April 8, 2004

Dear Law, Society and Culture Work-in-Progress Discussion Group Attendees:

First, thank you for taking the time to engage with my work on sexual coercion in early America. The piece I have provided, “The Process of Sexual Coercion: Identity, Power and Social Consent in Early America,” is a chapter from a book I am completing on rape and sexual coercion in eighteenth and early nineteenth-century America. As the second chapter, it examines how social power was crucial to the ways that early American men could force various women into sexual relations. The previous chapter focuses on the overall understandings of rape as an outgrowth of consensual sex and the subsequent chapter traces the gendered transformation of a private sexual attack into a public and legal wrong. The fourth and fifth chapters address the American statutory treatment of rape and traces the aggregate treatment of black and white men accused of rape between 1700 and 1820. The final chapter deals with the divergent trajectories of rape myths surrounding Indians, Africans, and political and Revolutionary enemies.

While other of my book chapters focus on the criminal treatment of rape, this chapter analyzes the gap between the personal coercion of sex and the public classification of rape. I reconstruct individual women’s experiences to show that while sexual coercion was a gendered act of power, it was never just a gendered act, divorced from other social and racial dynamics. “The Process of Sexual Coercion,” shows that the complexity of the process of sexual coercion belied the early American image of rape. White and elite men could use the power of their position to redefine coercion into consent, while poor and enslaved men only had the option of the brute force that early Americans were most likely to recognize as rape. Thus status and racial ties to rape would be created in the very act of sexual coercion.

Finally, a word about sources: the data for this chapter was gathered first from all available superior court and slave court records (where rape was usually prosecuted) for the thirteen colonies, subsequent states and several territories. Second, I looked at scores of personal commentaries (diaries, letters, etc) for any commentaries on forced sexual relationships that may not have been reached a court’s attention. Located in more than twenty-five archives and historical societies, these sources (most of which are manuscript documents, not indexed cases or published records) present a broad picture of the social dynamics of the coercion of sex in early America.

I am greatly looking forward to your comments and suggestions for this chapter.

Best,
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Introduction

Sexual coercion took many forms in early America. In 1725, Sarah Perkins told a Connecticut court that her father had often pressured her to have sex with him. Sarah confessed to having repeated sexual relations with her father, but maintained that “she always opposed him by argmts and was never willing to comply with him.”¹ In 1766, two Pennsylvania men raped and murdered two local Indian women, leaving their hatcheted bodies to decay by the side of a road.² In 1796, a woman named Jane was walking home from Church when she ran into a neighbor who walked with her, helped her through a fence, and then tried to rape her in a New Jersey field.³ In 1808, Celia Evans testified to Virginia justices that a man broke open the door to her house and raped her at knifepoint, threatening to kill her if she made any noise or resistance.⁴

All of these women experienced a sexual attack that ultimately came to the attention of an early American court. Despite their occurrences over nearly a century, nothing tied each incident to a limited historical epoch – an array of like incidents could be mixed-and-matched across any decade or region. Instead of regional or chronological specificities, these sexual assaults differed in the very process of the sexual coercion. While any woman might theoretically fall victim to a knife-wielding stranger, different sets of identities, social standings, and societal expectations

¹ “Indictment of John Perkins Jr. and Sarah Perkins, March 1725,” New Haven Superior Court Files, 1720-1727, Dr. 324, CSL.
² Pennsylvania Gazette, Aug. 7, 1766.
³ “Indictment of Pompey, Nov. 1796,” Indictments, #3376 & unnumbered doc., HHR.
⁴ “State v. David,” Virginia Executive Papers, April 18, 1808, Box #153, f. April 116-30, LOV.
allowed particular forms of sexual coercion. Because sexual attacks were committed as much out of social power as of physical force, a woman’s standing in early American society left her differently vulnerable to sexually coercive tactics, and a man’s standing allowed him to differently exploit these vulnerabilities.

We often talk about rape as if all forceful sex springs from the same cause to be implemented in identical ways. In reality, early Americans’ limited definition of rape as an utterly irresistible act of overt physical force ignored the many forms of sexual coercion beyond physical battery. A surprise attack by a stranger bore little resemblance to ongoing sexual manipulation by a father, or to coercion by a friendly neighbor – let alone to rapes committed in the course of murder. Yet in all of these sexual attacks, social and economic power relations underwrote sexual power, not just in the ability to evade legal punishment, but through the very process of sexual coercion. The porous boundaries between consensual and coercive sexual relations allowed men to infuse sexual force with the appearance of consent. In other words, men could commit rape not just an act of power, but through their power to define an act.

Ironically, the type of sexual assault that early Americans would most readily identify as an archetypal rape may have been among the less common kind of sexual assault. These unforeseeable rapes by strangers or community outsiders often involved excessive physical battery and occurred in isolated locations – the equivalent to the modern rape in a dark alley by an armed stranger. Despite this common image of rape, far more sexual attacks may have occurred between neighbors and family members who knew one another. Such incidents could combine a threat of brute force with more subtle forms of coercion that sought to make the victim a seemingly willing participant in the sexual encounter. While outsider-rapes included only the most nominal effort at replicating consensual relationships, sexual assaults between people who knew one another could more effectively use social relationships to create an image of a consensual sexual interaction.
After a brief discussion of incidents of sexual force enacted by pure physical force or threat, this chapter focuses on those acts of coercion that were enacted through means other than sudden and brute force.

Much of this chapter focuses on rapes within households. As the primary economic, social, and familial structure in early America, household hierarchies structured patterns of sexual coercion. Many sexual assaults depended on the relationship between the household members involved: masters and fathers, for instance, could use their position as household patriarchs to coerce servants, slaves, or daughters. Most patriarchs did not need to resort to excessive physical force or weapons. Instead, masters could order their laborers into sexually vulnerable situations, and fathers could use their authority to order sexual obedience from their daughters. For enslaved women, virtually non-existent legal or effective community support meant that masters’ sexual prerogatives would be a significant feature of a race-based slave labor system. Yet household labor organization also blurred the lines between a patriarch’s sexual and economic control over all his dependent women’s bodies. A case study of two exceptionally-detailed incidents of master-on-dependent sexual coercion suggests that we need to complicate any notion that racial or slave status, alone, determined sexual vulnerability: sometimes white mastery shaped the form of sexual coercion as much as did the race of a servant or slave.

Beyond outlining the common categories of sexual assaults enacted through social relationships, I conclude by exploring a group of sexual assaults that explicitly enforced colonial boundaries. Throughout history, rape has been used in wartime as a punishment of the vanquished and a reward for the victors. In the early American context, we also see sadistic sexual acts that display Anglo-American men’s direct punishment of subservient racial and ethnic groups through rape. Such rapes were a tool of colonization against Native American and African American women. They became a means to mark not just a woman’s gendered inferiority, but her
racial inferiority as well. Thus, contrary to early American definitions of rape as an attack by a man on a woman, the process of sexual coercion gave social, racial and specifically colonial meanings to rape.

Rape by Strangers, Rape by Neighbors

The theoretically archetypal rape in early America -- the type bemoaned by newspaper editors, successfully prosecuted by courts, and easily condemned by community members -- was a one-time surprise attack by a virtual stranger. Such attackers might be expected to have surprised a woman in an isolated location and threatened her with death or grave bodily harm if she did not comply with his sexual force. Because such random attacks left little doubt that the woman might have consented to the sexual relations, they were the most easily identified (and likely most prosecuted) kind of rape. By providing a stark contrast to sexual relations between people whose pre-existing social relations with one another might be seen to imply consensual sexual relations, such sudden-attack-stranger-rapes avoided an array of concerns over a victim’s chastity and sexual desires.

Violent rapes by men with whom the victims appear to have had no social relations can be identified only sporadically in court records throughout the eighteenth and early nineteenth centuries. In the most obvious of these cases, attackers used weapons to force women to submit to their sexual will. In Massachusetts in 1731, a black laborer named London carried a young woman, whom he had been ordered to transport to a nearby town, into the woods and raped her.

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5 Of 321 incidents in which the relationship between the defendant and victim can be determined, fewer than twenty cases involved strangers. While this number is undoubtedly an understatement (it is easier to identify a relationship than a lack of relationship), qualitative evidence does suggest that the ‘typical’ rape popularized in published crime literature may have been far less typical than we might think. For a modern rape study that reached similar conclusions, see Diana E.H. Russell, *Rape in Marriage* (New York, 1982), 64-67.
after threatening her with a knife. In Montreal in 1761, Catherine McCarter was walking on foot when Gabriel Nolan, claiming he knew a shortcut, led Catherine into the woods “where there was no path.” In this remote area, Gabriel threw Catherine down at knifepoint, threatening that he would “cut her throat, or Rip up her Belly if she did not comply” with his sexual wishes. In 1787, Mary Murphy told a Maryland court that she was accosted by an enslaved man “she did not Remember ever to have seen” before, who held “a Jackleg Knife a cross her throat as if he intended to cut it.” A sudden attack with the threat – or enaction -- of severe physical violence by an unknown assailant remained the quintessential image of rape well into the nineteenth century and beyond.

