THE WORK OF RAPE / RANA M. JALEEL

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Introduction / The Work of Rape

Although framing cannot always contain what it seeks to make visible or readable, it remains structured by the aim of instrumentalizing certain versions of reality. —JUDITH BUTLER, *Frames of War*

It has probably become more dangerous to be a woman than to be a soldier in armed conflict.—MAJOR GENERAL PATRICK CAMMAERT, in United Nations Human Rights, "Rape: Weapon of War"

In the 1990s, I was a teenage feminist in rural Georgia, reading riot grrrl zines and *Sassy* magazine, where indie rockers dispensing dating tips nestled column to column with Bosnian refugees and their testaments of war.[1] I was transfixed not only by the implicit connection, shadowy and unacknowledged, between what was happening to women in the Balkans and calls to Take Back the Night, but also by the mere mention of Muslim women. Beyond the confines of my own Muslim family, the Balkan conflict was the first time I could remember hearing any sustained talk of them—of what they did and what happened or could happen to them. A few years later, in college, I dumped sugar in my coffee while my Serbian classmate downed her espresso and confessed how she and her mother held hands by the television each

night, praying that the United States would invade their country, praying for a war to end war, praying for what I would later learn by a more musical name: *jus ad bellum*, the right to war, the ultimate show of legitimate force. She spoke of dead uncles and the aerial bombings of medieval seaside towns, and although I could not imagine a truly just war, I could see how I might learn to desire one.

Fast-forward some years and gender securitization strategies, homonationalisms, and the repressive, deadly potential of international human rights and humanitarian regimes are key subjects in a rich vein of critical ethnic studies and queer scholarship focused broadly on examinations of governance, what makes up legitimate state violence, and knowledge production. Yet the breakup of the former Yugoslavia and later Rwanda, each couched as ethnic in causation in conjunction with a concerted if internally conflicted wave of feminist organizing that began the formal coupling of mass sexual violence and war within international law—that occasioned the entrance of rape and sexual violence in international human rights, humanitarian, and criminal law—has slipped from focus. It was then, in the wake of the Cold War, with the rise of the so-called ethnic wars, that the scope and significance of international law were reimagined. Here, for the first time since Nuremberg and Tokyo, international ad hoc tribunals were charged with the task of prosecuting war crimes, crimes against humanity, and genocide. This moment created new subjects of and subjects to international law as rape and other forms of sexualized violence were for the first time emphatically configured as enumerated violations of international, rather than national, law.

In the aftermath, as scholars and activists have noted, war and its accoutrements are understood as both a cause of rape and also an answer to it.[2] Task forces and UN resolutions proliferated as sexualized violence in conflict zones became a familiar topic of concern, study, law, and policy. Militarized humanitarianism, girded by a faith in carceral systems, became a solution to an issue perceived, as legal scholar Karen Engle writes, to involve "the worst crimes you can imagine" whose occurrence "makes wars last longer."[3] Rape and other sexualized violence became anathema under multiple theories and bodies of international law. They became international crimes, human rights violations, war crimes, and gendered, individual injuries that are in this view antithetical to "peace."

There I was, in the 1990s, with so many of "us," so many of us "of color," getting groped or worse on campus as ethnic war rape took up tenure on the nightly news. There and then the idea of rape was a door of approximate recognitions opening into a repository for so many things we could not easily

express or name. And so in college I drank sugar with a splash of coffee and (almost) learned to love the bomb.

The "almost" is important. It was made possible by a hitch in the overarching tale of violence against women—an incongruence that I felt as much as thought. In retrospect, I recognize—and this book is ultimately a move more fully into that recognition—that this feeling was in some ways particular to the twentieth century's end. A feeling at the so-called end of history, after the Berlin Wall came tumbling down. A feeling formed in the thick of the US sex wars alongside what I knew and was learning about the vibrancy of Third World and women of color feminist and queer activisms. A feeling that discomfited itself into a question: what should we make of the presumptive continuity of sexualized violence as a category, of "rape" as the stuff that binds what happens on campus to what happens on the grounds of "ethnic" war?

If the concept of rape seems self-evident, the paths the word has taken to arrive at our current understanding are anything but. From the adjudication of mass rape and sexual slavery in the International Criminal Tribunals on Yugoslavia and Rwanda to state violence against indigenous women in the "Dirty Wars" in Latin America to the use of torture in US military prisons during the War on Terror to the role of Title IX in sexualized violence on university campuses, *The Work of Rape* demonstrates the wide-ranging importance of rape within contemporary sociolegal understandings of power transnationally. Using a transdisciplinary and queer historical methodology based on years of archival work, *The Work of Rape* scouts how feminist interventions in the "gender atrocities" of the 1990s-era ethnic wars have traveled across bodies of law (international and "US" domestic, criminal and civil) and social geographies.

The Work of Rape proceeds by understanding rape and sexualized violence—as well as their primary components, namely, consent, force, and coercion—as concepts and categories that are products of material histories. The ability to name and locate rape as an act and a sociolegal concept depends on power and knowledge achieved from racial, imperial, and settler colonial domination actuated through market liberalization and global racial capitalism. In other words, rape's contemporary political prominence in the United States—from #MeToo to Title IX controversies on campus—is staged on a bloodied, tumultuous, and cumulative backdrop of imperial and colonial warfare.

From this orientation, one that prioritizes decolonial, women of color, and Global South knowledge, rape and other forms of sexualized violence cannot ethically be cast as problems faced by "vulnerable women" subjugated

as a group by patriarchal law and policy. Instead, *The Work of Rape* takes up how violence is socially and globally defined and distributed through the notion and naming of rape. It focuses particularly on how that recognition of rape occurs through the operation and practice of law—or how legal practice is itself a material process of theorizing both injury and evidence. How have feminist interventions—including feminist innovations in law and its practice—in the "gender atrocities" of the 1990s-era ethnic wars traveled across bodies of law (international and domestic, criminal and civil) and social geographies? How do those interventions reverberate within contemporary US engagements with gendered and sexualized violence and harassment inside the "United States" itself?

Instead of seeking to "diversify" survivor experience of what is called rape or other sexualized violence (as if these were stable or self-evident descriptors), this book takes a different tack. In the aftermath of rape's ascent into international law, *The Work of Rape* asks what work rape and its associated terms must do as it tries to hold many and conflicting forms of imperial and colonial violence across many sites, systems, and scales of law. This framing is not about how attention to sexualized violence detracts from other discrete issues or competing concerns. Instead, *The Work of Rape* asks what is uplifted, occluded, or viciously suppressed within the very definition of rape so that sexualized violence might be recognized. How does that resulting understanding of rape encourage punishing, carceral responses to it, and why do those responses feel for so many like justice?

Some answers might begin in a now familiar register of queer activism and studies—one in which gender, sex, and race, for example, do not describe fixed coordinates or settled identities but instead name concentrations and arrangements of power that change over time. From such a perspective, queer is, in Judith Butler's famous formulation, "never fully owned but always and only redeployed, twisted, queered from a prior usage and in the direction of urgent and expanding political purposes."[4] Approaching gender queerly and as a political historical category requires, as Butler aptly puts it, acknowledging that "we do not yet know all the ways it may come to signify, and we are open to new understandings of its social meanings."[5] Put to this project's purposes, we might observe that historically rape and other forms of sexualized violence (much less their attendant terms, *sexual consent*, *force*, or *coercion*) have had no fixed meaning—they were not and are not definitionally *obvious* but are instead sites of struggle. The terms *rape* and *sexual consent* index relationships between individuals and also between individuals and structures, especially legal ones, that seek to capture and distill the

proper relationships between licit and illicit encounters and intimacies. This approach to sex and violence has implications for queer critique and racial study. Here, queerness and race contain neither fixed subjects nor objects of study but are instead inquiries into the historical and material politics of their reproduction as well as the shifting terms and affective connections that narrate those histories and emergences.[6]

From this perspective, the instantiation of rape within international legal orders and governance projects demands careful attention. Yet the rise of the "ethnic wars," demarcated from and eclipsed by the global politics of terror, is with few exceptions almost entirely neglected in activist scholarship. More pointedly, the popularization of global mass sexualized violence as a cause célèbre beginning with and extending from the Cold War's end has largely escaped the attention of scholars who seek to unravel the legacies of settler and franchise colonialism, sexuality, empire, and capital. Despite the richly detailed work of Black feminists that elucidates how rape has historically functioned as a technology of racial terror enabled by law and the state,[7] women of color feminisms and queer scholarship have only sporadically engaged the role of US race making and empire in the ascent of international criminal, human rights, and humanitarian regimes and the logics of gender and sexuality that issue from them.[8]

Meanwhile, queer of color critique and queer critiques of war have focused their attention on the Middle East and Latin America, largely sidestepping rape as an issue or analytic, and have declined to take up the 1990s wars in the former Yugoslavia and Rwanda. In other words, ethnic wars of the 1990s, the recognition of mass ethnosexual rape, and the concerted waves of feminist and other activist organizing that accompanied them are not integrated within most critical feminist, queer, and ethnic studies analyses of sexualized violence or theorizations of war. Mass rape does not enter efforts to assess the geopolitics of global governance, or analyses of racial capitalism's instantiation of what Jodi Melamed and Chandan Reddy call "differential rights orders," or the variability of applicable rights regimes "from the local to the supranational."[9] Yet Western framings and responses to the 1990s ethnic wars and the emergent post–Cold War order, distinguished by the unprecedented rise of international law as a space of justice, suture those conflicts to twenty-first-century contestations of the meaning and significance of rape and other forms of sexualized violence and therefore to discourses of race, gender, sexuality, and legitimate state violence.

The Work of Rape begins at the moment that rape and other sexualized violence become explicitly enumerated in international law: during the eth-

nic wars of the 1990s. This work traces the resulting legal epistemologies and effects through the War on Terror and contemporary Title IX controversies. The project's arc is an attempt to loosen the dense knot of what the long 1990s brought: the Cold War's end, the rise of "ethnic" warfare, the "victory" of global capitalism, the US embrace of multiculturalism and diversity that occurs alongside new restrictions on its most vulnerable populations,[10] and the transformations in the meanings of rape as a juridical concept and a cultural term through its engagements with an emerging new system of international law and advocacy. At this time, long-standing (albeit internally contested) multisited transnational feminist efforts to frame rape as a consequence of state inaction or state enablement (most forcefully made by Black, Third World, and indigenous feminists) begin to gain purchase in law. These efforts ultimately found a home in the language of human rights and atrocity crimes—or crimes that "take place on a large scale" and are so named as "the most serious crimes against humankind."[11] The roster of atrocity crimes includes war crimes, crimes against humanity, and genocide—the latter two recognized as occurring in and out of war. They do so, as the following chapters attest, by offering a revised universal subject of "woman" and category of "sexual violence."

Unlike prior imperial and global feminisms, these efforts are carefully, even deferentially attuned to social, national, and ethnoreligious differences among women. What knowledge about race, sexualized violence, and warfare is produced under these conditions? How does it enter into our imaginaries of sex—how we determine, how we know, what sex *is* and what good or bad or violent sex might be? How do we approach the long, diverse histories of indigenous women, women of color, Third World feminisms, and queer/trans responses to rape and other forms of sexualized violence in the age of "women's rights as human rights"? When the ongoing legacies of slavery and colonialisms are so adamantly disavowed, how do we understand the formal violation (rape as a crime against humanity, gender violence as human and civil rights violations) as an affront to what Hernán Santa Cruz of Chile, member of the drafting sub-Committee the Universal Declaration of Human Rights, called "the supreme value of the human person"?[12] How do we think about sexualized violation when the fact of the body, the evidentiary truth of the violation, received notions of believability—liberal frameworks that delineate a possessive interest in one's bodily person—were forged in fires stoked by shackles and slave bills of sale, looted lands, and their dispossessed multitudes?[13]

Through legal archival work, analysis of UN and nongovernmental organization policy reports, close readings of case, statutory, and other law, *The*

Work of Rape tracks some ways the meaning of rape and other forms of sexualized violence are produced through feminist activist and legal negotiations that traverse geographies, peoples, and bodies of law. I offer a new concept, the work of rape, and a new complimentary queer method (which I will soon discuss) for legal and cultural study of social difference, what I call *law beyond Law*. *The Work of Rape* asks how the violation and harm of rape and other forms of sexualized violence might be reconceptualized if the question of injury, harm, or evidence of such begins not with a clean journey through Anglo-American law—from coverture and seduction to sexual emancipation—but if instead those convolutions in law were placed alongside and within established and ongoing narratives of property, dispossession, and enslavement. What stories of rape and other sexualized violence emerge when they are told through the many imperial and colonial violences now reordered by the Cold War's putative end?[14] Here we might remember rape as a way to make slaves, rape as a way to make workers, rape as a way to grab land. Historicizing and privileging these contexts, I argue, shows how disavowed histories of imperial and colonial violence—which are histories of cisgendered heterosupremacy—enable the recognition of sexual injury in domestic and international law.[15]

Wars and conflicts "elsewhere," in sites like the Balkans, Rwanda, and Latin America, allowed and allow legal feminists and other activists to develop, refine, and ultimately promulgate radical overhauls in the scope and meaning of rape and other forms of sexualized violence. As rape becomes a violation of the human and is affixed to atrocity crimes in the post–Cold War management of "postsocialist," "postcolonial," "ethnic," and "genocidal" conflicts, the effects reverberate through legal and transnational feminist circuits of antisexualized violence organizing, changing the meaning and import of terms like *rape culture*, *consent*, *force*, and *coercion*. This book looks at how legal formulations of consent, force, and coercion in the US context carry in them—are in fact *possessed* by—the marks of those past efforts and struggles. To put it another way, this book argues that the legal and social meanings of rape and other forms of sexualized violence are shaped by ideas of what counts as consent and coercion, which are themselves formed through racialized geopolitical imperial and settler conflict—the materialities and imaginaries they produce. These include rape's association with torture in the Americas throughout the 1980s, with ethnoreligious warfare in the 1990s Balkans, and with Muslim terror in the new millennium. Notably, these associations all unfold within the penumbra of indigenous dispossession and other challenges to the legitimacy of the nation-state as the premier organizational unit of

political, economic, and social authority. A closer focus on the primary components of rape in the Anglo-American tradition—including consent, force, and coercion—reveals what binds these far-flung sites across space and time. Fluctuations in the meaning of consent, force, and coercion do more than alter social understandings of rape. They also shift how we might approach their cultural and legal study and their conjoined relation to race, gender, sexuality, and the mass death made in the name of gendered and sexualized freedom. *The Work of Rape* thus shows how legal models of consent are removed from global changes in property regimes and the operations of settler empire, even as they are forged within them and depend on them.

The continual social and legal battle to define and redefine what consent means and what counts as force or coercion can be a symptom of the problem if rape and other forms of sexualized violence remain locked into categories of violation that depend on Anglo-American epistemological traditions of injury—ones rooted in autonomy, self-possession, or other hallmarks of individuated rights. Other kinds of lives, demands, and worldviews—other visions of good living and good sex—cannot wholly enter the terms of a debate centered on the act of rape, regardless of whether those nondominant claims are made through the language of rights or renunciations of them. Other ways of being and thinking nonetheless leave their marks in the records and inner workings of law. The method of law beyond Law follows those tracks, reviving those lives, demands, and worldviews within the terms of legal operations that include the technical aspects of law—not just the outcomes or content of legal decisions. The method of law beyond Law theorizes the making of the juridical itself and the many terms, processes, and strands of law—including the intellectual labors and theorization of harm that emanate from many locations and sources—that are necessary to its generation. In the process, the method undermines and remakes the meanings of law and its component parts.

