

Nov-2002

Historical Perspectives on Violence Against Women

Vivian C. Fox

Follow this and additional works at: <https://vc.bridgew.edu/jiws>



Part of the [Women's Studies Commons](#)

Recommended Citation

Fox, Vivian C. (2002). Historical Perspectives on Violence Against Women. *Journal of International Women's Studies*, 4(1), 15-34.
Available at: <https://vc.bridgew.edu/jiws/vol4/iss1/2>

This item is available as part of Virtual Commons, the open-access institutional repository of Bridgewater State University, Bridgewater, Massachusetts.

Historical Perspectives on Violence Against Women

By Vivian C. Fox, Ph.D.¹

Abstract

Three great bodies of thought have influenced western society's views and treatment of women: Judeo-Christian religious ideas, Greek philosophy and the Common Law legal code. All three traditions have, by and large, assumed patriarchy as natural – that is male domination stemming from the view of male superiority. As part of the culture perpetuated by these ideologies, violence towards women was seen as a natural expression of male dominance. This paper contains three main themes. The first establishes patriarchy as an early pattern of military societies and the subsequent emergence of the Judeo-Christian, Greek and legal cultural paradigm as ideological justification. The second provides evidence as to how the above attitudes were interwoven in European and American values. The third theme analyzes the new 18th century cultural paradigm of liberalism which rejected male dominance, lessened the manifestation of patriarchy, without removing its cultural memory, thereby, allowing violence towards women to remain.

Key Words: History of violence against women; Patriarchy; Western ideology

Introduction

Three great bodies of thought have influenced western society's views and treatment of women: Judeo-Christian cultural beliefs¹, Greek philosophy and the western legal code. All three traditions have assumed patriarchy as natural; that is, male domination stemming from the view of male superiority -- with some exceptions, as in Plato's *Republic*². As part of the culture perpetuated by these ideologies, violence towards women was seen as a natural expression of male dominance.

The definition of violence in this paper is taken from the U.N. *Declaration on the Elimination of Violence Against Women* to include,

Any act...that results in...physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or in private life.³

This paper examines from an historic perspective, two types of violent acts towards women mentioned in the U.N. *Declaration* and it contends that both contributed to the psychological harm of women. The first, known as husbandly or marital chastisement involves the infliction of physical or verbal pain, or both, by the husband on his wife. It has as its intention the assertion of a husband's right to reprimand and therefore to control the behavior of his wife if he believes she has misbehaved. The second violent act I will discuss is rape, specifically marital rape. Here, too, I use a U.N. definition, that of *The Rome Statute of the International Criminal Court* which defines rape as,

¹ Professor of History. Worcester State College, Worcester, MA. For comments contact Vivian Fox at vfox@worchester.edu.

[The invasion of] the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ [when]... The invasion was committed by force, or by threat of force or coercion...or abuse of power...⁴

My general approach is to construct an argument, which demonstrates the relationship between the three belief systems mentioned above, and violence towards women. I do this by deconstructing the ideas that reveal attitudes towards women, which place them in inferior positions to men. I further maintain that in their explanation of difference-as-inferior, and in their long-standing cultural acceptance, they have imprinted a psychic cultural memory that lingers and continues to motivate belief and behavior, despite historic change. Thus, reinforced by ideology and by long-held patriarchal cultural practices, the cultural psyche retains the long-held beliefs even when circumstances alter.

This paper contains three main themes. The first theme establishes patriarchy as a pattern of military societies re-enforced by the emergence of the Judeo-Christian, Greek and western legal values, which provided ideological justification of its practice. Further, it demonstrates that there was and remains, a basic link, between the ideas espoused by patriarchy and the actual violence towards women.⁵ The second theme demonstrates, through discussion and case study, how patriarchy adapted itself and became interwoven in the fabric of European and American values. These provide concrete illustrations that the patriarchal paradigm was not only accepted by men who devised it, but also inferentially by women who defended its main precepts, that of their inferiority, and their need for male protection. Finally, the third theme introduces and provides some analysis of the new cultural paradigm of liberalism, which, emerged about the 18th century in the west. This paradigm, “in theory”, rejected the precepts of patriarchy, and male biological superiority. In my conclusion, I assert that the new liberal paradigm has initiated a cultural shift by lessening the manifestations of patriarchy without, as yet, eliminating many of the older psychic patterns, so that violence towards women still remains.

Emergence of a Patriarchal Paradigm

It would be inaccurate to characterize either gender as monolithic. For among themselves, men and women differ by class, religion, race, experience, and much more. Yet, it should not be forgotten that there is a common core of cultural experiences shared by each gender, which affects her development. For most of western history, hierarchy of gender was one of the predominant methods of ordering society. Gerda Lerner, for example, posits a “working hypothesis” which explains establishment of patriarchy with the rise of militarism, in the emerging archaic state system. Then the victorious, usually a small group of male warriors, asserted their dominance over those whom they conquered, consolidating their power through institutions which justified their superiority.

Occurring around the third to the second millennium BCE, a system of male dominance began to evolve and along with it an ideology of “patriarchal privilege” that justified superiority of the victorious men over women.⁶ Implicit in this patriarchal ideology was the view that those outside the hegemonic male group, the losers, were different from and inferior to the victorious males and were, as defeated enemy,

identified as deviant. It followed, therefore, that violence and subjugation of deviants would be necessary to maintain a well-ordered society.

Since women constituted an important part of the newly conquered deviant group, and were more easily subdued because of their inferior physical strength and nurturing tasks, they were given the opportunity to protect themselves and their offspring by participating in a “patriarchal bargain”. That is, they obtained protection -- even if it meant enslavement -- for themselves and their offspring in return for supplying sex and housekeeping services to their male captors. Lerner argues that once justification of dominance is institutionalized in “custom, law, and practice, it is seen as natural and just” by those dominated as well.⁷

Throughout the ancient “civilized” world, warfare, geography, and the development of a nation-state gave rise to different forms of patriarchy, which often cross-fertilized and re-enforced one another.⁸ One of the earliest and most significant of the patriarchal systems was the Hebrews, despite their continued polytheistic worship and their acceptance of female Goddesses. For the Hebrews created a theology, passed on in western tradition, which proclaimed God to be alone, “eternal, omnipotent, omnipresent, omniscient, just, good, compassionate, merciful and benevolent” and masculine as his two names, Yahweh and Elohim were revealed to all HIS children.⁹ Further, according to the Bible, God gave his male creation, Adam, the power to name all that he, Yahweh, created. That power, in addition, included the naming of his female helpmate, whom Adam called Eve. Because of the existence of the two creation stories, however, some complications arose in regard to the original status of the first male and female. The older version depicted Eve as being formed from Adam’s rib, while the more recent version claimed the simultaneous creation of Eve and Adam.¹⁰ Perhaps not surprisingly, however, the rib version has predominated for thousands of years, reinforcing the subordinate position of women, a tradition continued at least into early modern times. An example of Biblical patriarchal potency, extending far beyond its creation comes from the words of a woman, Shakespeare’s Kate, who, in the last act of *The Taming of the Shrew*, articulated her patriarchal inferiority as a wife, a role laboriously learned.

