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Repression and Resistance in Roman Comedy

By Mackhai Nguyen

Rape plays an essential role in Roman comedy plays, also called *palliata*, which is a difficult subject matter for relatively humorous plays to include and tackle. What makes these comedies unique in the context of Roman literature is their portrayal of domestic scenes: the marketplace, the neighborhood street, the home. In these comedies, we get a sense of how Romans thought gender power played out in the places where rape happened the most. The critical literature has approached rape and victims in the *palliata* in a piecemeal fashion and, for the most part, considers these plays liberatory. That is, the literature's perspective on *palliata* is that they subvert repressive elements of Roman culture such as patriarchy and heteronormativity. In a comprehensive overview of rape in the comedies, this paper presents a contrasting view: while these plays enact certain scenes of liberatory elements, they are ultimately repressive. Repression is the dominant force that crushes and appropriates the energy expressed in liberatory elements, always leading to endings that systematically exclude victims from their own narratives. This paper will seek to answer the following questions: how do dominant groups within comedies such as fathers and rapists feign sympathy with the victim while still performing repressive acts? What incentives do traditionally subordinate groups have to support these dominant groups? Above all, what is the cost to the victim each time these actions are taken?

On Women as Wives

At the time of this writing, April 5, 2020, Harvey Weinstein has not produced a movie in over two years. He was widely influential for producing movies such as *Pulp Fiction*, *Flirting with Disaster*, and *Shakespeare in Love*, so it took the allegations of eighty women to bring about his dismissal from his own company. Because he faced real, material consequences for his abuse, the dismissal encouraged other survivors to tell their own stories. The flood of testimonies established that incidents of sexual assault were not individual cases but extensive and deep-rooted in the American workplace and psyche. Though Weinstein was accused by eighty women, in New York in May of 2018 he was charged for sexual crimes against only three. His trial would hinge on the testimony of six. Jessica Mann, one of the three women whose abuse Weinstein was charged for, met him in 2012 or 2013 when she was beginning in entertainment. At first flattered by his attention to her career, she grew wary when his questions and requests turned personal. When his requests stopped being requests, Ms. Mann found herself unable to say no for fear of her career and her life. When she was testifying on her all-consuming fear, her voice choked up. Nevertheless, she continued to speak.¹

Though the experience of testifying was undoubtedly traumatic, Ms. Mann later reflected that the trial was ultimately liberating² for her³. She was able to speak against the power that had escaped consequences for over twenty years, dominated her life for over seven years, and silenced her voice for five. It is this power that I wish to examine, not in the courtrooms of the law, but on the stages of Rome. Victims in the *palliatia* rarely get the opportunity to speak much less the liberating opportunity to testify against their rapist in a court of law. *Palliatia* studies have instead filled the gaps with the voices of other characters who criticize rape and its rapists. The main purpose of this paper is to consider more extensively the repressive element of the *palliatia* and its interactions with the liberatory. To do this, I examine how rapists escape punishment, comprehensively review the different critical voices in the *palliatia*, and study why their voices (angry as they might be) do not and sometimes cannot effect significant changes.

Understanding rape in the *palliatia* depends on understanding how Roman women were constructed and controlled in a broader legal context. Women were constructed as bearers of legitimate children, which justified strict controls on them before, during, and after the betrothal. The stakes for these controls? Symbolically, protecting the purity of the woman, but practically, securing the legitimacy of her child. There was an ever-present danger and a severe anxiety for *virgines* (“virgins, maidens, young girls”) and their *virginitas* (“virginity, chastity, maidenhood”), especially in the gaze of men in public.⁴ Accordingly, in public *virgines* were expected to be accompanied, and anyone who tried to remove the attendant could be charged with sexual assault.⁵ Types of clothing were considered in sexual harassment cases. For example, if a man harassed a citizen woman wearing the clothes of a slave, then the charge against him would be less than if she were clothed as a citizen woman.⁶ Policing practices were geared towards presenting women as protected citizens to forestall men from acting on their desires.

In another effort to protect virginity, girls were married off as young as possible, which was traditionally set at the age of twelve.⁷ Too young to decide for themselves (yet not young enough to be married), girls could not decide their husbands or dowries.⁸ In the betrothal process the consent of the girl may be considered, but the

1 Jan Ransom, “Former Actress Testifies in Graphic Detail How Weinstein Raped Her,” *The New York Times*, January 31, 2020, sec. New York, <https://www.nytimes.com/2020/01/31/nyregion/harvey-weinstein-trial-jessica-mann.html>.

2 Maureen O’Connor, “Miriam Haley Helped Send Harvey Weinstein to Prison. What Now?,” *Vanity Fair*, accessed April 16, 2020, <https://www.vanityfair.com/style/2020/04/miriam-haley-helped-send-harvey-weinstein-to-prison-what-now>.

3 Maureen O’Connor, “Miriam Haley Helped Send Harvey Weinstein to Prison. What Now?,” *Vanity Fair*, accessed April 16, 2020, <https://www.vanityfair.com/style/2020/04/miriam-haley-helped-send-harvey-weinstein-to-prison-what-now>.

4 For a discussion of translating *Virgo*, see Caldwell (2015): 50.

5 *Ibid.*, 117.

6 *Ibid.*, 55.

7 For more on the minimum age of marriage, see Caldwell (2015): 106–126, Tafaro (1991): 179–228, Treggiari (1993): 39–43, Frier and McGinn (2004): 27–78.

8 Caldwell (2015): 107 estimates that approximately “one-third of all Roman children lost their father before they reached puberty, and two-thirds had no father by age twenty-five”. Because of this, other relatives—both male and female—would often be a part of the negotiation process for marriage.

paterfamilias (“the head of the household”) whose “status and authority [was] at stake” had ultimate say.⁹ Even if the process did incline to include her consent, it was unclear in what part or how much her consent should inform the betrothal process.^{10, 11}

Female consent continued to matter little once Roman women entered a marriage.^{12, 13} Perhaps no more succinctly—and horrifyingly—can we see this disregard for consent in the matter of marital rape. There were no laws against marital rape. Indeed this issue is more than a lack of laws; there were statutes declaring explicitly that marital rape was not a crime.¹⁴ How could marital rape be a crime if it achieved the purpose of marriage: legitimate children? And if a marriage did not produce children, Gardner finds examples in which a man successfully divorces his wife on the grounds of infertility. The implication here is “her” infertility, as the woman was blamed even if male sterility was acknowledged to exist.¹⁵ Conversely, if a child were produced out of wedlock or pre-marital rape, then a marriage after the incident could legitimize the child.¹⁶

Rape then defied the legal construction of a citizen woman by threatening her status as bearer of legitimate children and violating the *paterfamilias*’ control over her. Because only a certain set of people could produce legitimate children in the eyes of the law, “rape” was only considered rape in Roman law for a certain type of people, i.e., those who had *conubium*.¹⁷ *Lex Iulia de vi*, for instance, could only be applied if the victim was freeborn; slaves were excluded.¹⁸ In kind with a wife to her husband, a forced sexual encounter against one’s own slave was considered in the accepted realm of a master’s power. A forced sexual encounter with another’s slave, however, would be considered property damage.¹⁹ I am not using these laws as a specific point of comparison for the cultural context of the *palliatia*, but they do clarify two things: rape was tied to notions of the victim’s status and to connotations of economy. It was not as we understand it today as “unlawful sexual activity... with a person (usu. a female) without consent”,²⁰ or “an assault of the person’s body and a violation of self-autonomy”.²¹ Rape was defined according to a woman’s economic and civic relationship to the *paterfamilias* and to the community at large.

9 Caldwell (2015): 117. Treggiari (1993: 125–161) expands on the actions the *paterfamilias* and other men might take during the marriage negotiation.

10 When I talk about marriage in the legal sense, I am restricting the discussion to those who had *conubium*, which is the right to marry. Citizens had *conubium* with one another, and with Latins or foreigners with special permission. Slaves could not have *conubium*, so they could not marry or be married. Both parents had to have *conubium* for a marriage to produce legitimate children. Thorley (2004: 59) notes that this requirement mirrored the Athenian law passed in 451 BC which stated the mother had to be a citizen as well. Although this change would grant women an equal contribution to the status of their children, this equality also had the effect of bringing in female status and procreation under the purview of the law and the state. Thereafter, the citizen status of a woman became another factor in women-as-commodity, which increased or decreased her worth on the “market” for political alliances. Instead of giving a woman more agency, the law instead furthered the construction of women as something to be exchanged. For more on the effect of this Greek law, see Lape (2004): 70–71, Sealey (1990): 12–14. For more on *conubium*, see Treggiari (1993): 43–49, Grubbs (2002): 82.

11 Caldwell (2015): 11, 32, 46, 73–77 observes a similar dynamic of ambiguous consent in *controversiae*.

12 Citizenship status and by extension free status are not fixed statuses; they can be easily lost or laboriously gained. Oftentimes, the anxiety (or hope) around the fluidity of civil identity centers on the identity of the victim. When the loss of citizenship is located in the victim’s identity, the anxiety is two-fold: that a free-born citizen could lose their citizenship status and that the child of the rape would be born without theirs. One might contrast this two-fold anxiety with Richlin’s (2017) discussion of slave’s and master’s potentially fluid civic status.

13 According to Gardner (1986): 11, wives did not completely stop being daughters; they remained under the power of their fathers as well as their new husbands.

14 Dixon (2001): 49.

15 Gardner (1986): 48. Grubbs (2002: 187–192) provides other reasons for divorce and the fallout thereof. Treggiari (1993: 435–446) examines terminology and historical development.

16 Gardner (1986): 48.

17 There are no surviving records of laws about rape from as early as these plays were written (if indeed there were laws about rape). The earliest law seems to be the *lex Lutatia* in 70 BC that categorized rape under the charge of *vis* (“force”) which aligns rape with other non-sexual armed attacks; the *lex Iulia de vi* defined rape as any forcible sexual encounter, putting rape into a separate class than non-sexual crimes.

18 Nguyen (2006): 85.

19 Dixon (2001): 50.

20 Garner & Black (2004): 1288.

21 Kadish & Schulhofer, (2001): 317.

On Historicism and Hegemony

Weinstein's behavior was an open secret since the 1990's, but he still had an enormous amount of influence in the industry. In 1993, actor Colin Firth was told by his co-star Sophie Dix that Weinstein sexually assaulted her, but "to [his] shame" he only expressed sympathy without action.²² Sophie Dix never worked in film again, though Firth has had a thriving film career, including a 2001 movie with Miramax, Weinstein's company.²³ In 1996, director Peter Jackson was considering Mira Sorvino for *Lord of the Rings* until Miramax, which was financing the movie, warned him that she was impossible to work with. Based on the recommendation, Jackson passed on her. Sorvino eventually accused Weinstein of a sexual harassment incident he committed in 1996.²⁴ Director Brett Ratner told Ronan Farrow, co-author of the New York Times exposé on Weinstein, that he may have heard of a woman having a bad experience but nothing more. Farrow asked Ratner not to tell Weinstein of the coming exposé, which he agreed to—then called Weinstein to tell him of the coming exposé.²⁵ Ratner was later accused by six women of sexual assault and harassment. For victims, the consistent repercussions and silence from men in the industry contributed to the expectation that resisting or even speaking out about Weinstein's sexual assaults would achieve no real change.

Some were reportedly unaware of his behavior, some actively contributed to his silencing of victims, and others knew but did nothing. Nor were these men without influence; they filled higher positions in the hierarchy of the entertainment industry. On the basis of their gender, they benefited and benefited from him, only if because Weinstein did not prefer men. If anything is clear from the previous section, gender plays a crucial role in how power is structured and maintains itself. That the *palliatia* only presents rape as a heterosexual action signals that the genre is thinking of rape as gendered. The exclusion of homosexual rapes is telling; a rape that involved two people of the same gender would not threaten legitimacy. We should ask, why does comedy choose to only put on the type of rape that disrupts the *paterfamilias*' control over women?²⁶ Put another way, what does an audience member who subscribes to patriarchal ideology have to gain from seeing that ideology threatened by rape?²⁷ To answer these questions, we need a fuller account of how fathers would react to the rape.

It is not entirely surprising that we see angry fathers in these plays. We must remember that Roman society defined women as bearers of legitimate children, an ideology that allowed the *paterfamilias* to impose strict regulations on women. Not only must these regulations be strict, but their enforcement had to be hegemonic in order to completely protect a woman's virginity and preclude the possibility of an illegitimate child. To Williams, to be hegemonic means governing "a whole body of practices and expectations... **constitut[ing] a sense of reality of most people in the society**, a sense of absolute".²⁸ He adds in *Culture and Society*: hegemony "supposes the existence of something which is truly total... [that] even constitutes the **limit of common sense** for most people... deeply saturating the consciousness of a society."²⁹ *Patriapotestas* ("the head of the household's power") needed to govern the totality of a woman's existence and interactions: how she dressed, whom she interacted with, and how they interacted with her. Moreover, these regulations only worked

22 Ibid.

23 "Bridget Jones's Diary - Official Site - Miramax," accessed April 9, 2020, <https://www.miramax.com/movie/bridget-joness-diary>.

24 "Peter Jackson Says Harvey Weinstein Told Him to Blacklist Ashley Judd and Mira Sorvino," *The Hollywood Reporter*, accessed April 9, 2020, <https://www.hollywoodreporter.com/news/peter-jackson-says-harvey-weinstein-told-him-blacklist-ashley-judd-mira-sorvino-1068299>.

25 "Harvey Weinstein found guilty of third-degree rape. Here are all the celebrities who knew about his treatment of women, according to Ronan Farrow's book," *The Insider*, accessed April 9, 2020, <https://www.insider.com/celebrities-knew-harvey-weinstein-sexual-abuse-ronan-farrow-catch-kill-2019-10>.

26 Several critics have provided a myriad of answers. Lape (2010) comments on the egalitarian effects of rape in Greek New Comedy. Brown (1993): 196–198 argues that rape is a generic necessity. James (2013) argues that rape works to develop the masculinity of the rapist, in contrast to the aged *paterfamilias*. Sommerstein (1998) comes to a similar conclusion that I do by contrasting rape's portrayal in Greek Old and New Comedy; he says "rape in New Comedy is still, in some measure, an assertion of masculinity" (109).

27 McCarthy (2004) seeks to answer a refracted form of this question: "what do slave masters have to gain from seeing slaves express agency and resistance on stage?"

28 Williams (2009): 110, my emphasis added.

29 Williams (1973): 127, my emphasis added.

if everyone followed them. If any one of the actors—the unmarried citizen woman, her attendant, or the man on the street—did not act according to their expected roles, then her virginity would be vulnerable.³⁰ We cannot say that *patriapotestas* was truly hegemonic, as hegemony is rooted in the real lived experiences of people that we do not have access to.³¹ But for *patriapotestas* to protect an unmarried citizen's virginity, *patriapotestas* claimed that its influence in lived experiences be hegemonic.