Although such stranger assaults may have been small in number, men of African descent seemed to commit a disproportionate number of both weapon-wielding and stranger-sexual assaults (about 40% of identifiable incidents). As social outsiders in most Anglo-American communities, African American men had few means for rape against white women other than physical threats and brute force. Unlike many white men, black men would have had little opportunity to build recognized social relationships with white women that might allow for less physically violent methods of sexual coercion. Black men who had little condoned opportunity to socialize with white women seemed more like rapists, in part, because they had little ability to

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6 “Examination of London,” Royal Court of Judicature, Oct. 1734, Suffolk Files, #38267, 37890 (order for Special Assize), MA.
7 “Trial of Gabriel Nolan, March 17, 1761,” WO 71/68 136-140, PRO.
8 “Case of Adam, Nov. 1787,” Governor and Council, Pardon Papers, 1787, Box 3, fldr 96, MdSA. Pistols were very rarely mentioned in connection with rape outside of wartime. For one such case, see Carlisle Gazette, Nov. 19, 1788.
9 Adopting such a limited image of rape as acts committed randomly by violent strangers has allowed scholars critical of feminist interpretations of rape’s relation to patriarchy to categorize rape as “flourish[ing] mainly on the margins” and rapists as “the waste of patriarchy.” Roy Porter, “Rape -- Does It Have a Historical Meaning?” in Rape, ed. Sylvana Tomaselli and Roy Porter (New York, 1986), 235.
reformulate social relations with white women into quasi-consensual sexual relations. Consequently, their sexual assaults seemed to be committed as the kind of sudden unavoidable attacks that early Americans associated with rape.

This image of a rape committed through a stranger’s use of extreme force was so much a part of the communal consciousness that early Americans mimicked them in their fabricated claims of rapes. In 1756, when Hannah Beebe made a rape accusation that she would later recant, Hannah claimed that a black stranger had accosted her in “In a bye and secret place,” threatened to kill her, and made his threat real by pulling out a knife before he raped her. In the Revolutionary era, when Mary Bremer claimed that her pregnancy had resulted from a rape, she manufactured a story about an unknown assailant who accosted her in a wooded park. (Her uncle/guardian was eventually discovered to be the baby’s father.)

Jacob Kester apparently concocted a story of rape to justify asking a neighbor to “use his medical knowledge in obtaining an abortion” for the servant he had impregnated in 1789. Jacob claimed that the servant had been accosted on a road by two unknown men “who menaced that they would murder her unless she consented to let them have the carnal enjoyment of her person.” In all of these false-rape stories, tellers claimed an image of rape that situated unknown, violent offenders as attackers of lone women in isolated locations. They resorted to the archetypal image of rape for their fictional scenarios.

But there was a world of sexual coercion outside of the violent-outsider-as-attacker scenario – a world probably more common than the typical image of rape suggests. A man who

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10 On the eighteenth-century image of rapists as community outsiders, see Dayton, Women Before the Bar, 233, 243, 249.
12 “Andreas v. Andreas,” Pennsylvania Supreme Court Eastern District Divorce Papers, 1789, RG 33, PHMC.
13 Of 321 incidents where the relationship between the defendant and victim can be identified, 126 (39%) involved people who were acquainted with one another but did not live in the same household. Using another measure, out of the 321 incidents where the defendants’ and victims’ residences can be determined, 182 (57%) involved people from the same town or region of the city (not living in the same house). Two studies of eighteenth-century London rapes
sexually coerced a woman with whom he socialized did not have to rely exclusively on the physical violence and bodily threats of the stranger-rapist. Sexual assaults committed by neighbors, relatives, or family friends could be committed in ways that deviated sharply from the seemingly sudden brutality and absolute physical force of unambiguous rapes. In many of these incidents, daily forms of socializing appear to have gone awry, as affable interactions led to what women experienced as acts of sexual coercion.

When men and women shared an ongoing social relationship, men could blur the lines between persuasion and forceful attempts at sexual relations. We might most expect such blurring in courting relationships, when unmarried men and women worked toward adulthood through heterosocial and heterosexual pairings. And, as will be discussed, some rape accusations certainly seemed to originate out of young men’s pursuit of young women. But a man could also use the position of neighbor rather than suitor to shade a social relationship into a sexual one. In Maine in 1710, Mary Jenkins told a court that John White had come to her house while her husband was away “to Talke with her” and they chatted about Mary’s “mother and other things” while John helped Mary put her children to bed. Only after the children were in bed did John bolt the door and tell Mary “hee cam to have his will of her.” Mary used “all the means Shee posebly Could to hender him,” but “fell into a fitte” while he forced her into sexual relations. John then spent the night, not leaving until Mary’s mother arrived in the morning.14 John’s actions in front of others—helping with the children, greeting Mary’s mother—suggested that he was being a friendly neighbor, perhaps protecting Mary from the hostile Indians she feared. But Mary’s initial willingness to entertain him in her husband’s absence may have simultaneously created his expectation that she would consent to sexual relations.

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found similarly high percentages of prosecuted sexual assaults involved people who knew each other. Antony Simpson, “Popular Perceptions of Rape,” para 51; Trumbach, Sex and the Gender Revolution, 307-8.
In 1764, a married woman named Mary Burnside testified that she was working at a neighbor’s house when David Clark sat down by her and repeatedly tried to pull her onto his lap. When she, “finding she did not Care to keep him Company,” left the room, David followed her and “asked if he might not Kiss her.” Mary refused, and David “pinched and Tickoled her” until she slapped him. David then carried Mary into a back room and threw her on the bed, attempting to rape her. John Baxter claimed that he had seen Mary sitting on David’s knee and “some Toying between them,” so when he heard Mary call for help from the back room, he told Mary that he would help her “when he thought She was in Need.” When a servant woman and the homeowner’s daughter tried to help Mary, other neighborhood men prevented their intervention. Although several men were aware of Mary’s resistance to their neighbor’s sexual coercion, they chose not to intervene or to allow other young women to do so. Perhaps the men had determined that Mary was not truly resisting David, or that her admittance of some degree of familiarity meant that she was likely to truly want sexual relations. Yet had these men witnessed similar physical interactions with strangers or enslaved men on top of neighbor women, they probably would have been more likely to consider the woman in real danger and the sexual interactions more forced than they did in this case.

Women sometimes recalled that the neighbors they would eventually charge with a crime had repeatedly pestered them for sex. In 1701, Sarah Aldridge accused William Hudson of attempting to rape her by “Divers times Attempting to lye with her.” In 1798, Margaret Heyser complained that George Bowman “has several times attempted to take the advantage of this

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15 Chester County Quarter Sessions File Papers, Aug. 1764, CCA.
Deponent.”17 In the early nineteenth century, Mary Ellis complained to a Mississippi court that Francis Surget had made a dozen sexual overtures over several months before a day in July when he came to her house ostensibly to ask about her husband’s farm business. During their conversation, Francis shut the window and door, ignored Mary’s requests for him to “begone out of her presence,” dragged her on a bed and, according to Mary, raped her.18 The nuisance of a sexually forward neighbor might not seem like an actionable offense in communities that expected (even if they officially condemned) men to want illicit sex. A community member might repeatedly attempt to have consensual sexual relations with neighbor women before escalating toward more overpowering sexual tactics that would lead her to publicly complain about his behavior. Ironically, that hesitancy to turn on a neighbor might also distance her accusation from the most believable image of rape as a sudden and physically irresistible attack.

In courting relationships, members of the community might be even more likely to see close social relationships that developed into sexual ones -- even apparently coercive sexual relations -- as private interactions that did not demand intercession. Unlike the seventeenth-century New Englanders who emphasized community policing, eighteenth-century community members who saw sexual tousling between their unmarried neighbors might avoid interfering, perhaps thinking that the established social relationship between the parties meant that their sexual relationship was a consensual one, or was a natural outgrowth of increasingly relaxed parental control over courting.19 In 1731 Pennsylvania, Alice Yarnal complained that Lawrence

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17 “The People v. George Bowman,” New York County Court of General Sessions Indictment Papers, July 24, 1798, NYMA.
MacGinnis had thrown her down and tried to rape her by the side of the road. Two men who accompanied Lawrence seemed to know that Lawrence planned to have sexual relations – forced if necessary – with Alice, but did not seem to think it appropriate to intervene. John Howard testified that after Lawrence had seen Alice, Lawrence had claimed that if the road had been more isolated he “would have taken the above alice yarnal into the woods and stopped her mouth.” John apparently saw nothing wrong with Lawrence’s plan: he later left Lawrence and Alice to go visit at a nearby house. When John came back outside, he casually remarked to another traveler that he had “no doubt but we shall find them in the bushes.” And he was right: John next saw Lawrence on top of Alice who was hitting him and crying “you shall not,” but John still did not intervene. Perhaps John thought that Alice’s resistance was pro forma courting behavior, or perhaps he thought it was not his right to interfere in his neighbors’ personal relations. Or perhaps, since he knew that Alice, though unmarried, had a small child, he took this evidence of her past sexual relations to mean that she had no virtue for him to protect and that she would thus likely ultimately consent to Lawrence’s overtures. Images of sexual courting as men’s pursuit and women’s resistance encouraged communities of men to substitute their own interpretation of a woman’s expressions of resistance to a neighbor or friend.

