

Unseen and Unheard: The Neglect and Re-Victimization of Sexual Violence Survivors in
America's Legal System

The most prevalent indicator of whether a nation will be violent in general is its level of violence against women. Protecting women against violence should be the basis of our domestic and foreign policy because it determines our country's health and safety. According to the United Nations, "the empowerment of women and girls is not just a goal in itself, but a key to sustainable development, economic growth, and peace and security" (Gender Equality and Women's Empowerment). There are many facets to the brutality against women, like deep-rooted patriarchy and the culture of rape apologists, but one stands out above the rest: how our criminal justice system continuously fails women who have endured sexual violence.

Our earliest laws pertaining to sexual violence considered rape as a property crime (Bishop, 2019). A woman's purity was necessary to institute patriarchal birthrights and inheritance rights; thus, a daughter's purity was considered as the property of her father (or husband if the daughter was married). As time went on, the United States' legal decisions pertaining to sexual violence did not improve.

If a woman was raped, in order to press charges against her attacker, she had to prove that she was a woman of integrity. She also had to prove that she did everything she could to fight off her attacker. In 1838, it was stated in a New York courtroom that "she must resist until exhausted or overpowered for a jury to find that it was against her will" (Estrich, 1986). Even when these ludicrous standards were met, a woman's testimony was held against the social standing and respectability of the alleged rapist. A rapist was much less likely to face punishment for his actions if he was of a higher social station than his victim.

Sexual violence is unlike any other offense – it is the only crime where the reliability and integrity of the victim are on trial as much as, if not more than, the culpability of the assailant. We do not judge a bank robbery based on how the bank teller reacts; we base it on the actions of

the robber. It is unfathomable that our society gauges the violation of one's body on the basis of behavior, yet that is what is happening to survivors every single day in our nation's legal system.

In 2015, Brock Turner sexually assaulted an unconscious woman behind a dumpster on Stanford University's campus (Pryal, 2016). He was convicted on three felony sexual assault charges, and although the prosecutor demanded a lengthy prison sentence, the judge threw it out. Instead, Judge Aaron Persky sentenced Turner to six months in jail. He was released three months into his sentence. This young man was not held accountable for his actions due to the wealth and gender gap between assailant and victim.

Our nation has a sexual violence problem that is exacerbated by American institutions and their lack of appropriate response. There is not a single institution – not our churches, families, schools, or even our government – that adequately prepares us to address the aftermath of sexual violence. Rather, these institutions play a foundational role in cultivating violence, encouraging the shroud of silence surrounding abuse while effortlessly moving between innocence, obliviousness, and obstinacy.

Which is worse—trafficking innumerable women or selling weed? The answer is obviously trafficking, but in the courts in the U.S., drug dealers often get much harsher punishments than traffickers and rapists. The perceived value, or glaring lack thereof, of women's lives in this country is deplorable at levels I cannot even begin to comprehend:

- A woman had trouble breathing and made the decision to go to the hospital for treatment. She was asked to stay overnight and was then sedated. During this time, a doctor entered her room under the premise of treatment but raped her instead. He was taken to court, and found guilty, but served no jail time (Allen, 2015).

- A 16-year-old girl was raped by two older boys from her school. Her blood alcohol levels were past the legal limit for consent, and injuries to her genitals and other bodily injuries corroborated the claims of nonconsensual sex. Semen from the rape kit matched one of the accused boys. Neither boys were ever questioned by police and the grand jury decided not to indict (Grigsby, 2019).
- A former frat president from Baylor University raped a young woman at a party. He did not serve any jail time and did not have to register as a sex offender. He was given a \$400 fine and ordered to go to counseling. The judge who was in charge of the case approved probation for other men from Baylor who were accused of sexually assaulting young women twice before this case (Associated Press, 2018).
- The grandson of a former Virginia governor was accused of raping a fellow student. His punishment consisted of five years of supervised probation. This plea agreement was viewed as a fair compromise because “neither party was happy” (Sampathkumar, 2018).
- A multimillionaire abused countless underage girls, including trafficking them out to wealthy buyers. Not only did it take seven months after minors were coming forward to report the abuse just to issue a search warrant, but there was also a fifty-three-page indictment and innumerable condemning evidence that was disregarded by the government. He pled guilty but still received a laughable sentence. He was housed in a private wing of the jail and was allowed to leave the jail six days a week for 12 hours on “work order” (North, 2019).

When these stories are threaded together, they present a string of narratives that define an America disinclined and unwilling to punish crimes of sexual violence. These cases are not

outliers. They are not exceptions. Rather, they are proof of the broken path to justice that survivors must slug through after they are raped, assaulted, or trafficked.

Instead of focusing on due process through fair trial, it appears that those in power have done everything they can to divert our attention from the truth in order to repudiate survivors' access to justice. These strategies and manipulative diplomacies are methodical attempts to refute evidence, delegitimize court proceedings, and dismiss proof. According to RAINN (Rape, Abuse, and Incest National Network), only 5 out of 1,000 rape cases result in felony convictions. They also report that out of every 100 rapists, two will spend but a single day in prison (Statistics, 2021). This means we have countless women in our country who face the injustice of sexual violence and then face injustice at the hands of the very system put in place to protect them.

