), and in turn by Lisa Guenther in her phenomenology of solitary confinement (2013, 161-94). “Night,” in Guenther's words, is “the name for an experience of space unhinged from determinate objects and from the limits or outlines that distinguish self from nonself” (Guenther 2013, 172).<sup>11</sup> “Night” is literally meant

here, but not only so: it doesn't have to happen when the world is dark, although darkness presumably facilitates an experience of space as indeterminate, lacking in bounded objects. If I were to spend all my time in "night" I would lose the ability to locate myself and other objects in space; my body schema would start to disintegrate. In fact, Guenther makes precisely this claim about the experience of prisoners in solitary confinement, although ironically this happens in a situation where cells are illuminated 24/7. Another example she gave me is of people who undertake long-term solo sailing voyages, and who for months see only a vast expanse of water stretching to the horizon uninterrupted by objects or people. Prisoners and sailors often develop perceptual hallucinations where the edges of objects become wavy and blurred. They might start to stumble over their own feet, misjudge their reach, or walk into walls. In more extreme cases, the prisoner, at least, might become "unhinged" and pace compulsively (184), fling his fists into the walls (181), or feel his body being catapulted around his cell (183). Night thus has the potential to destroy my ability to locate myself in space and thereby the coherence of my body schema.

For Merleau-Ponty, however, night is also necessary to my continued existence. It is, Guenther says, "fecund and generative" (172), offering both a respite and a contrast to the typical conscious experience of bounded and determinate space. For example, the immersion tank—a large enclosed vessel filled with saline at body temperature—is a form of sensory deprivation that is commonly offered (for short periods) as a restful and healing experience. The body of the person floating in the water loses its perception of its own boundaries, and most users report their minds eventually settling and expanding into a sense of enlarged and peaceful unity familiar from many meditation traditions. Night (as the experience of pure depth), then, can be at its limits deeply destructive of the capacity to orient oneself in the world, but restorative when

contrasted with normal spatial and sensory experience. Sleep is, arguably, one way of encountering night. In Guenther's words: "Sleep is the escape that both reconnects me to the experience of primary spatiality—to the night—and also allows me to retain and even recover my sense of personal identity, my distinction from the night, the root of my own subjective existence. The temporal rhythm of alternating night and day, sleep and waking, release and return, sustains the fabric of embodied subjectivity in a world that is experienced in depth, somewhere between the extremes of pure depth and objective space" (173). This suggestion finds an echo in the intuitions of students who often say that there seems to be something important about the daily cycle of sleeping and waking, of engaging the world and retreating from it (see also Wortham 2013, 58-67).

This retreat might be described in another way, not just in relation to night. Sleep also gives us a different relation to agency: while asleep I may continue to have mental content (I may dream), but I don't direct this experience; it is both mine and not mine, and thus it offers an opportunity to continue existing while taking a break from being myself, exactly, for a while. Comparing a night's sleep to a hysterical fit, Merleau-Ponty writes that "any decision that interrupted them would come from a *lower* level than that of 'will'" ([1945] 2002, 189). And,

Loss of voice as a situation may be compared to sleep: I lie down in bed, on my left side, with my knees drawn up; I close my eyes and breathe slowly, putting my plans out of my mind. But the power of my will or consciousness stops there....

There is a moment when sleep "comes," settling on this imitation of itself which I have been offering to it, and I succeed in becoming what I was trying to be: an unseeing and almost unthinking mass, riveted to a point in space and in the world

henceforth only through the anonymous alertness of the senses. (Merleau-Ponty [1945] 2002, 189-90)

When I am deeply asleep and not dreaming, I enter a world in which I no longer exist at all to myself. One way of saying this is to say that sleep is a time of anonymity. In Merleau-Ponty's phenomenology, a capacity for anonymity is important to all subjectivity. I develop my self-identity not only by actively distinguishing myself as an individual but also in those moments when I retreat from my specificity and rest in a neutral space: "Even when normal and even when involved in situations with other people, the subject, in so far as he has a body, retains every moment the power to withdraw from it. At the very moment when I live in the world, when I am given over to my plans, my occupations, my friends, my memories, I can close my eyes, lie down, listen to the blood pulsating in my ears, lose myself in some pleasure or pain, and shut myself up in this anonymous life which subtends my personal one" (191).