Courting behavior could even be used by a sexual attacker to purposefully mask the appearance of coercion. In Pennsylvania in 1783, Jane Mathers described how James Paxton had approached her as she was walking through the woods, offered to walk her home, and asked what she would think “of his playing with me.” Although Jane “begged him for God’s sake not to touch” her, James “swore he would.” When they were discovered by a man who had heard Jane’s screams, James began brushing her hair, suggested that she wipe the dirt off her neck, and told the

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*Nasty Wenches*, 187-201. On changing courting practices, see Anne Spencer Lombard, “Playing the Man: Conceptions of Masculinity in Anglo-American New England, 1675 to 1765,” (Ph.D. diss. UCLA, 1998), 82-143.; 20 Chester County Quarter Sessions File Papers, June 1, 1731, CCA.
newly arrived witness that the scuffle had only been because she refused to give him any of her peaches. From beginning to end, even by Jane’s own testimony, James had cast his actions into the normalcy of consensual sexual relations. He did not immediately force himself on Jane: he asked to have sex with her. And brushing Jane’s hair was a social interaction suggestive of intimate and consensual relations: after all, if she let him stroke her hair, was it not then reasonable to think that they had an amiable, even amorous relationship? Yet only accepted community members could replicate consensual amorous relations. An unknown enslaved man could not have calmly stroked a white woman’s hair, claiming that they had just had a tiff over some fruit.

Indeed, even when white victims knew the identity of the black men they accused of rape, their courtroom testimony often reiterated that the women shared no social relationship with black attackers. Being literal neighbors rarely implied neighborliness between white victims and black attackers. In her testimony against a black man who broke into her house and raped her in Connecticut in 1817, Lelea Thorp specified that she knew him, “but was, never, personally acquainted with him.” A year later in Virginia, Elizabeth Wright told the Virginia court that she had only seen the slave she had accused of raping her briefly on two previous occasions, as he was passing through the plantation where she lived. One of the only known instances of a black man’s sexual assault that stemmed from consensual social relations involved an attack on an African American woman. As mentioned in the opening paragraph, in New Jersey in 1796, Pompey tried to force Jane, a neighborhood woman whom he knew, into sexual relations when he

21 “Notes of Evidence for Respublic v. James Paxton for rape of Jane Mathers, May 27, 1783,” Yeates Legal Papers, (April - May 1783), Folder 7, HSP. For other cases growing out of courting interactions, see “John Amee bound, 1703,” Province and Court Records of Maine, ed. Neal W. Allen, IV, 288-9; “Indictment of Lenass Brawn for assault w/ intent,” in Dockets of Cases and Notes of Evidence taken by Hon. Increase Sumner, 1782-1797, 159-161, MHS.

22 Trial of Amos Adams, for a Rape, committed on the Body of Lelea Thorp. (New Haven, 1817), 12-13, AAS.

23 Virginia Executive Papers, 25 Aug 1818. VSL. For exceptional cases where white women’s socializing with black men undermined their rape accusation, see State v. Jack, Governor and Council. Pardon Papers, 1793. Box 6, fldr 50, MdSA; State v. George, Virginia Executive Papers, Oct 24, 1812, LOV.
accompanied her home from church services.\textsuperscript{24} Just as white male community members could claim sexual coercion of white women as consensual sex rather than rape by placing forced sexual acts into a milieu of voluntary social relations, black men and women probably engaged in similar struggles in their own communities. Unfortunately, early American records are almost unanimously silent on the inner workings of African American sexual practices that were unrelated to mainstream Anglo-American culture.

An increased concern over the danger of unregulated courting and teen-aged socializing accompanied the early Republic rise of cities. Young women, often living outside of the bounds of their father’s protection and supervision, socialized more freely than ever with young men who might see that socializing as a license for sexual interactions.\textsuperscript{25} In one of the most infamous cases, a New York city court accused Henry Bedlow of raping Lanah Sawyer in New York in 1793. Before Henry took Lanah to a house of ill fame, and, according to Lanah, raped her, they had gone on several dates, including walks in the Battery and on Broadway, out for some ice cream, and to a friend’s house. Such socializing allowed witnesses to say that she must have consented because they heard Lanah laughing as they entered the house, and Henry’s lawyer would proclaim that her repeated acquaintance with Henry showed Lanah’s “desire of gratifying her passions.”\textsuperscript{26} Henry turned Lanah’s unregulated heterosexual socializing into a consent to future sexual relations. Other incidents likewise suggest that young men might take young woman’s social interactions with them as a presumed consent to sexual relations as well. In

\textsuperscript{24} Documents related to attempted rape of Jane by Pompey, Nov. 1796, Indictments, #3376 & unnumbered doc. HHR.

Philadelphia in 1812, fourteen year-old Deborah Williams had taken a walk to a local tavern with Jacob Taylor before he threw her down and raped her, then walked her home.\textsuperscript{27} In 1817, Rebecca Day Jr. was coming home from a night at a Boston tavern when she ran into two men with whom she had chatted earlier. The men offered her money for sex, and when she refused, Rebecca told the court, they held her down and raped her.\textsuperscript{28} With the growing heterosexual freedoms in early Republic cities, the single and often working-class women who drank with men or who socialized in public places with men seemed to be especially vulnerable to unwelcome sexual interactions.

Thus, some men could use an array of social interactions as a springboard into sexual relations. These forms of sexual coercion differed greatly from the archetypal stranger-rape committed through brute force and grave bodily threat. Neighbors in small communities might use their everyday social relations to create opportunities for sexual coercion, or read inappropriate socializing as evidence of a woman’s consent to subsequent sexual relations. Were such scenarios purposefully planned by men or were they women’s reconstruction of what retrospectively appeared to lead to their sexual predicaments? Either way, social relations between men and women blurred the nature of the force in a given sexual interaction. It also coded race into the very process of sexual coercion: only white men could hope to blend coercive sex with white women into a seemingly consensual interaction. Still, the image of consent that white men could try to enact through neighborly familiarity paled in comparison to the sexual power of a patriarch over the women under his care.

\textsuperscript{26} Report of the Trial of Henry Bedlow for Committing a Rape on Lanah Sawyer (New York, 1793), 3-14, 40. On the community response to this case, see Stansell, City of Women, 23-26.
\textsuperscript{27} “Commonwealth v. Taylor,” Pennsylvania Court Papers, Jan. 8, 1812, HSP.
\textsuperscript{28} Report of the Trials of Stephen Murphy and John Doyle (Boston, 1817), 2-6. For other incidents of sexual coercion that grew out of imbibing with men, see “State v. John Walker,” Jan. 1815, Pennsylvania Court Papers, 1807-09 Box [sic], HSP; “State v. William Gossage, May 1817,” New Castle, DE General Sessions File Papers [RG 2805], DSA.
Coercion in the Household: Masters

A man’s position as the head of a household might allow him significant access to dependent women within that household. Servants and slaves were prime targets for sexual coercion by their masters. A household head’s power over a dependent woman’s labor could be translated into opportunities for sexual coercion without the taboo of incestuous sexual relations or child rape. A master’s available techniques for sexual coercion also allowed acts of forceful coercion to appear to be more consensual than a one-time attack by a stranger.

Servants repeatedly told of ongoing pressure, if not coercion, to engage in sexual relations with their masters. Colonial court records are filled with fornication cases involving masters and servants. As early as 1662, Virginia law mandated the punishment of “‘dissolute masters’” who impregnated their female servants. In a 1724 Virginia court, a servant complained that her master “continually Importuned” her “by all ways and means to prostitute her body to him which he Dayly practices to the other sevant woman belonging to him.” A decade later, Pennsylvania servant Hannah Gother testified that her master had “pretended to Court her and through great promises of marrying her he over came her and had Karnall knowledge of her body many times.” Hannah herself did not mention overt physical coercion -- she claimed (perhaps trying

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29 Unfortunately, the very nature of the relationships between masters and their dependent laborers meant that such cases are notoriously absent from historical records. Still, of 321 incidents where the defendant’s and victim’s relationship is known, 51 (16%) took place between household members.


31 “D. v. Christopher Pridham, Sept 1724,” Richmond Criminal Trials 1710-1754, 85-6, 87, 95-6, 119, LOV.

32 “D. v. Israell Taylor,” Chester County, PA Quarter Sessions File Papers, Feb. 1734, CCA. I have found very few accusations of rape by one servant against another, perhaps because most of these cases would be dealt with either out of court by a master, or more commonly as a fornication prosecution, as was Hannah’s case. For a fornication case where a master physically punished another servant for impregnating his own servant, see D. v. Terence Collins,
to protect herself in the bargain) only that she had sexual relations under false pretenses. And
many women did defend themselves against fornication charges with similarly formulaic language
of false promises of marriage even with men who were not their masters. Perhaps the incident did
straddle the margins of forced sex -- maybe Hannah would have lost her livelihood if she had she
refused her master because she was expected to yield to his orders. Either way, women’s
testimony that they had been tricked into marriage made consensual sex seemed at least slightly
coerced, and reciprocally, such master-servant cases as Hannah’s might seem consensual.
Occasional incidents, of course, appear more clear-cut: In the 1750s, a Lutheran minister
complained about a man who had repeatedly attempted “to rape the servant girl.”33 But we
cannot pinpoint the degree of coercion in many cases precisely because the power of mastery
could blur the degree of coercion in master-servant sexual relations.