In the world of these plays, however, someone does overstep the limits put in place by the *paterfamilias* and in doing so oversteps the “limit of common sense” that patriarchal ideology demanded. The rapist bypasses the *paterfamilias*' protections and defies societal expectations, breaking the notion that *patriapotestas* was absolute. Moreover, because rape was a social affair that was defined by the woman's status in the community at large, the rapist broke the “sense of reality of most people in the society.” Rape, then, violates more than the physical body of a woman; it challenges the claim of hegemony that patriarchal ideology had over women.

But to talk about rape as purely threatening to patriarchal ideology defines rape solely in relation to legal norms that gave control to the *paterfamilias*. Rape also operates under and is informed by patriarchal ideology. The discourse around rape in the *palliata* (and in a modern context) focuses on how sexual assault is a one-time, independent event. For instance, it is happenstance that a man is drunk when he stumbles upon a woman in the streets (as in Terence's *Hecyra*). But that the man was able to drink to excess,³² that the man need not check the effects of his inebriation for fear of his own safety, and that the man chose to rape a woman specifically (at least in the *palliata*) are all actions socialized by the larger gendered structures that uphold men's ability to choose to exercise power over women. Put more simply, rape states that a man can choose, and a woman cannot.

In that sense, rape flaunts *patriapotestas* yet aligns with the patriarchal ideology that justified these regulations. Or, to reorient the conversation, rape challenges the outward presentations of patriarchal ideology without challenging its core tenet—dominance over women. In that sense, then, rape is not as large a danger to patriarchy as our questions assumed. Thinking of rape purely as a challenge to patriarchy does not account for the complex relationship between the ideologies behind the regulations and rapes. Instead, I propose we think of these ideologies as distinctive groupings under the wider umbrella of masculinity. To discuss masculinity, we turn to a developing conversation in sociology.

The concept of multiple sub-groups within masculinity was most clearly put forth by Carrigan, Connell, and Lee in a paper called “Toward a new sociology of masculinity”.³³ The main contention was that critical literature had examined the changing role of women's sexuality, without considering how a change in women's sexuality could imply and effect changes in male sexual identity in turn. As feminist, gay, and drag movements gained traction, surely the male sex role which continued to be dominant would seek to include and co-opt subordinate ideas and identities. As these identities were included into the traditionally monolithic construction of masculinity, multiple masculinities would emerge; masculinity would have its own hierarchy, with “hegemonic masculinity” at the top and subordinate masculinities below it.³⁴ Note, however, that while subordinate masculinity is below hegemonic masculinity, it is never below any type of femininity. Masculinity is always dominant over femininity, in part because of the efforts hegemonic masculinity takes. Its hegemony is defined simultaneously by its repression of subordinate masculinities and its beneficial role to them. The benefit comes when hegemonic masculinity institutionalizes masculinity's dominance over femininity, which

30 We leave behind base and superstructure. Base, i.e., lived social experiences, is dominant. But we know very little about the real lived experiences of Romans, especially the experiences of subaltern people. We are left with representations and reflections of their lived experiences, the superstructure, which makes using a framework that privileges and uses real experiences as the driving force of ideology operationally impossible. For more on base and superstructure, see Marx's preface to *A Contribution to the Critique of Political Economy* (1859), and Williams (1973): 119–123.

31 On why hegemony must be rooted in lived experiences, see Williams (1973): 127–28.

32 McKinlay (1950) observes instances of when female drinking is mentioned, but two characteristics arise: excessive drinking connects to “loose women”, and limiting drinking is one measure of checking female chastity. Russell (2003) draws out the implications of limiting drinking in regard to the body politic.

33 Carrigan, Connell, and Lee (1985): 551–604. Earlier in 1985, Connell published “Theorising Gender” which defined the stakes and methods to categorize gender.

34 Connell first introduced the term in her book *Making the Difference: Schools, Families, and Social Division* (1982) and expanded upon it theoretically in her contribution to the 1985 paper.

concomitantly benefits subordinate masculinities.³⁵

It is through the frame of multiple masculinities that I talk about patriarchy and rape. Connell (1985: 594) discusses patriarchy as hegemonic masculinity, which I am inclined to agree with. By and large, patriarchy and by extension the *paterfamilias* governed over Roman society and lived experience. The dominance of patriarchy over the expression of other subordinate masculinities, such as rape, and all femininity is certain, but that does not mean it is not shifting to accommodate new practices and challenges.³⁶ Put in terms of the *palliatia*, how would the father who embodies hegemonic masculinity react to the rapist who embodies subordinate masculinity?

Raymond Williams offers selective tradition as a framework for how dominant culture reacts to practices of subordinate culture.³⁷ Selective tradition is a process; here “tradition” does not have monolithic or fixed connotations. It responds selectively to elements of subordinate culture: certain meanings and practices are privileged, others neglected, and still others diluted or reinterpreted. Alternative ideologies are tolerated and even accommodated, but only within the allowed limits and definitions of dominant culture. Threats to dominant culture must either be squashed or made ineffective.³⁸

Thus, this project attempts to account for the way in which dominant groups selectively respond to subordinate groups in the *palliatia*. In the next section, we will focus on the relationship between the *paterfamilias* and the rapist. According to selective tradition, how do the *paterfamilias* respond to rape’s half-way challenge, and how does the father’s response (in the vein of hegemonic masculinity) uphold the overall dominant position of men over women? In the section after, we focus on women and their subordinate relationship to masculinity. In the vein of previous literature, we look at how women challenged their subordinate role to men. To this discussion, we add a discussion of how and why women might uphold their subordinate role instead. As always, we start with the men.

On Fathers in Festivals

At the time of this writing on February 15, 2020, jurors are deliberating on the trial of Harvey Weinstein. If you were to listen only to the testimonies of the women accusing Weinstein of sexual assault, it might be tempting to dismiss the prosecution’s case. Jessica Mann, 34, was one of the key witnesses. But when she was pressed on why she told a psychic in 2014 that she “did not allow Harvey Weinstein to cross boundaries”, she then testified on record that “Well then, I was lying”. She was pressed on an incident in February 2017, when she wrote an email to Weinstein, “I love you, I always do. But I hate feeling like a booty call: ;)”, a tone at odds with the trauma and coercion that she had described as omnipresent in her interactions with Weinstein. Mann claimed

35 Herdt (1981) offers an example of how male homosexuality—a subordinate masculine identity—was co-opted and thus accepted by hegemonic masculinity: in New Guinea, homosexuality was turned into a coming-of-age ritual supervised by elders in which young men would gain their masculinity. For more examples, see Carrigan, Connell, and Lee (1985): 591–92.

36 de Certeau in the *Practice of Everyday Life* (1988) focuses on the (small) challenges by subordinate groups over larger, determining systems: for instance, taking especially long bathroom breaks on company time. Even if small, these “bottom-up” victories challenge the dominant ideology, especially hegemonic ideologies which purport to be total and all-determining. As an equivalent, we could think of how slaves misbehaved and flaunted the orders of their masters, for example Pythias’ mixing (532–537) of Thias’ commands (501–503) in Terence’s *Eunuch*. Scott (1990) adds that these resistances can appeal and flatter elite ideology (18). Fiske’s “British Cultural Studies and Television Criticism” (1987) turns the potential for subversion to the audience, arguing that even if dominant ideology produces entertainment (he uses the term overdetermined semiotic), it is also consumed by subordinate people who will appropriate it for their own self-determination. Though the *palliatia* lacks the industrialized and conglomerate nature of television, his analysis does have bearing on the mixed audience of the *palliatia*.

37 Though Williams (1973) shies away from the term “hegemony”, his concern was definitional. He believed that existing definitions gave hegemonic structures a sense of totality which seemed impossible to him. Hegemony requires total control, which necessitates social, cultural, and political manipulations on the general level and personal control on the individual level. He argues that, historically, even the most “hegemonic” structures change, adapt, renew, and re-fertilize, and these modifications must be in reaction to subversion. Considering the way in which Connell uses the term “hegemony”, it seems that Connell’s “hegemony” and Williams’ “selective tradition” agree on dominant culture’s adaptability.

38 Although Williams talks of selective tradition as a practice of dominant culture, I suggest that selective tradition can equally be used by efforts of resistance. Scott (1990): 115–16 provides a salient example of how slaves in antebellum America were taught certain books of the Bible in order to enforce order but, in private, emphasized stories of Israelite freedom and self-determination, such as the Israelite exodus from Egypt’s control.

that, as part of the emotional abuse that was often directed toward her, Weinstein yelled at her over email. When asked to clarify how she knew he was “yelling at her” over email, Mann said that the reply “was all in capital letters”. It wasn’t. Though the courage of Mann and the other women who came forth (including those not included in the case against Weinstein) demands our attention, focusing only on their responses ignores the pressures that forced them and the strictures that limited them.

That is why I want to add to the search for subversion in comedy, which has most often found itself examining the lines of characters that represent traditionally subordinate groups: women, daughters, and slaves.³⁹ But that trend should give us pause. The *palliatio* is an arena of power struggles between dominant and subordinate. To neglect how these plays represent traditionally dominant peoples would neglect the dialectical nature of power: how the dominant pressures the dominated, and how the dominated resists those pressures.⁴⁰ Accordingly, I center the discussion in this section around *paterfamilias* who know or learn that a rape has occurred, how the *paterfamilias* expresses his power in the aftermath, and how his actions depend on and strengthen patriarchal constructions of women.

In other representations of rape, how does the dominant culture react to a break in their power? It is not likely that the *paterfamilias* would let such a violation of their authority pass by with impunity.⁴¹ The answer necessitates a better categorization of rape. We have already discussed how rape represents a subordinate masculine culture, but “subordinate” does not fully account for how patriarchy would react. In historical accounts, we see that the most extreme option available would be to kill the daughter and/or the rapist.^{42, 43} Valerius Maximus praises the *exemplum* of Publius Maenius, who punished a freedman (of whom Publius had been quite fond) with death after he was found kissing his daughter, who was of marriageable age.⁴⁴ Livy in *ab Urbe Condita* details the account of Verginia, claimed to be a slave by her rapist, who was killed by her father in the Forum for he saw no other way to assert his daughter’s citizen status.⁴⁵ He adds the account of Lucretia who, accused of being raped by a slave, chose to kill herself so that she would not be an example for unchaste women.^{46, 47} We cannot take these accounts as precise reports on the state of sixth century Rome. Dixon (2001: 49) points out that the notion of Lucretia’s *culpa* (“self-blame”) seems more representative of

39 In the realm of power, Feltoich (2011) examines women’s social bonds, which have the ability to form resistive connections and defy stereotypes of the friction between women. Shaw (1975) examines how women controlled the *oikos* even as they were excluded from the *polis*. Fantham (1975) examines how women sought strategies of survival in Greek New Comedy. Turning to the literary side, James (1998) mentions how women act as storytellers or playwrights by acknowledging and recounting the trauma of rape. Bain (1984), Martin (1995), Dutsch (2008), Richlin (2014), and James (2015) explore “female” speech. McCarthy (2014) and Richlin (2017) explore slaves.

40 As a tangent, roles in these plays were acted out by slaves and *liberti* (“freed slaves”), so we would expect the actors under the masks to still express subversive energies, even for characters that represent traditionally dominant peoples. For instance, when the lower-class *paterfamilias* in *Aulularia* (“The Pot of Gold”) remarks of a wealthy upper-class man that he knows how “you people” act, nixing agreements according to however they want it, it is not difficult to imagine the lower-class actor behind the mask delivering the line with personal verve (259–61).

41 In Seneca’s *Contraversiae*, which is not necessarily operating under the same set of rules as Roman law, the *lex rapturum* is discussed which allows a victim to decide the punishment for her rapist, a small suggestion of her agency. In the literature, however, girls most often choose marriage to their rapist, guided by their fathers. For more on rape’s presentation in declamations, see Caldwell (2015): 73–76.

42 Laws such as *vitae necisque potestas* (“power of life and death”) and *lex Iulia de vi publica seu privata* both allowed a *paterfamilias* to kill his daughter and the offender, especially in the case of sexual misconduct. These laws tell us the *paterfamilias* held a great deal of power over their household, although the exact specifications and limits of their power are unknown. For more on the entanglement between literature and law on *vitae necisque potestas*, see Westbrook (1999).

43 Gardner (1986) notes that resorting to murder without a judgement from a court was allowed in the time of Emperor Hadrian. Even *paterfamilias*’ actions that were technically extra-legal could be allowed by the legal system. We have been trying to construct an ideology out of the law, but this leeway should warn us that *patriapotestas* could extend past what the law stated.

44 Valerius Maximus, *Factorum ac dictorum memorabilium libri IX* (“Nine books of memorable deeds and sayings”), Lib IV. Chapter I. 4. Valerius also provides four accounts of fathers killing their unmarried daughters for losing their virginity. For an analysis, see Caldwell (2015): 68–69.

45 Livy and Foster (1984) 3.44–48.

46 Livy and Foster (1988) 1.57–60.

47 Chrystal (2015) discusses Lucretia and Verginia in conversation with Cornelia. Van der Poel (2009: 343–45) discusses the representations of Lucretia and Verginia in the exempla of the declamations.

Livy's contemporary time rather than representative of past historical viewpoints on guilt.⁴⁸ But we can see how historical retellings create a consistent, finalizing narrative of fathers killing the victim or the rapist, or the victim killing herself.

But nowhere in the *palliata* do we see the victim or rapist's death, much less any real punishment for the rapist. Instead, the *paterfamilias* allows and often facilitates the marriage between rapist and victim, thereby legitimizing the personal and bodily control that the rapist forced over the victim. But how the genres of history and comedy portray rape is less disparate than may seem if we think of rape as a residual masculine culture.

Williams defines residual culture as "usually at some distance from the effective dominant culture... some part of it, some version of it—and especially if the residue is from some major area of the past—will in so many cases have had to be incorporated if the effective dominant culture is to make sense of those areas".⁴⁹ For an example of incorporation, we can see how the practice of fathers marrying off their daughters with little consent is decried yet still persists into the modern practice of fathers giving away their daughters at the altar. This incorporation is necessary because "a dominant culture cannot allow too much of this kind of practice and experience outside itself, at least without risk".⁵⁰ Rape was a major part of Rome's past, marking citizen status and national identity. At the same time, rape was a threat to the dominant ruling structure, so histories described severe punishment for the crime. Livy then makes sense of rape's centrality to Roman identity and of rape's marginality to dominance through incorporation: overlaying present contemporary frames over past historical details.

Along the lines of residuality and incorporation, we can think of how rape acts in the play. Victims are kept off-stage, at a distance, yet the entire play often revolves around the ramifications of the rape. The rape almost always produces a child, pressuring the *paterfamilias* to incorporate the rapist into his family so that that the child and his lineage be legitimate.⁵¹ To examine further how fathers incorporate rape as a residual masculine culture, we turn to a set of three plays: Terence's *Adelphoe* ("The Brothers"), and Plautus' *Truculentus* and *Aulularia* ("The Pot of Gold"). In these plays, the *paterfamilias* learns of the crime and confronts the rapist, an *adulescens* ("a young man") on-stage.