Thy husband is thy lord, thy life, thy keeper,
Thy head, thy sovereign; one that cares for thee
And for thy maintenance; commits his body
To painful labor both by sea and land
To watch the night in storms, the day in cold
Whilst thou liest warm at home, secure and safe¹¹

There is another powerful metaphor of womanhood in the Judeo-Christian religion. That is the depiction of Eve as temptress, who seduced Adam into sharing the forbidden fruit. For wasn’t she created, according to the Genesis *Midrash* at the same time as Satan?¹² Written by a small, literary, rabbinical male elite, and Church Fathers, (at the end of 1st, beginning of 2nd centuries CE) the actual elaboration, articulated in Christianity as “the fall”, came after the Hebrew Bible’s version of Genesis was completed. In these revisionist versions, the serpent became an emissary of Satan, sent to seduce Eve. Indeed, the more Eve and consequently all women were associated with serpent and sin, “the greater [the] need [grew] to control, subdue, and

dominate...[them].” Eve came to be regarded as representative of her sex, weak, and lustful: thus, penalty and prevention dictated “that all women subjugate themselves to wiser and superior male figures”¹³

By the early 18th century, gender roles had been culturally encrusted for close to two thousand years. We can interpret the words of such a worldly and heroic person as Benjamin Franklin as a cultural consequence of Eve’s original sin; that all women needed wise male counsel and careful male direction. In a letter written in 1755 to a young woman, Catherine Ray, he counsels,

Let me give you some fatherly Advice. Kill no more Pigeons that you can eat.-
Be a good Girl, and don’t forget your Catechise.-Go constantly to Meeting-or
Church-till you get a good Husband;-then stay at home, & nurse the Children,
And live like a Christian-Spend you spare Hours, in sober Whisk, [or] Prayers.¹⁴

Catherine eagerly accepted her male friend’s advice.

Biblical exegesis of female inferiority was supported by a science developed by the Greeks, first by Aristotle, then perfected by Galen and confirmed over and over again until the 17th century. The Greeks asserted that humans were the most perfect animals and that among humans, men were more perfect than women were since they were hot and women were cold. Heat determined superiority, yet men and women were considered homologous, that is the same, different only in the configuration and placement of organs, which were determined by bodily temperature. Since women were cooler, their organs were unable to protrude, and thus remained internal, whereas the heat of men thrust the organs outside. Galen, argues the homologous position. To envision a woman’s anatomy, he advises,

Think first...of the man’s [external genitalia] turned in and extending inward between the rectum and the bladder. If this should happen, the scrotum would necessarily take the place of the uterus with the testes lying outside, next to it on either side...You could not find a single male part left over that had not simply changed its position.¹⁵

Women, however, were not men despite the fact they had all of men’s organs because they were without heat and, therefore, *a priori* could not achieve perfection. In fact, it was argued that conception could only occur with the increase of female heat, which required male stimulation of the female, until orgasm. In 1740 when the Empress Maria Theresa was unable to conceive, her physician advised stimulation. “I think the vulva of Her Most Holy Majesty should be titillated before intercourse.” His advice apparently worked, she and her husband had at least 12 children.¹⁶

Women’s need for sexual stimulation for conception, believed to be their natural goal, led most specialists on the subject to infer that they were sexually insatiable. Once established and reiterated over the centuries, our cultural psyche acted as if women’s sexual insatiability were part of nature. “Women are always ready for sex...and they need no preparation for it,” the 13th century canonist, Hostiensis, bishop of Ostia, proclaimed.¹⁷ Such an attitude was maintained in the 17th century when Robert Burton in 1621 wrote, “Of women’s unnatural, insatiable lust, what country, what village does not complain?”¹⁸

Psychic cultural beliefs regarding the insatiable female sexual drive, moreover, have not disappeared in contemporary times. Some 20th century legal scholars, for example, makers of policy and writers, have made the claim that, “most women at some point entertain fleeting fantasies of rape.” Other legal commentators during the 1950’s and 60’s assumed, even in cases of rape, that it was accepted practice for a woman to deny that she wanted intercourse, when she really wanted it. And, further, these same legal scholars maintained that “since it was ‘always difficult in rape cases to determine whether the female really meant ‘no’, a woman should be required, to convey her resistance by more than with a ‘mere’ verbal protest, or such infantile behavior as crying.” In the following decades, other examples demonstrate similar assumptions about female sexual insatiability. Surveys on rape taken in the 1970’s and 1980’s, for example, reported that two-thirds of those responding believed that women encouraged the rapist by their appearance, and those who were victims either were promiscuous or had “bad” reputations.¹⁹ In a relatively recent *N.Y. Times Magazine* article entitled, “The Last Taboo”, a female lawyer in her mid-40s mouths this sentiment when she declares, “women’s lib is a bunch of crock. We all secretly want to be taken—forcibly and made love to.”²⁰ In one form or another, the propaganda about Biblical Eve, (read: women), the temptress, and sexually insatiable, continues to influence the beliefs and actions of both sexes.²¹

The last important set of ideas I want to examine is the law in the west, which played a significant role in articulating and re-enforcing male superiority and domination. A focus on the common law system established in England in the 11th and 12th century confirms the manner in which law was interwoven with theology and science. Culture dictated patriarchy and patriarchy subordinated women. Under the common law, for example, wives were often treated as property or objects of their husband’s inclination. As explicated by the 18th century legal expert William Blackstone, the common law doctrine of *coverture* reflected the theological assumption that husband and wife were “one body” before God. From that assumption it followed that they were “one person” under the law and that one person was the husband. By establishing “a legal unity” in the form of the husband, the common law required a married woman to enlist her husband to co-sign if she signed a contract, if she sued or was sued, and if she wrote a will. In the last case, a husband was mandated to consent to all parts of her will, although, he could change his mind at any time should he so desire.

Patriarchy dominated the economic relationship of the couple as well. The common law allowed a husband to legally control his wife’s real property, as well as her personal property acquired during marriage, such as clothes, jewelry or wages. A husband’s dominance continued in such other significant areas as, decisions of domicile and the duty to correct or to chastise his wife physically or verbally should he believe it necessary. The wife, on the other hand, had no right of veto over her husband’s decisions, including those related to her property, nor could she with impunity verbally argue with him; if she tried, she would be regarded as a “scold” and punished. A pamphleteer commenting on the twin doctrine of common law and ecclesiastical sacrament of the indissolubility of marriage said it was a “nefarious custom” for married women who were “despoiled of their money, goods and chattels...and condemned to prison for life.”²² Presumably the perspective of most husbands would differ, however. The old English proverb which said, “A spaniel, a woman and a walnut tree, The more

they're beaten, the better they be" might be more consonant with their patriarchal privilege.²³

From the earliest civilizations on, the subjugation of women, in the form of violence, were facts of life. I would now like to focus in greater detail on two aspects of that violence, physical chastisement and marital rape concentrating primarily on those early modern centuries when patriarchy blossomed in the west.

Marital Chastisement and Marital Rape

From the above discussion, it would seem fairly clear that many of our forefathers, be they Greek, Hebrew, Christian or English accepted female inferiority and women's sinfulness advocating, as a consequence, the necessity of male rule, male laws, the superiority of male intellectual contributions, and consequently by extension the advocacy of dominance as natural, inherent in the nature of things. Woman's contribution, it was believed, was essentially in the areas of procreation and domestic affairs, contributions of far lesser value than those of men.

