

***Refusing To Be A Man?:  
Men's Responsibility for War Rape and the Problem  
of Social Structures in Feminist and Gender Theory\****

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**Abstract**

As the majority perpetrators of sexual violence, it is plausible to see men as responsible for war rape not only as individuals, but also as collective bystanders, facilitators and beneficiaries. Following recent criticisms of individual legal and moral responsibility for rape as a war crime in international law, this article examines how we might think of war rape as a collective action in moral and sociological terms. First, it assesses existing moral arguments for the responsibility of men in groups for rape, primarily with reference to the work of Claudia Card, Larry May and Robert Strikwerda. Critiquing elements of these arguments, it explores the difficulties in talking about 'men' as a coherent group and in discussing 'collectives' themselves. Second, the article draws out the connection between accounts of *moral* responsibility and accounts of *causal* responsibility. Drawing on critiques of collective responsibility and the long-standing agency/structure problem, it argues that causal accounts focusing on structure pose a serious challenge to ideas of both individual and collective moral responsibility. The complexities of the relationship between moral and causal claims are illustrated through a discussion of Susan Brownmiller and Catharine MacKinnon's influential perspectives on rape. The seeming *paradox of responsibility* is emphasised as a problem to be addressed by gender and feminist perspectives that seek to pursue both ethical and sociological inquiry into the workings of masculinity and the political means for undoing gendered wrongs.

**Keywords**

Rape, Wartime Sexual Violence, Moral Responsibility, Causal Responsibility, Masculinity, Gender, Ethics, Explanation, Structure/Agency

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\* **This paper is presented in the same style (font, referencing system, bibliography) as my other papers (all available at <http://sussex.academia.edu/PaulKirby>). This reflects my personal preference, not the referencing style of the journals in which the pieces eventually appeared.**

From prehistoric times to the present, I believe, rape has played a critical function. It is nothing more or less than a conscious process of intimidation by which *all men* keep *all women* in a state of fear.

Susan Brownmiller, *Against Our Will*<sup>2</sup>

And that is what is wrong with collective responsibility. Precisely because it will not reduce, it precludes you from getting at anybody – all you can do is wave flags and write poems. But in fact, it was *this* person's grandfather who was brutally murdered by *that* soldier and his buddies, *this* other person's sister who was raped and tossed down a well, *these* people over here who were herded into a gas chamber, by *these* particular soldiers. Only individual agents can do such things – this grandfather and that sister were not murdered by an irreducible entity. And neither was anyone else who was in any way harmed.

Jan Narveson, 'Collective Responsibility'<sup>3</sup>

I'm not going to try to tell you that I'm different from all the rest  
I've been subject to the same de-structure of desire and I've felt the same effects;  
I'm a hetero-sexist tragedy. And potential rapists all are we.

...

I had different desires prior to my role-remodelling.  
And at six years of age you don't challenge their claims.  
You become the same.

...

(Or withdraw from the game  
And hang your head in shame)...  
I fought against their further attempts to convince a kid that birthright can bestow  
The power to yield the subordination of women and do you know  
What patricentricity means? I found out just a couple of days ago.  
It means male values über alles and hey! Whaddaya know...

Propagandhi, 'Refusing To Be A Man'<sup>4</sup>

Rape and sexual violence are acts overwhelmingly carried out by men against women. This much is widely accepted. While recent years have seen serious discussion of the ways in which men are subjected to gender violence in war, as well as greater attention to political violence carried out by women and to the rape of men, the balance of harm remains starkly

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<sup>2</sup> Susan Brownmiller, *Against Our Will: Men, Women and Rape* (Harmondsworth: Penguin, 1975), 15, emphasis in original.

<sup>3</sup> Jan Narveson, 'Collective Responsibility', *The Journal of Ethics* 6, no. 2 (2002): 185, emphasis added.

<sup>4</sup> From Propagandhi, *Less Talk, More Rock* (Fat Wreck Chords, 1996).

unequal.<sup>5</sup> For example, 9% of the victims of rape and sexual assault surveyed by the US Department of Justice between 1992 and 2000 were male, a proportion roughly matched by more recent data.<sup>6</sup> It is now also frequently accepted that rape is a very common and perhaps central phenomenon in most, although not all, wars.<sup>7</sup>

Against this backdrop, calls for more attention to men's experiences of rape and gendered violence (and to cases of rape by women) nevertheless still see women and girls as overwhelmingly the victims of sexualised aggression, with men and boys remaining the “majority perpetrators”.<sup>8</sup> So, although the precise definition of several key terms ('men', 'women', 'rape', 'violence', 'acts') are the subject of some dispute and debate, the view of men as those who *do* rape and women as those who rape is *done to* persists.<sup>9</sup> Focusing the questions in this way risks eliding male victims of sexual violence – and female perpetrators of it – altogether.<sup>10</sup> This article focuses on male perpetrators for two reasons. First, this is how understandings of responsibility in feminist and gender theory have thus far been conceived, and I am concerned with how these accounts of morality and causality work. Second, as 'majority perpetrators', men are deserving of analytical attention, attention which may well open to scrutiny the connections *and* the disjunctures between perpetrators, enablers and

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<sup>5</sup> See R. Charli Carpenter, “Women and Children First’: Gender, Norms, and Humanitarian Evacuation in the Balkans 1991–95’, *International Organization* 57, no. 4 (2003): 661–694; Adam Jones, ‘Straight as a Rule: Heteronormativity, Gendercide, and the Noncombatant Male’, *Men and Masculinities* 8, no. 4 (2006): 451–469; Miranda Alison, ‘Women as Agents of Political Violence: Gendering Security’, *Security Dialogue* 35, no. 4 (2004): 447–463.

<sup>6</sup> Karen G. Weiss, ‘Male Sexual Victimization: Examining Men’s Experiences of Rape and Sexual Assault’, *Men and Masculinities* 12, no. 3 (2010): 275–276; U.S. Department of Justice, *National Crime Victimization Survey: Criminal Victimization, 2010* (Washington, DC: Bureau of Justice Statistics, 2011), <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2224>.

<sup>7</sup> Inger Skjelsbæk, ‘Sexual Violence and War: Mapping Out a Complex Relationship’, *European Journal of International Relations* 7, no. 2 (2001): 211–237; Janie L. Leatherman, *Sexual Violence and Armed Conflict* (Cambridge: Polity Press, 2011); Elisabeth Jean Wood, ‘Armed Groups and Sexual Violence: When Is Wartime Rape Rare?’, *Politics & Society* 37, no. 1 (2009): 131–161.

<sup>8</sup> Miranda Alison, ‘Wartime Sexual Violence: Women’s Human Rights and Questions of Masculinity’, *Review of International Studies* 33, no. 1 (2007): 84.

<sup>9</sup> For examples of dispute and debate see Eric Reitan, ‘Rape as an Essentially Contested Concept’, *Hypatia: A Journal of Feminist Philosophy* 16, no. 2 (2001): 43–66; Kimberly Hutchings, ‘Making Sense of Masculinity and War’, *Men and Masculinities* 10, no. 4 (2008): 389–404; Laura J. Shepherd, ‘Victims, Perpetrators and Actors’ Revisited: Exploring the Potential for a Feminist Reconceptualisation of (International) Security and (Gender) Violence’, *The British Journal of Politics and International Relations* 9, no. 2 (2007): 239–256. On the persistence of men as perpetrators and women as victims see Patricia D. Rozée and M.P. Koss, ‘Rape: A Century of Resistance’, *Psychology of Women Quarterly* 25, no. 4 (2001): 295–296.

