

## **Culture of Patriarchy in Law: Violence from Antiquity to Modernity**

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Orit Kamir, *Every Breath You Take: Stalking Narratives and the Law*. Ann Arbor: University of Michigan Press, 2001. 245 pages. \$55.

**S**talking is a social behavior of repeatedly watching and imposing surveillance on the victim (usually a woman) in ways that intimidate her autonomy. On April 3, 2001, a jury in Miami, Florida, had found a 46-year-old man guilty of stalking the tennis superstar Martina Hingis. He sent her flowers, faxes, and letters, and then traveled to her home in Zurich to tell her how much he was emotionally attached to her, after he had seen Hingis on television. Her friends repeatedly told him that Hingis would not like to meet him, but the stalker had insisted and followed her all around the world where she played tennis. Hingis claimed in court that she was fearful of being stalked by a “crazy” fan.<sup>1</sup> Other heroes of cultures, such as film and music stars, have experienced similar events that are constitutive parts of cultures that frantically consume sex and pornography (Friedman 1990).

Male stalking of women is a common practice. In countries including Australia, Belgium, Canada, Denmark, Ireland, Israel, Japan, Netherlands, Norway, the United States, and the United Kingdom, male stalking has become a prevalent phenomenon that has attracted the attention of feminist nongovernmental organizations (NGOs) and activated antistalking legislation (Malsch 2000; Mullen, Pathe, & Purcell 2000). Figures reported by U.S. federal and NGO sources about stalking are staggering: 8% among women and 2% among men in the United States have been stalked in their

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<sup>1</sup> BBC News, April 4, 2001.

lifetime. Most of them (77 and 64%, respectively) knew their stalker and had had a relationship with them. In 1999, for example, more than 1 million American women were stalked. In 2003, Congress reported about 1,006,970 women and 370,990 men who were stalked annually in the United States. Worse, 76% of femicides committed by intimate partners, and 85% of attempted femicides by intimate partners, involved at least one incident of stalking within one year of the (attempted) murder.<sup>2</sup>

Orit Kamir's book on stalking narratives and the law is well integrated into law and society scholarship. Though it is primarily stimulated by contemporary U.S. experience, the book expounds the historical sources of stalking as a transnational and transhistorical problem. It profoundly analyzes stalking as male violence embedded in patriarchy: "[j]udging by the statistical data that has just begun to accumulate, stalking seems to serve as a pattern of abuse, perpetrated by men on women they know. Its consequences seem to be significant. It may, therefore, justify legal intervention, including new legislation and enforcement policies" (2001:11).

Unexpectedly, the book begins with examination of the archetypal female stalker, Lilit, a goddess in antiquity, to explicate how the transhistorical subordination of women to men has led to the characterization of independent and assertive women as stalkers. Then it dwells on female stalkers throughout the medieval ages until modernity. Only in subsequent chapters does Kamir explore the phenomenon of male stalkers and its most violent aspect of serial killings. As I explore below, she conceptualizes both types of stalkers as major phenomena of patriarchy. The last two chapters deal with legal moral panic, namely public hysteria, and culture as perceived through stalking mythologies. Kamir employs narration analysis of intergenerational mythologies and demonstrates how they have constructed patriarchal culture and law. It accords with critical feminist studies that understand patriarchy, and male violence, as a fundamental structuring logic in Western thought and practices. Below, I review these topics in a focused theoretical context that I offer.

## **Rooted Violence and Narrow Public Policy of Legal Responses**

The book conceives stalking as neither an exclusively modern phenomenon nor a deviant behavior, but as a transhistorical

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<sup>2</sup> These data are collected by the National Center for Victims of Crime, <http://www.nvc.org>. For similar data updated to 2003, see the July 8, 2003, congressional report preceding the resolution to establish a National Awareness Stalking Month in the United States, <http://www.nvc.org/policy/Stalking%20Resolution.htm>.

embedded violent behavior. Nearly all stalkers are ordinary men, constructed in and reproduced through patriarchy, who use stalking to control women (2001:210).

