

HISTORICAL REFLECTIONS/REFLEXIONS HISTORIQUES

‘The Rise and Rise of Sexual Violence’

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Violent practices, technologies, and symbols increasingly permeate our everyday lives. This is the fact that Pinker seeks to debunk. He attempts to do so in five ways: by selectively choosing his data; minimising certain harms; adopting an evolutionary psychology approach; ignoring new forms of aggression; and failing to acknowledge the political underpinnings of his own research. In this article, I will explore these shortcomings in relation to sexual violence.

The study of sexual violence is inherently difficult. We don't know how many people are victims, not how many are perpetrators. Every statistical database has flaws. Pinker had chosen to rely on the US Bureau of Justice Statistics' National Crime Victimization Survey (NCVS). This is highly problematic since the sample used by the NCVS excludes some groups of people who are most at risk of sexual assault, including 'persons living in military barracks

and institutional settings such as correctional or hospital facilities, and persons who are homeless', as well as 'persons living in group quarters, such as dormitories, rooming houses, and religious group dwellings'.¹ The exclusion of prisoners is particularly telling since Pinker reports positively on increased incarceration rates in the US, stating that one of the reasons for the decline of rape is that more 'first-time rapists' have been put 'behind bars'.² Indeed, the level of incarceration in the US is exceptional, with one in every 37 adults under some form of 'correctional supervision'.³ Incarceration is not 'race-blind': African Americans are imprisoned more than five times the rate of whites.⁴ Given that sexually-violent men are unlikely to give up their practices, as levels of incarceration have increased dramatically, so too have levels of sexual assault in prisons. The NCVS does not record such increases in prison-based sexual violence: some violated bodies are not valued as highly as others.

Pinker could have supplemented his use of NCVS data with other sources, which present a very different picture. Even if we ignore the fact that Pinker's statistics for sexual violence are drawn from British and American sources (while the World Health Organization

¹ Bureau of Justice Statistics, 'Data Collection: National Crime Victimization Study (NCVS)' (2015), at <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=245#Methodology>, viewed 1 November 2017.

² Steven Pinker, *The Better Angels of Our Nature. A History of Violence and Humanity* (London: Penguin Books, 2011), 486.

³ NAACP, 'Criminal Justice Fact Sheet', at <http://www.naacp.org/criminal-justice-fact-sheet/>, seen 1 December 2017.

⁴ Ibid.

finds that 35 per cent of women worldwide have experienced either physical or sexual violence),⁵ nevertheless, *reported* rapes are increasing dramatically. Between 1985 and 2007, rapes reported to the British police increased from 1,842 to 13,133. According to data released by HM Inspectorate of Constabulary on behalf of its rape-monitoring group, in 2015-16, police recorded 23,851 reports of adults being raped.⁶ In France, there was a fourfold increase in the same period (from 2,823 to 10,128).⁷

Pinker's response to the increase in reported rape might very well be that the statistics actually prove his point: people are becoming more disapproving of sexual violence and less fearful of reporting assault. There is little evidence for this. Barriers to reporting sexual violence are still formidable. One survey of 1,007 women in eleven UK

⁵ World Health Organization, *Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of and Non-Partner Sexual Violence* (Geneva: WH, 2013), PAGE.

⁶ Vikram Dodd and Helena Bengtsson, 'Reported Rapes Double in England and Wales in Four Years', *The Guardian* (13 October 2016), at <https://www.theguardian.com/society/2016/oct/13/reported-rapes-in-england-and-wales-double-in-five-years>, viewed on 1 December 2017.

⁷ Nicole Fayard and Yvette Rocheron, 'Moi quand on dit qu'une femme ment, eh bien, elle ment': The Administration of Rape in Twenty-First Century France and England and Wales', *French Politics, Culture and Society*, 29.1 (Spring 2011), 74.

cities found that a startling 91 per cent of women failed to report their abuse,⁸ while the Rape Crisis Federation of England and Wales found that only twelve per cent of the 50,000 women who contacted their services in 1998 reported the crime of rape to the police.⁹ Even the NCVS found that, between 1992 and 2000, 63 per cent of completed rapes, 65 per cent of attempted rapes, and 74 per cent of completed and attempted sexual assaults against females were not reported to the police.¹⁰ The British Crime Survey found even lower levels of reportage: less than 20 per cent of rape victims told the police.¹¹ Non-reportage is particularly high among minority women, the poor and disenfranchised, prostitutes, and

⁸ K. Painter, *Wife Rape, Marriage and Law: Survey Report, Key-Findings and Recommendation* (Manchester: University of Manchester, Department of Social Policy and Social Work, 1991).