<sup>10</sup> On this point, see particularly Laura J. Shepherd and Rosemary Grey, ‘“Stop Rape Now”?: Theorising Masculinity, Responsibility and Conflict-Related Sexual Violence’, *Men and Masculinities* 15, no. 4 (2012).

refuseniks, and between men, masculinities, and gender orders.<sup>11</sup>

This article addresses two major issues in the understanding of men, masculinities and rape. First, it assesses how much responsibility we should attribute to men for rape in war and peace. After surveying debates around the character of responsibility and the forms of individual legal and moral responsibility implemented by current international practice, I examine the idea that men as a group bear a kind of responsibility for war rape. I argue that, while attributions of collective responsibility bring the facilitation of rape by men, and the benefits provided to men by rape, into clearer focus, they face a corresponding problems in limiting responsibility to men as a group and in the concept of a 'collective' itself.

Second, I ask how our moral and ethical accounts of responsibility for rape might be connected with our explanations of why rape happens and, more broadly, our conceptions of patriarchy itself. Drawing on the critique of collective responsibility and the agency/structure problem, I elaborate on some existing connections between causal and moral responsibility, using the work of Susan Brownmiller and Catharine MacKinnon for illustration. In particular, I highlight the paradox that strong assertions of gender orders and structures as causally responsible for war rape threaten to diminish claims that men, individually or in groups, can be held morally responsible for acts of sexualised aggression.

In pursuing these agendas, what follows mixes ethical reasoning with social theory. The affinities and parallels between these two domains are complex in character and frequently elided in academic discussions. What follows is intended as an opening up of the bonds between these different ways of discussing rape and an impetus to examine how our conjoined judgements of cause and blame matter. If my claim that there is a strong tension in our attributions of responsibility holds, how might we continue to pursue both a

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<sup>11</sup> For example, the important study of sexual violence in the DRC cited by Shepherd and Grey, gives figures for four kinds of sexual violence (men on women, men on men, women on women, and women on men). They found 195 cases of male perpetrators and 77 cases of female perpetrators. Sexual violence carried out by women on men was by far the lowest of the figures, with only 11 cases, of which 8 involved female combatants. The number of women who reported rape (as distinct from the wider category of sexual violence) was also much higher, at 17.7% of all women respondents, compared to 4.4% for men) (Kirsten Johnson et al., 'Association of Sexual Violence and Human Rights Violations with Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo', *JAMA: The Journal of the American Medical Association*, 304, no. 5 (2010): 557). These figures do unsettle a number of easy assumptions about perpetrators and victims, but do not overturn the generalisation that males tend to be perpetrators, and females victims, of sexual violence.

sociological analysis of gender that goes beyond individualism and a political and ethical feminism that holds perpetrators of harm accountable for wrongs? Is it possible, following Propagandhi, to refuse to be a ‘man’, and what might we understand that category to mean?

## **The Problem of Responsibility for War Rape**

Responsibility talk comes in several guises. It is common to distinguish between *moral*, *legal*, *causal* and sometimes *political* responsibility. Moral responsibility provides the vocabulary for discussing guilt and blame and thus often provides guidance as to who should be punished and which courses of action it is ethically right to follow. Legal responsibility designates the appropriate subjects of prosecution and sanction in particular systems of law and justice, although it is commonly argued that legal responsibility should reflect moral responsibility.<sup>12</sup> Causal responsibility, by contrast, establishes how events came about. It traces patterns and relationships as part of an explanation for a given outcome. Although causal responsibility is often attributed to human agents, it is not necessary to think either in terms of individual humans or collectives of humans to speak of causation. Political responsibility refers to the contested process of identifying an agent or agents as culpable for a particular wrong principally by virtue of their public role, usually because they are formally in charge of a situation where wrongs came about, or because they are collectively complicit in political wrongs.<sup>13</sup> In what follows, I am mainly concerned with the distinction between moral and causal responsibility and their interaction, although there will also be mention of legal and political forms of responsibility.

Although often related, these kinds of responsibility are conceptually distinct. We may hold someone legally and politically responsible for the same reason we find them morally and causally responsible, but this need not be the case. Take a typical hypothetical example: a young child is playing with a gun which goes off, killing their brother. A conventional answer

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<sup>12</sup> For the connection between moral and legal responsibility see Lynne Henderson, ‘Rape and Responsibility’, *Law and Philosophy* 11, no. 1 (1992): 127–178 and Nicole Laviolette, ‘Commanding Rape: Sexual Violence, Command Responsibility, and the Prosecution of Superiors by the International Criminal Tribunals for the Former Yugoslavia and Rwanda’, *Canadian Yearbook of International Law* 36 (1998): 93–150.

<sup>13</sup> See Kimberly Hutchings, *Global Ethics: An Introduction*. (Cambridge: Polity Press, 2010), 177–178 and the discussion in Kirsten Ainley, ‘Excesses of Responsibility: The Limits of Law and the Possibilities of Politics’, *Ethics & International Affairs* 25, no. 4 (2011): 422–427.

to the problem of responsibility in this case is to say that the child is *causally* responsible, since their brother would not have died if they had not pulled the trigger, but not *morally* responsible (or *legally* or *politically* responsible), because they lacked a proper understanding of their actions and did not intend to kill in any morally significant sense.<sup>14</sup> This is taken to reflect the lack of capacity on the part of the child and the corresponding difficulty of saying that they should have acted differently.<sup>15</sup> Legal and moral responsibilities can similarly be in tension, as in many examples where breaking an unjust law is seen as the proper ethical decision. The different kinds of responsibility are linked in the sense that our answers to questions about one kind of responsibility are likely to follow from, or lead to, our answers regarding the other kinds. Being consistent about how we relate causal, moral and legal responsibility is often the justification for thinking about responsibility at all.<sup>16</sup> In other words, these different senses of responsibility are *connected*, but not *synonymous*.

In addition to the various kinds of responsibility, there are also different forms that responsibility can take. Most familiarly, someone can be directly responsible for an action because they carried it out themselves. But both individuals and wider collectives might be responsible in further senses. Command responsibility provides for situations, like those encountered in war, where military or civilian leaders are held to have certain obligations regardless of whether they themselves carried out atrocities.<sup>17</sup> We can also speak of responsibility by omission, as when bystanders fail to intervene, and facilitating responsibility, where we contribute to an outcome without having direct or command agency.<sup>18</sup> As we will see, there is also an argument for responsibility by benefit, where individuals received some

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<sup>14</sup> See Hidemi Suganami, 'Causal Explanation and Moral Judgement: Undividing a Division', *Millennium: Journal of International Studies* 39, no. 3 (2011): 719–720.

<sup>15</sup> For the classic discussion see Harry G. Frankfurt, 'Alternate Possibilities and Moral Responsibility', *The Journal of Philosophy* 66, no. 23 (1969): 829–839.

<sup>16</sup> See, for example, the interesting discussion in Kirsten Ainley, 'Individual Agency and Responsibility for Atrocity', in *Confronting Evil in International Relations: Ethical Responses to Problems of Moral Agency*, ed. Renée Jeffery (Basingstoke: Palgrave Macmillan, 2008), 37–60.

<sup>17</sup> Laviolette, 'Commanding Rape'; Toni Erskine, 'Assigning Responsibilities to Institutional Moral Agents: The Case of States and Quasi-States', *Ethics & International Affairs* 15, no. 2 (2001): 67–85; Neta C. Crawford, 'Individual and Collective Moral Responsibility for Systemic Military Atrocity', *Journal of Political Philosophy* 15, no. 2 (2007): 187–212.