The method recasts law, its inner workings, and its impacts in ways that at once acknowledge and resist the ravenous absorption of political possibilities in traditional juridical logics and claims. Treating law in this way allows for the insights of queer of color critique, women of color, Third World, and decolonial feminisms (and the differences between and within them) to convene in novel and unexpected ways, across categories and commitments of group, analytics, and nation. This is an account of rape as a coalescence of heterogeneous racialized and colonial histories, in law and out of it. This is an account of how those histories are lived and obscured through their fitful consolidation beneath the terms *gender*, *sex*, and *sexual violence* and their supportive

attendants: consent, coercion, force, and welcomeness. This is an account of how the histories, logics, and structures of many forms and histories of empire and colonial violence—including cis-white-heterosupremacy—that are at least nominally forsworn under liberalism nonetheless persist, even at times in the terms and language of left liberation. Heterogeneous histories and epistemologies shape the micro- and macro-politics of rape. In turn, they shape the distribution of global resources, rights, and violences according to whose lives and which stories about sexualized violence are credited and valued and how varied juridical operations hasten or foreclose that valuation. This is the work of rape.

#MeToo / From Rape Culture to Structural Misogyny

In 2019, as reports of Daesh soldiers imprisoning Yazidi women as "sex slaves" flooded the news,[16] "homegrown" US sexualized violence was once again in the spotlight.[17] Feminism—often cast as a campaign to end violence, especially sexualized violence against women—found itself in a moment of cultural ascendance. From Hollywood's adoption of Black activist Tarana Burke's #MeToo to Title IX campus controversies, the contours of sexualized violation and impropriety, often couched as an impassioned rejection of rape culture, were undergoing spectacular and public reworking.[18] Originating in certain wings of 1970s US feminism, rape culture turned attention to the "general cultural beliefs supporting men's violence against women"[19] to counter entrenched explanations of rape as natural, biological, or instinctual, and therefore inevitable.[20] In the intervening years, liberation efforts that have gathered beneath the term have been tireless and many. Rape culture has provided a framework that shifts the motivations of intimate violence beyond men's instinctual need for sex, changes the meaning of rape from a stain on honor or damage to the property of men, publicizes its frequencies and impact, and insists on its gravity—demanding that allegations be taken seriously. At the same time, the notion of rape culture—which increasingly attempts to accommodate and theorize global sexualized violence through its unifying flexibility—can ultimately be stultifying.

In many ways, #MeToo—a many-headed phenomena that contains divergent experiences and theorizations of sexualized violence—has taken the foundational premises of rape culture and run with them. From Harvey Weinstein to Sherman Alexie to the manager in the corner office, men in power, long accustomed to exerting influence and wealth for stealth sexual advantage, are now open to public excoriation. For mass media publics, now

dramatically exposed to the long work of feminists to transform how gendered and sexualized violation is recognized and understood, the simple presence of "consent" is no longer the last word on rape, nor does continued contact—sexual or otherwise—with the accused automatically disprove or invalidate the charge or experience of rape. "Social media," as queer theorist Juana María Rodríguez writes, "has changed almost everything we associate with testimony."[21]

If this is true socially, it is also increasingly true legally. Attention to rape culture—cast broadly as social pushback against sexualized violence—has become a basis for theorizing and imagining new relationships to legal systems and structures. As legal feminist Catharine A. MacKinnon, who cleared paths in US and international law with her theorizations of sex discrimination, writes "#MeToo moves the culture beneath the law of sexual abuse . . . early indications are that some conventional systemic legal processes are shifting too" as US courts begin, however tentatively, "to take explicit account of the cultural shift in what is 'reasonable' to expect of a survivor."[22] In her view, the #MeToo movement "is accomplishing what sexual harassment law to date has not. . . . Structural misogyny, along with sexualized racism and class inequalities, is being publicly and pervasively challenged by women's voices." Women, she writes, "have been saying these things forever," but now "power is paying attention."[23] What relationship between sex and violence is envisioned here? To whom exactly is power paying attention?

MacKinnon's claim—pithy and direct—rehearses and slightly revamps the truism that when women are brave, when they speak out and voice their suffering at the hands of men, justice invariably arrives—often with a siren, a sentence, and cellblock. But it takes more work, she suggests, than speech to tackle structural misogyny. It requires a movement: sustained engagement with power across multiple sites, from sex discrimination law to protests around the world. As she writes, "Sexual-harassment law prepared the ground, but #MeToo, Time's Up, and similar mobilizations around the world—including #NiUnaMenos in Argentina, #BalanceTonPorc in France, #TheFirstTimeI GotHarassed in Egypt, #WithYou in Japan, and #PremeiroAssedio in Brazil among them—are shifting gender hierarchy's tectonic plates."[24] This language, its seeming breath of inclusive solidarity, is inspiring and even seductive—it seems to acknowledge what historian Estelle Freedman calls "the centrality of race to the political history of rape."[25] What exactly are rape and race in that political history?[26]

For MacKinnon, structural misogyny—notwithstanding the requisite mentions of "sexualized racism" and "class inequalities"—places the ste-

reotype of the "lying slut" and "shifting the gender hierarch[y]" as key plot points in the unfolding sociolegal drama.[27] This is an old story and a driver behind liberal feminist rape reform efforts of the 1970s and 1980s that hinge on the oft-recited "discrepancy between female experience and the law's definition of rape."[28] In this view, the violence of sex is gendered, and the role of law is ultimately to reflect the gendered reality of sex and correct for the subordination of women. In this view, the more rape law addresses the category or idea of "women" or "gender," the more just it becomes. In this account, feminist lawmaking and feminist organizing function symbiotically and dynamically—each fostering the emancipatory potentials of the other. But there are other ways of understanding and staging the prevalence of gendered and sexualized violence and shifting its tectonic plates. There are other spaces to locate its harms, describe its contours, and propose redress.

Work in the radical traditions of Black and women of color feminism, queer of color critique, and decolonial feminisms, for instance, has long challenged and engaged the state as the guarantor of justice while eschewing a narrow gender frame as the best way to describe sexualized violation. Writing in 1978, Black feminist Angela Davis insists that racism must be central to any analysis of sexualized violence: racism, she writes, is "nourished" by sexual coercion.[29] For Davis, the specter of the Black male rapist and the ongoing entitlement of white men to Black women's bodies are an inheritance of a property system dating back to US slave days—a system of terror. "Lynching," she writes, "in turn complemented by the systematic rape of Black women became an essential ingredient of the strategy of terror which guaranteed the overexploitation of Black labor and, after the betrayal of the Reconstruction, the political domination of Black people as a whole. . . . The crisis dimensions of sexual violence constitute one of the facets of a deep-going crisis of capitalism."[30] More recently, Muscogee scholar and MacArthur Fellow Sarah Deer has characterized rape and other forms of sexualized violence against indigenous women as the product of legal relation wherein US federal jurisdiction strips tribes of political sovereignty. Such rape, she avers, "is a fundamental result of colonialism, a history of violence reaching back centuries."[31]

Trans activists have also framed rape and sexualized violence in ways that complicate rape culture and its relationship to structural misogyny. In a 2014 report prepared by the Center for Gender and Sexuality Law at Columbia Law School, Chase Strangio, staff attorney with the American Civil Liberties Union, notes how antisexual violence legislation, namely, the Prison Rape Elimination Act (2003), has "been used to restrict the gender expression of people in custody under the guise of ending sexual assault."[32] Strangio describes how he

"represented a transgender woman in a New York men's prison who was disciplined after reporting a sexual assault perpetrated against her. The officials argued that her gender non-conformity was evidence that she had consented to the rape. Meanwhile, all corrections agencies continue to prohibit consensual sexual contact or touching of any kind."[33] Finally, regarding the rape of the Yazidi in northern Iraq, legal scholar Lama Abu-Odeh refuses both racist explanations that blame Islamic rape culture for the violence against the Yazidi as well as the imposition of Western "anti-imperialist" frameworks by elite "public intellectuals" that prevent local activists (or simply people) on the ground from protesting gendered and sexualized violence for fear of being cast as "the unwitting handmaiden[s] of western imperialist projects" or more sinisterly as "native informant[s]."[34] As Abu-Odeh writes, "There is an undeniable affinity between the anti-imperialist line 'made in the USA' and the local political Islamist and nationalist positions that are antagonistic to the politics of gender and sexuality."[35]

People of color, indigenous, and queer and trans feminists and global activists, it seems, have been saying *these* things forever. To hear and heed them does a number on a thin notion of rape culture that underlies and enables an antidote to "structural misogyny" premised on transposable accounts of gender/sex.[36] What Davis, Deer, Strangio, and Abu-Odeh describe and what MacKinnon offers are divergent, incompatible accounts of the violation known as rape. The rape of the "lying slut," where the problem is framed as one of social and legal believability, differs not only in degree but in kind from the rape of a slave, tribal citizen, prisoner, or one who resides in the crosshairs of weaponized gender politics and Islamophobia. This recognition in turn affects, as Abu-Odeh elaborates, what and how people who agitate for gender and sexual justice are understood as agitating for and against. Rape culture—and the systemic analyses it enables—can become synonymous with Muslim or "other" cultures, a problem of groups or peoples that locates those who would condemn gendered and sexualized violence in the unenviable position of either feeding racist or orientalist thinking or ignoring sexualized violence. Distilling the act of rape to a question of the norms or attitudes of various social milieus can degenerate quickly into colonizing or imperial gestures that cast entire regions as "rape prone," as a variety of feminists have charged in relation to Western reporting on rape in Africa, India, and the Middle East.[37] In the cases described by Davis, Deer, Strangio, and Abu-Odeh, the ability to be the rights-bearing subject of law, to be considered fully present in the conceptual bounds of the human or simply recognized as someone with something to contribute, is absented or strained.

Collectively, Davis, Deer, and Strangio offer particular critical commentary on the notion of rape culture, universalizing accounts of gender (like MacKinnon's structural misogyny), and their relationship to law and institutional oversight. While the changes MacKinnon lauds—the social redefinition of what proves or refutes a charge of rape emblematized in the eponymous mandate to "believe women"—are the fruit of long, hard, feminist struggle, the heralded liberation of rape from a phallogocentric worldview nonetheless sparks anxiety, unease, and anger in some circles, and not simply those of men's rights activists and incels. Some men of color, queers, trans people, and incarcerated people now find themselves in the glare of what Chandan Reddy might call a "sexual freedom [that] . . . powerfully disallows a reckoning with its own conditions of possibility."[38] This is a disavowal that redeems "the very state that . . . global sexual and racial violences have built."[39] In other words, what is staged as separate—war rape, as opposed to debates about affirmative consent on campus, for example—or conversely collapsed, so that any rape anywhere at any time is best explained through the framework of "structural misogyny" or "rape culture," is in fact connected in a particular way: through disparate global struggles to socially and legally define and interpret the offense and its harm.

The cultural shifts that MacKinnon praises, the ones that rework the operations of sex, gender, and law, do not automatically or inevitably address the kinds of sexualized harms elucidated by Davis, Deer, Strangio, and Abu-Odeh. What these authors gesture toward is something more expansive. Together, they demonstrate how the differential ability to name rape and have it addressed make plain the material politics of feminist knowledge. Together they show how the officially recognized parameters of sexualized violence—and MacKinnon's structural misogyny—are shaped and policed by the literal and epistemic control of land and bodies. Only certain accounts of what rape is can be credited. Debates over the terms that seem to signal sexual safety, sexual health, and good sex and that constitute the "reasonableness" of the survivor under law—words like *consent*, *coercion*, *welcomeness*, and *enthusiastic consent*—are not obvious. They are polyvalent and discordant; they contain and cover the histories of race, empire, cis-heterosupremacy, and colonialism, which are histories of material exploitation, dispossession, attempted annihilation, and control. These contestations are made starkly evident in the debates over rape proper and in the constellation of sexualized violations that emanates from them. They include debates that now grip US college campuses about sexual harassment—the limits of what can be said and done to whom—and what speech or conduct creates an actionable hostile environment.

The question then becomes *how* to talk about what kinds of violence shape our understandings of what sex or the sexual (good or bad) is or isn't. In other words, the question becomes how to talk about the kinds of rape that Davis, Deer, and Strangio describe in ways that break the stranglehold of certain feminist framings of sexualized violence—to attempt to recognize and address sexualized violence beyond aggregate stories of individual encounters with individual men, who collectively make the world "bad for women" and, at least rhetorically, for others who are cast as sexually vulnerable or subordinate (i.e., children and occasionally men from "rape-prone" regions or cultures). The questions become how to do it without casting women of color, indigenous, or queer and trans knowledge production as identitarian, monolithic, or inevitably progressive contributions to leftist thought and action. To ask this question is not to suggest that women of color, queers, and the indigenous are presently barred from entering the capacious narratives of #MeToo. The problem is not simply a question of individual relationships, personalities, best intentions, or goodwill.

The problem is one of thought and of law—of the sociolegal conceptualization of the individuating injury of sexualized violence. It is a problem of evidence, of relegating the harm to categories of sex or gender that are presumed to be transparent in meaning. The problem is also one of affect and desire—of wishing for a movement to end sexualized violence that is enacted through the massed figure of the violated "woman," now the legal subject of human rights, which requires for its pilgrim's progress a tale of commensuration, of exchangeable, commodity-like harms: a rape for a rape, in peace or at war, coed to border crosser, "free" citizen to settler colonized subject—a push toward a standardization of coercion like a garment that anyone can wear.[40] Rape as a concept offers a fiction of coherence. Yet the very idea of sexual freedom—here, a world without rape or other forms of sexualized violation—cannot help but involve itself in racial and colonial world orderings, their attendant arrangements of reproduction, territorial and resource acquisition, labor, and social space.

What would it take to forgo the mainstream centering of "me" in the ongoing march of "too"? How could we instead consider what it would take for all of "us" to reckon with the global dispersion and occurrence of sexualized violence in its many forms, rationales, and motivations and as part of historical, uneven, and contradictory exploitations and expropriations? From these coordinates, legal scholars might well ask in this age of human rights, when rape is an affront to the value of humanness, the following question: What is the harm or wrong of rape? Activist scholarship might do the same.

The Work of Rape and Queer Critique

In the place of rape culture, this book offers a new theoretical concept: the work of rape. The work of rape directs attention to the legal, geopolitical, economic, and cultural contexts that post–Cold War US domestic and international efforts to combat rape and sexualized violence may enable and that, in turn, create the meaning and terms of their recognition. The work of rape foregrounds how the footing certain feminisms have gained in national and international institutions are predicated on women of color and indigenous feminist and other activisms. These various kinds of activisms are often critical of local manifestations of gendered and sexualized violence and of neocolonial, imperial, and economic policies that further such exploitation. Instead of assessing or assigning the causes and effects of sexualized violence to culture or opportunistic militarisms alone,[41] the work of rape is an onto-epistemological project. It examines how women of color and indigenous feminist and other activism and justice forums exist not only or inevitably through a parasitic or oppressive relation to elite legal feminisms but also through misapprehensions and failed commensurability required by structures of law. We can witness these interplays in contestations over the meaning of force, consent, and coercion—the interpretive frameworks that narrate harm and enable the recognition of injury—and how these concepts are produced through evidentiary accretion and contextual collapse.

War is no metaphor, although it now passes for such. The battlefield is no longer a battlefield, or rather the battlefield is the office, the grocery store, the university, the playground, the doctor's office. These and the limitless reaches of the internet are all the same: battlefields where women of color, indigenous people, and queer/trans folk perhaps hurt worse but ultimately hurt in some quintessentially "womanly" way. Under this telling, the mere introduction of women of color, queers, and the indigenous as categorical and invariably "leftist" or "progressive" additions cannot alter its temporal logic—#TimesUp. Inclusion does not reorient the meaning and harm of the violation. The included may only invariably, nebulously, "have it worse" in some way that involves "social structures" and an immiserating "history."[42] In this comparative and additive framework, the structuring logics of racial capital, premised as they are on globalized dispossession and exploitation, sexualized or otherwise, nonetheless remain.[43] The task then becomes thinking about how and when certain forms of violence register as "sexualized" ones and what the relationship might be between that recognition and ideas of redress, accountability, and justice that invariably follow. These ways might touch and overlie,

but they are not consummately absorbed by the narrative of the gendered human body, the one whose freedoms, however threatened or attenuated, might still be consolidated through a certain language of law—where, for example, the presence of sexual consent or other indications of self-possession or autonomy presumes coincidence with self-fulfillment and liberation.