Three "stations of canon" or three generic tropes are revisited across plays that schematize how the *paterfamilias* reasserts control over the rapist. The first station is a barrier: a class disparity between the rapist and the victim impedes a legitimate marriage; the rapist is wealthy while the victim is poor.⁵² This type of inter-class marriage was discouraged not only by the societal pressures of a strict hierarchical society but also by the material barrier of the dowry. Simply put, the poor *paterfamilias* of the victim cannot pay a significant dowry, certainly not enough to persuade an upper-class *adulescens* to take her in marriage. The second station acts as a detour, so to speak: because two people of different classes would not typically run in the same circles (and because a marriage between them would be discouraged anyway), something random yet forceful must occur for them to meet and overcome the class barrier. In these plays, the two meet during the night of a festival, during which the upper-class *adulescens* rapes the lower-class *virgo*. More than just a logical setting, the festival encodes the rapist's excuses. In the spirit of the festivities, the *adulescens* was so drunk, youthful, and swept up in the passion of the night and his love that it was only natural (so he claims) for him to commit rape.⁵³ The third station is the *telos*. Much like Shakespeare's comedies, the goal is marriage. Traditionally, a legitimate child comes after a marriage; here, a child compels the marriage between rapist and victim to retroactively legitimize the child. The rape becomes akin to "marital rape" in the sense that the production of a legitimate child excuses all—even if the marriage occurred after the rape. How the play frames the rape as means to circumvent the class barrier in order to achieve marriage reveals how the fathers work as hegemonic masculinity: they reassert their

48 Russell (2003: 83–84) observes a similar temporal overlaying with wine. Claassen (1998) describes how Livy portrayed women as "familiar others" to reflect elite interests of his time.

49 Williams (1977): 123.

50 Ibid.

51 Of the seven plays that feature rape between Plautus and Terence, six are known to result in a pregnancy; the seventh (Terence's *Eunuchus*) is left ambiguous.

52 On the trope in Greek comedy, see Lape (2001).

53 Rosivach (2012: 24) and Lape (2004: 47) comment on the logic of the festival setting. On the notion that these excuses were acceptable to an ancient audience, see James (2013): 186.

control over the subordinate masculinity of the rapist, they incorporate the residual masculinity of the rape to benefit themselves, and they strengthen masculinity's dominance over femininity by strengthening the rapist's control over the victim.

In Terence's *Adelphoe* ("The Brothers"), the rapist is lucky that his own adopted father is who confronts him about the crime. A bit of backstory: Demea, a *paterfamilias*, has two sons. He has given one of them, Aeschinus, to his brother Micio for adoption. Between the two of them, Demea is the stricter father, while Micio is more liberal.⁵⁴ The first to learn of the rape is neither of the fathers but the slave of the victim's mother, who reports it to the mother of the victim, who resolves to take the case to court.⁵⁵ The mother cannot do so without a male citizen, so she fetches her brother-in-law,⁵⁶ who then requests the rapist's father, who then goes to inform the rapist's adopted father, who then confronts the rapist. Nominally, the relationship chain moves closer to danger for the rapist: from someone who holds little legal power (a slave), to someone who is a citizen (the mother), to a man who can prosecute the rapist in court (the brother-in-law, the victim's uncle), then to someone who holds direct power over the rapist (the rapist's father). But even as the game of telephone (see Figure 1.1) increases in stakes, it also grows less likely that these stakes would result in punishment: the rapist's birth and adopted father hold power but have personal reason not to use it.

The greatest likelihood that the rapist would face punishment manifests in the figure of the victim's uncle, her mother's brother-in-law: he is a male citizen with no personal connection to the rapist. But there are signs that the victim's uncle is not interested in retribution. When telling the rapist's biological father of the crime, he refrains from an accusatory tone, excusing the crime because *persuasit nox, amor, vinum, adulescentia: humanumst* ("night led him astray, as well as love, wine, youthfulness: it's only human", 470). He calls upon these conventional excuses, claiming that their influence robbed the rapist of his agency. He doubles down on his summary of the rape by constructing the rapist as the object of the verb, further belying the rapist's agency. The rape, after all, is *humanum* and thus excusable, a characterization that the rapist's adopted father repeats (687).⁵⁷ These are excuses we might expect from the family of the rapist, desperate to redeem the rapist in the standing of the offended family.⁵⁸ That the victim's uncle needs little persuasion to preempt the excuses of the rapist's adopted father reflects how little interested they both are in pursuing serious consequences.⁵⁹

So when the rapist's adopted father does confront his son, there is a specter of danger for the rapist, but the shadow never materializes into real punishment.⁶⁰ The adopted father does censure his son in much the same

54 Critical literature has focused on the two fathers and their parenting style. For a fuller discussion, see Arnott (1963), Johnson (1968), Fantham (1971), Greenberg (1979–80), Goldberg (1986: 23–28), and Damen (1990).

55 The mother says *quando ego conscia mihi sum a me culpam esse hanc procul neque pretium neque rem ullam intercessisse illa aut me indignam, Geta, experiar* ("since I know that there is no blame for me in this thing nor that any money or anything else has changed hands which would be unworthy for her or for me, Geta, I shall go to court" 348–50). To the *paterfamilias*, rape was an injury to their control and household, which is why a *paterfamilias* would take the rapist to court. Instead, the mother reflects the opinion that rape was defined as not affecting the matrona, except perhaps in assigning blame to her for not protecting her child as a *comites* ("attendant"). It is also mildly ironic that the mother goes through the process of laying out the logic of why she shall go to court, when legally women were unable to prosecute cases in court.

56 The victim's father has passed away, leaving the mother of the victim a widow.

57 *humanus* also has connotations of upper-class cultivations, according to OLD's s.v. *prodo* 5. We get a sense of how rape was only available to the upper class when Micio, the adopted father, says in the beginning of the play, *non est flagitium, mihi crede, adulescentulum scortari neque potari, non est, neque fores effringere. haec si neque ego neque tu fecimus, non siit egestas facere nos* ("It's not a disgrace, trust me, to go whoring or go drinking. Nor is it to break-in and enter. If neither you nor I did these things, it was because we were too poor to afford to do them", 101–104). Money dictated what you could do—whoring and drinking—and what you could get away with—breaking and entering. Micio is not dismissing the charges entirely, however. Ashley & Clarke (1986) comments on these lines further. Papaioannou (2013) expands on how upper-class terminology might appeal to the aristocratic elites.

58 Greenberg (1979) says of Hegio that he "may be taken as an interested bystander expressing the conventional view of society in a Roman comedy" (227). That his opinion could be interpreted merely as that of an "interested bystander" speaks to how little interested he is in retribution, and how little interested he would be in acting as her patron the mother in a court of law.

59 Caldwell (2015: 68) observes a double standard, that "father's exercise of the right to kill unchaste daughters contrasts with the relatively measured response to sons' sexual transgressions, such as that of Lucius Gellius to his son... Rather than killing his son, Lucius Gellius brings him before a *consilium*, an advisory council of friends and relatives". The *consilium* acquitted him. Though the *vitae necisque potestas* is a legally granted power, the decision to enforce it remains purely in the personal sphere—in the *paterfamilias*' personal decision and the consultation of family who are necessarily the rapist's family as well.

60 For another interpretation on the give-and-take between father and son, see Greenberg (1979), note 15.

way that someone interested in punishment might: *in qua civitate tandem te arbitrare vivere? virginem vitiavisti quam te non ius fuerat tangere* (“in what state do you think you live? You violated a girl whom you had no right to touch”, 685-86). In his condemnation, he emphasizes that rape happens in a legal context in the *civitate* (“the state”) and that rape is defined by legal boundaries *ius* (“law, right”). By framing rape primarily as a legal construct, the father hints at his (and the victim’s family) right to prosecute his son in court, an arena that would be less favorable to him than a *consilium* of family and friends.

But then the adopted father begins to use non-legal terminology, characterizing his *peccatum* (“wrongdoing”) as great, but still *humanum* (687). The real offense, he says, is that the young man didn’t *circumspexti* (“think over the matter”, 689) or *prospexti* (“think ahead”, 689) on what needed to be done. Because he did not think, the rapist *prodidisti te et illam miseram et gnatum* (“betrayed [himself] and that poor girl and the child”, 692). The father shifts in two ways, both of which signal his turn away from a legal and severe framework. The first shift concerns his use of *peccatum*—more often used to connote an “error, mistake”, carrying the connotation of a one-time incident—rather than the more legal *culpa* or *crimen*. And he signals his second shift from the present moment (*circum-*) to looking towards the future (*pro-*) in his use of prefixes. Both shifts indicate a developing disregard for constructing past wrongdoings in a legal framework and instead to future action.

This future action hinges on the loaded phrase *prodidisti te et illam miseram et gnatum*. If the father was still operating in a legal framework, we might expect “father of the victim” to be the object of *prodidisti*, as rape was as an offense against the *paterfamilias* rather than the victim.⁶¹ The adoptive father thus deviates from conventional and legal definitions of rape, not only by excluding the father, but also by including the rapist and the child in the betrayed group.⁶² Why this specific grouping of people? Because the rapist, victim, and child constitute a Roman family *de facto* (“by deed”) if not yet *de iure* (“by law”)—and the only thing needed to legitimate the child is a marriage between the rapist and victim. To this end, the adopted father constructs his son as the subject of the verb, emphasizing that his actions and agency engendered this group. The action in question is *prodidisti*; below the primary meaning of “betrayed”, *prodidisti* denotes “to give birth to (of a race, country, etc)” (OLD, s.v. prodo 2). Quite literally, he produced his family, and he must take ownership of it. The father reorients the conversation away from a legal framework of rape, not with the intent to recognize the personal injury done to the victim or to pursue serious consequences against his son, but in order to encourage a future marriage. At first, the father keeps the rapist at a distance by hinting at danger, but then is brought back into the fold in order to preserve the *paterfamilias*’ legitimate line.

A similar distancing-then-centering dynamic occurs when the fathers of the victims are alive in the plays. At first, we get the pleasure of seeing the rapist’s comeuppance, and then we get the displeasure of seeing him excused. In Plautus’ *Truculentus*, the father calls out the rapist from the wings of the stage, who immediately pleads that he be forgiven for the rape because he had been drunk (826). The father responds:

*non placet: in mutum culpam confers <qui non> quit loqui.
nam uinum si fabulari possit se defenderet.
non uinum <uiris> moderari, sed uiri uino solent,
qui quidem probi sunt; uerum qui improbust si quasi bibit
siue adeo caret temeto, tamen ab ingenio improbust* (829–833).

That doesn’t please me: you bring blame onto something mute which can’t speak.

For if wine could share its story, it would defend itself.

Wine does not govern men, but men are accustomed to checking the effects of wine,

61 Micio makes a similar statement at the beginning of the play. He takes responsibility for his adopted son’s actions, saying to his brother, *tuom filium dedisti adoptandum mihi. Is meus est factus. Si quid peccat, Demea, mihi peccat. Ego illi maxumam partem fero* (“You gave me your son to adopt. He’s now mine, and, if he does anything wrong, Demea, I’m the one who’s affected, I’m the one who bears the brunt of it”, 114-116, Barsby’s translation). Notice how he uses the root of *peccatum*, taking responsibility for what he believes to be breaking in and abducting a woman. The players are all the same except the presence of the *gnatum*, which drastically changes the direction of the offense from the *paterfamilias* to the *illam miseram et gnatum*.

62 Rapists express similar sentiments in Menander’s *Epitrepontes* (895–899) and *Georges* (29–30).

Those who are good men at least; but a man who is immoral, whether he drinks
Or whether he abstains entirely from alcohol, he is still immoral in his character.

The father directly denies one excuse from Terence's *Adelphoe*: that wine can somehow lessen the rapist's share of the blame for the crime. Nor does he indulge the notion that rape is somehow *humanum*, consistently using the word *improbus* ("immoral"), specifically *improbus ab ingenio* ("immoral in character"). The reasons for the rape are not chance environmental factors, nor are these factors active subjects; the rapist and a moral failing in his character are the culprits for the rape.

We can also read the quotation as metaphorically defending rape victims. At face value, this statement says that rapists (and the genre) should not blame alcohol because alcohol cannot defend itself. But rape victims too rarely get the opportunity to speak on stage, to report their rape or their trauma, or much less to defend themselves. Even if other characters do step forward to defend the victim, as the victim's father is doing here, the *palliatia* generically denies the victim to take back the narrative for themselves by themselves. But, then again, we also see the damage done to victims such as Verginia and Lucretia when the knowledge of their rape enters the public sphere. Even as the play follows the tradition of the genre by excluding the victims from the stage, it also seems to metaphorically urge us not to blame or shame these women for not appearing on stage. It follows tradition but also expresses its discontent: as the father says, that doesn't please me.⁶³

The father follows up this discontent with a threat to go to court (840).⁶⁴ Dinarchus, keenly aware of the danger that a legal court could hold for him, attempts to divert the flow of the conversation away from a formal prosecution: *quid vis in ius me ire? tu es praetor mihi* ("why do you want me to go to court? You are the judge to me", 840). He begs, instead, that the father give his daughter to him in marriage. The father appraises the situation and suggests that he has little choice in the matter since the rape has already produced a child: *pol te iudicasse pridem istam rem intellego... nunc habeas ut nactus. verum hoc ego te multabo bolo. sex talenta magna dotis demam pro ista inscitia* ("I recognize that you've already judged in this matter... now take her as you've already gotten a hold on her. But I will at least punish you for my profit. Six talents I will take away from her dowry for your irresponsibility", 842–46).⁶⁵ Eager to escape capital punishment, the rapist agrees to the reduced dowry.

A legal court or *consilium* would likely judge in the *paterfamilias*' favor, whatever punishment that may have been at the time. But in the aftermath, the father might find it exceedingly difficult to find a market for his daughter who has been raped and already produced a child.⁶⁶ There would be no benefit to putting the rapist to death, except in gratifying a sense of personal justice. The *paterfamilias*' tone may seem begrudging, but he benefits from this marriage as well. Not only does he get to marry off his daughter, he pays less for

63 Another resistance to convention in the play is earlier in the play when Diniarchus, the rapist, is waiting outside for Phronesium, a *meretrix* ("prostitute"). He is held off by Phronesium's slave who tells him that Phronesium is bathing. The theme of women bathing before marriage or before rape occurs in the genre of comedy such as in Menander's *Samia* (121–124), the mythological rapes of Semele and Danae, and later in Terence's *Eunuchus*. We might expect Dinarchus to barge into the house, but instead he remains outside. However, this scene is a double play on expectations since Diniarchus had raped a different woman prior to this scene. Though this scene resists the convention that bathing is a precursor to rape, but then follows the more standard literary convention of the rapist encountering the victim at night while drunk. A similar play on expectations will follow. For bathing as an element of the bath ritual in Terence's *Eunuchus*, see Philippides (1995).