<sup>18</sup> Larry May, *The Morality of Groups: Collective Responsibility, Group-Based Harm, and Corporate Rights* (Notre Dame, IN: University of Notre Dame Press, 1987); Virginia Held, 'Can a Random Collection of Individuals Be Morally Responsible?', *The Journal of Philosophy* 67, no. 14 (1970): 197; Virginia Held, 'Group Responsibility for Ethnic Conflict', *The Journal of Ethics* 6, no. 2 (2002): 157–178; Stanley Bates, 'The Responsibility of "Random Collections"', *Ethics* 81, no. 4 (1971): 343–349.

identifiable reward by virtue of others having carried out an act of harm.<sup>19</sup>

Exploring these distinctions also brings into question what entities can be held responsible in the first place. Moving beyond direct individual responsibility has prompted some to theorise the ways in which we might hold mobs, corporations, states and even random collectives responsible.<sup>20</sup> Toni Erskine, for example, argues that states are institutional moral agents because they conceive of themselves as units, have stable identities over time which are greater than the combined identities of their constitutive peoples and because their internal decision-making structures make them capable of moral deliberation and agency, even if this capacity is not held equally by all states.<sup>21</sup>

In the case of wartime sexual violence, these conceptual distinctions generate a number of pressing problems of analysis, ethics and politics. Over recent decades feminists inside and outside the academy have been active, and effective, in developing the idea that rape is a weapon of war requiring concerted action at the level of traditional high politics. In doing so they have implicitly constructed arguments connecting together various kinds of responsibility for war rape, mirroring the process of politicising 'peacetime' rape in national and domestic debates.<sup>22</sup> The focus of these pressures has often been the legal system, emphasising the individual legal and moral responsibility of perpetrators and aiming for improvements in conviction and sentencing.

Most visibly, feminist NGOs played a major part in the passage of United Nations Security Council Resolution 1325 in October 2000, the first Security Council resolution dedicated to

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<sup>19</sup> Larry May and Robert Strikwerda, 'Men in Groups: Collective Responsibility for Rape', *Hypatia: A Journal of Feminist Philosophy* 9, no. 2 (1994): 134–151. See also Larry May, *Masculinity and Morality* (Ithaca, NY: Cornell University Press, 1998).

<sup>20</sup> See May, *The Morality of Groups*; Larry May, 'Vicarious Agency and Corporate Responsibility', *Philosophical Studies* 43, no. 1 (1983): 69–82; Erskine, 'Assigning Responsibilities to Institutional Moral Agents'; Held, 'Can a Random Collection of Individuals Be Morally Responsible?' respectively.

<sup>21</sup> Erskine, 'Assigning Responsibilities to Institutional Moral Agents'.

<sup>22</sup> See Paul Kirby, 'How Is Rape a Weapon of War?: Feminist International Relations, Modes of Critical Explanation and the Study of Wartime Sexual Violence', *European Journal of International Relations* OnlineFirst (February 10, 2012), <http://ejt.sagepub.com/content/early/2012/02/10/1354066111427614>.

acknowledging and combating the gendered violences of war and armed conflict.<sup>23</sup> Building on feminist arguments developed in earlier war crimes tribunals, legal responsibility for rape thus became more clearly visible both in UN policy and in the cases brought by the nascent International Criminal Court (ICC).<sup>24</sup> Preventing impunity for direct perpetrators and military commanders continues to be a major theme in NGO activism on issues of peace and gender.<sup>25</sup>

This emphasis reflects the prominence given to the role of the ICC and to issues of prosecution and impunity in UNSCR 1325 itself, with at least some activists initially confident that important provisions around prior sexual conduct and expert testimony in the Rome Statute would mean that international law would not be as selective, nor serve the interests of power as egregiously, as it had in the past.<sup>26</sup> In contemporary political discourse, these issues are also often framed in terms of the responsibility to protect (R2P), with concerns that the opportunities presented by 1325 have not been properly operationalised by existing security actors, despite the existence of guidelines on how to do so.<sup>27</sup> Appeals to concepts like R2P instantiate certain conceptions of responsibility in global politics,

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<sup>23</sup> United Nations Security Council, Resolution 1325. S/RES/1325 (United Nations, 2000), [www.un.org/events/res\\_1325e.pdf](http://www.un.org/events/res_1325e.pdf); Felicity Hill, Mikele Aboitiz, and Sara Poehلمان-Doumbouya, 'Nongovernmental Organizations' Role in the Buildup and Implementation of Security Council Resolution 1325', *Signs: Journal of Women in Culture and Society* 28, no. 4 (2003): 1255–1269; Laura J. Shepherd, 'Power and Authority in the Production of United Nations Security Council Resolution 1325', *International Studies Quarterly* 52, no. 2 (2008): 383–404.

<sup>24</sup> For those earlier arguments see Laviolette, 'Commanding Rape'; Karen Engle, 'Feminism and Its (Dis)Contents: Criminalizing Wartime Rape in Bosnia and Herzegovina', *The American Journal of International Law* 99, no. 4 (2005): 778–816.

<sup>25</sup> For example, Women's Initiatives for Gender Justice, *In Pursuit of Peace* (The Hague: Women's Initiatives for Gender Justice, 2010), 5, 10–11, 17–19, 28–30, 33; NGO Working Group on Women, Peace and Security, *UNSCR 1325: Women's Participation and Gender Perspectives in Security Council Resolutions Checklist*. (New York, NY: NGO Working Group on Women, Peace and Security, 2006), 2, [http://womenpeacesecurity.org/media/pdf/SCR\\_1325\\_Checklist\\_EN.pdf](http://womenpeacesecurity.org/media/pdf/SCR_1325_Checklist_EN.pdf); Shepherd, 'Power and Authority in the Production of United Nations Security Council Resolution 1325', 391. The NGO Working Group on Women, Peace and Security, based at UN Headquarters, is a coalition of major human rights organisations, including Amnesty International, Human Rights Watch, the International Rescue Committee, the Open Society Institute, the Women's International League for Peace and Freedom and others. See <http://womenpeacesecurity.org/about/> for more details.

<sup>26</sup> United Nations Security Council, Resolution 1325, 3; Pam Spees, 'Women's Advocacy in the Creation of the International Criminal Court: Changing the Landscapes of Justice and Power', *Signs: Journal of Women in Culture and Society* 28, no. 4 (2003): 1248–1249. See also Kirsten Ainley, 'The International Criminal Court on Trial', *Cambridge Review of International Affairs* 24, no. 3 (2011): 309–333.

<sup>27</sup> Sahana Dharmapuri, 'Implementing UN Security Council Resolution 1325: Putting the Responsibility to Protect into Practice', *Global Responsibility to Protect* 4, no. 2 (2012): 241–272; Inger Skjelsbæk, 'Responsibility to Protect or Prevent? Victims and Perpetrators of Sexual Violence Crimes in Armed Conflicts', *Global Responsibility to Protect* 4, no. 2 (2012): 154–171.

although they do so imperfectly, and thus can be scrutinised in terms of their assumptions of structure, agency, morality and causality.