Stressing incommensurability or difference would move beyond the inclusionary aspirations of dominant #MeToo narratives where race or other forms of social difference exist merely as amplifiers of distress. Thinking about difference as it is articulated within women of color feminisms and trans/queer of color critique is instructive. In those traditions, difference is not oppositional and static but "a practice that holds in suspension various, mutually exclusive structures of values."[44] Approaching difference in this way keeps the socialities that result from population divisions in close contact with the creation of economic value and exploitation. This framing sets sexualized violence within something like Édouard Glissant's right to opacity, which would seem to exist at a hard angle to the protected classes of civil or human rights law that submerge struggles in meaning beneath an air of transparent, categorical belonging.

The work of rape centers, supplements, and redeploys work in critical ethnic studies, queer critique, and women of color feminisms through an engagement with feminist legal epistemologies that have shaped some of the terms of their inquiries in the wake of the Cold War. Throughout the 1990s, with the advent of mass ethnosexualized violence in the Balkans and later Rwanda and the putative end of socialism, new systems of international law emerge as newly authoritative sites of justice.[45] At this time, mass war rape, or more precisely mass ethnoreligious war rape, helped occasion a veritable revolution in international law. Transnational feminist organizing—understood here as an uneasy and contradictory amalgam of feminisms, from international elite legal feminists to local, grassroots groups and analytics, explicitly feminist or otherwise—helped spur these transformations.[46] At this moment of mass rape during "ethnic" conflict and capitalism's triumph, "women's rights" first became widely recognized as human rights, and sexualized violence was first codified in emergent international legal instruments as a violation of what it means to be the human subject of international law. At this moment, the United States seized unexampled geopolitical clout as the world's lone superpower. Yet these instantiations of sexualized violence as central to liberalism as a project of US empire have not been analyzed in queer critiques of racial capitalism or allied scholarship.

The remarkable feminist influence and presence in international law throughout the 1990s has found attention in feminist legal and related scholarship, including feminist international relations and security studies. Particularly insightful work has constellated around the term *governance feminism*. For feminist legal theorists Janet Halley, Prabha Kotiswaran, Rachel Rebouché, and Hila Shamir, governance feminism is "an overarching term" that embraces "any form of state, state-like, or state affiliated power"—including those called "state feminism, carceral feminisms, femocrats, female policy entrepreneurs, the 'special advisors on gender violence' who dot the international legal landscape"—that is "capable of being influenced and guided by feminists and feminist ideas."[47] With an avowedly Foucauldian influence, governance feminism is also "every form in which feminists and feminist ideas exert a governing will within human affairs" and also "human-inflected processes like knowledge formation, technology and even the weather."[48] Theoretical breadth aside, the notion of governance feminism begins with a particular set of coordinates: "the classic intrafeminist struggle between a dominance feminist legal project and its socialist/leftist/postmodern-feminist opposition."[49] Dominance feminism—most closely associated with MacKinnon—"is a theory of how the eroticization of dominance and submission creates gender, creates woman and man in the social form in which we know them."[50]

What I am concerned with here is how value is created and extracted through transnational feminist interactions and packaged as a "legal feminist idea" in ways that the relationship of "feminism" to "governance" or "the state" or even the "law-like" apparatuses of nonstate governance might elide. The work of rape interrogates the material and racialized conditions and knowledges that submerge or enable the recognition of fervent debate—that lean on or crowd out long-standing and ongoing feminist or other activist modes of thinking or being that may or may not operate within the ideological or onto-epistemological commitments that legal feminists typically recognize as "legal" or even "feminist."[51] Engagements with issues connected to "feminism," "gender," and "sexuality"—even ones that might appear easily classifiable as dominance theory—are better theorized through and integrated within other sites of struggle, including racial, antiauthoritarian, antinationalisms, antiwar, or decolonial ones.[52] The heuristic of "governance feminism" can gloss these distinctions and pit dominance feminisms against "the rest" when the factors that might enable or frustrate dominance or radical feminist principles are vastly and more queerly complex than adherence to or rejection of a vision of men dominating women through sex, as chapter 1's discussion of the sex

wars and the entrance of rape into international law in the context of ethnonationalisms explores. Likewise, work in feminist international relations, which broadly considers the rationales for and root causes of wartime rape—nascently through the lens of feminist political economy—has not primarily concerned itself with the subjects and insights of queer and critical ethnic studies or what I call the work of rape.[53] Racial capitalism and the queer engines that power it—the insights of queer of color critique in particular—remain out of frame.[54] I am interested, then, in the generation of onto-epistemologies around sexualized violence and how, when, and by whom they are assumed to cohere (or are corralled into coherence) beneath the sign of "feminism" through global material struggles over the ever-unfolding meaning and scope of freedom and emancipation.

The Work of Rape asks what happens when queer and allied scholarship, including Third World and women of color and decolonial feminisms and other activisms, are brought to bear on the long 1990s. When feminist efforts in US civil rights and liberal forums are brought through racial capitalism and empire into novel and dynamic conversations with international law, what contestations surrounding global racial and sexual politics, woven with what possibilities—what violent possibilities, never pure—come into view? From and through queer critique and other activist scholarship, *The Work of Rape* offers a transnational genealogy of rape and law in the aftermath of the Cold War, when violations of "women's rights" were configured as mass crimes and mass violations of human rights against the backdrop of the new wars, the so-called ethnic conflicts in the former Yugoslavia and Rwanda.

Queer of color critique and queer diaspora's materialist inquiries into gender, race, indigeneity, and sexuality and the generation of knowledges about them emphasize the instability of "difference."[55] Queer critique asks how people come to understand themselves with, through, and against the institutions, structures of thought, and histories and locations that they inherit or in which they otherwise find themselves. Those places where rule cannot describe or capture life—for example, where discrimination paradigms fail to account for the range of what people experience as injustice—are sites that might (partially and not inevitably) yield "alternative representational domains and practices for addressing the voids in our historical consciousness (in other words, a consciousness riven with structurally produced voids)."[56] Yet queer of color critique's defining explorations of sexuality, race, and political economy cohere through an absence. The reconsolidation of international law through the "ethnic" wars as a regulatory device for appropriate arrangements of racial "pluralism," gender, and sexuality is missing,

and so is an exploration of how they index appropriate alignments to capitalism and property that exceed the single nation-state frame. As Chandan Reddy writes, sexuality "frames, redivides, or seeks to offer synthetic 'meaning'" and in the process "simultaneously conserv[es] and revis[es] the relations and histories of force of both US globalism and racial capitalism."[57] This requires an account of how sex becomes a part of human rights and humanitarian discourse through mass sexualized violence during "ethnic" warfare—the moment of contemporary international law's formal consolidation. The imbrications of human rights law with humanitarian law and international criminal law—what had historically been distinct, if related, bodies of law—has yet to be adequately interrogated in critical ethnic studies or queer critique as a process and not a juridical given, although the results of these entwinements are routinely assessed. My recourse to queer scholarship and methodologies is an effort to resituate queer of color, US-based women of color feminist, and decolonial feminist scholarship in global political spaces and histories often absent in these projects.[58] It is also an insistence that feminist analyses of rape and antirape activism be attuned to the shifting, heterogeneous formations of sexuality often connected to queer and trans of color critique, such as trans subjects, femmes, or other nondominant sexual subjects and errant pleasures.

The work of rape, then, concerns itself with new legal and social articulations of gendered and sexualized freedom, born through global geopolitical reorderings of capital, race, and sex at the end of the twentieth century. Here, I view the call for such freedoms not as strategic alibis or guises through which unpalatable agendas are unilaterally imposed by the state or the international order of them but as a part of "ever-expanding crisis[es] of confusions and conflicts around the ethics and assemblages of liberal knowledge and power."[59] The ambiguity and elasticity of what counts as freedom position it as ever elusive and exceedingly plural. Freedom so figured (or unfigured) is the foundational rationale for the existence, practices, and methods of liberal government and international governance. These escalating scales of freedom and violence—from individual to state, state to international order, individual woman to women as a global group, solitary prejudice to genocide—follow the irregular paths and assemblages of gender, race, and sexuality as they are articulated and rearticulated as critical nodes of state and suprastate justice. As Michel Foucault writes, the liberal state is the consumer and producer of freedom. It "can only function as a number of freedoms actually exist: freedom of the market, freedom to buy and sell, the free exercise of property rights, freedom of discussion, possible freedom of

expression, and so on. The new governmental reason needs freedom therefore, the new art of government consumes freedom. It consumes freedom, which means it must produce it. It must produce it, it must organize it."[60] Mimi Thi Nguyen encapsulates Foucault's insight, deeming freedom "an actual relation between governors and governed" that is "precisely the story of liberalism as empire."[61]

For Neda Atanasoski, such a production of freedom, of liberalism as empire, ties absolutely to the international deployment of diversity—as global humanism—at the Cold War's end, where the ascent of "ethnic" warfare (and later global terror) stands in firm contradistinction to US governance. In her words, "the racialization of ideological and religious formations conceived of as antithetical to the flourishing of human diversity, proliferating 'regimes of terror' that have replaced communism, at once reaffirm older notions of humanity and introduce new ones."[62] From this perspective, the ability to frame the conflicts following the collapse of the two superpower world orders as "ethnic" was no knee-jerk reaction to unprecedented events. It instead built on historical efforts by the United States to position itself as the watchdog of democracy, the bastion of a variegated freedom, and otherwise distinguish itself from the stain of European colonialism and the drab uniformity of Soviet control. As Atanasoski explains:

> Developing in response to the juridical gains of the civil rights movement, the liberation struggles in the Global South, and the threat of communism, racial multiculturalism isolated the possibility of human uplift within the boundaries of the U.S.-led "free world," while homogeneity became associated with the suppression of human difference in the Communist "unfree world." Coding the U.S.S.R. and the Eastern Bloc as ethnically homogeneous, even if only ambiguously European, enabled U.S. foreign policy to portray Soviet foreign interests as expansionist and "imperialist." In contrast, the United States' self-understanding as a racially diverse nation, with the paradigm of multiculturalism taking the place of early Cold War civil rights, buttressed its logic of "containing" the Communist threat in the Third World by distancing U.S. military interventionism from an association with European colonialism.[63]

Reentering this long history through the work of rape, with a mind cast toward the twenty-first-century maelstroms of war rape and campus sex, opens spaces for new connections and engagements to emerge. Staging contemporary sexualized controversies through the concept of the work of rape allows connections between present contestations over the bounds of legiti-

mate state violence and the meaning of good sex (and good gender, good race, etc.) so often framed as either national psychodramas or "men versus women" to resonate with the not-so-distant, transnational controversies of the recent war-torn past. Transnational feminisms (which I take to include the "second world"),[64] women of color feminisms, queer of color critique, and other activist scholarship can now meet at a moment when a new complex of international law and governance emerges to manage "ethnic violence" distinguished by mass ethnosexual rape, the world's latest threat.

This staging cuts against individualized responses to and framings of sexualized violence that risk "establishing a wide chasm between the (experience of) empowerment and an actual capacity to shape the terms of political, social, or economic life."[65] It does so by paying attention to how meanings of consent and coercion emerge, as I argue, through racialized framings of the problem of global sexualized violence. As rape and other forms of sexualized violence become crimes against humanity and violations of human rights, they amend what it means to be the human subject of international law. Such a human subject, in cultural theorist Sylvia Wynter's estimation, exemplifies "our present ethnoclass (i.e., Western bourgeois) conception of the human, which overrepresents itself as if it were the human itself."[66] Central to these maneuvers is the entrenchment and extension of the autonomous individual who is "not just any single human being but a particular way to understand and inhabit human being—a subjectivity—in which the individual understands himself to be free when he acts without influence from others."[67] Janet Jakobsen, writing in the US context, describes how "the imbrication of Protestant values and the production of value . . . make sexual relations a central part of US policy both domestically and internationally. . . . [S]ex is intimately tied to the ethics of capitalism and, ultimately, to war."[68] Jakobsen explains: "Just as the discourse of sexual freedom focuses on autonomous individuals, so also the discourse of national sovereignty is organized around the idea of autonomous nations."[69] The alleged autonomy of individual and nation thus becomes "not only the ideology of subjectivity under capitalism but the ascription of both value and citizenship to that subject under the law, including (or perhaps especially) the law of the sovereign nation."[70]

What the work of rape also demonstrates is how visions of sexual autonomy formally activated by elite legal feminists under international legal regimes in the 1990s help produce an uneven order of states. New systems for criminalizing war rape as war crimes, crimes against humanity, and even genocide provide a check on state sovereignty and autonomy, constraining how states might permissibly choose to manage their populations. Building on

Jakobsen's compelling formulation, if such sexual ordering produces autonomous subjectivities, then bad sex or illicit sex produces relations to be shunned because they disorder the conditions necessary for labor and capital's continuance. This is not to condone war rape or other forms of violation but to press against framework of rights, civil or human, that are rooted in individual frameworks of freedom and fail to recognize historically produced and variegated collective vulnerabilities. In the postsocialist era, under the new system of international law, the recognition and production of "bad sex" transpires unevenly under liberal and human rights regimes that depend on what critical ethnic studies scholar Randall Williams calls "the divided world," or a world yet riven by colonialisms. As Williams writes, "Human rights have increasingly come to define 'the political' in this age of advanced capitalist globalization."[71] In his estimation, the "postwar re-formation of international institutions" that inaugurated the formal project of human rights "did not constitute a break with the historical structures of colonial violence but instead was part and parcel of an imperialist-directed reorganization of relations within and between contemporary state and social formations: the colonial, the neocolonial, and the neoimperial."[72]

After the Cold War, expansions in the meaning and social significance of sexualized violence reorient and rework the boundary between sexual consent and coercion as a means of demarcating peace and terror. The meanings of consent and coercion emerge through racialized framings of the problem of global sexualized violence and particularly through the figuring of rape and other sexualized violence as atrocity crimes within international law. From antinationalist Balkan understandings of rape in warfare to indigenous or postcolonial activisms in the Americas, wildly varying feminist understandings of sexualized violence were differently mobilized in the campaign to establish rape as a verifiable violation of what it means to be human—for rape to become a violation of human rights, a crime against humanity, a war crime, and a kind of genocide.

From these disparate contexts and experiences, rape and sexual violence emerge as negotiated terms, recognizable in part by their definitional components, which generally include what it means to be forced to have sex, what constitutes consent to sex, and what sexual coercion looks like. The push-pull between frameworks of consent and coercion is a part of the fractious and difficult work of identifying what "counts" as rape, other sexualized violence, and even sex itself.[73] Coercion frameworks—tested in part on the grounds of racialized war—are often presented as a corrective to contract theory that would render rape and other sexualized violence a problem of

consent. Here, consent is taken be assent to the actions taking place without further examination of context. The meanings of consent and coercion emerge, I argue, through racialized framings of the problem of global sexualized violence—exploitative and expropriating contexts that are paradoxically (but productively) disavowed through the very act of "contextualizing" the problems these contexts present to frameworks of individual sexual consent. Mass war rape, for example, presses hard against individual asseverations of consent as an appropriate metric for diagnosing the presence or absence of sexualized violence. But the discussion of consent and coercion (not to mention its application in law) often assumes artificially delimited fields of what counts as "sexual." In this way, sexual injury is already sundered from formulations that do not solely locate the wound on autonomous, individual bodies.