Our entire legal system governs without the slightest understanding of the realities surrounding sexual violence. They discount undeniable trauma, deciding that it is not enough to warrant appropriate criminal action. Law enforcement decides a case is not worthy of time in the courtroom, judges issue forbearing sentences, school proprietors promise to look into accusations and never do – this is a society that teaches victims of sexual violence that they are on their own.

While the depths of this reality may be hard to grasp, I can attest to the harshness experienced when institutions fail to support victims of sexual violence. I began to travel my own, personal path toward justice but never made it to the end. Unless you have been there, I understand it can be hard to comprehend how this could happen in “America the Great,” so allow me to explain.

Survivors of sexual violence are dismissed by law enforcement when our “recipe” for sexual violence does not check all of the boxes. We are shunned by our communities and

accused of lying. We carry a fear of bearing the punishment of our perpetrators. We are supposed to remain anonymous, but in a world run by the media, our names are leaked. There is no such thing as anonymous in a society that thrives on the next “big story” – and that is what we become. Our names should not be glued to a hashtag before the blood has time to dry.

We sit in a courtroom while a lawyer ruthlessly weaves a false tale that diminishes the gravity and validity of our suffering. Our character is questioned with no compassion and a relentless desire to find flaws in our story. All the while, our attacker sits in their seat, implementing their legal right to remain silent.

We are grilled on why we did not scream, suggesting the possibility that we pursued the men who violated us. We are asked to recount each and every detail, berated for all the inconsistencies that do not matter in the long run, while our bloody underwear is passed around the courtroom. Our statements are slimmed down, distorted, and taken out of context. We relive the details, our personal lives, and every aspect of our sexual assault is dissected for the world to see. We put our lives on hold until a jury determines whether our story holds value. We are left to wonder if they will validate the wrongs we endured.

While we wait for justice, we do what we can to survive. We isolate, become irritable, and turn into someone we do not even recognize. We place refrigerated spoons over our puffy eyes in a sad attempt to lessen the swelling and hide our suffering from those closest to us. We show up late to work or school because simple tasks that used to be easy seem completely out of reach. We often require a cocktail of executive functioning and dissociation to survive what daily life asks of us.

We shrink ourselves to go through the world unnoticed and are constantly checking over our shoulders for a man who is not there. We long for sleep to escape, but that man we are so

fearful of finds us there, too. We shower in our clothes, sleep with the light on, and have to work ten times as hard as everyone else just to make it through the day. We cannot fathom how life could ever return to normal.

Our perpetrators are the cause and we are the effect. We strive to be seen as survivors and not as victims, in a desperate attempt to take back a little power. But perhaps if our perpetrators were held accountable for their actions, and punished accordingly, we would not feel the need to relabel ourselves. Unfortunately, most of us may not ever get justice, and in its deficiency, this fragmented structure forces us to unearth our own resolve. We will forever feel the sting of justice lost.

The shame and humiliation blanketing sexual violence are suffocating. We live in a society that teaches women that they are the ones to be held accountable for men raping them. Survivors bravely share their trauma, whisper the names of their assailants, and try to find some resolution by calling themselves survivors. Each area of their lives is left in ruins by those who stole what was not theirs to take. Meanwhile, their assailants' potential sentence, if they even make it that far, could amount to nothing but a slap on the wrist.

Justice for victims of sexual violence will never be the standard in our society until we begin to change the way we act and think when it comes to sexual violence. We cannot limit this change only to those who have committed these heinous crimes. The change must be systemic due to generational influence. For example, Brock Turner's father has never, to our knowledge, raped anyone. From his letter to the court, though, it is evident that his attitude enabled his son to assault an unconscious woman behind a dumpster: "His life will never be the one he dreamed about and worked too hard to achieve. That is a steep price to pay for 20 minutes of action out of his 20 plus years of life" (Gray, 2016).

The utter lack of self-awareness and complete disregard for the victim is what makes Brock Turner's father's statement chilling. It is time to challenge the cultural narratives that our country has developed when it comes to sexual violence. We have created this environment where rape is common and victims are silenced. Why do all woman know other women that were raped, but no man knows a rapist? Women are marginalized by the depraved perspective of social institutions that do not value women. I believe that we cannot say that our country is truly founded on the pursuit of justice and morality until we change the narrative.

The United States is a democracy, built on the ethics and moral principles of all those who came before us. In *The Gospel, Human Flourishing, and the Foundations of Social Order*, Jason Glass writes, "The moral, religious, and philosophical climate of a populace shapes political, civic, and economic conditions of a nation" (Glass, 2015). The ethics of a nation are foundational to everything else, and unless we do something to strengthen our moral fabric, the virtue of our country will continue to decay.

If we do not create a new cultural standard surrounding sexual violence, we will end up with more ineffective institutions, more assailants, and more victims who are forced to endure the loss of their humanity. What happens to our women happens to our nation. Each time a woman is broken by the violent actions of a man, there is a part of our nation that is broken too. The United Nations says that women represent half the world's population (Gender Equality and Women's Empowerment). This means that women also represent half of its potential. Allow me to illustrate the potential of our country if we continue to neglect the consequences of sexual violence.