Enslaved women faced similar pressures, and were even more vulnerable to sexual
coercion by their masters.34 By the eighteenth-century, slavery followed the status of the mother,
meaning that masters of slaves needed not fear paternity liability. Neither would masters have had
to fear the legal repercussions of a rape charge, which, though legally possible, was practically
unheard of: No rape conviction against a white man (let alone a slave’s owner) for raping an
enslaved woman has been found between at least 1700 and the Civil War.35 As with white
servant women, scattered records suggest that enslaved black women also engaged in sexual
relations – perhaps forced, perhaps nominally consensual – with their masters. In 1756, John

33 Theodore G. Tappert, and John W. Doberstein, trans., The Journals of Henry Melchior Muhlenberg, (Philadelphia,
1945), I, 265. For a nineteenth-century case that may have involved significant persuasion, if not coercion, see
“Lydia Morgan’s Deposition Regarding David Howell,” Shepley Papers, 1802, VII, 45, RHHS.
34 On the relation of sexual prerogatives to construction of white mastery, see Fischer, Suspect Relations, 164-167.
35 Harriet Frazier has found one presumably white man charged with raping a slave in Missouri in 1834, but the
case’s outcome is unknown. Harriet C. Frazier, Slavery and Crime in Missouri, 240-241.
Briggs complained to a Rhode Island Court that he had been defamed by the charge that he had “offered to be naught with his Negrow woman.” In 1775, a Virginia Baptist Church heard accusations that a Brother had offered “the Act of uncleanness to a Mulatto Girl of his own.” In 1783, a Delaware court brought a bastardy charge against Michael Hart for impregnating his slave. The few such recorded incidents are most probably the tip of a very large iceberg. As early abolitionist, David Rice, rhetorically asked in 1792, “How often have [white] men children by their own slaves, by their fathers’ slaves, or the slaves of their neighbours?” Even if only a small percentage of the interracial master-slave sexual relationships that resulted in master-fathered enslaved children resulted from forced liaisons, the numbers of American mixed-race children born under slavery suggests that such relations were far more common than surviving documents reveal.

Cultural images also implied that servants and slaves would naturally desire to sexually serve their masters. In a 1733 case of attempted rape in North Carolina, Robert Kingham first “talkt very rudely to [Elizabeth Montgomery] & then Sayed She should be his housekeeper.” When Elizabeth refused that ostensible job offer, Robert tried to rape her. A mid-century Rhode Island divorce petition enacted a similar idea: David Thayer was reputed to have boasted that, “he

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37 “Examination of Phyllis, Nov. 6, 1783,” Northampton County Miscellaneous Mss., 1778-1797, 53, HSP.
39 On America’s mixed-race history, see Gary Nash, “The Hidden History of Mestizo America,” *Journal of American History* 82: 3 (Dec. 1995), 941-964. As with servant-servant rapes, there is a small handful of known slave-slave sexual assault allegations, but most appear to have led to dropped prosecutions or were handled extra-legally. For example, “Trial of Kitt, July 29, 1783,” Westmoreland, VA County Order Book, p. 148, LOV; Governor and Council. Pardon Papers, 1814. Box 16, fldr 36, MdSA; Tate’s Creek Baptist Church Record Book, May 1816. Southern Baptist Theological Seminary. Thanks to Monica Najar for a transcription of the latter.
41 D. v. Robert Kingham, Criminal Papers, 7 May 1733, General Court Records, NCSA.
would hier no maid except they would have to do with him.”42 For David, the explicit mastery over a servant in his household extended to sexual mastery as well. An apocryphal anecdote forwarded a like view of the overlap of master-servant sexual and social relations. The 1750s travel writer recalled the story of a Pennsylvania wife who, on her deathbed, requested that her husband marry their maid “who has all this time been such a faithful and hardworking servant in our house.” When told of this arrangement, the servant happily “said she would do the master’s will in everything.”43 And a Revolutionary-era *Virginia Gazette* poem described an ideal servant who attended her master by cooking, cleaning, and making his bed, which the master was “certain [she] would think herself blessed if she could partake it with me.”44 These anecdotes conflated the labor a servant provided with the sexual services such wifely work implied. A woman doing a wife’s work of caring for a man’s household slipped easily into the role of sexual servant as well. It was this slippage that gave patriarchs the opportunities for sexual access to the women in their household.

African women fell victim to such expectations from men who saw enslaved women as purchasable sexual and economic commodities. In the early national period, documents from the slave trade show how economic ownership allowed sexual mastery. One slave trader commented that the officers of a slave ship had “all provided themselves with three or four wives each … alleging that they would … bring a good price when we arrived in America.”45 The trader’s sentence related the officers’ sexual possession to the economic ability to sell those same women. A 1787 African’s narrative of enslavement concurred, albeit from a vastly different perspective,

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42 Rebecca Thayer, Petition for Divorce, Gloucester, RI, March 1766, Ephriam Pearce deposition, May 2, 1766, RISCJRC.
44 *Virginia Gazette* (PD), Dec. 9, 1773.
that on slave ships “it was common for the dirty filthy sailors to take the African women and lie upon their bodies.”

The domestic slave trade continued the Trans-Atlantic overlap of economic and sexual possession. In the nineteenth century, William Wells Brown told of his journey with a New Orleans slave trader who forced one of his new possessions to spend the night in his stateroom. Brown recalled that “I had seen too much of the workings of slavery, not to know what this meant.” In this case, the slave trader presented the woman with a choice: establish a sexual relationship with him, and be allowed to become a houseservant; or refuse him, and get sold as a field hand to the “worst plantation on the river.”

The trader used his economic power over the African American woman to grant himself unrestricted sexual access to her. The power of absolute ownership included the largely unchecked power to extort sexual relations from one’s chattel.

While we can document instances of sexual coercion of slaves or servants by their masters or owners, the kinds of brief notations that accompany most of these records make it difficult to see how a position of mastery allowed for specific practices of sexual coercion. Thus, an in-depth analysis of two particularly well-documented cases allows us to see the parallels between a master’s practices of sexual coercion with a white servant and a black slave. Most scholars will be


46 Ottobah Cugoano, Narrative of the Enslavement of Ottobah Cugoano, a Native of Africa; Published by Himself, in the Year 1787 (London, 1825), 124. http://metalab.unc.edu/docsouth/neh/cugoano/cugoano.html


familiar with the story of Harriet Jacobs, an enslaved woman in North Carolina who would later write a fictionalized autobiography detailing her struggles with a sexually forceful master in the early nineteenth century. Rachel Davis is far less well known. Her story survives in manuscript court records, and tells of a white servant in Pennsylvania who struggled with her own master’s sexual attacks at the end of the eighteenth century.

Slaves and servants faced vastly different legal options for redress of sexual assaults by white masters. Enslaved women had virtually no legal recourse for rape, while white servant women could have asked the courts (difficult though it may have been) for protection from a sexually abusive master. Despite these institutional differences, slaves and servants appeared to engage in largely similar struggles with masters, mistresses, and unwanted sexual overtures. Rachel Davis and Harriet Jacobs told nearly parallel stories of sexual coercion. In both women’s stories, the prerogatives of mastery went beyond their masters’ abilities to force them physically into sexual intercourse: their masters attempted to control the parameters and definitions of these sexual acts. Rather than directly ordering his dependent to have sexual relations with him, each master took advantage of the woman’s status to create a situation in which her ability to consent or refuse had been whittled away. By translating authority over a woman’s labor into opportunities for sexual coercion, economic mastery created sexual mastery, allowing masters to manipulate forced sexual encounters into a mimicry of consensual ones. Servants and slaves could not only be forced to consent, but this force was refigured as consent.

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At the same time, neither Harriet Jacobs nor Rachel Davis presented herself as an abject victim of her master’s will. Each engaged in continual negotiations and interactive struggles with her master; as much as he attempted to control the terms of any sexual interactions, so too did she try to change his definitions. Harriet Jacobs’s and Rachel Davis’s resistance to and strategic manipulation of their masters formed a vital part of their stories. But by negotiating with a master, sexual coercion could be reformulated into a seemingly consensual relationship. Negotiation implied willingness, and a woman’s willingness contrasted with the early American image that rape consisted of irresistible force. Despite its surface counter-intuitiveness, it was precisely women’s attempts to bargain their way out of sexual assaults that made these sexual encounters seem consensual.