In her reading of this passage in Merleau-Ponty, Gayle Salamon (2006) argues that this capacity to withdraw into the anonymity of the body is the converse and twin of the ability to relate to others, to open out and create a world. She makes this point clearer—and more politically pressing—by arguing it in part through Frantz Fanon's *Black Skin, White Masks*. Recall that in this 1952 analysis of the experience of colonialism, Fanon, a Black Martinican, a doctor (a psychiatrist), and intellectual describes his arrival in Paris. He encounters the gaze of a little white girl on a train, who utters the famous line, "Look! A Negro!" Fanon describes the painful experience of his racialized body as the object of this racist gaze, which carries with it the weight of a white man's history.<sup>12</sup> Fanon's body is laid out, rendered hypervisible by his Blackness under colonial racism: "My body was given back to me sprawled out, distorted,

recolored, clad in mourning in that white winter day. The Negro is an animal, the Negro is bad, the Negro is mean, the Negro is ugly” (Fanon 1967, 113). He calls this “the racial-epidermal” schema—a negative self-consciousness that overtakes the tacit body schema (110). As Fanon repeats several times, all he wants (that is denied him) is to be “a man among other men” (112). He wants to disappear into the crowd sometimes (literally) and occupy the subject-position of the neutral, generic citizen (metaphorically). This is a more tangible and vivid description of what it means to be permitted or denied the bodily anonymity that Merleau-Ponty thinks is central to effective intersubjectivity. Lacking anonymity, Fanon not only has no place of rest or neutrality, but his attempts to go out into the world and be open to others are contaminated by the same racist overdetermination. When he “moves toward the other” he finds that “I was responsible at the same time for my body, for my race, for my ancestors. I subjected myself to an objective examination, I discovered my blackness, my ethnic characteristics; and I was battered down by tom-toms, cannibalism, intellectual deficiency, fetishism, racial defects, slave-ships, and above all else, above all: ‘Sho’ good eatin’” (112). He can never exceed this racist inheritance, either in his explicit attempts at active intersubjectivity nor, in a way more chillingly, when he tries to retreat to “this anonymous life” of the body (see Salamon 2006, 107-110).

When Fanon says, “I wanted to be a man, nothing but a man” (113), his words tacitly indicate both a racial and gendered component to this possibility: the black man in 1950s Paris cannot be just a man (i.e., a white man), and indeed there is plenty of sexual imagery in the racism directed against and internalized by black men that Fanon describes (for example, in Fanon 1967, 63-108). Women, however, experience their bodies “given back to them sprawled out, distorted” by a differently sexualized gaze. This sexualization is always already racialized, in ways Fanon himself touches on but doesn’t fully understand as forms of abjection: if the white

woman is idealized as pure and privileged, the better to humiliate and reduce through rape, the black woman is scarcely rapeable at all, especially by the white man—either because in his racist imaginary she is not worth the effort “rape” implies or because she is already completely his property. Thus racism and sexism both, and in mutually constitutive ways, preclude the possibility of an anonymous lived experience of the body. We all need the space of anonymity—including but not limited to sleep—but for those whose waking lives are marked by the kind of hypervisibility and forced relation to a stereotyped self that typify racism and sexism today, sleep brings a special kind of respite that goes beyond what I suggested was a necessary (if necessarily intermittent) part of any four-dimensional subjectivity. How does this account of body schema, “night,” and anonymity relate to rape and unconsciousness?

### **Rape while unconscious**

Turning back to rape, I want to expand Cahill’s argument in a direction compatible with her existing emphasis on embodied subjectivity while incorporating these concepts of night and bodily anonymity. There are two components to my extension: first, a more deeply phenomenological understanding of the kind of agency rape nullifies by rendering the body all surface, a two-dimensional “dead” image; and, second, an analysis of the particular wrong of rape while unconscious in relation to our need for bodily anonymity. Although these two related arguments stand alone, the rendering of rape victims’ bodies as superficial artifacts that are denied bodily anonymity is exacerbated by a frequent corollary of sexual assault while unconscious—the taking and distributing of photos or video of the assault itself, or of the victim’s body before or after. Sometimes rape of unconscious women occurs without such images, and sometimes those images are taken while victims are conscious, but often the two go

together for an assortment of practical reasons—perhaps because perpetrators want to pore over their deeds or brag to their friends, because it’s easy to frame your shots when your subject is lying still, or because it was a DFSA (drug-facilitated sexual assault) set up to create amateur rape porn.<sup>13</sup> There are reasons, however, that cases involving the postrape circulation of images of the victim have seemed sufficiently horrible to merit special media debate. The same harms perpetrated by rape of unconscious victims, I suggest, are exaggerated and extended when that assault is recorded, and extended even further when a community of voyeurs is created around the images.

