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ARTICLE

SIGNIFICANT BITS AND PIECES: LEARNING FROM FASHION MAGAZINES ABOUT VIOLENCE AGAINST WOMEN

Cheryl B. Preston*

ABSTRACT

Against the backdrop of high-profile advancements and expanded opportunities for women, Professor Cheryl Preston examines the implicit messages conveyed by prevalent and seemingly innocuous images in advertisements. Preston draws upon her five-year study of fashion magazines, exploring how advertisers use a variety of photography techniques (e.g. fragmentation; fungibility; gilded and contrived perfection; depiction as dolls, animals, or objects; contortion; and various plays on vulnerability) to depict as desirable women who are vulnerable, available, and insignificant. Preston asserts that these images contribute to a cultural climate that supports violence, proffering a normative view of women that in turn influences the negative treatment of women. Preston also argues that the assumptions underlying these advertising images serve as counteragents to the laws promulgated to provide greater gender equality. She concludes that legal proceedings and pro-

* Professor of Law, J. Reuben Clark Law School, Brigham Young University. This article and a series of related articles are the results of years of concentrated study in advertising, gender, and image. I wish to thank all those who have assisted, including several students who have chosen to graduate and go on with their lives notwithstanding my continued need for their help. These include Sherrine Walker, Eric Hinton, Christopher Wall, Margaret Lindsay, and several years of students registered in my feminist legal theory seminars. I also thank my current students who have helped with research, Gunda Jarvis, Stephanie Wallace, Patty Muh, Nicole Thomas, Mathew D. McGhie, and E. Dean Stout. I am especially indebted to my colleagues in law and in media studies departments who have given suggestions on earlier drafts, Joanne Valenti, Brett G. Scharffs, James R. Rasband, J. Clifton Fleming, Jean W. Burns, Kif Augustine-Adams, and the participants in the faculty research brown-bag series at BYU.

posed legislation should be refined in light of these powerful negative media images, programs that encourage the self-esteem and empowerment of girls and women should be supported, consumers should send the requisite message to manufacturers by resisting their products, and destructive images of women should be transformed.

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I. INTRODUCTION

A woman is conditioned to view her face as a mask and her body as an object, as things separate from and more important than her real self, constantly in need of alteration, improvement, and disguise. She is made to feel dissatisfied with and ashamed of herself, whether she tries to achieve “the look” or not. Objectified constantly by others, she learns to objectify herself.¹

Lately, a popular notion is that American women’s battle for gender equality is over.² The battle, we are told, has been won — women should declare victory and move on. Indeed, the evidence of significant advancements in the perception and treatment of women is remarkable.³

1. Jean Kilbourne, *Beauty and the Beast of Advertising*, in GENDER, RACE AND CLASS IN MEDIA 121, 122-23 (Gail Dines & Jean M. Humez eds., 1995).

2. On July 29, 1998, the cover of *Time* magazine declared “Is Feminism Dead?” The feature article asserts that feminists have gone from “intellectually provocative” in the 1970s to today’s “stylish fluff.” Ginia Bellafante, *Feminism: It’s All About Me!*, TIME, July 29, 1998, at 58. See also DEBORAH L. RHODE, SPEAKING OF SEX: THE DENIAL OF GENDER INEQUALITY 2 (1997) (claiming Americans no longer “perceive gender inequality as a serious problem”); Ann Scales, *Disappearing Medusa: The Fate of Feminist Legal Theory?* 20 HARV. WOMEN’S L.J. 34, 37 (1997) (reporting that students are tempted to dismiss radical feminism as passé); Laurie Lucas, *The New Faces of Feminism*, PRESS-ENTERPRISE, July 19, 1998, at AO1, (acknowledging charge that women’s movement is “all washed up”); Marianne Means, *Has Feminism Degenerated into a Trivial Pursuit?*, AUSTIN AM.-STATSMAN, June 28, 1998, at G3, available in 1998 WL 3617149 (reflecting on American women now taking equality for granted).

3. For reminiscences of leading women in law on the progress during their lifetimes, see Barbara Allen Babcock, *Sisters in Law: Women Lawyers in Modern American History*, 50 STAN. L. REV. 1689, 1703 (1998) (book review) (celebrating the fact that the percentage of women law students has jumped from 4% to 40% in a short time, and that women are being admitted into exclusive ranks of professors and judges); Sandra Day O’Connor, *Fiftieth Anniversary Remarks*, 50 STAN. L. REV. 1, 8 (1997) (lauding advances for women in legal profession); Ruth Bader Ginsburg, *Remarks on Women’s Progress in the Legal Profession in the United States*, 33 TULSA L.J. 13, 20 (1997) (concluding that progress has been made from the 1950s to the 1990s, and the trend toward shared roles for men and women will probably continue). See also Jacquelyn H. Slotkin, *You Really Have Come a Long Way: An Analysis and Comparison of Role Conflict Experienced by Women Attorneys Today and by Educated Women Twenty Years Ago*, 18 WOMEN’S RTS. L. REP. 17, 18 (1996) (comparing opportunities currently available for women to those of the 1970s); Sara Terry Gabrels, *The Changing Face of Feminism*, CHRISTIAN SCI. MONITOR, July 20 1998, at 7, available in 1998 WL 2369328 (comparing advancements for women and remaining barriers).

Yet, women⁴ still fall behind men in innumerable measures of social and economic well-being.⁵ One of the most discouraging vestiges of inequality is reflected in the fact that women are still too often the targets of violence, especially violence committed by men who hold positions of trust.⁶ While rates of violent

4. For convenience in reference, I use the general signals "women" and "men" in this article. What I intend is a more complex designation along a scale of the personality, perception, and behavior patterns loosely marked as gender in American culture, although not necessarily reflective of all women or men. I ask that my observations be evaluated against readers' individual experiences, recognizing some over-generalization may be basic to theorizing. For instance, I recognize, although I do not address it here, that effeminate men may be disadvantaged in the same ways experienced by most women. See Mary Anne Case, *Disaggregating Gender from Sex and Sexual Orientation: The Effeminate Man in the Law and Feminist Jurisprudence*, 105 YALE L.J. 1, 3 (1995) (noting the "continuing devaluation, in life and in law, of qualities deemed feminine," especially if exhibited by men who "descend[] from their masculine gender privilege to do so"). Furthermore, race, class, ethnicity and other factors may alter the experience of gender. See, e.g., Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990) (noting that "gender" most often reflects the experience of white, heterosexual, middle-class women and ignores various intersections). In fact, the addition of race to the designation of gender may significantly complicate the discrimination. See Laura M. Padilla, *Intersectionality and Positionality: Situating Women of Color in the Affirmative Action Dialogue*, 66 FORDHAM L. REV. 843, 848 (1997) ("When there is an intersection between two or more of these identities [i.e. race, gender, physical (dis)abilities, sexual orientation], then people with multiple subordinated identities are often subject to more intense discrimination than the single axis discrimination suffered by those associated with a single category of subordinated identity."). I can report on the published research and my outside observations, but not the *experience* of being of a different race or class than my own. See *infra* Part III.

5. Most reports on the status of women come in a "good news/bad news" package. For instance, a *Time* article celebrates women's progress and then counters that women continue to earn only 76% of what men earn. Bellafante, *supra* note 2, at 58. A report from the Department of Labor Statistics cuts a finer line. While noting that among college graduates women earned 73% as much as men in the period studied (1993), the study concludes that, if researchers create a hypothetical pool that adjusts for similar age, levels of education, major fields of study, and occupational characteristics, the gap narrows to 87%. Daniel E. Hecker, *Earnings of College Graduates: Women Compared with Men*, MONTHLY LAB. REV., Mar. 1, 1998, at 62, available in 1998 WL 15340071. Am I supposed to be proud that women earn only 13% less than men when we account for virtually everything but gender?

For another measure of women's continued devaluation, see Martha Chamallas, *The Architecture of Bias: Deep Structures in Tort Law*, 146 U. PA. L. REV. 463, 464-65 (1998) (documenting significant disparities in how juries value male and female lives, health, and safety in tort awards); cf. Kingsley R. Browne, *Sex and Temperament in Modern Society: A Darwinian View of the Glass Ceiling and the Gender Gap*, 37 ARIZ. L. REV. 971, 1075 (1995) (asserting that external employer bias is no longer a substantial factor in wage gap, but rather women's biology-driven choices).

6. In *Brzonkala v. Virginia Polytechnic Inst.*, 132 F.3d 949 (4th Cir. 1997), *reh'g en banc granted* (Feb. 5, 1998), the Fourth Circuit quoted the "detailed and extensive" Congressional findings that "carefully documented the enormity of the problem caused by violence against women":

crime committed against men are declining,⁷ rates of violent crime committed against women have remained fairly constant,⁸

'Violence is the leading cause of injury to women ages 15-44 . . . ' S. Rep. No. 103-138, at 38 (1993).

'[F]or the past 4 years [prior to 1993], the U.S. Surgeons General have warned that family violence — not heart attacks or cancer or strokes — poses the single largest threat of injury to adult women in this country.' *Id.* at 41-42 (footnote omitted).

'An estimated 4 million American women are battered each year by their husbands or partners. Approximately 95% of all domestic violence victims are women.' H.R. Rep. No. 103-395, at 26 (1993) (footnotes omitted).

'Three out of four American women will be victims of violent crimes sometime during their life.' *Id.* at 25 (footnote omitted).

'Since 1988, the rate of incidence of rape has risen four and a half times as fast as the total crime rate. There were 109,062 reported rapes in the United States in 1992 — one every five minutes. The actual number of rapes committed is approximately double that figure . . . ' *Id.* (footnotes omitted).

132 F.3d at 966. My research does not necessarily support the claims in the Congressional findings. *See infra* note 7; Cheryl B. Preston, *Delusions, Disillusionment and Dropping Crime Rates* (forthcoming) (on file with the author). Official data on crime rates and women victims confirms that the problem is serious even if not quite as drastic as these Congressional findings suggest. *Id.* Although some data suggests an increase in violent crime against women, even the most conservative estimates of the problem indicate crimes against women are not declining as rapidly as other violent crimes. *Id.*

7. General violent crime rates have substantially decreased in recent years. *See* U.S. GOV'T PRINTING OFFICE, U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES — 1995 (1996). *See also* U.S. DEP'T. OF JUSTICE, *UCR 1997 Preliminary Annual Release* (visited June 9, 1998) <<http://www.fbgov/pressrel/ucrpress.htm>> (indicating from preliminary 1997 figures a continuing 5% decrease in violent crime as compared to 1996). However, the numbers are hardly low enough for us to lose a healthy respect for the risk to ourselves and others.

8. General trends in crime rates take on a different flavor when apportioned based on the gender of the victim. "In 1994 men were relatively safer than they had been in 1974, as their victimization rate declined. The rate of violent crime for women remained unchanged until an increase beginning around 1990." DIANE CRAVEN, BUREAU OF JUSTICE STAT., U.S. DEP'T. OF JUSTICE, SEX DIFFERENCES IN VIOLENT VICTIMIZATION, 1994, NCJ-164508, Sept. 1997, at 2. In 1996, 1,800 murders were committed by intimates, that is, spouses, boyfriends, girlfriends, etc. Three out of every four victims were female. *See* U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STAT. FACTBOOK, VIOLENCE BY INTIMATES, ANALYSIS OF DATA ON CRIMES BY CURRENT OR FORMER SPOUSES, BOYFRIENDS, NCJ-167237, Mar. 1998. In addition to the persistently high incidence of woman-directed violence, women continue to be disadvantaged relative to men in the process of reporting, investigating, and proving violent crimes against them. *See, e.g.,* Janet E. Ainsworth, *In a Different Register: The Pragmatics of Powerlessness in Police Interrogation*, 103 YALE L.J. 259, 259-263 (1993) (concluding, in another context, that women's speech patterns disadvantage them when being interviewed by police); Katharine K. Baker, *Once a Rapist? Motivational Evidence and Relevancy in Rape Law*, 110 HARV. L.

notwithstanding three decades of feminist legal reforms and vastly increased attention to preventing and prosecuting women-directed violence.⁹

How are we to account for the stubborn persistence of violence against women? Are women continuing to be disproportionately victims¹⁰ of certain kinds of violence because society accepts the message of popular American media culture that continues to depict women as weak, passive, and unimportant?

One possible link between social trends and violence that has received massive attention is the alleged connection between men's consumption of pornography and violent behavior towards women.¹¹ The central issue has been whether images of women consumed by men adversely affect men's behavior towards women. The debate is impassioned, firm conclusions are elusive, and while no clear connection between consumption of pornography and predictable acts of violence has been established, there

REV. 563, 583 (1997) (explaining jury bias against women complainants and other reasons for remarkably low conviction rates in rape cases); Maya Manian, 20 HARV. WOMEN'S L.J. 333, 333 (1997) (reviewing LESLIE FRANCIS, DATE RAPE: FEMINISM, PHILOSOPHY, AND THE LAW (1996)) (discussing continuing difficulties in prosecuting and securing convictions in rape cases).

9. Issues surrounding violence against women have received increasing recognition in academic and judicial training settings. See, e.g., *Report of the Maine Commission on Gender, Justice, and the Courts*, 49 ME. L. REV. 135, 188-89 (1997) (noting the need for educating judges, prosecutors, lawyers, and law enforcement officers to better understand the nature of sexual offenses and rape "myths"); see also Judith M. Billings & Brenda Murray, *Introduction to the Ninth Circuit Gender Bias Task Force Report: The Effects of Gender*, 67 S. CAL. L. REV. 739, 741 (1994) (noting that gender bias task forces found evidence of blaming women victims, treating violence against women as less serious, and according women litigants less credibility); Lynn Hecht Schafran, *Educating the Judiciary About Gender Bias: The National Judicial Education Program to Promote Equality for Women and Men in the Courts and the New Jersey Supreme Court Task Force on Women in the Courts*, 9 WOMEN'S RTS. L. REP. 109 (1986) (referring to judicial education projects including: NATIONAL JUDICIAL EDUCATION PROGRAM TO PROMOTE EQUALITY FOR WOMEN AND MEN IN THE COURTS, JUDICIAL DISCRETION: DOES SEX MAKE A DIFFERENCE?, INSTRUCTORS MANUAL 5 (1981), PROMOTING GENDER FAIRNESS IN THE COURTS: WORKSHOP FOR JUDGES OF THE NINTH FEDERAL CIRCUIT, Monterey, California (Jan. 25, 1987), GENDER BIAS WORKSHOP, FEDERAL JUDICIAL CENTER, Washington, D.C., August 5-6, (1993)); Lynn Hecht Schafran, *Will Inquiry Produce Action? Studying the Effects of Gender in the Federal Courts*, 32 U. RICH. L. REV. 615 (1998). See *infra* notes 15, 16, 23.

10. For a careful weighing of the risks of characterizing women as victims in any context, see Cheryl B. Preston, *Consuming Sexism: Pornography Suppression in the Larger Context of Commercial Images*, 31 GA. L. REV. 771, 821-26 (1997).

11. See *infra* Part V and Preston, *supra* note 10, at 776-813.

is evidence that viewing pornography, at a minimum, affects men's attitudes about women.¹²

But what about women's images of themselves? A large unexamined issue is whether women's perceptions of women affect the way men treat women. Are women continuing to be victims because they are willing to take, though perhaps unaware they are taking, the risks associated with being modeled, styled, and fashioned, as Nora who lives in Henrik Ibsen's *A Doll's House*?¹³ Widespread attention has been given to the question of how fashion images affect a woman's satisfaction with her own body, especially the link between extremely thin supermodel standards and eating disorders in white women.¹⁴ However, there is a notable absence of writing on the implications of women's self perceptions in other, perhaps more dangerous, contexts such as violence. Merely making the suggestion that women's views of themselves might facilitate violence against women is viscerally objectionable, because it smacks of blaming the victim. Nevertheless, women's images of themselves can affect how they are treated, what they tolerate or condone, and what attitudes they pass on to children. Moreover, the possibility that women are willing to self-style themselves in counterproductive ways in exchange for being fashionable or, more likely, desirable to men, suggests that efforts of feminist legal theorists to transform the law may not easily translate into a meaningful change in the status and treatment of women.

Finally, women's perceptions of themselves may profoundly affect the doctrinal development and the practical effectiveness of laws aimed at improving the lot of women in a variety of ways. What we learn from advertisements about violence against women, about our culture, and about ourselves is of critical importance to various endeavors in the law.¹⁵ Our beliefs about

12. See *infra* text accompanying notes 224-36.

13. Henrik Ibsen's play, *A Doll's House*, written in 1890, depicts a woman given all the luxuries and attention of a dearly valued possession, but denied the opportunity to define herself. HENRIK IBSEN, *SELECTED WORKS* (Rolf Fjelde trans. & ed., 1965).

14. See, e.g., JOAN JACOBS BRUMBERG, *THE BODY PROJECT: AN INTIMATE HISTORY OF AMERICAN GIRLS* (1997); Michele Ingrassia, *Body of the Beholder*, *NEWSWEEK*, Apr. 24, 1995, at 66; Sherry L. Turner et al., *The Influence of Fashion Magazines on the Body Image Satisfaction of College Women*, *ADOLESCENCE*, Sept. 22, 1997, at 603.

15. Social analytical jurisprudence is becoming increasingly popular as "psycholegal" scholars study "the gap between the law and the manner in which people evaluate their everyday social interactions." Richard L. Weiner & Linda E.

human motivations, deservingness, normal and aberrant behavior, at sometimes an unarticulated and unarticulate-able level, color how individuals perceive right and wrong, criminal and non-criminal.¹⁶ These beliefs shape our visions of the meaning and importance of equality under law. The beliefs we have about women, as a social construct, influence our treatment of women. Once violence happens, then criminal law, tort law, and family law must define the meaning and consequences of gender attitudes and behavior.

At the legislative level, policy makers need to understand the contexts in which laws act and react. We legislate to address inequities. Our perception of inequities (including what is unfair, who has power to protect themselves, and who warrants the law's intervention) is based on stereotypical formulations of group and individual deservingness. These notions are affected by, even grounded in, popular culture. Therefore, the choices we make when we legislate reflect our perception of the power relation between different groups. For instance, our perceptions greatly

Hurt, *Social Sexual Conduct at Work: How Do Workers Know When it is Harassment and When it is Not?*, 34 CAL. W. L. REV. 53, 55 (1997). This discipline has arisen in response to the recognition that many controversies in legal doctrine rest on unexplored assumptions about human conduct. *Id.*

16. See Kathryn Abrams, *The New Jurisprudence of Sexual Harassment*, 83 CORNELL L. REV. 1169, 1200 (1998) (arguing for the need to carefully consider complexities of gendered interaction before declaring legal doctrine); Jody Armour, *Stereotypes and Prejudice: Helping Legal Decisionmakers Break the Prejudice Habit*, 83 CAL. L. REV. 733, 745 (1995) (seeking judicial recognition of jurors' "automatic" cognitive processes that stereotype witnesses and parties to litigation); Lisa A. Binder, "With More Than Admiration He Admired": *Images of Beauty and Defilement in Judicial Narratives of Rape*, 18 HARV. WOMEN'S L.J. 265, 266 (1995) (addressing, through study of language choices, "the broader cultural assumptions at work in the context of violent crimes against women"); Judith Olans Brown et al., *The Mythogenesis of Gender: Judicial Images of Women in Paid and Unpaid Labor*, 6 UCLA WOMEN'S L.J. 457, 460 (1996) ("[O]ur thesis is that certain reductive assumptions about women upon which courts and legislatures rely, and which advocates unknowingly often reinforce, have frustrated the development of a transformative legal discourse."); Browne, *supra* note 5, at 974 (arguing law's need for comprehensive understanding of human behavior and psychology, especially as it relates to inequality based on sex); Chamallas, *supra* note 5, at 466 (suggesting bias works its way into law, not intentionally, but through general reliance on hierarchies of values); Katherine M. Franke, *What's Wrong With Sexual Harassment?*, 49 STAN. L. REV. 691, 696 (1997) (urging more principled understanding of sexually harassing behavior in context of social, cultural, and historical norms); Carol Sanger, *Seasoned to the Use*, 87 MICH. L. REV. 1338, 1346 (1989) ("Laws which regulate and influence women are . . . grounded in nonlegal traditions, systems, [and] passions."); Weiner & Hurt, *supra* note 15, at 54 (supporting empirical studies challenging assumptions on which sexual harassment laws are based and seeking to fill gaps between law and everyday human behaviors).

influence the choices we make in legislating in response to violence against women. Legislators need an understanding of the motivations of perpetrators of violence against women,¹⁷ the dynamics of the relationships in which violence occurs,¹⁸ and the effect of convictions or civil judgments.¹⁹

Those who seek to influence lawmakers also rely on their understanding of why violence against women happens and what can be done to lessen it. The need to understand human nature is evidenced by the vigorous debates among feminist legal scholars on the merits of the Violence Against Women Act of 1996 (VAWA).²⁰ One compelling example is Katharine Baker's argument that the new evidence rule 413 introduced by VAWA,²¹ although laudable in its purpose to bolster the credibility of women complainants, "relies on outmoded and demonstratively false stereotypes of who rapes, what rape is, and why rape might be different from other crimes."²²

Judges, juries, prosecutors, and law enforcement personnel struggle with what proof is necessary to establish the guilt or innocence of persons alleged to have engaged in such violence.²³

17. See Baker, *supra* note 8, at 598 ("[W]e must start focusing both our academic inquiry and legal practice on the question of why men rape."); Franke, *supra* note 16, at 742 (reviewing psychological studies of rapists, or men who are likely to commit rape, and agreeing with the conclusion that rape is "a pseudo-sexual act, a pattern of sexual behavior that is concerned much more with status, hostility, control, and dominance than with sensual pleasure or sexual satisfaction") (quoting A. NICHOLAS GROTH, *MEN WHO RAPE: THE PSYCHOLOGY OF THE OFFENDER* 12-13 (1979)).

18. See, e.g., Randy Frances Kandel, *Squabbling in the Shadows: What the Law Can Learn From the Way Divorcing Couples Use Protective Orders as Bargaining Chips in Domestic Spats and Child Custody Mediation*, 48 S.C. L. REV. 441, 444 (1997) (providing ethnographic studies contrasting the legal intent of protective orders with how they actually play out in violent relationships).

19. See Sara Sun Beale, *What's Law Got To Do With It? The Political, Social, Psychological and Other Non-Legal Factors Influencing the Development of (Federal) Criminal Law*, 1 BUFF. CRIM. L. REV. 23, 25 (1997) (contrasting popular public beliefs with documented evidence that stiffer sentences do not deter crime).

20. Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, 1902 (1994). After VAWA's enactment, one district court held it unconstitutional, as beyond Congress' interstate commerce power. See *Brzonkala v. Virginia Polytechnic Inst.*, 935 F. Supp. 772 (W.D. Va. 1996). This finding was reversed on appeal by the Fourth Circuit, 132 F.3d 949 (4th Cir. 1997), *reh'g en banc granted* (Feb. 5, 1998).

21. Rule 413 allows fact-finders to consider evidence of similar crimes committed by the defendant in a criminal case in which sexual assault is charged. FED. R. EVID. 413, 28 U.S.C.A. § 413 (West Supp. 1998).

22. Baker, *supra* note 8, at 565.

23. See, e.g., Baker, *supra* note 8, at 583-587 (discussing juries' tendencies to acquit rapists even if they believe the victim about what happened); VALERIE P.

In addition, although usually outside of the appropriate inquiry with which they are charged, judges, juries, and trial lawyers speculate on why this happened to this particular victim,²⁴ if indeed it did. The perception of credibility and truth,²⁵ and what it takes to change our minds, are driven by our core beliefs about what people are and deserve.

Moreover, not everyone's beliefs are equally weighed in formulating law and legal consequences. The system of law that attempts to give order and meaning to human interaction is carved by and in the image of those who gain access to the legal profession, are appointed to the judiciary, and train law students. The processes for self-selecting careers in law, as well as the judgments of the gatekeepers to the profession, may be better understood and adjusted in light of the patterns that emerge from a study of popular culture.²⁶ In these many ways, advertising tells

HANS & NEIL VIDMAR, JUDGING THE JURY 204 (1986) ("[J]urors deciding rape cases will represent the anger, ambivalence, and myths that characterize public views of rape. [These attitudes affect] their perspectives and ultimately their decisions in cases of rape."); Morrison Torrey, *When Will We Be Believed? Rape Myths and the Idea of a Fair Trial in Rape Prosecutions*, 24 U.C. DAVIS L. REV. 1013, 1014-15 (1991) (arguing that continued low conviction rate in rape cases is the result of continued influence of various myths on judges, jurors, and others who perceive testimony in rape trials); A. Nicholas Groth & Ann Wolbert Burgess, *Rape: A Sexual Deviation*, in MALE RAPE: A CASEBOOK OF SEXUAL AGGRESSIONS 231 (1997) (arguing that the comments of one judge in a sexual assault case demonstrate a serious misunderstanding of the dynamics of rape); Cynthia E. Willis, *The Effect of Sex Role Stereotype, Victim and Defendant Race, and Prior Relationship on Rape Culpability Attributions*, 26 SEX ROLES 213, 214-15 (1992) (noting reluctance of prosecutor to bring, jurors to convict, and judges to sentence severely in date rape cases); Amanda Konradi, *Too Little, Too Late: Prosecutors' Pre-court Preparation of Rape Survivors*, 22 LAW & SOC. INQUIRY 1, 3-7 (1997) (citing study results concluding that "district attorneys did not give rape survivors adequate information to prepare mentally for their role in court"); Aya Gruber, *Pink Elephants in the Rape Trial: The Problem of Tort-Type Defenses in the Criminal Law of Rape*, 4 WM. & MARY J. WOMEN & L. 203, 220 (1997) (describing study findings that juries incorporate rape myths in their deliberations); *id.* at 237 (noting that juries might feel that a rape victim "asked for it").

24. See COLLEEN A. WARD, ATTITUDES TOWARD RAPE 44-45 (1995) (documenting changes in attitudes towards rape from 1977 to 1991). Ward's studies showed that while in 1977 only 7% felt that a woman could not be raped against her will, that number jumped to 17% in 1986, and 22% in 1991. *Id.* See also Baker, *supra* note 8, at 588-89 (noting that juries either blame the victim or simply refuse to blame alleged actor).

25. See Aviva Orenstein, "My God!": A Feminist Critique of the Excited Utterance Exception to the Hearsay Rule, 85 CALIF. L. REV. 159, 199-204 (1997) (explaining that survivors of rape and sexual violence are often disbelieved because they are numb and non-communicative rather than assertive after the event).

26. As Mona Harrington wrote:

us something about the core assumptions that form the legal system.

All of these beliefs about human nature and deservingness are both reflected in and shaped by popular culture.²⁷ Ordinary advertisements are a uniquely condensed and powerful picture of popular culture, especially with respect to gender depictions.²⁸ Advertising is not just a reflection of the stereotypes held by advertisers. Economic incentives provide ample motivation for advertisers to discern our collective archetypal fears and aspirations, translate our fears and aspirations into shorthand nanosecond messages, and manipulate them to encourage further consumption.²⁹ Advertising freezes the details of daily life so that we can hold and study them. It is an aquarium in which we can observe both what we want to see and what advertisers want us to see. "[T]he details of social behavior [displayed in advertising] are symptomatic revelations of how a sense of self is established and reinforced, and . . . that sense of self, in turn, both reflects and cements the social institutions upon which rests a culture's hierarchical structure,"³⁰ creating a mutually reinforcing cycle of damaging images for and about women.

In the course of studying advertising images of women in magazines primarily targeted at women, I have come to see a dangerous cumulative picture of women. Although women's magazines often ostensibly seek to serve the liberation and empowerment of women, in fact, many contribute to the perpetuation of a culture in which violence against women is not only predictable, but expected or at least accepted. My five year study of popular print advertising of the 1990s, especially in the kind of fashion magazines that appeal to impressionable teens and young adults, reveals that women in advertising are persistently por-

Quietly, covertly, media images teach young women entering the law — and practicing lawyers, too — what kind of behavior is acceptable, what manner, what speech, what dress And to the extent that they ratify the social conventions that have confined women to the private sphere . . . the images undermine women's claim to full authority in the law.

MONA HARRINGTON, *WOMEN LAWYERS: REWRITING THE RULES* 153 (1994).

27. For an analysis of the duality of advertising's role in reflecting and shaping, see Cheryl B. Preston, *To See as We are Seen* (forthcoming) (on file with author).