From tribalism to modernity, despite egalitarian illusions and some achievements in modernity, women have largely been subordinated to male control and violence, as indicated in economic inequality, political underrepresentation, cultural marginalization, and sexual violence (Abu-Lughod 1995; Barzilai 2003; Butler 1990; Cuomo 1998; Ferguson 1995; Fraser 1997; Freedman 1995; Greenberg, Minow, & Roberts 1998; Shachar 2001; Young 1990; Ranyard West 1998). Male violence against women, with its multifarious appearances, has internationally transcended specific religions and local traditions (Amnesty International 2001; Shalhoub-Kevorkian 2002).<sup>3</sup> Even in Western societies, which articulate liberal egalitarianism, male violence against women is widespread.<sup>4</sup>

Stalking as a type of violence should be theorized as part of multidimensional power relations in patriarchy.<sup>5</sup> A man who holds the power of control holds the violent means to impose his desires on a woman.<sup>6</sup> She will not do what he wants, against her better interests, unless he violently controls her behavior. His violent control does not need to be physical. Due to biology, most men are physically stronger than most women (Gat 2000). Yet he controls her not necessarily because he is physically stronger; rather, he enjoys the patriarchal society that makes her dependent on him (Panichas 2001). He can control her violently through means such as forced domestication and economic dependence (Fraser 1997; MacKinnon 1993; Minow 1993; Polan 1993; Rifkin 1993; Shachar 2001; Robin West 1993; Young 1990). Violence is not only to beat and harass, even to kill; violence is the power to discipline the victim through, *inter alia*, cultural and economic means.<sup>7</sup> The ability of X1 to force X2 to behave in contradiction to the essential interests of X2 is contingent on X2's vulnerability to X1's intimidation. In a gender-stratified setting, the intimidation inflicted by X1 upon X2 is further empowered since X1 is significantly supported by a patriarchal culture.

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<sup>3</sup> For updated information on male violence against women around the world, see <http://www.qweb.kvinnoforum.se/violence/papers.html>.

<sup>4</sup> The U.S. Attorney General has devoted attention in reports on domestic violence against women as a symbolic reaction to the harsh realities of the female predicament.

<sup>5</sup> For a somewhat similar argument as a basis of jurisprudence, see Minow and Shanley (1997).

<sup>6</sup> The political control of men over political power foci in Western societies is enormous. Violence against women is partly due to their political weakness. For comparative figures, see Siaroff (2000).

<sup>7</sup> For concepts of power, see Lukes (1986); For a claim that violence, also as intimidation, is embedded in law, although not necessarily in its gender-based context, see Derrida (1992).

Despite some success of feminism inside and outside the courtroom, basic practices of male-dominated societies against women—marginalization, domestication, discrimination, subjugation, displacement, underrepresentation, sexual exploitation, and violence—have not significantly been altered even when globalization has generated expectations of liberal egalitarianism (Calavita 2001; Merry 2001).

However, the common legalistic approach to stalking has not comprehended it as a prevalent, violent intimidation. Following public panics due to serial killings, and subsequent reactions of anti-stalking legislation, legal scholars, psychologists, and psychiatrists have erroneously perceived stalkers as deviants, either erotomaniacs or obsessives, instead of recognizing stalking as violence rooted in patriarchy (Kamir 2001:198–202).

Toward the end of the 1970s, the press in the United States, heavily influenced by *Taxi Driver* (1976) and similar films, depicted male stalkers as serial killers. Most serial killers were men obsessed with sexual fantasies and pornographic material, and they stalked their female victims before killing them. Around that time, Kamir keenly shows, the term *stalking*, previously popular in the United States from the male sports of hunting and boxing, became a social category that labeled men who intruded and fatally attacked women. Referring to the immediate etiology of the category of stalking, Kamir notes:

Thus, through the media and professional literature, Travis Bickle, Son of Sam, and Ted Bundy were defined as stalkers and serial killers. Their stalking was established as an essential element of their serial killing, and their serial killing was portrayed as the ultimate expression of their stalking. They became a social category, a type of people who shared a scientific profile. Closely associated with the traditional imagery of the male stalker, the serial-killing stalker became a mediating social category: at a time of deep social anxiety, it associated a small, defined group of people with the archetypal male stalker. (2001:153)

The case of Robert Bardo exemplifies the insufficiencies in legalistic categorizations of stalking. The murder of California actress Rebecca Schaeffer by her male stalker, Bardo, led to the first anti-stalking legislation in the United States (California Penal Code 1990). Stalking was simply defined as the violence of deviant, mentally disturbed men. Its historical cultural context—profoundly analyzed by Kamir—was absent in that legislation. In reacting to the public hysteria, the California legislature defined stalking in a very narrow way. Only a malicious intent and a repeated behavior that placed the victim under a reasonable fear for life or of great bodily injury were defined as unlawful stalking. Correspondingly,

Kamir argues, most anti-stalking legislation in the United States reflected the public panic concerning serial killers, while much more frequent and non-murderous incidents of male stalking were neglected in state law. Anti-stalking legislation was affected by public panic and hysteria, and did not respond to the sources of women's subjugation to violence. In that sense, state law signals the structuring logic of patriarchy that transcends and undermines attempts at in-depth sociolegal change. Reforming a society requires knowing more about the place of mythologies in our normative and practical world.