64 James (2015) makes the argument that Callicles "is ready to take the rapist of his daughter to court, despite the risk of scandal" (121), but the fact that no father takes the rapist to court in Greek or Roman comedy would indicate to the audience that the threat is empty.

65 Reduced dowries also take place in Menander's *Samia* 586, 610, 611, Plautus' *Aulularia* 689, 793–5, *Truculentus* 841–72, and Terence's *Andria* 780 and 94.

66 A woman who has been raped was considered unmarriageable. Ogden (1997) states that "New Comic evidence... indicates that woman who were raped were regarded as religiously polluted" (30). He notes that the husband in Terence's *Hecyra* considers it dishonorable (ne... honestum, 404) to take back the raped wife. A child would only add to the unmarriageability. Konstan (1995) for instance believes that a recovery of the full text of Menander's *Epitrepontes* would find that the husband abandoned his wife not because she was raped but because she produced a bastard child, which threatens his legitimate line (223). And, as we have seen, the bastard child was also considered cursed. Ogden (1997) describes how "all bastard children may have been regarded as such; Andocides applies the same term, *aliterios*, 'accursed', to the son of dubious legitimacy that Callias had by Chrysis (Andocides 1.131)".

the dowry, indulging the *senex*'s stereotypical money-saving sensibilities.⁶⁷ The best option for the rapist (in escaping punishment) and for the *paterfamilias* (in marrying off his daughter) would be to have the rapist and victim marry. Though the *paterfamilias* has access to severe legal punishments, the consequences of rape for the victim's marriageability motivates him to put punishments aside. In short, the rape begets its own legal exoneration.

This personal negotiation clearly does not benefit the victim, but the trauma from being married to her rapist does not enter her father's mental money calculus. Indeed, the father seems glad to be rid of her, so quickly does he turn from criticizing the rapist to urging that he *uxorem quam primum potest abduce ex aedibus* ("as soon as possible take your wife away from my house", 847). Note how he twists *deductio domum*, the usual phrase meaning "to get married",⁶⁸ into *abduce ex aedibus*, representative of his concern focused on ridding himself of his daughter rather than arranging an appropriate or traditional marriage process.⁶⁹ Even if one can metaphorically read the father's previous lines as defending victims' absence from the stage, his daughter's absence and subsequently her lack of self-determination benefits everyone but her—at her expense. Even though the father counters the notion that wine was controlling the rapist, he reasserts his own control over the victim as her *paterfamilias* and legalizes the rapist's extra-legal control over her as her new husband. This scene reasserts the ideology of rape: a man chooses what to do with a woman's body. Ultimately, what pleases the *paterfamilias* coincides with and affirms what pleases the rapist, which disregards what the victim wants. We will never know what she wants, a right that the play gives to everyone but her.⁷⁰ She is kept marginal.

Plautus' *Aulularia* ("The Pot of Gold") goes one step further with the dowry and figures the dowry's reduction as a mechanism of control for the rapist to assert control over the victim-turned-wife. As we have already seen, the dowry constructs women as an economic object, something to be exchanged and bargained over rather than a self-determining subject. But dowries worked, in part, to allow married women to have a degree of self-sufficiency. When a husband sought divorce at no fault of his wife, legal action could be taken to return the dowry to the *paterfamilias*, dissuading divorce without genuine issues.⁷¹ Because of the possibility of divorce or the husband's death, the dowry was often left unspent. While the marriage was still intact, the wife could use the dowry to sustain her children or any natural family members.⁷² The magnitude of the dowry was then important: the greater the dowry, the greater the agency a woman had in marriage,⁷³ the less control her husband had over her.^{74, 75}

67 The play's entire cast is concerned with saving money as well, from Phronesium, Astaphium to the *paterfamilias*, and also the play's prologue in which a speaker comes on stage to ask for use of the audience's private funds, at which the audience disagrees, vehemently. Dinarchus too has an obsession with money which might make this reduction in dowry especially difficult for him. For more on Dinarchus' characterization in regard to money, see Hemker (1991): 35–39.

68 *Deductio domum* more precisely means "the procession into the home of the groom". For a fuller account of the phrase, see Caldwell (2015): 139–40.

69 Caldwell (2015: 69) observes and draws out the implications of a similar play on words in Valerius' account of Verginia in which she was *deducta* ("led") into the Forum, the site of her eventual demise.

70 Rosivach (1998): 98 offers an interesting parallel between victims and female slaves, as in Plautus' *Epidicus*. He discusses the figure of Acropolistis, a female slave, who is eventually left behind by her lover. We never learn her eventual fate because ultimately her fate is not important in the play or other characters' consideration.

71 Grubbs (2002): 96–97, 187–189.

72 Ibid., 98.

73 Barrios-Lech (2014) and Schauwecker (2002: 197) discuss the agency and forcefulness of the *uxor dotata*, a wife with a large dowry. Terence's *Phormio* displays an especially aggressive and wealthy *uxor dotata*. The stereotypical character plays the role of the *paterfamilias* in Plautus' *Asinaria*, and also features in Plautus' *Casina*, *Mostellaria*, *Menaechmi*, and Terence's *Adelphoe*.

74 A greater dowry implies a greater financial contribution from the *paterfamilias*, which would tilt the marriage negotiations in favor of the *paterfamilias*' family—potentially allowing for a more favorable marriage for the daughter. Euclio, the victim's father in *Aulularia*, speaks on negotiating with people of means: "if a wealthy man goes to ingratiate themselves in the grace of a poor man, the poor one fears to approach him, and through that fear harms his own interests" (247–48). With a rape, the *paterfamilias* gains leverage in the marriage negotium without having to pay more for it.

75 In the case of a reduced dowry owed to rape, the husband's lesser control may not be the case. Because he caused the reduced dowry, theoretically he would refer to his wife just as much if there were a full dowry. In *Cistellaria* and *Phormio*, the plays ahead, the reality seems to be that the rapist supports the victim financially, but he never openly defers to her. Rosivach (1998: 23–26) offers a quick treatment of how the rapist treats the victim. In Menander's *Phasma*, the rapist does not even financially support her; she must survive on her own.

So, when we see Megadorus, a *senex* in Plautus' *Aulularia* ("The Pot of Gold"), magnanimously claim that he wants to marry someone lower class because he cares nothing for *dotes dapsilis* ("those luxurious dowries", 167), we should be suspicious. Supposedly his democratic ideology drives his generosity (162–69), but in a later monologue he proclaims:

*si idem faciant ceteri opulentiores,
pauperiorum filias ut indotatas ducant uxores domum...
et illae malam rem metuant quam metuont magis,
et nos minore sumptu simus quam sumus.*

If only other rich people would do the same,
marry the daughters of poor people without dowries...
women would be much more afraid of hard times than they are now,
and we would spend less on them than we do now (478–484).

He argues that declining the dowry would mean a small financial sacrifice initially, but the trade-off is worth it: the dowry would not persist as a mechanism for female self-sufficiency, and wives would have to rely on their husbands. But Megadorus is an unlikable old man, and his plan to marry the poor, young girl in the play is thwarted. She is lucky, it seems, as she instead marries a young man who espouses no such off-putting ideology. It should come as no surprise at this point, however, that the young man is also her rapist. Though a rapist would still likely be condemned by the audience, the play goes through the effort of setting up a "worse" alternative in the figure of Megadorus.

The play employs a similar pattern of alternatives in the rapist's confrontation with the victim's father. The *paterfamilias* believes that the rapist has stolen his titular pot of gold, whereas the rapist believes he is confessing to the rape. While they misunderstand one another, the rapist claims that he *quia vini vitio atque amoris feci* ("committed the crime because of the influence of wine and love", 745).⁷⁶ The *paterfamilias* ironically posits that *nam si istuc ius est ut tu istuc excusare possies, luci claro deripiamus aurum matronis palam, postid si prehensi simus, excusemus ebrios, nos fecisse amoris causa* ("for if it is legal to use that justification to excuse ourselves, in clear daylight we should rip away gold from women openly, and after the fact, if we are caught, we should excuse ourselves because we had committed the crime drunk and for love", 747–750). The logic of his irony proceeds, if it is legal to use the excuses of wine and love, then the rapist would not have had to commit the crime under the cover of night. As if he is directly responding to the excuses the victim's uncle made in Terence's *Adelphoe*, the *paterfamilias* here attacks three different generic excuses: that it was night, that the rapist was drunk, and that he was in love.

The rapist continues to believe that he is being criticized for rape until the *paterfamilias* spells out the crime explicitly (764). The fact that neither of them realize the misunderstanding tells us that there is an underlying commonality between thievery and rape that informs their thinking: both actions take a transactional object from the *paterfamilias*. His criticism relies on thinking of women as transactional objects first and foremost. Thus, the *paterfamilias*' metaphor does not challenge masculine ideology; literally, he's criticizing thievery and symbolically, (even as he criticizes generic excuses) his criticism depends upon patriarchal constructions of women.

The ending of the play is corrupt, although the rapist's recovery of the stolen pot of gold almost definitely plays a significant part in why the *paterfamilias* accepts the marriage between the rapist and the victim. From recovered metrical summaries, we know that that the rapist returns the pot of gold to the

⁷⁶ When the rapist realizes the misunderstanding, he tells the *paterfamilias* that he raped his daughter at the festival of Ceres under the generic convention of wine and youth (795). Earlier in the play, two slaves of the *paterfamilias*' house are conversing over preparations for a party. One of them asks, *Cererin, Strobile, has sunt facturi nuptias?* ("Are they holding the wedding for Ceres, Strobilus?", 354). Strobilus, puzzled asks *qui?* ("how so?", 354). Staphyla: *quia temeti nihil allatum intellego* ("Because I can't see that any alcohol's been brought along", 355). The only reference to Ceres in the play creates the connotation of a lack of alcohol at the festival of Ceres, which creates some small friction when the rapist attempts to connect his drunkenness with the festival of Ceres. Rather than drunkenness as an easily accepted natural state at the *diu Ceres*, it is something that instead we should question.

paterfamilias.⁷⁷ He takes the return as an indication of good faith, and so gives over his daughter and the pot of gold—for the rapist’s own use, not as dowry.⁷⁸ The rapist gets to enjoy triple-fold control over the victim—bodily, legal, economic. Whether the play ends in the pot of gold jumping back and forth between hands (a fairly significant demand to make on the *paterfamilias*’ avariciousness) or in a reduction of dowry (as in other plays of the genre), both achieve for the rapist what the *senex* Megadorus wanted: removing his new wife’s financial self-sufficiency. Megadorus’ public transcript underlays and bolsters the play’s repressive ending, unfinalized as it is.

The fathers of these plays hold legal power over the rapist, a threat they use to fold the rapist back under their control and into their family. This process of incorporation reinforces hierarchical relationships between the father and the rapist, and the rapist and the victim. The father’s power is expressed outside of the courts in extra-legal negotiations. We should be reminded of the fact that rape, too, is an extra-legal way of achieving a legitimate marriage. As much as people in dominant positions bolster and benefit from the law, power is grounded in the streets or in the home or (in Weinstein’s case) at work. If power were only expressed in the law, it would be far easier to resist.

On Femininity in Fictions

On January 16, 2019, Weinstein’s legal counsel Brafman withdrew from the case.⁷⁹ The withdrawal was considered a “major setback” for Weinstein because of Brafman’s success in high-profile cases.⁸⁰ Then entered Donna Rotunno, a lawyer with a 97.5% success rate defending male rapists. Her perspective on rape is informed by victim blaming,⁸¹ which then guides her questioning style in the courtroom. She relentlessly grilled witnesses including Jessica Mann with leading questions such as “You were manipulating Mr. Weinstein so you’d get invited to fancy parties, correct?” “You wanted to use his power, correct?”⁸² On her aggressive style, she said: “[I have] the ability to get away with a lot more in a courtroom cross-examining a female than a male lawyer does. If he goes at that woman with the same venom that I do, he looks like a bully.”⁸³ She takes advantage of the double standard that a man harshly questioning a woman would be bad for optics, too easy to conflate the image of an aggressive questioner with the rapist. But if a woman were to do so? She might just get away with it, at least 97.5% of the time.

This project previously focused on the character and characters of traditionally dominant peoples—the *paterfamilias* and the rapist—some of which were one and the same. We examined how the interests of the fathers and the rapists were, for the most part, aligned in masculine ideology. We have left behind the characters, more specifically the women, that represent traditionally subordinate peoples. But as we have seen with Ms. Rotunno, we should be cognizant that the overall subordination of women to men does not imply any one woman is opposed to the dominant class. Nor are subordinate groups necessarily in support of one another.

In order to provide a framework for the interactions between women in the *palliatia*, we revisit Connell’s conceptualization of multiple masculinities, this time applied to femininity. In *Masculinities*, Connell (1993: 187–188) proposes one of many subordinate feminine forms which she calls “emphasized femininity”: it

77 On this point, I agree with Konstan’s (2018: 40–41) about the validity of the ending. He provides the counterargument of Jachmann (1931: 138) who argues that the ending would be inconsistent with Euclio’s characterization; Lehmann (1960: 88–89) suggests the repayment is only partial. Konstan (1977) and Minar (1947) suggest giving away the pot of gold is not so at odds with Euclio’s character as Jachmann portrays.

78 This alternative way of reducing the dowry would strain the theory that the rapist would defer to his wife even though the dowry is reduced.

79 “Benjamin Brafman, Weinstein’s Lawyer, Is Said to Be Withdrawing From Rape Case - The New York Times,” accessed March 28, 2020, <https://www.nytimes.com/2019/01/16/nyregion/benjamin-brafman-harvey-weinstein-stepping-down.html>.

80 Ibid.

81 Pilar Melendez, “Weinstein’s Defense Lawyer: I Would ‘Never Put Myself’ in a Position to Be Sexually Assaulted,” *The Daily Beast*, February 7, 2020, sec. us-news, <https://www.thedailybeast.com/harvey-weinsteins-lawyer-donna-rotunno-says-she-would-never-put-herself-in-position-to-be-sexually-assaulted>.

82 Ed Pilkington, “Donna Rotunno: The Legal Rottweiler Leading Harvey Weinstein’s Defense,” *The Guardian*, February 9, 2020, sec. World news, <https://www.theguardian.com/film/2020/feb/09/donna-rotunno-lawyer-leading-harvey-weinsteins-defense>.

83 “Donna Rotunno: Harvey Weinstein’s Lawyer Is a Lady. Why Are People so Shocked?,” accessed March 28, 2020, <https://slate.com/news-and-politics/2020/02/harvey-weinstein-lady-lawyer-donna-rotunno-not-worse.html>.

is entirely compliant with masculinity and has no power except that which is loaned to it. Masculinity privileges emphasized femininity over other feminine identities because it supports masculinity's dominant role, a process which creates a positive feedback loop between privilege and support.