Marital Chastisement

The argument, therefore, is that since man's role in society was to rule in the public sphere as well as in his private household, he, as ruler, needed to have the power to reprimand: physical chastisement of his wife was regarded as a necessary duty, socially accepted in male circles.²⁴ Its rationale relates to Eve's punishment, for disobeying Yahweh eating the fruit and "seducing" Adam to share her sin. All educated, religious people had imbibed the moral from *Ecclesiastics*; that "from a woman was the beginning of sin, and because of her we all died."²⁵ God's punishment of Eve required that she obey her husband, a dictum joined by the common law's sanction that husbands rule their household and impose "moderate correction" when necessary – a sentiment, shared by other European countries as well.

To justify their power, men wrote pamphlets characterizing women as requiring male guidance, peppered with underlying implications, that otherwise they would receive chastisement. Daniel Rogers, for example, in "Marriage Manuel Matrimonial Honour" told his female audience to "remember thy sex is crazy ever since Eve sinned".²⁶ Richard Hooker declared that it was a good thing that fathers gave away their daughters in marriage for it put "women in mind of a duty wherinto the very imbecility of their nature and sex doth bind them, namely to be always directed, guided and ordered by others."²⁷ In a pamphlet by William Tyndale entitled, "Obedience of a Christian Man" husbands were instructed that, "God which created woman, knoweth what is in that weak vessel (as Paul calleth her) and hath therefore put her under the obedience of her husband to rule her lusts and wanton appetite."²⁸ Legal guidelines allowed a husband's instrument of correction to be as thick as a man's thumb -- the origin for a rule of thumb but forbade the drawing of blood.²⁹

One might be skeptical, however, if in the heat of passionate chastisement the guidelines were always obeyed. Records from church courts, the London Consistory Court, London records, and Connecticut court records, demonstrate that chastisement often developed into wife beating, prevalent during the 16th, 17th and 18th centuries. The records reveal that male maintenance of household order was so infiltrated with relationships of dominance and subservience that brutality was commonplace.

Some examples: In the London consistory court from 1711 to 1713, it was recorded that butcher Anthony Pitts locked up his wife, beat and kicked her out in the street because her aunt would not stand as security for her. Also, Rebecca Hudson's husband Garven held a dagger to her neck threatening to cut her up if she screamed, because she would not stand as security for him for a loan.³⁰ Husbands claimed other reasons for beating their wives: Extravagance, verbal defiance and sexual jealousy, among others. One Thomas Hull, a barber wanted his wife to give him the record of the separate settlement she brought into marriage. When she refused he beat her till she miscarried, threatened to send her to the madhouse, threw her clothes into the fire and tried to burn her.³¹

Many women suffered in silence, afraid they would receive punishment such as having the bridle placed on their head. A bridle was an iron cage, which fit over the head, often with a spike, or pointed wheel put in the offender's mouth so that the tongue would be pinned. Women who disobeyed their husbands, or who were scolds could be punished with bridle, paraded through the village and not released until they repented. In some instances a husband could request that the jailer bring the bridle to the house, where it would be placed on a bridle hook, threatening the wife to keep still. It is an example of how the state colluded with the patriarchal domination of the husband.³²

Vocal complaints were often a last resort; women turning to diaries with descriptions couched in the conventional language of hierarchy and harmony. Elizabeth Freke wrote in her diary, "My dear husband, borrowed of me [but] not without some force and cruelty". Others, asserting their virtue rejecting accusations by their husband, while simultaneously affirming male supremacy.³³ Too loud a complaint by a wife, however, might lead neighbors to become suspect that the beaten women invited reprimand. When Lemuel Phelps, an accused wife-beater, went on trial in 17th century Massachusetts, his wife was asked what "rules and duties of a wife" *she* (my emphasis) had failed to fulfill?³⁴

Having illustrated the extent to which patriarchy and physical punishment suffused early modern culture, it should be pointed out that that society was not uniform in its advocacy of particular forms of punishment. In 17th century England, Geneva and Massachusetts, Puritans rejected the physical infliction of harm by a husband on his wife. Indeed, in their Body of Liberties, Massachusetts Puritans in 1641 passed the first laws in the world against wife-beating, casting it as "unnatural severity..."³⁵ Geneva followed, joining a growing English Puritan literati who urged that male superiority should assert itself through persuasion not physical reprimand.³⁶ By the end of the 18th century cultural values would support this group of literati.³⁷

Before I turn to a discussion as to why cultural values began to shift, I would like to present one last example of physical reprimand, wife-beating: This illustration comes from France. It is a case study of a 16th century battered wife who claimed that she killed her husband in self-defense.

There are a number of unusual features about this story. First of all it is fully intact, part of a collection of pardon tales of men and women who had committed a crime and who were to be executed. They were, however, given an opportunity to present their case or pardon tale either to the King, to his council, or to one of his officials. It was most unusual to gain such approval and even more unusual to obtain a pardon. As one might suspect in a patriarchal culture, it was easier for a man to obtain a pardon if he

argued that his wife having been caught in an adulterous act had harmed his sexual honor. The man would claim killing his wife was, consequently, a natural reaction. Even if the crime had been premeditated, however, men could well be freed. For the presumption was that since his nature was hot, violence would follow even with premeditation.

For the woman, however, a different standard applied. The authorities rejected a husband's adultery as insufficient cause for her to murder him. Women were cold and therefore not expected to act with passion. Only one kind of lethal action could save a wife who murdered her husband; that was if the act were committed in self-defense and without premeditation. Even when conditions allowed for this leniency, the wife had to be careful how she told her story. First, her appearance had to evoke sympathy. Then she needed to appear with humble posture, as the supplicant.³⁸ Still that was not enough: A wife had to do more. When relating the story to the authorities, the wife had to provide an explanation of the cruelty she suffered as part of the life she lived with her husband; then she was required to describe the moment of irrationality, when, because of conditions of self-defense, she committed the unpremeditated homicide. This, then, is the story of Bonne Goberde of Arnay-Sous-Vitteaux a battered 16th century Frenchwoman.

On Sunday last May 22 (1540), the deceased Savary Toussaint invited to sup with him Jean de Lynot, seigneur de Mulins, and Thomas de Heriot, seigneur de Lousy, and others from the garrison of Vitteaux and Arnay. He told the supplicant, his wife, that she should prepare the supper for them and that he'd go about his affairs. Around 3 [in the afternoon] he returns sees his son Michel Savary, 18 years lighting the fire for supper and his wife cutting the throat of chickens for supper. Right away he began to get agitated...as was his custom. To his son he yells "you worthless paillard, why haven't you gotten supper fixed?" And kicks and swears at him. His mother said, "Baron, my friend, the hour for supper has not yet come" "Baron, mon, amy, L'heure de soupper n'est pas encore venue." The scared son runs away. "As for the supplicant [the one accused of the crime] she hurried to finish cutting the chickens throats. The deceased then addressed his wife with harsh and threatening words to which she responded once again. "Baron, mon amy don't get so angry, l'heure de soupper n'est pas encore venue. Everything will be ready on time. You were wrong to have beaten our son for no cause. Without saying a word the said Toussant slapped her twice so that she fell to the floor. As she got up, the chickens tumbled down, and she had the knife all bloody in her hand, and she said once again that he did ill to beat her when she had done no wrong (note that she concedes in this phrase his right to beat her if she had done wrong). And then though she did or said nothing to displease him, in great fury he took a wooden stake used to hold up the roasting log, and hit her on the side so that she fell stupefied on both her knees and on one hand, the other had curved above over her head still holding the knife. And she said to the deceased that he was wicked to strike her so without cause. He returned to hit her once again and approaching with force, he met the knife, which the supplicant still held above her head, and it pierced his chest just below the heart. And though it was a big pointed kitchen knife, still the wound was marvelously small...Not thinking her husband hurt, the supplicant got herself up, enormously injured though she was, and believing that she was doing the right

thing, went into their garden to pick some currents to appease him. Hearing noise from the house, she came right back, saw her husband on the ground, and someone said he was dead. Overcome with terror, she fled...³⁹

Bonne Gobarde was pardoned; she had learned the right words; she had played the right role, the culture had taught her how a woman must act in order to be acknowledged in society where women were subordinated and men were dominant. The dominance of men took many forms. None was considered more natural, legitimate, and indeed necessary than that the husband rule his wife with physical force if necessary. It was an injunction mandated by the Bible, upheld by law and accommodated by women.