For example, the emphasis on individual legal responsibility for rape in international tribunals has been seriously challenged on a number of grounds. For some, the apparently individual focus of trials actually masks a much more problematic assignment of collective responsibility to cultures and nations. On this account, feminist activism reinforced ideas of rape as the product of collective entities like 'Serb' which are frequently racialised in popular conceptions of war.<sup>28</sup> The actual pattern of war rape cases pursued by the ICC is similarly charged with perpetuating colonial tropes of barbarism, subjecting only Africans to examination for sexual violence.<sup>29</sup> The narrative of developmental progress within 1325 itself can be seen as marginalising certain radical feminist alternatives via a distinctly liberal view of subjectivity.<sup>30</sup> Current understandings of responsibility for war rape can similarly be read as expressing an overly individualist view of politics and suffering, with survivors characterised as isolated victims of trauma, rather than participants in a complicated social structure of gender power.<sup>31</sup>

## **Male Responsibility for War Rape**

How, then, to think of men's responsibility for rape in war? In the most apparently uncontested sense, men are responsible as individuals for rape where they are the person who engages in the act itself, where they had free choice in doing so, and where they had full (or near full) awareness of the likely consequences of their actions. This would be a classic expression of direct moral responsibility, more-or-less aligned to formal legal responsibility for rape, which might be mitigated by certain factors said to decrease responsibility (such as

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<sup>28</sup> Engle, 'Feminism and Its (Dis)Contents'.

<sup>29</sup> Ann Sagan, 'African Criminals/African Victims: The Institutionalised Production of Cultural Narratives in International Criminal Law', *Millennium: Journal of International Studies* 39, no. 1 (2010): 3–21; Ainley, 'The International Criminal Court on Trial', 319–329. The ICC is currently investigating cases in the Democratic Republic of Congo, the Central African Republic, Uganda, Sudan, Kenya, Cote d'Ivoire and Libya. Rape features as a war crimes charge in all country situations except Libya.

<sup>30</sup> Shepherd, 'Power and Authority in the Production of United Nations Security Council Resolution 1325', 398–400. cf. Carol Cohn, Helen Kinsella, and Sheri Gibbings, 'Women, Peace and Security Resolution 1325', *International Feminist Journal of Politics* 6, no. 1 (2004): 130–140.

<sup>31</sup> See Carol Harrington, *Politicization of Sexual Violence: From Abolitionism to Peacekeeping* (London: Ashgate, 2010).

coercion or some inability to understand the likely consequences) or aggravated by others (such as the use of additional forms of violence).<sup>32</sup> Men might also be commonly thought of as individually responsible in a command sense, in either civilian or military roles, where they oversaw, ordered or were in a position to prevent acts of rape, a conception of moral, political and causal responsibility with direct parallels in the law of war.<sup>33</sup>

Yet what of the wider senses of responsibility gestured to by critics of the individualised approach to prosecution and blame? Consider Claudia Card's characterisation of 'peacetime' rape as a terrorist institution in which men are complicit:

Rape in civil [sic] society is a social practice governed by complex informal norms that are taught and learned early. The norms define positions, privileges and liabilities. They define what counts as tacit consent or provocation ('a woman alone is asking for it'). They define who can and who cannot be raped ('a wife cannot be raped by her husband'; 'a prostitute cannot be raped' – that is, nothing done to either counts as rape). As with slavery, the rules vary with time and place. The consequence for women in general (not just those raped) is patriarchal protectionism, under which women provide, for protection against assault, services that range from laundry and cookery to childcare and sex.<sup>34</sup>

This reasoning is applicable, perhaps more so, to contexts of war rape, where the collective military, political and social benefits for men are often held to be more pronounced than in peace. Extending Susan Brownmiller's oft-cited view of the 'critical function' of rape as that “conscious process of intimidation by which *all men* keep *all women* in a state of fear”, it also reflects what Inger Skjelsbæk calls the 'essentialist' conceptualisation of wartime sexual violence in which all women are potential victims of rape, which is aimed at establishing a

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<sup>32</sup> For a discussion of direct moral responsibility, see Alasdair MacIntyre, 'Social Structures and Their Threats to Moral Agency', *Philosophy* 74, no. 3 (1999): 312... This is merely an example to establish the simplest cases of responsibility for rape. There is, of course, a long history of excuses for individual rape and of attempts to combat such excuses through feminist activism. I deliberately do not deal with various mitigating factors in law or social attitudes which seek to place responsibility on victims and survivors for rape. See Joanna Bourke, *Rape: A History from 1860 to the Present*. (London: Virago, 2007); Henderson, 'Rape and Responsibility'; Rozée and Koss, 'Rape'.

<sup>33</sup> Crawford, 'Individual and Collective Moral Responsibility for Systemic Military Atrocity'.

<sup>34</sup> Claudia Card, *Confronting Evils: Terrorism, Torture, Genocide*. (Cambridge: Cambridge University Press, 2010), 71.

general masculine power.<sup>35</sup> A similar argument points out that, as well as being a more individualised form of torture or terrorist atrocity, rape can also be part of the social death of genocide.<sup>36</sup> Political-military coalitions seeking the symbolic cleansing of a people by forced impregnation, or what Card aptly calls 'sperm as a biological weapon', are the collective agents of a wrong, and participants within that group can be attributed responsibility for contributing to those ends.

In other words, men may bear a special responsibility for rape even where they are not themselves in positions of direct or command responsibility for its occurrence. On this view, one can be complicit in, and therefore responsible for, a moral wrong even if one is not causally connected in any necessary way and even if one could not prevent the act by acting. This is what Card, following Christopher Kutz, calls the 'ratification' of evil.<sup>37</sup> Non-rapists may lack direct, command or bystander responsibility, but nevertheless 'stabilise' the practice of rape through habits of toleration and through perpetuating rape culture by speaking in certain ways, or by failing to speak out. In this sense, men may be collectively responsible as participants in patriarchy where wrongs are linked to pervasive social norms.

Genocidal rape is often analysed primarily as coordinated and pre-planned action, which in some ways risks reducing to direct and command responsibility. Larry May, together with Robert Strikwerda, has addressed more clearly collective moral responsibility in the absence of such planning. Drawing comparisons with war crimes and with the collective responsibility of a society for crimes against humanity, May and Strikwerda propose that "insofar as male bonding and socialization in groups contributes to the prevalence of rape in western societies, men in those societies should feel responsible for the prevalence of rape and should feel motivated to counteract such violence and rape".<sup>38</sup> Since rape is carried out by many men, and not just sadists, they argue that the probability of a boy growing up to be a rapist is "as much a matter of luck as it is a matter of choice" and "the typical

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<sup>35</sup> Brownmiller, *Against Our Will*, 15, emphasis in original; Skjelsbæk, 'Sexual Violence and War', 215–218; cf. Kirby, 'How Is Rape a Weapon of War?', 4–5.

<sup>36</sup> Card, *Confronting Evils*, 267–293.; cf. Lisa Sharlach, 'Rape as Genocide: Bangladesh, the Former Yugoslavia, and Rwanda', *New Political Science* 22, no. 1 (2000): 89–102; Lene Hansen, 'Gender, Nation, Rape: Bosnia and the Construction of Security', *International Feminist Journal of Politics* 3, no. 1 (2001): 55–75.

<sup>37</sup> Card, *Confronting Evils*, 65.