Schippers (2014) has one main contention with "emphasized femininity", which has to do with power and is important for understanding multiple femininities. Connell (1987: 186–189) believed that an identity like hegemony femininity could not exist because there is no femininity that holds power over other femininities as hegemonic masculinity does over other masculinities.⁸⁴ Schippers reframes the conversation by suggesting that power is not how we should be thinking of feminine identities.⁸⁵ What interests Schippers is relationships, specifically Connell's characterization of hegemonic masculinity as strengthening the relationship between masculinity and femininity. Schippers focuses on relationality to define "hegemonic femininity" as a femininity that voluntarily supports masculinity through strengthening the subordinate position of femininity under masculinity. Put another way, hegemonic femininity keeps masculinity central and other feminine identities marginal.

Schipper's emphasis on relationality rather than power proves vital when discussing the *palliatia*. As we have seen, it is not the lack of *patriapotestas* that stops the fathers from pursuing serious consequences but his interest in strengthening his control over the rapist and the victim. And as we will see in the section ahead, a character's legal power does not dictate how much they have a say in the narrative. If power hierarchies determined agency, under the intersection of class and gender analysis that we have been using, we would expect non-citizen women's voices and experiences to be excluded from the stage. Richlin (2017: 256–310), however, points to the ways in which the *palliatia* spoke to experiences of female slaves. Barrios-Lech (2014: 483–85) analyzes how the *meretrix* consistently asserts a belligerent and outspoken tone on stage. Perhaps that is why the silence of victims is so striking—every other character gets a say besides them.⁸⁶ That a citizen woman's voice is excluded rather than slave or non-citizen women's voices tells us that power hierarchies do not fully explain the representation of victims.

Tentatively, to categorize victims, I turn to subaltern studies for its focus on voice and marginality.⁸⁷ I am thinking of Edward Said's *Orientalism* in which he discusses how the wonders of the Orient captured the imagination of Europe, but these wonders were often Eurocentric fictional constructions of the Orient, excluding subaltern voices in their constitution.⁸⁸ And I am thinking of Spivak's *Can the subaltern speak?* in which she deliberates whether the historian can truly recover the subaltern voice or consciousness, or whether the historian must restrict themselves to what subaltern voices *cannot* say.⁸⁹ With an eye towards Said's constitutive fictions and Spivak's attention to the limits of fictional representations, I propose we think of the representations of victims in these plays as a subaltern feminine group. Victims were systematically excluded from the stage, but their lack of voice is not a central consideration of the play. She is often talked about (the plot hinges on her after all), but she never gets a say in her own self-constitution.

In *Adelphoe*, *Truculentus*, and *Aulularia*, victims were kept off-stage which physically excluded them

84 For more on this asymmetry, see Connell (1987): 186–189.

85 Schippers (2007) believes that intersectionality makes discussing power hierarchies operationally impossible (if white women are hegemonic over non-white women, how do we rank a lower-class white women compared to an upper class white-women? Does a half-white, half-non-white woman rank midway between the two?). On the intersection of femininity and race, see Baker (1983), Chen (1999), Glenn (1999), Pyke and Johnson (2003).

86 That is not to say that all characters that represent subordinate people get a say or a voice. Klein (2015) observes the mute speech of these characters besides rape victims.

87 The term "subaltern" originated from Gramsci's *Prison Notebooks* but has typically been used in a post-colonial framework; I am cognizant of the danger in removing the term to a thesis that does not consider colonialism considerations. But Gramsci (2013: 137) gestures at how Roman woman could be considered a subaltern group: "the question of the importance of women in Roman history is similar to the question of the subaltern groups, but up to a certain point: masculinity can be compared to class domination only in a certain sense; it, therefore, has greater importance for the history of customs than for political and social history. Though he never details in what "certain sense" women's struggles under masculinity are different than those under class domination, he does conjecture that masculinity played a greater role in shaping customs, i.e., lived experiences of women, than political institutions did. Gramsci's eye was not just focused on class struggles, especially in relation to the subaltern. For an account of how the term "subaltern" was repurposed for postcolonial studies, see Green (2002) and later Green (2011).

88 Said (1979).

89 Spivak, (2010): 21–78.

from shaping the narrative. In Terence's *Phormio*, the victim has died before the events of the play begin; she is not even given a name. But in a play like Plautus' *Cistellaria*, where the victim is still alive (common) and where the victim gets speaking lines (uncommon), we might expect to hear some resistance from her. Instead, what we see is a constant marginalization and silencing of her voice and knowledge. From the very beginning of the play, we get a sense of how she gets excluded from her self-constitution when the play delivers two prologues about her backstory. The first is told to us by a *lena* ("procuress") in *Cistellaria* who some seventeen years ago saved the victim's child after she exposed it, thereafter giving the child to another *lena* Melaenis, who raised the baby as her own child and as a *meretrix*.⁹⁰ This poor upbringing restricts the now grown daughter Selenium from marrying her object of mutual affection, an upperclass citizen named Alcesimarchus, much to the young couple's dismay. A second prologue speaker, the God of Help,⁹¹ then comes on and explains that the child was exposed because she was born when the now *paterfamilias*, during the festival of Dionysius, *isque hic compressit virginem, adulescentulus, <vi>, vinulentus multa nocte in via* ("raped a virgin here, as a young man, by force, drunk in the middle of the night in the street", 156–159). After his first legal wife died, he *ilico* ("immediately") returned and remarried the victim Phanostrata seventeen years later, whom he did not know was the very same person he had raped. But *eam cognoscit esse quam compresserat; illa illi dicit, eius se ex iniuria peperisse gnatam* ("he realized that she was the same woman whom he had raped; she told him that she had given birth to a child from the crime"). The knowledge spurs the family (see figure 1.2 for a cast relationship diagram) to search for their lost daughter, which forms the plot of the play.

When the God of Help delivers the play's first characterization of the *paterfamilias*/rapist, he seems more interested in pardoning rather than accusing the rapist. Immediately after the god relates the fact of the rape, he intervenes with the diminutive of *adulescens*, doubling down on the rapist's youthfulness.⁹² The god also relates that the rapist returned to the victim *ilico* ("as soon as possible"), which Rosivach takes as a demonstration of regret and remorse.⁹³ But consider how the god lays out the rapist's return: *duxit uxorem hic sibi eandem quam olim uirginem hic compresserat, et eam cognoscit esse quam compresserat* ("he married the woman here whom he had once raped when she was a maiden here, and he recognized that she was the one whom he had raped", 172–74). We might have expected: *duxit uxorem... cum eam cognosceret esse quam compresserat*, because we expect that the marriage occurs as a result of his recognition. Instead, however, the marriage (*duxit*, perfect tense) takes place before the recognition (*cognoscit*, present tense), and apparently have nothing to do with each other (*et*). The marriage is not a sign of the rapist making amends but instead a "happy" accident.

The god also elides the victim's mutual recognition of her rapist; the narration jumps from the rapist's recognition to the victim telling him of the child. The impulse to claim that her recognition does not matter (and thus does not bear reporting) tempts but would flatten out how the play denies Phanostrata recognition.⁹⁴ Later in the play, there is one scene where characters explicitly realize the identity of the rapist, where recognition is not filtered through an omniscient character. Phanostrata is present at the beginning of the scene when Lampadio, Phanostrata's slave, relates that he has identified Melaenis as the person who has raised Phanostrata's child. Phanostrata is spell-bound, spurring him on to finish his story and eager to know the whereabouts of

90 As in all plays where the young girl is raised as a *meretrix*, she has only conducted business with the *adulescens* she will eventually marry, thereby avoiding issues of legitimacy.

91 Plautus sometimes uses a prologue delivered by a character that does not appear in the play, often making that character a God, so the character is not restricted by limits of knowledge. Plautus' *Aulularia* also uses a God to deliver the prologue and tell us of the rape.

92 OLD's earliest instance of *adulescentulus* comes from Plautus' *Pseudolus*: *quem... dicitur fecisse... ex sene adulescentulum* ("whom she is said to have made a young man from an old one"). Unlike *adulescens*, *adulescentulus* seems to typify a contrast between young and old, which buttresses the contrast the God of Help draws between the *paterfamilias* younger self who committed the crime and the older one who seems to want to redeem himself for it.

93 Rosivach (1998): note 1.51.

94 At the same note, Rosivach observes the same elision of the victim's recognition, but instead claims that "we must assume that Demipho moved to Sicyon in order to marry Phanostrata, knowing that he had previously raped her; he then acknowledged to her what he had done, and she in turn informed him about their daughter". He says that this assumption holds if we take *cognoscit* in the sense of 'acknowledge, recognize', even though he acknowledges the difficulty of this translation. He also suggests a corruption, though makes no suggested emendation.

her daughter: *animus audire expetit ut gesta res sit* (“my soul desires to hear what happened”, 554–55). But, right before the two of them confront Melaenis about her daughter’s whereabouts, Lampadio tells her to stay at home, and Phanostrata obeys without resistance. Indeed, she goes so far as to rank Lampadio among the gods, reaffirming that she trusts *deos teque* (596).⁹⁵ Based on her characterization, it seems implausible that Phanostrata would not wish to finalize recovering her daughter, so desperate is she to *know* what has happened to her. But the play seems to artificially put an end to her desire. I say “the play” even though Lampadio gives the order because Lampadio’s reasoning that Phanostrata stay behind does not play out in any meaningful way.⁹⁶ Again, Phanostrata is denied the opportunity to be on the stage when recognition of the rapist occurs.

I suggest that Melaenis, the caretaker, acts out the scenes that Phanostrata is denied. She already raises Phanostrata’s child up until the action of the play begins, but the crucial scenes of recognizing the rapist and highlighting the restrictions on her behavior are given to Melaenis as well. When Melaenis is at first confused by the apparent paradox of how a child could be born to a wife before marriage, Lampadio—unnecessarily—lets her in on the key to the situation: rape that is then followed by marriage. Melaenis says *nunc intellexi* (“now I understand”, 624). When the slave leaves stage, she speaks to herself: *nunc mihi bonae necessunt esse ingratiis, quamquam esse nolo* (“now it is necessary for me to be proper against my wishes, although I do not want to be”, 626–27). These lines could have just as easily been spoken by Phanostrata as Melaenis—indeed if anyone we expect that the victim herself gets a scene of recognition, and not the substitute mother. Through this strange surrogacy of voice, the play circumvents the narratives of silencing to recreate recognition,⁹⁷ and gives space to express a small defiance. She first highlights the restrictions on her, that she performs her next actions *ingratiis* (“unwillingly”) and only because *necessunt* (“it is necessary”). She points out the importance of her own consent, normally dictated by the *paterfamilias*, even if only to point out the strictures that deny it.⁹⁸ Though Phanostrata’s own recognition remains in the realm of ambiguity and indifference, the play includes someone who takes on her voice.

After Melaenis’ highlights how she is bound by necessity, her lines are heavily restricted. She gets only four more speaking parts in the play, a number which is miniscule in contrast to the forty-eight speaking parts prior to her discovery. Her restricted lines are dedicated solely to reconnecting the child of the rape to the father. After Melaenis expresses some small resistance as if she were the victim, she too is silenced. Despite the silencing, there seems to be some small semblance of resistance against the generic conventions of rape in the newly permitted marriage. When the child of the rape, Selenium, speaks to how her love interest, Alcesimarchus, came to be on close terms, she says happily that

*per Dionysia, mater pompam me spectatum duxit. dum redeo domum,
conspicillo consecutust clanculum me usque me fores.
inde in amicitiam insinuavit cum matre et mecum simul
blanditiis, muneribus, donis* (89–93)

During the City Dionysia, my mother took me to watch the parade. When I was returning home,

95 This despite the last time Phanostrata trusted Lampadio with her child, Lampadio technically did not succeed in carrying out her orders, i.e., exposing the child.

96 Lampadio says *vir tuos si veniet, iube domi opperier, ne in quaestione mihi sit, si quid eum velim* (“if your husband comes, order that he stay at home, so that his whereabouts are not unknown to me, if I should need him”, 592–93). When the rapist does come at the end of the play once the reconciliations have all been made, he says that *Lampadionem me in foro quaesivisse* (“Lampadio had been searching for me in the forum”). If Phanostrata leaving the scene did have narrative import, we might be more inclined to understand why Lampadio ordered her home. It is of course appropriate that the *matrona* stay home while the *servus* conducts her affairs, but Lampadio refrains from using this logical reason.

97 In no Roman play does the victim get the stage to voice her own trauma. The Greek play *Epitrepontes* (“Men at Arbitration”) by Menander is a notable counterpoint.

98 The other instance of a character feeling the strictures of Roman sexuality is Gymnasium in the opening play scene who, in response to her own mother pimping her out for profit, seems to accept her role: *nesesse est quo tu me modo voles esse ita esse, mater* (“it is necessary for me to be who you wish me to be, mother”, 46). In the only other pairing of *nesesse* and a form of *volo* in the play (*ingratiis* does not appear a second time), Gymnasium also highlights her consent or the lack thereof. One might compare this relationship to that of Thais and Pamphila in Terence’s *Eunuchus* (“The Eunuch”).

from a hidden shelter he shadowed me secretly up to the doors.
Thence, he worked up into a friendship with my mother and me at the same time
with flatteries, services, and gifts.

Selenium describes a scene that is eerily reminiscent of her mother's rape: it takes place at the Festival of Dionysia, and she returned alone, an abnormal situation considering the regulations meant to prevent her from being unaccompanied. There is a danger here, played up by the consonance of *conspicillo consecutast clanculum* which calls attention to her love interest's furtive actions, creating the expectation of a rape.⁹⁹ Instead, however, the love interest woos her and her mother in courtship, subverting the generic expectation that the original rape created. Melaenis is forced to facilitate the function of a Roman marriage (i.e., producing children) and further the *paterfamilias*' lineage, yes, but her forced participation seeks to produce a marriage that defies the *pallatia*'s conventions of rape.

But Alcesimarchus is not referred to as "the most violent lover in New Comedy" for subverting the generic conventions.¹⁰⁰ Though the inciting incident is corrupted, Alcesimarchus comes onto the stage in act three bitterly despairing of his chances to marry Selenium. In typical dramatic fashion for the *adulescens*, he addresses death directly, asking death to receive him as friend and well-wisher (640). But once he sees Selenium, he finds fortitude:

*hanc ut habeo certum est non amittere;
nam hercle iam ad me agglutinandam totam decretum est dare.
ubi estis, serui? occludite aedis pessulis, repagulis / ilico (647–51).*

This one, as I have here, I have determined not to lose her;
For, by God, I am decided to attach her entirely to me.
Where are you, slaves? Lock the doors with bolts and bars, immediately.