### **Mythologies of Stalking as Culture Based in Law: Transmissions and Conjunctions**

Kamir's major contributions are embedded in her analysis of the transhistorical and intergenerational mythologies of stalking. The focus on mythological genealogy explores how stalking was dehistoricized and displaced from its context in contemporary state law that upholds patriarchal power relations. While state law has presumed that stalkers should be punished as individuals who have deviated from egalitarian behavioral norms, Kamir intends to deconstruct these legal categories of stalking and to look into the sociopolitical origins and contexts of male intimidation. She follows feminist theorists such as MacKinnon and Dworkin (1997) who have aimed to challenge state law, and its ideology, through its deconstruction as patriarchal.

Since culture and the sociopolitical forces that shape it are based in law, and not only interact with law (Umphrey 1999), Kamir is correct to trace the cultural genealogy of stalking through mythologies. Since mythologies are broad cultures embedded in the public consciousness, they enable us to better comprehend how legal ideologies, as the normative motives of state law, are constituted. Scholarship of culture in law is characterized by diverse methodologies: public opinion polls (Gibson & Caldeira 1995; Gibson & Gouws 1997), neo-institutional perspectives on courts and norms (Epstein & Knight 1998; Gillman 1997), daily stories explored through interviews (Ewick & Silbey 1998), and narration analysis (Brigham 1998; Merry 2001; Umphrey 1999; Yngvesson 1997). Public opinion polls may detect current collective trends of articulated attitudes and beliefs, which may indicate some veiled social proclivities. They lack historical etiological depth, however, and do not necessarily explicate daily practices. Interviews with ordinary people may expound more intricate stories about law and culture and allow more insights into daily practices. That methodology is highly dependent on the questionnaire and its structure,

whilst the mode of interactions between the respondent and the interviewer is crucial. Even so, interviews with common people who are asked about law in their daily life are illuminative, but they lack historical depth and only partially reflect practices.

Kamir uses narration analysis and investigates popular mythologies through poems, books, plays, songs, religious texts, and films. Films have had a special effect: Since they are available via television, video, DVD, and the Internet, they can greatly influence the collective consciousness.<sup>8</sup> As Austin Sarat, in his seminal Law & Society Association Presidential Address, pointed out, no in-depth study of law and society is possible without an explication of films' influence on constructing legal cultures (Sarat 2000). Since films are broadly watched, easily accessible, and powerfully visualize daily practices, their effect on collective consciousness and behavior may be especially crucial (N. Rosenberg 2001; Rosenfield 1993; Stoneman 2000).

The book exceeds the possible differences between various types of texts in order to construct a solid theme about mythologies in law.<sup>9</sup> Such a methodology has two major advantages. First, the book goes deeper than explaining public mood and rhetoric and explicates how culture has been practiced. Further, it discusses intergenerational transmissions and historical transformations of mythologies. Second, it explains the legalistic effects of public hysteria that erupts in reaction to daily events and equally explicates which cultural materials have constructed a legal ideology that has separated stalking from its patriarchal context. Myths, referring to assertive women as stalkers and to male stalkers as deviants, may not only derive from legal ideologies, but once practiced they may constitute legal ideologies.

Compared with studies that rely on personal interviews (Kostiner 2003), narration analysis may overshadow the possibilities of causal constitutive relationships between mythologies and practices. Since

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<sup>8</sup> Kamir reflects on the Internet as a possible major source of stalking in the twenty-first century but does not develop her argument (2001:139). The Internet may further enable men to stalk women while the stalkers are in their private rooms, or workplaces, in a relatively free and isolated environment. Reports from different countries testify that stalking has increased due to the Internet (Bocij 2003). Especially in cyberspace, the ability of stalkers to reconcile family values, such as loyalty and monogamy, with stalking other women is greater than ever before, because cyberspace diversifies personal capabilities to simultaneously enjoying different sexual practices and fantasies.