28. See Preston, *supra* note 10, at 819-20.

29. See MICHAEL F. JACOBSON & LAURIE ANN MAZUR, *MARKETING MADNESS: A SURVIVAL GUIDE FOR A CONSUMER SOCIETY* 45 (1995).

30. Vivian Gornick, *Introduction*, to ERVING GOFFMAN, *GENDER ADVERTISEMENTS* vii (1976).

trayed in ways that are consistent with accepting them as victims of violence.³¹ Of course, this is not true of all advertisements, nor of all women's magazines. Some modern ad campaigns are notable for their effort to encourage and reflect the empowerment of women.³² More troubling are the ads that revise the surface details to picture an occasional power suit, and offer copy that plays on feminist themes, but in the subtle, and ultimately more significant, ways feature women-things,³³ rather than volitional, consequential, human beings.

In this Article, I consider what common advertisements found in popular, primarily fashion, magazines targeted at women readers tell us about violence against women and why it flourishes in our culture. Part II analyzes examples from 1997-1998 advertisements and describes how advertising images are coded with subtle meaning, especially in their cumulative effect. I discuss the messages conveyed by repeated use of photographic fragmentation; fungibility; gilded and contrived perfection; depiction as dolls, animals, or objects; contortion; and various plays on vulnerability, including drug addiction, youth, weakness, and exposure. Part II concludes by distinguishing the sexism in these ads from sexuality.

Part III makes three important comparisons. First, it compares techniques used in advertising images of and aimed at women to those of and aimed at men. Part III then compares recent advertising images to 1960s and 1970s advertising. Finally, Part III compares the impact of fashion advertising for white women with women of other races and ethnicities.

Part IV explores the implications of being women-things — how violence stems from the desire to control, which desire stems from the perception of possess-ability. Part V focuses, first, on the possible links between the perception of possess-ability and the milieu of commercial images that surround us. Part V then addresses how women themselves may be affected by their unthinking exposure and acceptance of these images.

In Part VI, I urge women of our generation to wake up to the implications of the commercial imagery we heartily support

31. For a discussion of changes between 1970s ads and recent ads, see *infra* Part III.

32. For statistics on the relative frequency of damaging images in advertising, see *infra* Part III.

33. For a discussion of the myriad ways in which advertising portrays women, see *infra* Part II.

with the powerful vote of our consumer dollar. I also urge legal scholars and lawmakers to seek to understand and address the underlying social issues, rather than merely the symptoms — the few, particularized incidents of violence that make their way into courts.

II. ADVERTISING TECHNIQUE AND THE MAKING OF WOMEN-THINGS

Many of the sexual tableaux we are bombarded with daily are not of intimate, consensual sex, which one might term erotica. Rather, they present bodies, or body parts, with the cool estrangement of commodities.³⁴

In this Part, I use the details of advertising methods to illustrate motifs grouped generally into two themes, those that objectify women and those that suggest women's vulnerabilities. The first group of motifs includes ways in which women are equated with particular objects, notably animals and dolls. Consonant therewith, the category "women" itself is treated as things, easily fragmented, readily fungible, and externally shaped and contorted. The second group of motifs illustrates how women, albeit portrayed as humans instead of objects, are nonetheless made out to be vulnerable, and thus subject to the will of others. Women in those ads are shown as vulnerable because of drug addiction, youth, physical weakness, and exposure.

A. Objectification

Using female figures as objects of artistic beauty is hardly new; certainly, using women's bodies to sell unrelated products is as old as advertising.³⁵ Female bodies and body parts serve as display cases for every imaginable product.³⁶ For instance, a par-

34. JACOBSON & MAZUR, *supra* note 29, at 83.

35. See Mark D. Alicke et al., *Judgments of Physical Attractiveness: The Role of Faces and Bodies*, 12 PERSONALITY & SOC. PSYCHOL. BULL. 381, 381-82 (1986) ("[T]he veritable media blitz in our society . . . uses bodies to sell almost every product imaginable."); Basil G. Englis et al., *Beauty Before the Eyes of Beholders: The Cultural Encoding of Beauty Types in Magazine Advertising and Music Television*, J. ADVERTISING, June 1994, at 49, 50 (noting "long history of using 'female beauty' to sell products").

36. Mainstream examples from recent magazines include: COSMOPOLITAN, Apr. 1998, at 95; COSMOPOLITAN, Mar. 1998, at 522-33; HARPERS BAZAAR, Mar. 1998, at inside front cover; VOGUE, Mar. 1998, at 130-131, 242, 522-523; VOGUE, Sept. 1997, at 20; VOGUE, Aug. 1997, at 38.

These images use partially to completely naked women to showcase products such as shoes, purses, rugs, compact disc players, jewelry, etc. A striking ad in SPIN,

ticularly common technique is to display purses (an accessory typically used by fully dressed women) slung over a naked female back. For instance, in Figure 1, the model is wearing nothing from the top down to just below the waist, except for a purse draped across her back. The shoulder straps are around her neck, giving the viewer the impression that this model is in some sort of bondage, carrying a huge burden that she cannot shake. Her face is shaded, so that it looks like a silhouette, and her eyes are not visible. Her bare back stands out more than the product and certainly more than her identity.

Advertisers knowingly make the choice to use women's bodies as display cases. A series of studies suggest that sexual arousal affects the formation of attitude, processing of information, and formation of psychological emotions associating desirability with the product or brand advertised.³⁷

Using female bodies as sales props becomes increasingly problematic as the humanity of the woman is lost. Dehumanization, of course, tends to occur in degrees.³⁸ Some feminists argue that any picture of a woman objectifies her as the subject of the observer's controlling gaze.³⁹ If all that was necessary for a per-

Apr. 1998, at 12-13, shows a woman with her back to the camera. She is supposedly modeling trousers, yet one can barely see enough of the trouser to catch the top of the belt loop. What occupies the reader's attention is her bare back.

If we must use voluptuous chests to sell products, I prefer the milk campaign featuring Tyra Banks, hanging out over the top of a black dress. The predominant feature in the picture is her breasts, which seem to be too large to quite fit in what the copy calls her "supertight, little black dresses." But, at least, arguably, milk is a "related" product.

37. See Michael S. LaTour et al., *Female Nudity, Arousal, and Ad Response: An Experimental Investigation*, J. ADVERTISING, Sept. 22, 1990, at 51-62 (citing various studies).

38. As Israel Charny explained:

The mechanism of dehumanization operates in each and every instance when one person takes away a quality of the living experiences or aliveness from another in order to spare himself from his own dread of not feeling alive. . . . The "little" everyday dehumanizations we practice on one another are stations on a way toward the ultimate act whereby one person takes away another's very life.

Israel W. Charny, *A Contribution to the Psychology of Genocide: Sacrificing Others to the Death We Fear Ourselves*, in ISRAEL YEARBOOK ON HUMAN RIGHTS 90, 99-100 (1980).

39. For an interesting discussion of gaze in the context of jurisprudence, see Megan E. Abbott, *The Servant's Gaze: Nelly Dean's Rise to Power in Wuthering Heights*, 18 WOMEN'S RTS. L. REP. 107, 109 (1997) ("[T]he gaze imbues the 'gazer' with a feeling of power and simultaneously curses the 'gazed at' with a feeling of disempowerment; the gaze fixes the objects in its line of vision, rendering them impotent.").

son to be objectified is to show her/him in a picture, it would not be a phenomenon any more likely to happen to women. Men would be just as vulnerable.⁴⁰ But dehumanization is something more than the necessary objectification of gaze. It requires that the subject pictured be somehow less than a person. Although a certain objectivity results, by necessity, from a photograph, the damage is relative to the degree to which the subject's identity and self-determination is subsumed and she or he is made primarily enticing for consumption, sexual or otherwise. Dehumanization occurs when:

[T]he focus of perception shifts from eyes, mouth, shoulders, hands — all of which are capable of such subtleties of expression that the personality expressed by them is manifold — it shifts from these to the sexual parts, whose formation suggests an utterly compelling but single process. The other is reduced . . . to their [sic] primary sexual category: male or female.⁴¹

Recognizing the distinctions along the scale of dehumanization requires consideration of subtle factors. The factors discussed in this part include the following: fragmentation (shown only as body parts); fungibility (deprived of individuating, identifying features); artificial perfection (made up as masks or mannequins); disguise (masqueraded as animals, furniture, etc.); and contortion (posed in uncomfortable powerless positions).

These factors, in greater degree, also characterize pornography, especially when explicit sex or explicit violence is added.⁴² However, ads may be more dangerous because they are such subtle, whitewashed versions of pornography that we no longer heed the distortions they contain.⁴³ We begin to endorse them.

1. Fragmentation

As if to emphasize that the picture is of the *body*, not the *woman*, ads often show only parts of bodies — legs, arms, torsos, etc.⁴⁴ This “ready dismemberment and multiplication of female

40. For a comparison of the treatment of male and female images, see *infra* Part IV.

41. JOHN BERGER ET AL., *WAYS OF SEEING* 59 (Penguin Books 1977) (1972).

42. See, e.g., *infra* notes 49-51, 71, 86.

43. See Preston, *supra* note 10, at 847-49 (explaining how advertising's persuasive mainstream influence masks its danger).

44. For representative examples, see *GLAMOUR*, Apr. 1998, at 222; *SEVENTEEN*, Apr. 1998, at 47; *BAZAAR*, Mar. 1998, at 113, 176, 356; *VOGUE*, Mar. 1998, at 91, *SELF ANNUAL FITNESS ISSUE*, Sept. 1997, at 110; *VOGUE*, Sept. 1997, at inside front cover; *GLAMOUR*, Aug. 1997, at 119.

bodies presumes the absence of any coherent, integrated, substantive self."⁴⁵

Ads that fragment a woman's body give the viewer the impression that the model can come apart at the arms, legs, and especially the head. In Figure 2, for instance, a woman is shown divided roughly in thirds. The first third displays her legs, sprawled out on the couch in a lazy, reclining position, as if she were daydreaming. The second segment shows a slice of her face and upper body. The only visible eye is closed. The third segment shows her torso, cut off at the neck, flat on the couch.⁴⁶ This ad tells viewers that women are like puzzles, they can be pulled apart and put together again; or they are toys that can be "fixed" or assembled in many ways.⁴⁷

Most fragmented photographs focus on the model from the neck down to the waist, suggesting that breasts are the most important, or at least most interesting, aspect of being a woman. For example, a photographer does not need the entire woman to advertise belts; arguably, only her waist is necessary. Indeed, in Figure 3, a September 1997 belt ad from *Vogue*, the model's face and legs are cropped off. The picture does, however, include her bare torso to her neck. The focal point is her breasts, covered partially and awkwardly with one forearm.⁴⁸ Although breasts are often the focus, even when sexual parts are not emphasized, interchangeable legs, partial backs, and other body pieces spread among several frames deny the bodily integrity of the woman.

The technique of fragmentation is comparable to techniques used in pornography.⁴⁹ "In pornography, photographs are often composed in such a way that a particular body part is greatly emphasized. Or it may even fill the whole of the picture, in

45. Michelle A. Masse & Karen Rosenblum, *Male and Female Created They Them: The Depiction of Gender in the Advertising of Traditional Women's and Men's Magazines*, 11 WOMEN'S STUD. INT'L F. 127, 132 (1988).

46. Particularly striking is that in the first and third segments of this ad, a teddy bear is dangling from her reclining hand. The implications of this ad, that women are much like children who are in need of control and supervision, are discussed in more detail in Preston, *supra* note 27.

47. For a discussion of women as toys, see *infra* Part IV.

48. VOGUE, Sept. 1997. Although extremely common in advertisements, covering breasts with one arm or by bringing elbows together, is not a pose for amateurs to try at home, at least not comfortably for longer than two seconds — unless of course the model has only a three or four inch upper arm.

49. See JANE CAPUTI, THE AGE OF SEX CRIME 180 (1987) ("[T]his symbolic dismemberment of women has always been normative in pornography.").

which case the body is fragmented, cut up, by the frame.”⁵⁰ In all forms of photography, fragmentation is much more common with images of females than images of males.⁵¹

2. Fungibility

Although several photographic techniques suggest the fungibility of the subject, the two most common in advertisements using women models are: (1) eliminating our most individuating human characteristic — eyes; and (2) depicting women as space markers or units, like grain or widgets, any one of which can replace another.

Eyes are powerful transmitters of an individual’s personality. In a picture, the direction of a woman’s gaze may imply her lack of focus; the absence of eyes or gaze implies that the thing pictured is not a person at all.⁵² Moreover, if a woman does not look at the viewer, she cannot challenge the viewer’s gaze. This reinforces her status as a commodity. With stunning consistency, ads show women with only one eye exposed,⁵³ looking down,⁵⁴

50. ANNETTE KUHN, *THE POWER OF THE IMAGE: ESSAYS ON REPRESENTATION AND SEXUALITY* 36 (1985).

51. *Id.* at 40.

52. In *The Beauty Myth: How Images of Beauty are Used Against Women*, Naomi Wolf describes the impact of similar ads from the 1980s that fragment and objectify women:

The reader is looking through an ordinary women’s magazine. In an ad for Reebok shoes, the woman sees a naked female torso, eyes averted. In an ad for Lily of France lingerie, she sees a naked female torso, eyes shut; for Opium perfume, a naked woman, back and buttocks bare, falls facedown from the edge of a bed; for Triton showers, a naked woman, back arched, flings her arms upward; for Jogbra sports bras, a naked female torso is cut off at the neck. In these images, where the face is visible, it is expressionless in a rictus of ecstasy. The reader understands from them that she will have to look like that if she wants to feel like that.

NAOMI WOLF, *THE BEAUTY MYTH: HOW IMAGES OF BEAUTY ARE USED AGAINST WOMEN* 133 (Anchor Books 1992) (1991).

53. Examples of this motif in recent magazines include: *LADIES’ HOME J.*, June 1998, at 15, 146; *SEVENTEEN*, Apr. 1998, at 119; *HARPERS BAZAAR*, Mar. 1998, at 273; *PEOPLE*, Mar. 30, 1998, at 61; *VOGUE*, Mar. 1998, at 75; *COSMOPOLITAN*, Sept. 1997, at 295; *SELF*, Sept. 1997, at 168, 195; *VOGUE*, Sept. 1997, at 132, 211, 509, 535, 694, 707; *VOGUE*, Aug. 1997, at 183; *COSMOPOLITAN*, Apr. 1997, at 91, 232; *ELLE*, Apr. 1997, at 67.

54. Recent ads showing a model with both eyes, but looking down, up or otherwise markedly away from the viewer include: *SPORTS ILLUSTRATED*, June 1, 1998, at 40-41; *COSMOPOLITAN*, Apr. 1998, at 175; *GLAMOUR*, Apr. 1998, at 90, 170; *MADEMOISELLE*, Apr. 1998, at 205; *NEIMAN MARCUS CATALOGUE*, Apr. 1998, at 211; *SEVENTEEN*, Apr. 1998, at 61, 165; *HARPER’S BAZAAR*, Mar. 1998, at 133, 303; *VOGUE*, Mar. 1998, at 59, 85; *REDBOOK*, Sept. 1997, at 15; *SELF*, Sept. 1997, at back cover;

with closed or covered eyes,⁵⁵ or merely chopped off at the neck or nose.⁵⁶ To emphasize how common this treatment of eyes is, I include a dozen representative illustrations, Figures 3-5, 7, and 9-16, drawn from a single issue of *Vogue* magazine.

Pornography plays on this same motif. Although a woman's face is useful to show the signs of autoeroticism, in pornography she has no power of gaze. "Her eyes are closed, she faces away from the camera, but her body is wide open. [She] pretends she is unaware the camera is there."⁵⁷

The bra ad in Figure 4 is a notable example. An egg replaces the model's eyes. The top quarter of the page shows the egg; the copy states: "Seamless. Not shapeless." The rest of the page shows a model from her mouth down past her ribs, wearing the bra, of course. Maybe better text would be: "Faceless. But not shapeless." The watch ad, Figure 5, is more creative than most, but the pose nonetheless is most notable for the lack of a face. A black turtle neck is pulled up covering the model's face completely. Long blond locks of hair and finger tips identify her as female. In contrast, the same company's ad printed on the reverse of this page, Figure 6, shows a male model wearing a white ribbed knit shirt and looking straight at the camera with both eyes. Similarly, Figure 7 uses shading and light to hide the woman's face from the nose up. The rest of her body is accented with bright light, especially her chest.

A surprising number of women in ads are cropped off — somewhere across the face. A particularly egregious example, Figure 8, pictures a woman model in black and white, cropped mid-cranium, with her eyes covered, and a contorted pose

VOGUE, Sept. 1997, at 23, 74, 85, 153, 159, 174, 181, 277, 487, 682-83; GLAMOUR, Aug. 1997, at 157, 162; COSMOPOLITAN, Apr. 1997, at 165, 167, 227-228, 259; MCCALL'S, Apr. 1997, at 5; REDBOOK, Apr. 1997, at 69.

Ads showing models with only one eye exposed, and still looking, down, up or otherwise away include: LADIES' HOME J., June 1998, at 16, 146; COSMOPOLITAN, Apr. 1998, at 222, 253; GLAMOUR, Apr. 1998, at 169; SEVENTEEN, Apr. 1998, at 139, 163; PEOPLE, Mar. 1998, at 61; SELF, Sept. 1997, at 206; VOGUE, Sept. 1997, at 128, 271, 431, 443, 498, 701; COSMOPOLITAN, Aug. 1997, at 36; GLAMOUR, Aug. 1997, at 108, 154; ELLE, Apr. 1997, at 55; REDBOOK, Apr. 1997, at 17; VOGUE, Apr. 1997, at 66.

55. Recent ads with covered eyes include: LADIES' HOME J., May 1998, at 61; LADIES' HOME J., Feb. 1998, at 135, 174; VOGUE, Sept. 1997, at 301, 334, 451, 551.

56. Recent ads in which eyes are entirely omitted include: GLAMOUR, Apr. 1998, at 222, 225; HARPER'S BAZAAR, Mar. 1998, at 176; VOGUE, Mar. 1998, at 83, 103, 251; SELF, Sept. 1997, at 159; VOGUE, Sept. 1997, at 172, 321, 398; COSMOPOLITAN, Aug. 1997, at 253; GLAMOUR, Aug. 1997, at 119.

57. KUHN, *supra* note 50, at 29-30.

whereby her arms can cover her nipples.⁵⁸ This black and white figure is the display case for a brightly colored crystal necklace. The copy reads, "Be brilliant" — a difficult task without the top of her head.

Figures 17-19 display common methods for eliminating the impact of eyes, or the power of gaze. Figure 17, advertising a watch, is fairly subtle. It shows a woman on a tennis court, wearing a revealing white slip-style full length gown. The tennis racket is positioned so it blocks her right eye completely and the strings camouflage her left eye. Women in ads whose faces are complete and uncovered are frequently pictured with eyes shut or turned away from the camera, in what is apparently sexual anticipation, as in Figure 18. One curiously consistent pose is a woman gazing off the corner of the page (most commonly the upper right hand corner), as in Figure 19.

One of the least creative and most blatant examples of eviscerating eyes is, oddly, styled as an effort to educate women about osteoporosis, see Figure 20. The picture is a straight forward, clear shot of a woman's face. However, an approximately two-by-six inch strip is neatly interposed where her eyes should be. The text from the ad is printed in this strip. The cropping of her eyes in this ad is particularly egregious and contradictory because the ad is, according to the text, supposed to be an educational message to improve the quality of life for women, especially older women.⁵⁹ Yet, the visual set up of the picture and text trivializes women's humanity, particularly when taken within the context of the multitude of ads that omit women's eyes and other signals of their personhood.

A classic example of covered eyes is Figure 21, the famous Gianni Versace ad for a beaded vest. Although part of a mid-1990s ad campaign, this image was chosen for the front of the jacket cover on the 1997 fashion memoir about Versace's designs.⁶⁰ The vest is jewel colored and brightly sparkling. The model is otherwise wearing nondescript black leggings merged

58. This advertisement is pictured and discussed in JIB FOWLES, *ADVERTISING AND POPULAR CULTURE* 85 (1996).

59. In this ad for Tums, the model appears to be meditating. The text box covering her eyes says "Osteoporosis isn't caused by aging. It's caused by ignorance." The text box makes the woman appear motionless, so that one wonders if this is an ad about osteoporosis or rigor mortis. Osteoporosis is not the only thing caused by ignorance. While informing the reader about osteoporosis and telling the reader to take charge of her future, the ad displays a lifeless unseeing woman.

60. RICHARD H. MARTIN, *VERSACE* (1997).

with black foot coverings. Her stance is open and aggressive. The disturbing feature of the ad is in the comparison between the treatment of the model's face and the treatment of her chest. The vest is gaping open, exposing much of the model's breasts. However, her eyes are completely blindfolded with a matching jewel-tone scarf.

Some may argue that the exposed body and eclipsed eyes are simply a staple of progressive designers and their advertisements, applying equally to male models. While "exposure" is common fare, Figure 22 makes apparent the difference in treatment by gender. This rare example of an exposed male model in a Versace ad is very different than the woman in Figure 21. In addition to a bare torso, he has eyes that challenge the camera, the strength and control of a powerful muscular body, and even his own name. The ad focuses on him, the person — not him, the body. The woman in Figure 21 could be anyone — anyone whose body is so perfect.

Another common illustration of photographic fungibility in advertisements is pictures of women, maybe even with eyes, who are interchangeable, have been stamped from the same mold, duplicated, or multiplied by some external maker. For example, see Figures 20 and 21, which I further discuss below. Figure 23 is an amalgamation of three pictures of what must be the same model. These images are lined up as a series of soldiers. The women in Figure 24 are somewhat more distinct. Differently positioned, they are not merely duplicate images. Nonetheless, the three women appear to be robots made on an assembly line. By picturing extremely similar looking women in similar clothing, ads suggest both a fashion singularity to which women should aspire and, unfortunately, the notion that women are interchangeable.

3. Artificial Perfection

Many advertising pictures show identifiable women, with faces and even eyes, in fairly natural poses. However, their appearance is of such perfection that they seem as inhuman as the fragmented and fungible images discussed above.⁶¹ The images on film can be retouched and computer enhanced — lengthened, narrowed, reshaped, and cleansed of imperfections, blemishes,

61. The flawless, non-human skin is almost a universal in makeup ads. For particularly notable examples, see *COSMOPOLITAN*, Apr. 1998, at 16; *GLAMOUR*, Apr. 1998, at 107; *MADMOISELLE*, Apr. 1998, at 47; *VOGUE*, Mar. 1998, at 151, 514.

and unwanted color variations.⁶² Professionals oversee the model's makeup, hair, clothing, and accessories. Moreover, each detail can be refurbished between each shot. The photographer can flatter the model further with the manipulation of lenses, lighting, camera angles, and props.

The flawlessness of [advertising's woman] is, in fact, an illusion created by makeup artists, photographers, and photo retouchers. Each image is painstakingly worked over: teeth and eyeballs are bleached white; blemishes, wrinkles, and stray hairs are airbrushed away. According to Louis Grubb, a leading New York retoucher, "Almost every photograph you see for a national advertiser these days has been worked on by a retoucher to some degree [F]undamentally, our job is to correct the basic deficiencies in the original photograph or, in effect, to improve upon the appearance of reality." In some cases, a picture is actually an amalgam of body parts of several different models — a mouth from this one, arms from that one, and legs from a third. By inviting women to compare their *unimproved* reality with . . . airbrushed perfection, advertising erodes self-esteem, then offers to sell it back — for a price.⁶³

Advertising's women are without blemishes and, in fact, usually without pores. Their flawlessness makes them less like the viewer. Consequently, it is easier to perceive them as commodities rather than people. They become less "real" and more like dolls or china figurines. As Van Halen sings, "Are you for real? It's so hard to tell, from just a magazine."⁶⁴ Media Studies Professor Jib Fowles asks of a typical female ad model, much like the one pictured in Figure 25:

Do you know anyone who looks like [this] model? She herself may not fully recognize the person here, for she has been costumed, made up, lighted, and photographed with a special lens Models in advertising are much more likely to be flawless in appearance than actresses in popular culture productions. Advertising's perfected style leads to an emphasis on surfaces at the expense of all else.⁶⁵

Undoubtedly, both women and men suffer from the pressure to measure themselves against artificial and unattainable images of beauty in the media. The anxiety experienced by women,

62. Dalma Heyn, editor of two women's magazines, confirms that airbrushing signs of age from women's faces is routine. WOLF, *supra* note 52, at 82.

63. JACOBSON & MAZUR, *supra* note 29, at 75.

64. CAPUTI, *supra* note 49, at 175-176 (quoting VAN HELEN, *I'll Wait, on* 1984 (Warner Bros. 1984)).

65. FOWLES, *supra* note 58, at 14-15.

however, is different in kind and in intensity.⁶⁶ A day or two stubble on a male face in an ad is currently quite vogue. Many male actors are allowed to show some stray scars and pocks — it gives them “character.” Male faces in advertisements are allowed at least to have flaws; female faces rarely do.⁶⁷

In addition to the commodification of flawlessness, the extreme attractiveness of women in the commercial images to which we are constantly exposed may engender some resentment, disappointment, and sense of betrayal when a man realizes the women in his life have flaws.⁶⁸ Of course, even apart from

66. See Stephen L. Franzoi & Mary E. Herzog, *Judging Physical Attractiveness: What Body Aspects Do We Use?*, 13 PERSONALITY & SOC. PSYCHOL. BULL. 19, 30 (1987) (“[F]ailure to meet [the standards of physical attractiveness] result in more negative effects in women than in men.”).

One particularly revealing example is obesity. Women face more pressure to be thin and are more stringently punished by society when they fail. See James D. Sargent & David Blanchflower, *Obesity and Stature in Adolescence and Earnings in Young Adulthood*, 148 J. ARCHIVES, PEDIATRICS, & ADOLESCENT MED. 681, 681 (1994) (documenting an inverse relationship between obesity and socioeconomic status in women when the results for men were unclear). Obese women are “20% less likely to get married” than their thinner counterparts, whereas “overweight men are [only] 11% less likely to get married than thinner men.” William C. Taussig, Note, *Weighing in Against Obesity Discrimination: Cook v. Rhode Island, Department of Mental Health, Retardation, and Hospitals and the Recognition of Obesity as a Disability under the Rehabilitation Act and the Americans with Disabilities Act* [aka, weighing in with a hefty title], 35 B.C. L. REV. 927, 933 n.55 (1994) (citing Steven L. Gortmaker et al., *Social and Economic Consequences of Overweight in Adolescence and Young Adulthood*, 329 NEW ENG. J. MED. (1993)). In addition, obese women make “\$6,710 less per year, complete[] fewer years of college and [are] 10% more likely to live below the poverty line than women who [are] not overweight,” but obese men are only “marginally disadvantaged” in these areas. *Id.*

67. For examples of advertisements using less-than-perfect male faces, see e.g., VOGUE, Sept. 1997, at 318 (very spotty facial hair growth, forehead creases, scattering of moles); *id.* at 517 (partial facial hair growth and light scar above right eye); ELLE, Apr. 1997, at 59 (partial facial hair growth and forehead creases); GLAMOUR, Aug. 1997, at 85 (the “Marlboro Man” with various wrinkles and pocks); NEIMAN MARCUS CATALOGUE, Apr. 1998, at 9 (variety of marks, pocks, and wrinkles in addition to spotty facial hair growth).

68. Ads that promote a rigid ideal of female beauty also harm men — and have a boomerang effect on women. When a company wants to target men, the simplest tactic in the marketing manual is to put a sexy woman in the ads. From an early age, images of the “ideal” woman are burned into boys’ minds, and, not surprisingly, some of those boys become frustrated men who for years may search in vain for that woman, never satisfied with the ones they meet — who are inevitably too tall or too short or too fat or too skinny or too buxom or too flat-chested or whatever.

JACOBSON & MAZUR, *supra* note 29, at 198. John Berger suggests that “[t]he purpose of publicity is to make the spectator marginally dissatisfied with his present way of life. Not with the way of life of society, but with his own within it. . . . [S]ocial

advertising, attractiveness clearly matters in our society. However, the advertising industry vastly magnifies its importance and, moreover, redefines attractiveness to an unattainable standard.⁶⁹ Attractiveness is fairly unusual in nature, but advertisements make attractiveness seem more beautiful, perfect, and commonplace than it is in life. These unrealistic standards lead women to believe they should also have faces without blemishes or pores, in addition to unnaturally emaciated bodies. Personality and character are downplayed in favor of doll-like essence, a perfected and, incidently, man-made symbol of beauty. Unfortunately, as discussed in Part IV, there is a price to be paid for being equated with dolls rather than human beings.

