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Rape, Racism and Victim Advocacy

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As a director of a victims' advocacy program, a woman of color, and a survivor of abuse, I am used to living within the margins of a society that creates hierarchies based on gender, race, class and sexual orientation. As an activist who works for women's equity and against gender-based violence, my initial inclination is to believe and support a woman who claims she has been violated. The statistics certainly show that domestic violence and sexual assault are crimes committed primarily by men against women.

Women are often blamed for their own victimization by either making "poor choices" or not getting out of the situation sooner. However, the analysis of who is a "good" or sympathetic victim, who is the "bad" stereotypical perpetrator, and what is the appropriate community or legal response, is not so simply defined. Add to the mix an alleged victim who is White, the accused who is Black, and the criminal offense of sexual assault. Here is where the concept of justice is at a crossroads, and the issues of rape and racism collide.

Mainstream victims' advocates have applied a one-size-fits-all approach of victimhood that has usually benefited White middle-class women to the detriment of people of color. There is often no room for a systemic analysis of rape, class and gender since these discussions are viewed as divisive to the "real work" of ending violence against women and tantamount to treachery within the movement. Yet, as a woman of color, I am reluctant to be an ally with anyone who has the unbridled potential to perpetuate gender or racial violence or disenfranchisement. A fundamental tenet to my survival is to critically analyze not only both sides of any argument, but also the contradictions that lie in-between.

On the one hand, when a woman seeks assistance as a victim of domestic violence or sexual assault, there is no standardized litmus test that she must pass before being deemed a "victim" beyond conducting a screening and accepting her personal plea for help. Within victim service organizations this automatic acceptance is certainly appropriate given the long legal and societal history of women not being believed, then sent back to their homes to face escalated violence or even death. Put simply, it is essential to our work as victims' advocates to believe a woman who claims to be a victim of gender-based violence because her word, when compared to the denial of the abuser, is often deemed unworthy of belief in a patriarchal society.

Many women seek victims' services without ever seeking recourse through the legal system. The legal process has its own inherent risks of victimization and limitations of access, particularly for women of color and poor women, and therefore is simply not a practical option of protection for many women. Requiring victims to furnish proof of abuse prior to receiving services simply reinforces the stereotype that all abuse is quantifiable, and that the only way a woman is to be believed is by conducting her own investigation into her own victimization prior to seeking services. Believing victims is something victims' rights organizations must and should do within the context and the purpose of our work.

On the other hand, outside of the victim service organizational context, there is a heightened standard for who is deemed a victim. In a recent controversial and precedent setting ruling, Colorado District Judge Terry Ruckriegle instructed prosecution and defense attorneys in the Kobe Bryant sexual assault case to refer to the accuser as the "alleged victim" rather than the unqualified "victim" in all court proceedings. In his three-page ruling the judge wrote,

"The common understanding of the term 'victim' certainly implies that a person has been the subject of a particular wrong or crime, and its use *under these circumstances* [emphasis added] could improperly suggest that a crime has been committed such that the presumption of innocence might be jeopardized." The judge explained that the more neutral language does not assume a crime was committed. Bryant is a Black, 25-year-old, wealthy NBA star, accused of sexually assaulting a 19-year-old White woman. He asserts the sex was consensual, while the alleged victim claims that Bryant raped her.

The ruling is controversial because prosecutors and mainstream women's rights advocates assert that that Colorado law refers to a victim as "the person *alleging* [emphasis added] to have been subjected to a criminal sexual assault" and those victims' rights attach to the victim as soon as a crime is reported. Further, the Victim's Rights Act requires prosecutors to call the person who is alleging that a crime was perpetrated against them a 'victim.' Cynthia Stone, spokeswoman for the Colorado Coalition Against Sexual Assault, stated in the Denver Post: "In Colorado, a district attorney is under an ethical obligation to file charges only if they in their heart of hearts believe a crime has been committed, and if they believe they can win the case. This is forcing them to compromise on that." She also said that sexual assault is not treated as other serious crimes such as such as robberies or muggings where the use of the term "victim" is undisputed.

On the surface, the arguments for keeping the language of "victim" in cases involving sexual assault are compelling and have advocates lining up behind this familiar good vs. bad analysis. However, the problem with using the term victim in a proceeding to determine whether a crime was in fact committed, and that the defendant is guilty of committing that crime, is that it: 1) can create a bias that would harm the defendant's right to the presumption of innocence; and 2) lacks a systemic analysis that takes into account race, class and gender.