First, rape forcibly exposes the victim’s most private body parts to others’ intrusion, including her body’s literal interior—her vagina, her rectum, her mouth and throat. This renders her bodily schema “all surface” in a much more extreme way than Fanon describes, leaving nothing for her to retreat to. All of her body is somewhere the violent and destructive Other has been and left his traces. Guenther makes a similar point in relation to strip searching and body cavity searches in prison, which are, after all, forms of institutionally sanctioned sexual assault (2013, 189-91). Fanon’s skin is given back to him “clad in mourning,” but for the rape victim even her body’s inside is taken over when the rapist uses her for his own embodied ends. This philosophical point has a psychological counterpart: it is expressed by victims in feelings of being intensely surveyed after a rape (that is, even more than women usually are), especially (but not only) if the rape becomes public knowledge. Women report feeling that others are staring at their bodies all the time, imagining what was done to them and how their bodies looked. This feeling of powerlessness in the face of the gaze is intensified for women whose rape has been photographed or videoed, as images of their violation are circulated in ways they cannot control, perpetuating a collective visual representation of their objectification and loss of agency. This



feeling is compounded when the rape victim has been unconscious or semiconscious during her rape.

Let me try to make this point about bodily exposure more vivid. In 2012 California teen Audrie Pott was partially stripped while drunk and asleep at a party, and woke to find pictures and words in marker on her skin indicating that she had been sexually assaulted.<sup>14</sup> She had no memory of the assault, but feared that boys at her school were sharing photos of the incident. As the 2013 exposé in *Rolling Stone* describes it, “Audrie started her sophomore year at Saratoga High two days after the assault, with the knowledge that photos of her naked and luridly decorated body were circulating around school.... [Her friend] Amanda told her she had seen a group of boys huddled around Joe and his phone and assumed they were looking at pictures of Audrie on the night of the party” (Burleigh 2013, 3). Writing to “Joe” on Facebook, Audrie accused “him of sharing the photos. She wrote that the ‘whole school knows. . . . Do you know how people view me now? I fucked up and I can’t do anything to fix it. . . . One of my best friends hates me. And I now have a reputation I can never get rid of.’ Writing to another boy on Facebook, she said, ‘My life is over. . . I ruined my life and I don’t even remember how’” (2). Eight days after the assault, she killed herself.

The *Rolling Stone* headline is “Sexting, Shame, and Suicide: A Shocking Tale of Sexual Assault in the Digital Age,” and indeed the number, speed, and ready-to-hand nature of smartphones with built-in cameras and video cameras, and the way many people are networked through social media and texting, are central to the outcomes of such cases. Note that in a stand-alone infographic ABC News reported that on the thirteen smartphones seized in the Steubenville investigation, 308,586 photos and 96,270 texts were reviewed (the large majority, presumably, unrelated to the sexual assault).<sup>15</sup> That’s an average of nearly 24,000 photos and