He then carries off Selenium into the house, presumably to permanently "attach" her to him. This motion towards rape—it is never clear whether he fulfills the act—has none of the generic excuses: there is no wine here, nor festival. There is no redemption or excuse, save the claim of his overwhelming and ungovernable "love". Note here how *ilico* ("immediately"), used previously in the prologue by the God of Help as a redemptive feature of the *paterfamilias*, is used to the opposite effect here. Instead of emphasizing the short time it took for the *paterfamilias* to make amends, here *ilico* emphasizes the rapidity with which Alcesimarchus desires to rape Selenium. Whether this desire is fulfilled is left ambiguous, continuing the pattern of unclear recognitions that began with Phanostrata. This new performance of rape goes one step further even, silencing Selenium for the rest of the play.¹⁰¹

Melaenis plays the central role here. She speaks out subversive resistance, acting out the lines of a victim who got a chance to speak on stage about the rape, finally. But she also falls silent, restricted by the social demands to return the child she has raised as her daughter to her natural parents. Not just silent but complicit in facilitating a marriage that imposes even heavier restrictions on voice than those on herself or Phanostrata, the first rape victim of the play. In fact, the rapist gets the final character lines in the play, one of which is in response to Lampadio telling him that he has another child. He says *nil moror aliena mi opera fieri pluris liberos* ("I don't care for getting more children through another's work", 778). By "work", he means first and foremost that he does not want a child that he was not a part of producing, i.e., another man has impregnated his wife. Of course, his concerns are legitimate as such a child would disrupt his legitimate

99 One might recall a similar building up of expectations at note 62.

100 Philip Whaley Harsh, *A Handbook of Classical Drama* (Stanford, 1944), 352. This claim is somewhat dubious considering the rapists of Terence's *Eunuchus* ("The Eunuch") or *Hecyra* ("The Mother-in-Law").

101 A key difference between the suggestion of rape here and other rapes in the genre is that Selenium is in a consensual relationship with him before the rape. But when Alcesimarchus is threatened, his previous regard for her and her mother's consent disappears entirely – and so does the play's. It is jarring to be privy to Selenium's desires then have her reaction to the abduction entirely elided from the rapist's or play's considerations.

lineage. But the joke here is that the work of ensuring that his lineage be his—reconnecting his legitimate and illegitimate children—was done by everyone except him. He has to do little work in this play to reap the benefit.

Consider the other side of that last statement. It is tempting to claim that a luxury of the powerful is to do less or little to achieve their purposes because of the lack of strictures on their actions and the power they have at hand. But, for the subordinate people pushing back on their restrictions, for Phanostrata straining to see her daughter regardless if she is conceived of rape, there must be someone straining to keep them and her contained. The silencing of Phanostrata requires real effort on the play's part: the God of Help's narration elides Phanostrata's recognition, and Phanostrata departs from the stage at a crucial moment of recognition.

In order to keep the victim marginal, the play has to fit together two disparate and exclusive characterizations of Phanostrata's desire and action. It must portray Phanostrata as eager to reconnect with her daughter so that she tells her husband about their daughter as the initial impetus of the play. Yet, the play must also portray Phanostrata as uneager to find her daughter in order to comply with Lampadio's request to stay home—a restraint that marginalizes Phanostrata's knowledge. There is a friction in fitting two antithetical characterizations into one play, a friction which requires effort to force together. The more we feel Phanostrata's uneven characterizations, the more we are keenly aware of the play's artificiality, aware that we are seeing characters on stage acting under the thumb of the playwright rather than under the throes of hegemony. And the more we feel how much the play strains to enforce the victim's subalternity, the more we are aware of the work necessary to maintain feminine subordination to masculinity—and the potential power for resistive efforts.

It is this silence and this marginality that hegemonic femininity seeks to strengthen, this subaltern quality of the victim's subordination. By and large in *Cistellaria*, the play itself was keeping the victim subaltern as no character was responsible for Phanostrata's uneven characterization. But as with Ms. Rotunno, women make effort to silence victims and keep them marginal, if it comes as benefit to themselves. Our discussion turns to Terence's *Hecyra* ("The Mother-in-law") to examine how characters practice hegemonic femininity, making victims vulnerable to masculine constituted fictions and mechanisms of silencing.

The story structure of *Hecyra* is similar to the set of plays we first discussed where the *adulescens* has raped a young woman, though that information is not revealed to the audience in a prologue—it is not until "act three" that the audience learns.¹⁰² The delay tells us how information is at a scarcity in this play, both for characters and the audience. Though misunderstanding is rife in the *palliatia*, the plays highlight that the fathers of the victims or a near-equivalent always learn of the rape. Throughout the course of *Hecyra*, however, only three characters learn that a rape occurred and the identities of the victim and rapist: the rapist himself Pamphilus, a *meretrix* Bacchis, and the victim's mother Myrrhina. These characters are also played against type—denying expectations that the genre or characters set for them based on the broader population they represent. How they are played against type, how they (and we) learn the information, and how they use the information will be crucial for our understanding of how the play enacts hegemonic femininity.

Parmeno (Pamphilus' slave) provides the initial characterizations for Pamphilus and Bacchis. He insists that the newlyweds Pamphilus and Philumena have now joined in *amor* ("love") after the admittedly rocky beginning of their relationship when Pamphilus continued to visit the *meretrix* Bacchis—even after Pamphilus and Philumena were married. Pamphilus displays a clear dereliction of *pietas* ("loyalty, duty") to his wife, which is more typical of an *adulescens* rather than a *paterfamilias*.¹⁰³

Pamphilus even refused to consummate the marriage until two months after their wedding. But Bacchis *maligna multo et magis procax facta ilicost* ("immediately grew much more spiteful and more demanding", 159) when she saw how he belonged to someone else now, so he transferred his affections to his wife (169–170).¹⁰⁴ Their transformations are intertwined: Bacchis has turned into the angry, scorned *meretrix*, *ut fit* ("as it so often happens", 159), while he has transformed from the stereotype of an *adulescens* who typically consorts

102 This set-up is most similar to Terence's *Adelphoe* in which the rape is not revealed until mid-way through the play. Plautus' *Aulularia* and *Cistellaria* reveal the rape in the prologue, though the prologue is delayed in *Cistellaria* until the end of act one.

103 For even the fathers who committed rape in the previous section, all of them emphasize that they committed the extra-marital affair in their youth.

104 Gilula (1980: 154f) has a more extended discussion of the *multo* and *magis* to argue for a negative characterization of Bacchis.

with *meretrices* to loyal husband *amantem* (“in love”, 173).¹⁰⁵

In our introduction to Pamphilus, however, he seems to retain some attributes of the *adulescens* figure despite Parmeno’s suggestion to the contrary. He arrives from abroad to find his wife has abandoned his house to return to her paternal home; in proportional fashion, he bemoans the fact that he has not committed suicide to avoid this fate, which is typical of an *adulescens*.¹⁰⁶ Hearing cries from his wife’s house, he goes in, worried, only to find out that his wife has given birth. The two of them started sleeping together in the second month of their marriage; it has only been seven months since they’ve been married.¹⁰⁷ His fears and indeed the anxieties embedded in Roman constructions and regulations of unmarried women have come true: the baby is illegitimate.

Critical literature has taken this play as female-centered with female voices opposing masculinity. Norwood remarks that Terence’s *Hecyra* is “a woman’s play—not feminist... but with women as the chief sufferers, the chief actors”.¹⁰⁸ James argues that the play uses female characters to criticize the rape and rapist in ways that express sympathy for the victim.¹⁰⁹

To a large extent, they are right. Women, specifically Bacchis and Myrrhina, drive large parts of the narrative action of the play—Myrrhina hides the child from the world. Their agency contrasts with the fathers who spend much of this play in confusion and disarray at who is to blame, mistakenly setting the blame for the split between Pamphilus and Philumena on their wives.

In fact, Bacchis sets the reconciliation between the estranged couple in motion when the fathers summon Bacchis to resolve the situation. She explicitly acknowledges the stereotypes she is facing (stereotypes developed in no small part based on Parmeno’s introduction) when she says to Philumena’s father that she is wary of being judged because of her profession as *meretrix*.

Though she can easily defend her honor, she hopes that the reputation of her profession will not count against her (734–35). She denies and defies Parmeno’s critical characterization of her by demonstrating continued generosity towards Pamphilus; indeed, she seems more interested in reconnecting Pamphilus and Philumena than Pamphilus himself. In the end, Bacchis and Philumena’s father agree that she will tell Myrrhina that she has not consorted with Pamphilus since the day that Pamphilus and Philumena were married (which Parmeno contradicts). When she is assuring Myrrhina of Pamphilus’ loyalty to his wife, she tells the audience that Myrrhina recognized a ring she was wearing, the same ring that was stolen from her daughter after the rapist had sexually assaulted her. Pamphilus gave the ring to Bacchis as a gift, which creates *agnorisis* (“recognition”) for Bacchis and Myrrhina who recognize that he was the rapist and that the child is his, confirming its legitimacy. Recognition and reconciliation in this play is fueled primarily by female characters acting against stereotype.

Though the play centers women, we should be cautious to say that they are critical of the rape. James takes this route when she divides the two sources of criticism for the rape in *Hecyra* into “Terence’s Presentation of the Rapes” and “The Female View”. In these sources, James rightly picks out how Pamphilus’ rape differs from other rapes in the genre: he steals a ring from Philumena, and he rejoices upon discovering it was Philumena that he had raped. The section title that James chose, “Terence’s Presentations of the Rapes”, is misleading however because Terence himself did not come onto stage and present the rape to us; like any other knowledge in the play, the knowledge is given to us by a character, in this case, Bacchis. And though the details of the rape seem detestable and uncontestable, the way in which Bacchis presents these details of criticism is anything but critical.

Remember that Bacchis is one of three characters to recognize the identity of the rapist, what Anderson

105 For a more extended discussion of the relationship between *pietas* and *amor* in *Hecyra*, see Konstan (2018): 130–141.

106 References to suicide, especially for the *adulescens*, can be quite common in the *palliata*. For more on suicide and its unique place within comedy, see Dustch (2012): 187–98.

107 Barsby’s note on the timeline says that a baby born seven months would be premature, but certainly not wildly out of the ordinary for those who believed the marriage was consummated on the first day of their marriage. Five months, however, would stretch the imagination.

108 Norwood (1923): 91.

109 James (1998): 31–47.

calls “privileged knowledge” in the play.¹¹⁰ Her reaction to learning the privileged knowledge tells us how little sympathy she has towards the victim. James and Penwill have both remarked on how Pamphilus rejoices indelicately upon learning that he was the one who raped Philumena, asking *quis me est fortunatior venustati que adeo plenior* “who is more fortunate and more full of luck than me?” (848). But Bacchis is actually the first to display this indelicacy (814–15). She is positively joyous that she can inform Pamphilus of the identity of his victim, bringing him happiness, taking away his cares, and perhaps most importantly for Roman comedy restoring his now legitimate son to him (816–819). The critical details that James points out are prefaced by and likely delivered with overtones of optimism and positivity, with the assurance that things will work out for Pamphilus. That doesn’t mean these pieces of criticism are void nor do I suggest that the facts of the case are somehow altered by her biases, but due consideration hasn’t been given to how or why these criticisms are couched in positive terms.

Unlike other commentators who argue that Bacchis is completely different from other *meretrices* of the genre, I suggest that Bacchis couches these criticisms in positive terms precisely because she is like other representations of *meretrices*. Parmeno sets up Bacchis to be the typical greedy *meretrix* in the beginning of the play, but throughout the course of the play we learn to think of him as misleading and lacking in *calliditas*, e.g., he gossips freely about Pamphilus’ marriage and gets sent off to the harbor on a wild goose chase.¹¹¹ Due to the trend of Parmeno’s development, we might be inclined to believe that Bacchis is not the stereotypical *meretrix* he says she is. After all, she herself denies the accusation that she is like the other *meretrices* (834). Her generosity and good will towards Pamphilus stand in stark contrast to Parmeno’s characterization of her as *maligna multo et mage procax* (“much more hateful and irritable”, 159). Another part of her characterization hinges on declaration, *numquam animum quaesti gratia ad malas adducam partis* (“never shall I turn my mind to evil deeds for the sake of gain”, 838–36), denying that she is motivated by financial incentives. McGarrity buys into this characterization, believing that the “reversal [of stereotype for Bacchis] is sudden and complete”.¹¹² But the fact that Bacchis kept the stolen ring (perhaps in a transaction typical to that between an *adulescens* and a *meretrix*) even after having learned about the violence done in acquiring it suggests that she is not as sympathetic to female suffering or critical against rape as James positions her to be.¹¹³

Moreover, Pamphilus’ continued trips to see her after he has already been married suggests that Bacchis’ moral generosity towards Pamphilus may be more financially motivated than she says is the case. Indeed, morality and finances seem inextricably linked in her mind; when she reasons why she should be generous towards Pamphilus, she reasons *multa ex quo fuerint commode, eius incommoda aequomst ferre* “it is reasonable to bear inconveniences of him, from whom there were many gifts” (840). This characterization contrasts with Philumena’s characterization, who *incommoda atque iniurias viri omnis ferre* “bore all the inconveniences and insults of that man” because she is *pudens modesta* “honorable, restrained” (165–66). Bacchis’ rationale behind her actions is guided by a transactional philosophy, a quid pro quo where someone is reasonable to bear if that person came bearing gifts. To say that Bacchis is unlike other *meretrices* misses out on how much Bacchis is driven by a transactional mindset that would dispose her to favor Pamphilus.¹¹⁴

Perhaps this financial motivation is why Bacchis agrees to remain silent about the perpetrator of the rape at the end of the play. Penwill, remarking on the final genial if not flirtatious exchange between Bacchis and Pamphilus, picks up on how cheery Pamphilus is, in contrast to the despondent tone he strikes through the rest of the play.¹¹⁵ Worth noting further is how much of the conversation between Pamphilus and Bacchis refers back to their past transactional relationship; Pamphilus compliments that *antiquam adeo tuam venustatem*

110 Anderson (2002): 1–8.

111 McGarrity (1980–1981: 153) acknowledges the divergence of Parmeno’s reputation as a *callidus servus* and the reality of his personality.

112 Feltovich (2011: 187–194) agrees with McGarrity.

113 Bacchis also communicates to us that Pamphilus was *vini plenum* (“full of wine”, 823) when he committed the rape, an excuse that is normally given by someone who is not interested in negative repercussions for the rapist, as with the victim’s uncle in Terence’s *Adelphoe*.

114 Laches is one of these people. After conversing cordially with Bacchis who acknowledges again the expectations of her occupation, Laches says that *nunc quam ego te esse praeter nostram opinionem comperi* “now I have found you to be different than how I expected you” (763).