The changing contours of sexual consent and coercion, I argue, reshape the world. They affect what counts as legitimate warfare. They create at-risk populations and geographies subject to new and intensified forms of governance in the name of public health and reproductive freedom. They contour the social and legal meaning of race (or simply "difference") by revamping the limits of state sovereignty in a "postsocialist" order. Contestations over the parameters of sexual consent and coercion in turn rework the meaning and operations of empire and neocolonialism in a moment of US geopolitical ascendency. By formally setting sexualized violence as external and not foundational to the concomitant splay of global capital, it becomes a problem that the righteous investments of capital and the judicious application of political and military power might mitigate, if not solve outright. It is in this underacknowledged relational context and history that the current preoccupation with sexual harassment and rape unfolds. International law and governance, legal theory, and scholarship, produced partly by elite feminist attorneys through their encounters with transnational feminist activisms, are thus metanarratives and material practices that help structure relations between states, individuals, and the international order of states. Law and the terms of law—including its articulation within and through feminist legal academia in concert with transnational organizing networks—is in many ways an undertheorized archive and architecture of power.[74]

What this means for international and domestic governance, rights, and populations—for how power operates through concepts like gender, race, sexuality, and nation—requires a method that takes into account legal developments in the articulations of consent, force, and coercion. These developments must be treated not only as discrete occurrences, but as malleable and contingent processes that are themselves dependent on other legal processes

and theorizations that at first blush may seem unconnected to antisexualized violence law and activisms. This analytic, I argue, gives us something to say about the inclusionary impasse of certain strains of #MeToo. It is a gesture toward a theory of sexualized violence that does not assume a coherent global feminist subject, pit social groups against each other in a hierarchy of comparative suffering that presupposes those groups as ahistorical and discrete, or align any particular form of feminism, queerness, or social activism with unmediated progress. This requires a method for the cultural study of law that emphasizes what falls away as much as what remains. This method must consider, as Williams succinctly puts it, what is "negated and refused in order for the liberal model of rights to emerge as the privileged ideological frame through which excessive cruelty" was and may be "conceived and interpreted,"[75] the thinking and work that can only "count" aslant.

Those political possibilities can be difficult to see when rape is so often framed in the contractual/transactional terms of consent. If the story of rape has thus far remained largely portrayed as atomized negotiations for sex overwritten by rage or misunderstanding—or, in the case of war rape prosecutions, a problem of a certain type of governance system (or lack thereof)—the work of rape is a radical replotting. It is a rearrangement of plot in deference to critiques of historical time. It is a new vantage from which to consider how law works, from which to probe the coherency of the legal subject and the subjectivities, or ways of understanding and situating oneself in the world, that such a subject helps engender. I think of the work of rape as an effort to rearrange or even derange plot in all its many senses—the ground, the story, the plan, or intrigue. This plotting is a heuristic for keeping abstractions of gendered sexuality and theory grounded in rape's intimacies with property and law and their instrumentality to racist, settler colonial, imperial, and slaveholding orders—of keeping rape, through its genocidal and dispossessive iterations, roughly tethered to expropriations of resources, lives, and land. Of keeping changing legal models of consent not solely as isolated considerations of individual will or desire, but dependent on changes in property regimes and relations. Otherwise, rape is, in essence, a deceitful act, an act of "individual" violation that supports collective lies, a way of claiming possession within and across multiple sites for what is never one's "own." To apprehend the work of rape is to apprehend the lie. Zeroing in on the work of rape lets us perceive how efforts to create legally recognizable sexual harms through the standardization of concepts like consent and coercion render disparate instances of sexualized violence commodity-like and interchangeable, echoing the violation's centrality to property regimes. By following how the

meaning of rape and sexualized violence is produced through feminist activist and legal negotiations that range across geographies, peoples, and bodies of law, this project considers how the concept of women's rights as human rights forms a connective tissue—a global medium of exchange—that is neither simply repressive nor a site of unqualified liberation. To consider these often-contradictory effects, I develop a method that reconceptualizes the meaning, scope, and impact of law—recognizing it as an archive of queer kinships, of unacknowledged limits, bans, and productions. The work of rape is about bordering, ordering. The method, what I call law beyond Law, kicks at the fence.

Thinking *law beyond Law*

With the 1975 publication of *Against Our Will*, Susan Brownmiller's remake of rape from an instinctual act to a crime of violence morphed into a phrase that begat a million feminist think pieces and became a battle cry: "Rape is about power, not sex."[76] But a genealogy of rape inaugurated by queer, trans, and women of color writers, scholars, and activists tells a more complicated story. What falls within the ambit of sexuality, good or bad—what is, in fact, *sexual*—is certainly about power, as legal scholar Katherine Franke and others have observed. Writing in the case of the police assault of Abner Louima, Franke defines the sexual as less a static descriptor of certain acts, body parts, or events and instead as "a particularly efficient and dangerous conduit with which to exercise power."[77] Building on this work, Jasbir Puar notes that "'the sexual' is always already inscribed" within regimes of power—be they necropolitical, biopolitical or otherwise—in ways that "implicat[e] corporeal conquest, colonial domination, and death."[78]

The Work of Rape provides a transnational genealogy of rape and sexual violence as salient terms and concepts in international humanitarian, criminal, human rights law and selected sites of US domestic law through attention to the racialized legacies that append feminist and legal theorizations of sex, gender, and violence locally, internationally, and transnationally.[79] These genealogies—which contain but are not reducible to traditional accounts of legal precedent—emerge only by reading across the multiple mediums, practices, and locations that converge to lift the concepts of rape and sexual violence to international legal attention, shaping its discursive potentials. These include war theory and securitization practices; historical and contemporary popular accounts of the disintegration of the former Yugoslavia and Rwanda at and across local, international, and transnational scales; US/Western feminist organizing and theorizations of race, sexuality, gender, violence, and the

state; transnational feminist commitments and organizing networks; (academic) legal treatments of rape and sexual violence as torture and as human rights; the placement of rape and sexual violence in humanitarian law as mass crimes; the resulting convolutions in how we conceptualize consent at home and abroad; the invagination of the neoliberal state by nongovernmental organizations and auxiliary institutions; and the racialization of Islam in and outside of the Balkans.

The list is long and tortured by design. It is an attempt to illustrate how a narrow focus on rape, a seemingly self-evident violation that a lagging rape law must rush to correct, cannot account for what underlies it. Too close of a focus on law that spans only the surface of feminist movement efforts—such as a narrative that presents each ruling or statute as a discrete event—belies foundational and ongoing interrelations. Such a focus elides the concentrated, multiscalar feminist and other activist ambitions that source from overlapping legal, geopolitical, and theoretical locations. To put the proposition slightly differently, a fixed focus on the bounded rule, statute, or judicial decision (or even a flat reliance on the legal concepts that animate them, like consent, coercion, agency, or autonomy) can obscure how the creation of good or bad sex, especially impermissible or bad sex, has value. Sex has political, geopolitical, and economic value—differential value across people and places and times. And sex has since the ethnic wars become a key facet of the international management of states and neoliberal economies in very particular ways.

As Sharon Holland writes, "There is no raceless course of desire"; even this sentiment might be enhanced by a focus on settler colonialism and the making of desire or the erotic within law and law-like systems of governance—of how borders and property allocations foster certain proximities and distances that "desire" glosses over, leaving those less salutary dimensions to labor at a remove beneath other names.[80] Sex, good or bad, has value, value is always about desire; pleasure is gleaned from the fields of violence, of race, class, and gendered power—it does not exist in isolation from them. The work of rape is the generation of value—value that is produced in part through the structural intimacies created through collisions between what is and is not able to be named sexual violence through demands for state responsibility and international modes of redress. What shape that state responsibility now takes—how impermissible sexualized violence is defined, when its occurrence spurs legal or militaristic action—is a negotiation of political and economic value at the core.[81] But this vantage can be lost in traditional feminist legal approaches to sexualized violence. This vantage can also be diminished

in activist scholarship, including certain feminist and queer ones, that accept law's pronouncements about what it does and does not do or otherwise fail to examine law's technical inner workings—the conduits of power that at once create and complicate divisions between the local, regional, transnational, or global.

Juridical categories are contested configurations of language and practice that frequently constitute and support specific notions of the state but do not inevitably align or harmonize in any easily digestible totality. Across and within national and international legal systems, the juridical realm is, like the state itself, noncohesive and at times inchoate—it is nothing without the people who create, interpret, implement, and rework it. So, too, the composition of the elite themselves—their partial alignments with institutional, state, and juridical authority, varying across international, transnational, and local scales—must be considered, even if it is rarely noted. Omissions of these sorts obscure crucial dimensions of how state power and international governance work to facilitate and convert "gender progress" to less desirable ends, including the economic exploitation of countries or regions deemed sexually "backward" or otherwise "unsafe." They also tend to downplay how deeply those conflicts and controversies "elsewhere" live in the center of so much of the Global North's understanding of the appropriate moral, ethical, and legal demarcations of sex into permissible/pleasurable and illicit/harmful. Because domestic law so immediately governs us, it is easy to lose sight of how legal norms and meanings concerning sexualized violence are produced not only through national or local law but through interactions across global borders. Given these developments, large-scale and small, the task at hand is, as Donna Haraway writes, "to tell big-enough stories without determinism, teleology, and plan."[82]

The Work of Rape develops a queer method that bridges theories and operations of international law, governance, and power. It draws from feminist legal scholarship's attention to institution building and legal technics as well as activist scholarship's theorizations of transnationalism, statecraft, racial capitalism, historical social difference, and subjectivity. I call this method law beyond Law. The method is an approach to studies of law and identity that views law not simply as a formal, transparent vehicle of state and institutional authority. Through this method, law is understood as a transnational archive of attachments and intimacies whose force draws in part from the secretive relations of its contents, the coded proximities that coil in the legal theories, terms of art, mechanics, and processes that underlie the decision or rule, the pronouncement. The method directs attention to the making and inner operations of law—the human and

nonhuman relations and connections required to theorize harm within the preexisting strictures of available structures and theories of violation. Situating gendered and other injuries in this complex of meaning-making disrupts the presumed force and coherence of law as well as what Wendy Brown calls "liberal solipsism" or "the radical decontextualization of the subject characteristic of liberal discourse that is key to the fictional sovereign individualism of liberalism."[83] It does so by placing the concept of grievance or injury, in this case sexualized injury, within the onto-epistemologies and structures that make it cognizable as individual violation.

In contrast to law beyond Law, capital-*L* "Law" approaches artificially bolster the purpose and power of Law, amplifying its normalizing and disciplinary effects as a social regulator. Largely aiming for the empowerment and redress of the individual, these approaches isolate the making of legal theory and law to the province of the legal elite. This shapes what, in the present instance, can and cannot fall within the realm of sex and sexualized violence by creating their terms and meanings through a thin and isolated history of Western gender that, among other things, downplays or denies its foundational and ongoing settler colonialism. Instead, law beyond Law emphasizes how people who resist oppressive conditions and create (multiple, competing) knowledge about their situations are in fact theorizing harm. The method also emphasizes how (and how often) their work participates in or otherwise becomes part of *legal* theorizations of harm.

The most trenchant cultural critiques of race and sexuality within law aspire to a practice of what Siobhan Somerville calls looking "sideways" or interpreting legal opinions and lawmaking in their historical contexts. In "Queer Loving," Somerville interrogates ideologies of race and sexual orientation from within the historicized juridical production of racial and sexual formations.[84] By reading the US Supreme Court decision *Loving v. Virginia*—which forbids state prohibitions of interracial marriage—alongside the contemporaneous legal history of homosexuality and transformations in federal policy on immigration and naturalization (a.k.a. she reads "sideways"),[85] Somerville offers an account of race, sexuality, and nation as legally and culturally intertwined. This method of reading law eschews the much-critiqued traditional reliance on formal legal precedent availed by judges and legal practitioners to ground and legitimate the legal reasoning marshaled in support of their present determinations. Instead, Somerville's method favors a historically specific analysis that refuses analogical thinking—the notion that "race" might be like "gender," which in turn might be like "sexuality"—for the purposes of extending legal protection. Not only do race-gender-sexuality

analogies promote the fiction that the originating unit of comparison—in this case, race—is now essentially immune to discrimination or other issues encompassed in the purview of civil rights legislation, but analogizing also, as Puar writes, "relieves mainstream gays, lesbians, and queers from any accountability to anti-racist agendas, produces whiteness as a queer norm (and straightness as a racial norm), and fosters anti-intersectional analyses that posit sexual identity as 'like' or 'parallel' to race."[86] On a more practical level, legal reliance on analogy has also been roundly criticized by legal scholars, including MacKinnon, who caution against a narrowing of the legal recognition of sexism that can result from defining its injury within the limited strictures of recognized civil rights violations.[87]

Reading sideways counters an aggressive reliance on precedent as the preeminent mode of legal reasoning by periodizing statutes and opinions within the historical currents of their time. Legal and trans studies theorist Dean Spade has also argued against the uncritical celebration of rights, noting that rights guarantees and their administrative and legislative enforcement produce inequities by design.[88] Yet cultural studies of the law still tend to treat the statutes or the legal opinions at issue as fairly discrete objects of analysis—their vitality as legal artifacts bounded by the official language in which they are finally promulgated. Even as law is inserted, read back into its historical moment, the historical process of its creation—the inner workings of strategy and process, these resolutely legal processes—are sidelined, not portrayed as forms of power or typically incorporated into analyses of the making of race or other forms of social historical difference.

My method builds on both Somerville's and Spade's insights by placing the historical contexts of legal decision making and administration in conjunction with the doctrinal, theoretical, and procedural production of law to emphasize law beyond Law. This method brings the insights of queer critique, allied scholarship on transnational race making, and feminist legal studies' attention to how law works in more explicit contact.[89] This method infuses analysis of legal processes and concepts that produce law into any attempt to assess the meaning and impact of law. Such concepts include doctrines of privacy and autonomy but also theories of punishment, liability, and jurisdiction that implicate larger histories and crucially other subjects than, in this instance, the juridical treatment of rape. Legal processes also encompass the minutiae of law—the procedures that shape an internal narrative of law, including the technical crafting of precedent, which depends on multiple strands of thematically disparate, historically situated administrative and other law.

With this in mind, I direct considerable energies toward situating the work of legal scholars in relation to the work of humanities scholars and nonlegal feminist activists, treating the sum of these encounters as essentially a part of lawmaking. Here, legal academic production and practice are not transparent accounts of what law is, was, or will be. They form a neglected but meaningful site of analysis because they contain the traces or marks of engagements that cannot be wholly represented within the language and practice of law. I therefore view legal practice and academic production as the sum of the efforts, affects, circumstances, and activisms or social relations and engagements that are distilled into the legal argument or thought. In this spirit, I turn toward ancillary forms of legal knowledge, including journal articles, talks, white papers, position papers, case and statutory law, and conference attendance records and reports. My method examines legal scholarship in the context of authors' participation in legal and extralegal processes—including activist networks and organizing. In doing so, it makes the process and production of law and law-like spaces geared toward the address of historical social "difference" into an archive and relation of study bound to any discussion of what the law does or what it is. In this account, liberal and human rights law is not just a project premised on individual rights but a conflicted process that must account for the structure of legal arguments. As such, law beyond Law attenuates tendencies to enshrine US law, legal practice, and conceptual genealogies as global templates, while acknowledging the undeniable effects of US law on international legal feminisms and the crafting of international law as a carceral project. In this way, the method joins scholarship that cautions against overendowing and overdetermining the heft and expanse of law, overestimating or prescribing the area, degree, and kind of influence it may exert.