<sup>9</sup> Critical thinkers such as Marcuse (1968) and Gramsci (1971) have alluded to how the mass media, which is motivated and controlled by and through the materialistic capitalistic process, constructs distorted social needs such as the mass consumption of sex, and hampers sociopolitical attempts to deconstruct them. The absence of that criticism has missed a critical context that alludes to the interests and ability of the film industry to maintain a patriarchal society. The generation of images of stalking is not only a reflection of prevailing myths (Kamir 2001:112–39), but also a result of the profit-oriented film industry.

the book aims to cover stalking stories along five millennia, the ability to unveil causal constitutive relationships between meta-stories and practices is even more problematic. Yet Kamir's analysis of folk mythologies is sensitive to historical developments of myths that are embedded in legal categories. A similar methodology has been used to study criminal procedures and the constitutive influences of narratives of criminal responsibility (Umphrey 1999). That methodology enables us to see that each mythology is a certain layer in an open-ended, potentially circular historical process. Each mythology points to identities that may constitute practices of stalking.

Hence, the book provides unexpected insights culled from the ingredients of mythologies: emotions, fears, obsessions, sexual fantasies, hidden behavioral modes, forbidden dreams, faith, beliefs, and informal interests. Such a methodology unveils the patriarchal power relations that stalking signals, and it illuminates the inadequacies of contemporary conceptualizations of male stalking. It demonstrates that certain facets of violence are deeply embedded in our intergenerational cultural psyches in an archetypal way.

### **Mythologies about Women and Men as Stalkers**

Through systematically illuminating mythological texts, we may explore insights related to women as stalkers and men as their presumed stalked subjects. If the context in which Kamir's book should be comprehended is patriarchy, how can we explain violent women? The story of Lilit, a Sumerian goddess canonized in Western culture, is Kamir's allegory to the popular framing of female stalking.

Lilit is a mythological evolvment of Inanna, the goddess of law and social life in Sumer, in about 3,000 B.C. With the consolidation of patriarchy in Sumer, Eve, the image of the domesticated woman, and Lilit, the female stalker, had replaced Inanna's image in Sumerian mythology. At that historical point, with the disempowerment of women in control, violence was related to the undomesticated woman, who aims to be in power. Already in the middle of the first millennium B.C., the symbols that were associated with Lilit had become associated with female witchcraft. These symbols were later transmitted to the Hebrew-Jewish and Christian canonical texts. Thus, the mythology of the female stalker, which was originated in early Sumer, became an integral part of culture in law.

Modern law, as Fitzpatrick has claimed, following Marxist, neo-, and post-Marxist traditions, contains mythical symbols (Fitzpatrick 1992). Kamir moves one significant feminist step further in explicitly and critically exploring how mythologies have constituted a male

legal ideology that has empowered and generated gender-based structures. It is a significant contribution to the literature, since law is not only a mythology by itself (Fitzpatrick 1992; Scheingold 1974). Rather, it has been constituted by antique mythologies that constructed patriarchy. Women who have desired to challenge patriarchy were perceived as stalkers, as witches, and as prostitutes (Kamir 2001:42).

The more insecure men feel, the more they fabricate the image of progressive women as stalkers. Thus, the witch-hunts in Europe between the fourteenth and seventeenth centuries were violent practices that reflected the image of stalking in law. Notably, the Catholic Church prosecuted women who were outside its disciplinary power in order to reconsolidate its powerful position vis-à-vis the younger Protestant Church. Using the legal category of diabolism, tens of thousands of women were convicted in courts, after they were tortured during interrogation (Kamir 2001:62).

The genealogy of stalking includes the story of modernity. The book continues the themes of Foucault (1980) and MacKinnon (1987, 1989, 1993) on the centrality of sexuality in modernity and its regulation for preserving patriarchy. The nation-state has contributed to the engendering of stalking mythologies in order to regulate feminine sexuality, especially when women might have endangered the patriarchal social order. Kamir masterfully explicates how in the eighteenth and nineteenth centuries, when feminine sexuality became more prevalent and was still veiled through conservative arrangements of marriage, prostitutes became targets of legal prosecution by state authorities, blamed as spreading dangerous diseases such as syphilis, since like Lilit and the witch, “the prostitute enabled the female stalking story to be burst out into a series of moral panics” (2001:64).<sup>10</sup>

Liberalism and liberal feminism in the twentieth century, which could have reduced the scope of stalking due to constitutional protections of individual autonomy and privacy, incited the opposite public reaction. This reaction was articulated in films, as films are spheres of legal imagination;<sup>11</sup> they construct the boundaries of our imagined reality by showing and framing—through the moving images—what is “happening” and what may “happen” (Black 1999; Denvir 2000; Sarat 2000:9).