Marital Rape

The rape of women has been long recognized as an offense, mostly against men, who were considered to be the aggrieved party, and secondarily against women even when they were the victims. Punishment and compensation for rape would depend upon the degree to which the crime affected the interests of the father or husband of the victim and damaged the value of the woman. If the raped female were of high status and a virgin, punishment could take such forms as, castration or execution of the rapist; possible forced marriage to the victim; or in, some instances, financial compensation to the father. According to one legal expert, “[r]ape has traditionally been defined by male views of sexuality [so that] to a considerable extent, prohibitions on force against women have functioned to protect men”.⁴⁰ If on the other hand a servant or slave were involved, little or no punishment to the rapist might result.⁴¹ In England, during the reign of Edward I and articulated in the Statutes of Westminster in 1275 and 1285, the crime of rape took a theoretical leap, from being solely a personal family problem to one related to the extension of the King’s jurisdiction as an issue of “public safety”.⁴²

Marital rape, however, was and in most places still is envisioned as a totally different phenomenon. There was no compensation to be paid, no family disfavor, and no feeling that a threat to public safety had occurred. Many, in fact, still consider marital rape to be an oxymoron. For most of recorded history the concept of marital rape was not recognized since the marriage contract presumed wifely consent.⁴³ To many, it may come as a surprise that marital rape was only outlawed for the first time in 1978 when New York State passed a statute which prohibited forced sexual intercourse by a stranger, an acquaintance or a spouse.⁴⁴ Belief in wifely compliance to a husband’s sexual needs, the traditional and broadly accepted cultural commandment, can be traced to about 1760 BCE, when the Hammurabi Code punished a wife by drowning, for refusing to have intercourse with her husband.⁴⁵

Within the belief system of wifely compliance and obedience, and within the theological acceptance of sacramental marriage, St. Paul’s advice to husbands to love their wives as themselves must be understood in its cultural context. Husbands may have been urged to love their wives, as *noblesse oblige*, but wives were “bidden to be subject to their husbands”: Love may have been the language of the husband, but subjection expressed conjugal love of the wife.⁴⁶ Another component of the husband and wife relationship, was the cultural consensus among medical and religious men that

marriage incurred a “marital debt,” and conjugal sexual relations were at its center, forced or not forced. Marital rape, therefore was not part of the Christian lexicon.⁴⁷

Having said this, it is important to note that in the middle ages, a non-Christian European source of law understood that conjugal relationships included the feelings of a wife. In the Jewish law as recorded in the *Halakhah*, there is a discussion about the importance of equality in sexual relationship (the laws of the *onah*). Specifically, it stated that “a man [should] satisfy his wife’s sexual needs, and in addition it forbade him to rape her.”⁴⁸ This is a rare, but noteworthy recognition of female feelings, probably rare as well in practice, but still noteworthy, if only because the sentiments expressed are from a culture suffused with patriarchy.

In 17th and 18th century England and America the presumption of the “marital debt” prevented any legal recourse or recognition of the notion that rape within marriage could transpire. Even despite evidence of legal cases in 18th century London, that demonstrated that the “refusal of a husband’s sexual demands provoked [infliction of] physical and sexual violence” against his wife. Court records reveal that when Amelia Brazier refused her husband’s sexual advances because she feared his solicitations with prostitutes would give her venereal disease, her husband demanded the marital debt despite her objections.⁴⁹

The generic law of rape, as mentioned above, did not even discuss marital rape, until 1978, and then only in New York State. That law outlawing marital rape was not born from the head of the New York legislature, however. Its existence grew from the emergence of a new cultural paradigm that began to develop during the 18th century. It was first expressed in ideas, then manifested in reform movements during the 19th century, when some reformers recognized that rape and marriage were not an oxymoron. Sentiments challenging the patriarchal paradigm were then expressed in women’s moral organizations in the U.S. and England of the 1830’s. In both countries, Victorian feminists set as one of their goals the reclamation of married women’s control over their own bodies. Such organizations as, The American Female Reform Society recognized the psychological, civil, and cultural repercussions of the double standard, and of the harm done to wives who had licentious and tyrannical husbands.⁵⁰ The feminist document, “The Declaration of Sentiments”, written by Elizabeth Cady Stanton for the first feminist convention held at Seneca Falls in 1848, unambiguously declared woman’s equality to men and announced the importance of woman’s autonomy in marriage, implying freedom from the marital debt. Again, in 1852 Stanton addressed the N.Y. State Temperance Society and, for the first time in public, explicitly denounced marital rape.⁵¹ Once again, in 1860, Stanton fought for a more lenient divorce law. Arguing that bad marriages were not made in heaven, she claimed that for some, marriage constituted both a prison and a brothel. In front of the New York Legislature she spoke to the lethal nature of an institution that neglected to take into consideration the interests of wives, including autonomy from the marital debt.

Thus far, [she said] we have had the man marriage, and nothing more. From the beginning, man has had the sole and whole regulation of the matter. He has spoken in Scriptures, he has spoken in law... In all history, sacred and profane, the woman is regarded and spoken of simply as the toy of man - made for his special use- to meet his most gross and sensuous desires.⁵²

Similarly, John Stuart Mill in *The Subjection of Women* (1860) declared:

However brutal a tyrant she may...be chained to- though she may know that he hates her, though it may be his daily pleasure to torment her...- he can claim from her and enforce the lowest degradation of a human being, that of being made the instrument of an animal function contrary to her inclinations.⁵³

Thus, beginning in the 19th century, but far from being fully achieved in our day,⁵⁴ a public, indoctrinated with the cultural psyche of patriarchy began to become aware of the sexual subjection of women. Today, marital rape still exists in the United Kingdom, and in 38 U.S. states.⁵⁵ Moreover, “in most American states, husbands who force sex upon unwilling wives, are accused of committing a crime, only under certain circumstances. In four states it is not a crime at all”.⁵⁶

The existence of marital rape represents a psychic contradiction, between the emergence of a new liberal paradigm, which advocates a woman’s, right to control her body, and the older belief system based upon male rights over women. In the next section I would like to examine whether our cultural psyche, which still promotes male superiority, can be altered by the liberal paradigm, with the aim of reducing the roots of violence against women.