Women's rights advocates have no problem pointing out Bryant's class status and his ability to hire some of the best lawyers money can buy. There is no question that Bryant is able to afford a defense team that the majority of defendants would never have access to. Advocates have articulated a fragmented class analysis by pointing out the economic advantage Bryant has, yet ignore their own failures for finding any real solutions for poor women seeking legal recourse. Determining the guilt of Bryant is as much of a community question, as is the motives and credibility of the women's rights advocates who insist on his guilt. When people of color hear White advocates presuming the guilt of a Black man, yet have seen no similar outcries when people of color are discriminated against within the legal system, it is no longer just Bryant who is on trial in the court of public opinion, but the victims' rights organizations as well.

Judge Ruckriegle's words, "under these circumstances" are at the core of a systemic analysis of race, class and gender in sexual assault cases. If it were simply left up to the prosecutor's "heart of hearts" as Stone put it, there would simply be no use for a criminal justice system based upon the presumption of innocence. In situations where the alleged victim is White, and the alleged perpetrator is Black, we need only to look at recent events – connected to a not so distant past – where White women's rape allegations against Black men were vigorously investigated and prosecuted with all too often racist outcomes.

In February 2003, 18 year-old Marcus Dixon, who is African American, was arrested and charged with imprisonment, sexual battery, aggravated assault, misdemeanor statutory rape and aggravated child molestation of a 15-year-old White girl. Dixon at the time was a 6-foot-6, 265-pound defensive lineman. As a star athlete and National Honor Society student he had been awarded a full scholarship to Vanderbilt University. The high school senior was convicted and sentenced to serve a maximum 10-year sentence without the possibility of parole in the Georgia State Penitentiary.

Dixon maintained that the sex was consensual, while the alleged victim claimed she was raped. Jurors acquitted Dixon of all forcible rape charges, but found him guilty of the child molestation charge based on the law against having sex with someone under 16 years old, even though he was less than three years older than the alleged victim. The Floyd County District Attorney, John McClellan, attached the aggravated child molestation charge to the case, seen by some as a guaranteed way to get a conviction even if Dixon was found not guilty of the other charges. The jurors were placed in the position of convicting Dixon with the one thing that seemed indisputable: having sex with an underage girl. Many of the jurors later decried the severity of the sentence as being disproportionate to crime.

Despite the District Attorney's denials that race was a factor in his aggressive prosecution of Dixon, supporters of the young man, including elected officials and representatives of the NAACP, asserted that as an African American living in the South, the case carried very distinct racial overtones. In sum, Dixon violated the anti-miscegenation mores condemning sexual relations between Black males and White females in a town where racial stereotypes and racist practices are part of the fabric of the community. The

accuser is the daughter of an avowed racist and was terrified that her father would find out that she had sex with a Black man. She did have evidence of vaginal bruising and a torn hymen, which the defense contended was consistent with the girl having intercourse for the first time.

Dixon's legal guardians, who are White, reportedly received ongoing threats, allegedly from the Ku Klux Klan. Dixon lost his full scholarship to Vanderbilt University after his arrest, and was permanently expelled from high school just one course away from graduation. In May 2004 the Georgia Supreme Court issued its ruling overturning Dixon's conviction on appeal. The Court held that Dixon should have been prosecuted only on the lesser charge of misdemeanor statutory rape, which carries a maximum sentence of one year and a \$1,000 fine, rather than aggravated child molestation. By the time he was released on his own recognizance, Dixon had served 15-months in prison. The District Attorney is filing a motion for reconsideration with the court, and the girl's parents are planning on suing the school district.

Contrast Dixon's situation with the case of Akrika Dawn, a University of Colorado football player who was accused by a female student of sexually assaulting her. Through DNA testing, Dawn, along with an unidentified teammate, was cleared in 2004 of the rape charge, but not before facing the possibility of serving time for a crime he did not commit. The alleged victim reported to the Boulder Police Department that in August 2002 she left a bar very intoxicated with two Black men who may have walked her home, and then was raped and sodomized by one of the men while the other watched from an adjacent room. Unable to remember the events clearly, she gave the description to the police that the men were "two big Black men" and could have been CU football players. Dawn and the teammate had been in the bar that same night. An unidentified witness who saw them in the bar that evening gave police their names. DNA tests later cleared both of the teammates, but the damage to these young men had been done. In a prepared statement, read by his attorney, Dawn proclaimed his innocence and spoke out as a victim of racial profiling:

"My case is here to show you that there are false allegations going on and racial profiling... My heart goes out to the victim. Rape is a terrible thing. However, I feel appalled that all the investigation had as a description of the possible perpetrator was that he was 'big and Black.'