<sup>10</sup> The argument concerning state regulation of sexuality in times of public panic (Kamir 2001:175–203) transcends female stalking and illuminates other types of gender-based violence. Thus, the same apparatus was utilized through the heterosexual ideology against homosexuals in the twentieth century, as they were blamed for spreading AIDS (Richards 1999).

<sup>11</sup> For a list of films with legal themes, see <http://www.law.gwu.edu/apply/read.asp#FILMS>.

*Fatal Attraction* (1987) demonstrates a narrative of female stalking. Alex is a single, professional woman who seduces a married man, Dan, when his wife and daughter are away for the weekend. When Dan refuses to continue their relationship, Alex insists, and she imposes herself by appearing constantly in his office, by his car, and even in his home, but fails to attract him again. Then she attempts a suicide, and finally tries to kill Dan's wife, and finds her death. Kamir argues, "[as a] sexually initiating woman, she is portrayed as a contemporary Lilit who refuses to go away, a witch and a female erotomaniac serial killer" (2001:171). *Fatal Attraction* articulated female stalking amidst liberalism, when feminism propelled feminine dignity, imposed pressures on policy makers to frame more egalitarian public policies, and demanded public attention to male stalkers. In reaction, independent and strong women, social constructs of liberal feminism, have been conceived as stalkers. In the imagination of *Fatal Attraction*, the social guilt has completely been transformed from the male to the female stalker.

Less convincingly, Kamir argues the same about *The Eyes of Laura Mars* (1978), which depicts an assertive, celebrated photographer and liberal woman, Laura Mars. A mysterious serial killer is murdering her lesbian models. He happens to be the police officer who investigates the murders, and with whom Laura Mars has a passionate affair. She experiences uncontrolled visions of the murders before they take place since her sight is being taken over by the murderer, her lover, and she can only see what he sees when he stalks his next victim. Furthermore, her murdered models are found dead in the same positions that are identical to the sexual and violent positions that she has staged and photographed prior to the murders.

Kamir analyzes how Mars is depicted as a female stalker:

Although she does not perform the actual killings, she participates in the stalking phase of the murders through her psychic visions. . . . More significantly, the uncanny similarity between the models' positions in death and in their photographs underlines Mars's moral responsibility in the bloodshed. It is explained, in the film fictional world, by the telepathic, premonitory connection between Mars and the murderer. The telepathy symbolizes the inherent connection between Mars's violent sexual fantasies and their dangerous execution in reality. (2001:167–8)

It may be argued, however, that in this film the man is exhibited as the stalker, while the woman is framed as the victim. Unlike Alex, Laura is compelled to be part of the murders and can be depicted as a victimized personality manipulated by a male stalker.

When men stalk women, they repeatedly watch them, supervise them, intrude upon their life, and strive to subordinate them

to their own will. As studies cited in the book exhibit, the male stalker expects that the stalked woman will behave according to his expectations (Kamir 2001:210). Under patriarchy, she is expected to behave according to his own interests, due to his control of her safety. This is how X1 (the male stalker) has power over X2 (the stalked woman).

That intimidation of one's personality cannot lead to symbiotic relations, but to the subordination of women to men. While rape and other types of physical violence are intrusions into the female body, stalking is an intrusion into her spirit, and the demand that she would surrender her autonomy (to him). In allegories such as *Satan*, *Dracula*, *Frankenstein*, *Faust*, and the *Vampire*, the male stalker has been portrayed as an abusive intruder, as a vampirish trespasser (2001:89–98, 102–3). In a culture of patriarchy, however, that abusive behavior has been celebrated as a desirable and canonized behavior:

Tales written by male writers portrayed stalking as thrilling woman-hunting, inviting readers to participate and take delight in the predator's excitement. Such literary treatment of stalking was voyeuristic and often pornographic. It conformed with dominant patriarchal perceptions, establishing vampirism and stalking as sensational mass entertainment. (2001:98)

Furthermore, the male stalker is often framed as somebody innocent who punishes a female stalker, namely a prostitute or his wife who has an affair.