<sup>38</sup> May and Strikwerda, 'Men in Groups', 135.

rapist...could have been many men” .<sup>39</sup>

May and Strikwerda thus propose a view of the rapist as a group member. More specifically, they identify two senses in which men in groups are responsible for rape. The first is by *nondistributive collective responsibility*, which is the term they give to situations in which men act together in a collectivity as “some sort of super-entity that causes, or at least supports, the prevalence of rape” and where responsibility is vested in an organisational structure like a corporation or a temporary collective agent like a mob.<sup>40</sup> An army directed towards rape as a means of ethnic cleansing would be a clear expression of nondistributive collective responsibility. But there is also *distributive collective responsibility*, which applies to kinds of oppression which are *systematic but not organised*.<sup>41</sup> Men *in general* appear to meet this condition in five ways: i) as direct perpetrators of rape; ii) as facilitators of rape by contributing to a rape climate, especially in interactions with younger men; iii) as potential 'stand-ins' for actual rapists, since, on May and Strikwerda's account, most men would act similarly in situations where constraints and inhibitions were removed; iv) via responsibility by omission in not stopping actual rapes where it is possible to do so; and v) as beneficiaries of rape to the extent that rape maintains general social advantages for men over women. Since few men could be excluded from *all* of those areas of responsibility May and Strikwerda conclude that “it is not unreasonable to say that men in our society are collectively responsible (in the distributive sense) for rape”.<sup>42</sup> An analogous set of considerations applies for war rape, where distributive responsibility may be even greater.<sup>43</sup>

This formulation is convincing on several grounds. However, there are also a number of reasons to be cautious about their attribution of collective responsibility to men as a group. Most accounts of responsibility would accept elements (i) and (iv) of their case, namely that

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<sup>39</sup> Ibid., 138.

<sup>40</sup> Ibid., 144, 145.

<sup>41</sup> Ibid., 145.

<sup>42</sup> Ibid., 146.

<sup>43</sup> For the question of how rape in war may be linked to the acquisition of resources see Doris E. Buss, ‘Rethinking ‘Rape as a Weapon of War’’, *Feminist Legal Studies* 17, no. 2 (2009): 145–163; Claudia Card, ‘Rape as a Weapon of War’, *Hypatia: A Journal of Feminist Philosophy* 11, no. 4 (1996): 5–18; Debra Bergoffen, ‘Exploiting the Dignity of the Vulnerable Body: Rape as a Weapon of War’, *Philosophical Papers* 38, no. 3 (2009): 307–325; Kirby, ‘How Is Rape a Weapon of War?’.

men are individually directly responsible when they rape and individually, as bystanders, responsible when they do not stop a rape that they reasonably could. There may be some dispute over what could count as 'reasonable' action here, just as element (ii) – that men are individually responsible as facilitators – causes problems primarily in relation to our understanding of the number of acts and beliefs that could count as 'facilitating' in this sense and the accompanying degree of responsibility attributable. In other words, these three elements seem compatible with standard understandings of individual, or non-collective, responsibility.<sup>44</sup>

The central elements required to establish collective responsibility are (iii) and (v): responsibility as hypothetical stand-in and responsibility by benefit. (iii) is particularly open to interpretation, since the responsibility here only applies to individuals who would *potentially* have acted like a rapist, and only where inhibitions have been removed. But this risks tautology, since the various attitudes that might prevent men from raping have been excluded from consideration. Depending on the exact content of inhibitions described, the category of 'potential rapist' would appear to include all living persons, including all women. It requires no action (or non-action) but merely the *possibility* of involvement in hypothetical scenarios. Element (v) introduces an important consideration, but leaves open what might be involved in a benefit and what connection is necessary (in terms of knowledge, joint commitment or shared membership) for the responsibility to hold. If the criteria is only that a causal link can be made from some rapes to enhanced power or prestige for certain groups, this may well establish collective responsibility, but there is no particular reason to think that the group will not include a substantial number of women or exclude a substantial number of men.

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<sup>44</sup> See Narveson, 'Collective Responsibility'; Frankfurt, 'Alternate Possibilities and Moral Responsibility'; Bates, 'The Responsibility of 'Random Collections''; Crawford, 'Individual and Collective Moral Responsibility for Systemic Military Atrocity'.

## The Structure and Agency of Multiplied Masculinities

It is thus still unclear why 'men', as a generalised category, should constitute the group to be held collectively responsible. Convincing examples refer not to men as a to general but to concrete and specific collections of men such as violent mobs, groups of soldiers or corporate entities. Where wider entities and social norms are implicated, they appear to exceed a restriction to men, instead characterising social orders in which individuals of multiple sexual and gender positions may be complicit. Put otherwise, May and Strikwerda's account is institutionally under-specified. Analysis of masculine collectives, such as the military or street gangs, suggests that there are indeed ways in which such groups promote and produce rape-conducive beliefs and much higher levels of rape than are observable in 'normal' background conditions.<sup>45</sup> This institutional specificity requires a moral calculus that goes beyond a narrow individualism, since these behaviours are the product of male socialisation in a diverse and complicated sense. An extensive literature has grown up around this problem of multiple masculinities in recent decades, and responsibility talk should reflect this.<sup>46</sup> But this requires a change in register from morality to sociology, or from discussions of moral responsibility to discussions of causal responsibility.

Adopting this kind of lens may better connected different layers of men and male responsibility, but also proliferates complexities. In accounting for particular events of rape in war, we may well end up attributing responsibilities of omission and benefit at a societal level as well as additional direct, command and bystander responsibilities at the level of complex corporate entities like the state and its government, but also direct, facilitating and command responsibility to the military units involved (perhaps with some exceptions for lack

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<sup>45</sup> See particularly Madeline Morris, 'By Force of Arms: Rape, War, and Military Culture', *Duke Law Journal* 45, no. 4 (1996): 651–781; Philippe Bourgois, 'The Everyday Violence of Gang Rape', in *Violence in War and Peace: An Anthology*, ed. Nancy Scheper-Hughes and Philippe Bourgois (Oxford: Blackwell, 2003).

<sup>46</sup> On multiple masculinities see Michael Kaufman, 'Men, Feminism, and Men's Contradictory Experiences of Power', in *Theorizing Masculinities*, ed. Harry Brod and Kaufman (London: Sage, 1994); Terrell Carver, *Gender Is Not a Synonym for Women* (Boulder, CO: Lynne Rienner, 1996); Kenneth Clatterbaugh, 'What Is Problematic About Masculinities?', *Men and Masculinities* 1, no. 1 (1998): 24–45; Charlotte Hooper, 'Masculinist Practices and Gender Politics: The Operation of Multiple Masculinities in International Relations', in *The "Man Question" in International Relations*, ed. Marysia Zalewski and Jane L. Parpart (Boulder, CO: Lynne Rienner Publishers, 1998); Jeff Hearn, 'From Hegemonic Masculinity to the Hegemony of Men', *Feminist Theory* 5, no. 1 (2004): 49–72; Hutchings, 'Making Sense of Masculinity and War'; Tony Coles, 'Negotiating the Field of Masculinity The Production and Reproduction of Multiple Dominant Masculinities', *Men and Masculinities* 12, no. 1 (2009): 30–44.

of knowledge or active resistance) and further facilitating responsibility to a range of established historical norms which provided the background legitimacy for the acts. Moreover, there will likely be an interaction between attributions of collective responsibility and more conventional charges of individual blame, especially where elements of hierarchy are lacking, for example where there is not a superior-subordinate relationship or where there is a gap between the actions of some members of a group and the knowledge of those acts by other members.<sup>47</sup>

The difficulty in clearly establishing men's collective moral responsibility for rape in all its complexity reflects two kinds of problems: collective responsibility as an idea itself, and the connection between ideas of moral responsibility with debates about structure and agency in accounts of causal responsibility. The *problem of collectives* and the *structure/agency problem* together destabilise and at points even *reverse* the assumptions about the appropriate blame attributable to men for rape. There is thus a disjuncture between arguments for moral and legal responsibility at the individual and collective levels and gender analytical accounts of causal responsibility which examine war rape as a collective social practice.

Some of these difficulties lie in the idea of a collective itself. States, mobs and random groups of individuals do have a kind of collective presence that enables a different order of behaviour, since the capacities of individuals change when they come together with others.<sup>48</sup> This is the condition for *collective action*, one often related to the presence of effective decision-making structures and joint commitments which bind groups together. But the association between collective action – a sociological observation about changes in capacity brought on by relational interactions – does not in itself establish collective responsibility – which is a moral claim not about blame falling on individuals within a group but about blame falling on the group *itself*.