The New Liberal Paradigm and the Revolution of the Sexes

From about the 17th century, attention shifted from eschatological concerns and theological disputations to beliefs revealed from nature by the use of observation, experiment and reason. Nature’s voice became the new lexicon. Its organizing principles were encompassed in a new paradigm premised on liberal propositions such as the entitlement of men to equality and liberty. By the end of the 18th century, ancient and medieval hierarchical systems in science and moral philosophy were overturned, and a new interpretation of natural law and human nature promoted the belief that, “all men are created equal” the guiding principle in the American and French revolutions.⁵⁷ Condorcet stated the new view most succinctly when he claimed, that the “rights of man result simply from the fact that they are sentient beings, capable of acquiring moral ideas and of reasoning concerning these ideas...women having these same qualities must necessarily possess equal rights.”⁵⁸ The Enlightenment and the French Revolution saw the explosion of written material focused on women’s issues. Controversies entered the area of sexual asymmetry. Were women equal to men? What were masculine and feminine concerns, if any?⁵⁹

Laqueur notes that sex theory became the arena for battling new ideas regarding differences between the sexes. Did Condorcet’s ideas mean that everyone was able to govern, sex notwithstanding? In the response to this question, the discourse became biological and the ideology, gendered. What no longer remained fashionable was the older contention that women were lesser men. The emphasis shifted to a liberal perspective which retained the idea of equality, on the one hand, but which encouraged a continuation of differences. Expressed in biological terms the new philosophy claimed that men and women reflected, “a series of oppositions and contrasts” as “two stable”, equal, but “incommensurable, opposite sexes.”⁶⁰ In its sweep, new biological

facts were discovered, which promoted the contrast. As Laqueur notes, for example, “for two millennia the ovary, an organ that by the nineteenth century had become a synecdoche for woman, had not even a name of its own. Galen refers to it by the same word he uses for the male testes.”⁶¹ From the historical perspective, it seems apparent that the liberal paradigm discredited the hierarchical order, carving out a special, “separate but equal” sphere. Under this gendered umbrella, however, women would remain largely deprived of the opportunities they sought to reduce if not remove their subordination. Difference from men meant inferiority and would remain so until challenged during the second part of the 20th century.

It is important, however, to examine the principles upon which the liberal paradigm emerged, if only to understand how they could accommodate different definitions of equality. According to Thomas Laqueur, there are two primary explanations for the emergence of the modern liberal views of male and female. The first was the acceptance of the “scientific methodology” which, after Newton, led people to reject a mythopoetic mindset that promoted the belief that a shooting star reflected God’s anger; that starving nuns exuded a sweet smell, or that women gave birth to rabbits. Nature became the criterion, which unhinged hierarchy and which, had presumed heaven to be a form higher than earth and established man as the measure of woman. Thus the new assertions about the nature or biology of the sexes required a different kind of proof than it had previously.⁶² Secondly, the basis for the new conceptions regarding the natures of man and woman would not result from a new epistemology or any new scientific information regarding each sex. Rather, the new liberal conceptions regarding men and women emerged from a shift in political ideas.⁶³

Two major 17th century philosophers, Thomas Hobbes and John Locke contributed to a new political synthesis regarding the nature of human beings and their relationship to the formation and operation of government. By situating women and men in a state of nature, they concluded that in that state they possessed freedom from external constraints. It was as free people, Locke argued in his defense of the 1688 English revolution, that people contracted a government, which allowed them to preserve some of their natural rights.

During the 18th century, liberal, enlightenment ideas of freedom and liberty were championed not only for men but also in some instances for women. The liberal paradigm claimed gender to be irrelevant. Condorcet, Louis de Jaucourt and other liberal philosophes would regard men and women, if not as sexless then, according to Laqueur, as

undifferentiated in [their] desires, interests, or capacity to reason. In striking contrast to the old teleology of the body as male, liberal theory begins with a neuter body, sexed but without gender, and of no consequence to cultural discourse. The body is regarded simply as the bearer of the rational subject, which itself constitutes the person. The problem for this theory then is how to derive the real world of male dominion of women, of sexual passion and jealousy, of sexual division of labor and cultural practices generally from an original state of genderless bodies. The dilemma, at least for theorists interested in the subordination of women, is resolved by grounding the social and cultural

differentiation of the sexes in biology of incommensurability that liberal theory itself helped bring into being.⁶⁴

The neutral language of liberalism, however, created a dilemma for society still imbedded with a cultural psyche-- for women as well as men-- of male superiority. Without differentiation, for example, women remained, as before, undistinguishable and that was not what most wanted. The popular *philosophe* Rousseau, however, who commanded a large following, turned to biology as basis for gender difference, advocating segregated education to enhance the distinctive natures of the sexes. John Millar, a Scottish *philosophe*, praised women's "peculiar delicacy and sensibility", as did Mary Wollstonecraft who extolled women's special moral attributes. In contrast to most, however, Wollstonecraft more closely reflected liberal egalitarian views by claiming men and women to be of equal intellectual worth and by promoting equal education for both sexes .

For most of the 19th century, popular incommensurability ideology would place women in a separate, but theoretically equal sphere from men, in their education, their physical activity, and in their politics, which was designated to be the politics of morality.⁶⁵ Ironically, however, as women were lauded for their special feminine moral delicacy, and as hierarchy in America became increasingly discredited, a husband's exemption from liability for marital rape became more acceptable.⁶⁶ The new liberal paradigm provided a special sphere for women, called equal to that of men, but unequal constraints continued, in their education, their freedom and in their personal life. The cultural psyche of male superiority continued, allowing for their dominance in all areas except those delineated as female. There were, however, challenges to this interpretation of equality.

The new definition of equality also demanded an end to subjugation and some progress was made. By the 19th century marital chastisement would be illegal and a proliferation of American reform groups such as, The Moral Reform Society, the Social Purity Movement and the Temperance Movement exposed the continuation of cruelty to women. In 1867 a national commission on divorce was formed which reported that 13% of divorces were based on cruelty and that women always requested divorce for that reason. By 1871 female applicants for divorce based on cruelty rose to 87%, which demonstrated that women were increasingly unafraid to live alone and manage their lives.⁶⁷ The new scheme of gender relations, however, in the main, would, still serve the interests of men who continued to rely on the old patriarchal mentality. Throughout the 19th and much of the 20th century, women remained largely in the home and some of them would remain subject to their husband's demonstrations of power and even physical control.

There is a strong consensus among many historians of women that it was not until the 1970's that effective action discrediting violence against women was achieved.⁶⁸ Laws and agencies were created in the U.S. and in England, which broke the nature of the home as man's inviolate sanctuary allowing women to obtain more assistance. Aided by a reactivated civil rights movement and the U.N. *Conventions and Declarations on the Elimination of Violence Against Women* and the U.N. *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, the feminist movement has contributed to the creation of more effective measures to help women. The liberal

paradigm, espousing equality without subordination among human beings, became more fashionable, and it attached less significance to biology.

Conclusion

Current statistics reveal that women are still subject to many forms of violence such as battering and rape. But I want to focus my conclusions on the significance of the new liberal paradigm and its exposure of the inequities imposed by patriarchy and its concomitant form of violence .

This article has argued that for most of the history of state societies women have been made subordinate to men. In order to achieve and maintain subordination of the female, ideologies have been constructed whereby submissions to patriarchy appear in the nature of things. Ordained by the Gods, supported by the priests, implemented by the law, women came to accept and to psychologically internalize compliance as necessary. Violence towards women in all its forms has and still thrives in such an environment.

With the birth of the new liberal paradigm, however, some change began to alter the thousands of years of inferiority. Even in its truncated “separate but equal” manifestation, importance must be given to its articulation of the idea of equality and by extension its advocacy of women’s rights. At the outset, the liberal paradigm could not overcome male dominance. Male control continued via a new ideology, the biology of difference. That, however, was not to last forever. Scientific development and human rights advocacy has continued to chip away from the patriarchal mentality. At the final reckoning, the “separate but equal” ideology might be regarded as a transition, to a more equitable equality. Beginning in the 18th and 19th century, human rights advocates who believed with Plato, Condorcet and others, that women shared with men those sentient and moral capacities recommended rejection of prohibitions placed on women as citizens and as mature human beings.