4. Dolls, Masks, and Mannequins

Little discernment is required to identify the chimeric masks on the models in makeup and skin care advertisements. Advertisers often take this motif to a further extreme. Ads often skip the subtlety and portray women directly as dolls.⁷⁰ A doll is the “classic icon” of objectification because it “betokens the man-made woman, the truly *fashionable* woman, the veritable object of possession.”⁷¹ Pornography is replete with the motif of a doll.⁷² Why dress up a Barbie doll to look like a bride, when we can dress up human brides to look like Barbie dolls, as in Figure 26?

envy [is] a common and widespread emotion.” BERGER ET AL., *supra* note 41, at 142, 148. The end result is that any object — be it a car or a wife — that does not live up to these artificially fostered standards is not good enough to make the consumer happy.

69. In the real world, very good-looking people are scarce, and the proportion of one’s social interactions that include them is correspondingly small. However, the attractive are vastly over represented in the entertainment world, and the average person spends several hours a day observing beautiful people on television, in the movies, and in magazines. Thus, cognitive availability assures that the impressions we form of good-looking people are shaped primarily by Hollywood and Madison Avenue. The prevailing rule in the entertainment industry is that social skills and sexual uninhibitedness (the main components of the attractiveness stereotype) are inextricably linked to physical attractiveness.

Alan Feingold, *Good-Looking People Are Not What We Think*, 111 PSYCHOL. BULL. 304, 333 (1992).

70. For examples, see VOGUE, Sept. 1997, at 44-45, 630-32; GLAMOUR, Aug. 1997, at 219.

71. CAPUTI, *supra* note 49, at 176.

72. *Id.* Notice also the “man-made” theme in the song *Barbie Girl*, quoted *infra* note 197.

Women are also posed and painted with masks, or portrayed completely as mannequins, as in Figure 27.⁷³ Men are virtually never pictured in ads as dolls, masks, or mannequins. In my study of advertisements, I have come across only one ad in which a male figure is constructed to look like a mannequin. When I show this ad to students in class or audiences at conferences, the universal reaction is strongly negative or humorous. When I show a picture of a woman as a mannequin, viewers are puzzled, searching to figure out what about the picture I might find objectionable.

Figure 23 is a striking example of portraying women as dolls. It was chosen as the back cover of a photographer's book about the art of advertising.⁷⁴ Three women are pictured as painted wooden toy soldiers who are displaying lavish jewelry on their ears, necks, wrists, and fingers. The picture is of a live female model, but it appears that the same model poses for all three — heightening the sense of fungibility. While the women are like toy soldiers, they bear striking dissimilarities to any toy soldier ever made — in more ways than the elaborate gold and jewels. For instance, their eyes are completely covered by shiny black plastic hats. In contrast, their breasts are half exposed because there is nothing under the half jackets that hang over one shoulder (in grand military tradition). Their bodies and faces are identical and totally without color or mark, except for the bright pink circles painted on each cheek, dark red lipstick, and nail polish. This toy-like portrayal disguises the woman, while focusing on her object-like nature.

Similarly, in Figure 24 the models look more like toy action figures or robots than human females. With shiny legs and arms, and hair as white as the dresses they wear, they look like they belong on the moon. The wings sewn on the back of their dresses make their chimeric qualities even more apparent. Finally, the fact that it appears to be the same model used three different times creates the impression that the model is like a doll that can be manufactured over and over again.

73. Other examples include NEIMAN MARCUS CATALOGUE, Apr. 1998, at 168-170; HARPER'S BAZAAR, Mar. 1998, at 53-54, 56; VOGUE, Mar. 1998, at 343; VOGUE, Sept. 1997, at 258, 460-61.

74. DAVE SAUNDERS, PROFESSIONAL ADVERTISING PHOTOGRAPHY, back cover (1988) (photo by James Wedge). The photographs for the book were chosen because the photographer/author admired their art. Of most of these images, the author discusses the artistic choices behind each detail. This one apparently was so unremarkable as to require no explanation.

Glancing at Figure 28, one wonders if it is a picture of a live model, a mannequin, or a computer generated intergalactic traveler. Her hands and shape appear to be human, but her face and hair are coated with a plastic, shiny glaze. Furthermore, the lifeless pose reinforces the sense that she is plastic.

Figure 29, a hair product ad, displays what is clearly an Asian woman. However, she is pictured with white hair and bleached pale skin. Her lips are lined with white as well. The incongruence of her coloring does draw attention. A feminist might perceive this image as insulting both because the woman is artificial, depicted with coloring that is not found in nature, and because the attempt to "whiten" a woman of color carries racist connotations.⁷⁵

5. Disguise

Not all advertisements are "kind" enough to disguise a woman as a doll or robot, which arguably resemble human beings. When a living, full body is shown, the woman pictured may be portrayed as something non-human, such as an animal or a machine.⁷⁶ For instance, the model in Figure 30 dawns long, wide blades of grass on her head and scales or feathers on her neck. She is made up to look like a bird in the wild.

75. I note the tradition of Asian women powdering their faces white. However, the look this produces is strikingly different from the image in Figure 29. The traditional look makes a stark contrast between the white face and the dark hair and bright red lips. Figure 29 white washes everything to eliminate contrast. It does not reflect cultural or traditional heritage. In her book *Black Looks*, bell hooks comments on how the elimination of the physical traits representative of the race of a model denies her humanity and, although hooks is discussing African American models, her point about the elimination of typical racial features applies similarly to the racial features of other groups. BELL HOOKS, *BLACK LOOKS: RACE AND REPRESENTATION* 71 (1992) ("Often black female models appear in portraits that make them look less like humans and more like mannequins or robots. Currently, black models whose hair is not straightened are often photographed wearing straight wigs; this seems to be especially the case if the model's features [include] large lips or particularly dark skin.").

76. For examples of women/animal images, see HARPER'S BAZAAR, Mar. 1998, at 228; VOGUE, Mar. 1998, at 383; VOGUE, Sept. 1997, at 273, 343, 580-81; VOGUE, Aug. 1997, at 249. Naomi Wolf provides similar examples of women as robots and dogs:

In an ad for Fuji cassettes, a female robot with a playmate's body, but made of steel, floats with her genitals exposed, her ankles bolted and her face a steel mask with slits for the eyes and mouth. In an ad for Erno Laszlo skin care products, a woman sits up and begs, her wrists clasped together with a leather leash that is also tied to her dog, who is sitting up in the same posture and begging.

WOLF, *supra* note 52, at 133.

Most woman-animal crossovers imbue the woman with the sense of wild, unknown, even savage sensuality. In Figure 31, Sui portrays a distraught woman, resembling something untamed from the jungle more than she resembles a woman. With choppy, wiry hair frozen in an assortment of positions and clothes that blend into the grass, the woman looks like a frightened animal found by the hunter's gun.⁷⁷

Some ads simply replace the female with ordinary fauna, as illustrated in the Etro campaign shown in Figure 32. Female forms, modeling blouses and scarves, are wearing an assortment of wildlife heads from deer varieties to birds. As innocent as these animals appear, they nonetheless equate woman with animal and join an army of other animalistic motifs that punctuate women's fashion magazines.

The use of degrading images of women as animals is brought into sharp relief in a law context in the case of *Robinson v. Jacksonville Shipyards, Inc.*⁷⁸ The plaintiff was successful in proving that the shipyard where she worked was a hostile work environment. One of the factors in the court's decision was a drawing hung by a co-worker that portrayed a nude female torso labeled with the words, "USDA Choice."⁷⁹ In that case, the woman was portrayed not just as an animal, but indeed, one for consumption.⁸⁰ Such a characterization may increase violence against women because much of the natural guilt and inhibition disappears when what we are injuring is perceived more like an animal than a human.⁸¹

6. Contortion

Advertising commonly uses odd body positions to draw attention.⁸² Unfortunately, common positions for women models

77. Moreover, as Media Studies Professor Jib Fowles has observed, the female body and the product it is displaying are frequently visually "intertwined." FOWLES, *supra* note 58, at 155. As discussed in Part IV of this article, potentially disastrous implications follow for women who are thought of as things that can be produced, viewed, used, and discarded at will.

78. 760 F. Supp. 1486 (M.D. Fla. 1991).

79. *Id.* at 1495.

80. For a detailed discussion of this case, see Mary Becker, *How Free Is Speech at Work?*, 29 U.C. DAVIS L. REV. 815, 827-29 (1996).

81. See *infra* notes 213, 214 and accompanying text.

82. Recent examples of this technique include ads appearing in *COSMOPOLITAN*, Apr. 1998, at 129, 175, 296; *MADMOISELLE*, Apr. 1998, at 3, 8-9, 43; *SEVENTEEN*, Apr. 1998, at 71; *HARPER'S BAZAAR*, Mar. 1998, at 53, 62; *VOGUE*, Mar. 1998, at 27, 45, 157, 171, 173, 339, 495, 509; *COSMOPOLITAN*, Sept. 1997, at 298; *SELF*, Sept. 1997,

are potentially demeaning in a variety of ways. For instance, in order to accommodate salacious nudity without showing it all, women models' arms are often stretched, twisted, and clutched in uncomfortable poses to cover their nipples. Frequently, although not always, the positioning of the model is combined with inferences that the woman is also an animal, as discussed above.⁸³

A mild form of contortion happens when women are repeatedly shown prone, in vulnerable rather than aggressive positions. The vulnerability is magnified by sexual suggestiveness when the woman's legs are raised, as in Figure 33. The contortion serves to make the picture more titillating and to convey the model's availability, desire, and submissiveness. For example, in Figure 34, the model is flung across the grass, head below her rear and face turned to the side. Her arms are just above the head, as if to hold it up. She wears bikini underwear and a strapless bra that looks more like a rag bound around her breasts, not quite covering them. Her legs look small compared to her torso, and she is in a position that is vulnerable and uncomfortable. These poses are not those typically chosen by autonomous, volitional women in the presence of strangers. The woman whose pose shows her "manifestly unable to act or to move readily because of the non-purposive stance taken" is by nature subordinated.⁸⁴

Another common, but subtle, positioning issue is when women are shown reclining on the floor. On a symbolic and visual level, floors are

associated with the less clean, less pure, less exalted parts of a room — for example, the place to keep dogs, baskets of soiled clothes, street footwear, and the like. And a recumbent position is one from which physical defense of oneself can least well be initiated and therefore one which renders one very dependent on the benignness of the surrounding. (Of course, lying on the floor or on a sofa or bed seems also to be a conventionalized expression of sexual availability.)⁸⁵

Thus, a woman on the floor is more easily equated with animals, subordination, sexual availability, and the inability to fight back.

at 93; VOGUE, Sept. 1997, at 260, 439; COSMOPOLITAN, Aug. 1997, at 2, 141, 205; GLAMOUR, Aug. 1997, at 23, 165; SEVENTEEN, Aug. 1997, at 55; VOGUE, Aug. 1997, at 168; COSMOPOLITAN, Apr. 1997, at 232.

83. Recent examples include: SPIN, Apr. 1998, at 38-39; HARPER'S BAZAAR, Mar. 1998, at 213; VOGUE, Mar. 1998, at 187; VOGUE, Sept. 1997, at 716.

84. Masse & Rosenblum, *supra* note 45, at 133.

85. ERVING GOFFMAN, GENDER ADVERTISEMENTS 41 (1976).

Many of the positioning issues are not so subtle. For instance, in Figure 35 a woman is pushed against a surface inside of a cubed cage, her face pressed against the wall. Another ad, Figure 36, shows a woman blown up against the ceiling, hands above her head, and her entire leg, including part of her buttocks, exposed. Her facial expression indicates her indifference, as if she is not supposed to mind the fact that she is pinned and writhing like a laboratory butterfly.

Two current Charles Jourdan ads depict women as objects that can be hung anywhere, in any position. In Figure 37 the model is pinned up against the side of a shop on a street in Paris, her feet well above the sidewalk and unsupported by any surface. The right side of her body is pressed up against the wall, leaving her left side loose. Her position is bent, and in fact looks impossible to maintain, unless, of course, she is hung by a nail. The other, Figure 38, conveys a position even more impossible to maintain. The model appears to have been thrown up against the stone wall along the river, hands above her head, knees bent, and legs wide apart. Her position also indicates that she is an object that can be flung, thrown, pushed, and used. The implications of this characterization and how they encourage violence against women are discussed in Part IV.

There is a surprising commonality to these ads. They appear in different magazines, in different months. The artistic motivation of each seems to be the search for a unique pose. However, the commonness of these almost bizarre poses using women models suggests a larger issue about how easy it is to separate images of women from their humanity and volition.

Even when a woman is active, muscular, and competent in an ad, we may be introduced to her "first through her anatomy, from the bottom up."⁸⁶ Figure 39 is a picture of a woman windsurfer. She is viewed from the perspective of the water at such an angle that her feet and legs are above her head. The copy lists the kind of protests this active woman might receive about her lifestyle: "What do you mean, you don't cook? We're still waiting for grandchildren, dear. I find submissiveness very attractive in a woman. C'mon now, behave like a lady. Run get us some

86. FOWLES, *supra* note 58, at 219. A similar method is used in pornography when "the woman's body is angled towards the camera to offer the maximum display of whatever part of the body is at the moment being emphasized. . . . The conventions of pinup photography work to construct the body, usually the female body, as a spectacle." KUHN, *supra* note 50, at 38.

coffee, OK?"⁸⁷ The ad is marketing the notion that the woman has rejected the stereotypical slogans and is doing her own thing. However, the choice of her positioning and the visual effect belies this message. What the image says to me is, "You can be an accomplished athlete as long as it doesn't interfere with, in fact may facilitate, your sexual availability and as long as you put your most essential part forward." The meaning of the pose in this one ad must be seen in the context of the common pattern of posing women models in suggestive, body down, leg raised positions. This position not only suggests sexual interest, but also implicates a woman's passivity to be acted upon as she is least able to defend or assert herself from this position.

Naomi Wolf compares advertising's extreme examples of body contortion to sadomasochism, and concludes, "The woman learns from these images that no matter how assertive she may be in the world, her private submission to the control of men is what makes her desirable."⁸⁸ She describes the following example:

In an ad for Hermès perfume, a blond woman trussed in black leather is hanging upside down, screaming, her wrists looped in chains, mouth bound. . . . In an American ad for Newport cigarettes, two men tackle one woman and pull another by the hair; both women are screaming. In another Newport ad, a man forces a woman's head down to get her distended mouth around a length of spurting hose gripped in his fist; her eyes are terrified.⁸⁹

Not only women learn that desirability derives from submissiveness. Men, too, learn from these ads that they are justified in dominating and controlling women. They learn that a woman's role is to be obsequious, thus making women vulnerable.

B. *Vulnerability*

A culminating motif in advertising is the suggestion that, even if women are humans with recognizable wills, they can be physically overcome, and — maybe with impunity. This invitation to be victimized and abused is intimated in each of the motifs discussed above. The perception of a passivity that allows violence is, of course, a natural by-product of both objectification and artificial beauty. The woman, as thing, cannot have self will.

87. FOWLES, *supra* note 58, at 219 (quoting Jansport ad).

88. WOLF, *supra* note 52, at 133.

89. *Id.*

Similarly, the woman obsessed by her appearance is not characterized by will.

Other themes are common in ads that are not, on the surface, as dehumanizing, but depict a woman as a kind of human. However, this woman is easily taken advantage of, discounted, and overcome. In this Part, I discuss the image of a woman whose health, inaction, age, immaturity, lack of strength, or exposure make her an easy target of control. In addition, I discuss the implications of the disproportionate use of female nakedness in popular culture.

1. Addicted and Easy

"Heroin chic," prevalent in print ads since 1995, became political news when President Clinton attacked the fashion industry in May 1997.⁹⁰ The "heroin chic" look relies on "darkened eyes, pellucid skin and skinny, emaciated arms,"⁹¹ as well as "models posed in squalid rooms with dazed expressions,"⁹² and "frail models with mussed hair, dark circles under their eyes, and some say, tracks showing on their arms."⁹³ These models represent not only "a lifestyle centered on syringes and squalor" but, more broadly, a world centered on the lucky male "surrounded by a harem of thin, twitchy, beautiful, unlucky girls waiting to be rescued."⁹⁴

The fashion industry responded that Clinton was sadly out of touch — "heroin chic," they claim, was already passé.⁹⁵ Richard Martin, the director of the Costume Institute at the Metropolitan Museum of Art in Manhattan, expressed the industry's

90. See Dylan Jones, *Chasing Dragons*, INDEPENDENT (London), June 1, 1997, at 4, available in 1997 WL 10470041 (quoting Bill Clinton) ("You [the fashion industry] do not need to glamorize addiction to sell clothes. The glorification of heroin is not creative, it's destructive."). For a recent discussion of the extent to which supermodels, especially very young ones, engage in drug abuse, see *Primetime Live: Picture Imperfect: Fashion and Drugs, On and Off the Runway* (ABC television broadcast, May 27, 1998), available in 1998 WL 9100164.

91. Jones, *supra* note 90. Recent examples include: MADMOISELLE, Apr. 1998, at 75; SEVENTEEN, Apr. 1998, at 50; HARPER'S BAZAAR, Mar. 1998, at 51, 156, 185, 187; ELLE, Apr. 1997, at 139.

92. Jennifer D. Braun, "Heroin Chic" Has Had Its Day, *Fashion Insiders Say*, STAR-LEDGER (Newark, N.J.), May 27, 1997, at 35.

93. Vivian McNerny, *If Clinton Wants to Play Fashion Cop, Here's a Few Tickets He Can Write*, PORTLAND OREGONIAN, May 24, 1997, at B01, available in 1997 WL 4175445.

94. Waldemar Januszczak, *When Reality is Skin Deep*, TIMES (London), June 7, 1998, at 14, available in 1998 WL 11123027.

95. McNerny, *supra* note 93.

dismay: "I was shocked that it suddenly dawned on the President. These images have been around for the last two years in all the visual arts"96 The response affirmed, at least, that Clinton was correct when he claimed that some fashion leaders "are admitting flat-out that [heroin chic images were] projected in fashion photos in the last few years."⁹⁷

Moreover, someone in the fashion industry forgot to mention the passing of "heroin chic" to the editors and photographers at *Seventeen*. Consider, for instance, Figure 40. The model appears disheveled, disoriented, and confused. Her fist is clenched; her hair is in her face. The August 1997 *Seventeen* issue includes an eight page photographic essay on hot jeans for fall, arrayed on models who excel at the "heroin chic" look.⁹⁸ And maybe the *Seventeen* editors were the ones who were supposed to tell *Vogue*, whose September 1997 issue is also a monument to looks such as those featured in Figure 41.⁹⁹ Of course, it seems to be taking Calvin Klein a little longer than some to give up heroin chic, as evidenced by the ad for "cK be" fragrance in the August 1997 *Cosmopolitan*, Figure 42.¹⁰⁰ And there is the poor little waif who models for Miu Miu and who must have picked up the habit at the orphanage, Figure 43.¹⁰¹

96. Braun, *supra* note 92 (quoting Richard Martin).

97. McInerny, *supra* note 93.

98. See, e.g., SEVENTEEN, Aug. 1997, at 206, 214-15.

99. See, e.g., VOGUE, Sept 1997, at 204, 251-54, 255, 263-64, 292-293, 419, 634-35.

In the September 1997 *Vogue*, one article addresses hot fashion trends. See Katherine Betts, *Looking for Cool*, *Vogue*, Sept. 1997, at 251. The large print caption under the illustration accompanying this ad proudly declares "Heroin Chic." The prevalence of these images in *Vogue* takes on a particularly ironic twist in light of *Vogue's* editors' recent call for vindication. See Duncan Campbell, *Fashion Defends "Junkie" Image, Waifs Are Old Hat, Police Chief Hears, and the Dirty Sink Scene is a Cliche*, *GUARDIAN* (London), June 17, 1998, at 8, available in 1998 WL 3095769. See also, <<http://pobox.upenn.edu/~davidtoc/images/CK.be/A.htm>> (visited Jan. 27, 1999). Alexandra Shulman, an editor of *Vogue*, proclaimed to a gathering of police officers that she banned photographs "of models in rooms with styrofoam cups, over-filled ashtrays and dirty sinks" because these images of the "junkies lair" are "cliche." *Id.* As if we cannot detect the heroin motif without these few symbols when so many others are readily available. She concluded her presentation by asking, "To what degree should we be blamed for what is a problem in society?" *Id.*

100. See, e.g., COSMOPOLITAN, Aug. 1997, at 200, 203. Calvin Klein's 12 page ad in *Harper's Bazaar*, Sept. 1996, introducing "cK be" may be viewed on the internet in connection with a call for a family boycott of Calvin Klein products. Boycott Web Site (visited Aug. 5, 1998) <[HTTP://WWW.EMORY.EDU/NFIA/LEGAL/HEROINCHIC.HTML](http://www.emory.edu/NFIA/LEGAL/HEROINCHIC.HTML)>.

101. COSMOPOLITAN, Aug. 1997, at 101.

Meanwhile, the use of heroin is increasing, primarily among young white teens.¹⁰² Ads project images of beauty and desirability. Teens correlate these images to actions. So, similarly, women who consume images of fashionable females as vulnerable objects, take actions in accordance with those images. Thus, some women have, in effect, chosen to depict themselves in ways that put them at increased risk of violence, as explained in Part IV.

2. Impressionable (and Easy)

Another trend of advertising in the second half of the 1990s is "kiddie porn."¹⁰³ This motif was thunderously introduced by the August 1995 Calvin Klein jeans campaign. It began with a collection of poster-like pictures on a six-page insert in popular teen magazines, such as *YM* and *Rolling Stone*. The ads resemble a *Playboy* centerfold, only with eighth-grade models.¹⁰⁴ They are filmed as home-style porn posed in someone's basement, showing bits of white panties, against "cheap paneling and purple pile carpet."¹⁰⁵ In fact, the ads are, in some ways, more than just sexual; the poses, location, age of the models, and the various stages of undress are "discomfitingly intimate,"¹⁰⁶ "creepy,"¹⁰⁷ and "intrusive."¹⁰⁸

Next, Calvin Klein moved to TV spots capturing what seemed to be "tryouts for porno movies."¹⁰⁹ "[T]he largely non-professional models squirmed as an off-camera older man asked

102. Warren Richey, *Heroin Finds Market in Young People: Use Doesn't Approach Level of the 1970s, But Purity is Up, Age of User Down*, CHRISTIAN SCI. MONITOR, Mar. 23, 1998, at 4, available in 1998 WL 2366642 (quoting Margaret Beaudry, director of research, nonprofit group Drug Strategies) ("The central trend . . . is that heroin use is increasing primarily among young [white] kids. What we see is that eighth-graders are just as likely as high-school seniors to have tried it.").

103. "With heroin chic verboten, the culture needs a new route to the edge. What better symbol than the sexual child?" Richard Goldstein, *Nymph Mania: Honoring Innocence in the Breach*, VILLAGE VOICE, June 17, 1997, at 48, available in 1997 WL 11446426.

104. See Erik Lacity, *Calvin Klein's Jeans Ads Fit Him Perfectly*, ST. LOUIS POST-DISPATCH, Sept. 28, 1995, at 6. Some of the ads referenced in this article are not included in the appendix of figures because they are so blatant they either detract from the discussion of more subtle advertising motifs, are discussed in another source, or pre-date my study.

105. Michele Ingrassia et al., *Calvin's World*, NEWSWEEK, Sept. 11, 1995, at 60.

106. *Id.* at 60.

107. *Id.* at 62.

108. *Id.*

109. Lacity, *supra* note 104.

leering questions or gave directions: 'take your jacket off. Let's check out the results.'"¹¹⁰

While public outcry ended the "most blatant" of these ads,¹¹¹ the "kiddie porn" model is far from obsolete. In fact, the general trend across the fashion industry has been toward younger and younger models, in typical pre-teen settings, posed as beyond-their-age provocateurs. Model agencies are seeking thirteen and fourteen-year olds, using them as bait.¹¹² One observer noted:

[I]t's their very awkwardness and inexperience that makes them desirable. Photographers are hungry for the freshness and innocence that no jaded supermodel can fake. And so, every year, the temptation increases to find younger, or at least younger-looking, girls to satisfy the industry's craving for unsullied adolescent beauty.¹¹³

We object to the exploitation of children for sexual purposes, but not enough to eliminate it from commercial use.

110. Ingrassia et al., *supra* note 105, at 62. Speaking of "results," this ad campaign resulted in booming sales. See also *infra* note 271.

111. See *Noted in Brief*, BALTIMORE SUN, June 26, 1997, at 18A, available in 1997 WL 5517748.

112. See, e.g., Hettie Judah, *So We Want to Model: What's Wrong with That?*, INDEPENDENT (London), June 22, 1997, at 1, 2 (referring to 13 year old models at Vivienne Westwood's show); Matt Nichols, *Tokyo's a Model City for Orem Girl*, DES. NEWS, July 9, 1997 (reporting on 14 year-old Utahian who will spend summer modeling in Tokyo); Bernadette Morra, *Ford Supermodel Says She 'Trained' for the Role*, TORONTO STAR, Feb. 13, 1997, at A28 (discussing model whose career began at age 14); Mimi Tompkins, *Canadian Supermodel is Just 15 But Acting Like a Pro*, MONTREAL GAZETTE, Feb. 4, 1997 (describing beginnings of modeling career at age 13).

113. Judah, *supra* note 112, at 2. The phenomenon of the sexualized child is certainly not limited to American culture. The *N.Y. Times* reported a particularly atrocious version:

It looks like a real classroom, and baby-faced Kaori looks just like a real Japanese schoolgirl. But it is all make-believe, for here in Japan the best way for a prostitute to recruit clients is to put on a school uniform and adopt the naive anxiety of a frightened school girl.

"Japanese men tend to be obsessed by schoolgirls," said Kaori, who would not give her last name but cheerfully conceded she is really 26. "The men who come here are looking for submissive schoolgirls."

This is an "image club," one of several hundred in Tokyo where Japanese men pay about \$150 an hour to live out their fantasies about schoolgirls. In this club, customers can choose from 11 rooms, including classrooms, a school gym changing room, and a couple of imitation railroad cars where to the recorded roar of a commuter train, men can molest straphangers in school uniforms.

Nicholas D. Kristof, *A Plain School Uniform as the Latest Aphrodisiac*, N.Y. TIMES, Apr. 2, 1997, at 4, available in 1997 WL 7991347.

Laws are passed to keep us informed of molesters in our midst; the Internet is policed for pedophile activity Yet for all our precautions, signs of the sexualized child keep breaking through the barriers. Even as we rail at Calvin Klein, louche teens and coy little girls are a major mode in advertising and a staple of entertainment.¹¹⁴

Sex-child images include two looks. JonBenet Ramsey is indicative of the first type, the type whose mascara, scoop necks, and sequins are still doused with an "air of cloying wholesomeness."¹¹⁵ This is what a Salt Lake City modeling agent described in a young fashion model as "innocence. . . . She [is] angelic."¹¹⁶ For example, in Figure 44, an ad for the cosmetic line Splash, a girl (who appears to be eleven or twelve) emerges from an ocean lagoon. She seems pure and child-like. However, she also cocks her head to one side, looks up over her lashes, sports an orchid over her left ear tucked into long, thick wavy hair, and holds her inward facing hands cupping her pink bathing suit top on her chest. The text states boldly, "Dare to Make Waves," referring to mermaids and claiming the products advertised are the "coolest, wettest, wildest cosmetic collection on earth."¹¹⁷

The other popular look is the not-so-innocent sexuality, the clearly under-aged "Lolita."¹¹⁸ In Figure 45, the waif-like model pictured in dozens of Miu Miu ads this season, looks to be in her

114. Richard Goldstein, *The Girl in the Fun Bubble: The Mystery of JonBenet*, VILLAGE VOICE, June 10, 1997, at 38, available in 1997 WL 7918948. See also Lynne Henderson, *Without Narrative: Child Sexual Abuse*, 4 VA. J. SOC. POL'Y & L. 479, 480 (1997) ("Most of us deplore [child sexual abuse], but at the same time, paradoxically deny that it is much of a problem or issue.").

