

# Why Do We Still Blame Victims Of Date Rape?

**By Kathleen Peratis**

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According to Alfred P. Doolittle, shrewd and cheerfully unemployed working-class nemesis of Henry Higgins in "My Fair Lady," some poor people are deemed "deserving" of charity — the ones who seem miserable and wretched — and others, the "undeserving" (like him), are not. We divide sexual abuse victims into similar groups: those who deserve justice because they previously lived a chaste life, and the unchaste others, who did not.

If the victim has previously been sexually impure, then who can trust anything she says? If she were innocent, what was she doing in that neighborhood at that hour dressed that way? Knowing the drill, most victims of sexual assault have nursed their wounds, their traumas and their resentments privately; those intrepid few who came forward were usually ruined in the process.

We now call this "blaming the victim," but it took decades to understand that the criminal justice system was complicit because it encouraged character assassination of the complainant. Rape shield laws are now in place in 49 states — Arizona is the lone exception — and they limit the defendant's right to rummage around in the victim's sexual past.

Remaining admissible is evidence of prior conduct between the accuser and the accused, as well as evidence that the act or injury was caused by someone else — which have had the effect of carving out a free-fire zone for what is now known as "date rape." This brilliant oxymoron not only suggests that "date rape" is not quite real rape, it is also a phrase in which the adjective not coincidentally cancels out the noun — as is the case with "partial-birth abortion." The date rape victim of the 21st century thus inherits the legacy of her older sisters. She must overcome a glut of suspicion amounting to "you asked for it," although other crime victims who really are "asking for it" — such as the late-night convenience store that is repeatedly robbed, or the ostentatiously dressed tourist who is mugged — suffer no prejudice.

If you publicly complain of sexual abuse, you can never be sure how much of your past will be exposed — whether in court, in the press or in common gossip. You only know for sure that if your sexual past is laid bare, you will not look good. Unless you have been living under a rock, there will be things you would prefer not to share with the immediate world, the kinds of things that, if ripped out of context and made public, would sully you forever in the eyes of your community.

The debacle that is the Kobe Bryant case, more than any high-profile rape case in a generation, is scaring women off from reporting their own sexual abuse. The entire sex life of his accuser, as well as her name and her psychiatric records, have been all over the press and the Internet for a year. A few weeks ago, she filed a civil suit against him for money damages and her credibility totally collapsed. (Never mind that a hit-and-run victim who sues the driver in a civil suit suffers no loss of credibility.)

But long before she filed the civil suit, she had entered the crowded ranks of the "sluts and nuts," a label inspired by defenders of Clarence Thomas in his confirmation hearings in 1991 and applied to Anita Hill, who accused him of sexual harassment. His defenders sent us to our

dictionaries when they also accused her of “erotomania,” a charge that lacked the poetry of “a little nutty and a little slutty.”

But wait. I am a civil libertarian.

Doesn't every criminal defendant have the constitutional right to impugn the credibility of his accuser even if that defense ruins her reputation? Small price to pay to avoid sending an innocent man to jail, right? Susan Estrich, civil libertarian, feminist and rape survivor, recently asked, “If it was your brother, your son or you who had been charged with rape by a woman after a one-night stand” wouldn't you want to know of her previous experiences under the similar circumstances?

Yes, of course. But trust me — the permission we give to defendants to destroy the reputation of their accusers is motivated by a lot more than constitutional principle, which is why it gets so out of hand. Clarence Thomas, Kobe Bryant, Mike Tyson, William Kennedy Smith (acquitted of date rape in 1991, sued last week by another woman for sexual assault) and many others smeared their accusers *because they could*, because they told the public a story that accords with its prejudices, because judges permit it and the press is more than happy to play the events for all their salacious worth.

No constitutional principle is at stake when a woman accuses her boss of sexual harassment, yet the very same dynamic is unleashed: Women who credibly charge a boss with serious sexual harassment can be sure that the company's lawyers, like any criminal defense attorney, will try to discredit her by rummaging for muck in her sexual past. And the civil court judge will probably let enough of it into evidence to put a real crimp in the value of the case. (Yes, it is about money — the civil court system has no other remedy to offer such victims).

The core problem is deeply embedded in our culture. People — jurors — think an unchaste woman is a lying woman. A recent University of Michigan study confirms that jurors continue to be as likely to assess the rape defendant's guilt based on their view of the victim's virtue as upon the other evidence presented. Yet having come to a time when the myth of premarital chastity no longer controls our behavior, ought we not restrict its control over our judgments of “unchaste” victims of abuse?

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