⁹ Cited in H. M. Crown Prosecution Service Inspectorate, *A Report on the Joint Inspection into the Investigation and Prosecution of Cases Involving Allegations of Rape* (London: H. M. Crown Prosecution Service Inspectorate, April 2002), 1.

¹⁰ Callie Marie Rennison, *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000* (Washington, D.C.: Bureau of Justice Statistics, 2002), 2.

¹¹ Andy Myhill and Jonathan Allen, *Rape and Sexual Assault of Women: The Extent and Nature of the Problem. Findings from the British Crime Survey* (London: Home Office Research, Development, and Statistics Directorate, March 2002), vii. Also see MOPAC, *Sexual Violence. The London Sexual Violence Needs Assessment 2016 for MOPAC and NHS England* (London) (London: MBARC, November 2016), 26, at www.london.gov.uk/sites/default/files/sexual_violence_needs_assessment_report_2016.pdf.

women who are perceived as being unattractive. It is also a problem for married women who have been victimized by their partners: lack of money and access to alternative housing, in addition to emotional dependency and concerns over retaining access to children, meant that victims often feel unable to pursue prosecution.

The second trap that Pinker falls into is the minimisation of certain harms. He does this, in part, by failing to understand history. He states that ‘one has to look long and hard through history and across cultures to find an acknowledgement of the harm of rape *from the viewpoint of the victim*’.¹² This is not the case. Rape was a heinous act precisely because it was known to inflict serious harm to victims. Medical jurisprudence textbooks were full of descriptions of the harm caused by rape, claiming (in the words of Alfred Swaine Taylor in his influential *Medical Jurisprudence* of 1861), that victims could ‘sustain all the injury, morally and physically, which the perpetration of the crime can possibly bring down upon her’.¹³

The language used to articulate that harm was different in earlier periods, however. Prior to the 1860s, victims of *any* form of violence would not have used the word ‘trauma’ to refer to their emotional or psychological responses. That concept was invented by John

¹² Pinker, *The Better Angels of Our Nature*, 476. Emphasis in the original.

¹³ Alfred Swaine Taylor, *Medical Jurisprudence*, 12th edition (London: np, 1861), 687-98.

Eric Erichsen, professor of surgery at University College Hospital in London, in 1866.¹⁴ However, victims had other languages to communicate their pain. When the after-effects of rape were discussed, attention was paid to physical and moral realms. Women would ‘mysteriously waste away, sicken, grow pale, thin, waxen, and finally quit the earth, and send their forms to early graves, – like blasted fruit falling before half ripened’ (as one author explained the aftermath of ‘forced love’ or marital rape in 1869).¹⁵ Victims regularly referred to ‘insensibility’ to convey their distress. Rape victims were described as ‘in a state of fever’ (1822);¹⁶ ‘very ill, after lying in a fainting state some time’ (1866);¹⁷ they were in a ‘state of prostration’ (1877).¹⁸ These are very different ways to acknowledge the ‘harm of rape from the point of view of the victim’, but powerful ones indeed for their times.

There is another way Pinker minimises harms. He contributes to rape myths by recycling long-standing prejudices about the prevalence of false accusations. The belief that

¹⁴ John Eric Erichsen, *On Railway and Other Injuries of the Nervous System* (London: Walton and Maberly, 1866), 9. Also see John Eric Erichsen, *On Concussion of the Spine, Nervous Shock, and Other Obscure Injuries of the Nervous System in Their Clinical and Medico-Legal Aspects* (London: Longman, Green and Co., 1875), 195.

¹⁵ De St. Leon, *Love and Its Hidden History*, 4th ed. Boston: William White and Co., 1869), 102.

¹⁶ ‘Scotland. Perth Circuit Court’, *The Times* (21 September 1822), 3.

¹⁷ ‘Crown Court’, *The Times* (8 March 1866), 11.

¹⁸ ‘Outrage’, *The Times* (7 September 1877), 8. For a broader discussion see my *Rape: A History from the 1860s to the Present* (London: Virago, 2007).

'women lie' about sexual assault is deeply embedded in our society, particularly within police forces and criminal justice systems. For example, one 2008 survey of 891 police officers in the southeastern United States found that more than 50 per cent believed that half of women who complained of rape were liars and 10 per cent believed that the majority of complainants were lying.¹⁹ Police 'unfounded' (USA) or 'no-crime' (UK) large numbers of rape complaints, without investigation.²⁰ According to a recent study by legal expert Corey Rayburn Yung, US police departments 'substantially undercounted reported rapes'.²¹ Police departments generated 'paper reductions in crime' in three ways: they designated an incident as 'unfounded' without carrying out any (or any thorough) investigation; classified a reported incident as a lesser offense; and omitted to 'to create a written report that a victim made a rape complaint'.²² Yung concluded that the number of

¹⁹ Amy Dellinger Page, 'Gateway to Reform? Policy Implications of Police Officers' Attitudes Towards Rape', *American Journal of Criminal Justice*, 33.1 (May 2008), 44-58. Also see Martin D. Schwartz, National Institute of Justice Visiting Fellowship: Police Investigation of Rape – Roadblocks and Solutions', *U.S. Department of Justice* (December 2012), at <http://www.ncjrs.gov/pdffiles1/nij/grants/232667.pdf>.