It is this connection which forms a major line of dispute in debates about responsibility. Against assertions of collective responsibility, Jan Narveson holds that “when groups are said

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<sup>47</sup> Laviolette, ‘Commanding Rape’, 107.

<sup>48</sup> May, *The Morality of Groups*, 17. See also Held, ‘Can a Random Collection of Individuals Be Morally Responsible?’; Erskine, ‘Assigning Responsibilities to Institutional Moral Agents’; Margaret Gilbert, ‘Collective Guilt and Collective Guilt Feelings’, *The Journal of Ethics* 6, no. 2 (2002): 115–143.

to be responsible for this or that, the implication *has to be* that we may blame (or praise) members of the group, insofar as they are members, for the action(s) in question”.<sup>49</sup> Whatever content may be given to claims about groups, these must in the end be supported by claims about individual members of the group and actions which they have taken:

No group can claim the authority to penalize individuals who have done nothing relevantly describable as oppressive or aggressive to others, and this for the reason that there is no intelligible way to attribute victimhood to any group in the absence of overt individually violent (or otherwise wrongful) acts by members of other groups against members of it. *Underlying individualism is the only rational meta-theory for collective responsibility.*<sup>50</sup>

Importantly, this does *not* mean that a group is nothing but the sum of its parts. For Narveson, the requirement of underlying individualism in no way precludes a central role for groups. Specifically, he argues that there are acts which only make sense when thought of as a group activity. Where an individual strikes a ball, this act only takes on its proper significance where there are a number of other people playing assigned roles within a field or pitch, who confer a status on the act by virtue of their involvement.<sup>51</sup> In other words, the group context makes the action meaningful. In this sense Narveson follows a tradition of interpretive analysis recognising the centrality of social norms and roles, without therefore endorsing a thorough-going conception of collective responsibility.<sup>52</sup> However, although moral responsibility only makes sense in the context of a group act, this does not mean that it is the group that is morally responsible for the action. Again, the exact sense of 'collective' becomes vital:

If the guilt is strictly collective, then you cannot punish *anyone* in the collective for it, equally or otherwise; irreducibility precludes this. In punishing this man, that woman, this other man, this child, and so on, all equally, we would be behaving as

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<sup>49</sup> Narveson, 'Collective Responsibility', 180, emphasis added.

<sup>50</sup> *Ibid.*, 182, emphasis in original.

<sup>51</sup> *Ibid.*, 182–183.

<sup>52</sup> See Peter Winch, *The Idea of a Social Science and Its Relation to Philosophy* (London: Routledge, 2007).

if each of those individuals was equally guilty. But if the action for which they are being punished is that of an irreducible collective, then that is false. You cannot reduce the irreducible – that is the whole point. *Irreducibility means that you cannot reduce, rather than that reduction must be carried through in a particular way.*<sup>53</sup>

Indeed, we could say that the advantage of command responsibility is that, while it recognises a collective process and structure (that which allows the command to function in the first place) it remains *individual*, allowing the prosecution of differentiated persons for their active roles in authorising atrocity.<sup>54</sup> It is only possible in the presence of groups and the authorisation they bestow – what May calls vicarious agency – but setting this as a proof of collective responsibility means that we may not be able to hold individuals morally responsible at all.<sup>55</sup> This is itself a central claim of those who propose collective responsibility. If all are guilty none can be singled out for particular blame.<sup>56</sup> Similarly, we cannot derive or automatically establish the responsibility of an individual member of a collective even if we can establish the responsibility of the collective.<sup>57</sup> For May, in the case of mob action, since the intention of the collective activity is not reflectively understood by the participants, mob members should *not* be held individually responsible for the actions of the group.<sup>58</sup>

In the case of rape and collective responsibility, the stark consequences of this way of putting the problem become apparent, and take us closer to the problematic dislocation of causal responsibility from moral responsibility. It suggests that patriarchy is responsible for rape *but that men in patriarchy are not*. If even mobs and random collectives count as responsible group agents in this sense, then it may become impossible to punish or judge individuals who rape in those circumstances, leaving only individual cases of 'direct' rape outside of a group context as the subject of individual liability (and maybe not even then). Collective

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<sup>53</sup> Narveson, 'Collective Responsibility', 185, some emphasis added.

<sup>54</sup> Laviolette, 'Commanding Rape'.

<sup>55</sup> May, 'Vicarious Agency and Corporate Responsibility'.

<sup>56</sup> Held, 'Group Responsibility for Ethnic Conflict', 162.

<sup>57</sup> Held, 'Can a Random Collection of Individuals Be Morally Responsible?', 474–475; Bates, 'The Responsibility of "Random Collections"', 346–348; Held, 'Group Responsibility for Ethnic Conflict', 162; May, *The Morality of Groups*, 82.

<sup>58</sup> May, *The Morality of Groups*, 83.

responsibility thus extends responsibility, bringing in new kinds of group actors (aggregates, mobs, corporations, armies and states), and modifies the grounds on which people can be responsible (not only by virtue of their direct behaviour, but also in their assigned social roles and institutions). But it does not replace individual responsibility. Collective moral responsibility therefore comes to face the same disjunction with causal responsibility as its more narrow individual counterpart. If proper explanations from social context mitigate individual responsibility, they also alter collective responsibility. They may even do so more, since collective responsibility displaces blame in multiple directions. Structural accounts of rape illuminate the social sources of violent misogyny, and so guard against reductions of rape to individual pathology or lust, but therefore demand a more sophisticated account of who to hold responsible for rape in the wake of feminist analysis, or risk eradicating the question of guilt altogether.<sup>59</sup>

### **Structuring and De-Structuring Rape Accounts**

Whether to consider social behaviour as the outcome of aggregated individual acts or as the result of systematic pressures and processes is a long-established issue in social theory: an agency/structure problem underlying all accounts of social behaviour.<sup>60</sup> The contest between structure and agency is thus a debate around the appropriate ways of talking about *causal responsibility*, although, historically, ideas of cause have been closely connected to ideas of blame and guilt.<sup>61</sup> Most accounts describe a complex interaction between these structure and agency, and gender has been no exception.<sup>62</sup> The structural perspective attributes causal responsibility just as it makes difficult claims of moral responsibility. Following May and Strikwerda's account, "rape is deeply embedded in *a wider culture of male socialization*".<sup>63</sup> Moreover, although "[r]ape is normally committed by individual men but...rape is not best

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<sup>59</sup> Deborah Cameron and Elizabeth Frazer, *The Lust To Kill: A Feminist Investigation of Sexual Murder* (Cambridge: Polity Press, 1987).

<sup>60</sup> Colin Wight, 'The Agent-Structure Problem and Institutional Racism', *Political Studies* 51, no. 4 (2003): 706.

<sup>61</sup> Suganami, 'Causal Explanation and Moral Judgement', 718-719.

<sup>62</sup> Lois McNay, *Gender and Agency: Reconfiguring the Subject in Feminist and Social Theory* (Cambridge: Polity Press, 2000); Iris Marion Young, 'Lived Body Versus Gender: Reflections on Social Structure and Subjectivity', in *Recognition, Responsibility and Rights: Feminist Ethics and Social Theory*, ed. Robin N. Fiore and Hilde Lindemann Nelson (Lanham, MD: Rowman & Littlefield, 2003).