115 Penwill (2004): 139.

obtines “you retain so much of your former charms” (858) to which Bacchis returns in kind *at tu ecastor morem antiquom atque ingenium obtines* “and you, by Castor, retain your former habit and nature” (860). James speaks of rape as a way to transform an *adulescens* into a *paterfamilias*, but Bacchis labels the rapist as retaining his former nature as an *adulescens*. And if he remains as *adulescens*, then he retains the habits that come with being an *adulescens*, things *omnibus innatumst* “natural to all of them”, namely consorting with prostitutes (543). The current of their conversation runs from their previous financial and mutually beneficial relationship, disturbing the façade that their relationship is now purely altruistic.¹¹⁶

Bacchis benefits from keeping the rape hidden. If the rape had perhaps gotten out to the fathers, as Diniarchus says in *Truculentus*, *si faximus conscios, / qui nostrae aetati tempestivo temperent... faxim lenonum nec scortorum plus siet et minus damnosorum hominum quam nunc sunt siet* (“if we made [our parents] aware, who would temper our youth at the right time... I bet that there would be less pimps and prostitutes and fewer spendthrifts than there are now”, 61–63).¹¹⁷ If Bacchis had told the *paterfamilias*, she might have lost Pamphilus’ continued business by way of the fathers’ interference. Criticism is inlaid in Bacchis’ monologue since she reports that while Pamphilus and Philumena struggle, he steals the ring from Philumena. But that very symbol of criticism is also a symbol of why Bacchis has reason for remaining complicit in keeping the rape a secret. Criticism is expressed in a way that does not disturb the status quo, with the assurance that comes with abundant financial resources.¹¹⁸

Bacchis so far has typified “emphasized femininity” which is a femininity privileged by masculinity because it supports masculinity, and vice versa. But we can think about how Bacchis’ actions fall under hegemonic femininity when we consider the effect of her actions on Philumena. Because of Pamphilus’ continued attachment to Bacchis, he spurned his new wife at the beginning of their marriage, all of which Philumena bore silently. Because Bacchis accepted the ring stolen from the rape, Philumena must continue in a marriage to her rapist. Because Bacchis chooses not to tell the *paterfamilias*, Pamphilus will face no repercussions for this incident, not even the threat of repercussions as with the rapists in the previous section. And she gains favor in the eyes of Pamphilus, with the hint that their transactional relationship will continue. In effect, she not only remains privileged over the subaltern femininity that Philumena exhibits, but she also reinforces the subordinate position of subaltern femininity to dominant masculinity.

We should think of Myrrhina too, who James believes is the “internal female critic”, the loudest voice criticizing rape within the play. James does acknowledge that Myrrhina “has less opportunity to rail against rape and the rapist... because the rape in *Hecyra* occurs outside the play’s action... Myrrhina is concerned with trying to hide the rape and the baby” (41–42). But Myrrhina disappears from the play entirely by the end. Even though Myrrhina is absent, she reportedly affirms Bacchis’ actions: *ita Phidippo dixit iureiurando meo se fidem habuisse et propterea te sibi purgatum* “she told Phidippus [her husband] thus, that she has faith in my [Bacchis’] oath and therefore you are considered excused by her” (870–71). Myrrhina communicates to the audience the rape, she calls the rapist *nescioquo improbo* (“some wicked man”, 383), and accuses the rapist of exceptional cruelty for stealing a ring after the rape. But she too becomes complicit in keeping the rape a secret, excusing rather than accusing him of wrongdoing, in order that her daughter may stay married. Indeed, where

116 Penwill (2004) contrasts how unsympathetically *Hecyra*’s Pamphilus acts compared to the *amator adulescens* in *Andria*. He draws salient comparisons between *Hecyra* and *Andria*, but his two-play analysis makes some of his assertions about the rape in *Hecyra* lacking in wider context. He asserts that “Pamphilus’ rape of Philumena is the worst example of its kind” (138) and “as ugly as possible: a drunken grope in the street as he’s on his way to meet his girlfriend, the ring snatched as a trophy of conquest, all this in front of the very houses we are looking at as we watch the play” (141). The drunkenness of the rapist is hardly a strike against him relative to other rapists as almost every other rapist in the genre has been drunk. Every rape in the genre occurs in the street as well before the houses on stage, and Epitrepontes even goes so far as to describe to us the victim tearing her hair with her cloak ruined, torn to rags (487–490). *Eunuchus* strips down the conventions of rape even more than Penwill claims *Hecyra* has done so.

117 One may think of this play compared to Plautus’ *Truculentus* in which the *adulescens* rapes a citizen woman while he continues to see a *meretrix*.

118 Unlike other plays that end on a continuing relationship between *adulescens* and *meretrix*, the financial stability of the *adulescens* is not called into question in *Hecyra* in the same way that is typical of the *adulescens/meretrix* plot line. *Mostellaria*, *Truculentus*, and *Eunuchus* are plays that highlight the continuing difficulty of giving gifts to a perpetually unsatisfied *meretrix*. *Truculentus* differs in that it does feature a rape, and in that play too, the rape allows for the rapist *adulescens* to lessen their financial burdens by shifting it to a *miles gloriosus* type figure.

James pinpoints that Myrrhina voices criticism, she is speaking either to the rapist or is alone on stage. It is true that delivering criticism in a soliloquy format often comes with the implications of truthfulness, neutrality, and believability,¹¹⁹ but the form also removes the ability of that speech to achieve narrative action. Myrrhina's criticism structurally lacks in efficacy, a criticism that she drops once it is clear that her daughter will remain married, not unlike the *paterfamilias* of *Truculentus*. Myrrhina's decision has consequences for her daughter, but also for the other *matrona* Sostrata. When Philumena left the house in the backstory of the play, Laches, Sostrata's husband, believes that Sostrata drove her away, as is typically of all women:

*utin omnes mulieres eadem aequae studeant nolintque omnia, neque declinatam
quicquam ab aliarum ingenio ullam reperias! itaque adeo uno animo omnes
socrus oderunt nurus.
viris esse advorsas aequae studiumst,*

All women like and dislike exactly all the same things,
You could not find one among them that is different from the others in character!
Accordingly, with one spirit all mothers-in-law hate their daughters-in-law.
And unfairly it is their desire to oppose their husbands (199–202).

This accusation (among many, many others) Laches heaps onto Sostrata, grouping her with all women. She gets short lines in response, one of which is to plead *una inter nos agere aeternam liceat* ("let us live out our lives together", 207).¹²⁰ Her reconciliatory tone gets nowhere with her husband, however, though we should recognize Sostrata seems little similar to how Laches attempts to stereotype her.

She too will be affected by the fictions of patriarchy, as Laches will find himself justified in criticizing Sostrata for creating the rift between herself and her daughter-in-law because he does not know of the true reason for her leaving. Nor will Sostrata have the ammunition to defend herself from the charge, as the knowledge of the rape excluded Sostrata. Nor will Laches constructing false constitutive fictions about women in general, excluding their feminine voices. She affirms his gendered view, a view that validates him heaping invective on his wife. In essence, Myrrhina upholds two fictions of patriarchy: Pamphilus' fiction and the *paterfamilias* generic fiction.¹²¹ Like Philumena, all Sostrata can do *iniurias viri omnis ferre* ("bear all the insults of her husband").

In *Hecyra*, actions taken under the ideology of hegemonic femininity cement hegemonic femininity's subordinate status to masculinity, which ripple outwards to reinforce the dominant role masculinity has over other feminine identities, especially subaltern feminine identities. Though hegemonic femininity and subaltern femininity have wildly different orientations, both are ultimately non-threatening to masculinity's dominance. Hegemonic femininity has too much to gain from its subordination to masculinity, and subaltern femininity does not have the agency, power, or self-expression necessary to be of any threat. In my last argumentative turn, I look at Terence's *Eunuchus* and the concept of "pariah femininities" to examine a feminine sub- group who has

119 James (1998): 41.

120 At the end of act two, Sostrata does get her own monologue, though her husband has left the stage. She acknowledges the unfairness of her husband's stereotyping: *edepol ne nos sumus inique aequae omnes invisae viris propter paucas, quae omnes faciunt dignae ut videamur malo* ("by Pollux we women are hated equally by our husbands on account of a few, who make it so that all of us seem worthy of such insults", 274–275). Sostrata's ability to speak much more freely both in terms of content and length when her husband is off the stage is explicitly acknowledged in Roman comedy. For more on how mothers speak and acknowledge the restrictions on them, see James (2015).

121 The term "fictions of patriarchy" comes in part from Slater's (1988) "The Fictions of Patriarchy in Terence's *Hecyra*" and in part from subaltern studies. I agree with his conclusions about how patriarchal fictions are upheld at the cost of women, but he constructs his conclusions rid of the characters. For example, he says "Male authority and dignity are preserved by suppression of the truth. The real and potentially tragic story of rape and rejection disappears behind a narrative in which the women are to blame for all the problems" (259). Constructing his sentences in a passive style and in a way that puts inanimate objects such as "story" and "narrative" at the fore leave behind the fact that *Pamphilus*, *Myrrhina*, and *Bacchis* actively making the "real and potentially tragic story" disappear to benefit themselves. Though he arrives at the right conclusions, an account of the active efforts of male and female characters to uphold fictions of patriarchy is missing from his paper.

an adversarial and threatening relationship with masculinity.

Schippers prefers the term “pariah femininities” rather than the more traditional “subordinate femininities” (Connell uses this term) because pariah femininity is not so much inferior as stigmatized and sanctioned.¹²² She believes that masculinity imposes harsher controls than labels of inferiority for pariah femininity because pariah femininities refuse to accept the overall subordinate position of women to men. Part of this refusal, she says, involves not only taking on masculinity but also taking on the attributes of masculinity, attributes like (physical) aggressiveness, promiscuousness, and an attraction towards women. As a corrective, masculinity labels these typically masculine traits in the language of femininity: instead of “aggressive” she becomes a “badass”, instead of “sleeping around” she gets labeled as a “slut”, instead of “desirous for women” her own gender comes to the fore as a “lesbian”. That is not to say that by taking on masculine traits, pariah femininities are somehow ascendant over other femininities as pariah femininities tend to be lower on the social ladder than hegemonic femininities.¹²³ But pariah femininities pose a unique danger to the dominance of masculinity, not only by threatening the larger subordinate relationship of women under man, but by using the tools of the dominant against them.

To examine the relationship between hegemonic femininity (one that secures the subordinate relationship of women to man) and pariah femininity (one that threatens that larger subordinate relationship), we finish on Terence’s *Eunuchus*. Similar to Terence’s *Adelphoe*, two brothers pursue romantic relationships. One brother, Phaedria, pursues the *meretrix/lena* Thais and has done so for quite some time, facing stiff competition from a significantly richer *miles gloriosus*. The other brother, Chaerea, pursues a woman he spotted once on the street in act two, whom he believes belongs to someone, indicating that she is not a free-born citizen. But from a conversation in act one between Phaedria and Thais, the audience learns that the object of Chaerea’s desire, Pamphila, is in fact a full citizen, who has been raised as Thais’ adopted sister. Thais upon finding Pamphila’s family planned on returning her intact to her original family. Chaerea’s request to his slave Parmeno that he *nunc hanc tu mihi vel vi vel clam vel precario fac tradas* (“make it so that you give her to me either by force or by secrecy or by request”, 319–20) thus bears significant danger of violating a citizen women’s rights and disrupting Thais’ plans.¹²⁴

To fulfill Chaerea’s desire, Parmeno suggests that Chaerea dress up as the old eunuch who is at Thais’ house with Pamphila. By gaining entrance through a costume, Chaerea desires to live together with her, eat with her, and sometimes even sleep next to her (366–68).¹²⁵ Once he is inside the house, however, he spots a painting upon which Jove is depicted impregnating Danae.¹²⁶ Spurred by the painting, he casts aside his desire to *propter dormias* (“sleep beside her”) and rapes her by force after locking the doors.¹²⁷ In the scene after, Chaerea emerges from the house in high spirits. He tells another young man all that has occurred, up to the point

122 Schippers (2007): 97.

123 Schippers (2007) provides the example of a girl in a school setting who used to be part of the “preppy”, popular crowd. But once she began to wear tighter clothing and was subsequently attacked by members of the “preppy” crowd, she was accepted into the “badass” crowd, who were lower in the social ladder than the “preppy” crowd. For more, see Schippers (2007): 95–96.

124 Recall that the one of the ways in which non-consensual sex was considered rape was if it was done *de vi* (“by force”), hence the *lex Iulia de vi*. Chaerea’s demand of his slave already hints at the lengths he will go to fulfill his desire.

125 When Parmeno restates what Chaerea will gain from gaining access to the house, he says *tu illis fruare commodis quibus tu illum dicebas modo: cibum una capias, adsis, tangas, ludas, propter dormias* (“You could enjoy the benefits which you were just saying would be his—eat with her, live with her, touch her, play with her, sleep next to her”, 372–73, Barsby’s translation). The two additions that Parmeno makes to Chaerea’s statement, *tangas* and *ludas*, are both metonymic for sex, according to Adams (1982): 189. It is ultimately unclear why Parmeno seeks to introduce sexual terminology, perhaps as an insertion of his own desires, which fall in line with Richlin’s (2017) arguments in Chapter 2 that “male slaves commonly complain of their own exploitation” and perhaps assert their own sexual desire (268).

126 For much more on the way in which paintings and other artworks can inspire mimetic action, see Germany (2016).

127 Locking the doors is a symbol of the marriage ritual, along with being bathed and being carried by attendants, as Pamphila is. The mention of bathing might remind us of Plautus’ *Truculentus* in which the play does a double play on expectations in relation to bathing and rape. We might also think of the rape of Semele in the river Asopus by Zeus. For more on the marriage ritual in *Eunuchus*, see Philippides (1995): 272–284.

of locking the door.¹²⁸ The young man asks *quid tum?* (“what then?”, 604), to which Chaerea exasperatedly responds *quid ‘quid tum,’ fatue?* (“what do you mean, ‘what then’, you idiot?”, 604). He never explicitly says that he had sex with her, but instead puns on the word *futuo* (“I had sex”) as *fatue*. Though he is not making a joke, per se, the pun places the conversation into a witty banter, the type which is typical and typically funny in the Roman comedy genre. At the very least, he is making a joke out of the situation, overlooking the violence he has just done.¹²⁹

By contrast, Pythias, a female slave of Thais, brings the victim’s suffering to the fore. Upon discovering the rape, she runs out of Thais’ house asking where she can find the wicked criminal (643). She also reports that exceptional cruelty was done to her on top of the rape as well: *quin etiam insuper scelus, postquam ludificatust virginem, vestem omnem miserae discidit, tum ipsam capillo conscidit* (“Why, on top of it all, after he’d had his fun and games with the poor girl, the villain ripped her whole dress and tore her hair.”, 645–46, Barsby’s translation). Chaerea made no mention of this in his retelling of the event. Note how Pythias uses the word *ludificatust* which Barsby eloquently translates as “had his fun and games with”, which recalls and criticizes the joking and humorous tones Chaerea used to describe the rape.¹³⁰

In contrast to Chaerea’s jollity, when Pythias and her mistress Thais confront Chaerea, still dressed in the eunuch’s disguise, Thais and Pythias’ tones are very much serious. She asks, *credin te impune habiturum* (“do you think you would get away with this?”), a question which recalls the sentiment of the *paterfamilias* in *Adelphoe* who asks *in qua civitate tandem te arbitrare vivere* (“in what state do you think you live?”). Both, at least in the beginning of their confrontations with the rapist, are looking for punishment. Chaerea continues his trend of making light of the situation by claiming that he had only done *paullum quiddam* (“only a small thing”, 856). Incredulously Pythias exclaims *eho, ‘paullum,’ impudens? an paullum hoc esse tibi videtur, virginem vitiare civem?* (“what, only a small thing, shameless one? Does this thing seem to you to be small, to rape a citizen maiden?”, 856–58).¹³¹ Chaerea defends himself by saying that he believed her to be a *conservam* (“a fellow slave, 858). Again, Pythias, incredulous, *conservam! vix contineo quin involem capillum monstrum!* (“a fellow-slave! Scarcely I am able to stop myself from tearing at his hair, the monster!”), 859–60). Notice how Pythias co-opts the words of the rapist in order to point out the absurdity of his statements. How could the crime be small if the victim were a citizen?¹³² And how could Chaerea believe her to be a “fellow-slave” if he knows himself to be a citizen? She even co-opts the language and the trauma of the rape by aggressively threatening to tear out his hair, the same action that he had committed against the victim after the rape. Pythias parodies the rapist to point out the absurd logic driving the rapist’s defense and threatens the rapist’s actions against himself

128 Anderson (1984) cites Donatus who tells us that this scene in Menander was a monologue rather than an exchange (134, note 9). Though it is unclear if Chaerea would be any more sympathetic if he delivered the facts of the deed in a monologue instead, moving it to a dialogue exchange does him no favors. As mentioned, James (1998) points out that monologues are often associated with believability and neutrality. But to a greater degree, I think, having this exchange between two men brings out Chaerea’s boastfulness and jokes. It is not so much that the other man is pressuring him to speak this way, but a man’s presence invites Chaerea’s worst side to come out. For a sociological take on peer presence as opposed to peer pressure, see Denworth (2020): 106–110.