²⁰ Lisa R. Avalos, 'Policing Rape Complaints: When Reporting Rape Becomes a Crime', *Journal of Gender, Race, and Justice*, 20 (2017), 466-67.

²¹ Corey Rayburn Yung, 'How to Lie with Rape Statistics: America's Hidden Rape Crisis', *Iowa Law Review*, 99 (2014), 1197.

²² *Ibid.*, 1197.

police jurisdictions where undercounting took place had *increased* by over 61 per cent between 1995 and 2012.²³

Pinker seems to share police skepticism about the veracity of rape complainants, and the weight that should be given to women's accounts of assault. He informs readers that rape is 'notoriously underreported, and at the same time often overreported (as in the highly publicized but ultimately disproven 2006 accusation against three Duke University lacrosse players)'.²⁴ Such moral equivalence is not only wrong: it is dangerous. The extent of false accusations has generated a vast amount of academic research. In 2000-3, for example, the UK Home Office commissioned a comprehensive research project into the problem. Initially, the researchers concluded that 9 per cent of reported rape accusations were false. However, on closer analysis, this percentage dropped dramatically. They found that many of the cases listed as 'no evidence of assault' were the result of someone other than the victim making the accusation. In other words, a policeman or passerby might see a woman distressed or drunk, with her clothes ripped, and report it as a suspected rape. However, when the woman was able to provide an account for what happened, she stated that no assault had taken place. In other instances, a woman regained consciousness in a public place or at home and, unable to recall what happened, worried about whether she might have been assaulted. The woman might approach the police not in order to claim rape, but to check whether any crime had been committed. Once such cases had been eliminated from the study, only 3 per cent of allegations should have been categorized as

²³ *Ibid.*, 1197.

²⁴ Pinker, *The Better Angels of Our Nature*, 484.

false.²⁵ These statistics are in line with other studies.²⁶ Contrary to the notion that men are at risk of being falsely accused, it is significantly more common for actual rapists to get away with their actions.

Pinker's claim, therefore, that rape is 'over-reported' not only misstates the known facts but also has real life consequences: it bolsters the view that women are prone to lie about being raped, influences the way the legal system processes rape cases, and prejudices

²⁵ Liz Kelly, Jo Lovett, and Linda Regan, *A Gap or a Chasm? Attrition in Reported Rape Cases*, Home Office Research Study 293 (London: Home Office Research, Development and Statistics Directorate, February 2005), xi and 46-7

²⁶ Clare Gunby, Anna Carline; Caryl Beynon, 'Regretting It after: Focus Group Perspectives on Alcohol Consumption, Nonconsensual Sex and False Allegations of Rape', *Social and Legal Studies*, 22 (2013), 87 and 106; Kimberley A. Lonsway, Joanne Archambault, and David Lisak, 'False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assaults', *The Voice*, 3.1 (2009), 1-11, at http://www.ndaa.org/pdf/the_voice_vol_3_no_1_2009.pdf; Philip N. S. Rumney, 'False Allegations of Rape', *Cambridge Law Journal*, 65.1 (2006), 128-158; Liz Kelly, 'The (In)credible Words of Women: False Allegations in European Rape Research', *Violence Against Women*, 16.12 (2010), 1345-1355; Kelly, Lovett, and Regan, *A Gap or a Chasm?* (2005); David Lisak, Lori Gardiner, Sarah C. Nicksa, and Ashley M. Cote, 'False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases', *Violence Against Women*, 16.12 (2010), 1318-1334.

perceptions of victims from the moment they report being raped to the time they give evidence in court.

One of the reasons Pinker may under-estimate the effect of repeating rape myths is because he believes that women who report being sexual abused are now treated with care and respect. 'Today', he writes, 'every level of the criminal justice system has been mandated to take sexual assault seriously'.²⁷ This is a classic case of conflating regulation with implementation. The law enforcement and justice systems may have been 'mandated' to take rape seriously, but that does not mean much in actual practice. A study by Kimberly A. Lonsway, Susan Welch, and Louise F. Fitzgerald found that sensitivity training and education about rape improved the superficial behaviour of police officers, but not their attitudes toward rape victims.²⁸ Indeed, argues James F. Hodgson, changes in police procedures are often simply a form of 'impression management,' while 'internal operations, for the most part, go unchanged and unchallenged'.²⁹ Complaints about treatment by the

²⁷ Pinker, *The Better Angels of Our Nature*, 482.