To strip someone of their choice is to strip them of their humanity. The day I met my trafficker, my life was forever altered. I felt my value tear to pieces; I became a monster to

myself. He compromised my soul, wearing me down by his brutality and inability to care about anyone other than himself. He stood irreproachable and I questioned my own right to say no. When he told me he loved me, I felt it in my bones. The desire to be loved flowed through my veins and he intuitively picked up on that. He was so quick to remind me of my loneliness, and oh how I was.

He preyed on my childhood trauma, and his every wish became my command. His happiness became my burden to bear, and it befitted me a privilege to serve him. I did whatever he asked in hopes of being able to warrant his approval, desperate attempts to earn a love that I could never truly obtain. I gave him all I was and in return, he sold my body to further his agenda and fill his pockets.

When I was finally able to escape from the clutches of my trafficker, my journey was far from over. Do you know how challenging it is to overcome being crisscrossed and overturned by someone who never saw my worth? Do you know how hard it is to regain the humanity that was lost when I was ravaged by hands I will never forget? Sexual violence is not just a moment. It is not simply an assault on the body, but an attack of the mind.

Each day, I was haunted by an unwelcome essence that gnawed inside my chest as I relived the wounds from experiences I should never have had to go through. Some days, it was easy to block it out, almost like I had dreamed it. Other days, it was impossible to ignore and I spent so much time wishing it had never happened. These memories were not easy to leave behind, always catching up to me when I least expected it.

Piece by piece, my life is slowly being put back together; the shame dissipated and the potency of my voice restored. I am putting myself first, freeing myself daily. I see all the parts of me that my trafficker mindlessly reduced, loving them in all the ways he could not. And I have

done it all on my own, because that was the only thing left when the legal system left me in fragments.

The substantive inequality of our legal system has taught me how strong I am. I am more than the abusers who deemed me worthless. I was done wrong, words said so strongly my soul shattered and cracked, ripping apart the very core of what made me who I am. It makes me weep – I cannot be un-raped. I cannot be un-assaulted. My clothes cannot be un-torn, my lips cannot be un-ravaged, and my body cannot be unplugged from the memories. But I can heal.

I am not what happened to me. The Earth is not defined by the asteroid that hit it but by the countless years of living that came after. I am art, made up of lines and colors to be distinguished, not hidden and banished. I can move on because weak I am not. I am strong and fierce, a resilient survivor. My heart might have been broken, but it can be repaired. This is not the end of my story. I have many more years, many more times, to tell my story, because my voice matters.

One day, the very utterance of my trafficker's name will not propel chills down my spine. One day, the tables will turn and his day of reckoning will come. The terror and silence he depended on to pimp me out will be broken and his true nature will be exposed to the world. One day, I will not be the one who is fearful. I am his victim no more. I will heal. I will recover, and I will not do so quietly.

There does not seem to be a one-size-fits-all solution, but I believe tackling the issue starts with implementing well-drafted criminal laws. Not only do we need policies in place that better address the proper punishments for offenders, but we also need prosecutors who are trauma-informed, judges who are trained to be mindful and sensitive to the needs of survivors, and law enforcement who can appropriately collect needed evidence.

We also need to have more in-depth conversations about consent. We stress the importance of consent when it comes to sexual encounters, but many situations that look like consent truly are not. Our society has made consent the lowest common denominator of what qualifies as appropriate sexual encounters – as long as both parties say yes, that counts as consent and whatever happens is okay. But we do not teach that compliance is not consent or that consent is fluid. We believe that yes means yes, but no does not always mean no – there are times where no is left up to interpretation. People may be more inclined to side with rapists than the victims because they themselves have had questionable sexual encounters.

I demand accountability and I am calling for communities to shift the narrative. It is time for sexual violence survivors to receive the justice they rightly deserve. We need to step up and realize that there is no “recipe” for sexual violence. We need to dissipate our system of laws that allow defendants to denote women as property. We must step up and recognize how the procedures and practices of our criminal justice system subsidize sexual violence.

Statistics show that on average, 90% of victims of sexual violence have been through secondary victimization by the criminal justice system – and we wonder why women are so hesitant to report (Campbell and Raja, 1999). Women’s familiarity with law enforcement shows overlooked forms of female oppression that are built into the very foundation of our society’s perception of fairness. There is no expectation that reporting a sex crime will bring justice, and that must change.

Our society is conditioned not to believe victims, encouraging the shroud of secrecy to remain around sexual violence. There is absolutely no reason why a man who says, “I did not touch her,” is more credible than a woman saying, “He raped me.” But we place greater value on men – their behavior, their voices, and their futures. What value has the word of a woman? They

say you are innocent until proven guilty. Are we also going to consider the victim as innocent from the start, or will we continue to perpetuate victim-blaming and rape culture?

What is holding us back? What is preventing us, as a nation, from moving forward to a true representation of community standards that sexual violence is not okay? Assault is not an accident. Enough is enough. Women deserve better.

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