It may be that the end to violence against women requires more time, allowing the human rights liberal cultural paradigm, replacing the separate but equal interpretation, to suffuse society.⁶⁹ Until then violence against women will persist. Until then the patriarchal, cultural psyche will still leak into personal relationships and the affairs of state.

ENDNOTES

1. The term Judeo-Christian cultural beliefs is used to embody the salient stories, ideas and values that have influenced western outlook. These beliefs were never static, nor were the Judaic and Christian ideas at any one time exactly the same. This paper, moreover, does not elucidate differences or attempt to retrieve the long history of the Hebrews even when a branch became identified as Jewish Christians. There is, however, one tradition that both religions share, that is the acceptance of a superior male God. Within this tradition, Hebrews worshipped numerous Gods among them important female Goddesses. See, Raphael Patai’s excellent, scholarly survey, *The Hebrew Goddess*. Patai claims that, “the religion of the Hebrews and the Jews were “never without at least a hint of the feminine in its God-concept”. He bases this view on two different sources: one, archaeological evidence which clearly demonstrates that female goddesses were worshipped during the history of the Hebrews; and two, on written sources that assert that God possessed two natures, masculine and feminine. See Patai’s third enlarged edition (Wayne State University Press, 1990, p.279) and especially his chapter entitled, “Conclusion”. Nevertheless, Patai also makes *abundantly* clear, that despite the above factors, “the God of Judaism” has always been regarded as “a father-symbol and father-image, possibly the greatest such symbol and image conceived by man.” Nor, he adds, “can there be any doubts as to the greatness of the psychological need answered by this image. This, together with the great moral imperatives, was the

unique contribution of prophetic Judaism to mankind.” p.29. Further, Patai states that “every Hebrew-speaking individual from early childhood was imbued with the idea that God was a masculine deity” who is a “Man of War, Master of the Universe, and Our Father in Heaven”. This is exemplified in the prayer to God, which utters the words, “We are Your sons and You are our Father, Have mercy upon us as a father has on his sons!” This paper accepts the view that Hebrews worshipped a variety of Gods, including significant female ones at the time. However, the Godhead which western society inherited from the Jews was masculine, monotheistic and patriarchal. For a more detailed historical overview, see Carol Meyers, *Discovering Eve, Ancient Israelite Women in Context*, (Oxford University Press, 1988). Based on archeological evidence, Meyers stresses the importance of female Goddesses during the earlier Hebraic nomadic, and agricultural period and attributes a shift to a masculine image of God, and to a more misogynist view of women to a later period when the Hebrews had their state. See also Elaine Pagels, *Adam, Eve, and the Serpent*, (Vintage, 1989, p.12). Pagels indicates that about 150 years before the birth of Jesus and in “subsequent generations what the Jews and Christians read into the creation accounts of Genesis come, for better or worse, to shape what later some...called Judeo-Christian tradition.”

² Patriarchy and the belief in male superiority prevailed during the golden Athenian age. Plato, however, was an exception. In his utopia, the *Republic*, he declared that rulers (guardians), could be of either gender. “Men and women possess the qualities, which make a guardian: They differ only in their comparative strength or weakness.” This led him to conclude that in the Republic, “men and women are to have a common way of life -- common education, common children; and they are to watch over the citizens in common whether abiding in the city or going out to war; they are to keep watch together like dogs; and always and in all things, as far as they are able, women are to share with the men. And in so doing they will do what is best, and will not violate, but preserve the natural relation of the sexes.” See, *The Republic*, in *The Dialogues of Plato*, trans. Benjamin Jowett, 3rd edition, (Oxford University Press, 1892), Vol, 3 B.5. in, Rosemary Agonito, *History of Ideas on Woman, A Source Book*, (Perigee Book, 1977, pp.31& 39).

³ G.A. res.48/104, 48I.N.GAOR Supp. (No.49) at 217, U.N. A/48/49 (1993).

⁴ Article 7(1)(g)-1, July 6, 2000.

⁵ In regard to the Judeo-Christian tradition, it is important to note that clear assertions of patriarchy and misogyny were late developments in the history of the Jews. The story of Genesis in *the Hebrew Bible* did not portray Eve misogynously, or at all in later parts of the Bible. One of the first salacious charges against her occurred in the second century, BCE in *Ecclesiasticus*, or *the Wisdom of Ben Sira* who associated Eve with sin and death. See Carol Meyers, *Discovering Eve, Ancient Israelite Women in Context* (Oxford University Press, 1988, pp.74-75). Meyers claims that, “such attitudes as these,[were] current in the Jewish world only during the last few centuries before Christ, [and] then entered Christian tradition...Because of this, newer view, Meyers believes that “not only is Eve associated with sin; her creation is viewed as secondary.” Elaine Pagels, *Adam, Eve, and the Serpent*, (p.12) also maintains that in Jewish teachings, it was about two centuries before Christ, that Genesis came to reflect Eves as sinful, inferior, and the act of the serpent as sinister.

⁶ Gerda Lerner, “Reconceptualizing Differences Among Women” in, *The Journal of Women’s History*, Vol. 1, no.3, Winter, 1990:107-108; Gerda Lerner, *The Creation of Patriarchy*, (Oxford University Press, 1986) Lerner does not claim that this hypothesis provides the “ultimate” explanation about the causes of patriarchy. Rather she takes great pains to present other views. See chapter 3. It is not obvious to historians or anthropologists precisely when patriarchy emerged. It is clear, however, that it did exist in early civilizations in Mesopotamia, Egypt, etc. Lerner makes a convincing and scholarly attempt to reconstruct its emergence with the development of agriculture initially, but clearly after the establishment of the archaic state and the rise of militarism. There are a number of scholars who confirm her views, or at least part of them. See, Julia M. Asher-Grove, “The Essential Body: Mesopotamian Conceptions of the Gendered Body” in, *Gender and the Body in the Ancient Mediterranean* (Blackwell, London, 1998, p.30). Asher-Grove maintains that the “increasing militarization of Mesopotamia is probably the major reason for the change of gender status which is reflected in the regulations of women’s bodies to the law codes.” See also James F. Brooks who states that in 19th century south-west America female conquest and subjugation was a result of warfare. See, “‘This Evil Extends Especially to the Feminine Sex’: Captivity and Identity” in, *Unequal Sisters, A Multicultural Reader in U.S. Women’s History*, 3rd edition, edited by Vicki L. Ruiz and Ellen Carol DuBois (Routledge, N.Y., 2000, pp.20-28). Brooks article confirms Lerner’s thesis that, “the assertion of male control over captive women’s sexual and reproductive services provided a model for

patriarchal ownership of women in 'monogamous' marriages by which patriarchal bloodlines remained 'pure'. See also Meyers who confirms the relationship between patriarchy and the emergence of agriculture and the use of iron. *Discovering Eve*, p.21. So does Timothy Taylor also sees such a relationship in, *The Prehistory of Sex*, (London, 1997, p.205). And, finally there is confirmation about a change in the status of women from anthropologists who agree that agricultural settlements are less egalitarian than hunting and gathering societies, which are among the most gender egalitarian groups. See, for example, *Woman the Gatherer*, edited by Frances Dahlberg, (Yale University Press, 1981).

