

Comments on Martha Nussbaum's "Accountability in an Era of
Celebrity"
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I remember reading the [Huffington Post piece](#) on which Martha's lecture is based, and being very struck by it. For it seemed to me that there was something importantly different in this piece from what I usually find in Martha's writing. Much of Martha's work is motivated by a fundamental faith in the institutions of liberal justice, and an optimism about our capacity to perfect those institutions despite the realities of oppression. But Martha's *Huffington Post* piece ends on a note of deep scepticism about the prospects of a liberal solution to the problem of sexual assault by famous men. She writes:

Law cannot fix this problem. Famous men standardly get away with sexual harms, and for the most part will continue to do so. They know they are above the law, and they are therefore undeterrable. What can society do? Don't give actors and athletes such glamor and reputational power. But that won't happen in the real world. What can women do? Don't be fooled by glamor. Do not date such men, unless you know them very, very well. Do not go to their homes. Never be alone in a room with them. And if you ignore my sage advice and encounter trouble, move on. Do not let your life get

hijacked by an almost certainly futile effort at justice. Focus on your own welfare, and in this case that means: forget the law.

Now, Martha's exhortation to women to 'forget the law' and to be, as she says, 'selfish and self-protective', might be *misread* as an instance of victim-blaming, a kind of old-fashioned pragmatism that obscures the fact that the responsibility for rape lies with the *men* who rape, not with their female victims. But I read Martha as offering a radical condemnation of not only liberal legal systems, but also of the liberal faith that the institutions of liberal justice will be sufficient to address real oppression. I see, in other words, a flash of the same, deep scepticism that motivates so many feminist, Marxist, black and post-colonial theorists to reject the liberal worldview that Martha usually exhorts us to adopt.

Moreover, I think it's striking, in this connection, that Martha's seeming departure here from her usual liberal optimism is driven by her personal experience of sexual assault. For it's precisely personal experience of class-, gender- and race-based oppression that drives so many critics of liberalism to their pessimism. So I wonder first if, extrapolating from her own personal disillusionment with the law, Martha can sympathise with those who are more generally disillusioned with the power of the liberal state to address the ravages of race-, sex- and class-based oppression?

My second thought is this. While it is no doubt vital, as feminists have long pointed out, to take seriously the role of first-personal experience and understanding in our political theorising, it is also vital, as especially black feminists have been arguing for decades, to ask ourselves *whose* experiences we are taking into account. Rape and sexual assault here form an object lesson.

In the U.S., college rape has become something of a national obsession. 1 out of 5 college women report being sexually assaulted, and as Martha points out, there are serious issues raised by the in-house handling of these assaults, especially when university administrators are often more interested in protecting their brands and endowments than in ensuring the safety of their students. There is no doubt something very worrying about the sexual culture of American university campuses. The same could be said of British university campuses. But sexual assault and rape rates are lower on university campuses than some other places in the U.S. – being a university student in the U.S. is less of a risk factor for becoming a victim of rape than being a [sex worker](#), or being [Native American](#). Being poor, non-white, trans, mentally disabled, or homeless are also serious risk factors for being raped. Indeed, an American college student is [20% less likely](#) to be raped than a woman her same age who didn't make it to university.

Why then the contemporary focus on the college rape epidemic? Part of the reason no doubt has to do with the fact that powerful people – generally, middle-class white men – are likelier to care about rape when it is their daughters who are the potential victims. But mainstream feminism has also contributed to and colluded with this focus on young, relatively privileged women, out of a pragmatic realisation that a college rape crisis will be an easier sell than a Native American rape crisis, or a poor black women rape crisis. In short, while first-personal thinking is indispensable in understanding the horrors of sexual assault, we must also find a way to move outside our own particular vantage points, in order to think about rape and sexual assault not only individually, but structurally.

This takes me to my third and final thought. What sort of structures should we appeal to in order to make sense of the phenomenon that

particularly worries Martha, namely the phenomenon of famous men getting away with sexual assault? Why did it take so long for Bill Cosby to be charged with rape, given that the allegations against him date back to the 1960's? Why did Donald Trump's celebration of his own sexual assaults not make him an electoral pariah? And in this country, why was no action ever taken against Jimmy Saville, despite the widespread rumours of his serial sexual abuse against children?

Martha suggests that these cases are outliers, what she calls 'unfinished business' in the law's ability to hold sexual predators accountable. The forward march of the law, she argues, has done much to transform the misogynistic beliefs that make men feel entitled to women's bodies. While private citizens, she says, are 'typically, or at least frequently, held accountable', celebrities are 'shielded by glamor, public trust, and access to the best legal representation'. She recommends that rather than waiting for the law to find its grip on these men, we should embrace our roles as consumers, refusing to send our money their way.

I want to offer a somewhat more pessimistic reading of the situation. Despite legal progress, rape culture is alive and well. Donald Trump wasn't elected despite his confessions of sexual assault, and Jimmy Saville wasn't popular despite the rumours of sexual predation. Part of what makes these men admired by many other men, and objects of attraction for some women, is precisely the way in which their worldly power extends into the sexual realm, the way in which the official sexual rules do not apply to them. We might have made progress in holding rapists legally accountable, but the vast majority of sexual assaults by even ordinary citizens go unreported, and the conviction rate for rape remains well below the conviction rate for other crimes, at around 6% in this

country. [1 out of 3 people](#) in the UK think a woman is partially to blame for being raped if she flirted with her rapist.

Moreover, rich, powerful men get away with sexual assault not because rape law can't quite get a grip on them, but because rich, powerful men get away with all sorts of things. They get away with not paying their taxes, with not being held accountable for the financial crises they cause, with not having to be as smart or talented as their poor or female counterparts in order to succeed, and with buying unearned advantages for their children. And they get away with any number of criminal offences, both because of the legal representation they can afford, but also because of the systematic biases of jurors and judges. To give just one recent example, an [18-year-old Eton student](#) was found with nearly 2000 graphic images and videos of babies and toddlers being sexually abused. The judge in the case decided to spare the defendant jail, saying, and I quote:

This defendant Andrew Picard was a privileged young man. His family are clearly wealthy enough to send him to school in Eton...Quite how you found your way into this unpleasant world Mr Picard, the world of chatrooms and exchanging this material, is not clear to me...Why you did it doctors and others have sought to explain - the emotional difficulties you had, issues around your sexuality.

It's very hard to imagine a black or brown student from an inner city comprehensive getting the same exonerating treatment. No doubt the aura of celebrity makes some rich men particularly privileged with respect to the law. But it is a mistake, I think, to think that they constitute some sort of special case, discontinuous with what happens everywhere else.

In light of this, it seems to me that what we really need is not consumerism, as Martha recommends, but solidarity – solidarity against not just rape culture, but against the systematic racial and socioeconomic inequalities that give so many rich white men, and not just the famous ones, a free pass.