129 There is a significant gender divide in how men and women refer to the rape. In the play, the verb most commonly used to describe the rape is *vitiare* (“to spoil, contaminate”). Moreover, Adams (1990) observes that the six times that Terence uses “*vitio*” in *Eunuchus* are the only times that Terence uses it in his entire corpus, five of which are attributed to Pythias. Only women use the term in the play, while men are more likely to use a more generous, general term such as *facere* (“to make”) (657) or refer to the rape euphemistically and punningly. Chaerea, strikingly, never spells out that he had sex with her. Women are more likely to refer to the rape as a crime or contamination, men as a joke. James (1998) notes that Chaerea also uses the word *potior* which “elides rape and [implies] ownership” (39).

130 These plays were also often put on during the *ludi*, a day(s) of festivals, games, and plays. Using this word here reminds the audience of their own spectatorship, how they too are making a “play” out of the victim.

131 James (1998) comments on other characters who criticize Chaerea, including Parmeno, his slave (39). She also goes through great detail in listing all the criticisms Pythias levies against Chaerea (42–43).

132 The implication that the crime was not small because the victim was a citizen logically implies that if a rape were done to a non-citizen, it would be a small thing. Pythias’ statement resembles legal definitions of rape, which is similar to how the *paterfamilias* construct their accusations against the rapist. The difference here is that Pythias is a slave character, who is essentially saying that if a rape were committed against her, it would be a small thing. We could see this as a statement where Pythias is pointing out the reality for female slaves and/or is buying into the ideology that slaves were essentially non-persons.

to turn an expression of dominance into an expression of resistance.¹³³

But Thais calls her off, *abine hinc* (“come off it!”, 861, Barsby’s translation”) and calls Pythias insane. At this point that we begin to realize Bacchis is more like the fathers of the victims in more than one way. Thais makes clear that she is not seeking retribution because of her emotional connection to her adopted sister, someone whom she has grown up with. Instead she stresses how much Chaerea has thrown into doubt her plans, *ut eam non possim suis ita ut aequom fuerat atque ut studui tradere, ut solidum pararem hoc mi beneficium* “so that I [Thais] am not able to return her to her own family as it was right and as I desired, so that I can get for myself a real benefit” (869–71). The word *solidum* which I have translated as “real” is telling of Thais’ focus in this scene. As an adjective, *solidum* describes the nature of the noun as solid in the sense of dependable and substantiated, as in the sense of “you did me a solid”. But it also carries an accessory meaning of “gold coin” as a noun. Even if Thais is not seeking after money specifically, the word *solidum* highlights the way in which she views Pamphila as a transactional object.¹³⁴ In that sense, Thais behaves in kind with the fathers who constructed their daughters as economic objects and in kind with Bacchis from *Hecyra* who acted for her own (financial) gain.^{135, 136}

To a certain extent, though, Thais has no options available to her other than to arrange the marriage. The *paterfamilias* has the force of the law and the danger it poses; Thais has no legal recourse to personally prosecute the rapist in a court of law. Chaerea knows this. He calls Pamphila a *conserva* to imply that he is Thais’s *servus*, symbolically prostrating himself under her power. But the surrender of power is clearly facetious. As a citizen, he would be exempt from the near limitless range of punishments a master could bring onto their slave. The surrender of power is purely fictional, a part that he is acting out, and in reality highlights Thais’ powerlessness to exert legal punishment.

So Thais instead chooses to strike a bargain with Chaerea: he will marry her adopted sister. It is a decision that will benefit her when she returns Pamphila to her family “intact” by buying into the mentality that women are economic objects, a decision that will strengthen the rapist’s dominant position over his subaltern wife, and a decision that infuriates Pythias. She cannot believe that Thais would let him back into the house to create some new disturbance *denuo* (“a second time, another time, again,” 899). As her mistress, Thais imperiously commands her *tace obsecro* (“be quiet!”, 899).¹³⁷ Twice before the command *tace obsecro* has been used—both by Pythias—one in response to the rapist’s brother who tries to hide the identity of his brother (685) and one in response to Thais herself who is accusing her of negligence in protecting her adopted sister (834). That Pythias should have used the command is striking when we consider whom she commanded to be silent: a male citizen and her own mistress. She disregards the normal hierarchy of power, especially in cases when characters are attempting to uphold that hierarchy. When Thais takes a phrase that has uniquely belonged to Pythias and uses it against her, we are reminded of Pythias’ own strategy of resistive efforts in which she co-opts the language of the dominant culture. In a cruel twist of fate, this strategy is used against her in turn,

133 One might think of this repetition and co-opting in relation to Caston’s “Reinvention in Terence’s *Eunuchus*”. Caston is interested in the literary question of how Terence and how characters within the play are concerned with being a latecomer to comedy and being a latecomer to the parts they play, respectively. Caston and Terence are also interested in the idea of *contaminatio*, which (though a literary term) we might think in relation to how victims were considered “contaminated”.

134 When Thais is in the process of connecting Chremes to Pamphila, she coyly says that *hanc tibi dono do neque repeto pro illa quicquam abs te preti* “I give this to you as a gift but I do not I seek any gift from you as a reward in return” (749), simultaneously using the language of reward and gifts while ostensibly denying its necessity. Chremes immediately replies that *ita uti meritas gratias* “thus you will have as you deserve” (750), to which Thais has no objection. Suddenly, suspiciously, she seems not to mind the reward even if it is not in coin.

135 On married daughters as a transactional piece between two households, see Caldwell (2015): 128. More generally, Levi-Strauss (1969: 478–480) discusses marriage as the chief process of exchange between families.

136 Critical literature has deliberated on whether Thais is a “good” or “bad” courtesan. Gilula (1980): 164 argues that she has genuine affection for Phaedria, which would ingratiate us in the audience’s eyes. Gruen (1991): 190 argues that she is tainted by her profession but is good at heart. In relation to her adopted sister, however, her affection must be called into question.

137 James (1998) makes a puzzling remark that “no disinterested or authoritative voice contradicts Pythias’ angry criticisms of Chaerea and his rape” (43). It’s unclear why she thinks a voice must be disinterested in order to be worth discussing as James does not speak further on what these interested voices have to say. Indeed, it is unclear if there are any disinterested voices in the play at all. And that no authoritative voices contradict Pythias is a fully misleading statement because Thais, her mistress, contradicts her at numerous points. To say that Thais has no authority flattens the hierarchy of power between Chaerea, Thais, and Pythias.

showing that the dialogic nature of power allows the subordinate culture to parody the tools of the dominant culture, just as much as the dominant culture is allowed to co-opt the tools of the subordinate culture. Pythias can use the rapist's words against him, but so too can her mistress do the same to her.

Between Thais and Pythias, the balance of power is delicate to ensure that the hierarchy of dominance and subordination remains. Hypothetically, if Thais and Pythias had switched perspectives but kept their respective power, then the marriage might have been seriously threatened. A character with Thais' power and Pythias' critical view towards rape could have both overridden her slave's resistance and had the motive to prevent the marriage (perhaps by informing Pamphila's brother of the rape). At the very least, she would have prevented Chaerea from re-entering the house to facilitate the marriage. It is also important that Thais has a moderate amount of power, while Pythias legally has none. Thais must have less power than Chaerea so that she cannot pursue legal consequences for him, an inability that pushes her to facilitate the marriage instead. This modicum of power then allows and motivates her to suppress Pythias' voice. Thais must have some degree of control and power over the situation, not enough to significantly punish the rapist but enough to significantly support him. In the play, criticism is afforded to those who cannot effect significant change, power is afforded to those who do not wish to effect significant change.¹³⁸

That is not to say that Pythias cannot effect any change. Chaerea fears one thing: that Pythias would *me criminaretur tibi* ("incriminate me to you", 855). This is a puzzling statement. As a slave, Pythias would have even less power than Thais to take him into a criminal court, i.e., Pythias no legal power to do so. Though Chaerea may be being facetious in kind with his later statements towards Thais, I believe Barsby has it right when he translates *criminaretur* as "tell tales". *Criminor* denotatively means a to commit legal crime, but it also has the connotations of doing something that is "reflecting badly on a person, shameful, dishonoring".¹³⁹ His fear is not that he would face criminal charges, but that his misconduct would become known to the wider public and thus bring him shame.

To that end, Pythias engineers a sequence of events where Parmeno, Chaerea's slave, tells Chaerea's father to enter the house, where Chaerea is negotiating the marriage still dressed in eunuch's clothing. His worst fear is realized; he is shamed (1014). To be sure, it is doubtful that he would face any significant repercussions from his own father.¹⁴⁰ But this scene has two crucial effects when we consider it in the context of the genre. The first comes from the fact that this scene is created out of an interaction between two slave characters. While two characters with legal power sit inside negotiating the fate of the powerless victim, outside two legally powerless characters stand deciding the fates of their masters inside. As much as the fathers in our first plays do not need to exercise their excess of legal power in order to force situations favorable to them, so too are slave characters not prevented by their lack of legal power in order to create situations unfavorable to their masters. By extension, this scene makes the statement that it is not Thais' lack of legal power that is preventing her from taking action against Chaerea, rather it is the benefit she will gain from treating her adopted sister as a transactional object that motivates her not to do so. The second point is to acknowledge the real, *solidum* change that Pythias' resistance effects. Chaerea the rapist and Thais the *meretrix* together create a situation where the victim remains under the power of the rapist, both of whom want to keep the *paterfamilias* out of the picture. In effect, they are trying to uphold the fiction of patriarchy, a very similar one to Pamphila and Bacchis in *Hecyra*. Pythias is not just shaming Chaerea, but she is also breaking this fiction of patriarchy, a fiction that represses existence of the rape and omits Chaerea's role as the rapist. Pythias constructs a reality—the reality—of patriarchy. That patriarchy requires effort and often looks foolish: dressed up in the figure of the eunuch.

138 James (1998): 43 rightly points out, however, that Pythias does effect change by creating a sequence of events where Chaerea is discovered by his father in eunuch's clothing, his worst fear (855). In contrast to *Hecyra*, the son's disgrace is revealed to his father, and the "fictions of patriarchy" are somewhat broken. Though Chaerea is rewarded for his rape, the audience and his father see him in a negative light.

139 See OLD s.v. *prodo* 2 for *criminosus*.

140 One might recall the example in *Adelphoe* where the rapist is disciplined by his own adopted father, the more lenient of the two fathers in the play.

On Centers and Conclusions

Weinstein's case is a reality that is only partially represented in the fictions of the *palliatia*. At the center is Weinstein, a man with an incredible amount of power over the industry and thereby his victims. His control over his victim's physical bodies was inextricably intertwined with his control over their financial future, or lack thereof. The ideology of the industry's gendered hierarchy, in many ways, is comparable to the control Weinstein expressed over his victims: male directors staged women's bodies and male scriptwriters fed women lines.

Resistance to the institutionalization of male power meant a risk to a woman trying to make it in an industry that already put an age cap on her career. Some women were made compliant, who in turn gained privileged roles and access to influence. Some, like Donna Rotunno, actively ascribed to and supported the ideology of male power. For the longest time, these strictures and acts of domination created an environment that heavily discouraged women to speak up about sexual assault or, if they did, made their voice non-effective. For the longest time, these victims were subaltern.

But at the time of this writing, March 11, 2020, Harvey Weinstein has been convicted on one count of first-degree criminal sexual act and, in the case of Jessica Mann, one count of third-degree rape. He was acquitted of the two counts of predatory sexual assault, which requires proof of the use of physical force—his power in the movie and entertainment industry made the use of force unnecessary. Donna Rotunno, his defense lawyer, said that she would appeal to the courts to show that “this [sentencing] has been unfair from the very beginning, and here's just one more thing we can add to the list of things that did not show a fair, just, and impartial trial,” sounding remarkably like she is commenting on a *consilium*. Her success rate in defending rapists has dropped from 97.5% to 95.1%. Jessica Mann asked for a lengthy sentence, saying that it was finally time for “people who rape other humans” to face severe punishments. He received twenty-three years in prison, close to the maximum sentence. Though he cannot face capital punishment for rape, for Harvey Weinstein at 67, the sentencing of twenty-three years might as well be.

The rapists in these plays never face severe punishments for their actions. Ultimately, these plays put on fictions of repressions—they all end in a marriage between rapist and victim and reassertion of power. But these plays also demonstrate the immense effort the powerful must make in order to keep their power over others. And these plays also reveal how fictional their representations of power are, lacking in power to describe the reality around them. What's more, these plays display the power that subordinate people wield: some in support of dominance, yes, but some to support other subordinate people.

In the *palliatia*, characters represent people with differing levels of legal power. And certainly, for the *paterfamilias* at least, this legal power is important to achieve their purposes. But in the world of the *palliatia*, a lack of legal power does not imply a lack of ability to effect change and resistance in their plays. What ultimately matters is relationship and orientation. How a character is oriented towards the hierarchical relationship between men and women, or masters and slaves, is the strongest determinant of the actions they take to repress subordinate peoples or resistant dominant peoples. For rape, when we reorient ourselves to shift the marginal voices of victims towards the center, we disrupt the fictions of masculinity that seek to hold them in place. As Jessica Mann said in her statement to the court, “the day my uncontrollable screams were heard from the witness room was the day my full voice came back into my power”.

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