<sup>63</sup> May and Strikwerda, 'Men in Groups', 148, emphasis added.

understood in individualistic terms”.<sup>64</sup> But if men are the products of patriarchy (and masculine gender orders more generally) which constrain their freedoms and sense of self through what amounts to a gender indoctrination, appeals to their choice and responsibility with respect to rape and other gendered behaviours are complicated.<sup>65</sup> So, although responsibility attributions are often presented as self-evident, there is no way for them not to entail a constructed and imagined agent, often one that conforms to individualist and rationalist criteria.<sup>66</sup>

As Alasdair MacIntyre expressed clearly more than a decade ago, ideas of moral agency and responsibility are undermined when we think about the effects of social structure on action. Occupying certain social roles requires a fidelity to their rules and standards and when a particular moral exclusion is written into those roles – as in MacIntyre's example of a prison train driver in Nazi Germany or in ours of a war rapist in conditions of extreme patriarchy – fulfilling them becomes synonymous with *not* being aware of the effects of our actions, and *not* being able to predict that certain wrongs will result.<sup>67</sup> The usual preconditions for moral agency (and therefore moral responsibility) “can be satisfied only within social orders in which there exist milieus, spheres of activity, which *sustain* the relevant kind of understanding of the self, the relevant kind of critical discourse and reflection, and the relevant kind of accountability” required to challenge harmful social roles (MacIntyre 1999, 321).<sup>68</sup> In other words, the more patriarchal the context, and the less space for challenging patriarchal attitudes and behaviours within it, the less morally responsible actors are for their behaviour within their assigned social roles. It is precisely in the most brutal social structures of war rape, then, where the moral responsibility of individuals will have the least traction.

MacIntyre's response to this tension is actually to see *additional* responsibility arising for individuals on the grounds that agents can be held morally responsible even where they did not have socially reasonable knowledge of the outcomes for their actions. This is because,

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<sup>64</sup> Ibid., 137.

<sup>65</sup> cf. Susan Wendell, ‘Oppression and Victimization: Choice and Responsibility’, *Hypatia* 5, no. 3 (1990): 15–46.

<sup>66</sup> See especially Ainley, ‘Excesses of Responsibility’; Joseph Hoover, ‘Reconstructing Responsibility and Moral Agency in World Politics’, *International Theory* 4, no. 2 (2012): 233–268.

<sup>67</sup> MacIntyre, ‘Social Structures and Their Threats to Moral Agency’, 315–321.

<sup>68</sup> Ibid., 321.

for MacIntyre, responsibility adheres in the act of compartmentalisation necessary to inhabit harmful social roles themselves, so that agents become responsible as 'co-conspirators' in a project to create 'blamelessly compliant lives' for themselves.<sup>69</sup> But the challenge posed by social structure to moral responsibility persists, particularly in relation to patriarchy. Unlike the briefer interlude of a war disrupting non-war consciousness with new roles, feminist have consistently stressed the connection of rape and sexual violence to other forms of gendered power on a continuum that encompasses many more areas of social existence. Where rape is traced to underlying cultures of masculinity that shape whole subjectivities<sup>70</sup>, it becomes unclear where the space *outside* patriarchy might exist for those who go on to perpetuate war rape. In MacIntyre's own terms, "we all begin with the unquestioned".<sup>71</sup>

Similar tensions are thrown up in the more straightforwardly analytical accounts of rape given by Catharine MacKinnon and Susan Brownmiller, the two preeminent feminist theorists of rape. Although both are often charged with reductivism of one kind or another – usually in reducing rape to sex or power/violence<sup>72</sup> – I want to suggest that closer attention to their claims reveals the move between different levels of men's moral responsibility for rape, and that this movement is closely related to problems of causal responsibility in terms of structure and agency.

Catharine MacKinnon, although somewhat inclined to an interpretation of rape in terms of compulsory heterosexuality - "if it's violence not sex why didn't he just hit her"?<sup>73</sup> – nevertheless interprets maleness as very much a social product: "Male is a social and

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<sup>69</sup> Ibid., 327; cf. Card, *Confronting Evils*, 16–21. The specific issue here lies in MacIntyre's characterisation of compartmentalisation, since he argues that when people embody social roles which might appear to diminish their responsibility, normally understood, they are actually consciously moving between roles that they understand themselves as occupying, and so become morally responsible for *the act of moving between social roles itself*. In the case of rape and patriarchy, the question then becomes about the extent to which patriarchy is a special separate sphere of the social, or whether its better conceived of, at least for some, as a more total framework of being. Although I do not find MacIntyre's resolution to the problem of structure/agency compelling, there is inadequate space here to explore the issue in full.

<sup>70</sup> As in Cynthia Cockburn, 'Gender Relations as Causal in Militarization and War', *International Feminist Journal of Politics* 12, no. 2 (2010): 139–157.

<sup>71</sup> MacIntyre, 'Social Structures and Their Threats to Moral Agency', 315.

<sup>72</sup> See Ann J. Cahill, *Rethinking Rape* (Ithaca, NY: Cornell University Press, 2001), 15–49.

<sup>73</sup> Catharine A. MacKinnon, 'Sexuality, Pornography, and Method: 'Pleasure Under Patriarchy'', *Ethics* 99, no. 2 (1989): 323.

political concept, not a biological attribute...it has *nothing whatever* to do with inherency, preexistence, nature, inevitability, or body as such”; “the good news is, it's not biological”.<sup>74</sup> Yet men adhere to the 'male' perspective “nonconsciously and without considering it a point of view” at least partly because “it is in their interest. It is rational for them. A few men reject it: they pay”.<sup>75</sup> Thus male domination becomes simultaneously the product of a learned social role, an unconscious process and a rational choice. The role of pornography and systematic male dispositions also emerge strongly in MacKinnon's later argument that the extent of rape in Bosnia was fundamentally related to the 'saturation' of Yugoslavia with pornography before the war, resulting in a dehumanisation of women that encouraged sexualised brutality.<sup>76</sup>

Brownmiller's early, and still very influential, feminist account of rape constructs a view of rape in a similarly problematic way. It establishes one view of what rape as a system might entail in bold terms: “nothing more or less than a conscious process of intimidation by which *all men* keep *all women* in a state of fear”.<sup>77</sup> This instrumentalist tone is combined with an almost primal account in which rape “reveals the male psyche in its boldest form, without the veneer of 'chivalry' or civilization” where “a female victim of rape in war is chosen *not* because she is representative of the enemy, but precisely because she is a women, and *therefore* an enemy”.<sup>78</sup> This seems to suggest both that rape is in men's interests and that they choose it (which would easily lead to a conclusion of moral responsibility by benefit) *but also* that there are strong elements of patriarchy that escape such reflection (which mitigates both individual and collective responsibility since there has been no conscious commitment to a project of male power).

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<sup>74</sup> Catharine A. MacKinnon, 'Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence', *Signs: Journal of Women in Culture and Society* 8, no. 4 (1983): 636, emphasis in original; MacKinnon, 'Sexuality, Pornography, and Method', 331.

<sup>75</sup> MacKinnon, 'Feminism, Marxism, Method, and the State', 323.

<sup>76</sup> Catharine A. MacKinnon, 'Turning Rape Into Pornography: Postmodern Genocide', in *Mass Rape: The War Against Women in Bosnia Herzegovina*, ed. Alexandra Stigl Mayer (Lincoln, NE: University of Nebraska Press, 1994), 77.

<sup>77</sup> Brownmiller, *Against Our Will*, 15, emphasis in original.

<sup>78</sup> *Ibid.*, 33, 64, emphasis in original.