115. Goldstein, *supra* note 114, at 38.

116. Michael Westley, *The Latest Model Promising Career is Coming Into Focus for Bountiful Teen*, S.L. TRIB., Feb. 9, 1997, at J6. This model, Tanya Stewart, started modeling at age 13. *Id.*

117. SEVENTEEN, Apr. 1997, at 118.

118. Lynne Henderson reflects on various literary and film images that give "cultural permission to sexual contact with young adolescent girls," most notably VLADIMIR NABOKOV, *LOLITA* (Vintage Books 1989) (1955). Henderson, *supra* note 114, at 489-91. A variety of other ads which improperly sexualize children are discussed by a professor of human sexuality at a Midwestern university in Corlice Petersen, *Kids Exploited as Sex Objects*, USA TODAY, Oct. 2, 1995, at 13A. For current examples of the very young, too sexualized girl, see COSMOPOLITAN, Apr. 1998, at 3; SEVENTEEN, Apr. 1998, at 65, 151, 153 154; VOGUE, Mar. 1998, at 177; VOGUE, Sept. 1997, at 197, 211; SEVENTEEN, Aug. 1997, at 183; ELLE, Apr. 1997, at 299; SEVENTEEN, Apr. 1997, at 118. Dominique Kennedy, *Moore Condemns Sexual Images of Childlike Models*, TIMES LONDON, Aug. 30, 1996, available in 1996 WL 6516247 ("Once you create the demand, you have to find women who look like children. [Actor Roger Moore was angry] about a 12-year-old schoolgirl who was signed up by an adult agency in the U.K.").

pre-teens. The picture plays on both her childish qualities and her sexuality. The signs that this model is, or wants to be, a little girl include the plastic pail illustrated with cartoon figures draped across her arm, her childish body frame covered in full-sized panties, and the bra, which resembles her very first "trainer." Yet, her girlish position is sexualized by the angle of the shot and the product she is selling — expensive, adult women's underwear. Her shadowed eyes, dipped chin, and facial expression send a sensual message that this "sexy child" is not real and cannot be hurt.

Remarking about such images, a fashion photographer said, "We . . . encourag[e] them to grow up fast, and then we are surprised when pedophiles react to them."¹¹⁹ Am I surprised when I read in the local news that, although admitting to forcible sexual abuse of a fourteen year old girl, a thirty-two year old man in my community sought to mitigate his sentence by telling the judge the girl "provoked" the (at least two) "incidents"?¹²⁰ No. However, I am still surprised that the girl's mother submitted a victim impact statement to the judge that blamed her daughter for the crime and characterized the perpetrator as "a saint." Fortunately, the judge in this case did not buy this argument.¹²¹

One critic wonders about the cultural significance of the "sudden proliferation" of the sexual child.¹²² He muses, "It's possible that the sloughing off of childlike roles once assigned to women has caused a regression in some men, leading to a fixation on little girls."¹²³ In a curious irony, an increase in ad images that disempower women in these ways coincides with the modern feminist movement.¹²⁴

119. Judah, *supra* note 112, at 2 (quoting Gwen Thomas, Ass'n of Photographers).

120. Stephen Hunt, *Family Calls Teen Girl a "Seductress," But Sandy Man is Still Going to Jail*, S.L. TRIB., Aug. 10, 1996, at D2.

121. *Id.*

122. See Goldstein, *supra* note 114. If, indeed, women are gradually being motivated to resist the characterization as child in commercial images, why are they not equally, or more, adamant about protesting fashion ads that characterize our daughters as sexual objects?

123. *Id.*

124. See FOWLES, *supra* note 58, at 142 (citing A. Gagnard, *From Feast to Famine: Depictions of Ideal Body Type in Magazine Advertising*, in PROCEEDINGS OF THE 1986 CONFERENCE OF THE AMERICAN ACADEMY OF ADVER. R46-R50 (E.F. Larkin ed., 1986)). See also *infra* Part III.

3. Assault Games and Physical Weakness

Female physical vulnerability figures prominently in advertisements that display men and women playing. Carefully study Figure 46, which on the surface appears so innocent and playful, after reading the following analysis of social anthropologist Erving Goffman:

Adults play mock assault games with children, games such as chase-and-capture and grab-and-squeeze. The child is playfully treated like a prey under attack by a predator. Certain materials (pillows, sprays of water, light beach balls) provide missiles that can strike but not hurt. Other materials provide a medium into which the captured body can be thrown safely — beds, snow banks, pools, arms. Now it turns out that men play these games with women, the latter collaborating through a display of attempts to escape and through cries of alarm, fear, and appeasement. (Figure-dancing provides occasion for an institutionalized example, the partners who are swung off their feet never being men.) Of course, underneath this show a man may be engaged in a deeper one, the suggestion of what he could do if he got serious about it. In part because mock assault is “fun” and more likely in holiday scenes than in work scenes, it is much represented in advertisements.¹²⁵

In light of this analysis, consider Figure 47, a recent Candie's shoe ad. The model is stuffed in a basketball hoop, arms and legs pinned inside the net. Her perked eyes and open mouth indicate astonishment, fright, and total helplessness. Similarly, in Figure 48 the male model easily holds back a female model by merely placing one hand on her head. The woman desperately attempts to punch him. What is remarkable about this ad is that the woman appears to be using all of her force in a concentrated effort to strike the man, whereas the man is effortlessly holding her back, at will, and seems to be mocking her attempts. He is looking at the camera with a smug grin, while the woman is looking fixedly at the man's chest and her fist. Finally, in Figure 49 a woman is tied to a male model with a scarf. She has her hand to her face and appears to be smiling as though she is participating in a game. The face of the male model is not registering this pose as silly or fun.

The line between what is “fun” and what constitutes an assault is often blurred in ads.¹²⁶ For example, Figure 50 depicts a

125. GOFFMAN, *supra* note 85, at 52.

126. See, e.g., SPORTS ILLUSTRATED, June 1, 1998, at 26-27; HARPER'S BAZAAR, Mar. 1998, at 215; VOGUE, Mar. 1998, at 280, 341; COSMOPOLITAN, Sept. 1997, at

man effortlessly tossing a woman in what appears to be a Latin dance move. Her hips are above his shoulder and her head down. The caption on the ad reads "Get in touch with your masculine side," suggesting that masculinity is the physical ability to overpower. Remember Goffman's explanation that even figure-dancing is an institutionalized example of men exerting their strength to physically control women.¹²⁷

Some ads drop the pretense of showing fun and games and include the obvious implication of fear. Figure 51 from the August 1997 issue of *Seventeen* shows a popular young model lying on her back in the underwear the ad is designed to sell. She appears to be trying to push away an uninvited intruder.

We can, I suppose, be grateful that public outcry against Calvin Klein and Guess campaigns a few years ago reduced the number of truly blatant illustrations of physical overpowering, such as the ad campaigns introducing Calvin Klein's Obsession cologne for men.¹²⁸ One shows a naked woman, slung over a naked man's shoulder like a sack of potatoes, being carried off, passively without any evidence of resistance on her part.¹²⁹ Another exploitive series was run by Guess jeans. One depicts a "nubile, casually dressed girl, slung over a young man's shoulder, [who] struggles as she is carried toward a garage. Next scene: Jeans off, a breast partially exposed, she is tousled and dazed."¹³⁰ She sits in the back seat of a car looking ravaged, but not un-

295, 298; *VOGUE*, Sept. 1997, at 577, 688-89; *SEVENTEEN*, Aug. 1997, at 18-19; *VOGUE*, Aug. 1997, at 178; *ELLE*, Apr. 1997, at 326-27; *GOOD HOUSEKEEPING*, Apr. 1997, at 65; Elizabeth Kaye, *Victims of Fantasy*, *NEWS & OBSERVER*, June 9, 1993, at D1, available in 1993 WL 5074973 (commenting on the proliferation of "images of the child-woman, fragile and vulnerable to the point of breaking. Like a piece of fruit, they are cheaper for being slightly damaged; like all little girls, they seem easier to manipulate than grown-up women.").

127. *GOFFMAN*, *supra* note 85, at 52.

128. The product to be sold by this ad, Obsession cologne, has been promoted by blatantly sexual themes from its introduction in March 1985. One features a *menage a trois* and another depicts a "male face pressed rapturously against the naked body of a woman." Jeffrey A. Trachtenberg, *It's Become Part of Our Culture*, *FORBES*, May 5, 1986, at 134. The manufacturer has gloated about the success in Obsession sales. *See id.* (quoting Robin Burns, president of Calvin Klein Cosmetics, a division of Minnetonka, Inc.).

129. A copy of this, and virtually all other Calvin Klein ads, are available on line at <<http://pobox.upenn.edu/~davidtoc/calvin.html>>. Linnea Smith's Calvin Klein Brochure, <<http://www.talkintrash.com/adv/CK/index.htm>> (visited Jan. 27, 1999). Enigma's Calvin Klein Page, <<http://www.student-uchicago.edu/users/cmwheat/ck.htm>>.

130. Trachtenberg, *supra* note 128, at 134.

happy.¹³¹ Most ads in 1997 and 1998 fashion magazines were considerably more subtle than these, but their ultimate messages were not much different — a woman may be overcome physically and, although she seems to resist, in the end she will admit satisfaction and pleasure in being overpowered.

4. Naked and Exposed

Nakedness — the way women are frequently displayed in ads — is not about sexuality nor prudishness. It is about gaze — who has power over a woman's bodily integrity. The models in these ads no doubt consented to be photographed in these ways; but the constant display of such predictable images suggests that all women are equally willing. Furthermore, the artificial manner in which naked models are portrayed in advertising suggests that these women are not real; they are just objects without human qualities.

Although American advertising has generally become more permissive about exposing flesh, there remains a marked difference in how flesh is displayed as between male and female models. This difference is both in quantity and quality.

Women ad models are four times more likely than males to be dressed in a provocative manner.¹³² Female figures in advertising are also, of course, much more likely than male figures to be nude.¹³³ A study of commercials on MTV reflects this disparity.¹³⁴ Although the MTV study does not rely on print advertisements, its findings are representative of what other studies, including mine, reveal about the treatment of gender in ads.¹³⁵ Only 6.5% of the male characters in the commercials

were coded as wearing clothing that was somewhat sexy.

While slightly less than half of the women . . . were coded as wearing neutral clothing, comparatively large percentages of

131. See Jeffrey Scott, *Selling with Sexism: Resurgence of Hot Ads Fuels Social, Political Battle Over Unequal Treatment*, ATLANTA J. & CONST., Nov. 24, 1991, at H1; Paul Marciano, director of advertising for Guess?, Inc. and a partner of the company, has responded to criticism of this ad: "There was no intention to portray a rape in these pictures. Maybe I'm naive. I don't know what the photographer had in mind." *Id.* Well, *maybe*.

132. See FOWLES, *supra* note 58, at 208 (citing D.M. Davis, *Portrayals of Women in Prime-time Network Television: Some Demographic Characteristics*, 23 SEX ROLES 325, 331 (1990)).

133. FOWLES, *supra* note 58, at 155.

134. See Nancy Signorielli et al., *Gender Stereotypes in MTV Commercials: The Beat Goes On*, J. BROADCASTING & ELECTRONIC MEDIA, Winter 1994, at 91.

135. See, for instance, studies referred to in LaTour et al., *supra* note 37.

women were coded as wearing somewhat sexy (24.4 percent) or very sexy (29.4 percent) clothing. . . . Female characters are more likely to be the object of another character's gaze.¹³⁶

The trend (as well as the disparity) is increasing. Over the past two decades, female models in advertising have become more and more likely to be only partly clothed or naked.¹³⁷

In addition to the disparity in frequency, the quality of male and female nudity is vastly different. Male models, even when fully or partially exposed, are usually allowed to retain their dignity. One commentator tackled the fascinating question of why women's magazines are not full of naked men:

It's a difficult art, posing a naked man. We're told that men objectify women. The truth is that we all objectify women. It's become such a standard in our society to see a woman on all fours on the cover of *Sunday Sport*, or passively gazing at the camera with her breasts exposed, that we don't even think about it. We see an image, degrading or otherwise, but not a person. You can't do the same with men because women are not yet trained to depersonalize them. So women's porn mags allow men to retain a modicum of dignity, even if they do have their clothes off.

One of the ways in which they do that is by giving the models something to do. [In *Playgirl*, one male model is scuba diving, at the wheel of a yacht, rigging the sails, while another] is shaving in one shot, reading high-powered business magazines in another and finally seated on a cow-hide Corbusier working on his laptop. [Each is a] busy man. In *Men Only* the women are made to look like they are ready for sex. In women's magazines, many of the men look as though nothing could be further from their thoughts. They're so damn busy.¹³⁸

My purpose in this essay is not to protest nudity or sexual permissiveness, although an inquiry into the ways each of these affect the well-being and empowerment of women would have merit. I wish to narrow and separate the discussion, to avoid being drawn off course into the crossfire of the sex wars.¹³⁹

In any event, a dramatic gulf lies between giving something and having it stolen from you. While there may be some joy in exhibitionism, exposure without will is altogether different. It is more like being strip searched, publicly humiliated, and ex-

136. Signorielli et al., *supra* note 134, at 96-97.

137. See LaTour et al., *supra* note 37, at 51.

138. Aminatta Forna, *For Women — Or For Men Only*, INDEPENDENT (London), Apr. 28, 1996, at 3, available in 1996 WL 9923711.

139. See Preston, *supra* note 10, at 776-80.

amined as a lab specimen. An advertising model exercises personal autonomy and gains personal financial power by allowing herself to be photographed in a manner that communicates a dangerous vulnerability. However, the message of her exposure is almost never her personal power and control, but rather an invitation for the viewer to engage in fantasy uses of her.¹⁴⁰

The distinction between the glorious personal assertion of nudity and the embarrassment of nakedness is, at best, difficult to describe in words. Although "nude" and "naked" are loosely synonyms, a close examination of the dictionary definitions of "naked" reveals an important difference with respect to the power of the thing described. For instance, "naked" is lacking adequate protection and equated with being destitute, as in poor, naked children playing in the street. "Naked" is "stripped" as in the violence of the wind taking the autumn leaves from the trees. "Naked" is "unassisted," "defenseless," "unprotected," "exposed," "unadorned," "unsupported," "unsheathed," "unarmed," and lacking something nature intended, such as hair or feathers.¹⁴¹

Consider for example Michelangelo's masterpiece, *David*. *David's* nakedness does not make him vulnerable, subject to the observer's gaze. *David* may indeed convey sexuality, but his body is not a token of powerlessness, an invitation to violence. German art historian Joachim Poeschke falls all over himself trying to describe the power *David's* body conveys:

Physical strength and beauty had never before been celebrated in such a manner as this in post-classical times. But the *David* represents more than these attributes. His physical qualities are ultimately overshadowed by the expression of a spiritual strength in the face of imminent danger. The firmness of his gaze is underscored by the shock of hair projected well out beyond his brow and is echoed in his every gesture. He is the picture of restrained power.¹⁴²

David's "total and triumphant nudity"¹⁴³ bespeaks Michelangelo's "views on the divinity of the human body."¹⁴⁴ *David* is a

140. Compare this theme to the lyrics of the new song *Barbie Girl*, *infra* note 197, where she, as plaything, molds to the imagination of the viewer.

141. THE RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 1275 (2d ed. 1987).

142. JOACHIM POESCHKE, MICHELANGELO UND SEINE ZEIT [MICHELANGELO AND HIS WORLD] 86 (Russell Stockman trans. 1996) (1992).

143. FREDERICK HARTT, HISTORY OF ITALIAN RENAISSANCE ART 421 (3d ed. 1975).

144. *Id.*

symbol "of all humanity raised to a new power — a plane of superhuman grandeur and beauty which does not ignore, rather ennobles . . . the real human being."¹⁴⁵

Compare the male and female models for Versace, Figures 21 and 22. In one Versace ad, Figure 22, the male stares straight into the camera. His intent expression indicates inner strength and substance. He stands confident and strong, although barely dressed, much like *David*. Furthermore, this model has an identity. The caption explains that this model is none other than Dan O'Brien, the 1996 Olympic Decathlon Gold Medalist. It is a tribute to the stamina and physical strength of a known athlete. In Figure 21, the female Versace model, in contrast, appears vulnerable, available, and inviting. Her eyes are blindfolded, making her represent almost any woman. Which of these send the messages we associate with *David*?

A similar comparison can be made of the male and female models for Polo Ralph Lauren underwear in Figures 56 and 57, discussed below. These comparisons make obvious how the exposure of bodies can convey strength and power, or weakness and vulnerability.

In Part II, I discussed motifs that objectify women and imbue them with the vulnerability associated with drug use, childishness, physical weakness, and nakedness. In Part III, I will answer questions about how this treatment of women in ads compares to the treatment of men, how current ads compare across time to ads earlier this century, and how issues of race affect our analysis of women in ads. Following those comparisons, Part IV takes the motifs illustrated in Part II to their obvious implications and explains the price women pay for supporting the vision of fashion that equates them with dolls, animals, and things, and that suggests, even when human, that women deserve, in fact want, to be treated in ways that discredit their bodily integrity.

III. THE DIFFERENCE *DIFFERENCE* MAKES IN THINGS

To put in context the images of women discussed in Part II, I compare recent advertisements, first, to current advertisements using male models; second, to the treatment of women in advertisements from earlier decades; and third, to commercial images of women of different races and ethnicities. The first comparison establishes the extent to which the techniques discussed in Part II

145. *Id.*

are gender-linked. They are disproportionately applied to women models in ways that would look silly or demeaning if men were so displayed. The second comparison illustrates that, although some significant changes have occurred in advertising since the 1960s and 1970s, the kinds of sexist motifs discussed in Part II have not significantly diminished. The third comparison suggests that, although African American, Asian American, and Latina women are rarely pictured as fashion models, the impact of the motifs discussed in Part II is not lost on young girls and women in these groups. In some ways, the perceived need to conform to socially constructed images of what is fashionable may be stronger, even though such women may less directly identify with the women pictured in advertisements.

A. *Male and Female*

Of course, the images discussed in Part II would tell us less about gender-linked violence if men were similarly commodified. Feminist scholars are now engaged in splendid debates about whether gender should matter, what gender means, how gender is constructed, and whether gender will eventually become less important,¹⁴⁶ though no one is suggesting gender does not currently matter in our social constructs. "Gender stereotyping, prevalent worldwide, is a significant phenomenon. . . . Stereotypic descriptions of male and female characteristics are found in intra- and inter-gender personal conversations as well as in the

146. For some of the best, or most thought provoking, discussions of the legal implications of gender, see Armour, *supra* note 16, at 745; Katharine T. Bartlett, *Only Girls Wear Barrettes: Dress and Appearance Standards, Community Norms, and Workplace Equality*, 92 MICH. L. REV. 2541 (1994); Browne, *supra* note 5; Case, *supra* note 4; Martha Albertson Fineman, *Feminist Theory in Law: The Difference it Makes*, 2 COLUM. J. GENDER & L. 1, 1 (1992); Nancy Levit, *Feminism for Men: Legal Ideology and the Construction of Maleness*, 43 UCLA L. REV. 1037 (1996); Carlin Meyer, *Snips and Snails and Puppy Dogs' Tails, That's What Little Boys are Made Of*, 38 N.Y.L. SCH. L. REV. 443 (1993) (book review); Judith Resnik, Symposium, *Finding a Path to Gender Equality: Legal and Policy Issues Raised by All-Female Public Education*, 14 N.Y.L. SCH. J. HUM. RTS. 219, 220 (1997); Judith Resnik, Symposium on Civic and Legal Education: *Ambivalence: The Resiliency of Legal Culture in the United States*, 45 STAN. L. REV. 1525 (1993); Deborah L. Rhode, *Gender and Professional Roles*, 63 FORDHAM L. REV. 39 (1994); Carol Sanger, *Girls and the Getaway Cars: Culture, and the Predicament of Gendered Space*, 144 U. PA. L. REV. 705 (1995); Elizabeth V. Spelman, *Deceptive Dichotomies*, 35 N.Y.L. SCH. L. REV. 343 (1990); Francisco Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex," "Gender," and "Sexual Orientation" in Euro-American Law and Society*, 83 CAL. L. REV. 1 (1995).

media portrayals in popular culture."¹⁴⁷ In the last ten years, some advertisers targeting the "X Generation" have taken a tentative stab at unisex images,¹⁴⁸ but not by way of subtly avoiding cultural markers of gender. Rather the smudging of gender lines is used audaciously as the primary draw to the product.

All but a very small and intentionally different minority of ads continue through the 1990s to draw heavily on gender markers to signal instantaneously and without ambivalence who are males and who are females. Advertising is, even above our other cultural forms, singularly collimated to gender.¹⁴⁹ Because gender is so readily identifiable in ads, ads make an ideal measure of what differences, if any, exist in the treatment of females and males in our culture. Moreover, extensive marketing studies make fairly clear which magazines and which ads target primarily male or female audiences. Comparisons of female and male images and women's and men's magazines reveal a substantial disparity in treatment.

A study of 564 ads from three "women's magazines" and three "men's magazines" found significant both the variations and the similarities in the way men and women were pictured in ads.¹⁵⁰ The researchers drew, among others, the following conclusions:

1. Women's magazines devote substantially more pages to advertising and the ads in these magazines conjure a fairly consistent world picture, suggesting predictable patterns of behavior, especially as to gender roles.¹⁵¹
2. The use of "partials" (depiction of only sections of the face or body, or fragmentation) is higher overall in women's magazines than in men's, and highest in *Cosmopolitan*. Moreover, female figures are disproportionately used as partials.¹⁵² When partials are combined with other images of fungibility (e.g., multiple images of a single figure), the number of such dissociated bodies are twice as likely to be female as male.¹⁵³ Overall, 20.8% of the depictions in women's magazines are of

147. Martin S. Fiebert & Mark W. Meyer, *Gender Stereotypes: A Bias Against Men*, 131 J. PSYCHOL. 407, 407 (1997), available in 1997 WL 10120062.

148. For example, see *SPORTS ILLUSTRATED*, Aug. 28, 1995, at 81-82.

149. See Preston, *supra* note 10, at 819-820.

150. Masse & Rosenblum, *supra* note 45.

151. See *id.* at 128.

152. *Id.* at 129-31.

153. See *id.* at 131.

fragmented female figures, compared to 2.6% of male figures.¹⁵⁴

3. In all of the magazines studied, 27% of the female figures are subordinated in some way, in contrast to only 3.8% of the male figures. Thus, 90% of subordinated figures are female.¹⁵⁵
4. Female figures in women's magazines are "doing principally one of two things: averting or closing their eyes."¹⁵⁶
5. Advertising's "normal" woman is passive, as evidenced by her lack of activities and her "still perfection."¹⁵⁷

A more recent study of an additional 254 advertisements confirms these findings.¹⁵⁸ The researchers concluded that females in magazine advertisements, more often than males, are "portrayed in submissive stereotypical sex roles, sexually displayed and . . . subjects of violent imagery."¹⁵⁹ Female models were dismembered in at least one-half of the magazines studied, either by fragmenting the body or by changing the camera angle or logo placement, while only 17% of the male models could be categorized as dismembered.¹⁶⁰ Similarly, 43% of the female models appeared sexually weak, while only 16% of the male models displayed signs of weakness.¹⁶¹ Finally, 96% of the male models were portrayed as muscular, and 87% of males appeared

154. *See id.*

155. *See id.* at 133. Women in these ads were shown as subordinated with respect to other figures in the ads by characteristic symbols of powerlessness. These include, for example, being smaller, out of the focal point, and positioned to direct the viewer's eyes to a more powerful part of the image. Goffman identifies other indicia of incompetency in the relative size, placement, and arrangement of people in pictures, especially when combined with the relative angle of the models' gazes. *See* GOFFMAN, *supra* note 85, at 46. For instance, "[t]he level of the head is lowered relative to that of others, including, indirectly, the viewer of the picture. The resulting configurations can be read as an acceptance of subordination, an expression of ingratiation, submissiveness, and appeasement." *Id.*

156. Masse & Rosenblum, *supra* note 45, at 137.

157. *Id.* at 140.

158. *See* William J. Rudman & Patty Verdi, *Exploitation: Comparing Sexual and Violent Imagery of Females and Males in Advertising*, 20 *WOMEN & HEALTH* 1, 7 (1993).

159. *Id.*

160. *See id.*

161. *See id.*

dominant.¹⁶² The female models only appeared muscular in 57% of the ads, and dominant in only 12%.¹⁶³

As these studies demonstrate, men are not completely immune from fragmentation, subordination, and degradation.¹⁶⁴ A fairly unusual, but equally offensive, example of male fragmentation appears in a triple page foldout ad for Tommy Hilfiger underwear inside the front cover of the August 1998 issue of *Outside*. Assuming that the readership of *Outside*, a high adventure sports and travel magazine, is not accustomed to objectified male crotches in bright colors and nautical stripes, I suspect the editor heard about this choice. But would there have been any response if the ad aimed at women's underwear? Consider another occasion when men were exposed and posed in a way common to women models; the *New York Times* asked, "Has Madison Avenue Gone Too Far?"¹⁶⁵ The magazines then gave ten examples of objectionable ads — all of which featured male models.¹⁶⁶ Similarly, *Sports Illustrated* has no problem publishing their swimsuit issue but refused to run an Adidas ad featuring a scantily clad male Canadian soccer team.¹⁶⁷

Advertisements that directly juxtapose male and female models provide the best illustration of the differences gender makes. Women are commonly posed, located, and shadowed differently than men who are advertising the same products in parallel marketing campaigns. I describe three current examples where male and female models were combined in a single set of images.

First, in two Perry Ellis sweater ads, Figures 52 and 53, male and female models wear the same turtleneck. Although neither image is particularly offensive in and of itself, the parallels in

162. *See id.*

163. *See id.* at 7-8.

164. For other issues involving the depiction of masculinity in advertisements, see Jackson Katz, *Advertising and the Construction of Violent White Masculinity*, in *GENDER, RACE AND CLASS IN MEDIA*, *supra* note 1, at 133, and sources cited therein.

165. Stuart Elliot, *Has Madison Avenue Gone Too Far?*, *N.Y. TIMES*, Dec. 15, 1991, § 3, at 1, 6.

166. *See id.*

167. *See* Chris Cobb, *Hawking Himbos: Men's Bodies Used to Flog Products: Semi-Nude Men with Vacant Expressions are Muscling Women Out of Erotic Ads*, *TORONTO STAR*, Dec. 5, 1993, at E8, available in 1993 WL 7292319; Judith Gaines, *Ads are Bullish on Bare Men: Men are Commercial Sex Objects, and Some Experts Think That's Not a Bad Thing*, *ORLANDO SENTINEL*, Sept. 19, 1993, at F1, available in 1993 WL 5763751; Elaine Viets, *Sports Illustrated Rejects Equal Exposure*, *ST. LOUIS POST-DISPATCH*, July 13, 1993, at 03D, available in 1993 WL 8030105.

pose and manner make the few distinctions between the depictions of male and female of enormous importance. The male, shown on the first page, has his fingers clutched across the neck of the sweater as if he is preparing to pull it over his head. His head is tilted back, his face is completely visible, and his eyes look straight at the camera. His expression is one of confidence, maybe even conceit, as if he can do whatever he wants. The female model, on the next page, has the same sweater pulled up to cover her face until just below her eyes. Her expression conveys weakness and naivete. Her forehead is tilted forward, chin down, and she displays a coquette attitude that says "I'm easy." His look is seductive in a way that suggests "taking," and hers is seductive in a way that suggests "giving."

Figures 54 and 55 appeared on the front and back of one page. The male on the front DKNY ad looks confidently into the camera, arms crossed and unmovable. He seems to demur to the pleas of the female model facing him, who is represented by a sliver of her back along the right edge of the paper. The DKNY ad on the flip side presumes to simply picture this couple from the other direction. His back is shown. Her face is turned down, her eyes are shut, and her brow appears to be knit in concern. Her arm hangs limp at her side. Of particular interest is the comparative lighting. The male model on the front is in full light, while the woman on the back is partially in the shadow cast by the male. The woman appears to be controlled by the male looking down at her, much as if she were being scolded.

One side of a May 1998 mailer for Ralph Lauren advertises male "underwear," while the reverse side advertises female "intimates." The male model on the front, Figure 56, is posed on a beach with a blue sky and a distant horizon in the background. He is obviously well-grounded. He stands tall, shoulders back and head held high. His well-developed muscle structure is emphasized by a part of his shirt pulled over his head, around his back, and stretched over his shoulder. He sends the message of strength and stability.