²⁸ Kimberly A. Lonsway, Susan Welch, and Louise F. Fitzgerald, 'Police Training in Sexual Assault Response: Process, Outcomes, and Elements of Change', *Criminal Justice and Behavior*, 28.6 (2001), 695-730.

²⁹ James F. Hodgson, 'Policing Sexual Violence: a Case Study of *Jane Doe v. the Metropolitan Toronto Police*', in James F. Hodgson and Debra S. Kelley (eds.) *Sexual Violence: Policies, Practices, and Challenges in the United States and Canada* (Westport, CT: Praeger, 2002), 173.

police and in the courts are routine.³⁰ As noted above, even today substantial proportions of policemen and women do not take complainants' reports seriously. Rape complainants in some US jurisdictions are routinely given polygraph tests – a procedure that would be unimaginable for any other victim of crime.³¹ In recent years, women who report being sexually assaulted or raped to the police risk finding themselves charged with 'perverting the course of justice'.³² In 2017, there was evidence that the forensic samples taken from tens of thousands of rape victims were never even sent for testing.³³ Conviction rates are

³⁰ For example, see MOPAC, *Sexual Violence. The London Sexual Violence Needs Assessment 2016 for MOPAC and NHS England (London)* (London: MBARC, November 2016), 29, at www.london.gov.uk/sites/default/files/sexual_violence_needs_assessment_report_2016.pdf.

³¹ Vivian B. Lord and Gary Rassel, 'Law Enforcement's Response to Sexual Assault: A Comparative Study of Nine Counties in North Carolina' in Hodgson and Kelley (eds.) *Sexual Violence* (2002), 166; T. W. Marsh, A. Geist, and N. Caplan, *Rape and the Limits of Law Reform* (Boston: Auburn House, 1982).

³² Lisa R. Avalos, 'Policing Rape Complaints: When Reporting Rape Becomes a Crime', *Journal of Gender, Race, and Justice*, 20 (2017), 460-71.

³³ Jill E. Daly 'Gathering Dust on the Evidence Shelves of the US', *Women's Rights Law Reporter*, 25.1 (fall/winter 2003), 17-36; Milli Kanani, 'Testing Justice', *Columbia Human Rights Law Review*, 42.3 (spring 2011), 943-92; Cassia Spohn, 'Untested Sexual Assault Kits: A National Dilemma', *Criminality and Public Policy*, 15.2 (May 216), 551-54; Tara Kalar, Elizabeth Meske, Alison Schimdt, and Shirin Johnson, 'A Crisis of Complacency: Minnesota's Untested Rape Kit Backlog', *Bench and Bar of Minnesota*, 74 (2017), 22-8.

low and declining. In the UK in 1977, one in three of reported rapes resulted in a conviction. By 1985, this was 24 per cent or one in five and it was only one in ten by 1996.³⁴ Today, it is one in twenty. If people today abhor sexual violence more intensely than in the past, why is there a rapidly decline prosecution rates?

Pinker also claims that no-one now 'argues that women *ought* to be humiliated at police stations and courtrooms, that husbands have a right to rape their wives, or that rapists should prey on women in apartment stairwells and parking garages'. Putting these three scenarios in the same sentence creates a misleading impression. After all, no one has ever argued that 'rapists should prey on women in apartment stairwells and parking garages': to include that phrase in the same sentence as husbands having a right to rape their wives makes that scenario seem equally ridiculous. However, until a few decades ago, many people *did* publicly argue that wives did not have the right to refuse to consent to sexual intercourse with their husbands. As late as 1991, a robust justification of the marital rape exemption was published in the *New Law Journal* by the distinguished legal academic Glanville Williams. In Williams' words:

We are speaking of a biological activity, strongly baited by nature, which is regularly and pleurably performed on a consensual basis by mankind.... Occasionally some husband continues to exercise what he regards as his right when his wife refuses him, the refusal most probably resulting from the fact

³⁴ Jessica Harris and Sharon Grace, *A Question of Evidence? Investigating and Prosecuting Rape in the 1990s* (London: Home Office Research Study 196, 1999), iii.

that the pair have had a tiff. What is wrong with his demand is not so much the act requested, but its timing, or the manner of the demand.³⁵

It wasn't until 1992 that the marital rape exemption was abolished in England; in Greece, 2006; and it is still not a crime in more than 40 countries. There continue to be formidable difficulties for wives who report being sexually abused by their husbands.