about 7,400 texts per phone—noteworthy figures that ABC evidently believed were in themselves a commentary on contemporary communications. Less often pointed out is the phenomenological *effect* of the rapid-fire and relentless circulation of two-dimensional images of a person in lieu of intersubjective embodied engagement. Audrie asked, “do you know how people *view* me now?” Actually, she wasn’t quite sure how people viewed her—her fellow students wouldn’t talk to her, so even third-personal narrative perspectives on her experience were being withheld. The images showed her unconscious body, mostly exposed, after it had been treated as a public space for graffiti, a whiteboard on which others had literally inscribed their meanings, labeling her body parts almost as one would a diagram of a carcass.<sup>16</sup> “In interviews with police later, [the boys at the party] admitted, to varying degrees, coloring half of her face black, then pulling down her bra, taking off her shorts and drawing scribbles, lines and circles on her breasts and nipples. [One boy] wrote ‘anal’ above her ass with an arrow pointing down” (Burleigh 2013, 2). *Rolling Stone* heads its story with a staged photo capturing the imagined scene from a birds-eye perspective (figure 1): a young white girl lies curled on her side on a large bed, naked and apparently unconscious, her face hidden, with a discarded red plastic party cup near her hand. Squiggly green lines are drawn on her legs, and a goofy face is on her side, while two uncapped Sharpies lie near her. The room is dark, but she is illuminated by eerie greenish-white light coming from five devices held by fellow party-goers who surround the bed but are somewhat physically distant, typing or texting or taking photos (it is hard to tell). The only one who is not anonymous is a young man sprawled out next to her (but not touching her), himself fully dressed, who is looking at the back of her head, grinning and pointing at her as he apparently texts with his other hand, his own face illuminated by the light of his phone.

This image doesn't match the details in the story that accompanies it in a number of ways: it is not clear whether Audrie Pott was ever completely naked, and the writing on her body wasn't just squiggles. Three boys were eventually prosecuted for sexual assault—including



Figure 1

digital penetration—and there were no other witnesses to their actions, although at least one other girl helped Audrie to the bed. Nonetheless, the picture can be read as an apt phenomenological commentary. It effectively captures the profound isolation of the girl and her subjective absence at the same time as it emphasizes the community of voyeurs that is formed not only through the shared act of looking at her while unconscious and naked but also by capturing her image and circulating it with unknown and distant others. This is not a Merleau-Pontian form of chiasmic intercorporeality, where to see is always also to be seen. These

voyeurs, in classic Sartrean style, have the privilege of seeing without themselves being seen (even by their victim in the moments of the assault), thus assuring a profound anonymity that is the converse of their victims' exposure. (I would add that public discomfort with punishing a certain kind of perpetrator—"those poor boys whose lives have been ruined"—is perhaps tacitly motivated by the breakdown of the assumed anonymity of masculinity and the publicity that is involved in being prosecuted for sexual crimes.) In the way *Rolling Stone* tells the narrative, some of Audrie's friends (male and female) later avoided her at school; she became detached from the four dimensions that made her existence real and instead started to exist only in some abstracted way as the unconscious subject of some photos. The boys weren't talking to her. They weren't even *looking* at her. They remained "huddled around Joe and his phone," themselves creating their intercorporeal community through the medium of her erasure. Audrie is frozen in time and space in this sprawled out state, unable to begin reconstructing her self after rape in the way that Susan Brison (2002) has so powerfully described.

At least some perpetrators of rape seem to know that they have denied an intercorporeal existence to their victims. Consider, for example, the way that Trent Mays, convicted in Steubenville of rape for digitally penetrating an unconscious teenage girl's vagina and of distributing a nude photo of a minor, commented: "Yeah, dude, she was a deady. I just needed some sexual attention." In a video of boys joking later about the assault, high school student Michael Nodianos says, "'You don't need any foreplay with a dead girl' ... He is laughing uncontrollably, as are several other boys in the room. 'She's deader than O.J.'s wife. She's deader than Caylee Anthony' ... Nodianos keeps on riffing, and his audience keeps on laughing, for more than twelve minutes" (Levy 2013, 3, 9). Although these remarks have been treated as shocking (and titillating), a necrophiliac aesthetic is commonplace in visual culture: it is a small

step from Snow White in her glass coffin (figure 2) to the genre of fashion photography that Jacque Lynn Foltyn (2011) has labeled “corpse chic”—or, to the extent these images are sexualized, corpse porn. Numerous fashion houses have mounted controversial ad campaigns in which models appear passive, pale, and supine, possibly dead (figure 3). Sometimes the genre crosses to overtly featuring the imagined manner of the model’s death (figure 4). The TV show *America’s Next Top Model* featured an episode in which contestants were made up and posed to look like murder victims—each killed by a different method (figures 5a and 5b). Corpse chic then recirculates in our visual economy, informing norms of beauty, desirability, and sexual availability. Notice that the vulnerability of these various sleeping beauties is a part of their appeal; to be reclining and unconscious is to have expression wiped from your face—a kind of auto-Botoxing (Jones 2008, 129-49).