This method is no reclamation of law or queer liberalism that justifies legal protections for the few at the expense of the many. It is instead a way to think through law's effects in ways that don't presume an outcome, good or bad, or pin stable legal meaning to the particular issue a single law or set of laws might address. It seeks what can be naturalized in discussions of civil or human rights from any location, politics, or intellectual formation that does not query the transnational racial, gendered, and sexualized and other politics of the organizational and institutional knowledge understood to describe and evince its harms.[90] This method requires thinking about not only the differential order of rights—or the hierarchies of rights and their applications across national, regional, and international registers—but also the processes, activisms, knowledges, and logics that form and connect them, that

disrupt clean articulations of those scales. The method appeals then, as the following chapters show, to the promise of transnational analysis and work in the queer diasporic tradition, where the transnational is "not merely multinational, but . . . an analytic or methodology that denaturalizes the forms of social, subjective, and political organization implied by the nation-state form."[91] In this way, the method builds on queer scholarship that performs, as Gayatri Gopinath writes, "a queer incursion" that "instantiates alternative cartographies and spatial logics that allow for other histories of global affiliation and affinity to emerge."[92]

At stake in this effort is not the form of immediate institutional recourse available for those who experience sexualized violence. Rather, law beyond Law considers what breadth of knowledge and experience will be consulted and considered in current public and legal debates about the meaning and significance of sexualized violence, broadly, and rape, sexual assault, and sexual harassment more narrowly. What is the legitimate or valid context in which discrete legal issues can be framed and subsequently evaluated? As Kyla Wazana Tompkins writes, what conceptual configuring of the circular relations between selves and social worlds allow us to "recognize our bodies as vulnerable to each other in ways that are terrible—that is, full of terror—and, at other times, politically productive"?[93]

My motivations here run alongside Robert Reid-Pharr's insistence on a "post-humanist archival practice" that does not cede discursive, material, or institutional ground to a totalizing humanist metaphysic but instead considers "the multiple ways that the intellectual protocols of slavery and colonization have structured increasingly complex and novel discourses of human subjectivity" and the "intellectual insurgencies" that undertake that work.[94] In other words, I view law, the state, and the international order of states not from the perspective of sovereignty or legitimacy but precisely as sites that evince "a complex problem of power."[95] Following this line of reasoning, law is no cogent "deliverable," and the subject of law is no blank or coherent agent exercising free will. Both are amalgamations of the concepts and processes of their conjoined epistemic and bureaucratic inner workings in an uneven world—together, a fretful incoherence.

The Work of Rape and *law beyond Law*

The conceptual trajectory of rape in the Anglo-American tradition—from crime of property, to crime against honor, to gender violence and a potential affront to sex equality or autonomy principles, to a violation of human

rights and at times genocide—is a case study in the incoherence of law and its subject. But only if we view that trajectory as marking changes in human subjectivity, geopolitics, and property and labor arrangements that are otherwise diminished and obscured when changes in interpretations of rights or crimes are posited to be self-evidently "on the books." For example, as rape and sexual violence become atrocity crimes through "ethnic" conflict—and are statutorily defined or litigated as war crimes, crimes against humanity, and genocide—they transform from individual to collective violations. As formal armed conflicts abate into zones of instability, mass rape and other forms of sexualized violence also migrate, becoming concerns that persist both in and out of war.[96] This movement is facilitated and made recognizable by shifts in international legal literature terminology—which initially designate the problem of gender and sexualized violence in armed conflict as "rape," then "sexual violence," then "sexual slavery" and finally "gender violence." These name changes are predicated on a complex interplay of local, international, and transnational feminist activisms; legal feminist activisms; and the larger international legal and global response to the "new wars."[97]

The transformations of content and scope that accompany this changing nomenclature reorder and reemphasize different aspects of the wide range of violations that may occur in the orbit of the sexual. An emphasis on "rape" in warfare, for instance, marks certain acts and aspects of the term—under Anglo-American legal traditions, what constitutes consent, what signals compulsion or force, whether anal or other penetration will be considered rape—as subject to public reconfiguration and debate. "Sexual violence" encompasses and foregrounds recognition of nonpenetrative acts as sexual violations, including forced public nudity.[98] "Sexual slavery" accounts for prolonged control and physical restraint, a potential theft of labor, and repeated sexual violation.[99] "Gender violence" expands the purview of "women's human rights" to encompass reproductive violence such as forced pregnancy, forced abortion, and forced or underage marriage.[100] Gender violence also attempts to acknowledge male vulnerability to sexual violence.[101] Mutable theorizations of rape and sexual violence, as well as the content and meaning of war, thus unfold as commentators and tribunals interpret the language (statutory or otherwise) that puts rape and sexual violence within their purview. Tribunals and courts issue judgments and decisions that depend on the work of legal and nonlegal experts to structure charges and theorize evidence from the lives of the locals, the people who work and live on the grounds of war.

These terminological shifts, largely unmarked in law and its supplementary literatures, transpire unevenly and should not be understood as marking

discrete historical episodes, events, or studied intentions. Instead, these shifts feed and are in turn fed by further transformations in the host of factors that conspired to bring wartime rape and sexual violence to attention in the early 1990s—changes in how we understand warfare, gender, sexuality, state violence, and more recently the politics of terror. Moreover, these shifts explicitly carve out gendered sexuality as a domain for international humanitarian law and other military matters, providing formal legal avenues that international sexual rights advocates and Global South and decolonial feminists also avail for a number of purposes and to a variety of ends.

The method of law beyond Law highlights the processes, mechanics, and conceptual underpinnings that give legal life to the grievances of civil or human rights claims, connecting them in ways that vaunt and reenvision the terrain of (liberal) individualism. This occurs not only through the uptake of equality paradigms enacted through "diversity" or "multiculturalism" but by availing the mechanisms and structures of law and legal thought that must be summoned to forward them and that operate unevenly in an uneven or, in Williams's evocative term, "divided" world. Analogy, autonomy, contract, doctrines of responsibility, jurisdiction, and the legitimate use of violence shape the definition and recognition of rape and other forms of sexualized violence. This in turn affects the social meanings and arrangements of gender, sex, race, and sexuality. The structures and inner workings of law also affect how states may be deemed responsible to their publics and how the international order of states is understood to be responsible to humanity. These operations remake "private" and "public" spaces by changing understandings of war and risk, as the following chapters explore, and therefore remake how people live and experience "freedom."

The structures, internal processes, and conceptual scaffolding of law point to unexpected connections of power and capital between nation-states, regions, and peoples that are enlivened through international law and its epistemic structures of harm, injury, and evidence that circulate legal knowledge and ideas. Neglecting them, I suggest, inadvertently contributes to the process by which "history transforms documents into monuments" by brushing past the ways that even law contains stories that revamp or undermine its presumed authority.[102] The "legal kinships" and affinities that scholars trace by following solely, for example, the legal position on the issue rather than the embedded histories of the technical arguments marshaled to discuss them (and the labor arrangements and institutional locations of those who make the arguments) inadvertently disavow a host of relationships, of kinships, that exceed standard accountings.[103]

Using law beyond Law holds open a transnational queer space between a number of disciplinary and methodological approaches to violence. These include writing that elaborates the political flexibility of gender-based freedom advocacy and the underbelly of liberal strategies that fuse the language of human rights, sexual and reproductive freedom, and gender equality;[104] explorations of race, property, and labor inaugurated by Cedric Robinson beneath the banner of racial capitalism and carried through in work on the racial roots of neoliberalism as a counter to post–World War II freedom movements, decolonization, and the ongoing labors of settler dispossession;[105] legal and sociolegal scholarship on Title IX, human trafficking, war rape, and theories of sexual consent and coercion;[106] queer and trans theory's complex revelations in desire, kinship, and solidarity, which are also concerned with empire and "racial capitalism," if not always recognized as such;[107] and scholarship that interrogates the sprawl of the surveillance state through the state's embattled relationship to racialized Islam.[108] The method holds that space to offer a queer geopolitics of empire, one where any account of the "standard architecture" of empire must take up negotiations and overhauls in force, consent, and coercion that transpire as sexualized violence and ethnic warfare meet at the Cold War's end.[109]

The method is also an attempt to give critical attention to liberal and internationalist feminisms as they exist across national and class divides and not just to extract the repressive effects of their alignments with ever-encroaching security states. I want to mark how subscribers to these feminisms (or those portrayed as subscribing to them) experience them (as constrained choice, as liberatory) and how their language and practice may imperfectly, haltingly, provide opportunities for other motivations or worldviews to take root. This approach does not discount the social fact of uneven distributions of power typified by mass disenfranchisement from political institutions—like the United Nations and the nation-state itself. Instead, it seeks to open seemingly entrenched or congealed apparatuses to the possibility of transformations that provide more than hegemonic reinforcements, to see what may be seized, when it may be seized, and by whom. The method of law beyond Law is an effort to remedy how treatments of international human rights and humanitarian law can telescope international law and governance with Global North state policy and compound the collapse by focusing on local response to the homogeneous thrust of Law.

Reading law beyond Law as method retheorizes and reorients the conceptual and procedural inner workings of law and what we think of as law itself in an effort consider how histories of colonialism, imperialism, and milita-

risms not only foment its concepts and operations (including the concepts of sexual consent and coercion) but continue to contour their meaning and color their work. The terms *consent* and *coercion* are negotiated through historical contestations of sociolegal concepts like force, fraud, autonomy, and self-possession, requiring attention to the social translation of what counts as sexual violence as it informs legal terms of art and process. Some of this is definitional—what suffices, for example, as evidence of consent or coercion. Some is procedural, administrative, and even conceptual, where the idea of violation is bound to theories of harm that implicate larger histories and subjects rather than to sexualized violence alone.

This method shows how the work of rape is desire work in intimate and public properties exceeding human action and intention. By this I mean that the legal recognition of rape is not simply recognition of an individual or even mass violation. It is a structuring of what forms of sexual desire are licit—what forms desire may take without prompting state interference or cultural condemnation. It is also a pivot in a much broader system that in turn endorses and entrenches certain ways of thinking about law and certain theories and operations of law that exceed the delimited issue of rape. It is a pivot in the work of global racial capitalism.

In other words, if Black, brown, and indigenous experiences are "left out," merely iterating that these rapes are somehow "worse" or that these bodies are simply "more vulnerable" does not engage the structures of thought that underlie legal and social ways of thinking and speaking about sexualized violence. Recognizing this is a start, but not an end. It is better to follow how the concepts of consent and coercion become commodity-like, exchangeable as evidence of gendered vulnerability, in political and legal speech. With the advent of rape as a violation of international criminal, humanitarian, and human rights law, notions of consent and coercion can and do undergird the international order of states through the language of human rights and humanitarianism while facilitating indigenous dispossession, militarized interventions, and racial capital flows—echoes of the property logics that initially structured the Anglo-American recognition of the crime.[110] This contractual framing allows arguments about the impermissibility of sexualized violence to stay locked in the initial transaction, framing violation as simply a bad negotiation, misrecognition, or mostly one-off compulsion. This casts the concept of sexualized violence as an issue of consent, force, or coercion—an imposition on the "free will" of the self-actuated rights-bearing subject—and leads to debates familiar to feminists, including the sex war–era grapplings about the abstracted possibility of sexual agency under conditions of patriarchy.

In feminist circles and mass publics, subtleties have often been blanketed by the demand to "believe women." In some queer antiracist circles, they have not.[111] Crucially, consent and coercion are not simply "differentially experienced on the ground," but they are also concepts that take the experiences of the indigenous, vulnerable domestic populations, and the war-raped of the Global South and use them to advance an idea of violence against women and form legal terms of art, like *consent*, that traverse social and legal contexts and bodies of law. In this way, the history of state and judicial engagement with antisexualized violence activisms may be more productively traced through an embedded and context-dependent genealogy of what sexualized violence means—what work it does—than a simple mapping of legal decisions or precedent or a push for recognizing, however well-meaning, the prevalence of sexualized violence in the lives of "all women." The work of rape and the method of *law beyond Law* destabilize progressive notions of history, time, and social group formation by recognizing, for example, how high-order international human rights and criminal violations like genocide—which can push against the standard of consent as being the most relevant indicator of sexualized violence—reverberate in ongoing debates on Title IX, a civil rights issue. In short, the making of antisexual violence law can open into vistas of law and governance beyond the singular issue of rape and sexual violence in ways that defy straightforward narrativization of the progress of women's rights and that complicate critiques of historical progress that skirt close attention to how the law works. Attention to the making of antisexual violence law also opens up how we think about law and justice and inclusion in law by asking that we reconsider what law is and exactly what it does. The following sections illustrate this.

Rape as Reproduction, Rape as Genocide / Dead Labor and *law beyond Law*

Here is a way we often discuss law and social justice: law will give it to you, or it will not. In each case these declarations conceptually sever justice from law—justice is something that simply can or cannot happen in this place called law. The dislocation of law from justice reifies each as categories that are mostly self-evident and isolated; they cannot touch. Yet through this separation, justice happens. An idea of justice emerges in relation to the work of law that shifts and changes and accommodates and in turn shifts, changes, and accommodates what justice is—even as we assert what it is not. As Lisa Lowe observes, the language of justice and ability to imagine it is entangled in the

history of colonialism; the language of justice is inherited.[112] Thinking about law and justice relationally and as colonial inheritance reframes the significance and possibilities of the 1990s advent of rape and sexualized violence as atrocity crimes—war crimes, crimes against humanity, and genocide—in the grip of ethnic war. It provides another plot point in the narrative of rape.

This relational thinking, coupled with an attention to law beyond Law as method, can tell us something, for example, about genocide and the possibilities for justice that accrue or disperse through the heavy presence of its formal charge or the unmarked logics that persist in its absence—that largely cannot be officially, legally apprehended in that name, in part because international law turns on voluntary compliance and valorizes state sovereignty. The 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide defines *genocide* as acts "committed with intent to destroy, in whole or in part, a national ethnic, racial or religious group." Genocidal acts as enumerated include "killing members of the group," "causing serious bodily or mental harm to group members," and "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part." The convention also defines genocide as a form of reproductive violence, including acts that "impos[e] measures intended to prevent births within the group" and the "forcib[le] transfe[r] of children of the group to another group."[113] In the midst of the 1990s ethnic wars, rape as genocide emerged as a privileged way of thinking about race and sex and gender and violence—a corrective to the critiques long made against radical or dominance feminists like MacKinnon or Andrea Dworkin, whose totalizing views of gender made little space for thinking through other historical forms of social difference. How do these changes in law shape what justice can and cannot mean? As a method, law beyond Law clears space to think about genocide by looking at how it is named or not named and not only in legal decisions or pronouncements. The method also directs us to consider legal technologies and terms of art—those epistemic and procedural inner workings that give words like *consent* and *coercion* legal meaning and social force. By looking at how law theorizes the harm or wrong of rape—as an incursion, a besmirching of autonomy or self-possession, as an affront to equality principles, or, in the case of rape as genocide, as animus-driven group destruction—the meanings and utility of consent and coercion as concepts that promote or frustrate "justice" come into relief.

To demonstrate the method of law beyond Law, I follow it in concert with theoretical models developed in queer of color and transgender critique and consider the relationships between property/land, genocide, and rape.

Rather than look at charges of "genocidal rape" as a discrete category, I place rape as genocide in relation to broader claims about the nature of rape as a violation and the primacy of consent to its diagnosis. Specifically, I look at the legal charge of rape by deception—a legal form of rape no longer widely recognized. Rape by deception is exactly what it sounds like—a usually penetrative sex act obtained under false pretenses. In locations where it is prohibited, this charge has attached itself to race jumpers, trans men, and butch women. Interestingly, it has recently emerged at the center of a set of legal debates that seek to determine on what grounds rape should be considered a legal wrong. Rape by deception is thought to offer a conceptual paradox for those who contend that rape's infringements of autonomy—conceived mostly, but not exclusively, as individual decision-making and the manifestation of free will—are the rationale for its criminalization. The thinking goes: how can rape by deception not be uniformly outlawed if the rationale for condemning rape in the first place is an autonomy violation? This positioning holds the notion of choice or welcomeness to a sexual encounter as indicators of autonomy at arm's length from queer work on the contradictions and complexities of affect and desire.[114] Rape by deception and rape as genocide are kept apart, theorized separately, but there are connections between them that law beyond Law opens to view, honing in on shifts in the meanings of consent and coercion as commodity-like, as reproductive technologies that designate permissible and impermissible forms of intimacies and population control—ones that can merit military campaigns in the name of justice, as sites of capitalist expansion.