Both Harriet and Rachel drew direct links between their status and their masters’ sexual assaults on them. Each explained how her master had forced her into situations where he could sexually coerce her without being discovered. Rachel described several such incidents in her courtroom testimony. First, William ordered her to hold the lantern for him one night in the stable, where he “tried to persuade me to something.” While the two were alone measuring grain in the barn, “he caught hold of me & pulled me on the hay.” And in the most blatantly contrived incident, when they were reaping in the meadow, William “handed me his sickle & bad[e] me to lay it down. He saw where I put it.” Later that night, William asked Rachel “where I put them sickles.” Rachel offered to go with her sister to retrieve the farm implements, but William “said that was not as he bad[e] me.” William and Rachel went out to find the sickles, but before they reached them, William “threw me down .... I hallowed -- he put his hand over my mouth ... he pulled up my cloathes, & got upon me ... he did penetrate my body.” According to Rachel’s statement, William had forced her to accompany him into a dark field on a contrived search for a
purposefully-lost farm implement so that he could rape her. William’s authority to control where she went and what she did enabled him to force Rachel to have sex with him.50

Harriet Jacobs was even more explicit about the connections between James Norcum’s mastery and his ability to force her into sexually vulnerable positions. It seemed to Harriet that he followed her everywhere—in her words, “my master met me at every turn”—trying to force her to have sex with him. As William did with Rachel, James structured Harriet’s work so that she was often alone with him. He ordered Harriet to bring his meals to him so that while she watched him eat he could verbally torture her with the consequences of refusing his sexual overtures. Harriet further recalled that “when I succeeded in avoiding opportunities for him to talk to me at home, I was ordered to come to his office, to do some errand.” Tiring of Harriet’s continued resistance, James ordered his four-year-old daughter to sleep near him, thus requiring that Harriet also sleep in his room in case the child needed attention during the night. After his wife objected to that arrangement, James tried to make Harriet accompany him on his solo trip to Louisiana. James repeatedly used his position as a master who controlled his slave’s labor to manipulate Harriet into sexually vulnerable situations.51

Other laborers likewise connected their masters’ economic power over them to their vulnerability to sexual coercion. In 1787, a Pennsylvania servant told a court that after her master had “called me up to help to fill a bag of Grain,” he threw her down in the loft and sexually assaulted her. A servant named Unice Williamson told a New York City court in 1797 that her master “ordered her to go upstairs and make the bed,” and once they were alone in the room, he “put her on the floor and ravished her.” In 1818, also in New York, thirteen-year-old Maria Forshee told a court that her master “sent her down Cellar to get some kindling wood to make a

50 “Commonwealth v. William Cress,” Feb. 1808, Pennsylvania Court Papers, 1807-1809, HSP. Punctuation added. All future discussions of this case are based on this document.
fire,” followed her down there, seized her, and tried to rape her. Whether in rural or urban settings, servants recounted their experiences of a master’s sexual assault on them in the context of their role as his servant.52

Masters or overseers might use similar techniques to manipulate enslaved women into sexual acts. In Josiah Henson’s recollection of the overseer who raped his mother in the 1790s, he explained that the overseer had “sent my mother away from the other field hands to a retired place” so that he could force himself on her. Ex-slave Lewis Clarke recalled that his sister’s master “sent for her” repeatedly so that he could sexually assault her.53 Phillis, a Delaware slave, told detailed stories of how Michael Hart had had sexual relations with her, stories that were strikingly similar to Harriet Jacobs’ and Rachel Davis’ recollections. Phillis told the court that Michael used to call her out to the stable to hold a light for him, where he would “pull up her clothes and put into her his [scratched out].” When his wife was out of the house, Michael would order Phillis into the bedroom “and then follow her and sometimes threw her on the Bed and sometimes on the floor.” He would get up in the night and call her into the kitchen with him to get him some water. Michael would then lay Phillis “down on the kitchen floor, and have carnal knowledge of her body.”54 These were not random physical attacks: these sexual assaults on slaves were enacted through the relationships of social and economic labor relations. Controlling a woman’s daily routine, her work requirements, and her physical presence—in other words,

52 *The Trial of Nathaniel Price, for committing a rape on the body of Unice Williamson* (New York, 1797), 2-3; “People v. Thomas Conlen,” New York County Court of General Sessions Indictment Papers, March 4, 1818, NYMA; “Respublica v. David Robb,” Yeates Legal Papers, April 20, 1787, (March-April 1789), folio 2, HSP.
54 “Examination of Phyllis, Nov. 6, 1783,” Northampton County Miscellaneous Mss., 1778-1797, 53, HSP.
control over her labor and her body--gave men in positions of mastery access to a particular means of sexually coercive behavior.

Being a servant or slave also allowed for certain forms of limited resistance to a master’s sexual overtures, something omitted from the standard image of rape. Any relationship, even the incontrovertibly inequitable one of slavery, depended on both participants’ negotiations over its terms. If avoiding their masters did not work, then dependent laborers like Harriet and Rachel had to try to balance on the fine line between covert resistance and outright disobedience. In commenting on the manipulative techniques that their masters used to isolate them, each woman recalled how she had challenged her master’s right to force her into a sexual relationship. Rachel recounted how she had “resisted” and “cried” when William tried to pull her into a darkened bedroom after sending the rest of the servants to bed, and how she threatened to tell his wife what he was doing. When these forms of resistance did not end his overtures, Rachel tried to carry out her master’s orders in ways that might prevent her own sexual vulnerability. Rachel’s description of being raped in the dark field began by recollecting that she had suggested that William could find the sickle himself, and then offered to find it on her own or with her sister. Ultimately, William resorted to his position as a master—”he said that was not as he had me”—and issued a direct order for Rachel to accompany him. Rachel portrayed an interactive relationship with William: she may not have been able to override her master’s orders, but she forced him to change their content. Rather than sex in the bedroom while the other children slept and his wife was away, Rachel forced William to order her into the dark field, thereby disrupting his original attempts at a seamless consensual interaction.

Harriet Jacobs’s story contained similar efforts to avoid her master’s sexual overtures that forced him to refigure his behavior. When Mary Norcum’s suspicions made her husband revert to physical gestures instead of words to convey his sexual desires to Harriet, Harriet responded by
letting “them pass, as if I did not understand what he meant.” When James realized that Harriet could read, he wrote her notes that expressed his sexual intentions. But Harriet repeatedly pretended “‘I can’t read them, sir.’” Overall, “by managing to keep within sight of people, as much as possible during the day time, I had hitherto succeeded in eluding my master....At night I slept by the side of my great aunt, where I felt safe.” Harriet forced James into baldly claiming his right for sexual access as a privilege of mastery: according to Harriet, James began constantly “reminding me that I belonged to him, and swearing by heaven and earth that he would compel me to submit to him” because “I was his property; that I must be subject to his will in all things.” Like Rachel Davis, Harriet Jacobs engaged in an exchange of maneuvers with her master where each tried to foil the other’s plans and counter-plans. Despite her master’s legal property in her body, Harriet did not portray herself as utterly powerless. By playing into his image of her as too stupid to understand his signs and too illiterate to read his notes, Harriet used her own position as a slave to avoid her master’s sexual overtures, forcing him to raise the stakes of his desires toward her. Harriet did not stop with games of cunning and indirect noncompliance. She recalled that “sometimes I so openly expressed my contempt for him that he would become violently outraged.” She recounted telling her master in a moment of anger, “you have no right to do as you like with me.” Even to the extent of occasional outright disobedience, Harriet Jacobs employed an array of tactics to shape the terms of her relationship with her master.  

Because he did not receive unquestioned acquiescence from a servant or slave, a master had to create situations in which his laborers had little choice but to have sexual relations with him. Rachel’s attempted refusal to go alone into a dark field with her master and Harriet’s feigned ignorance of her master’s intentions forced each man to modify his route to sexual interactions. By not consenting to a master’s more subtle attempts at sexual relations, a servant or slave might

55 Jacobs, Incidents, 31, 32, 28, 27, 32, 39.
force her master into more overtly coercive sexual acts. Ironically, her resistance compelled a master to enact his laborer’s interpretation of his overtures as nonconsensual. Rather than the sexual offers that the masters first proposed, the men were forced to use coercion to carry out their sexual plans. Theoretically, a master could coerce through his physical prowess, but most masters did not have to rely exclusively on fists or whips to commit rape. Instead, they could rely on the strength of their mastery.

While manipulation of servant or slave labor could force women into sexually vulnerable positions, further pressure compelled them into sexual acts; opportunity did not necessarily equal consummation. As might be expected, William and James sometimes used the threat of physical violence to coerce Rachel and Harriet, respectively, into sexual relations. Although Harriet repeatedly stated that James never beat or whipped her, she also mentioned that “a razor was often held to my throat to force me to” consent to sexual overtures. Similarly, in the midst of one sexual struggle with her master, Rachel recounted that William “said, if I did not go to bed he’d pull that topnot of mine to the damndest.” If pushed, both of these men could rely on threats of physical assault against their recalcitrant laborers in pursuit of their sexual goals.

Because sexual coercion by masters was often an ongoing series of propositions, masters might purposefully alternate between persuasion and force, encouraging dependent laborers to choose to consent to the best of two unpleasant paths to sexual relations. Harriet characterized her master as “a crafty man, [who] resorted to many means to accomplish his purposes. Sometimes he had stormy, terrific ways, that made his victims tremble; sometimes he assumed a gentleness that he thought must surely subdue.” James promised Harriet that if she would give in to him sexually, “I would cherish you. I would make a lady of you.” The possibility of a better life that transcended her racial and labor status was more than a bribe to induce Harriet’s consent. It
created a fiction that Harriet could voluntarily choose to have sexual relations with her master. By switching between the threats of physical harm and the gifts of courtship, James undercut the appearance of a forced sexual interaction. By theoretically allowing space for Harriet’s consent to his sexual overtures, James tried to redefine coercion into consensual sex.57

Similarly, William’s verbal narration of consensual relations overlay his forceful attempts at sex. While he had Rachel trapped underneath his body, William told her that “he wd have the good will of me.” William’s modification of the classic legal description of rape as a man having carnal knowledge of a woman “against her will” verbally created a consensual act even as he used force.58 Even while making Rachel have sex with him, William used terms of endearment: in the same incident, William called Rachel by her family nickname, calling her, “Nate you dear creature.” This masquerade substituted William’s will for Rachel’s consent as his verbal intercourse of consensuality masked his actions of coercion. William’s presentation of an affectionate and therefore consensual sexual relationship with Rachel differentiated his actions from the brutality that early Americans would most easily recognize as rape.