Much of Brownmiller's analysis also introduces important qualifiers in identifying institutional and socio-cultural dimensions of predatory masculinity much closer to a variegated sense of responsibility: "That *some* men rape provides a sufficient threat to keep all women in a constant state of intimidation, forever conscious of the knowledge that the biological tool must be held in awe for it to may turn to weapon with sudden swiftness born of harmful intent".<sup>79</sup> Likewise, "[p]rison rape is...an acting out of power roles within an all-male, authoritarian environment in which the younger, weaker inmate, usually a first offender, is forced to play the role that in the outside world is assigned to women".<sup>80</sup> Her use of evidence similarly suggests much more variation than is suggested by the idea of rape as fundamentally and inherently a property of maleness. Like May, Brownmiller is concerned primarily with challenging fables of female guilt and dismissing apologetics for male power, and so spends much less time elaborating a scaffolding to resolve such gaps between a general claim about men and the evidence of differentiated and complex expressions of gender order.

In both MacKinnon and Brownmiller there thus is an oscillation between the ubiquitous and the singular, the general and the specific, and the normal and the pathological. It is perhaps not coincidental that both are centrally concerned with processes of law, where the movement between individual responsibility and a general societal pattern becomes particularly salient. In effect, both MacKinnon and Brownmiller struggle with the complexities of causal and moral responsibility, combining both while maintaining a political orientation that draws men and women's attention to the ways in which men benefit from rape even where they are not perpetrators. Card, May and Strikwerda, MacKinnon and Brownmiller all provide accounts which highlight the political and social character of male power. They therefore provide reasons for starting from a certain level of analysis to best understand rape. However, they also provide reasons for thinking of individual agents or perpetrators as expressions of that social level, and so at points move us away from a way of holding individual men responsible for acts.<sup>81</sup> The strange effect of talking about chronic

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<sup>79</sup> Ibid., 209.

<sup>80</sup> Ibid., 258.

<sup>81</sup> For more on these different senses of structure/agency see Wight, 'The Agent-Structure Problem and Institutional Racism', 708.

and powerful social structures of masculinity and patriarchy in this way then threatens to “denude the social field of human agency. We have agency, but no human activity”.<sup>82</sup> Nor are attributions of genuinely collective responsibility without practical consequence:

Recognizing that responsibility for atrocity is fundamentally collective as well as individual, and political as well as legal, necessitates innovative institutional responses. Tasking bodies other than courts to determine some significant aspects of the responsibility for war crimes would reduce excesses of responsibility, and lessen the reliance by courts on such doctrines as joint criminal enterprise to sanction those actors who are implicated politically but not, perhaps, criminally in atrocity.<sup>83</sup>

The question, then, is not only how to reconcile moral and causal responsibility, but also how to translate such resolutions onto a political stage.

### **Conclusive Responsibilities**

This analysis has sought to make clearer the closely intertwined character of feminist analysis and ethics and to draw attention to the co-dependency of moral claims on causal ones. This connection is not surprising when we understand that ways of asking for causal explanation can themselves be aiming at a more fundamental level for a moral accounting of reasons for action.<sup>84</sup> We have seen some arguments for the special extension of male responsibility for rape to situations of wartime sexual violence. Criticisms of individual legal responsibility either as inappropriately assigning special guilt to racialised socio-cultural communities or as conducive to myths of pathological individuals acting separately from a generalised social context demanded a different approach. More analytically compelling arguments for the collective responsibility of men as facilitators and beneficiaries of war rape offered one such alternative, but proved ultimately unsatisfactory. It was never clear

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<sup>82</sup> Colin Wight, ‘State Agency: Social Action Without Human Activity?’, *Review of International Studies* 30, no. 2 (2004): 270.

<sup>83</sup> Ainley, ‘Excesses of Responsibility’, 427.

<sup>84</sup> Suganami, ‘Causal Explanation and Moral Judgement’.

that men as a generalised category constituted the appropriate group for blame and, following Narveson, arguments for collective responsibility were seen to importantly require an underlying individualism of responsibility. More significantly, the problem of responsibility was shown to exceed the opposition of individual and collective forms. Rather, a problem adheres to ways of thinking about responsibility for war rape at all given the emphasis on patriarchy as a structure in feminist and gender theory. Recognising this becomes especially important if we endorse a feminist ethic that *necessarily* goes beyond moral judgement into an account of how social structures may be transformed.<sup>85</sup>

The result is a seeming paradox setting causal and moral responsibility against each other. Where feminist and gender arguments elaborate the patriarchal social structures that make rape such a consistent element of collective violence they either lessen or eradicate altogether attributions of moral responsibility to actors. The blame falls not on men, but on orders of militarised masculinity. The paradox is seeming because there may be ways to re-think it, as MacIntyre does in trying to be clearer about what we can be held responsible for. What is required is a more differentiated understanding, one which could both find individuals less responsible, in the sense that a perpetrator was compelled or socialised into an institution, but also bring in other actors, such as those who helped shape the masculine norms that led to the rape in society at large or in specific military training. Importantly, by not endorsing the claim that individuals escape responsibility by virtue of the collective action of a group, we the door to an account of moral responsibility which acknowledges the role of groups without granting them full autonomy in the sense that Narveson aptly critiques. Such an approach might parallels attempts to understand causal responsibility by conceiving of agency as an embodied practice reflecting and reworking structural elements.<sup>86</sup>

But this does not settle a more foundational set of questions. It does not determine whether a 'fit' between causal and moral stories should be our aim and it does not establish the way in which their tension should be re-evaluated. Nor has this discussion investigated cases where

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<sup>85</sup> Kimberly Hutchings, 'Towards a Feminist International Ethics', *Review of International Studies* 26, no. 5 (2000): 129.

<sup>86</sup> See Wight, 'The Agent-Structure Problem and Institutional Racism'; Clare Chambers, 'Masculine Domination, Radical Feminism and Change', *Feminist Theory* 6, no. 3 (2005): 325-346.

members of a group actively seek to leave oppressive structures, an action that surely has bearing on our notions of agency, choice and responsibility. What it has foregrounded is a more general problem: that it is precisely in those contexts where patriarchy is strongest and rape culture most prevalent that there may be least responsibility in moral terms for harmful actions, since the ideological character of patriarchy renders participants less free and conscious in their understandings of gender, while it will be in egalitarian situations where rape culture has largely broken down where individuals will be most conscious and aware of the moral character of the act of rape and the harms associated with it, and hence potentially most responsible for rapes where they do occur. This is a way of saying that structural accounts of patriarchy and collective and individual levels of responsibility may be inverse, or that the strength of causation over individual action attributed to a gender order is in inverse proportion with the amount of blame attributable to concrete individuals.

There are plausible dangers on both sides. On the one hand, an excessive focus on the collective character of patriarchy might result in unsupportable generalisations about the behaviours of different men in different contexts. Moreover, if transferred to the realms of political and legal responsibility, it may allow the direct perpetrators of rape and sexual violence to escape sanction on the grounds that they were caught up in processes beyond their control, merely acting out the social roles assigned them. On the other hand, directing moral condemnation primarily at individual actors neglects the inescapably social contexts in which they act. By attributing guilt only to those individuals closest to sexual violence, we might punish those with least awareness or control of their behaviours, condemning them as symptoms of more widely dispersed structures properly responsible for morally repugnant acts. In this sense at least, an understanding of the causes and character of rape will support and improve our understanding of the moral choices before us. Especially where our accounts of rape feed into wider discourses about perpetrators, perpetuation and punishment, this kind of reflection – a fleshing of the category of 'man' – provides provisional grounds for political action toward the de-structuring of rape culture and patriarchy.

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