In contrast, the female model on the other side, Figure 57, appears to be floating in the air and amongst clouds. Her hands are lifted casually behind her head, elbows out. Her head points down, eyes closed. Her leg closest to the camera is bent slightly, giving the impression that she is basking in the clouds, waiting to be swept away. This woman is not only sexualized through her positioning, but also through the positioning of the caption,

which is directly in line with her breasts. This female figure, unlike the male on the opposite side of the mailer, is passive, uninterested in her surroundings, submissive, sexualized, and without any strong sense of personhood.

Next to each other, in sharp contrast, these illustrations are a powerful indicator of the respective status of men and women in our culture. But, indeed, they were originally published next to each other, or on either side of one page, and sent out to perhaps millions of consumers. No public outcry ensued. Although there are some truly outrageous or “shock value” ad campaigns, most ads seem benign to us until we stop and take an educated look at them.

B. *Now and Then*

In addition to the contrast in the treatment of male and female images, another worthy comparison is between current female images and those from the 1960s and 1970s, the beginning of a wave of feminist consciousness. In 1964, Betty Friedan asked if the commercial image that “shapes women’s lives . . . and mirrors their dreams [left out] women’s mind and spirit.”¹⁶⁸ She suggested this omission “may give a clue to the problem that has no name.”¹⁶⁹ Friedan campaigned against the shallow, cliché of the American housewife fascinated with each new product and its contribution to her perfect domestic bliss.¹⁷⁰

Ten years later in 1975, Susan Brownmiller claimed that women’s bodies are “stripped, exposed and contorted for the purpose of ridicule to bolster that ‘masculine esteem’ which gets its kick and sense of power from viewing females as anonymous, panting playthings, adult toys, dehumanized objects to be used,

168. BETTY FRIEDAN, *THE FEMININE MYSTIQUE* 34, 36 (1963).

169. *Id.*

170. See BETTY FRIEDAN, *IT CHANGED MY LIFE*, 48-49 (1976).

If the image of women on television today reflects — or affects — reality, then American women must be writhing in agonies of self-contempt and unappeasable sexual hunger. For television’s image of the American woman, 1964, is a stupid, unattractive, insecure little household drudge who spends her martyred, mindless, boring days dreaming of love — and plotting nasty revenge against her husband. . . . She is so stupid that she is barely capable of doing the most menial household tasks. Her biggest problem is to get the kitchen sink or floor really clean, and she can’t even do that without a kind, wise man to tell her how. . . . Her biggest *thrill* is when, with that old man’s magic help (which comes in a can), she gets that sink *clean*.

Id.

abused, broken and discarded.”¹⁷¹ What would Friedan and Brownmiller see in women’s magazines twenty years later, after naming the problem and the intervening feminist insurgence?

A series of studies have compared the conclusions from 1970s studies of advertising sexism to more recent ads.¹⁷² The results are disappointing.¹⁷³ There is some reduction in the frequency with which women are depicted in traditional “womanly” roles or struggling with roles that are “beyond them,” too difficult or too confusing for their limited abilities. This motif appeared in 48% of the 1973 ads, and 35% of the 1986 ads.¹⁷⁴ Still, these researchers concluded, there is no significant change in print ads overall.¹⁷⁵ In a study published in 1995, researchers concluded that, although women are now depicted in a “wider range of social and occupational roles, . . . there has been a parallel *increase* in the sexually exploitive use of women in advertisements.”¹⁷⁶ Another study found a 60% increase since 1970 in the portrayal of women in purely “decorative” roles.¹⁷⁷ The recently announced results of an enormous study of 1,800 fashion ads undertaken by Wesleyan University suggests that advertising sexism

171. SUSAN BROWNMILLER, *AGAINST OUR WILL: MEN, WOMEN AND RAPE* 394 (1975).

172. See, e.g., Linda Lazier & Alice Gagnard Kendrick, *Women in Advertisements: Sizing Up the Images, Roles and Functions*, in *WOMEN IN MASS COMMUNICATION: CHALLENGING GENDER VALUES* 199, 202-04 (Pamela J. Creedon ed., 2d ed. 1993) (recapping various studies and asserting: “It is imperative not to dismiss the [1970s] findings as being outdated. Recent studies have only added to the evidence, documenting the persistence of the previous stereotypical, limiting, or sex object/thin/beauty conventions.”).

173. For instance, a 1973 study showed that 27% of ads put women down as sex objects, dumb or decorative; a follow-through study found 37% of the 1988 ads from the magazines studied depicted women this way. *Id.* at 204-05, 105 fig. 12.1.

174. See *id.*

175. See *id.*

176. Kyra Lanis & Katherine Covell, *Images of Women in Advertisements: Effects on Attitudes Related to Sexual Aggression*, 32 *SEX ROLES* 639, 640 (1995) (citations omitted) (emphasis added). Similarly, in the last two decades, female sexuality has become more commodified, see LaTour et al., *supra* note 37, at 51, and violent pornography has become more widespread. See Anna Gronau, *Women and Images: Toward a Feminist Analysis of Censorship*, in *WOMEN AGAINST CENSORSHIP* 96 (Varda Burstyn ed., 1985) (“The recent rise of violent pornography has coincided with increased power on the part of women.”). Media expert Linda Lazier-Smith claims there are more women depicted as bimbos in ads today than 15 years ago. See Scott, *supra* note 131, at H1 (quoting Linda Lazier-Smith, professor, Ball State University) (reporting on findings of 15 year study of *Ms.*, *Playboy*, *Time* and *Newsweek*).

177. See Gary L. Sullivan & P.J. O'Connor, *Women's Role Portrayals in Magazine Advertising: 1958-1983*, 18 *SEX ROLES* 181, 186 (1988).

is getting worse.¹⁷⁸ The study found that the percentage of ads in fashion magazines containing exposed women's bodies rose from 33% in 1985 to 50% in 1994 for white women, and from 38% to 43% for black women.¹⁷⁹ This data suggests that, in advertising, the more things change — in terms of daring, nudity, and bravado — the more they stay the same in terms of sexist messages.

C. *Black and White*

A *Newsweek* article in April 1995¹⁸⁰ taunted white feminists everywhere with the notion that, while we have failed to teach our white daughters, black girls have effectively detoured around the body image traps.¹⁸¹ I must begin this section by acknowledging that I cannot speak authentically for women of color. I urge others whose experiences more truly reflect these issues to explore them further. However, based on my research and innumerable conversations,¹⁸² I feel comfortable in making some observations.

Very few women of color appear in fashion ads. This may actually be good news for women of color. In some sense and to some degree, the virtual absence of images with which girls of color directly relate may be a blessing. My research shows that no one should incorporate most of the messages of fashion advertising: The virtual absence of black fashion models, for exam-

178. See *The More Things Change . . .*, CHI. TRIB., Feb. 1, 1998, at 1, available in 1998 WL 2820813. The report, not yet published, also suggests that other evidence of race and gender bias in ads persists in ads from 1985 to 1994. See *id.*

179. See *id.*

180. Ingrassia, *supra* note 14.

181. Jami Floyd reports a similar response: "The minute the [*Newsweek*] article hit the stands, my white women friends phoned to bemoan their plight, and to ask me for the secret to body image enlightenment that I, as a member of the race of black women, was fortunate to have achieved." Jami Floyd, *The Other Box: Intersectionality and the O.J. Simpson Trial*, 6 HASTINGS WOMEN'S L.J. 241, 245-46 (1995).

182. Shanette Harris, a psychologist studying body image, assures me that I can never fully appreciate the fashion codes of another culture. For instance, she suggests that black women have issues about hair style and skin tone white women never appreciate. Harris fears that finding out about the cultural differences is daunting: "When a white woman leads a discussion group for black women, she is going to get some lies . . . because, partly, she's not going to know . . . what to ask." Brian C. Jones, *Body Image: One Size Doesn't Fit All Races*, GREENSBORO NEWS & REC., July 7, 1998, at D1 (quoting Shanette Harris, psychology professor, University of Rhode Island). Sometimes I wonder if I fully understand the answers even when they are patiently explained to me. Jami Floyd wrapped up her observations on the *Newsweek* article, with this suggestion, "Maybe *Newsweek* needs to hire some more black folks." Floyd, *supra* note 181, at 246 n.13. Not a bad suggestion.

ple, may allow black culture to continue to define beauty in healthier ways, free from the artificially thin and eternally young focus of the couture genre. Certainly, several studies suggest that black teens have a healthier image of their bodies, particularly with respect to weight.¹⁸³

In addition, researchers involved in an ongoing study financed by the National Institute for Health are finding that African American youth are staying away from heroin.¹⁸⁴ One observer speculates a tie between African American concepts of style and rejection of heroin. "The hip-hop esthetic, with its 'hypercaloric' images of buff bodies, bubble down jackets and sport utility vehicles is directly opposed to the emaciated, apathetic look of 'heroin chic' in the high fashion world."¹⁸⁵

So much for the good news. Among what may be dozens of reasons, I explain here three reasons why the relative absence of women of color in fashion advertising contributes to racial inequities, rather than helps. Consider this story told by bell hooks:

[My friend's] little girl is just reaching that stage of preadolescent life where we become obsessed with our image, with how we look and how others see us. Her skin is dark. Her hair is

183. See, e.g., Ingrassia, *supra* note 14, at 66 (reporting on study conducted by researchers at University of Arizona that found 70% of African American teens were satisfied with their bodies, even including significantly overweight teens); C.E. Rucker & T.F. Cash, *Body Images, Body-Size Perceptions, and Eating Behaviors Among African-American and White College Women*, 12 INT'L J. OF EATING DISORDERS 291 (1992) (finding that African American women were more satisfied with body size and shape); Martin Miller, *The Shape of Southland Fitness: Times Poll: We're Living Up to Our Reputation as Health Buffs*, L.A. TIMES, Jan. 5, 1998, at S4 ("While overall satisfaction rates about body image were roughly the same among the races [in Southern California], African Americans (46%) were most likely to be 'very satisfied,' 36% of Latinos gave the same answer, while just 27% of whites did so."). Curiously, one study found that Native American and Hispanic females are slightly more likely than white females to be dissatisfied with their bodies. See J.E. Smith & J. Krejci, *Minorities Join the Majority: Eating Disturbances among Hispanic and Native American Youth*, 10 INT'L J. EATING DISORDERS 179 (1991). This certainly cannot be traced to the over abundance of Native American and Hispanic models in fashion ads.

184. See Dan Morrison, *Young Blacks Shun Heroin Use: Study Shows Abuse by Whites Rises Sharply*, NEWSDAY, Apr. 30, 1998, at A33.

185. *Id.* (quoting Richard Curtis, Director of Research). For a discussion of "heroin chic" in the high fashion (white) world, see *supra* notes 90-102 and accompanying text.

Similarly, is teen smoking strictly a white fashion statement? National Cancer Institute figures suggest that the white teen smoking rate is about five times that of African American teens. See Michele Ingrassia, *Waiting to Exhale*, NEWSWEEK, May 1, 1995, at 76. Moreover, the African American teen smoking rates are showing a dramatic decrease. See *id.* To the extent black teens can reject harmful white styles, they should be much encouraged.

chemically straightened. Not only is she fundamentally convinced that straightened hair is more beautiful than curly, kinky, natural hair, she believes that lighter skin makes one more worthy, more valuable in the eyes of others. Despite her parents' effort to raise their children in an affirming black context, she has internalized white supremacist values and aesthetics, a way of looking and seeing the world that negates her value.

Of course, this is not a new story. I could say the same for my nieces, nephews, and millions of black children here in the States. What struck me about this little girl was the depths of her pain and rage. She was angry. And yet her anger had no voice.¹⁸⁶

First, I find it unlikely that the lack of models of color relieves women and girls of color from the pressures to conform or the consequences of a society inundated with commercial images. For example, some experts criticize the conclusion that black women are free from distress over weight, and the resulting health risks of eating disorders.¹⁸⁷ Moreover, a distinctively "white" norm may translate into a double burden on women of color. They live in a society in which they are held to *both* standards, in a double bind that cannot always be reconciled and that multiplies the stress of finding an authentic identity.¹⁸⁸

To the extent women of color are held to the same standards of beauty as white women, they have more difficulty bringing themselves into compliance with this high fashion look. One Japanese American woman bemoaned the fact that some Asian women go to great lengths to achieve the desired white look, wearing high heels to look taller, lightening their hair, and even undergoing painful eyelid surgery.¹⁸⁹

The white race against which these women are evaluated is not only the majority, its members also hold most of the social

186. HOOKS, *supra* note 75, at 3.

187. See Charles Hurst, *Sizing Up the Problem: The Politics of Body Image for Women of Color*, THIRD FORCE, June 30, 1997, at 17, available in 1997 WL 15875560 (asserting that African American women have the same beliefs regarding body image as white women and are equally susceptible to eating disorders); Jones, *supra* note 182 (quoting Shanette Harris).

188. See *id.* (quoting Shanette Harris) ("The tug of war that pulls a woman's body toward a supposedly desired shape is even more wrenching when there are two ideals nourished by differing cultures."); Floyd, *supra* note 181, at 246 (noting that most black women live in two different societies for purposes of defining beauty).

189. See Hurst, *supra* note 187 (quoting Trish Murakawa, a Japanese American public relations professional).

and economic power. This pressure to conform may be a quest for status.

American culture is very seductive. African Americans are exposed to the avenues of advertising more than any other group. We watch more TV. It's natural, when you've been left out of the power stream, to want the accoutrements of its accepted norms. Whites define what is appropriate dress for everything It's very difficult to break out of that mold. Especially when we have money, we want to identify with the power structure. We readily adapt to their norms because it means you have arrived in America.¹⁹⁰

For others, the pressure to conform is more immediate than an illusory quest for status. It is a prerequisite to holding a job. This pressure is well illustrated by *Rogers v. American Airlines, Inc.*¹⁹¹ In this case, a black female employee was forbidden to wear a braided hairstyle, although such a hairstyle can be an important political and personal statement of black style.¹⁹² One commentator noted, "It is especially difficult for black women to meet the white Barbie doll standard, which does not incorporate black physical characteristics and does not acknowledge black physical characteristics as beautiful. . . . A black person 'should not have to look more white in order to keep [her] job.'"¹⁹³

Sometimes, the job-related pressure to meet a white beauty ideal is more muted than a direct job requirement. For example, appearance certainly matters in job interviews and within workplace environments. Our judgments are socially dictated by our obsession with beauty. We confuse deservingness, innocence, moral worth, and other traits with physical attractiveness.¹⁹⁴

190. *Id.* (quoting Glenice Pearson, a non-profit consultant in South Carolina).

191. 527 F. Supp. 229 (S.D.N.Y. 1981).

192. *See id.* at 231-32. For an excellent interpretation of the cultural significance of black hair, see Paulette M. Caldwell, *A Hair Piece: Perspectives on the Intersection of Race and Gender*, 1991 DUKE L.J. 365. A traditional African American blues song goes: "I ain't good lookin' and ain't got waist-long hair/ I say I ain't good lookin' and I ain't got waist-long hair/ But my mama gave me something that'll take me anywhere." PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 126 (1990) (quoting Mary Helen Washington, *I Sign My Mother's Name: Alice Walker, Dorothy West and Paule Marshall*, in *MOTHERING THE MIND: TWELVE STUDIES OF WRITERS AND THEIR SILENT PARTNERS* 143, 144 (Ruth Perry & Martine Watson Brononley eds., 1984)).

193. Reena N. Glazer, Note, *Women's Body Image and the Law*, 1993 DUKE L.J. 113, 147 (quoting WOLF, *supra* note 52, at 55).

194. [E]vidence suggest[s] that attractive persons, compared to unattractive persons, possess greater social influence and are more likely to obtain compliance from other individuals [M]aladjusted individuals who are attractive are perceived as less disturbed, and as having a

The absence of models of varying races deprives girls of color of the affirmation that they are beautiful. To the extent black images are available, they are only ambivalently black. Black girls live in a world where African American dolls are finally available, but they look like white dolls painted darker. There are some black supermodels, notably Naomi Campbell and Tyra Banks. However, these and most other black models of any level of popularity and success look very much like white European women.

[T]he bodies of black women appearing in [fashion] magazines [where they were once denied entry] are not there to document the beauty of black skin, of black bodies, but rather to call attention to other concerns. They are represented so readers will notice the magazine is racially inclusive even though their features are often distorted [They] embody the aesthetic that suggests black women, while appealingly “different,” must resemble white women to be considered really beautiful.¹⁹⁵

Women whose looks follow more typical racial patterns find these feeble attempts at blackness even more insulting.

Even when black girls do not think about why black models are so rare, they no doubt experience the consequences of being invisible. Worse, though, is the fact that the lack of models of

better prognosis than unattractive individuals exhibiting the same level of maladjustment. Several other studies also support the contention that attractive individuals are perceived and evaluated in a more positive light than are unattractive individuals.

Debra Umberson & Michael Hughes, *The Impact of Physical Attractiveness on Achievement and Psychological Well-Being*, 50 *SOC. PSYCHOL. Q.* 227, 228 (1987). See also Alicke, *supra* note 35, at 386 (“Facial attractiveness significantly influenced ratings of sociability, intelligence, and morality.”); Binder, *supra* note 16 *passim* (demonstrating that judges, juries, and prosecutors tend to find rape victims who are “beautiful” under cultural norms more credible and more deserving of legal protection); Kenneth L. Dion & Karen K. Dion, *Belief in a Just World and Physical Attractiveness Stereotyping*, 52 *J. PERSONALITY & SOC. PSYCHOL.* 775 (1987) (arguing that attractive persons are seen as having more socially desirable personalities and as being more successful); Feingold, *supra* note 69, at 333 (finding that we confuse a pleasant appearance with other admirable traits); Marcia McCabe & Samuel J. Marwit, *Perceptions of Attractiveness, and Body Image in Children*, 34 *J. CHILD PSYCHOL. & PSYCHIATRY* 1117 (1993) (demonstrating that “appraisal of adult attractiveness correlates with judgments of success, competency and happiness”).

195. HOOKS, *supra* note 75, at 71, 73. See also Rod Stafford Hagwood, *Fashion’s Color Line: The Black Brigade of Models from the Late ‘60s and ‘70s Hasn’t Opened Many Doors for Their Descendants*, *SUN-SENTINEL* (Ft. Lauderdale, FL), Aug. 10, 1997, at 6 (“As long as you have Eurocentric features, small nose, thin lips, and fair skin — you’re good enough to be fashion fodder.”). The predominant look of fashion advertising is not just white, it is noticeably WASP-ish. See Kilbourne, *supra* note 1, at 122.

color in high profile beauty campaigns is not simply inadvertent. Modeling agents speak openly of a racist market: "In terms of fashion magazines, . . . it is a fact of life that the color of a cover model's skin (or hair for that matter) dramatically affects newsstand sales."¹⁹⁶ In fact, looking more deeply into race and representation has put my study of the negative effects of fashion images in context. Black women, for instance, since the time of slavery, have been so totally dehumanized and violated by images that the measly addition of a few of the motifs discussed in Part II may make little dent in their experience.

One, but only one, of the possible avenues to explore in light of the comparisons in Part III is the relationship of fashion images — what they teach and what they tell us about the society they are intended to reflect — to the incidence of violence against women in the United States. Issues relating to the ultimate futility of trying to demonstrate firm cause and effect are discussed in Part V. First, however, in Part IV is a simple, and perhaps simplistic, look at the power of a camera and, ultimately, what we as a society would do if we were to set about intentionally to train killers, torturers, and rapists.

IV. POSSESSING AND DESTROYING WOMEN-THINGS

I'm a Barbie girl, in a Barbie world. Life in plastic. It's fantastic. You can brush my hair, dress me everywhere. Imagination. That is your creation.¹⁹⁷

The satirical lyrics of the pop tune *Barbie Girl*, introduced in 1997, may make my point better than I can in the length of this Article. In this Part, I first compare the dehumanized woman depicted in advertising to Barbie, then I take on the considerably more solemn issue of the consequences of dehumanizing of women at the caprice of the camera. I conclude that we would de-

196. Hagwood, *supra* note 195 (quoting former *Vogue* editor Anna Wintour). "Most clients categorically refuse to pay as much for a model of color as for a Caucasian model." *Id.* See also Rueter's News Service, *African Models Poised to Take Naomi's Top Spot* (visited Aug. 5, 1998) <http://www.nando.net/newsroom/ntn/enter/040198/enter23_217_noframes/html> (citing Marianne Winkler, fashion stylist at *Elle*, for acknowledgment that a "black face on the cover might decrease sales" outside of South Africa).

197. Aqua, *Barbie Girl*, on *AQUARIUM* (MCA 1997). Another snatch of the song includes these charming lyrics: "Make me walk, make me talk./ Do whatever you please./ I can act like a star./ I can beg on my knees." For more of the text, rather than buy the CD (which I did), I recommend the transcript in *Barbie Song as Popular as the Doll*, HARRISBURG PATRIOT, Sept. 19, 1997, at D02, available in 1997 WL 7531659.

pict our target in basically these same ways if we were training soldiers to respond with violence. I compare the dehumanization of women to war's dehumanization of the enemy. In Parts V and VI, I discuss the root of the problem behind women willing to image themselves as having less than human identities, the reasons we should be stunned by advertising's influence, and the role we must play to alter the fetish advertisers have in creating women-targets for violence, sexual assaults, and objectification.

A. *Barbie-Woman*

In the song quoted above, Barbie, representing the all-American girl,¹⁹⁸ is thrilled with her plastic life — ready, and indeed anxious, to throw herself at Ken, to be subjected to his every whim, and to become Ken's creation. But, outside of the song, does an equally plastic Ken have the power to create? Of course not. In fact, young girls who own Barbie and Ken dolls concoct the rules of the reality in which Barbie and Ken interact. Girls create a Barbie whose goal is to please Ken. Girls are the facilitators who enact on Barbie what they presume to be Ken's wishes. One serious downside of becoming Barbie, not directly mentioned in the song, is that, as an object of Ken's appetency, Barbie can be changed, adjusted, mutilated limb by limb, and discarded, in part or altogether.

I know how Barbie dolls are customarily treated.¹⁹⁹ When my children were small, I, joining consumer-trained mothers everywhere, allowed a veritable herd of Barbie dolls.²⁰⁰ Barbies

198. For the fall 1998 season, season tickets for Brigham Young University football were marketed by tying them to obtaining a Barbie doll dressed in a (very short, thin) Cougar cheerleader outfit, complete with blue and white pom poms (with the traditional body no less, the one that would make it impossible from a physics standpoint for her to stand on her own). The full page color ad in the student newspaper suggested that wise purchasers of season tickets act quickly before the "BYU Barbies" were "sold out." I cut the ad and posted it outside my door with the notation that perhaps BYU "has already *sold out*." The almost universal interpretation of my attempt at irony was a serious concern that it was already too late to get a BYU Barbie of one's own.

199. Even if you have never had Barbies of your own to observe, you still need not rely on my word. On a *Simpson's* re-run, Bart Simpson and Ralph find Barbies useful to shoot from toy bows into a dart board. Of course, they have to break off their heads first so the dolls will stick in the target.

200. I figure that as long as your children are allowed to view television, attend public school, and invite a wide cross-section of friends to birthday parties, Barbie ownership is inevitable. This truth was recently discovered by Kif Augustine Adams, a colleague of mine, whose feminist-raised daughter, Sofia, received her first Barbie from a friend at her recent fourth birthday party. After the festivities, Kif

seem to proliferate of their own accord, in addition to all of her mandatory friends, houses, cars, shoes, camping gear, etc. The whole "Barbie era" at our house had not crossed my mind for years until, in a recent cleaning fury, I found the box of remnants. And I do mean remnants — various assorted arms, legs, and torsos stuffed in with a plethora of dresses and accessories, none of which the dolls were wearing at the time. One particular specimen caught my eye. Naked, she had two arms but only one leg. Moreover, her head had been replaced by the head of another doll (whose coloring was considerably lighter). And even that head faced backwards.

But these remnants are toys, and the creators of these bits and pieces of Barbies were children. Unfortunately, the stakes involved in the Barbie-woman motif are much higher. Disc jockeys tell us the song *Barbie Girl* is "the number one most requested record on the radio station . . . I've got 12-year-old girls calling up for it, and I've got 50-year-old men calling up for it."²⁰¹ Both of these groups worry me.²⁰² I am not sure they catch the irony, just as the average consumer does not notice anything wrong with the common portrayals of women in advertising.

Finding the bunch of mangled plastic toys in my basement storage would probably not have alarmed me before my study of advertising. As described in Part II, *supra*, advertising suggests

explained that it was better not to have a Barbie as a toy. (Kif: "She does not look like real people." Sofia: "Yes Mom, she has blue eyes just like me." Kif: "Look at her stomach and her waist. Do you know anyone as thin as Barbie?" Sofia: "You are, Mom.") After a patient and informative explanation of why a Barbie does not convey the proper message about the reality of women, Sofia assured her parents: "Mom, I will remember that Barbie is just a toy." Sofia, however, would not be parted peaceably from her new acquisition.

More than a billion Barbies have been sold, which puts Barbie at the head of the list of popular toys worldwide. Julia Llewellyn Smith, *Barbie Goes to Court: No Sex Please, She's a Doll*, DAILY TELEGRAPH (London), Nov. 9, 1997, at 28, available in 1997 WL 2351799. It is estimated that almost all American girls own at least one Barbie, and, even in Britain, the average girl between ages three and eleven has five Barbies. Additionally, on-going Barbie sales are brisk. See *id.* While the "Happy To Be Me Doll" was a great idea, nobody bought it. See *id.*

201. Lonnae O'Neal Parker, *Barbie, The Plastic Fantastic Lover?: Hit Song Does a New Take on the Doll*, WASH. POST, Sept. 3, 1997, at D01 (quoting Albie Dee & JoJo Morales, disc jockeys). Radio program manager, Ron Ross, believes the song does not inspire 16-year-old girls to be "toys" for boys, because "[a] lot of the message is over kids' heads." *Id.* (quoting Ron Ross, Z-104, WWZZ-FM, Washington). He obviously has never had, or worked with, 16-year-olds in this century. For further discussion of *Barbie Girl*, see *supra* note 197.

202. For a possible link between the idealized youthfulness of fashion models and the behavior of pedophiles, see *supra* text accompanying note 113.

the nineties woman is, or wants to be, *like* Barbie, unseeing (see Figures 2-5, 7-21), freely interchangeable with dozens of others made on an assembly line (see Figures 23-24), absolutely flawless (see Figure 25), plastic (see Figures 27-29), with moveable, and easily manipulated, limbs (see Figures 33-39), eternally young (see Figures 43-45), and fun to play with (see Figures 46-50). Some ads go further and suggest the woman *is* Barbie (see Figure 26).

After advertising equates the image of women to Barbie (even assuming a normal bust-to-waist ratio), women may become subject to the privileges of ownership, which like the privileges of creation, include the right to alter and abandon or, in less benign terms, to mutilate and destroy. The subsequent sections compare the consequences of the dehumanization of women at the caprice of the camera to the consequences of war's dehumanization of the enemy.

B. *Captured by Camera*

The finished product of the image makers in advertising sometimes bears little resemblance to nature, but as a society we are losing interest in distinguishing between the artificial and the real in a photograph. Jib Fowles explains the last century's replacement of hand-drawn art in advertisements by photographs.

[Photographs] over 100 years' time had accrued an enormous equity as a truth recorder Photography [can] turn out lies in a wholesale fashion, and permissibly so. That is, the manner of recording was so accurate that it disappeared as a recognized artifice . . . even though exactly what was recorded had been artificially established [T]he receiver has no sense at all of any tension between truth and falsehood, or chooses not to acknowledge any²⁰³

I am particularly fascinated by the placement of cameras when they are pictured within an advertisement's image. Consistently, in ads selling cameras, the camera's positioning with respect to a woman epitomizes the camera-as-voyeur archetype. For example, in Figure 58 a woman wearing spiked heels and poured into a form fitting black leotard is posed facing away from a large black camera with an exceptionally long zoom lens. She is completely bent over with one red-gloved hand touching the floor in front of her (the other hand appears to be operating the remote control to the camera). The view of the camera,

203. FOWLES, *supra* note 58, at 86.

stacked on a pile of books behind her, is focused directly on her crotch, and at point blank range, given what must be the percentage zoom with the lens so extended.