Pinker is equally complacent about forms of sexual violence that have only arisen in late twentieth and early twenty-first centuries: the invention and proliferation of technology-enhanced violence. He claims that the 'treatment of rape in popular culture' has 'changed beyond recognition' in positive ways. 'Today', he writes, 'when the film and television industries depict a rape, it is to generate sympathy for the victim and revulsion for her attacker'.³⁶ This is a surprising claim, given the amount of scholarship arguing that rape scenes in film and television are often included gratuitously or for titillation.

The sexualization of violence is especially prominent in video gaming, which Pinker correctly observes is 'the medium of the next generation, rivalling cinema and recorded music in revenue'.³⁷ Pinker believes that computer games 'overflow with violence and

³⁵ Glanville Williams, 'The Problem of Domestic Rape', *New Law Journal*, 141 (15 February 1991), 205 and 'The Problem of Domestic Rape', *New Law Journal*, 141 (22 February 1991), 246.

³⁶ Pinker, *The Better Angels of Our Nature*, 483.

³⁷ *Ibid.*, 483.

gender stereotypes', but that rape is 'conspicuously absent'.³⁸ This myth has been exploded in Anastasia Powell and Nicola Henry's book *Sexual Violence in a Digital Age*, which analyses structural inequalities as well as the gendered harms caused by technology-facilitated sexual violence, including virtual rape, image-based sexual abuse (such as 'revenge pornography'), and online sexual harassment.³⁹ Other commentators have argued that threats of rape and other attacks are routine in the genre, as is the spread of violent sexual images.⁴⁰

Videogaming and virtual spaces are prominent examples where sexual violence is rife. In 2013, a survey of male college students found that 22 per cent had engaged in

³⁸ Ibid., 484.

³⁹ Anastasia Powell and Nicola Henry, *Sexual Violence in a Digital Age* (London: Palgrave, 2016). Also see Nicola Henry and Anastasia Powell, 'Technology-Facilitated Sexual Violence. A Literature Review of Empirical Research', *Trauma, Violence, and Abuse* (June 2016) and Nicola Henry and Anastasia Powell, 'Sexual Violence in the Digital Age: The Scope and Limits of Criminal Law', *Social and Legal Studies*, 25.4 (2016), 397-418.

⁴⁰ This is a huge literature, but see Jessica Valenti, 'How the Web Became a Sexists' Paradise', *The Guardian* (6 April 2007), 16, at <https://www.theguardian.com/world/2007/apr/06/gender.blogging> and Cheryl Lindsey Seelhoff, 'A Chilling Effect: The Oppression and Silencing of Women Journalists and Bloggers Worldwide', *Off Our Backs*, 37.1 (2007), 18-21; Catherine Holahan, 'The Dark Side of Web Anonymity', *Bloomberg Businessweek* (1 May 2008), at <https://www.bloomberg.com/news/articles/2008-04-30/the-dark-side-of-web-anonymity>.

technology-based sexually coercive behaviours.⁴¹ In the virtual environment *Second Life*, users can pay to sexually assault ('grief') other characters.⁴² Some popular computer games (such as *Grand Theft Auto*) include rape scenarios. In his book *Second Lives: A Journey Through Virtual Worlds*, Tim Guest estimated that around 6.5 percent of logged-in residents have filed one or more abuse reports in *Second Life*. By the end of 2006, Linden Lab (creator of *Second Life*) was receiving 'close to 2,000 abuse reports a day'.⁴³ This is not a new phenomenon: the first recorded case of virtual rape occurred in 1993 among a cyberspace community called LambdaMOO, a multi-user, real time, virtual world. In it, a user called Mr. Bungle used his 'voodoo power' to sadistically attack and rape several female characters, who were made to look as though they were enjoying it.⁴⁴ Since that time, online sexual

⁴¹ Martie P. Thompson and Deidra J. Morrison, 'Prospective Predictors of Technology-Based Sexual Coercion by College Males', *Psychology of Violence*, 3.3 (2013), 233-46.

⁴² Michael Bugeja, 'Avatar Rape', in *Inside Higher Ed* (25 February 2010), at <http://www.insidehighered.com/views/2010/02/25/bugeja> (viewed 1 November 2017).

⁴³ Tim Guest, *Second Lives: A Journey Through Virtual Worlds* (London: Hutchinson, 2007), 227. Also see Melissa Mary Fenech Sander, 'Questions of Accountability and Illegality of Virtual Rape', MSc, Iowa State University (2009).