Unlike a surprise attack where an assailant used explicit physical force, a master did not have to rely on physical abilities to force his dependents into a sexual act. Instead, he might use the power of his position to create opportunities for sexual coercion, backing a woman into a corner where capitulation seemed her best option. A servant or enslaved woman often recognized this manipulation and tried to negotiate her way around her master’s overtures rather than

56 Ibid, 32.
57 Ibid., 27, 35. On the ways that slaves were made responsible for their own violation, see Saidiya V. Hartman, Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America (New York, 1997), 226-7, n. 6. Historians have also fallen into the trap of contrasting forced sex with long-term, and therefore presumably consensual, sexual relations. See for instance, Alan Kulikoff, Tobacco and slaves: the development of southern cultures in the Chesapeake, 1680-1800 (Chapel Hill, 1986), 386; Francis S. Fox, Sweet Land of Liberty: The Ordeal of the American Revolution in Northampton County, Pennsylvania (University Park, 2000), 128.
58 Italics added. For the British standard of this classic legal formulation, see William Hawkins, A Treatise of the Pleas of the Crown, (1724-1726; New York, 1972), I, 108.
confronting him with direct resistance. But this attempt at negotiation further contributed to an image of the master-laborer sex as a consensual encounter rather than a forced rape, while simultaneously bolstering the overlap of consensual and coercive sex. Similar factors would encourage the redefinition of other forms of household sexual coercion as well.

**Coercion in the Household: Fathers and Husbands**

Beyond being a literal master, many male household heads were husbands and fathers. Under a patriarchal system like that in early America, these identities carried with them particular privileges of sexual control and access. By definition, a husband had automatic and unquestionable sexual access to his wife, making marital rape a conceptual impossibility in early America. As with servants and slaves, patriarchs also had extensive social and economic control over their children. While incestuous sexual relations were unquestionably prohibited, some fathers nevertheless ordered their daughters into forced sexual liaisons that depended on the powers of fatherhood, rather than on the brute force of a believable rape. Making their actions appear unlike early American images of sudden and physically (rather than socially or psychologically) irresistible rape was crucial to their ability to force their daughters into ongoing sexual relations.

Despite the biblical, social, and ethical proscriptions against incest, some fathers sexually assaulted their daughters for years without discovery. Polly and Betsy Johnson were both sexually assaulted by their father for several years before a Connecticut court formally charged him with attempted rape at the end of the eighteenth century.59 In Virginia a few years later, Ursula Fogg’s

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59 “State v. Moses Johnson,” Fairfield County, CT Superior Court Files, Aug. 1794, (1790-1799), A-K, Box 625, CSL.
ongoing incestuous relation with her father only came to light when her new husband realized Ursula was pregnant with his father-in-law’s child.60 A South Carolina man repeatedly tried to have sexual relations with his teen-aged step daughter in 1808.61 Some men recurrently abused the dependent girls in their household. In Revolutionary New England, Silas Gates allegedly attempted to have sex with both his four-year-old daughter and a nine-year-old apprentice girl who lived with him and Asa Bailey was accused of having sex with two servants and his daughter.62

Just as masters might order their servants into sexually compromising situations, fathers did not have to resort to brute force to have sexual relations with their daughters. Instead, they could use their parental authority. As mentioned in the opening paragraph, in the 1720s, Sarah Perkins’ father repeatedly tried to coerce her into sexual relations. Sarah’s testimony outlines several common features of father-daughter sexual coercion. Sarah recalled that at first her father “only tempted and sollisted her, but that “when he found that would not prevail, he proceeded to threatening” to accomplish his purpose. John Perkins kicked Sarah out of his house “because she would not comply with him” and continued to pressure Sarah to engage in sex with him while she lived with neighbors. He comanded her “to go forth abroad with him,” and threatened to “have her hand cut off for being a disobedient child and to disinherit her” and to have her “po[u]nd-to death for her not falling in with his motions and being a disobedient child,” because as her father, he “had Right to Require my obedience.” As with dependent laborers, Sarah’s non-compliance compelled John to resort to threats and disownment to force Sarah’s consent to sexual relations. But John could set his threats of physical violence within the purview of fatherhood, repeatedly

60 Legislative Petitions, Essex County, Dec. 11, 1800, LOV.
61 Union County, SC General Sessions Session Rolls, #103, #117, SCDAH.
couching his threatened punishment in terms of his right to correct Sarah’s misbehavior. Rather than brute force or physical violence, fathers could use the expectations of a child’s obedience to her parents as leverage to force sexual consent. And ultimately, despite her ongoing resistance (neighbors noted that Sarah acted “as if she was going among rattlesnakes” when forced to be with her father), Sarah “acknowledged herself guilty of the crime” of incest with her father.63

Other fathers made similar claims of necessary enforcement of hierarchical familial order while coercing their daughters into sexual relations. In early 18th-century Connecticut, Hannah Rood’s father told her that “if I did not obey him I would resist … the holy ghost,” and her mother, too, said that “it was no sin it was my fathers command” to have sexual relations with him.64 In Massachusetts a few decades later, Peter Harding took the logic of a father’s authority one step further. He told his daughter that having sex with him “was no Sin. That the Dutch always lay with their daughter that it was no sin til they were married.”65 Peter had mixed the two patriarchal roles of father and husband into a singularity: a patriarch had the right to have sexual relations with any woman under his care. Similarly, when confronted about his sexual relations with his stepdaughter in the 1780s, James Weller reportedly replied, “who has a better right -- & laughed.”66 And at the end of the eighteenth-century, Abigail Bailey recounted that when her husband began sexually abusing their daughter, he tried to take the girl away with him.

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63 Indictment of John Perkins Jr. and Sarah Perkins, March 1725, New Haven, CT Superior Court Files, 1720-1727, Dr. 324, CSL. It was common for seventeenth and early eighteenth-century courts to punish both fathers and daughters guilty of incest. See Dayton, Women Before the Bar, 275.
64 Case against Thomas Hall, May 1703, Connecticut Archives: Crimes and Misdemeanors, (1st series) I: 322-31, CSL. For another father using scriptures to justify sexual relations with his stepdaughter, see “Indictment agst James Weller & Monicha Strick,” in Notes of Evidence taken by Increase Sumner, 1782-1786, II, 231-233, MHS.
65 “Rex v. Peter Harding,” MA Superior Court of Judicature, Suffolk Files, Oct. 1729, #26074, MA.
so he could have unencumbered sexual access to her. Abigail recalled him claiming that “as a father, he had a right to command her to go.”

As with servants and slaves, when manipulation and recourse to patriarchal privileges failed, a father could proceed to threats and physical force. Maria Cottle told a New York court in 1800 that “her father frequently told her if ever she told [of his ongoing sexual abuse], he would kill her.” When Maria did run away from her home, her father escalated his threats to physical violence: He “whipped her severely and chained her … and kept her chained for about a week.” These kinds of punishments might be possible only within the patriarchally-controlled household: a stranger or neighbor would most likely be unable to enact such punishments, but a father could discipline a daughter’s “misbehavior” with relative impunity.

Even when fathers did ultimately resort to brute force, their daughter’s general obedience to them could later be used as evidence of the girl’s willing consent to sexual relations. In the early nineteenth century, Betsey Wheeler’s father, Ephraim Wheeler, first tried to persuade her to “let him have to do with me.” When she refused, he offered her a gown and petticoat if she would consent to him. When she again refused, he took Betsy into a secluded woods, and told her that “he would kill her if she did not” lie down on the ground and “he then took hold of her and threw her on the ground.” Despite this testimony, Ephraim’s lawyer claimed that if they had had sexual relations, it was with his daughter’s consent. After all, “Why did she go [into the woods with him, where she was raped], without being dragged by violence?… Would you not strongly suspect that these transactions were not much against her will?” Lawyers could play on the fact

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68 “The People v. Grant Cottle,” New York County Court of General Sessions Indictment Papers, Aug. 15, 1800 (In the Oct. 9, 1800 folder) Reel 4, NYMA.

69 *Report of the Trial of Ephraim Wheeler for a Rape committed on the Body of Betsy Wheeler* (Stockbridge, MA, 1805), 12.

70 *Liberty Hall and Cincinnati Mercury*, Oct. 29, 1805.
that fathers did not look like the early American image of a rapist -- a man who forced a woman to have sex with him under sudden threat of death. The social obedience to a father that was expected of early American daughters could be alternatively read as consent to sexual relations.

Even though incestuous relationships were theoretically taboo, some incestuous relationships could never be recognized as such in a race-based labor system. Across centuries, enslaved women bore their masters’ children. And sometimes, these children would themselves be impregnated by their master/fathers. But because children of slave mothers could not claim their patrilineal lineage, a father could not legally be prevented from having sex with his daughter on the basis of this biological relationship. As one ex-slave recounted, “My grandmother was her master’s daughter; and my mother was her master’s daughter; and I was my master’s son.”