One would expect a male audience/consumer when the target of the camera-voyeur is an objectified woman. Recall, however, that the images of women-things in Part II come from magazines that dictate to women audiences. Does this mean that the primarily heterosexual women who buy the magazines and the products sold through these images want somehow to possess other sexualized heterosexual women? My studies suggest, rather, that women want to see how women who are appealing to men are packaged so they can copy the look that will make them appealing. This is what fashion magazines are selling women — the image to be idealized and imitated. What fashion magazine advertisements declare to be appealing is the fragmented, fungible, easily manipulated, vulnerable, weak, and objectified woman. This is the kind of woman who, according to fashion magazines, men want, with male desire being measured by the power of the camera to capture and possess.

The connection between the image, fashion, and desire to possess is well illustrated in one of the photographs in the centennial Ferragamo catalogue (see Figure 59). A woman is interposed on two full pages. The first page is black and white, the woman's skin a gray shade, made to look like a reflection of the second page. The woman's back is turned to the camera, her head pointing down. A scarf secures her hands, which are tied behind her bare back. This image elicits a sense of captivity and bondage. Even more alarming, the caption on the black and white page reads "To understand beauty is to possess it."²⁰⁴ This caption is especially interesting in light of the fact that the largest word on the page is "beauty," giving the impression that a captured and controlled woman is beautiful. Furthermore, while the ad may be for a scarf, the word "beauty" is printed far from the scarf, across the most exposed part of the woman's body, her uncovered back. Another striking aspect of this ad is that the copy is written on a reflection of the model on the right hand page. This layout suggests some profound revelation that imparts wisdom.

Today, the "reality" created by ads suggests that women are, at a minimum, much more willing than men to be decorative,

204. FERRAGAMO SPRING/SUMMER CATALOGUE (1998).

passive, and most importantly, possess-able like dolls. If women want to be desirable to men, and if women assume from the dictates of fashion arbiters that men want possess-able dolls, it follows that women will fashion themselves consistently with being dolls. What women, perhaps, do not realize is that being dolls carries substantial risks. Dolls are not only to be possessed, they are the owner's to discard, all or in part. Dolls are different than people.

C. *Dehumanizing the Enemy*

Distance and dissimilarities increase our ability and willingness to act irresponsibly against others. One commentator on the Holocaust noted: "From time immemorial, the Stranger has been seized on as the object of projections of what people fear and dislike in themselves."²⁰⁵

Dehumanization, at the extreme, increases our ability and willingness to act irresponsibly against things. This is because objects evoke significantly less empathy than humans. The link between physical violence and female fungibility and passivity was made by a student in my *Social Policy and Feminist Legal Thought* class. She recorded in her journal the stages of her reaction to the Gianni Versace vest advertisement in Figure 21:

The advertisement with the blindfolded woman seems to suggest she's "there for the taking." She is blindfolded, perhaps waiting for any man to come and get her. Her opened vest is certainly an invitation. *I can't believe I just wrote this!* It sounds like the standard excuse for date rape: "She was dressed like she wanted sex." I hate this excuse and believe it should NEVER be tolerated. Based on my response to this ad, I suppose I might believe dress does play more of a role than I've been willing to admit in the past.²⁰⁶

Dehumanization as a precursor to violence is a time-honored and well-practiced strategy. In war, soldiers must be taught to kill. Modern military leaders know that killing is made possible when the soldier can avoid thinking of the enemy as a

205. Charny, *supra* note 38, at 95. Ben Shalit concludes from his study of hate among Israeli soldiers: "The nearer and more similar the victim of aggression is, the more we can identify with him, the more involved we are, and the less aggressive will be our behavior toward him." John A. Ballard & Alecia J. McDowell, *Hate and Combat Behavior*, 17 *ARMED FORCES & SOC'Y* 237 (1991) (quoting BEN SHALIT, *THE PSYCHOLOGY OF CONFLICT AND COMBAT* 48 (1988)).

206. See Cheryl B. Preston, *Joining Traditional Values and Feminist Legal Scholarship*, 43 *J. LEGAL EDUC.* 511, 530 (1993).

human being.²⁰⁷ Soldiers are told again and again that the enemy "is not really a full human being like themselves; it is permissible and praiseworthy to kill him."²⁰⁸ Trainers persuade "gunners [to] fire at grid references they cannot see; submarine crews [to] fire torpedoes at 'ships' (and not, somehow, at the people in the ships); pilots [to] launch their missiles at 'targets.'"²⁰⁹ In classier military training establishments, the euphemism is fur-

207. Would it surprise us if pornography (at least soft core) consumption is higher among military personnel than civilians? See Madeline Morris, *By Force of Arms: Rape, War and Military Culture*, 1996 DUKE L.J. 651, 715 ("[E]ven while no causal link has been found between nonviolent pornography and aggression at the individual level, the two rates are highly correlated at the societal level."). After accounting for comparable gender, age, and education, 1992-93 preliminary research shows 33% of male active military personnel (ages 18-29) read *Playboy*, as compared with 13% of similar aged male civilians. See *id.* at 713-14 (citing research on file with author conducted by Simmons Market Research Bureau). Pornography consumption may be particularly high just before combat. In 1996 Congress addressed the problem of pornography sold at Army and Air Force tax free "discount" stores. Margo L. Ely, *Ruling Raises Questions About Free Speech, Military*, CHI. DAILY L. BULL., Feb. 10, 1997, at 6. The numbers round to 12.6 million copies a year (more than 34,500 a day?!). See *id.* The resulting Military Honor and Decency Act of 1996, 10 U.S.C. § 2489a, after initial challenges, was held to be within the constitutional authority of Congress because the military stores "are nonpublic forums in which government may restrict the content of speech, so long as the restriction is reasonable and it does not discriminate among particular viewpoints." *General Media Communications, Inc. v. Cohen*, 131 F.3d 273, 276 (2d Cir. 1997), *cert. denied*, 118 Sup. Ct. 2367 (1998).

For a comparison of rates of rape committed by military personnel and civilians, and a thoughtful analysis of causes, see Morris, *supra*.

208. GWYNNE DYER, *WAR* 121 (1985).

To create the proper attitudes to wage war successfully, [psychiatrist Leonard] Sillman argues that the training and indoctrination of American soldiers should . . . dehumanize the enemy. The proper enemy image must be developed; 'the enemy has to be presented as an utterly inferior and unhuman being' . . . The key is to create deep emotional reactions to the enemy's image. The enemy must be viewed as an animal, whose killing should cause no guilt.

Ballard & McDowell, *supra* note 205, at 229 (quoting Leonard R. Sillman, *A Psychiatric Contribution to the Problem of Morale*, 97 J. NERVOUS MENTAL DISORDERS 283, 289 (1943)). Representing others as a "non-human species" is critical to setting the stage for violence. See Charny, *supra* note 38, at 95. African American women, for example, have since the time of slavery been demeaned by being portrayed as animals and robots. See HILL COLLINS, *supra* note 192, at 283-84 (exposing the depth and length of the motif linking black women with animals).

Even in aggressive sports, "Perceptions of others as 'competitors' . . . precipitate aggression toward them." WALTER PODILCHAK, *SPORT AGGRESSION IN ADULT AND PEER ORGANIZED GAMES*, IN 1984 OLYMPIC SCIENTIFIC CONGRESS, *AGGRESSION/VIOLENCE — AESTHETICS AND ELITE ATHLETES — SPORTS AND POLITICS SCIENTIFIC PROGRAM ABSTRACTS* 5 (1984).

209. DYER, *supra* note 208, at 119.

ther glossed: “[A]t West Point we do not call it ‘killing the enemy.’ We call it ‘servicing the target.’”²¹⁰

In World War II, the United States did what military experts might consider an excellent job depicting the Japanese as “yellow monkeys — creatures less than human.”²¹¹ Referring to the hatred historically conferred on Irishmen, Chinese, Jews, African Americans, Native Americans, Puerto Ricans, and Vietnamese, among others, Jan Nederveen Pieterse tells us: “The underlying logic of dehumanizing the enemy by means of stereotyping is the same.”²¹² Lieutenant Colonel Dave Grossman, in his analysis of killing, quotes a soldier’s narrative remembrance of a “gook” and then translates its meaning for the process of dehumanization:²¹³

“It was like a volleyball game, he fired, I fired, he fired, I fired. My serve — I emptied the rest of the magazine into him I rolled the body over Just as I was feeling sorry for him, the Marine showed me the U.S. Government M1 carbine the gook had used on us.” This narrative gives a remarkable — and almost certainly unintentional — insight into the early aspects of rationalizing a personal kill [When] the enemy’s weapon is noted, the rationalization process begins, and “he” becomes “the body” and ultimately “the gook.”²¹⁴

Similarly, Nazi concentration camp guards were more willing to carry out their ruthless assignments when prisoners had been reduced to numbers instead of persons.²¹⁵ The “Final Solution” depended on stripping individuals of all “personal qualities

210. JAMES H. TONER, TRUE FAITH AND ALLEGIANCE: THE BURDENS OF MILITARY ETHICS 41 (1995) (quoting Fred Downs [Army infantry officer], “*To Kill and Take Ground is the Reality of War*,” HARTFORD COURANT, Aug. 23, 1987, at B1, 4)).

211. Ballard & McDowell, *supra* note 205, at 233 (citing JOHN W. DOWER, WAR WITHOUT MERCY: RACE AND POWER IN THE PACIFIC WAR 11 (1982)).

212. Jan Nederveen Pieterse, *White Negroes*, in GENDER, RACE AND CLASS IN MEDIA, *supra* note 1, at 26.

213. DAVE GROSSMAN, ON KILLING: THE PSYCHOLOGICAL COST OF LEARNING TO KILL IN WAR AND SOCIETY 237 (1995).

214. *Id.* at 237-38 (quoting John Foster, veteran).

215. See ELIE A. COHEN, HUMAN BEHAVIOR IN THE CONCENTRATION CAMP 145-46 (M.H. Braaksmas trans., 1953) (describing, based on Freud’s analysis, how loss of name effected transformation from person to “prisoner” — a subject of “complete indifference” whether dead or alive); Michael Unger, *The Prisoner’s First Encounter with Auschwitz*, in 2 THE VICTIMS OF THE HOLOCAUST 1151, 1153-54 (Michael R. Marrus ed., 1989) (quoting survivor assertion that from the point of tattooing numbers on prisoner’s arm, “[t]hey didn’t think of us as people. In their eyes we were sub-humans . . .”). Victor Frankl’s writing articulates the sensation of being objectified at Auschwitz. “It did not really matter which [prisoner], since each of them was nothing but a number We’d all fancied ourselves to be ‘somebodies’ but now we’re treated like complete nonentities.” VICTOR FRANKL, MAN’S SEARCH FOR MEANING 23, 56-57 (1984).

[and] accomplishments, . . . features of character [and] appearance" and replacing them with the abstract category based unconditionally on biological traits.²¹⁶ A sanctioned massacre of this proportion can only be possible when "[t]hose who participate . . . come to see their victims as bodies to count and enter into their reports . . ." ²¹⁷ Stripping identity includes stripping dignity. Corrie ten Boom describes the chilling revulsion of being required to parade naked along a line of concentration camp guards at Ravensbrook.²¹⁸

Even in modern American correctional systems, guards are largely freed from the moral conflict concomitant with violence against personhood. Prisoners are subjected to a forced loss of identity,²¹⁹ including the assignment of a number.²²⁰ They become fungible in dress and appearance, and eventually realize that those on the outside would not distinguish one prisoner from another.²²¹ Dehumanization is furthered by the lack of personal

216. Irving Howe, *Writing and the Holocaust*, NEW REPUBLIC, Oct. 27, 1986, at 27, 28.

217. Herbert C. Kelman, *Violence Without Moral Restraint: Reflections on the Dehumanization of Victims and Victimizers*, VARIETIES OF PSYCHOHISTORY 302-03 (George M. Kren & Leon H. Rappoport eds., 1976).

The Nazis ran closed bids for the construction of the gas chambers:

A. Topf and Sons, Erfurt, manufacturers of heating equipment: "We acknowledge receipt of your order for five triple furnaces, including two electric elevators for raising the corpses . . ."

Vidier Works, Berlin: "For putting the bodies into the furnace, we suggest simply a metal fork moving on cylinders . . ."

C.H. Kori: "We guarantee the effectiveness of the cremation ovens . . ."

Harry H. Shapiro, *A Search for Conscience*, JEWISH EXPONENT (Philadelphia), Mar. 29, 1968 (quoted in Charny, *supra* note 38, at 90).

218. See CORRIE TEN BOOM ET AL., *THE HIDING PLACE* 178-79 (1971). ("It was on one of those mornings while we were waiting, shivering, in the corridor, that yet another page in the Bible leapt into life for me. He hung naked on the cross . . . [O]n that other Friday morning — there had been no reverence. No more than I saw in the faces around us now . . . 'Betsie, they took *His* clothes too.'")

219. See CURTIS PROUT & ROBERT N. ROSS, *CARE AND PUNISHMENT: THE DILEMMAS OF PRISON MEDICINE* 139 (1988) ("Forced loss of identity . . . [is] part of the process of social control of the inmate.")

220. See CLEMENS BARTOLLAS & STUART J. MILLER, *CORRECTIONAL ADMINISTRATION: THEORY AND PRACTICE* 64 (1978) (describing the process of "prisonization" including replacing names with numbers); JOHN M. SLOOP, *THE CULTURAL PRISON: DISCOURSE, PRISONERS, AND PUNISHMENT* 111 (1996) (asserting system's effort to turn prisoners into "an object, a number, a thing, or a nothing").

221. BARTOLLAS & MILLER, *supra* note 220.

privacy — from random strip searches²²² to the general and unrelenting observation.²²³

Consequently, it should not surprise us that “often rapists refer to their victims not as ‘she’ but as ‘it.’”²²⁴ In his collection of narratives, Timothy Beneke found that many men, including but not only convicted rapists, speak of their sexual desire for women in terms of violence and control.²²⁵ Beneke argues that when some men speak of sex, one of the common metaphors used is that of object: “She’s a cute *thing*. Take off your clothes and show me your *stuff*. Check *that* out. How would you like a *little bit of that*? She likes to *flaunt it*.”²²⁶ Other common references are to women as commodities and to female body parts.²²⁷

This failure to appreciate the victim as a human being is, in its extreme, particularly characteristic of a sadistic or anger motivated rapist,²²⁸ whose “victim is merely there as an actress in his self-scripted drama There will be no remorse because the rapist has totally depersonalized his victim.”²²⁹ But this is not the only type of rapist subject to the influence of advertising images.²³⁰ In her research, Katharine Baker concludes both that “rape is culturally dictated” and that potential rapists are not uncommon among the “normal” population.²³¹ Some men may view rape as a way to get sex, thinking that their victims suffer only minimal trauma and, in fact, may be aroused by “power, dominance, and violence.”²³² Others may recognize they are taking something, but they believe that sex is a commodity and rape

222. See *id.* at 30 (noting practice of being stripped naked and body searched).

223. PROUT & ROSS, *supra* note 219, at 143 (describing subtle effects of loss of privacy by surveillance).

224. See Teresa Hommel, *Images of Women in Pornography and Media*, 8 N.Y.U. REV. L. & SOC. CHANGE 207, 211 (1978-79) (citing Diana Russell, sociologist, Mills College). See also Caryn Jacobs, *Patterns of Violence: A Feminist Perspective on the Regulation of Pornography*, 7 HARV. WOMEN'S L.J. 5, 13 (1984).

225. See TIMOTHY BENEKE, MEN ON RAPE 15 (1982).

226. *Id.* at 14.

227. See *id.* at 13-14.

228. See JOHN DOUGLAS & MARK OLSHAKER, OBSESSION 98 (1998). A sadistic or anger motivated rapist is one of four standard classifications of rapists. See Baker, *supra* note 8, at 576-78.

229. DOUGLAS & OLSHAKER, *supra* note 228, at 98.

230. There are many kinds of rape and many motivations for rapists, and understanding them with an eye to prevention is critical. For a careful but brief and understandable delineation of rapist typology, see ROB HALL, RAPE IN AMERICA 76-87 (1995).

231. Baker, *supra* note 8, at 577-78.

232. *Id.* at 601.

is simple theft.²³³ The commodification of sex is particularly prevalent in advertising.²³⁴ A third group of men rape to insult another man by defiling his property.²³⁵ This construct, of course, depends on women being viewed as property, a message also consistently reinforced by advertising.

This manifestation of dehumanization and commodification arises in different contexts. After months of interviews with Ted Bundy, the interviewers concluded:

The girls that Ted Bundy talked about had no more flesh-and-blood reality to their killer than a Coppertone billboard. Yet is this really so safely aberrant, so "psychopathic," so rare? Many normal men and popular culture conduits frequently and proudly convey those same malperceptions . . . Bundy referred to his victims not only as "symbols," "images," and "the object," but also as "puppets" and "dolls."²³⁶

We are part of a society marked by fear of violent crime,²³⁷ yet we condone and sanction as normal and mainstream the kind of every-day conditioning used in training killers and participants in group massacres. Women, especially teens and young adults, have a seemingly insatiable taste for fashion magazines filled primarily with glossy advertisements, and for the products aggressively marketed by those ads. Do these advertising images affect how women view themselves, and more importantly, how they market themselves? Further, to the extent women do succeed in packaging themselves consistently with the fashionable idols of advertising, how does this affect men and men's treatment of these and other women?

V. CAUSATION AND CULPABILITY

If the pen is mightier than the sword, and a picture is worth a thousand words, then a little simple multiplication is all it takes to figure out the enormous propagandistic power that [a commercial picture] has to create truth and shape opinion.²³⁸

Advertising messages are acts of propaganda, challenging the faithless and the relapsed as they confirm the beliefs of the committed When the solitary ad joins into the army of its

233. *See id.* at 602-06.

234. *See id.* at 603.

235. *See id.* at 607-08.

236. CAPUTI, *supra* note 49, at 175-76.

237. *See* Beale, *supra* note 19, at 44-45 (illustrating national fear of crime).

238. PATRICIA WILLIAMS, *THE ROOSTER'S EGG: ON THE PERSISTENCE OF PREJUDICE* 110 (1992).

fellows, together they constitute an ideological force of great magnitude.²³⁹

The potential implications of advertising images are monumental. "Advertising is a social actor and a cultural artifact."²⁴⁰ I find it irrefutable that the consistent barrage of commercial images have the effect of desensitizing viewers to what may be abnormal or objectionable about the world displayed in the advertising picture. As a further consequence, the ads described in Part II may, ultimately, make it easier to develop and nourish a belief that women will be more desirable if they can be owned and controlled. The urge to be pleasing, and thus desired, may eventually work to condone the commission of violence against women.

My objective in this Article is not to "prove" a direct link between individual evil acts and advertising images. Isolating cause and effect in social science has always been an imprecise business.²⁴¹ I do not intend to suggest here simple, single causes and effects. However, I find preposterous the notion that these images, with which our daily lives are papered, do not influence attitudes.²⁴² In *Consuming Sexism: Pornography Suppression in*

239. FOWLES, *supra* note 58, at 96.

240. Hong Cheng, "Holding Up Half of the Sky?" *A Sociocultural Comparison of Gender-role Portrayals in Chinese and U.S. Advertising*, INT'L J. ADVERTISING, Nov. 1, 1997, at 295, available in 1997 WL 15947815 (citations omitted).

241. See Richard W. Pollay, *The Distorted Mirror: Reflection on the Unintended Consequences of Advertising*, J. MARKETING, Apr. 1986, at 18, 31-33 (discussing difficulties in conducting social science research into the effects of advertising). For a thorough discussion of the existing studies and issues in trying to isolate the impact of television violence on children viewers, see Harry T. Edwards & Mitchell N. Berman, *Regulating Violence on Television*, 89 NW. U. L. REV. 1487, 1536-51 (1995). For analysis of the impact of racially stereotyped advertising, see Reginald Leamon Robinson, *White Cultural Matrix and the Language of Nonverbal Advertising in Housing Segregation: Toward an Aggregate Theory of Liability*, 25 CAP. U. L. REV. 101 (1996); Michael E. Rosman, *Ambiguity and the First Amendment: Some Thoughts on All-White Advertising*, 61 TENN. L. REV. 289 (1993); Note, *Racial Steering in the Romantic Marketplace*, 107 HARV. L. REV. 877 (1994).

242. Although questions remain about the extent to which attitudes guide behaviors, credible studies support the conclusion that advertising viewing does affect attitudes. One study concluded:

The data indicate that males who see print media advertisements in which women are presented as sex objects are more likely to evidence increased sex role stereotypic and rape myth beliefs, and are likely to be more accepting of interpersonal violence (primarily against women), than are males exposed to other types of advertisements.

Lanis & Covell, *supra* note 176, at 646. See also Turner et al., *supra* note 14 ("The results of this investigation demonstrate the role of the media in shaping, rather than merely reflecting, societal perceptions of the female body. Consistent with our hy-

the Larger Context of Commercial Images,²⁴³ I addressed the heated debate over the societal effects of pornography consumption. I noted a general agreement among proponents of porn suppression *and* its critics, that

certain sexually explicit images are degrading to women, condone violence against women, or equate sex with female subordination. In addition, most admit (perhaps reluctantly) that such images are relevant to community attitudes about women, violence, and sex. Disputes about causation are most defensible when they focus on the effects of pornographic images on specific individual behavior, or on the extent to which pornography incrementally contributes to the power of mainstream images.²⁴⁴

If images do not affect behavior, why are American businesses (that presumably have more dollars-and-cents savvy than many institutions in the world) spending nearly \$167 billion annually to spread images of their products across every available wall and printed page?²⁴⁵ Certainly, those who sell and those who buy advertising services believe these images influence viewers.²⁴⁶ For example, *Vogue* magazine urges companies to advertise in its pages, because the product ads *Vogue* selects present the "image, influence and authority" for today's woman.²⁴⁷ They claim the pages of *Vogue* illustrate what women aspire to be. Granted, serious back pedaling occurs when the magazine's

pothesis, it was found that women's body image satisfaction is, indeed, influenced by their exposure to the thin ideal presented in fashion magazines.").

243. See Preston, *supra* note 10.

244. *Id.* at 814-16 (footnotes omitted).

245. See FOWLES, *supra* note 58, at 16.

246. Jane Aspinall, the manager of male toiletries and fragrances at Elida Faberge believes they do. She says, "I think that magazines have had a huge impact on men — they're definitely being influenced by the products they see in them." *Man's Mirror Image*, CHEMIST & DRUGGIST, Sept. 28, 1996, at 432, available in 1996 WL 12715574 [hereinafter *Mirror*]. The worldwide coordinator for Brylcreem agrees: "Just as women's magazines influence women on fashion and beauty, so men's magazines are doing the same for men." *Id.* Advertisers believe they can "prove" their effectiveness and considerable study is expended on processes for demonstrating the effectiveness of ads. *Id.* See generally, ALEX EDELSTEIN, TOTAL PROPAGANDA: FROM MASS CULTURE TO POPULAR CULTURE (1997); MEASURING ADVERTISING EFFECTIVENESS (William D. Wells ed. 1997); RICHARD M. PERLOFF, THE DYNAMICS OF PERSUASION (1993).

247. Letter from Christine Mathews, Northwest Manager — VOGUE, to Cheryl Preston, Aug. 20, 1997 (on file with author). The letter accompanying *Vogue*'s media kit declares: "*Vogue* reaches over 8 million readers each month. From *Vogue* comes the ideas, the inspiration and the information that incorporates style to our readers, what they wear, how they live and where they go."

images are criticized.²⁴⁸ For example, Alexandra Shulman, an editor of *Vogue*, rationalizes: "Personally, I think we can have an influence on people who are already susceptible to eating disorders [although] we are not the primary cause."²⁴⁹ Claiming the power to dictate tastes and, at the same time, de-emphasizing their influence on readers is disingenuous.²⁵⁰

While editors of women's magazines downplay the socially negative (but not the marketing) impact of their publications, a surprisingly high percentage of women believe they are influenced by media images.²⁵¹ The results of a *Psychology Today* survey indicate that it's "no longer possible to deny the fact that images of models in the media have a terrible effect on the way women see themselves."²⁵² Historical data supports a correlation between women's attitudes about and behavior toward their bodies and images in advertising. For example, "In the same time span during which reported cases of anorexia and bulimia began to increase dramatically, there was an increase in diet-related essays and advertising in women's magazines . . . [and] a significant decrease in the weight of Miss America contestants."²⁵³

248. Although no one likes to be criticized, one advocate carried the need to defend advertising against critics a little far:

Bearing in mind that the elimination of the twin mainstays [advertising and popular culture] of the modern symbol system — should such a thing be possible — would cause contemporary media to dissolve and *could jeopardize the modern way of life in its entirety*, then the question of why they are subjected to such unremitting attack must be raised.

FOWLES, *supra* note 58, at 52 (emphasis added).

249. Paul McCann, *In Vogue with Alexandra Shulman*, INDEP. (London), May 12, 1997, at 9 (quoting Alexandra Shulman). For Shulman's response to the fashion industry's indulgence with drug culture, see *supra* note 99. See also Turner et al., *supra* note 14 (citing various studies correlating trends in fashion model norms with cultural ideals of beauty).

250. Similarly, Sean Fitzgerald, spokesman for Mattel, is, "at best, unhappy" with the lyrics to the song *Barbie Girl* (quoted *supra* note 197). See Parker, *supra* note 201 (quoting Sean Fitzgerald). "I think [the song] is a characterization of women as sex objects." *Id.* Of course, when asked about the perception that the Barbie line "characterizes young women as sex objects, sets narrow, artificial beauty standards and in general promotes low self-esteem and eating disorders, Fitzgerald says 'we would have to disagree' with that." *Id.* We [read Mattel] would certainly want to.

251. See David M. Garner, *The 1997 Body Image Survey Results*, PSYCHOL. TODAY, Jan./Feb. 1997, at 30, 34. In a 1997 survey of 4,000 readers, 22% of women and only 6% of men identified fashion magazine models as affecting their body image. See *id.*

252. *Id.* at 36.

253. Mark E. Johnson et al., *Sex Role Conflict, Social Desirability, and Eating-disorder Attitudes and Behaviors*, J. GEN. PSYCHOL., Jan. 1, 1996, at 75, 76, available in 1996 WL 12946042.

Although the media may not originate harmful standards, when the media adopts and consistently reflects such styles, they become widespread "fads."²⁵⁴

Perhaps the most powerful argument for the relevance of images to attitude is made by defenders of activist or subversive artistic expression.²⁵⁵ They argue that "representation is central to power. The real struggle is over the power to control images."²⁵⁶ Postmodern art²⁵⁷ intends, by imagery, to "achiev[e] social and political transformation."²⁵⁸ Even though rife with "interpretive ambiguity," postmodern art is an attempt to influence.²⁵⁹ Similarly, feminists who encourage the sexual empowerment of women²⁶⁰ claim the importance of images as education, as do gay men who favor the availability of gay pornography.²⁶¹

Using images for pecuniary instead of ideological gain requires an equally deliberate approach. Advertising depends on

254. See Brett Silverstein et al., *The Role of the Mass Media in Promoting a Thin Standard of Bodily Attractiveness for Women*, 14 *SEX ROLES* 519, 531 (1986).

255. See Amy Adler, *What's Left?: Hate Speech, Pornography, and the Problem for Artistic Expression*, 84 *CAL. L. REV.* 1499, 1502 (1996) ("[A]rt has become a central medium to activists concerned with achieving equality . . ."); Marci A. Hamilton, *Art Speech*, 49 *VAND. L. REV.* 73, 121 (1996) ("In addition to its content, art deserves constitutional protection for its singular capacity to offer the experience of new worlds . . . Its experience strengthens judgment, resistance, and the capacity for dissent. Thus, art plays an important and distinctive instrumental role in the calibration of governmental and private liberty."). See also William N. Eskridge, Jr., *A Jurisprudence of "Coming Out": Religion, Homosexuality, and Collisions of Liberty and Equality in American Public Law*, 106 *YALE L.J.* 2411, 2443-51 (1997) (arguing for importance of "identity speech").

256. Adler, *supra* note 255, at 1502 n.12 (quoting Thelma Golden, art curator).

257. *Id.* at 1518-20.

258. *Id.* at 1517 n.74 (quoting Lynne V. Cheney, former chair, National Endowment for the Humanities).

259. *Id.* at 1541.

260. For a description of this position in the porn suppression debates, see Preston, *supra* note 10, at 791-93. See also Sarah Chester, *A Feminist Response to the Exon Bill*, 8 *HASTINGS WOMEN'S L.J.* 79, 103 (1997) ("Feminists, people of color and gay activists have all insisted on the importance of authoring their own sexual stories.").