⁴⁴ Julian Dibbell, 'A Rape in Cyberspace', *Village Voice*, xxxviii.51 (21 December 1993), at <http://www.villagevoice.com/2005-10-18/special/a-rape-in-cyberspace/> and Julian Dibbell, 'A Rape in Cyberspace Or How an Evil Clown, A Haitian Trickster Spirit, Two Wizards, and a Cast of Dozens Turned a Database into a Society', *Annual Survey of American Law* (1994), 471-89. Also see K. De. Vries, 'Avatars Out of Control', in *Computers, Privacy, and Data Protection* (2011), 233-50; G. Young and M. T. Whitty, 'Games Without Frontiers', in

violence has proliferated. Feminists report systemic threats of death and sexual violence. 'Revenge porn' (when partners post to the internet sexually explicit photographs without consent) is popular. Cyber harassment is common.

Why should cyber-crimes be regarded as violent? Because they have real-life effects on non-avatar people, inducing psychological disturbance (anxiety, depression, PTSD) and affecting life outcomes (sexual and social dysfunction, drug and alcohol abuse, self-harm, suicide). These forms of violence also generate major negative health outcomes for the victims' families, friends, and communities. They cause women to police their own behavior. Not only have women moved home, changed their jobs, and gone into hiding, they also 'shut down their blogs, avoid websites they formerly frequented, take down social networking profiles, refrain from engaging in online political commentary, and choose not to maintain potentially lucrative or personally rewarding online presences'.⁴⁵ These are 'real' harms, not virtual ones.

Computers in Human Behavior, 26.6 (2010), 1228; Michael Kasumovic and Rob Brooks, 'Virtual Rape in Grand Theft Auto 5: Learning the Limits of the Game', *The Conversation*, at <https://theconversation.com/virtual-rape-in-grand-theft-auto-5-learning-the-limits-of-the-game-30520>, viewed 1 December 2017; Mary Anne Franks, 'Unwilling Avatars: Idealism and Discrimination in Cyberspace', *Columbia Journal of Gender and Law*, 20.1 (2011), 224-61; Jessica Wolfendale, 'My Avatar, My Self: Virtual Harm and Attachment', *Ethics and Information Technology*, 9.2 (2007), 111-19.

⁴⁵ For a small sample of the evidence, see D. K. Citron, *Hate Crimes in Cyberspace* (Cambridge, Mass.; Harvard University Press, 2014); Mary Anne Franks, 'Unwilling Avatars:

Finally, Pinker's employment of an evolutionary psychology model of sexual violence is problematic. His view of sexual violence is framed in terms of self-interested competitors, a 'genetic calculus', and a 'reproductive spreadsheet'.⁴⁶ He believes that the 'prevalence of rape in human history' and the 'invisibility of the victim in the legal treatment of rape' are

all too comprehensible from the vantage point of the genetic interests that shaped human desires and sentiments over the course of evolution before our sensibilities were shaped by Enlightenment humanism.⁴⁷

He notes that 'harassment, intimidation, and forced copulation are found in many species, including gorillas, orangutans, and chimpanzees'.⁴⁸ Rape, he contends, 'is not exactly a

Idealism and Discrimination in Cyberspace', *Columbia Journal of Gender and Law*, 20 (2011), 229; Danielle Keats Citron, 'Addressing Cyber Harassment: An Overview of Hate Crimes in Cyberspace', *Journal of Law, Technology, and the Internet*, 6 (2015), 1; Danielle Keats Citron, 'Cyber Civil Rights', *Boston University Law Review*, 89 (2009), 64-9; Danielle Keats Citron, 'Law's Expressive Value in Combating Cyber Gender Harassment', *Michigan Law Review*, 108 (2009). 373-75; Nicola Henry and Anastasia Powell, 'Embodied Harms: Gender, Shame, and Technology-Facilitated Sexual Violence', *Violence Against Women* (March 2015); Melissa Sander, 'Questions of Accountability and Illegality of Virtual Rape' (2009).

⁴⁶ Pinker, *The Better Angels of Our Nature*, 480.

⁴⁷ *Ibid.*, 477.

⁴⁸ *Ibid.*, 477.

normal part of male sexuality [note that equivocal ‘not *exactly*’], but it is made possible by the fact that male desire can be indiscriminate in its choice of a sexual partner and indifferent to the partner’s inner life’.⁴⁹ There is also a slippage from the notion that ‘Around 5 percent of rapes result in pregnancies, which suggests that rape can be an evolutionary advantage to the rapist’⁵⁰, to the view that this behavior was the best strategy for men in evolutionary time.