An early abolitionist complained that the “innocent offspring of the master” would become “the slave of her unnatural brother,” and therefore be “forced to submit to his horrid and incestuous passion.” Generations of incest would go unrecognized and unprohibited for enslaved women.

Men’s almost unlimited sexual access to their wives created another unrecognized form of household sexual assault: marital rape. It is virtually impossible to trace coerced sex within marriage in early America because such acts were neither a legal nor a conceptual possibility. Lord Hale’s *Pleas of the Crown* explicitly stated that “the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband which she cannot retract.”

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rape within marriage an impossibility, and all sexual relations within marriage automatically consensual.

This is not to say that wives would not feel forced to participate in sexual encounters with their husbands. One series of diary entries by William Byrd indirectly hints at the irrelevance of his wife’s desires for sexual intercourse. On May 15th and 16th, 1711, he wrote that his wife was “much indisposed” and “sick” due to her pregnancy. Yet also on the 16th, he marked down that “I rogered my wife, in which she took but little pleasure in her condition.” Mrs. Byrd’s lack of pleasure in sexual intercourse is a far cry from a rape. But William’s entries make it clear that her desires for sexual relations were irrelevant to the enactment of his sexual fulfillment. This did not mean that William did not love or care for his wife. When she grew even more ill in June of that year, her illness made him “weep for her.”\footnote{The Secret Diary of William Byrd of Westover 1709-1712, ed. Louis B. Wright and Marion Tinling (Richmond, 1941), 345.}

Even loving relationships would include a woman’s acquiescence to her husband’s sexual demands as a matter of course. With an ideology of a husband’s unreserved sexual access to his wife, her sexual choices might be synonymous with his sexual demands.\footnote{On the ways that eighteenth-century European literature inscribed male sexual pleasure on women’s bodies, see James A. Steintrager, “‘Are You There Yet?’ Libertinage and the Semantics of the Orgasm,” differences: A Journal of Feminist Cultural Studies 11.2 (1999) 22-52.}

One of the exceptionally rare records of what may have been a form of marital rape appears in a 1793 Pennsylvania county court record. Eleanor Petit accused her husband, Samuel, of committing that “sodomitical detestable and abominable sin called buggery” in her “fundament.”\footnote{Indictment of Samuel Pettit, Chester County Court of Quarter Sessions File Papers, Feb. 1793. The charge was dismissed as ignoramus.} Sodomy or buggery did not require the force necessary to a rape charge: all such
acts were criminalized regardless of consent. Yet Eleanor’s complaint still suggests the limits of marital sexual prerogatives. Husbands could not be prosecuted for forcing their wives into appropriate (penis-vagina) sexual relations, but they could be prosecuted for committing other transgressive sexual acts. Still, the appearance of this case in a lower court, rather than in the superior courts where sodomy would usually be prosecuted, and the grand jury’s decision not to indict Samuel, might suggest that early Americans did not quite know how to deal with a wife’s accusation of sexual misconduct against her husband.

It was no accident that the most intimate relation in the household, the marital bond, could not, by its very definition, include rape. Rape was a direct challenge to the very patriarchal system that ordered and legitimized men’s access to women. The household was meant to be a place where the patriarchal figure of husband, father, and master ruled over and protected dependents. As such, it implicitly allowed for various forms of sexual coercion that did not fit with the early American image of rape. A household head had an array of indirect means to force a dependent to have sex with him that simultaneously denied both her resistance to him and his coercive behavior. Because early Americans imagined rape as an act committed through sudden and utterly irresistible physical force, men’s use of social power to compel women’s submission less easily fell under the rubric of actionable rape. Women’s social status was thus crucial to her sexual vulnerability – not just because lower status women often had less powerful patriarchal protectors – but because more powerful men could enact a wider range of coercive tactics against them.

Rape as Purposeful Punishment in the Colonial Process

Feminists might argue that rape always stems from a man’s desire to punish, to prove his superiority over his victim, and to replace the victim’s will with his own. But some sexual attacks show exceptionally direct evidence of motives beyond individual sexual superiority. Some attackers seemed to use sexual attacks expressly to punish individual women. In wartime, for instance, enemy soldiers historically displayed their military success by raping the women of its vanquished enemy, marking their victory with a sexual release. In the colonial context, non-white women seemed to repeatedly fall victim to sadistic sexual attacks that moved far beyond straightforward desires for sexual satisfaction into a purposeful lesson about their cultural groups’ degraded status. Both African American women and Native American women were far more likely than white women to be the victims of purposefully sadistic sexual violence and the most horrific sexual attacks. Beyond gratifying men’s sexual desires, these sexual attacks starkly expressed relations of subordination through purposeful sexual cruelty.\(^{78}\)

We see a few cases involving sexual attacks on white women that may have been punishment for a perceived sexual or other misdeed. Most of these cases seem to have occurred in New England, suggesting perhaps New Englanders’ stronger belief – even into the nineteenth century – in community enforcement of gendered morality. In Rhode Island in 1756, several community members stripped Mary Tefft and pulled “the Hair out from off her Private parts,”

\(^{78}\) For modern cases of rape as a tool for racial subordination and punishment, see Peter Landesman, “A Woman’s Work, [on mass militarized rape of Tutsi women in Rwanda]” \textit{New York Times} Sept. 15, 2002; Beverly Allen, \textit{Rape warfare: the hidden genocide in Bosnia-Herzegovina and Croatia} (Minneapolis, 1996). On early modern fears of rape by soldiers, see Lois G. Schwoerer, \textit{‘No Standing Armies!’: The Antiarmy Ideology in Seventeenth-Century England} (Baltimore, 1974), 62. My emphasis on the purposeful cruelty of these rapes in no way means to minimize the harm done to women in the other kinds of rapes discussed – I would not presume to debate the degree of personal harm done by years of inescapable sexual manipulation v. the harm done by a single sadistic sexual event. Rather, I am pointing to the differences in men’s seeming intent – in many of the cases discussed earlier, men tried to make sexual coercion resemble sexual consent; in these cases, men are making no such attempts, indeed, they seem to be purposefully avoiding any image of sex as consensual and normative.
while one man attempted to rape her.\textsuperscript{79} In 1769, three Massachusetts men were charged with lewdness against Pegge Keen when they “exposed her secret parts to open view” and “violently plucked out much of the hair of her secret parts.”\textsuperscript{80} Perhaps a dispute between neighbors led five members of the Stoddard family to chase Anna Stoles and Mary Clark, strip the two women, and leave them cut and near-naked in an open field in 1812.\textsuperscript{81} But these occasional group attacks, aimed at public humiliation through sexual disfigurement or exposure, were the exception rather than the rule in attacks on white women.

In contrast to these occasional incidents, wartime rapes have occurred throughout history as victors claimed their success in a sexual right to their defeated enemy. Wartime rapes often involved multiple assailants and usually did not attempt to replicate consensual social or sexual relations. Rather they were an explicit exercise of sexual power over a defeated enemy. During the American Revolution, Elizabeth Cain testified that two British soldiers had raped her and several other young women at gunpoint, then took them to the British camp to sexually service other soldiers.\textsuperscript{82} A Pennsylvania newspaper reported that a thirteen-year old girl was “carried to a barn” by some British soldiers and “there ravished, and afterwards made use of by five more of these brutes.”\textsuperscript{83} A publication on the War of 1812 detailed the rape of a Mrs. Turnbull, who was chased into a river, then “dragged on shore by ten or twelve of these [British] ruffians, who

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\textsuperscript{79} “Amos Lewis charged with Assault and attempted rape upon Mary Tefft,” Minute Book, Court of General Sessions of the Peace, Washington County, Aug. 1757, RISCJRC [Docket page says Aug. 1756, probable clerk’s mistake]

\textsuperscript{80} Plymouth Court Records, III (1748-1781), 285, 293.


\textsuperscript{82} “Papers and Affidavits Relating to the Plunderings, Burnings, and Ravages Committed by the British 1775-1784,” Papers of the Continental Congress, March 22, 1777, Reel 66, Item 53, p.29. See also “Trial of Serjeant Boswell, June 7, 1779,” WO 71/88 524-8, PRO.

satiated their brutal desires upon her after pulling off her clothes, stockings, shoes, &.”

These rapes were as much about marking one’s military prowess as they were about soldier’s individual sexual gratification. When asked about their rape of a New York woman during the American Revolution, two British soldiers reportedly claimed “that she was a Yankee whore or a Yankee bitch, and it was no great matter.”

White women could be momentarily reduced to available sexual property in a military conflict. Women of color, however, were far more likely to have their social inferiority consistently marked by white men’s sexual attacks.

Though not officially at constant war with Native Americans, British Americans did engage in ongoing hostilities with indigenous Indian groups. Some scholars have seen the rape of Indian women as part of the colonization process, as a form of sexual imperialism. One scholar argues that the rape of indigenous women could be ideologically justified as a means to symbolically castrate Indian men.

As Stephanie Wood points out, we may be reluctant to “call the conqueror a rapist,” but incidents of sexual abuse of indigenous woman by European traders, soldiers, and settlers are far more common than accounts of sexual abuse of European women by indigenous men. Other scholars have concurred that Anglo-Indian conflicts could be “as much sexual as they were economic, diplomatic, and military.”