What ties rape as genocide and rape by deception together are not only notions of wrongs or harms that justify juridical attention or oversight but also how debates about consent and coercion are mechanisms that collapse and connect what we might loosely call sexualized injury across time, location, and type or kind. Famously, Karl Marx has the following to say about dead labor: "Capital is dead labour, that, vampire-like, only lives by sucking living labour, and lives the more, the more labour it sucks."[115] For Marx, dead labor is work ossified, congealed into a machine, a piece of property—a commodity. I understand legal definitions of rape and the legal recognition of rape as akin to dead labor, as commodities—things that embody and obscure the social relations of their productions, objectify and attempt to consolidate ideas about sexual violence. Efforts to create legally recognizable sexual harms by standardizing concepts like consent and coercion render disparate cases of sexualized violence—and the affective attachments and forms

of care that drive antisexualized violence organizing—commodity-like and interchangeable. Harassment in the classroom, sexualized torture in a black site prison, and rape on this or that battlefield are conceptually connected, marked by a lack of consent and the presence of force or coercion, proffering a capacious concept of sexualized violence that collapses these sites of violence and the variations in them,[116] summoning the consequences of global capitalism and securitized democracy to these recognized sites of sexualized violence. The commodity-like concept of rape extends the rationale for militarized securitization and humanitarian logics and initiatives beyond the site of war—quelling thinking and furthering a murderous episteme through attempts to enact a unified social justice agenda: a world without rape.[117] With the homogenization of rape and other forms of sexualized violence, perpetual wranglings over the boundaries between consent and coercion or definitions of force or welcomeness are battles over the reach and spread of state power, capital, and the parameters of appropriate intimacies: little pivots in the plot, in the relationship between law and justice. In this way, the fascination in legal circles with the conceptual difficulties that rape by deception poses to regimes of consent or autonomy might be better understood as negotiations in the production of social value, which I understand as a form of reproductive labor. This is the real deception of rape and its racialized juridical entanglements, one that is dramatized in recent treatments of the legal category of rape by deception proper. The advent and designation of genocidal rape itself can obscure how rape law, exemplified by controversies over the concept of rape by deception, can operate ruthlessly, genocidally, in the service of a settler and cis-hetero championing of gender justice.

Rape by Deception and Rape as Genocide / Race, Kinship, and the Commodity Form

To position rape by deception and rape as genocide in proximity requires something beyond the sex wars or #MeToo to account for the social significance and legal genealogies of rape. How do we think about rape, genocide, capitalism, law, and justice together in this moment? How do we do this thinking not to correct course per se but more in the spirit of Adorno's negative dialectic, which does not "posit an alternative to the contradictions that score contemporary capitalism" but instead enacts a reach toward "the possibility of overcoming those contradictions through overcoming the conditions of capitalism"?[118] A start might follow when and how rape is figured as an individual

affront to the possessive individual and when it also becomes a proxy for geographies of peace and terror—the only form of "gender-based" violence capable of threatening international security.

In his 2013 *Yale Law Review* article, "The Riddle of Rape by Deception and the Myth of Sexual Autonomy," Jed Rubenfeld begins with an account of a 2010 rape conviction in Jerusalem. In the *State of Israel v. Kashour*, an Arab man is convicted of rape in Jerusalem "not for forcing sex on his victim, but for posing as a 'Jewish bachelor' with a 'serious romantic' interest in her." Rubenfeld quotes the opinion: "If [the complainant] had not thought the accused was a Jewish bachelor interested in a serious romantic relationship, she would not have co-operated with him. . . . The court is obliged to protect the public interest from sophisticated, smooth-tongued and sweet-talking criminals who can deceive innocent victims at an unbearable price—the sanctity of their bodies and souls."[119] Rubenfeld presents the core problem of this case as one of dishonesty. In that way, the problem it presents is essentially like laws and pronouncements made in places from Tennessee to Massachusetts to Canada that express some understanding that sex procured dishonestly should be conceptualized as rape because it vitiates consent. For Rubenfeld, the *Kashour* case, although admittedly "politically charged," is an example of the philosophical problem that rape by deception or fraud presents for current formulations of rape law that do not uniformly prohibit it. He asks: if "rape law today cannot rest on principles of female defilement, . . . how then does [law] explain why sexual assault is different from other assaults? If not defilement, what is the special violation that rape inflicts?"[120]

Rubenfeld ultimately argues against sexual autonomy as "rape law's central principle" and against understanding rape as "unconsented to sex." If rape by deception is in fact, as most jurisdictions would have it, not rape at all, then autonomy can't be the norm at stake—liberal notions of autonomy simply cannot be squared with the absence of the necessary preconditions to achieve valid consent. Instead, he favors of a model of rape as a violation of a person's "fundamental right to self-possession" and in this way he views rape as more akin to violations like "sexual slavery" and "torture." For Rubenfeld, force—and lots of it—is required to dispossess a person from their body, and those are the conditions under which he would recognize the occurrence of rape.

The article spurred a number of critiques, rejoinders, and clarifications in legal academia—all of which can be read as part of ongoing legal and intellectual projects on how to best conceptualize and address rape and other sexualized violence through liberal law's foundational values, concepts like autonomy, equality, dignity, liberty, and self-possession. The legal scholar Deborah

Tuerkheimer's response reconceptualizes rape as a problem of sexual agency, rooted in group subordination rather than individual choice or will, and in this way retains the primacy of consent.[121] Other defenses or reworkings of sexual autonomy as an organizing principle have since emerged.[122] In Joseph Fischel's articulation, for example, the absence of "explicitly conditioned sex" becomes the benchmark for charges of rape by deception, a standard thought to function as a bulwark against an unbridled "undemocratic sexual hedonism."[123] None of these theorizations or solutions critically address how the "deception" of the paradigmatic case—*Kashour*—is deeply and obviously tied to gendered and racialized sexual contexts that arise out of a particular settler colonial context and imbue concepts like "coercion" with social and legal meaning.

In *Kashour*, the struggle in Palestine—a genocidal and settler one for land ownership and use—underlies and shapes the meaning and import of the deception at issue. In other words, the region's ongoing political ethnoreligious conflict is not incidental to the meaning of rape the *Kashour* court proposes. The full meaning of the deception as credible deception must be understood as part of a racialized history of property dispute. In Rubenfeld's argument, the material conditions that make the deception meaningful, particular, and persuadable to the court are routed through an argument of abstract principle—fraud versus consent—that is the hallmark of capitalist enterprise. Rubenfeld asks how the wrong of rape can be grounded in an affront to autonomy when we/society do not categorically forbid any infringements of it. This framing enables Rubenfeld to argue against sexual autonomy as "rape law's central principle" and against understanding rape as "unconsented-to sex"; in these ways, he takes a position on the meaning and the scope of "rape"—what it could or should mean.[124]

What this example makes clear is the urgent need for other routes of thinking about rape and the kinds of political, social, and cultural work that thinking about and working to end rape does and enables. This kind of thinking might not easily resolve the question of what rape law's central principle is or should be—but this is the wrong first question. What a focus on the work of rape does provide is another angle for thinking through how violence is socially created and distributed. Ideas, including legal ideas, and debates about sexualized violence and legal mechanisms to combat it can be integral to those processes of recognition and disavowal. The assemblage of rape's meaning is largely neglected in queer of color and allied critique as well as within legal scholarship that presumes rape is something that already exists—that we all already know what it is—and law simply has to name it or

place it in the correct framework or strain of analysis. Rubenfeld's recourse to self-possession—his understanding that rape should be categorically understood to require extreme amounts of force, enough to "dispossess a woman of her body" in a manner akin to slavery or torture—belies the historic and lived interrelations of those categories, separating rape and other forms of sexualized violence from racialized violences that are (by some definitions, in the case of torture) undertaken and supported by the state, even as it binds them in the obfuscating intimacies of analogy. Genocidal logics are folded in abstraction: fraud, self-possession, autonomy, sexual democracy. The state is kept safe, at good remove—the blindfold of justice does not slip.

If in *Kashour* a "commonsense" understanding of indigenous/settler or ethnoreligious antagonism provides scaffolding over which "objectively" believable or persuasive understandings of sexual consent, desire, or welcomeness might form, an earlier case of rape by deception in Israel/Palestine also shows how integral normative gender presentation is to those concepts. In 2003, Hen Alkobi was found guilty of attempted rape by deception. The conviction was based, as legal scholar Aeyal Gross describes it, "on a set of facts describing the intimate relations between Alkobi, a young man who had been born with female genitalia but lived as a man at least some of the time, and a number of younger girls."[125] As the opinion put it, "In a case in which relations of love are established, and the 'consent' of one side is won without the disclosure of this essential fact, there is a violation of the partner's autonomy, and the situation cannot be described as 'free consent.'"[126] For Gross, the Alkobi case and *Kashour* show how "seeking to protect women from what is conceived of as sexual injury, by criminalizing sexual intercourse that is allegedly not fully consensual" participates in "how the gender-national order is preserved against boundary crossing by the criminal law rules governing rape by deception regarding the perpetrator's identity."[127] The Alkobi case, like others in the United Kingdom and the United States, feeds into understandings of gender-nonconforming people as abnormal and dangerous. As trans studies theorist Toby Beauchamp writes, "Gender nonconformity . . . itself indicates the likelihood of dangerous behavior, [which rationalizes] both policing and panic by imagining that a gender-nonconforming individual fundamentally has something to hide. This [understanding]—and the surveillance practices mobilized through its logic—helps construct the gender-nonconforming figure as an inherently deceptive object of state and public scrutiny."[128] For Beauchamp, there is a structuring deceit, a "perceived deception underlying transgressive gender presentation."[129] By these distorted

lights, Alkobi is the embodiment of fraud or deception: his face is a bad bargain, his body is a false contract.

The accepted legal definition of genocide requires the presence of a mental element (intent to destroy) and a physical element (act designed to bring about that destruction).[130] If this legal definition occupies itself with the intentional, concerted destruction of racial, ethnic, and religious groups, a legion of feminist, queer, trans, and critical ethnic studies scholars have hardly let that definition go by without comment. Dylan Rodríguez frames racial and colonial genocide as a structuring logic that exceeds the event or events that produce a "mind-boggling body count," viewing them as "but one fragment of a larger historical regime that requires the perpetual social neutralization (if not actual elimination) of targeted populations as (white, patriarchal) modernity's *premise of historical-material continuity*."[131] In contrast, Rodriguez writes that society must be addressed through "a genocide analytic as well as through focused critiques of neoliberalism's cultural and economic structures: the logics of social neutralization (civil death, land expropriation, white supremacist curricular enforcement) always demonstrate the *capacity* (if not the actually existing political will and institutional inclination) to effectively exterminate people from social spaces and wipe them out of the social text."[132] Other postcolonial, critical ethnic, queer, Black, and genocide studies scholars, including W. E. B. Du Bois, Patrick Wolfe, Achille Mbembe, Andrea Smith, and Scott Morgensen, offer expansive definitions of genocide that eschew the temporal limitations and identity-based motivations of the World War II model. Instead, these scholars favor historically and economically attuned accounts of how, through race, indigeneity, and sexuality, law and governance regimes make mass death.[133]

To my mind, the transgender rape by deception cases expose a thinking that underlies and enables mass death, one that is obscured by structures of law and legal thought. These cases show the importance of gender, gender identity, and sexuality not only, as Gross argues, to the operations of the nation. They also demonstrate how debates in law about individual consent to sex—what can and cannot be consented to, and how to gauge it—can displace and enact genocidal logics that cannot be named as such. But they are genocidal nonetheless: they foreclose queer kinships, desires, and intimacies and in turn structure social and property arrangements. These logics are echoes of empire in excess of the nation-state and are produced through a number of sites that are often obscured "because empire is seen as an extension of nation-states, not as another way . . . of organizing a polity."[134] Structures of

analogy and commodity, hand in hand, work in law to homogenize thought about the meaning and significance of "sexualized violence," of consent, force, and coercion. This work clears space for capital, distributions of property, life chances, and liberalism as empire that at once further and surpass the bounds of the nation-state. These operations of law alter the relations between what will be private or public in and among states. This is the work that confirms what may be secreted away and what may be interfered with and known. In other words, feelings of coercion implicate modes of belonging predicated on land claims that depend on state-supported racial, ethnoreligious, settler, and gendered orderings.

Positioning rape as deception alongside rape as genocide is an attempt to "relocate what counts as knowledge and its fields of force."[135] As *Ha'aretz* reports, "Alkobi claimed the minors lodged their complaints because of parental pressure—the parents were apprehensive that their daughters would be stigmatized as lesbians, and so instructed them to submit charges of rape."[136] Later, "one of the complainants had sent a letter to the court in which she withdrew the rape charges, and said that she felt genuine feelings of love for Alkobi."[137]

Rather than imagine rape by deception as simply a chance to reconsider how we evaluate the import of something called "consent"—as means to afford both "women's autonomy rights" and "trans privacy rights" the appropriate deference and respect as Fischel and much of the legal literature frame it—the method of law beyond Law instead shows consent itself as reimagined and reified through such queer and transphobic moments of surveillance. The wavering lines between consent and coercion can themselves be a part of how "gender deviance is produced, coded, and monitored not only in these spectacular moments, but also in the everyday."[138] The idea that such sex can potentially vitiate consent is a boundary issue that shapes not only what consent can mean. These sex disputes also support the fiction of rights and law as premier sites of achieving a thing called justice. What debates about legal standards, consent, and how to achieve an appropriate balance between "women's autonomy rights" and "trans privacy rights" best illustrate is the enduring need to constantly imagine race, gender, and sexualized violence as not only exceptional, mostly random acts but as acts that reinvigorate the political order. Modifications and modulations in how courts view issues of consent and coercion (e.g., through theories of autonomy or privacy) might alter the relationship of the nation and its peoples to rights but nonetheless preserve the primacy of rights (as well as the categories of people whose interests are allegedly opposed) and the state as sites of authoritative justice. Debates that take up as imperative a need to "philosophi-

cally" align the wrong of rape in a way that makes sense to Rubenfeld and other legal scholars is not a way to square law with and an endlessly deferred, although fully formed, "justice" but a way to alter the relation of law to the very concept of justice in ways that ignore the work of rape. Meanwhile, critical queer, feminist, and ethnic studies work that cedes discussion of the full dimensions of law to others loses spaces of inquiry that underlie and overlap the iterations of liberation they seek to address. The work of rape is world-making work. And there are many worlds, awful and awe-ful, to be made.

Chapter Summaries

The first chapter, "The US Sex Wars Meet the Ethnic Wars," maps the transnational, international, and site-specific feminist networks that enabled transformations—however internally contested—in the meaning of rape and sexual violence during the conflict in the former Yugoslavia and later Rwanda. By retreading and reconfiguring the heated 1980s-era US sex war debates on the workings of gender, sex, and violence, divisive feminist theorizations and dialogues surrounding "genocidal rape" enabled the conflicts in the former Yugoslavia and Rwanda to transform human rights, humanitarian, and international governance discourse. The feminist legal and sociocultural gendering of sexual violence within a complex of ethnoreligious difference propelled recognition of the war-raped not only as violated persons but as violated populations—suitable for focused international law and governance campaigns in the name of gendered human rights and, more recently, human security initiatives. Changes in the naming of rape and sexual violence—as well as its reconceptualization from an individual to a mass crime—are indicative of an ongoing racialization process that produces the war-raped as a population to be internationally managed and governed and the states that cannot manage them as inferior, failed states in need of external governance. I call this theoretical concept *the racialization of mass rape*.