Theorists hostile to the application of evolutionary insights to modern societies will remain skeptical. It is important to note, however, that feminist evolutionary scientists have challenged the particular form of evolutionary psychology that Pinker espouses. In particular, they point out the western, male bias of its model of reproductive strategies.⁵¹ As Pinker is aware, ‘fitness’ in the context of survival and reproduction is a much more complex phenomenon than his account allows for, most notably because it is affected not only by individual reproductive success in competitive environments (which may include forced sex

⁴⁹ Ibid., 488.

⁵⁰ Ibid., 477.

⁵¹ Patricia Adair Gowaty, ‘Power Asymmetries Between the Sexes, Mate Preferences, and Components of Fitness’, in Cheryl Brown Travis (ed.), *Evolution, Gender, and Rape* (Cambridge: MIT Press, 2003); Sarah Blaffer Hrdy, ‘Raising Darwin’s Consciousness’: Female Sexuality and the Prehominid Origins of Patriarchy’, *Human Nature* (1997); Sarah Blaffer Hrdy, *The Woman that Never Evolved: With a New Preface* (Cambridge, MA: Harvard University Press, 1999); Marlene Zuk, *Sexual Selection: What We Can and Can’t Learn About Sex from Animals* (Berkeley: University of California Press, 2002).

or exploitative accumulation of material resources), but also by sexual selection (including taking into account the preferences of the opposite sex) and group selection (such as adhering to reproductive norms or restraining sexual impulses). Individual, group, and sexual selection can, and often do, work against each other. For example, a trait or behavior that can enhance sexual selection can also be non-adaptive in terms of individual fitness (for example, certain sexual display behaviours increase the risk for been preyed upon). Equally, species often behave in ways that promote the survival and reproduction of the group, at the risk of individual survival and reproduction. Evolutionary psychologists of Pinker's variety tend to focus on individual environmental and genetic interactions, while downplaying sexual selection and group selection, because the latter are significantly more difficult to infer from evolutionary environments. But this does not mean that individual selection is actually dominant in terms of evolutionary mechanisms. Indeed, given the logic of the evolutionary account, the scarcity of the 'commodity' women possess – that is, child-bearing and raising – gives particularly strong preference to female tastes in sexual selection.⁵² By focusing on only one of the mechanism of selection, Pinker's paradigm privileges a male-biased, individualistic, neoliberal account of the evolution of the brain that is primarily about self-interest rather than the group.

⁵² For further discussion, see Amy L. Wax, 'Evolution and the Bounds of Human', *Law and Philosophy*, 23.6 (November 2004), 540.

Furthermore, Pinker's model of reproduction fails to acknowledge the evolutionary benefits of flexible responses, which may cut across gender lines.⁵³ For example, primatologists have observed that primate females are often aggressive in sex and promiscuous in soliciting it.⁵⁴ Evolutionary biologist Patricia Adair Gowaty and ecologist Stephen Hubbell developed a model that emphasizes flexibility of reproductive behavior once factors such as environments, probabilities of encounters and survival, receptivity, and life history are factored in. Rather than assuming that females will be 'coy' in their sexual encounters while males are promiscuous, they find that it depends on other contexts: if an individual's survival probability declines, so too with their 'choosiness', whether male or female.⁵⁵ As Gowaty and Hubbell conclude, 'Males, not just females, flexibly adjust choosy

⁵³ See Laurette T. Liesen, 'Women, Behavior, and Evolution: Understanding the Debate Between Feminist Evolutionists and Evolutionary Psychologists', *Politics and the Life Sciences*, 26.1 (March 2007), 51-70.

⁵⁴ Sarah Blaffer Hrdy, 'Empathy, Polyandry, and the Myth of the Coy Female', in Elliott Sober (ed.), *Conceptual Issues in Evolutionary Biology* (Cambridge, Mass.: MIT Press, 1994), 123-29; Hrdy, 'Raising Darwin's Consciousness' (1997), 8-22; Barbara Smuts, 'Male Aggression Against Women: An Evolutionary Perspective', *Human Nature*, 3 (1992); Barbara Smuts, 'The Evolutionary Origins of Patriarchy', *Human Nature*, 6 (1995), 1-32; Zuk, *Sexual Selection* (2002).

⁵⁵ Patricia Adair Gowaty and Stephen P. Hubbell, 'Chance, Time Allocation, and the Evolution of Adaptively Flexible Sex Role Behavior', *Integrative and Comparative Biology*, 4 (2005), 931-44.

and indiscriminate behavior' and selection will 'sometimes select against choosy females and indiscriminate males'.⁵⁶

Pinker's evolutionary approach also leads him to ignore the effect of sexual violence on certain women. He observes that rape 'entangles with three parties', which he claims are 'the rapist, the men who take a proprietary interest in the woman, and the woman herself'.⁵⁷ He reiterates this later, when noting that the 'second party to a rape is the woman's family, *particularly her father, brothers, and husband*'.⁵⁸ In these ways, Pinker omits the effects of rape (whether actual or threatened) on the lives of all women and other vulnerable people. Mothers, sisters, and daughters (to name just three) are harmed by this form of violence.