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84 Documents Demonstrating Beyond the Possibility of Doubt, the Brutal Violence and Cruelty Practised by the British on Private and Unarmed Citizens and on Helpless American Females At Hampton, Plattsburgh, and Swanton, (s.n.,1813?), 11.
85 “Trial of John Dunn and John Lusty, Sept. 7, 1776,” WO 71/82, 419-420, PRO.
The few non-frontier court cases involving women identified as Native Americans stand out from other rape cases. First, these cases were exceptionally rare (less than a half dozen out of more than 700 sexual assault prosecutions), despite the ongoing presence of Native Americans in British colonies.89 But of this small handful, two of the recorded sexual attacks on Indian women in early American society suggest that white men’s attacks on Indians were enacted far differently from most sexual assaults on white women. In these incidents, rape appears to be a purposeful attempt to mark the distance between white and Indian through forced sex and sexual torture.

In Pennsylvania in 1722, James Browne followed a “Squaw” known as Betty or “Great Hills” into a field. Several Indian girls then saw James having sexual relations with her. After James finished with Betty, he told Thomas Pryor that he could “show him a sight.” James took Thomas to the field where Betty still lay, apparently unconscious, with her clothes up around her waist. James turned Betty onto her back, “Took both his thumbs and ground her privot parts and Looked In.” James then had Thomas cut a stick of wood “& James browne Hold open Her privot parts while he put in ye Stick.”90 Besides having had (forced?) sex with Betty, James appropriated control of Betty’s body, and made her an object of purposefully public humiliation. Beyond James’ sexual pleasure, this sexualized violence reflects a sadistic brutality that depended on Betty’s inferior status as a “squaw.” Rather than committing a secretive assault in an isolated location or mimicking typical consensual sexual relations, James showed no apparent fear of discovery: he had sexual relations with Betty in front of several Indian girls, and then invited a friend to join him in his sexual mutilation of her limp body, as if it were his right to lay claim to her body as he saw fit.

90 “D. v. James Brown, Aug. 1722,” Chester County Quarter Sessions Indictments, CCA.
Nearly fifty years later, a second incident in Pennsylvania again suggests a direct use of rape to punish Indian women. In June 1766, James Annin and James McKinzy apparently had a disagreement with Hannah and Catherine, two Indians. After “the Men gave them abusive Language,” Hannah and Catherine went to rest in some nearby woods. The next day, residents noticed a stench coming from where the women lay, and realized that the women had been hatcheted to death. Witnesses were particularly outraged that the youngest of the women, who was pregnant and “near the Time of Delivery,” had particularly savage “Marks of shocking Treatment.” Local officials arrested the two James’s after witnesses noticed that they were carrying goods that had belonged to the women. The men eventually admitted that “they went to the Indians with Intent to ravish them,” and one claimed that he had attacked the women because “he thought it a Duty to extirpate the Heathen.”91

This was one of the most gruesome and violent attacks connected to a sexual assault. It was also unlike typical attacks on white women: white women might also very occasionally be murdered in conjunction with a sexual attack, but none of these rape-murders involved multiple attackers and victims.92 As “Heathen,” Indian women were vulnerable to particularly sadistic assaults that moved beyond men’s overt sexual gratification. Sexual interactions with non-white women were characterized by a degree of hostility and brutality that moved beyond simple sexual pleasure into torture as a purposeful expression of racial superiority. Sexual attacks on socially vulnerable non-white women became an opportunity for white men to bond through rape.

These kind of sexually vicious attacks also occurred against African-American victims. In her study of sexual violence in colonial North Carolina, Kirsten Fischer argues that the ability to

91 *Pennsylvania Gazette*, Aug. 7, 1766. For a gang rape of a Native American woman in 1821, see Moore, “‘Justifiable Provocation,’” 897.
92 For one exceptional case of murder, robbery, and rape that involved several men but only one woman, see *Pennsylvania Gazette*, Sept.12, 1787.
“to enforce the use of another person’s body in a sexual act, or to obliterate another person’s sexual agency, had long been privileges of power,” and in the context of a racial slave labor system, “sexualized violence also served to mark a body as “raced.” 93 Other historians, too, have documented such treatment of enslaved African American women. Trevor Burnard’s analysis of Thomas Thistlewood’s Jamaican diary shows a sadistic slaveowner who used sex as a weapon, systematically punishing enslaved women by having sexual relations with them. 94 Philip D. Morgan’s comprehensive examination of eighteenth-century southern interracial sex does not focus on sexual torture, but still concludes that many interracial sexual encounters were “exploitative and unspeakably cruel.” 95 Enslaved women were especially vulnerable to attacks by their masters, who might think themselves able to rightfully claim sexual access to their enslaved women. One free African American woman was kidnapped into slavery by several men in 1816. With her return to slavery, came her sexual vulnerability to her new owners: they raped her while transporting her south. 96

We learn of one of the most disturbing recorded incidents when a white man named “Major” William Holland petitioned the governor in post-revolutionary Maryland for a pardon of his conviction for assault and battery on Elizabeth Amwood, a free black woman. Officially, there was no sexual content to his assault on Elizabeth: he was convicted of shearing off her hair, a potentially erotic, but not explicitly sexual, assault. Yet a memorandum written about the indictment against William suggests an entire additional story of sexual assault. After shearing

93 Fischer, Suspect Relations, 161.
her head, Elizabeth told the magistrate that William forced her to “Pull up her Close and Lie Down he then Called a Negrow Man Slave…and ordered him to pull Down his Britches and gitt upon the said Amwood and to bee grate with her.” During all of this John Pettigrew held a pistol on Elizabeth and the enslaved man, and William repeatedly asked her if it “was in,” and “if it was sweet.” Then, William “went up into the Company and Called for Water to wash his hand, saying he had bin putting a Mare to a horse.” In physically disfiguring Elizabeth and forcing an enslaved man to rape her, William’s primary goal did not seem to be his own immediate sexual release. His explicit comparison of black people to mating animals emphasized William’s use of forced sexual relations as a means to mark racial and gender status as two interrelated forms of vulnerability. Yet even here, William attempted to impose a narrative of consensuality by pressuring Elizabeth to say that she enjoyed the sexual act. If free African-American women were vulnerable to these kinds of sadistic and vile sexual attacks, we can only imagine the degree to which enslaved women, for whom far fewer records recorded survive, suffered sexual punishments at the hands of cruel and violent masters.

For non-white women generally, their racial and cultural status made them vulnerable to punitive sexual attacks that went beyond physically forceful attempts at sexual relations. This distinction in the processes of sexual coercion for white and non-white victims allowed rape to be used as a direct expression of racial divisions. Rather than sex that was meant to appear consensual or that was negotiated or manipulated, these purposefully cruel acts were performed through relations of subordination.

97 “State v. William Holland,” Governor and Council, Pardon Papers, March 1787, (1788), Box 4, fldr 47, MdSA.
Conclusion

The African-American man’s rape of Celia Evans at knifepoint would better fit early American understandings of rape than would Sarah Perkins’ ultimate consent to her father’s sexual coercion. But none of the multiple forms of rape listed in this chapter’s introductory paragraph were randomly enacted. Daughters, wives, servants, slaves, neighbor women and subordinated racial groups were all differently vulnerable to particular kinds of sexual force. Men in positions of power could extort sex from their dependents and their workers without needing to commit grave bodily harm. Masters might force their servants into vulnerable situations, fathers might invoke their patriarchal right to sexual access to a daughter, or neighbors might be able to create opportunities for sexual coercion through socializing. In contrast, an African American man might need to resort to blatant force in his attempt to sexually coerce a white woman into sexual relations. In all of these situations, the relationship between the parties involved determined the nature and process of a possible sexual attack. At the same time, these multiple forms of sexual coercion contributed to the porous boundaries between consensual and coerced sex. With the power to shape the form of sexual coercion beyond the expectations of physically irresistible brute force, privileged men could coerce sex in ways that might undercut the appearance of their coercion. The power to reshape force into consent inextricably intertwined coerced and consensual sex.

Rape, we will see in future chapters, was explicitly raced through the early American legal system. But institutional racial biases do not adequately explain the patterns of early American sexual assaults. Sexual attacks were raced in their commission: White men were less likely to negotiate with non-white women in the ways that they negotiated with white women for sexual relations. Instead white men might expressly use sexual assaults on non-white women as a marker of their degraded racial status. Black men, without the privileges of mastery or community-insider
status, did not have the range of options for sexual coercion of white women that their white counterparts did. A patriarch’s social and economic power translated into an ability to coerce or extort sex, making sexual access and control a sign of mastery, prosperity, and, ultimately, whiteness.

I have emphasized the process of sexual coercion here, but as we will see, the legal system was rarely far from the incident, either in terms of a woman’s possible forms of redress, or in shaping the stories that would circulate about a forced sexual encounter. Some of the many incidents described in this chapter were charged as rape or attempted rape, some were brought to trial for lesser charges, and some appear to have never entered the criminal justice system. Community and judicial response to acts of sexual coercion was built on both a system of law and on images of believable rapes. And the social dynamics that influenced the process of coercion would continue to shape women’s and girls’ possible reactions to sexual assaults.