The next two chapters look at how legal feminist and political theorizations of state sovereignty and responsibility have often rendered militarized, mass sexualized violence against some groups largely invisible. These chapters continue to elevate the submerged and often fractious theoretical work of feminist theory and activism that rarely leaves a mark in the domain of law proper. These chapters also delve more deeply into how the work of rape and the method of law beyond Law augment contemporary work in transnational feminisms and queer critique. The second chapter, "States of War, Men as State," analyzes the differences in how some feminist attorneys (many

of whom were involved in creating the tribunals in Rwanda and the former Yugoslavia) represented 1980s-era military- and state-backed violence against women, particularly indigenous women, in Latin America in their own legal, scholarly, and activist work. I consider how transnationally produced feminist and US/international feminist legal knowledge of mass sexualized violence depends on largely unacknowledged and silenced, but not silent, conceptualizations of race, indigeneity, and what I call the *sexual state form*. I use the term *sexual state form* to reference the imagined character of the state whose actions become the subject of legal feminist thought and action through their attempts to theorize sexualized legal harm. I examine that feminist work to understand how the meaning of consent and coercion—as well as the legal frameworks for evaluating and recognizing sexualized violence—are subtly shaped by imagined sexual state forms: dictators torture; multicultural states in distress commit genocide; and rogue ethnoreligious actors sow terror.

The third chapter, "My Own Private Genocide," asks that we read the current iterations of Islamophobia in tandem with the 1990s racialized massification of sexual violence by revisiting recent US law and policy on torture. Specifically, I situate provisions of the US Military Commissions Act of 2006 that narrow definitions of rape, sexual assault, and torture for the newly created category of "unlawful enemy combatants" within the narrative of how individuals became liable for some violations of international human rights and humanitarian law. Transnational feminisms, I suggest, had a role to play. Critical historicization of these issues is necessary, I argue, in understanding how habeas corpus and other legal rights—including protections from sexualized violence—were in this moment denied to War on Terror detainees and used to justify militarized interventions that further wealth extraction (oil) and wealth creation (military expenditures and arms trading) in the Middle East.

The fourth chapter, "Two Title IXs," begins with the 2013 reauthorization of the Violence against Women Act (VAWA). This legislation contains provisions that affect how Title IX of the Civil Rights Act (the federal law prohibiting sexual discrimination in federally funded education) is administered. The 2013 VAWA also contains its own Title IX, subtitled "Safety for Indian Women." Title IX of VAWA recognizes tribal criminal jurisdiction over domestic intimate violence regardless of their Indian or non-Indian status, provided that tribes ensure certain enumerated due process protections. I use the coincidental titling of the VAWA's provisions regarding tribal authority and the Civil Rights Act's prohibitions on sex discrimination as

an invitation to think about the versions of consent, sovereignty, property, gender, gender identity, and authority that circulate beneath the banner of "violence against women." I turn to campus protest as a way to think through these connections.

This book closes with a meditation on rape and rights. The expansiveness and unruliness of life, but also of law and its effects, leads me to a final question: How do we address and name sexualized violence when the work of rape is multidirectional, continually unfolding—a testament to the multifaceted impossibility of repair? Reading June Jordan's 1978 "Poem about My Rights" with the work of rape in mind, the epilogue charts an approach to sexualized violence that emphasizes transformative justice and the abolitionist, decolonial, and anti-imperialist feminist visions of liberation that point a way forward.

Notes

Introduction

1. The "Dear Boy" column in *Sassy* was a running feature where indie rockers like Thurston Moore, Jay Mascis, Mike D, Dean Ween, Billy Corgan, and Iggy Pop gave life advice in response to readers' questions. Some of it was surprisingly good, and some of it was unsurprisingly awful.

2. See Engle, "Calling in the Troops."

3. Engle, *The Grip of Sexual Violence in Conflict*, 7, 15. See also Engle, Miller, and Davis, *Anti-impunity and the Human Rights Agenda*.

4. Butler, *Bodies That Matter*, 228.

5. Quoted in Ferber, "Judith Butler on the Culture Wars."

6. Here, I draw on C. Riley Snorton's formulation of race as "the history of historicity" to plumb the relationships between self and history. Snorton, *Black on Both Sides*, 8–9. I also write with Kadji Amin's question in mind: "Could *queer* be rendered lively, then, by an engagement with its *multiple* pasts, by a re-animation of its dense affective historicity, rather than only by a future of continual modification

by something else?" (Amin, "Haunted by the 1990s," 180). *The Work of Rape* is a recent, materialist history of the many, forgotten grounds that grow *queer*, its pleasures and pains, its terms—shame, transgression—and what Amin would term its "affective histories." It is a work "haunted by the electric 1990s convergence, under the banner of *queer*, of same-sex sexuality, political urgency, and radical transgression" (185). But it is also *possessed* by "ethnic" warfare, mass rape, and the geopolitical earthquakes that gave us the ascension of US superpower through global racial capitalism and an enlivened international law. These are the material contexts that enable and underlie some of the affective registers of *queer*.

7. Morgan, "*Partus sequitur ventrem*"; Hartman, *Scenes of Subjection*; Feimster, *Southern Horrors*; Rosén, *Terror in the Heart of Freedom*; McGuire, *At the Dark End of the Street*.

8. A standout engagement would be Williams, *The Divided World*. Another would be Falcón, *Power Interrupted*. Falcón examines how by 2001 intersectionality became a key organizing rubric in the UN agenda against racism. Falcón notes that the radical politics and organizing of antiracist feminists occurred in the UN forums dedicated to racism, which she argues "offered a more strategic context for the activists I interviewed than the forums based on women" (5). *The Work of Rape* might help explain why. Feminist legal studies work in the postcolonial tradition also provides productive frameworks for thinking through the relationships between human rights, sexuality, and governance. See Kapur, "Human Rights in the 21st Century"; Kapur, *Erotic Justice*.

9. Melamed and Reddy, "Using Rights to Enforce Racial Capitalism."

10. This included, as Monisha Das Gupta and Lynn Fujiwara note, "sweeping reforms that engineered systemic changes to the way immigrants gained access to public assistance, due process, and established mandatory and expedited removals. . . . The 1996 triad of laws—Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA), and the Antiterrorism and Effective Death Penalty Act (AEDPA)—passed within months of each other." Das Gupta and Fujiwara, "Law and Life," 4.

11. United Nations, "Framework of Analysis for Atrocity Crimes," 1.

12. Fredman, *Comparative Human Rights Law*, xxxiii. The *human* of human rights is aptly described by Sylvia Wynter and Katherine McKittrick as "our present referent of the bourgeois mode of the subject and its *conception* of the individual, that of the *concrete individual* human subject" (Wynter and McKittrick, "Unparalleled Catastrophe for Our Species?," 47).

13. This analysis is informed by work that links racial subjectivity to property regimes and formations, particularly the notion that possessive ownership as a legal justification for property manifests in "the materialization of abstractions in the subjectivities of the owner and owned, colonizer and colonized" (Bhandar, "Property, Law, and Race," 205). See also Best, *Fugitive's Properties*; Bhandar,

Colonial Lives of Property; Ferreira da Silva, *Toward a Global Idea of Race*; Harris, "Whiteness as Property"; and Lowe, *The Intimacies of Four Continents*.

14. I refer to the end of the Cold War to mark the advent of particular international legal systems, but am informed by work in Asian American Studies that complicates the periodization and significance of the Cold War. See Baik, *Reencounters*; and Yoneyama, *Cold War Ruins*.

15. Arvin, Tuck, and Morrill, "Decolonizing Feminism."

16. Batha, "Yazidi Girls Sold as Sex Slaves."

17. I use the term *sexualized violence* to emphasize the instability of the category and as a way of yoking together separate legal concepts like sexual assault and sexual harassment. This accomplishes two things. First, it emphasizes the historical blurring between the two concepts and the instability of the "sexual" as category, which I discuss more fully in chapter 4. The term *sexualized violence* also more fundamentally comments on the opacity of the harms—these are not settled or obvious or eternal. I considered using "sexualized violation" instead of violence, but found this to be a version of the problem of expecting changes in language to accomplish the sorts of epistemological heavy lifting that the broader argument makes.

18. Brockes, "#MeToo Founder Tarana Burke."

19. Phipps et al., "Rape Culture, Lad Culture and Everyday Sexism," 1. See also Buchwald, Fletcher, and Roth, *Transforming a Rape Culture*.

20. Brownmiller, *Against Our Will*.

21. Rodríguez, "Keyword 6," 120.

22. MacKinnon, "Where #MeToo Came From."

23. MacKinnon, "#MeToo Has Done What the Law Could Not."

24. MacKinnon, "Where #MeToo Came From."

25. Freedman, *Redefining Rape*, 2.

26. Consider, for example, how MacKinnon harnesses #NiUnaMenos in Argentina to #MeToo alongside Veronica Gago's account of #NiUnaMenos and the "International Feminist Strike." In Gago's account, "feminism becomes more inclusive because it is taken up as a practical anti-capitalist critique" (Gago, *Feminist International*, 45).

27. MacKinnon, "#MeToo Has Done What the Law Could Not."

28. Suk, "'The Look in His Eyes,'" 202.

29. Davis, "Rape, Racism and the Capitalist Setting," 40.

30. Davis, "Rape, Racism and the Capitalist Setting," 42, 45.

31. Deer, *The Beginning and End of Rape*, x.

32. Quoted in Hanssens et al., "A Roadmap for Change."

33. Quoted in Hanssens et al., "A Roadmap for Change."

34. Abu-Odeh, "Holier Than Thou?" See also Al-Ali, "Sexual Violence in Iraq."

35. Abu-Odeh, "Holier Than Thou?"

36. Early US historian Sharon Block notes that the *Oxford English Dictionary* locates the original use of the term *rapist* to the last quarter of the nineteenth

century, "when a United States newspaper referred to a 'nigger' rapist" (Block, *Rape and Sexual Power in Early America*, 244). Rape has long been used, as Block and numerous other scholars have observed, as a signal of social transgression and a project of national and cultural consolidation. But it has changed since the 1990s: changes in the recognition and meaning of sexualized violence reflect and enact global changes in land, changes in capital, changes in fortune.

37. Gupta, "Orientalist Feminism Rears Its Head in India."

38. Reddy, *Freedom with Violence*, 17.

39. Reddy, *Freedom with Violence*, 17.

40. As Wendy Brown writes, "The viability of a radical democratic alternative to various political discourses of domination in the present is not determined only by the organization of institutional forces opposing that alternative but is shaped as well by political subjects' desire for such an alternative" (Brown, "States of Injury," xi).

41. Here I follow Nadje Al-Ali, who cautions against overly simplistic analyses of "root causes" of sexual violence that pit "culture" against "structure": "dichotomous approach—focusing on patriarchal cultural attitudes and practices on the one hand and imperialist policies and neoliberal economics on the other—is unhelpful and more reflective of specific, and often quite divergent, positionalities rather than the complex empirical realities we are facing as activists and academics" (Al-Ali, "Sexual Violence in Iraq," 14).

42. See Angela Harris's "nuance theory," which I discuss in more detail in chapter 1. Harris, "Race and Essentialism in Feminist Legal Theory."

43. See Hong, *Death beyond Disavowal*; and Reddy, *Freedom with Violence*.

44. Hong, *Death beyond Disavowal*, 64. Thinking about incommensurable forms of sexualized violence within women of color and queer/trans of color traditions helps account for what is called "difference" without reifying an idea of the norm or otherwise temporally fixing that "difference" as static, unyielding, locked in an eternal meaning, or uncritically valorized as progressive. See Reddy, *Freedom with Violence*; Amin, *Disturbing Attachments*; and Chu and Drager, "After Trans Studies."

45. The ad hoc tribunals for Yugoslavia and Rwanda were the first of their kind since Tokyo and Nuremberg. They were followed by the 1998 establishment of the world's first permanent international criminal court with the jurisdiction to prosecute atrocity crimes, including crimes against humanity, genocide, and war crimes. See chapter 1.

46. Transnational feminisms consider the circulation of ideas and social practice on a global scale through attention to gender diversity—to inequalities and commonalities produced by late capitalism in specific historical (and not solely national) contexts. I use the term in appreciation of Ranjoo Seodu Herr's insistence that transnational feminisms (or feminist inquiries or activisms that occur at the supra-national level) must be in allegiance with Third World and indigenous feminisms. I discuss the impact of the work of rape on transnational feminisms more fully in in the following chapters. See Herr, "Reclaiming Third

World Feminisms." See also Blackwell, Briggs, and Chiu, "Transnational Feminisms Roundtable"; and Kaplan and Grewal, *Scattered Hegemonies*.

47. Halley, "Where in the Legal Order Have Feminists Gained Inclusion?," 3.

48. Halley et al., preface to *Governance Feminism*, xii.

49. Halley et al., preface to *Governance Feminism*, ix. See also Karen Engle's careful and recent publication, *The Grip of Sexual Violence in Conflict*. That work tracks the creation of "common-sense" understandings of rape that rely on gendered tropes of innocence and demands for carceral redress, cast women as vulnerable and without the capacity to be perpetrators of violence, and essentialize ethnic groups as especially "shamed" or even "torn apart" by the experience of sexualized violence. In contrast, *The Work of Rape* begins, but does not end, with the entrance of rape into the halls of international law. It does not keep the problematic of war rape locked behind those doors or in the spaces of intrafeminist fights. Instead, building on women of color, queer, and trans of color critique, and decolonial critiques of racial capitalism, *The Work of Rape* searches through the connections between rape in conflict and rape on campus and examines how they are enacted and sustained by the ever-shifting abstraction of rape. I do this by tracking the theorizations of sexual consent and coercion—how they are made—that would bind women together in global sisterhood, even as they reorder the relationships between peoples and states through the mechanisms of international law and the charge of atrocity crimes. *The Work of Rape* does not contend that "rape" simply imposes First World feminism onto Third World locales. It does not argue that Western framings of rape otherwise "distract" from economic or developmental critiques advanced by some sectors of the feminist Global South. Instead, it figures the formulations of rape developed in this moment as racial, economic, and geopolitical management. By this I mean that rape as an abstraction holds the space for a renegotiation of the histories of imperialism and settler colonialism. It manages these histories through the grafting of sexualized violence onto mass international violations like genocide, war crimes, and crimes against humanity. The transformations in the meaning of rape wrought there matter here, where I write from within the United States. They matter now.

50. Mackinnon, *Feminism Unmodified*, 50.

51. To approach governance feminism as "dominance feminism" versus "the rest" risks flipping and reenacting the dominance feminist script, leaving Third World feminisms and other activism in a relation of acute victimization. They are cast as either perpetually at the mercy of authoritarian feminist theory from the Global North or accepting of its postulates because they are at best misinformed. For an account of law as a site of subaltern discursive struggle, see Kapur, *Erotic Justice*.