261. See, e.g., Eskridge, *supra* note 255, at 2468 ("While pornography is not identity speech in the same way student organizing was at Georgetown University in the 1970s or carrying placards is in the Boston parades, pornography does contribute images and knowledge that help people formulate and understand their sexual identities."); Christopher N. Kendall, "Real Dominant, Real Fun!": *Gay Male Pornography and the Pursuit of Masculinity*, 57 *SASK. L. REV.* 21, 54 (1993) ("For many porn advocates, gay male pornography acts as a learning resource."); Jeffrey G. Sherman, *Love Speech: The Social Utility of Pornography*, 47 *STAN. L. REV.* 661, 685 (1995) ("The struggling gay adolescent or young gay man requires sexual images" to overcome social disapproval attached to gay sex.).

developing carefully calculated marketing strategies.²⁶² Advertising is neither an art nor a science, but uses techniques of both.²⁶³ Advertisers utilize elaborate market research to understand demographics (gender, age, education, and income levels) and psychographics (motivations, ideals, and priorities).²⁶⁴ Sophisticated statistical methods are used to interpret surveys.²⁶⁵ Eye tracking devices are used to determine how ads will be read.²⁶⁶ With recent advancements in technology, “the race is on to find methods that dig beyond what consumers can articulate to what’s ‘deeper in their mind.’”²⁶⁷ When the desired message is decided upon, another team of experts comes in to translate the message into the image.²⁶⁸

I do not suggest, however, that consumers are mere Pavlovian dogs who unthinkingly respond exactly as advertisers intend.²⁶⁹ But even well-educated, cynical, and sometimes hostile people can be influenced by, or at least become familiar with

262. See DEAN M. KRUGMAN ET AL., *ADVERTISING: ITS ROLE IN MODERN MARKETING* 210 (8th ed. 1994) (“A logical and systematic approach is needed in the planning of an advertising campaign. One of the first things the planner does is to assess the social, cultural, and regulatory environments. Strategic research is used to define target markets and set advertising objectives.”). Advertisers simply seek to reflect what consumers want.

263. See *id.* at 213-32 (explaining the steps of creating an ad campaign including research methods); SAUNDERS, *supra* note 74 (examining the artistic process of creating an effective advertisement).

264. Research departments in ad agencies are “active contributors to the advertising process, ladling in voluminous data on the . . . target market, . . . consumer attitudes toward the product and toward past campaigns, and other tabular marketing information. Data vendors outside the agency provide more statistics . . .” FOWLES, *supra* note 58, at 80.

265. See KRUGMAN ET AL., *supra* note 262, at 213-32 (describing target research and ad development).

266. See *id.* at 226 Fig. 8.6.

267. Leslie Kaufman, *Enough Talk*, *NEWSWEEK*, Aug. 18, 1997, at 48 (quoting Jim Spaeth, president, Advertising Research Council). The latest advances in marketing research include reaching into consumers’ subconsciousness through crayons and collages, and the more direct method of installing cameras (or a human observer) in consumers’ homes so researchers can watch us interact with products. See *id.* at 48-49.

268. See FOWLES, *supra* note 58, at 77 (“The typical advertisement . . . is the professional product of highly skilled and exacting craftspeople and, as such, presents a perfectly polished, opaque surface to the reader or viewer.”).

269. See *id.* at 161 (quoting M. DOUGLAS & B. ISHERWOOD, *THE WORLD OF GOODS: TOWARD AN ANTHROPOLOGY OF CONSUMPTION* 89 (1979)) (“Theories of consumption which assume a puppet consumer, prey to the advertiser’s wiles, of . . . lemming consumer rushing to disaster, are frivolous, even dangerous.”). Certainly, the perception of ads varies among individuals. “[S]ome individuals . . . may partake deeply of the stereotype [in ads] Other individuals may encounter the gender portrayals only slightly or not at all” *Id.* at 223.

and accepting of imposed themes.²⁷⁰ Many women seek to be chic and purchase fashion magazines for the express purpose of advising them what being chic requires. It is foolhardy to suggest that such women learn nothing from the pervasive and consistent messages taught by the images in these magazines, or that they make no effort to conform themselves to these images after going to the trouble and expense of purchasing the magazines, devouring the pictures, and purchasing the suggested products.

While accepting that few adults are "brainwashed" by images, we cannot deny that a pervasive, environmentally-entrenched diet of images accepted consistently as mainstream, and even touted as highly desirable fare, makes the reality they portray appear at least normal and acceptable.²⁷¹ Most Americans see and hear dozens of advertising messages every day without the slightest notion that they present anything bizarre or extreme. Sut Jhally, in his monumental study of the meaning of consumerism, asks, "If grown women are largely treated as children in advertisements, why does this not look strange to us?"²⁷²

The advertisers' objectives are not just to present a minimally acceptable, "normal" picture of life, but to create particularly congenial, pleasant, and idealistic imagery.²⁷³ Specifically, advertisers "construct the ads in ways that reinforce the image of gender most familiar to and comfortable for their target audience."²⁷⁴ Because women are the target audience, women as a

270. We must believe this or we would resign as law school faculty. Martha Rice Martini claims that legal education is profoundly influential on students' thinking. See MARTHA RICE MARTINI, *MARX NOT MADISON: THE CRISIS OF AMERICAN LEGAL EDUCATION* (1997). Although this estimate strikes me as overly optimistic, legal educators assume they have some influence.

271. See MATILDA BUTLER ET AL., *WOMEN AND THE MASS MEDIA* (1980). See also SUT JHALLY, *THE CODE OF ADVERTISING: FETISHISM AND THE POLITICAL ECONOMY OF MEANING IN THE CONSUMER SOCIETY* 135 (1987) (asserting that advertising may be "the most influential institution of socialization in modern society"); Christopher N. Kendall, *Gay Male Pornography After Little Sisters Book and Art Emporium: A Call For Gay Male Cooperation in the Struggle for Sex Equality*, 12 *WIS. WOMEN'S L.J.* 21, 28 (1997); Robinson, *supra* note 241, at 130 (arguing that while individual advertisements may not have overwhelming significance, the "overall system of advertising" and redundancy of certain images is incredibly powerful).

272. JHALLY, *supra* note 271, at 135.

273. See FOWLES, *supra* note 58, at 149. ("Because the task of the messages is to change behavior, and the easiest, least resisted change in behaviors is in the direction of ideals, the images should usually be idealized depictions."). See also C. Edwin Baker, *Advertising and a Democratic Press*, 140 *U. PENN. L. REV.* 2097, 2156-57 (1992) (explaining why advertisers consistently depict "dominant values" and non-controversial content).

274. FOWLES, *supra* note 58, at 224.

group can be a powerful force in shaping the way in which advertisers depict women.

VI. WHAT NOW?

I think what we do to ourselves is quite funny. The length we'll go to in terms of wearing high shoes, tight skirts, uncomfortable jackets, lacing ourselves into corsets, putting on tons of make-up [T]hose lengths are really amusing, and the interesting thing is to ask ourselves why we do it. . . . But I think there's an element of humor in all this.²⁷⁵

Some of us, evidently, think this is funnier than others of us. The best question is, of course, why do we do it? One fashion editor asked the same question a different way, "Sick of reading about the latest mascara wand? Yet we go on buying what's dished up. Maybe we're as dumb as they think."²⁷⁶

American women worry about violent crime.²⁷⁷ We take ex-

275. Glyn Brown, *What Women Really Want*, INDEP. (London), May 11, 1997, at 10 (quoting Tina Gaudoin, former editor, HARPER'S BAZAAR, VOGUE (AMERICAN), and TATLER).

276. Brown, *supra* note 275, at 10. My feminist class has engaged in a range of intriguing conversations over why women buy fashion magazines, Calvin Klein products, and advertising bait generally. My personal, largely speculative, theory is that what still counts for a vast majority of women as real status, not to mention real economic security, in our society is being "chosen" by a man. For a look at how men behave in a society where women do the choosing, see NAT'L GEOGRAPHIC: OUR GOD IS A WOMAN (Sveriges Television, 1985). In the island community off the west coast of Africa featured in this documentary, young (and old) men are preoccupied with fussing over their hair, decorating their bodies, dousing themselves with scent, and worrying about whether they will be picked for marriage by one of the more powerful women of the tribe. Married men worry about whether they are used up or worn out and about to be dropped in favor of a younger, more attractive man. Sound vaguely familiar?

277. See Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WIS. WOMEN'S L.J. 81, 107 (1987) (bemoaning life-long threat of sexual violence and exploitation). In a class journal, one of my students expressed more than worry about the risk of violence:

Women are constantly aware of the threat of sexual violence in their lives. Men leer at us. We are told to wear tight dresses and be sexy so that we can be attractive to men. We are told that we are pretty much worthless unless we are attractive to men. However, if a woman is raped or even touched against her will, men say she asked for it because she was wearing suggestive clothing. I get so angry sometimes just thinking about how I have to worry every time I am alone.

Every year in my *Social Policy and Feminist Legal Thought* class, at least a handful of the women students volunteer their experience or the experience of a close friend or family member with domestic violence or rape. For information on my student journal experience, see Preston, *supra* note 10, at 838 n.318.

tra precautions and surrender our right to walk at night.²⁷⁸ We park our cars under street lights and equip our key chains with whistles, mini spotlights, and mace. We clip newspaper reports about the warning signs of intimate abuse and send them to our sisters. We call 911 sooner when we hear the fighting begin next door. We donate to battered women's shelters and volunteer time to the rape hotline. We convey our fears to our daughters.

At the same time we, as women, respond with rousing economic support of businesses that lure us with images of women's bodies as fungible, fragmented things to be taken and used at will. We adore the models who appear crack-addicted, anorexic, and vulnerable. We use our colossal purchasing power²⁷⁹ to buy 2.5 million copies of *Cosmopolitan*²⁸⁰ magazine, and sign our daughters up for as many as 2.4 million subscriptions to *Seventeen*²⁸¹ long before they reach age seventeen.²⁸² We study these

278. See Baker, *supra* note 8, at 564 (describing nature and consequences of women's fear of violation).

279. The purchasing power of women in the United States is gaining on three trillion dollars, and is greater than the economic output of Japan, twice that of Germany, triple that of the United Kingdom, and six times that of Canada. See PHYLLIS KATZ, *THE FEMINIST DOLLAR: THE WISE WOMAN'S BUYING GUIDE* (1997).

280. See Angela G. King, *New "Cosmo" A Change — Sort of*, SUN-SENTINEL (Ft. Lauderdale, FL), Feb. 12, 1997, at 7E, available in 1997 WL 3086908. *Cosmopolitan* received more than 156 million dollars in ad revenues in 1996, and ranks as the largest selling women's title. See *id.* In addition to the subscriptions, *Cosmopolitan* is, for example, the leading newsstand magazine in Canada, selling 207,183 copies per issue. See *Magazine Sales*, TORONTO STAR, Mar. 8, 1997, at K12, available in 1997 WL 3825475. As Americans, one thing we seem willing to share with the world is *Cosmopolitan*, which is now published in 33 countries, including Thailand, The Philippines, and Poland. Claire Wilson & Rebecca A. Fannin, *Asia Bound: Cosmo Hit Thai Newsstands in April*, ADVERTISING AGE, May 1, 1997, at I15, available in 1997 WL 10286711. *Cosmopolitan* is the world's leading young women's publication. See *Sexy Cosmo TV Show Celebrates 25 Years*, ABIX, Apr. 3, 1998, available in 1998 WL 9679962. *Cosmopolitan* will be the first U.S. women's magazine permitted to circulate in China. The trial issue will print 100,000 copies. See AD AGE's DAILY WORLD WIRE, Apr. 4, 1998, available in 1998 WL 4730042. The magazine will feature most of the same contents seen in the U.S. version, although headlines such as "Sexual Agony" and "I Had My Rapist's Baby" will be omitted. See Patrick M. Reilly, *Cosmo to Tone Down Language for Version Planned for China*, WALL ST. J., Apr. 3, 1998, at B7, available in 1998 WL-WSJ 3488771. Of course, *Cosmopolitan* does not monopolize this lucrative market. *Elle* has 29 editions, and *Marie Claire* has 26 editions, outside of their home market, France. Wilson & Fannin, *supra*.

281. See Ann Marie Kerwin, *Forget Dual Audience, New Teen Magazines Go Girl Crazy, "Snap!" "Jump" and "People" Spinoff Are Being Readied*, ADVERTISING AGE, May 19, 1997, at 10, available in 1997 WL 8287413. Circulation for *YM* is 2,153,815. *Id.* *Seventeen* is the leading teen magazine selling 2.5 million copies, with *YM* close behind at 2.1 million, and *Teen* at 1.7 million. See Elizabeth Renzetti, *Tarty New Dress Can't Disguise Old Message*, GLOBE & MAIL, Jan. 28, 1998, at C1. I have wondered if this title is a reference to Monicagate? Moreover, by 2010 there

in our homes — behind gated fences, bolted doors, and barred windows. We display images formed with the fundamental tools of pornography²⁸³ next to our comfortable chairs and on the kitchen counter to peruse over breakfast. We bring these images in from the backstreet alleys, confer upon them the privileges of mainstream status,²⁸⁴ and feed them to our children. We show our endorsement by purchasing the products these images sell.

To bring about change in advertising, women do not need to seek law's power to censor.²⁸⁵ Rather, self-restraint and buyer boycott is the better mode to bring about change. One call for a consumer boycott declared that Calvin Klein "has the right to market its products however it chooses. But we have the right to choose not to buy them."²⁸⁶ Advertisements, no matter how we

will be 34 million female teens, up 17.2% from the current 29 million. *See id.* This fall, two new magazines will compete for subscribers. *Jump* and *Snap* are the recent additions to the teen market, and other magazines are to follow suit. *See Kerwin, supra.*

282. A study of 1205 children ages 6 to 17 showed that 50% of teen girls (ages thirteen to seventeen) read *Seventeen*, and unlike boys, teen girls show no regular readership of a news magazine. *See Extra, Extra: Kids Read All About It in Teen, Club Magazines*, SELLING TO KIDS, Oct. 30, 1996, available in 1996 WL 16223729. *YM* readers are typically girls ages 13 through 19. *See YM Magazine Subscribes to Co-Op*, PROMO, June 1, 1996, at 19, available in 1996 WL 9273148. Teen Research Unlimited recently found that in 1997, 84% of girls ages 12 to 19 read magazines. *See Nadya Labi et al., Girl Power for the Next Generation, Feminism is Being Sold as Glitz and Image, But What do the Girls Really Want?*, TIME, June 29, 1998, at 60, available in 1998 WL 11649066.

283. *See supra* notes 49-51, 71, 86.

284. For a discussion of the power of mainstream status for media images, see Preston, *supra* note 10, 847-49 nn.353-59, 850-851 nn.364-66.

285. Far be it for me to venture into the vortex of anything resembling the feminist pornography suppression turmoil, the various positions of which I describe in Preston, *supra* note 10, at 776-813. Because advertising is driven by a market of consumers, like me, it can be shaped without the coercive effect of legalized censorship with criminal sanctions. *See id.* at 826-31. However, I, too, am familiar with the infamous "pornography conversation" where every time I mention my concern about images of women of any kind, I am accused (along with all feminists) of advocating censorship, no matter what I might say. For an excellent description of the "pornography conversation" routine, see Sharon Dolovich, *Learning the Law Behind*, 20 HARV. WOMEN'S L.J. 313, 323-24 (1997) (reviewing PATRICIA WILLIAMS, *THE ROOSTER'S EGG: ON THE PERSISTENCE OF PREJUDICE* (1995)).

286. *See Boycott Web Site, supra* note 100. For some useful guidance on boycotts and organized groups aimed at raising media awareness, see Advertising Expert Rolodex, <<http://www.newsreel.org/medusa/corporat.htm>> (visited Jan. 27, 1999); Media Education Foundation, <<http://www.igc.apc.org/mef/about.html>> (visited Jan. 27, 1999); Linnea Smith's Calvin Klein Brochure <<http://www.talkintrash.com/adv/CK/index.htm>> (visited Jan. 27, 1999); The Ad and the Ego, <<http://www.newsreel.org/films/adandego.htm>> (visited Jan. 27, 1999); We the Media: A Citizen's Guide to Fighting for Media, <<http://www.igc.org/an/congress/guide.html>> (visited Jan. 27, 1999). National Families in Action ended its call for a nationwide boycott

characterize the magazines in which they appear, primarily target women. Women are responsible for about 80% of individual consumer spending, and a majority of household spending.²⁸⁷ Overall, women account for approximately 70% of all retail sales in the United States.²⁸⁸ We can choose not to buy in.

Women's magazines reported record sales in 1996 and 1997, in conjunction with a growth spurt in fashion and other luxury markets.²⁸⁹ In 1996, *Seventeen's* circulation grew 12.4% to 2,442,090 readers.²⁹⁰ *Seventeen's* editors bragged that they could catch a consumer who then belonged to their advertisers "for life."²⁹¹ Although sales of *Cosmopolitan*, *Elle*, and other "fashion" magazines are robust, the competition is keen.²⁹² More

after determining Calvin Klein has "discontinued" its "heroin chic" campaign. See *id.* (visited Jan. 27, 1999). See also Smith, *supra* note 129.

287. See Lisa H. Guss, *Targeting Women*, SUPERMARKET BUS., May 1, 1998, at 141 (quoting president of Waters Molitor, promotional marketing agency).

288. See *Women Online: The Next Market*, INTERACTIVE HOME, May 1, 1997, available in 1997 WL 9639966 (citing U.S. Bureau of Labor Statistics data). Women make more of the purchases of almost everything, except trucks and high performance cars, see Ken Peters, *Big 3 Add Women in Car Sales: Ford and Others Make a Push for Female Salespeople as well as Buyers*, POST-STANDARD (Syracuse, NY), Apr. 4, 1997, at D5, available in 1997 WL 5730709 (citing National Auto Dealers Assoc.); alcoholic beverages, see *Liking Alcohol: Men vs. Women*, USA TODAY, Sept. 22, 1992, at 01D, available in 1992 WL 8411483; and — curiously — music recordings, see Diana Jean Schemo, *Classical Music Gap: Women Like Concerts, Men Like CDs*, SAN DIEGO UNION-TRIB., Nov. 29, 1994, at E6, available in 1994 WL 6028291. While women are more likely to attend live performances and some collect music "for the pleasure of listening," men "describe their quest for every known recording . . . as an urge not just to listen to the music but to possess it." *Id.* Does this make anyone besides me nervous?

289. See, e.g., Lisa Lockwood, *Luxury Lifts Fashion Mags in '95*, WOMENSWEAR, Dec. 1, 1995, at 12 (reporting gains for *Vogue*, *Elle*, *W*, *Allure*, *Vanity Fair*, *Glamour*, *Mademoiselle*, *In Style*, *US*, *Cosmopolitan* and other women's magazines, and quoting various editor comments on sales volume trends, for example, "[M]illions of consumers are following . . . a surge in the luxury market;" "I attribute [increased sales] to the tremendous growth in the beauty business;" "The fashion business [has] doubled;" "We're experiencing a huge growth spurt in the fashion category.").

290. See Kerwin, *supra* note 281. Circulation for *YM* is 2,153,815. See *id.*

291. Preston, *supra* note 10, at 826 n. 261 (quoting Ron Harris, *Children Who Dress for Excess: Today's Youngsters Have Become Fixated with Fashion*, L.A. TIMES, Nov. 12, 1989, at A1). For discussion of the influence of advertisements on very young children generally, see Preston, *supra* note 10, at 826.

292. See Paul D. Colford, *Whose Copy Is It, Anyway? Magazines: In a World More Competitive Than Ever for Advertisers FT' Dollars, Corporations Are Finding They Can Exert Some Influence on Editorial Product*, L.A. TIMES, June 5, 1997, at E1 (quoting Ellen Levine, editor in chief, *Good Housekeeping*) ("The pressure over profit margins and making money is much stronger in the [magazine] industry than it was ten or fifteen years ago."); Lockwood, *supra* note 289 (describing various marketing ploys being used by "big fashion titles" as they "battle it out for market share").

publishers are entering the field of monthly women's magazines²⁹³ and more consumer purchases are being diverted by direct mail catalogues,²⁹⁴ internet sales,²⁹⁵ and home shopping channels.²⁹⁶ This means that consumers do have other options for finding, evaluating, and pricing products that do not use such extreme images. Thus, magazine editors, as well as advertisers, are susceptible to the pressure of purchasing power.

"An advertiser's job is to read the market and produce what the market will buy — no more, no less."²⁹⁷ No grand conspiracy exists among advertisers. They have no particular stake in portraying women as things. It is no conspiracy, and it is no accident.²⁹⁸ The overwhelming consistency with which women are depicted in ads only tells us that those who spend billions on

Women readers are also being lured by traditionally male magazines. The female readership of both *GQ* and *Esquire* hovers around 30%. Why? David Granger, an executive editor at *GQ*, commented: "I think you find challenging material in places [in women's magazines], but I can't think of too many." Jeff Daniel, *Pulp Culture*, ST. LOUIS POST-DISPATCH, Dec. 19, 1996, at 24, available in 1996 WL 2810425.

293. See Colford, *supra* note 292 ("More magazines — 933 in all — were launched in 1996 than in any other year . . .") (citing Samir Husni, journalism professor, University of Mississippi); Lockwood, *supra* note 289; Sonia Ossorio, *Magazines Target Minority Audiences: Publishers Take Note of Growing Consumer Clout*, USA TODAY, May 22, 1997, at 05B (noting new magazines aimed at minority women).

294. See *Are You Using Catalogues to Buy Gifts this Holiday*, ADWEEK-E. EDITION, Dec. 5, 1994, at 23, available in 1994 WL 2924510 (estimating 53% of women shop by direct-mail catalogues for Holiday gifts).

295. See Vanessa O'Connell, *Soap and Diaper Makers Pitch to Masses of Web Women*, WALL ST. J., July 20, 1998, at B1 (reporting on advertisers' efforts to sell to women, currently 43% of the online population); *Women Online*, *supra* note 288 (noting expectation that the number of women who shop online will rapidly increase; by year 2000 women will account for 47% of electronic sales).

296. See Matthew Klein, *Media Guys and Gals*, AM. DEMOGRAPHICS, July 1, 1997, at 29, available in 1997 WL 12356920 (noting that 77% of Home Shopping Network viewers are women).

297. Preston, *supra* note 10, at 850.

298. For those who retain any doubt about the attention with which the tiniest details are mapped out in an ad image, consider the July and September 1997, "Pleasures" cologne ads. See *TIME*, Aug. 25, 1997, at 24. The picture of a man and a boy on a hammock first widely appeared in July magazines. When the September copy was submitted, the same picture contained a minute, barely discernable alteration — the pinpoint edge of a gold wedding band on the man's finger. See *id.*

Studies affirm that the way gender is played in an ad is critical to acceptance of the product. "[R]ole portrayal has been found to affect recall of major selling points, willingness to consider the product, and perceptions of the ad's effectiveness." Thomas W. Leigh et al., *Role Portrayals of Women in Advertising: Cognitive Responses and Advertising Effectiveness*, J. AD. RESEARCH, Oct./Nov. 1987, at 54 (citing various studies). Thus, the gender portrayals chosen by advertisers cannot be sloppy or inadvertent.

studying consumer preferences believe America's primary consumers — women — want it that way.²⁹⁹ Shortly after the controversy over the Calvin Klein "kiddie porn" ads in the Fall of 1995, market watchers noted that Calvin Klein products were selling like gang-busters. They reasoned, "Calvin Klein was just marketing its jeans towards the audience that would respond."³⁰⁰

Once women consumers reject the notion that ads speak the truth, they will discover that, if advertisers have any power to influence society's views, women purchasers certainly have the power to influence advertisers. Once we learn to recognize the damaging messages in these advertisements, we can begin an education process for those who buy the magazines that contain such ads and the products that are promoted by them — beginning with ourselves, our children, and our law students. If advertisers, indeed, know "what America wants," we need to reexamine our commitment to stated feminist ideals for women.

VII. CONCLUSION

[W]e live in the reflected glory of well-marketed personas
 [W]e hope [that buying advertised products] will bring us into the dazzling light of someone's desirous gaze Just as eating the heart of a lion was supposed to make us as brave . . . when we wear perfume that is sold on the back of someone else's persona, we are sweetened up for consumption with the alchemy of their presence The ad man is our contemporary magic man. The frightening thing is it doesn't matter anymore that we can see his sleight of hand.³⁰¹

"You've Come a Long Way, Baby."³⁰² "It's a Woman

299. Bloomingdale's senior vice president of fashion tells a story about Calvin Klein that suggests Klein, for one, believes he is "in touch." See Ingrassia, *supra* note 105, at 63. They were dining out and Klein told the waiter the soup was too salty. When the waiter insisted no one else complained, Klein replied that "he was Calvin Klein and if he says the soup is too salty, then it's too salty because he understands what America wants." *Id.*

300. Tom Lyons & Andrew Friend, *Everyday Magazine: Talk Back Klein Defines the '90s*, ST. LOUIS POST-DISPATCH, Sept. 27, 1995, at E1.

301. Deborah Levy, *Me, Myself and I*, NEW STATESMAN & SOC'Y, Dec. 16, 1994, at 53, 53-54.

302. This Virginia Slims slogan was compared unfavorably to a number of other sentiments that might be fitting for National Women's History Month. See Susan Yerkes, *We're Going: Will We Know If We're There?*, SAN ANTONIO EXPRESS-NEWS, Mar. 8, 1998, at 01H, available in 1998 WL 5080457 ("'You Go Girl' rings truer than 'You've Come a Long Way, Baby' (first used in Virginia Slims ads, after women earned the right to smoke and get cancer just like men)."). Yerkes also highly recommends "150 Years of Uppity Women. Arriba y adelante!" *Id.*

Thing."³⁰³ Are these Virginia Slims cigarette slogans fair representations of the progression of women's thinking in the last decade? The first, although playing on feminist liberation, contradicts itself in the metaphor of lost, rather than gained, maturity. Still, in the late nineties, young women have shied away from even these ambivalent and contradictory expressions of feminist independence. Virginia Slim's marketing team surrendered the first, albeit flawed, slogan for a series of coy, flirtatious, silly, and generally petty associations of womanhood with certain characteristics of the materialist, vain, and decorative female.³⁰⁴ The larger picture of advertising, of which this Virginia Slims series is only a tiny, although consistent, component, has indeed left us apparently willing to be women-things.³⁰⁵

A study of the depiction of women in widespread, fashion magazine advertising in the last few years suggests that women have not come as far as we think. While basking in the light of some high-profile advancements and expanded opportunities, we seem numb to one of the most prominent messages played by the single most pervasive propaganda in a materialist, consumer society — advertising. The implications of this paradox are far reaching and deserve careful inquiry.

At the moment, popular advertising continues to bring a kind of pornography out from dark adult theaters and into our homes.³⁰⁶ Glossy advertising pages consistently depict desirable women as those who are vulnerable, available, and insignificant toys, who are helplessly subjected to the will of others. Women, in turn, model the lifestyle these ads portray, believing that they must look and act as do the women in the ads. These messages are harmful in their own right, but even worse are the pornographic techniques used to convey them. By injecting naked, dehumanized images of women into the mainstream, advertisers deliver pornographic concepts about women to a wider audience than ever before.

Such broad exposure is certain to have a deadening, coarsening effect on our society, just as war and the training of soldiers

303. HARPER'S BAZAAR, July, 1997, at 133.

304. Phillip Morris revised its slogan for Virginia Slims advertising to "It's a Woman Thing" in 1996, eliminating the controversial use of "baby" in the prior slogan. However, most of the characteristics identified by such ads as "a woman's thing" are astonishingly trivial and nonsensical. Do women need this kind of press? Then, do women need to smoke, for that matter?

305. See Jones, *supra* note 182.

306. See Preston, *supra* note 10, at 844-46.

to kill anesthetizes their empathy for human life. Studying advertising images helps legal scholars, judges, legislators, and law enforcement personnel understand human behavior and unspoken cultural assumptions. Such behavior and assumptions are the context in which law operates. Occasionally, human behavior and assumptions are also the counteragents that muffle the lessons reformers teach, eviscerate the laws intended to address violence against women, and cast unwarranted suspicions on the testimony of women.