Consider and compare the last two images here (figure 5). At first glance they look very alike, perhaps because typical fashion models are extreme outliers in the range of human femaleness: the women who compete on TV for prize contracts are very young; unusually tall and exceptionally thin, lacking prominent musculature; and are narrowly built with disproportionately long limbs. Because they are so uniformly unusual it is easy to see this last photo as very like the previous one, and of course they are posed within the same genre. This last woman is also beautifully lit, and implausibly reclined against a red and gold sofa. She is also the only one in the series of images who does not look white, but because of the standardized features of the photos this isn’t particularly striking. Race is only a tacit feature of corpse chic, just as the purity of Sleeping Beauty or Snow White is only quietly represented by their alabaster skin.

These pictures may *evoke* violence against women, but they don't actually *look like* violence against women. Imagine what real crime scene photos look like: they are poorly composed, shot to capture information in harsh light. They mostly show ordinary people amid ordinary objects looking very ugly indeed. In *these* photos, disproportionately many of the



Figure 2



Figure 3



Figure 4



Figure 5a





Figure 5b

victims are women of color. In the United States, for example, an African American woman is most likely to be murdered at age 22 (about the age of this model) and is more than four times more likely to be killed than her white counterpart.<sup>17</sup> Andrea Smith (2005) argues that systematic sexual violence, including sexual murder, was a key tool of cultural genocide during settler colonization and continues to be a part of state-sanctioned violence against Indigenous women. In Canada a 2013 study suggested that there are 824 First Nations, Inuit, or Métis women listed as “missing or murdered” (Pearce 2013).<sup>18</sup> If we recall the political realities of groups who have seen massive, systemic sexual violence and murder as part of racist and colonial projects, corpse porn avoids overtly eroticizing racism only to the extent that the presentation of models can avoid specific visual reference to this history.

Thus, first, the act of rape (and its technological aftermath) renders the victim’s body fully exposed, open to scrutiny, and lacking in subjectivity. If, during that aftermath, she moves

out toward those who have witnessed some part of the scene, they all too often turn away—to look again at her exposed and unconscious body on their phones. She loses the capacity to be open to the world, to put herself back together anew. Recall also that the flip side of this becoming-all-surface is the impossibility of anonymity. Fanon is laid out through the racial-epidermal schema and thereby loses the capacity to be a neutral citizen moving through the crowd, or even an embodied subjectivity, retreating into the sound of his own breath and blood.

Sleep is a state of distinctive defenselessness for all humans that requires us to trust in the surrounding world as we fall (and stay) asleep. Unconscious, we can enter a space of anonymity that makes intersubjectivity possible. For women in particular it can also be a state where we are not self-conscious or surveilled, and where we get a respite from the anxieties of bodily exposure. Second, therefore, I want to argue that the sexual assault of a *sleeping* woman threatens her most vulnerable state of anonymity, and her ability to retreat into night. To be roused by someone penetrating or attempting to penetrate your body—as a lot of victims in these cases are—is to have the deepest place of anonymity, the part of one’s life when one’s existence is most dangerously yet crucially suspended, erased. Again, there is a psychological counterpart: women who have been sexually assaulted while unconscious report that they become hypervigilant, unable to close their eyes for fear of losing control and becoming vulnerable again. The victims of Toronto doctor George Doodnaught, for example, orally raped by their anesthetist while semiconscious, gave testimony about this anxiety, of struggling to let down their guard and trust another to witness and protect their vulnerability (*CBC News* 2013; Small 2013). (This is something we all implicitly do every time we fall asleep, but that is intensified when the rape occurs in the doubly vulnerable situation of surgery). This victim struggles to feel safe lapsing into the one form of anonymity that is biologically and existentially necessary for

human life, yet ultimately she will have no choice but to revisit this place over and over. All victims of sexual assault find it hard to reencounter the contexts of the event, and many will choose to avoid particularly triggering spaces or people if they can. But no one can avoid going to sleep for very long.

## **Conclusion**

If you are foolish enough to read the comments following blog posts and online news features about prominent sexual assault cases like those I have been discussing, you find a lot of garden-variety victim blaming. Many people seem quite comfortable saying that girls and women invite rape—by getting drunk or high, by going to sleep in this bed or passing out on that couch.