52. The group Las Madres de la Plaza de Mayo is a case in point. These mothers defied the military dictatorship to publicly assemble and protest after their children were "disappeared" by the Argentinian state during the so-called Dirty War (1976–83). As I discuss in chapter 2, the Madres influenced the development

of regional feminisms in Latin America. Yet in the past, the Madres have rejected feminism as a "bourgeoisie" distraction but have nonetheless participated in large-scale regional feminist gatherings (Encuentros Feministas), theorized and agitated on the problem of domestic violence, and even traveled to the International Criminal Court negotiations in Rome only to be thrown out for disruption. The Madres' president, Estela Barnes de Carlotto, attended the ICC negotiations in an effort to have forced disappearances codified in the Rome Statute as a crime against humanity. Once there, the Madres refused financial compensation and exhumation of bodies and called the offer a "betrayal" because it would legally stop the dictatorships' disappearances from being considered ongoing crimes. See Glasius, *The International Criminal Court*, 80. The Madres had "no faith" in proceedings that the assumed the legitimacy of the Argentine state and made their disapproval known when they stole into "the plenary hall, unfolded a banner reminding the delegates of the unresolved plight of Argentina's 30,000 'disappeared' political prisoners and disrupted the speech of the Argentinian justice minister. Eventually, they were forcibly led away by . . . uniformed guards." Howe, "The Madres de la Plaza de Mayo," 43.

53. Scholarship within feminist international relations has largely focused on analyses of rape as a weapon of war with a focus on states and the international governance order. An organizing question for this scholarship is why and how rape becomes a feature of armed conflict. One strand of this literature attempts to discern war rape's place in what Elisabeth Wood calls a "typology of political violence" (Wood, "Rape as a Practice of War"), where social and structural conditions create the opportunity for the practice of sexualized violence and "the fulfillment of base, individual desires or collective 'mythology'" (Meger, *Rape Loot Pillage*, 9). See also Kirby, "How Is Rape a Weapon of War?"; and Wood, "Variation in Sexual Violence during War." Another camp tends to view rape during warfare as a strategy of violence like any other. See Dolan, "War Is Not Yet Over"; and Leatherman, *Sexual Violence and Armed Conflict*. An incipient body of work explores international security and gender violence in feminist analyses of political economy. See True, *The Political Economy of Violence against Women*; and Meger, *Rape Loot Pillage*. Another emergent strand of research calls for inquiry into "how the imaginary demarcation of the 'right' bodies to be protected manifests itself in particular racial, national and gendered lines, both in scholarly work and in policy-making." See Drumond, Mesok, and Zalewski, "Sexual Violence in the Wrong(ed) Bodies," 1147. In contrast, *The Work of Rape* brings the methods and subjects of queer of color critiques, transnational (including decolonial) feminisms, and scholarship in racial capitalism to bear on the notion of sexualized violation and how the idea of sexual injury is formed through the operations of law.

54. Queer of color critique is not often engaged by scholars who describe the import of sexualized violence within international law in terms of how it might activate state obligations to end it. See Eriksson, *Defining Rape*. Queer of color critique and racial capitalism are not brought to bear on historical accounts of

sexualized violence, which often posit rape as transhistorical (meaning the act or violation is evident) and also context dependent (meaning the rationales and causes of it may vary). See Heineman, *Sexual Violence in Conflict Zones*.

55. Queer of color critique, positioned as an inheritance of women of color and indigenous feminisms, springs from a "founding engagement," as Roderick A. Ferguson writes, "with the contradictions inherent in liberalism" (Ferguson, "Queer of Color Critique," 18). See also Tompkins, "Intersections of Race, Gender, and Sexuality," 173. In these historical and materialist tellings, US civil rights and related forms of governance become a key ideological component for the reproduction of US state rule. This embrace of civil rights shored up a state rocked by radical, antinationalist, anticolonial, and antipatriotic organizing across a variety of fronts during the long civil rights movement. Such rights extensions and recalibrations are not simply an imposition or an ending. They transform the terrain and meaning of racial struggle, creating new terms, conditions, and applied meanings that are also sites of subject to seizure, appropriation, or outright rejection.

56. Reddy, *Freedom with Violence*, 29. Again, this is not to say that gender and sexuality reference ahistorical or static particularities but to suggest that as contested sites of social, political, and legal meaning—not simply referents for individual or group "identity"—they can have something to tell about how power and capital operate through "difference."

57. Reddy, *Freedom with Violence*, 17.

58. In this way, *The Work of Rape* draws inspiration from queer work that seeks to globalize race, racism, and racialization in relation to queer bodies and capitalist regimes of value production. See Amar, *The Security Archipelago*; Liu, *Queer Marxism in Two Chinas*; Rao, *Out of Time*; Savci, *Queer in Translation*; and Shakhsari, *Politics of Rightful Killing*.

59. Nguyen, *The Gift of Freedom*, 4.

60. Foucault, *The Birth of Biopolitics*, 63.

61. Nguyen, *The Gift of Freedom*, 10.

62. Atanasoski, *Humanitarian Violence*, 6.

63. Atanasoski, *Humanitarian Violence*, 6.

64. As Jennifer Suchland notes, academic treatments of transnational feminism often do not consider the second world. That "lack of focus on the second world obscures the fact that it has always been a part of the global" (Suchland, "Is Postsocialism Transnational?," 838).

65. Brown, *States of Injury*, 23.

66. Wynter, "Unsettling the Coloniality of Being/Power/Truth/Freedom," 260.

67. Jakobsen, "Perverse Justice," 25.

68. Jakobsen, "Perverse Justice," 28, 27.

69. Jakobsen, "Perverse Justice," 26.

70. Jakobsen, "Perverse Justice," 26.

71. Williams, *The Divided World*, xv.

72. Williams, *The Divided World*, xxl. In this way, the work of rape supports the advent of what Paul Amar calls the "human-security state," which relies on "humanized security discourse that generate[s] particular sexual, class, and moral subjects . . . to define political sovereignty and to articulate the grammars of dialectically unfolding and internally contradictory forms of power" (Amar, *The Security Archipelago*, 6).

73. Consider efforts by feminists to classify rape and other forms of sexualized violation as decidedly not sex. "Women's rights advocates in the U.S. have made the distinction between sex and rape for a long time. By defining rape and sexual assault as an act of violence and not sex, we are placing the validity in the voice of the assaulted, and accepting their experience as central to the truth of what happened. . . . What we understand by centering the perspective of the assaulted people is that there was no sex happening regardless of the act" (Deb and Mutis, quoted in Puar, *Terrorist Assemblages*, 97).

74. See Reddy, *Freedom with Violence*, 165. Reddy begins this work with the figure of the gay Pakistani immigrant, whose "juridical appearance" must, Reddy argues, be "situated within the context of the neoliberal restructuring of state power" (151). Reddy sees the US legal sphere as "one site where the nation's official records are maintained and reproduced, giving those who seek identity through the law a history of their kin" (165).

75. Williams, *The Divided World*, xvii.

76. Brownmiller, *Against Our Will*.

77. Franke, "Putting Sex to Work," 1161.

78. Puar, *Terrorist Assemblages*, 113.

79. By *internationalist*, I reference individuals and groups operating with allegiance to the umbrella-style governance principles promoted by the UN and affiliated organizations that nonetheless privilege the nation-state as a legitimate and principal locus of political power. Internationalist perspectives provide a stark contrast to transnational feminist approaches to "violence against women."

80. Holland, *The Erotic Life of Racism*, 43.

81. Projects to end sexualized violence can be complicit with a bionecropolitical neoliberalism that Grace Hong recognizes as "an epistemological structure of disavowal" that "*affirm[s]* certain modes of racialized, gendered, and sexualized life, particularly through invitation into reproductive respectability, *so as to* disavow its exacerbated production of premature death" (Hong, *Death beyond Disavowal*, 7).

82. Haraway, *Staying with the Trouble*, 50.

83. Brown, *States of Injury*, 22.

84. Somerville, "Queer Loving," 337.

85. *Loving v. Virginia*, 388 U.S. 1 (1967).

86. Puar, *Terrorist Assemblages*, 118.

87. MacKinnon, "Reflections on Sex Equality under Law," 1288.

88. Spade, *Normal Life*, 5.

89. I develop this method in conversation with legal feminist Martha Fineman's vulnerability theory. Fineman recasts equality-based arguments premised on special group vulnerability in favor of an analytic focused on how institutional and social relationships distribute risk and resilience across different populations and institutions. From this perspective, sexual assault and harassment are not simply problems faced by "vulnerable women" who are failed as a group by patriarchal law and policy. Rather, the laws and jurisprudence of sexual assault and harassment, of discrimination and criminal violation, might instead be approached as aspects of an "institutional system designed to mitigate certain forms of vulnerability." For Fineman, then, vulnerability exceeds the singular subject and is an analytic that travels across individuals, groups, and institutions, asking what ideas, power structures, lives, or institutions are protected and who or what is left at risk. See Fineman, "The Vulnerable Subject," 21; and Marvel, "The Vulnerable Subject of Rape Law," 2042.

90. If race, as Grace Hong writes, calls forth some of "the names for what has been rendered unknown and unknowable through the very claim of totalizing knowledge," what happens if we approach some of the structures that shape "sex"—in this case the legal and social notions of consent, force, and coercion as they pertain to the bounded injury of sexualized violence—with that same humility of (un)knowing? What else sidles up? See Hong, "The Ghosts of Transnational American Studies," 35.

91. Hong, "The Ghosts of Transnational American Studies," 35.

92. Gopinath, *Unruly Visions*, 6.

93. Tompkins, *Racial Indigestion*, 3.

94. Reid-Pharr, *Archives of Flesh*, 6.

95. As Wendy Brown, in a trenchant analysis of Foucault, writes, "The state rises in importance with liberalism precisely through its provision of essential social repairs, economic problem solving, and the management of a mass population: in short, through those very functions that standard ideologies of liberalism and capitalism cast as self-generating in civil society and thus obscure as crucial state activities" (Brown, *States of Injury*, 17).

96. This migration is partly accomplished through the social fact of mass movement in the wake of the 1990s wars. In the aftermath of the Balkan conflicts, migration, emblematized by the reinvigoration of human trafficking as a framework that names sexualized exploitation as "the new slavery," becomes a means of managing the expectations and relation between freedom and low-wage or precarious labor as a piece of capital's ascent. Bodies and "sex" out of place collide with the emergent international law and governance order that is increasingly positioned as the site of authoritative, carceral address. Framed as a problem for the international community through the instruments and specificities of international law, the focus on war crimes shifts and expands outward. Unlike war crimes, crimes against humanity and genocide can occur during "peacetime." See Jaleel, "The Wages of Human Trafficking." See also Chuang, "Exploitation Creep"; Hua, *Trafficking Women's Human*

Rights; Shamir, "A Labor Paradigm for Human Trafficking"; and Suchland, *Economies of Violence*.

97. Halley notes these terminological shifts but does not analyze them. See Halley, "Rape at Rome," 7.

98. *Prosecutor v. Akayesu* (Trial Judgment), ICTR-96-4-T, International Criminal Tribunal for Rwanda, September 2, 1998.

99. *Prosecutor v. Kunarac* (Third Amended Indictment), IT-96-23-PT, International Criminal Tribunal for the former Yugoslavia, November 8, 1999.

100. *Prosecutor v. Kvočka* (Trial Judgment), IT-98-30/1-T, International Criminal Tribunal for the former Yugoslavia, November 2, 2001.

101. *Prosecutor v. Tadić* (Opinion and Judgment), IT-94-1-T, International Criminal Tribunal for the former Yugoslavia, May 7, 1997; *Prosecutor v. Mucić* ["Čelebići Camp"] (Trial Judgment), IT-96-21, International Criminal Tribunal for the former Yugoslavia, November 16, 1997.

102. Foucault, *The Archaeology of Knowledge*, 7.

103. See Philipose, "Feminism, International Law, and the Spectacular Violence of the 'Other.'" This account of the neocolonial origins of law does not fully consider how social movements and local struggle might mark or strategically repurpose it. See Falcón, *Power Interrupted*, for an ethnographic account of how indigenous and grassroots feminists in the Americas critically avail the UN's mechanisms for addressing racial justice.

104. Amar, *The Security Archipelago*; Atanasoski, *Humanitarian Violence*; Farris, *In the Name of Women's Rights*; Murphy, *The Economization of Life*; Puar, *Terrorist Assemblages*; Reddy, *Freedom with Violence*.

105. Ferguson, *Aberrations in Black*; Hong, *Death beyond Disavowal*; Lowe, *The Intimacies of Four Continents*; Melamed, *Represent and Destroy*; Reddy, *Freedom with Violence*.

106. Fischel, *Screw Consent*; Franke, "Theorizing Yes"; Gruber, "Consent Confusion"; Halley, "Rape at Rome"; Tuerkheimer, "Sex without Consent."

107. Duggan, *The Twilight of Equality?*; Gopinath, *Impossible Desires*; Muñoz, *Cruising Utopia*; Puar, *Terrorist Assemblages*.

108. Atanasoski, *Humanitarian Violence*; Rana, "The Racial Infrastructure."

109. Stoler, "On Degrees of Imperial Sovereignty," 133.

110. For a historical account, see Freedman, *Redefining Rape*; Haag, *Consent*.

111. See Rodríguez, "Keyword 6: Testimony." See also Bully Bloggers, http://bullybloggers.wordpress.com.

112. Lowe, *The Intimacies of Four Continents.*

113. UN Convention on the Prevention and Punishment of the Crime of Genocide, 1948.

114. See Musser, "Queering Sugar"; and Musser, "Consent, Capacity, and the Non-narrative."

115. Marx, *Capital,* 257.

116. See also Marcus, "Fighting Bodies, Fighting Words," 389. Marcus offers a critique of the feminist modeling of a rape on a "collapsed continuum." A continuum theory of sexual violence links language and rape in a way that can be taken to mean that representations of rape, obscene remarks, threats, and other forms of harassment should be considered equivalent to rape. Such a definition substitutes the remarks and threats that gesture toward a rape for the rape itself and thus contradicts the meaning of *continuum*, which requires a temporal and logical distinction between the various stages of a rape attempt. In a continuum theory that makes one type of action (a verbal threat) immediately substitutable for another type of action (sexual assault) the time and space between these two actions collapse and again rape has always already occurred.

117. Sara Meger writes that efforts to address wartime sexualized violence produce a political economy through securitization logics—"securitization produces *commodified* objects of security" (Meger, "The Fetishization of Sexual Violence," 149). In contrast, I locate the commodification process as internal to the notion of sexualized violence and rape itself—not simply in the context of war—and within the multitemporal circuits of race and empire.

118. Rosenberg and Villarejo, "Queer Studies and the Crises of Capitalism," 4.

119. Rubenfeld, "The Riddle of Rape," 1375. *State of Israel v. Kashour*, CrimC (Jer) 561/08, Nevo Legal Database (by subscription), July 19, 2010, para. 13, 15.

120. Rubenfeld, "The Riddle of Rape," 17.

121. Tuerkheimer, "Sex without Consent."

122. Dougherty, "No Way around Consent"; Falk, "Not Logic, but Experience"; Ramachandran, "Delineating the Heinous."

123. Fischel, *Screw Consent*, 173.

124. Rubenfeld, "The Riddle of Rape," 1372.

125. Gross, "Rape by Deception," 2.

126. Ratner, "Haifa Transgender Sex Scandal Ends."

127. Gross, "Rape by Deception," 5.

128. Beauchamp, *Going Stealth*, 2.

129. Beauchamp, *Going Stealth*, 9.

130. UN Convention on the Prevention and Punishment of the Crime of Genocide, 1948.

131. Rodríguez, "Racial/Colonial Genocide," 810.

132. Rodríguez, "Racial/Colonial Genocide," 810.

133. Mbembe, "Necropolitics"; Morgensen, *Spaces between Us*; Smith, "Not an Indian Tradition"; Wolfe, "Settler Colonialism and the Elimination of the Native."

134. Stoler, "On Degrees of Imperial Sovereignty," 137, 146.

135. Stoler, "On Degrees of Imperial Sovereignty," 146.

136. Ratner, "Haifa Transgender Sex Scandal Ends."

137. Ratner, "Haifa Transgender Sex Scandal Ends."

138. Beauchamp, *Going Stealth*, 5.