⁷ *Ibid.*, Lerner, "Reconceptualizing"; Brooks, "Evil Extends", pp.(Boston, 1999:-108. See also, Rodrigo Rangel's "Account of the Northern Conquest and Discovery of Hernando de Soto" (c.1546) in Colin G. Calloway, *First Peoples, A Documentary Survey of American Indian History*, (Boston,19990),This account reveals how captured or sold women became beasts of burden and used "to make use of them for their [captors] lewdness and lust..." p.102.

⁸ Meyers argues that patriarchy is value-laden and if used should be understood from a variety of perspectives. *Discovering Eve*, pp.29-33. In regard to the Hebraic form of patriarchy, by the destruction of the Second Temple the Hebrew God was clearly "The Masculine Godhead" as Patai states.

⁹ Patai, *The Hebrew Goddess*, pp.28-29.

¹⁰ Rosemary Agonito, *History of Ideas*,pp.18-20.

¹¹ Shakespeare, *The Taming of the Shrew*, act V, scene ii, in Anthony Fletcher, *Gender, Sex and Subordination in England, 1500-1800*, (Yale University Press, 1995, p.109).

¹² J.A. Phillip, *Eve: History of an Idea*. (New York, 1984, p.29).

¹³ Fletcher, *Gender*, p.76

¹⁴ William G. Roelker, ed. *Benjamin Franklin and Catherine Ray Greene, Their Correspondence, 1775-1790* (Philadelphia, 1946, p.20).

¹⁵ Galen, *On the usefulness of the Parts of the Body*, ed. and trans. Margaret May, 2 vol. (Ithaca, N.Y.,1986 2:640), in Thomas Laqueur, "Orgasm, Generation, and the Politics of Reproductive Biology" in *The Making of the Modern Body, Sexuality and Society in the Nineteenth Century*, edited by Catherine Gallagher and Thomas Laqueur, (Berkeley, 1981,pp. 1-4).

¹⁶ *Ibid.*, p.17.

¹⁷ James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago, 1987, p.427.

¹⁸ Antonia Fraser, *The Weaker Vessel* (New York, 1984, p.102)

¹⁹ Deborah L. Rhode, *Justice and Gender*, (Cambridge, Ma.,1989, pp. 244-248.

²⁰ Daphne Merkin, "The Last Taboo" *N.Y. Times Magazine*, December 3, 2000, pp.117-8.

²¹ It is only recently that the United Nations has recognized that rape is a war crime.

²² Commentaries on the Laws of England, 4 vol. (Oxford, Clarendon Press, 1765-1769), Vol. 1, Chap.11, 430) in Mary Lyndon Shanley, *Feminism, Marriage, and the Law in Victorian England*, (Princeton, 1989, pp. 8-9).

²³ In Fletcher, p.192

²⁴ *Ibid.*,p.196; This was also true of Jews. "It was widely held that brides-who could be very young-ought to be chastised by their husbands; rabbis and communal statues might be against violence, but not against a good beating, which would restore family order." Henri Bresc, "Europe: Town and Country (Thirteenth-Fifteenth Century)", in *A History of the Family*, Vol. 1, edited by Andre Burguiere, Christiane Klapisch-Zuber, Martine Segalen, Françoise Zonabend (Cambridge, Ma. 1996, p. 450).

²⁵ Carol Meyers, *Discovering Eve*, p. 72.

²⁶ D. Rogers (London, 1642) in Fletcher, p.70

²⁷ *Ibid.*

²⁸ *Ibid.*,p.74

²⁹ *Ibid.*, p. 192

³⁰ *Ibid.*,194

³¹ *Ibid.*

³² L. Jewett, "Scolds and how they cured them in the good old Times" *The Reliquary* (Oct.1860, p.18), in Russell P. Dobash, R. Emerson Dobash, Sue Gutteridge, *The Imprisonment of Women*, (London, 1986, p.17).

³³ Fletcher, p.197.

- ³⁴ Emil Oberholzer Jr. *Delinquent Saints, Disciplinary Action in the Early Congregational Church in Massachusetts* (N.Y.1956, pp.120-121), in Elizabeth Pleck, *Domestic Tyranny, The Making of Social Policy Against Family Violence from Colonial Times to the Present* (New York, p. 21).
- ³⁵ *Ibid.*, pp4-8.
- ³⁶ Fletcher, p.197.
- ³⁷ See Karen Offen, *European Feminism, 1700-1950, A Political History*, (Stanford, U. Press, 2000, pp.31-49). “ Enlightenment debate can...be seen as a spawning ground...for criticizing male privilege and domination.”
- ³⁸ Natalie Zemon Davis, *Fiction in the Archives, Pardon Tales and their Tellers in Sixteenth-century France* (Stanford U. Press, 1987)
- ³⁹ *Ibid.*pp.93-95.
- ⁴⁰ Rhode, *Ibid.*, p.244-5.
- ⁴¹ *Ibid.*
- ⁴² Susan Brownmiller, *Against Our Will, Men Women and Rape*, (New York, 1975, pp.29-30).
- ⁴³ *Ibid.*
- ⁴⁴ Linda K. Kerber, Jane Sherron De Hart, *Women’s America*, 4th edition, (New York, 1995, p.13). As of 1990 only nine states have outlawed marital rape. In most states forced sex by husbands is outlawed only under certain circumstances, whereas in four states it is not a crime under any circumstances. In Europe, the criminal codes of Sweden and Denmark, the former USSR and some other Eastern European countries accepted the idea of marital rape. See Brownmiller, p.382.
- ⁴⁵ James A. Brundage, *Law, Sex*, p.10.
- ⁴⁶ Phillippe Aries and Andre Bejin, *Western Sexuality, Practice and Perception in Past and Present Times*, (London, 1985, p.135).
- ⁴⁷ Brundage states that “the medieval church’s marriage law clearly lies at the base of the common law doctrine which asserted that forcible sexual intercourse between a man and wife is no crime and that marriage therefore furnishes an affirmative defense to criminal persecution for rape.” p. 611 The doctrine remains in 38 states, District of Columbia, Puerto Rico, Virgin Islands, and in the U.K.
- ⁴⁸ Rachel Biale, *Women and Jewish Law, An Exploration of Women’s Issues in Halakic Sources*, (New York, 1984, pp. 6-8).
- ⁴⁹ Fletcher, pp.195-6.
- ⁵⁰ Nancy A. Hewitt, “Feminist Friends: Agrarian Quakers and the Emergence of Woman’s Rights in America” in *U.S. Women in Struggle, A Feminist Anthology* edited by Claire Goldberg Moses and Heidi Hartmann, (U. of Illinois Press, 1995, pp. 21-31).
- ⁵¹ Pleck, *Domestic Tyranny* p.55.
- ⁵² Elizabeth Cady Stanton, “Debates on Marriage and Divorce, Seventh National Woman’s Rights Convention, New York City, May 10-11, 1860., in *The Concise History of Woman Suffrage, Selections from the Classic Work of Stanton, Anthony, Gage, and Harper*, edited by Mari Jo and Paul Buhle, (University of Illinois Press, 1979, p.1760).
- ⁵³ John Stuart Mill, “The Subjection of Women” in *Essay on Sex Equality* in Shanley, *Feminism, Marriage* p.157.
- ⁵⁴ *Ibid.*, p.158.
- ⁵⁵ *Ibid.*, pp.158-9.
- ⁵⁶ Kerber, De Hart, *Women’s America*, p.11.
- ⁵⁷ The argument presented is one Thomas Laquer presents in his article, “Orgasm, Generation, and the Politics of Reproductive Biology” in *Representations*, (Spring, 1986) and is further elucidated in his book, *Making Sex, Body and Gender From the Greeks to Freud*, (Harvard University Press, 1990). This whole section is indebted to Prof. Laquer’s brilliant exposition.
- ⁵⁸ “On the Admission of Women to the Rights of Citizenship” (1791), Thomas Laqueur, “Orgasm”, p.1.
- ⁵⁹ Karen Offen, *European Feminism*, pp.31-33.
- ⁶⁰ Laqueur, *Making Sex*, p.5.
- ⁶¹ *Ibid.*,p.6
- ⁶² Laqueur, however, believes that the older Galenic view provides no less proof than the ones presented during the 19th century. *Passim*, Making Sex.
- ⁶³ *Ibid.*, p.152.
- ⁶⁴ *Ibid.*,”Orgasm”,p.19.