She didn't know if the people she was talking to in the bar were football players but assumed so merely because of their size and race... Whenever I go out on the town, the mere fact that I am big and Black makes me a target for any investigation."

Dawn's attorney, Nancy Holton, backed up his assessment stating, "In Boulder, if you're Black, you're a sitting duck for accusations."

Mainstream victims' rights advocates who were so vocal about the rights of the alleged victims in the Kobe Bryant and CU sexual assault cases, were silent when these Black CU students were wrongfully implicated. Here were two verified victims of racial

profiling, and these organizations that championed rights for victims had nothing to say. With these cases, the principles of victim advocacy are at a crossroads where we can either examine the contradictions that have always been part of the legal system and victims' lives, or we can continue perpetuating the overly used one-size-fits-all analysis.

The overly simplistic rhetoric of victim advocacy doesn't address the intersectionality of rape and racism. The either-or approach doesn't allow for an examination of the historical baggage that is ever present when a Black man is accused of raping a White woman, a White man is accused of raping a woman of color, or when men of color rape women of color. As documented since the times of slavery when White men raped Black women with impunity, it is apparent that all too often when a woman of color is the victim of violence, society denies that a crime has occurred. In other words, women of color's experiences of violence are often ignored or unchampioned since, historically, rape of women of color was not seen as rape, but as a natural consequence of our "lascivious" nature. However, violence against White women grabs the media attention, ignites legislative action, inspires protests by women's rights advocates, and creates incentives for funding programs that continue to maintain the status quo.

Until we have honest, challenging, and ongoing dialogues to examine and rectify the contradictions within our work, women of color advocates will continue to work from within the margins of a society that validates certain victims while excluding others. Advocates must resist attempts to present issues as simple binaries: good-bad, Black-White, victims-perpetrators, innocent-guilty. We must be better prepared to give answers that are not just yes or no, but sometimes yes *and* no in contradicting situations. Here are some examples that require analysis between the margins:

- A victim should be identified as such in court proceedings/A defendant is innocent until proven guilty.
- A victim is never responsible for the violence committed against her/A woman can contribute to the perpetuation of a sexist climate.
- A woman works to achieve social and economic independence/A woman may pursue and date a man for his social status.
- Women's rights advocates stand up for the rights of all women/Women's organizations lack meaningful inclusion of women of color.
- Gender inequities exist among all women/White middle class women have race and class privileges.
- Advocates promote the creation of more laws & increased police presence/Racial and economic inequities exist in the criminal justice system.
- The media covers high profile victimization cases/Cases of everyday violence involving women of color are often overlooked.
- A White victim alleges rape/Black men become vilified and positioned against women's rights advocates.
- The identity of a victim of sexual assault is protected/A suspect is publicly identified; victims' of domestic violence identities are revealed.
- Black community representatives support accused Black men/Black leaders do not publicly work on issues of gender violence.

- Interracial relationships are no longer against the law/White women are still elevated over women of color as symbols of success.
- Black athletes are elevated to star status/At CU, Black students comprise less than 2% of the student body – less than 500 out of 24,000.
- Sexual assault victims' advocates work to achieve gender equity/Sexual assault victims' advocates do little to promote racial equity.
- Athletic scholarships are one way for a few Black men to achieve higher status/Sports culture promotes racial and gender inequities.
- Women's rights advocates challenge institutions that perpetuate patriarchy/Women's rights advocates resist challenges by women of color regarding racism in the movement.
- Athletic programs promote diversity/Athletic programs do little to improve the social climate for students of color in the general student population.

Either side of these arguments can be justified depending on who gets to define the issues. Yet, simply taking sides without exploring the complexities of the interplay between rape and racism leaves us nowhere in changing cultural norms that support racial and gender inequities. Under these circumstances, when race, class and gender collide, we must be willing to challenge our notions of justice, or risk becoming irrelevant.

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