Despite extensive research on the incredibly low rates of reporting and even lower rates of conviction for sexual assault in general, others are concerned that sexual assault is too harshly punished when it involves people who know each other, who have flirted with each other, who are dating or married, or when it fails to leave cuts and bruises. For others, what gets called sexual assault is merely sex that is being vindictively reinterpreted as nonconsensual after the fact—that’s not “legitimate rape,” as US Senator Todd Akin famously pronounced. Still others fear that legislating on cases where the victim is unconscious might make the man giving his sleeping wife “a loving peck on the lips” into “a sexual predator” (Prutschi 2011).<sup>19</sup>

I am no fan of the criminal justice system, so this paper is not a tacit demand for more police or prisons. Instead it is a philosophical response to these different ways of trivializing a particular subcategory of sexual assaults and their potential aftereffects. I am trying to create a richer language for thinking about the harm involved here—a harm that has, after all, led a number of victims to suicide.

It might seem, on the other hand, as though I've exaggerated the personal destruction that rape while unconscious can wreak. I am *not* arguing that no women ever recover from this experience, and many do find the resources to reassemble their lives and relationships. By putting together cases that involve alcohol with those that involve drugs (illegal or prescription, voluntarily or involuntarily consumed), asphyxiation, anesthesia, or ordinary sleep, however, I've tried to show that there really is no way of completely managing the risk of unconsciousness—and nor should women have to shoulder this responsibility. Agency is not just something exercised in a series of moments that happen in an open field of choice. My agency is also sustained or foreclosed by what other people say and do. The ethical challenge facing us all is to consider whether our words and actions contribute to a world where victims' subjectivity can be rebuilt, and not only destroyed; in which none of us see pleasure in sex with “a dead body,” without the full presence of an Other's lived experience; and, finally, in which these forms of violence become awful to contemplate, rather than an image to gather around.

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## NOTES:

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<sup>1</sup> For a string of stories on the Parsons' case and ongoing coverage, see the *Toronto Star*: [http://www.thestar.com/topic.ng-r-e-h-rehtaeh\\_parsons.html](http://www.thestar.com/topic.ng-r-e-h-rehtaeh_parsons.html). See also Hess (2014) for reporting on the guilty plea of the boy who took the photo to a charge of manufacturing child pornography.

<sup>2</sup> For media analysis of prominent cases involving youth and social media in the United States, see Friedman (2013). On Steubenville in particular, see Levy (2013). On the Audrie Pott case, see Burleigh (2013). Another case occurred in Maryville, Kansas, covered for the *Kansas City Star* by Dugan Arnett (2013).

<sup>3</sup> The activist hacker group Anonymous famously pushed the Steubenville case forward.

<sup>4</sup> As epitomized by the remarks of CNN reporter Poppy Harlow, covering the 2013 verdict.

Available on Youtube at:

[https://www.youtube.com/watch?v=MvUdyNko8LQ&feature=player\\_embedded](https://www.youtube.com/watch?v=MvUdyNko8LQ&feature=player_embedded). There have been subsequent grand jury indictments in Steubenville, brought against the director of technology for schools and his adult daughter, the school superintendent, a teacher, and two sports coaches.

<sup>5</sup> On cases involving Canadian Indigenous women and alcohol, see Lindberg, Campeau, and Campbell (2011, 99-103) and Vandervort (2011); for further general comments on the role of

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racism in prosecuting sexual assaults, see Benedet (2010, 457-59) and Sheehy (2011, 486-88).

On sexual assault and mentally disabled women, see Benedet and Grant (2007, especially the discussion of *R. v. Harper* at 263-65). On violence against homeless women, including rape, see the US-based study of Meinbresse et al (2014).

<sup>6</sup> For some data on double standards with regard to gender, alcohol, and attribution of responsibility for sexual assault, see Finch and Munro (2007). For a popular discussion of the issue, see Yoffe (2013) and the reply by Antony (2013).

<sup>7</sup> This view is challenged in a more clinical vein by Jeremy Gauntlett-Gilbert, Anna Keegan, and Jenny Petrak (2004), who describe both the specific harms of drug-facilitated sexual assault (DFSA), and their own cognitive therapeutic approach to treating survivors; see also Padmanabhanunni and Edwards (2013).