⁶⁵ *Ibid.*, pp.16-24.

⁶⁶ Rhode, pp.2249-250

⁶⁷ Mary P. Ryan. *Womanhood in America*, 3d edition, (Franklin Watts, N.Y. Chapter 7); Margerite Guzman Bouvard, *Women Reshaping Human Rights. How Extraordinary Activists are Changing the World*, (S.R. Books, Wilmington, Delaware, Part IV).

⁶⁸ See for example, Rhode, *Justice*, chap.6; Pleck, *Domestic Tyranny*, chapter 10; Brownmiller, *Rape*, ch.12.

Bibliography

Agonito, Rosemary, 1977, *History of Ideas on Woman, A source Book*, New York:Perigree.

Aries, Phillipe, and Andre Bejin, *Western Sexuality, Practice and Perception in Past and Present Times*,1985, Oxford: Basil Blackwell.

Asher-Grove, Julia, M. "The Essential Body: Mesopotamian Conceptions of the Gendered Body" in *Gender and the Body in the Ancient Mediterranean*, 1998:London, Basil Blackwell.

Biale, Rachel, *Women and Jewish Law, Explorations of Women's Issues in Halakhic Sources*, 1984, New York: Schocken Books.

Bouvard, Marguerite Guzman, *Women Reshaping Human Rights, How Extraordinary Activists are Changing the World*, 1998, Wilmington, Delaware: S.R. Books

Bresc, Henri, "Europe: Town and Country, Thirteenth-Fifteenth Century", in *A History of the Family*, Vol. I, edited by Andre Burguiere, Christiane Klapisch-Zuber, Martine Segalen, Françoise Zonabend, 1996, Cambridge: Harvard University Press.

Brownmiller, Susan, *Against our Will, Men, Women and Rape*,1975, New York: Simon and Schuster.

-
- Brooks, James F., "This Evil Extends Especially in the Feminine Sex: Captivity and Identity" in, *A Multicultural Reader in U.S. Women's History*, 3rd edition, edited by Vicki L. Ruiz and Ellen Carol DuBois, 2000, New York: Routledge.
- Brundage, James A. *Law, Sex and Christian Society in Medieval Europe*, 1987, Cambridge: Harvard University Press.
- Dahlberg, Frances, editor, *Woman the Gatherer*, 1981, New Haven: Yale University Press.
- Davis, Natalie Zemon, *Fiction in the Archives, Pardon Tales and their Tellers in Sixteenth-Century France*, 1987, Palo Alto: Stanford University Press.
- Fletcher, Anthony, *Gender, Sex and Subordination in England, 1500-1800*, 1995, New Haven: Yale University Press.
- Fraser, Antonia, *The Weaker Vessel*, 1984, New York: Alfred A. Knopf.
- Hewitt, Nancy A. "Feminist Friends: Agrarian Quakers and the Emergence of Woman's Rights in America," in, *U.S. Women in Struggle, A Feminist Anthology*, edited by Claire Goldberg Moses and Heidi Hartman, 1995, Urbana, Illinois University Press.
- Jewett, L., "Scolds and how they cured them in the good old Times", *The Reliquary*, in, Russell P. Dobash and R. Emerson, Sue Gutteridge, *The Imprisonment of Women*, 1986, London: Basil Blackwell.
- Kerber, Linda K, DeHart Sharon, *Women's America*, 4th edition, 1995, New York, Basil Blackwell.
- LaQueur, Thomas, "Orgasm, Generation, and the Politics of Reproductive Biology" in, *The Making of the Modern Body, Sexuality and Society in the Nineteenth Century*, edited by Catherine Gallagher and Thomas Laqueur, 1981, Berkeley: California University Press.
- LaQueur, Thomas, *Making Sex, Body and Gender, From the Greeks to Freud*, 1990, Cambridge: Harvard University Press.
- Lerner, Gerda, *The Creation of Patriarchy*, 1986, Oxford: Oxford University Press.
- Lerner, Gerda, "Reconceptualizing Differences Among Women", in, *The Journal of Women's History*, Vol. I, No.3, 1990.
- Merkin, Daphine, "The Last Taboo", in, *The York Times Magazine*, December, 3, 2000.
- Meyers, Carol, *Discovering Eve, Ancient Israelite Women in Context*, 1988, Oxford: Oxford University Press.
- Oberholzer, Emil, Jr., *Delinquent Saints, Disciplinary Action in the Early Congregational Church in Massachusetts*, in, Elizabeth Pleck, *Domestic Tyranny, the Making of Social Policy: Against Family Violence from Colonial Times to the Present*, 1987, New York: Oxford University Press.
- Offen, Karen, *European Feminism, 1700-1950, A Political History*, 2000, Palo Alto, Stanford University Press.
- Pagels, Elaine, *Adam, Eve, and the Serpent*, 1989, New York: Vintage.
- Patai, Raphael, *The Hebrew Goddess*, 1990, Detroit: Wayne State University Press.

Philip, J.A., *History of an Idea, Eve*, 1984, New York: Harper and Row.

Rangel, Rodrigo, "Account of the Northern Conquest and Discovery of Hernando de Soto" in, Lawrence H. Clayton, Vernon James Knight Jr. and Edward C. Moore, eds., *The DeSoto Chronicles: The Expedition of Hernando deSoto to North America in 1539-1543*, 2 vol., 2000, Tuscalossa: Alabama University Press.

Rhode, Deborah, L., *Justice and Gender*, 1989, Cambridge: Harvard University Press.

Roelker, William G., ed., *Benjamin Franklin and Catherine Ray Greene, Their Correspondence*, 1986, Ithaca, New York, Cornell University Press.

Ryan, Mary P. *Womanhood in America*, 3rd edition, 1983, New York: Franklin Watts.

Shanley, Mary Lyndon, *Feminism, Marriage, and the Law in Victorian England*, 1989, Princeton: Princeton University Press.

Stanton, Elizabeth Cady, "Debates on Marriage and Divorce, Seventh National Woman's Rights Convention, New York City, May 10-11, 1860" in, *The Concise History of Woman Suffrage, Selections from the Classic Work of Stanton, Gage and Harper*, edited by Mary Jo and Paul Buhle, 1979, Urbana: University of Illinois Press.

Taylor, Timothy, *The Prehistory of Sex*, 1997, London: Fourth Estate.