Many of these criticisms arise from Pinker's selective use of evidence from the psychological literature. To take one example: Pinker's particular evolutionary psychological approach would predict that women would be more harmed by sexual violence than would men. He cites the work of evolutionary psychologist David Buss, claiming that Buss 'shows that men underestimate how upsetting sexual aggression is to a female victim, while

⁵⁶ Ibid., 940. Also see Steven Gangestad and Jeffrey Simpson, 'The Evolution of Human Mating: Trade-offs and Strategic Pluralism', *Behavioral and Brain Sciences*, 23 (2000), 575-76.

⁵⁷ Pinker, *The Better Angels of Our Nature* (2011), 477.

⁵⁸ Pinker, *The Better Angels of Our Nature* (2011), 478. My emphasis.

women overestimate how upsetting sexual aggression is to a male victim'.⁵⁹ In fact, Buss' research was done in the 1980s and rather than showing a universal pattern differentiating male versus female responses, it is based on a sample of male and female undergraduates enrolled in a psychology course at a large Midwestern university. Participation in the survey earned the participants credits for their course.⁶⁰ These respondents are psychology's WEIRDs (that is, western, educated, undergraduate students from industrialized, rich, and democratic countries). Furthermore, the questions that these students were asked to respond to carried within them a strong presumption for an evolutionary account of emotional responses to abuse – an account these students would have recognised given its prominence in psychology curricula of the time. The students were directed from the start that the project was investigating 'Conflict between Men and Women', as the sheet of paper they were given was entitled. All these factor strongly bias the survey.

Furthermore, Pinker does not report that Buss' study did *not* support the hypothesis that 'women would be upset and angered by the hypothesized feature of male reproductive strategy involving sexual aggressiveness'.⁶¹ Indeed, Buss concluded that 'Overall, these results provide only partial support for the theory of conflict between the sexes on the basis

⁵⁹ Ibid., 488-89, referring to David M. Buss, 'Conflict between the Sexes: Strategic Interference and the Evocation of Anger and Upset', *Journal of Personality and Social Psychology*, 56.5 (1989), 735-47.

⁶⁰ David M. Buss, 'Conflict between the Sexes: Strategic Interference and the Evocation of Anger and Upset', *Journal of Personality and Social Psychology*, 56.5 (1989), 737.

⁶¹ Ibid., 741.

of conflicting reproductive strategies'.⁶² The evolutionary theory was only convincing in the experiment where the students were asked to speculate on how 'irritating, annoying, and upsetting' sexual aggressiveness would be to a person the man/woman was 'involved with'. As David Buller argues in *Adapting Minds: Evolutionary Psychology and the Persistent Quest for Human Nature* (2005), both Pinker's and Buss' methodologies are flawed and the evidence do not support their conclusions. 'Our minds', Buller concludes, 'are not adapted to the Pleistocene, but, like the immune system, are continually adapting, over both evolutionary time and individual lifetimes'.⁶³

In conclusion, as I have tried to point out throughout this article, Pinker fails to recognize the ideological underpinnings of his research. He is keen to accuse his critics of ideological biases, while failing to acknowledge or even notice his own neoliberal defence of western civilization. Feminist scientists are frequently forced to defend themselves against the accusation that they allow their politics to interfere with scientific objectivity. Gowaty explained to her critics that

Science is the practice of systematic observation and experiment as a means to test predictions from hypotheses while reducing or eliminating (i.e. controlling) the effects of perceived and possible biases on results and

⁶² Ibid., 741.

⁶³ For example, see David Buller, *Adapting Minds: Evolutionary Psychology and the Persistent Quest for Human Nature* (Cambridge, MA: The MIT Press, 2005).

conclusions. So what it means to be self-consciously political is that one is thereby in a scientifically better position relative to those who are unaware of the political and social forces potentially affecting their science.... Buttressed with better controls, controls against potential biases we are able to perceive, makes our conclusions more reliable.⁶⁴

Like Gowaty, Pinker's project is informed by his politics. Unlike Gowaty, by failing to acknowledge and then control for his own ideological bias, Pinker has missed an opportunity to convincingly explain the changing nature of violence in our societies.

⁶⁴ Patricia Adair Gowaty, 'Introduction: Darwinian Feminists and Feminist Evolutionists', in Gowaty (ed.), *Feminism and Evolutionary Biology: Boundaries, Intersections, and Frontiers* (New York: Chapman and Hall, 1997), 14