Although the victims of violence cannot be faulted for the crimes against them, all of us, whether or not yet subjected to violence, can contribute to changing the cultural climate in which such violence is supported. We must continue efforts to refine VAWA and adopt other legislation dealing with important issues of preventing and prosecuting violence against women, such as efforts to enhance victim credibility with juries and increasing punitive consequences. We may seek legislation supporting programs such as school athletics that encourage strong self-esteem and empowerment for girls and women so they may combat powerful negative media messages. Sensitive judges may admit expert testimony or caution jurors on how our cultural stereotypes might taint their judgments about acceptable behavior. These and other efforts to improve legislative and judicial responses to violence against women in light of cultural realities are laudable. However, there is more women can do for themselves. As bell hooks advises her black brothers and sisters, "until we transform the images of blackness, of black people," we can't do much to alter our "situation."³⁰⁷

To hope to change the way advertising portrays women, we must face the realities of the market and hit advertisers where it matters: the bottom line. Until we do, we, our sisters, and our daughters will stay trapped in a Barbie world. Women have come a long way. However, we have stopped short. We have sold out the promise of real liberation as significant spiritual and physical beings and replaced our dream with gilded, lacquered bits and pieces.

307. See HOOKS, *supra* note 75, at 7.

APPENDIX

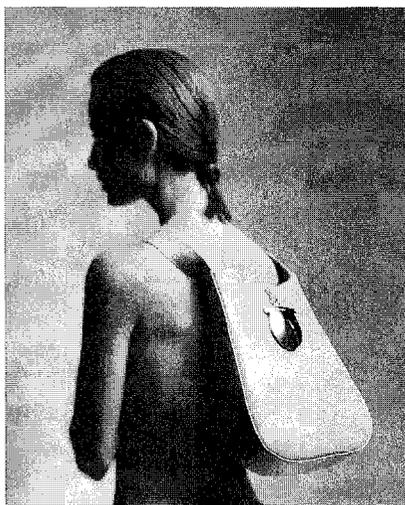


Figure 1
 FERRAGAMO SPRING CATALOGUE,
 Mar. 1998.



Figure 2
 NEIMAN MARCUS CATALOGUE,
 Apr. 1998, at 169.

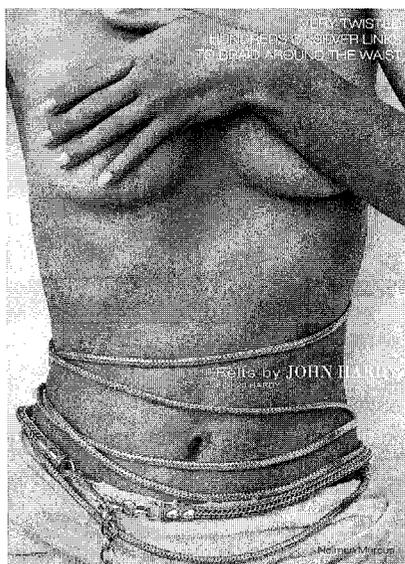


Figure 3
 VOGUE, Sept. 1997.

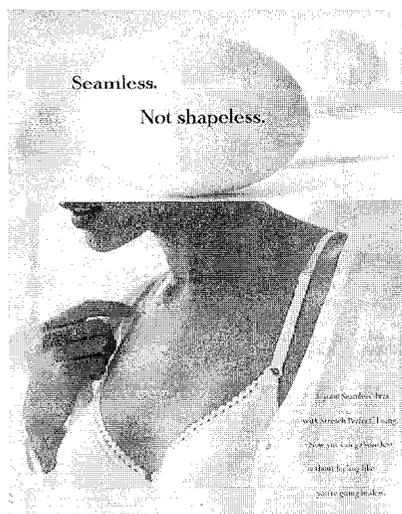


Figure 4
 VOGUE, Sept. 1997, at 551.



Figure 5
VOGUE, Sept. 1997, at 334.

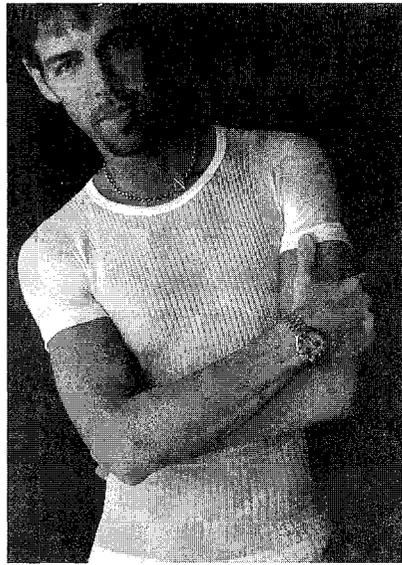


Figure 6
VOGUE, Sept. 1997, at 333.



Figure 7
VOGUE, Sept. 1997, at 83.

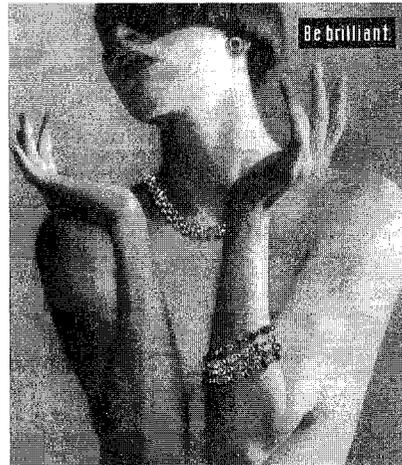


Figure 8
JIB FOWLES, ADVERTISING AND
POPULAR CULTURE 85 (1996).



Figure 9
VOGUE, Sept. 1997, at 509.



Figure 10
VOGUE, Sept. 1997, at 132.



Figure 11
VOGUE, Sept. 1997, at 535.

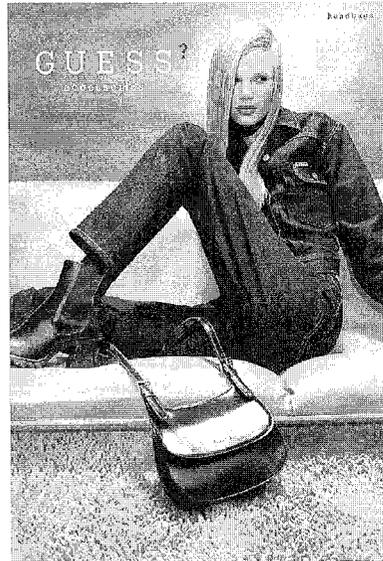


Figure 12
VOGUE, Sept. 1997, at 431.



Figure 13
VOGUE, Sept. 1997, at 128.

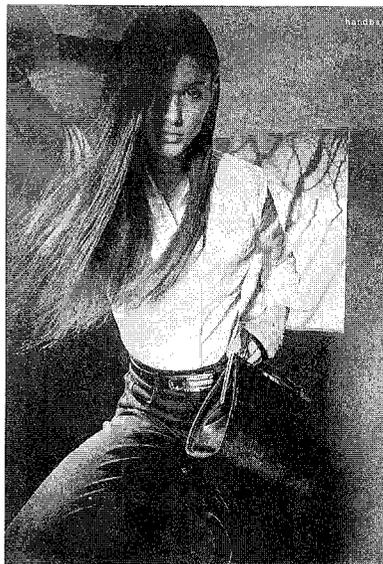


Figure 14
VOGUE, Sept. 1997, at 211.

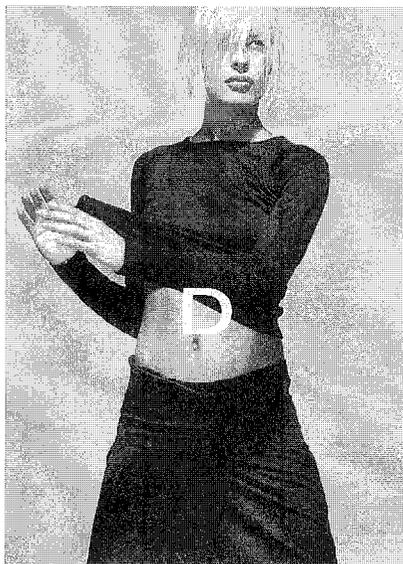


Figure 15
VOGUE, Sept. 1997, at 694.



Figure 16
VOGUE, Sept. 1997, at 707.



Figure 17
VOGUE, Sept. 1997, at 452.



Figure 18
VOGUE, Sept. 1997, at 85.



Figure 19
BAZAAR, Mar. 1998, at 391.

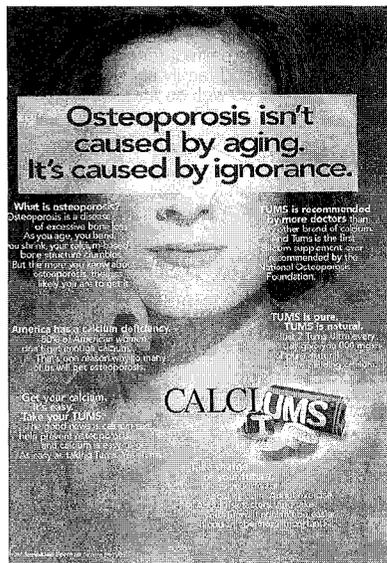


Figure 20
LADIES HOME J., Feb. 1998, at 135.

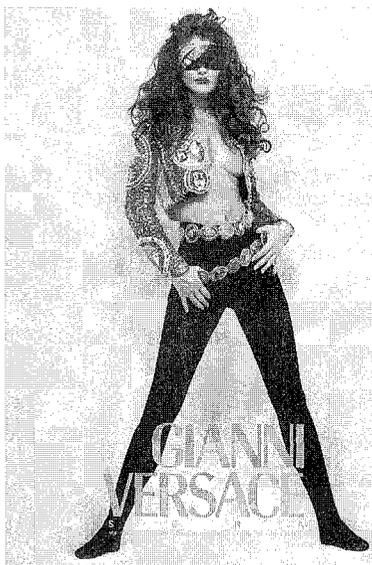


Figure 21
RICHARD H. MARTIN, VERSACE,
jacket cover (1997).

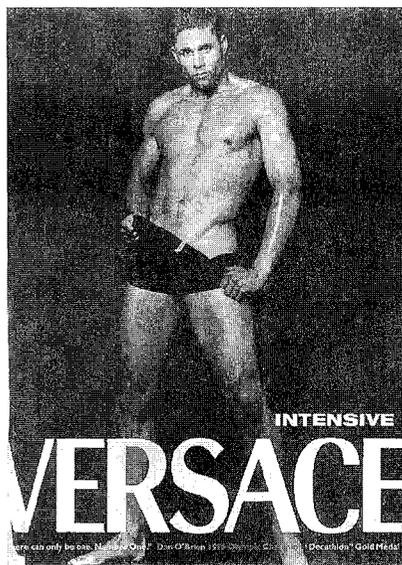


Figure 22
ESQUIRE, Mar. 1997, at 44.

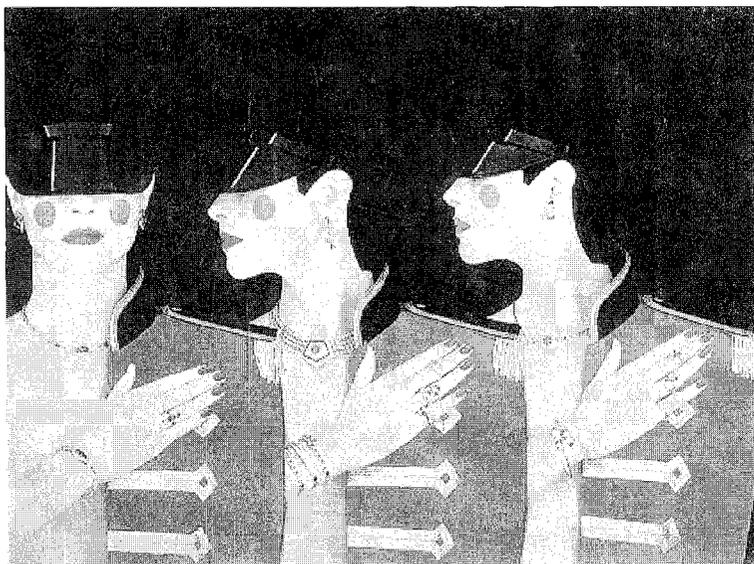


Figure 23
DAVE SAUNDERS, PROFESSIONAL ADVERTISING PHOTOGRAPHY
back cover (1988) (Photo by James Wedge).

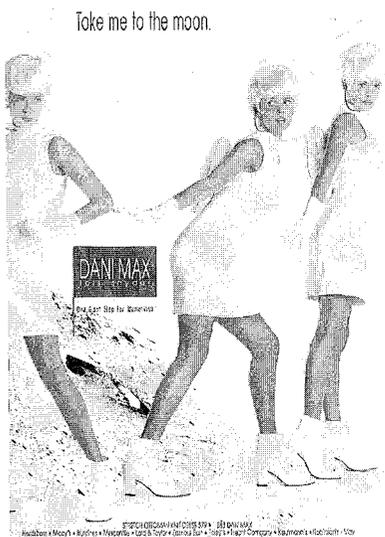


Figure 24
COSMOPOLITAN, Apr. 1997, at 49.



Figure 25
GLAMOUR, Aug. 1997, at inside front cover.



Figure 26
BRIDE MAGAZINE, Aug./Sept. 1997, at 4-5.

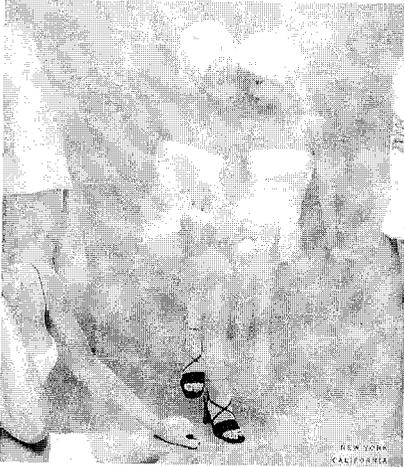


Figure 27
ELLE, Apr. 1997, at 257.

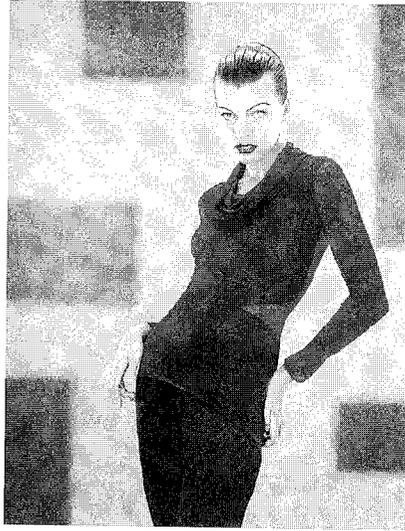


Figure 28
VOGUE, Sept. 1997, at 461.



Figure 29
VOGUE, Mar. 1998, at 317.



Figure 30
VOGUE, Mar. 1998, at 383.



Figure 31
VOGUE, Sept. 1997, at 715.

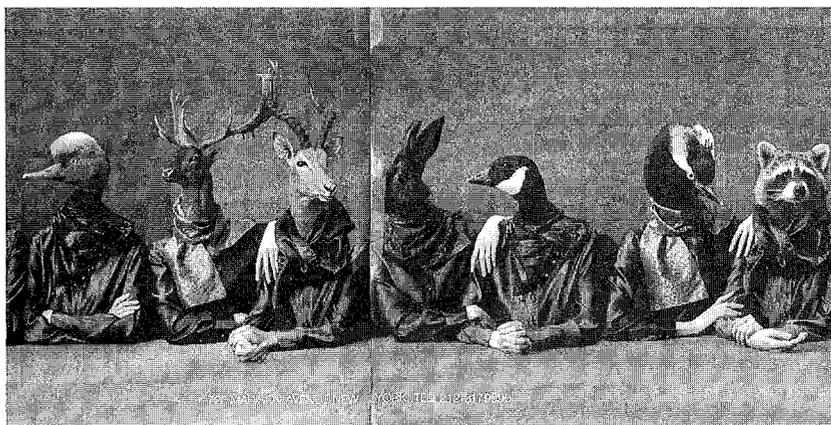


Figure 32
VOGUE, Aug. 1997, at 248-49.



Figure 33
SEVENTEEN, Aug. 1997, at 55.

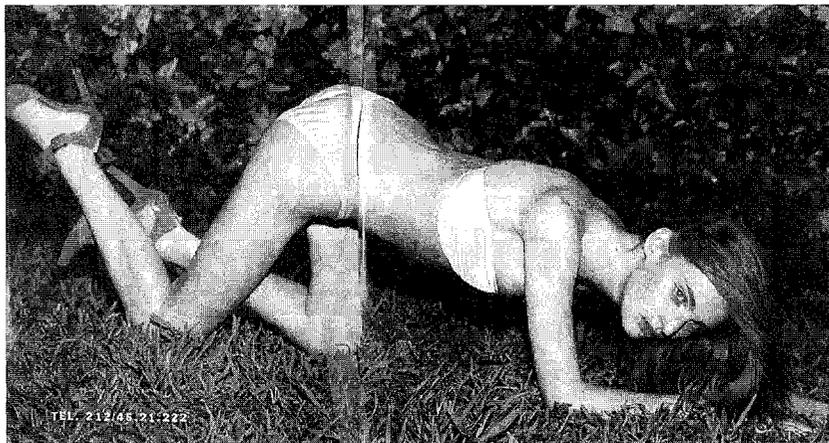


Figure 34
HARPER'S BAZAAR, Mar. 1998, at 154.



Figure 35
VOGUE, Sept. 1997, at 382-83.



Figure 36
VOGUE, Sept. 1997, at 260.



Figure 37
HARPER'S BAZAAR, Mar. 1998, at 53.

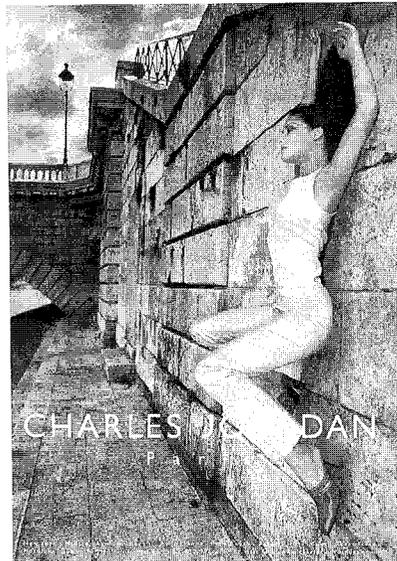


Figure 38
VOGUE, Mar. 1998, at 509.

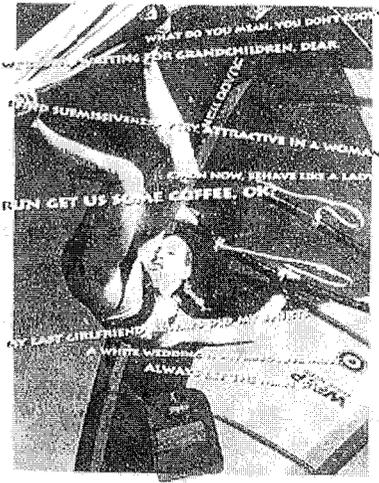


Figure 39
SELF, Sept. 1997, at 93.



Figure 40
SEVENTEEN, Apr. 1998, at 150.

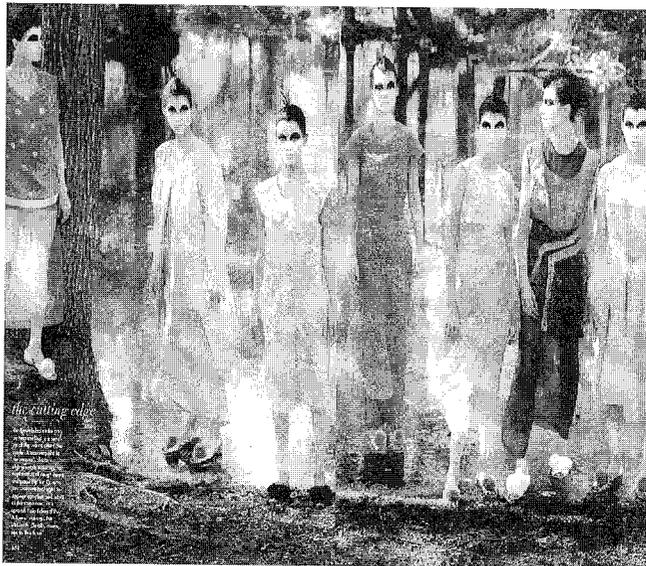


Figure 41
VOGUE, Sept. 1998, at 634-35.

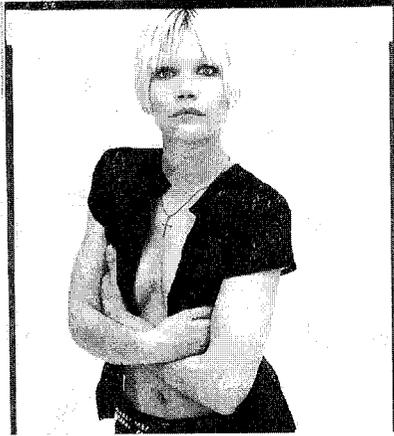


Figure 42
 COSMOPOLITAN, Aug. 1997, at 6.



Figure 43
 VOGUE, Aug. 1997, at 101.



Figure 44
 SEVENTEEN, Apr. 1997, at 118.



Figure 45
 ALLURE, Mar. 1998, at 86.

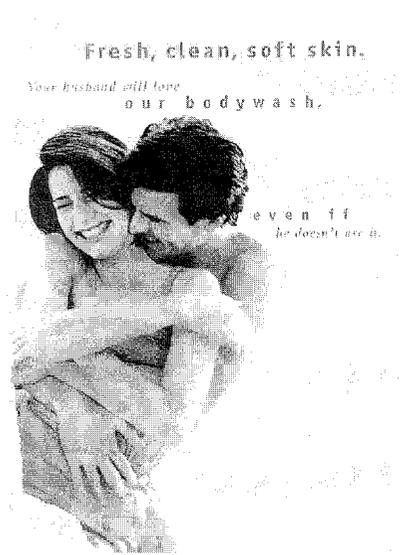


Figure 46
GOOD HOUSKEEPING, Apr. 1997, at 65.

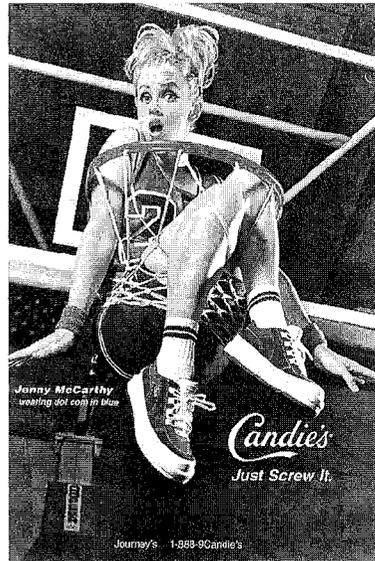


Figure 47
VOGUE, Mar. 1998, at 27.



Figure 48
VOGUE, Aug. 1997, at 178.



Figure 49
HARPER'S BAZAAR, Mar. 1998, at inside front cover.



Figure 50
SPORTS ILLUSTRATED, June 1, 1998,
at 14-15.



Figure 51
SEVENTEEN, Aug. 1997, at 18.

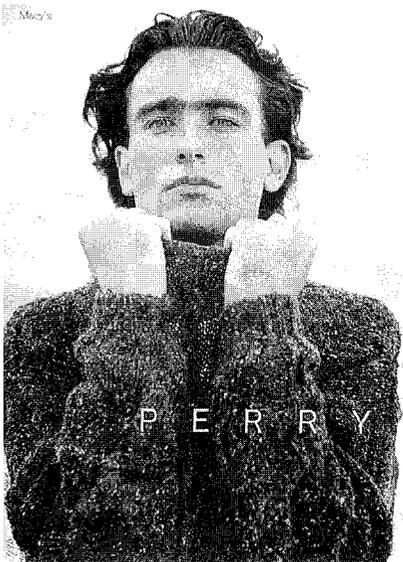


Figure 52
VOGUE, Sept. 1997, at 496-97.

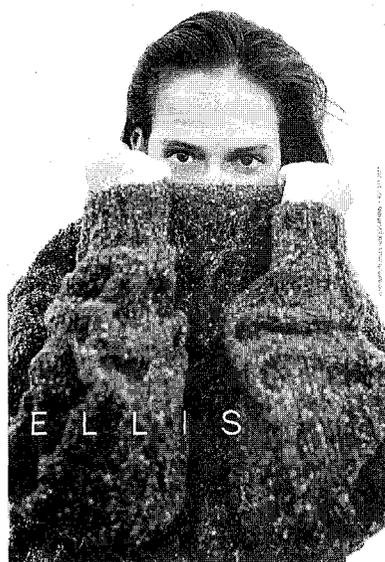


Figure 53
VOGUE, Sept. 1997, at 496-97.



Figure 54
VOGUE, Mar. 1998, at inside front cover.



Figure 55
VOGUE, Mar. 1998, at inside front cover.

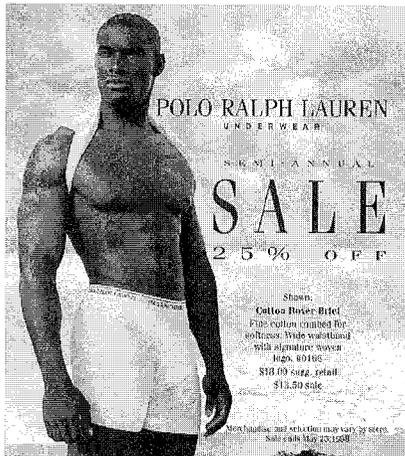


Figure 56
RALPH LAUREN MAILER, May 1998.

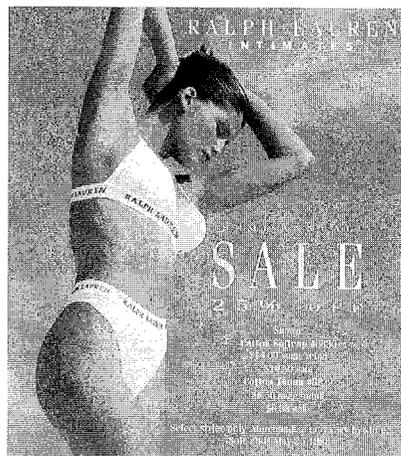


Figure 57
RALPH LAUREN MAILER, May 1998.

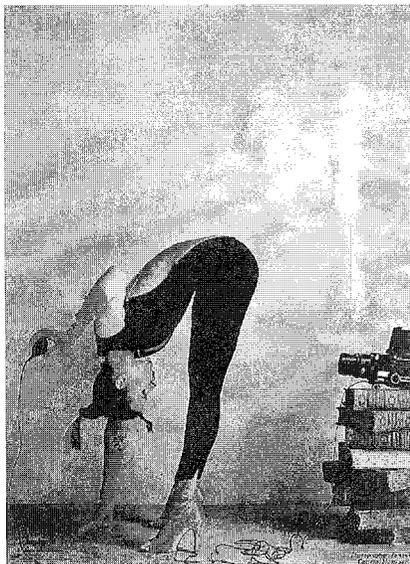


Figure 58
DAVE SAUNDERS, PROFESSIONAL
ADVERTISING PHOTOGRAPHY
27 (1988).

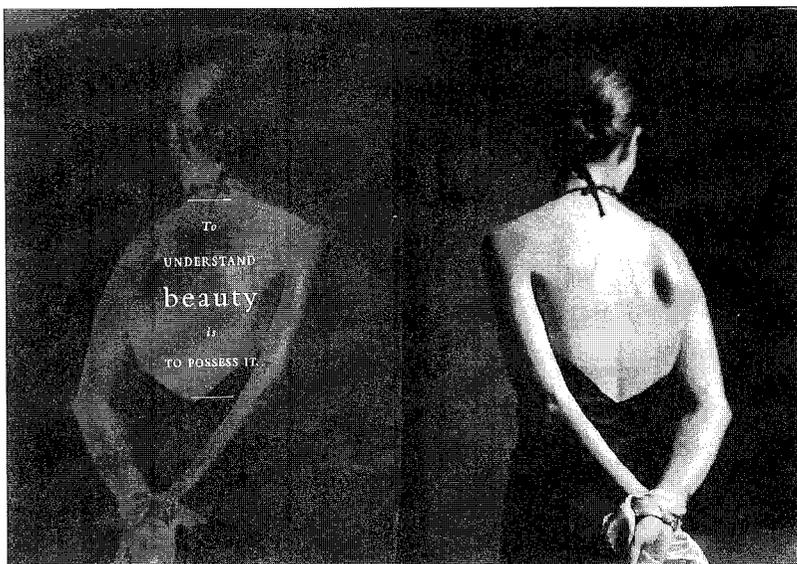


Figure 59
FERRAGAMO SPRING CATALOGUE, Mar. 1998.