<sup>8</sup> It is probably very rare for someone to be sexually assaulted while unconscious and retain no memory of the experience and encounter no *post facto* evidence. (There is no way of being more specific than this, clearly, since in the absence of third parties or a visual record the only conscious witness is the rapist, and the extent of the crime is almost impossible to assess.) Nonetheless, this is the scenario that always gets raised by interlocutors: what if she doesn't even know? What if she *never* knows? Is it still bad? That anyone could think nonconsensual penetration of someone else's body in a way fraught with risk and abuse of power is only wrong "if something bad happens" is an absurd consequentialism that in my mind reveals the extent to which women's bodies are understood instrumentally. Put in more clinical terms, there is evidence that, as Gauntlett-Gilbert, Keegan, and Petrak (2004) report: "full DSM-IV criteria for PTSD [posttraumatic stress disorder] can be fulfilled even when a survivor is entirely amnesic for the trauma; criterion A only requires that an individual should experience intense fear,

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helplessness or horror when ‘confronted’ with a traumatic event, even if they did not experience or witness it. Thus, it is both clinically and medico-legally essential to recognize that the PTSD caused by DFSA is not necessarily less severe when a dampened peritraumatic emotional response or fragmented trauma memory are present. This has already been recognized in the head-injury literature, where it is accepted that PTSD can exist where a person has complete post-traumatic amnesia for the event that caused the injury” (217). There are real cases: for example, in 2014 Corporal Derrick Gallagher was charged with multiple counts of sexual assault and voyeurism against women in Quebec and Ontario, some of which involved drugging his victims. Given the extent of his alleged assaults, Canadian police asked women who had been in contact with Gallagher to come forward, saying they might not know that he had sexually assaulted them (*CBC News* 2014).

<sup>9</sup> Although this is a controversial claim, it is not a new one even in the more traditional parts of the phenomenological canon, from Edmund Husserl’s remarks on time-consciousness to Jean-Luc Nancy’s (2009) book on falling asleep. See de Warren (2010) for a discussion of the phenomenology of sleep that draws on these sources.

<sup>10</sup> In Cahill’s second book on objectification she does very briefly considers cases of sexual violence where the victim is unconscious (see Cahill 2011, 135).

<sup>11</sup> I am grateful to Lisa Guenther for introducing me to this concept and talking me through some of its implications.

<sup>12</sup> It is fascinating and troubling that Fanon’s leitmotif in this famous chapter of *Black Skin, White Masks* is uttered by a female child (to her mother) and not the “white man” whose culture Fanon theorizes.

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<sup>13</sup> On the estimated prevalence of “proactive” DFSA (cases where the rapist has administered a drug to a victim without her knowledge or by force) see Janice Du Mont et al’s 2009 Canadian study.

<sup>14</sup> In early 2014 three teenage boys were sentenced to thirty or forty-five days in juvenile detention after pleading guilty to sexual assault (including digital penetration) of Audrie Pott.

<sup>15</sup> See <http://abcnews.go.com/blogs/technology/2013/03/steubenville-social-media-by-the-numbers/>.

<sup>16</sup> In both the Steubenville and Pott cases there are connections with the popular iconography of dead nonhuman animals that I don’t have space to explore: the Steubenville victim was slung and carried like a slaughtered animal, while the drawing on Pott’s body is reminiscent of the labeling of animal carcasses as “cuts”—an image that is often carried over (critically or not) to the labeling of women’s naked bodies. See Adams 2003 for examples and discussion.

<sup>17</sup>, Black women have a homicide rate of 11.8 per 100,000 population, compared with 2.8 for 22-year-old white women (see Smith and Cooper 2013).

<sup>18</sup> Although Maryann Pearce’s database captures cases from as long ago as the 1950s, the large majority are from the past twenty-five years. Some 25 percent of the women are identified as Aboriginal/First Nation/Inuit/Métis, although these categories only account for 3 percent of the Canadian population.

<sup>19</sup> Edward Prutschi is commenting on *R. v. J.A.* For discussion of judges’ preoccupation with the hypothetical “sleeping spouse” in sexual assault cases, see Gotell (2012, 374-75).