The film *Taxi Driver* (1976) demonstrates how the Vietnam trauma had incited stories of male stalking as an extreme and isolated category of serial killing. Vietnam veterans were perceived as potential male stalkers, even murderers, who try to compensate for their feelings of weakness and castration. In *Taxi Driver* the stalker, a shy and lonely Marine veteran working as a New York taxi driver is a serial killer. The film portrays a sleepless driver who aspires to clean the city of its corruption, tries to save an underage prostitute from her pimp, and ends up committing murder. Based on the genealogical explication of transhistorical mythologies, Kamir's book criticizes that narrow category of male stalking as serial killing and argues that such narrow categories of stalking have "normalized" nonmurderous male stalkers who have rejoiced in the subordination of women (2001:141–4).

### **Problems with the Mythological Approach**

Kamir's attempt to conjoin the deconstruction of intergenerational and transhistorical mythologies with current prescriptions for legislation is problematical. On the one hand, she powerfully

exhibits that legal categories are epiphenomena of a cultural context (see similarly Cover 1992; Olsen 1990). On the other hand, she aspires after legal categories as the remedy for stalking. I will first explore her attempt to offer better legalistic regulations of stalking and then explain the problem with her important project and the antinomy embedded in it.

The call for legal regulation of male stalking through a broader category of unlawful stalking is similar to ambitions in other critical legal feminist writings that aspire to exclude violent sex through formally regulating and excluding pornography (MacKinnon & Dworkin 1997). Kamir's book submits a genuine feminist criticism of the "reasonable person test," required in most anti-stalking legislation,<sup>12</sup> following critical scholars who have deconstructed legalistic tests that veiled sociopolitical interests and ideology (Garth & Sterling 1998; Horwitz 1990; Kairys 1990; Mautner 1994; Shamir 1994). It is forcefully argued that the reasonable woman test in anti-stalking legislation internalizes injustice, since it asks whether other women would have felt what the alleged stalked woman claims to feel as a result of the alleged stalking.

To obligate a victim to feel what others "should" feel as "reasonable" women is in practice to substantiate the hegemonic values of patriarchy. As Kamir argues, the alleged victim has to prove in court her reasonable suffering, namely that she is not merely hysteric and fragile, as women are often suspected to be in a patriarchy. Furthermore, I argue, because the injured feelings of the stalked woman are subjective and cannot be standardized, the distortion caused by the reasonableness test is even greater than in many other legal categories of unlawfulness that refer to concrete tangible damage caused by violence. Requiring reasonableness of feelings is an attempt to objectify stalking and therefore to transcend its social facets from the context of patriarchal violence. Since stalking is mainly a male violence against women,<sup>13</sup> men are unable to judge what a stalked woman feels. Furthermore, I argue, the reasonableness test ignores the heterogeneity of women and their diverse multicultural reactions to male stalking. How can a white man know what a black woman felt while a white man had stalked her?

Current legislation would enable legal authorities to convict only about 6% of alleged stalkers (Kamir 2001:206), while a 2001

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<sup>12</sup> Only in a few instances, in Belgium, Denmark, Ireland, and Norway, is there no requirement of the reasonable person test (Malsch 2000). According to the 1990 California law, the defendant is guilty of stalking if he or she makes a credible threat with the intent to place a person in reasonable fear of death or great bodily injury. A person can be accused of stalking if she or he willfully, maliciously, and repeatedly follows or harasses another person. Harassment is defined in the law as a course of conduct that would cause a reasonable person to suffer substantial emotional distress.

<sup>13</sup> For various data sets, see <http://www.ncvc.org/special/stalking.htm>.

report on stalking, submitted to Congress by the U.S. Attorney General, reveals that only 1% of stalking instances are brought to court in criminal procedures (Ashcroft 2001). Kamir's book advises that anti-stalking legislation should define stalking broadly, and not require women to prove the damages that were allegedly caused by their stalkers.

Problematically, Kamir does not follow her own fascinating account of mythologies that should cast severe doubts on the efficacy of any legal reform. She turns rather drastically from a criticism of male-state-constituted culture to advocacy of male-state public policy, and seems to believe in the willingness and ability of state law to reform practices, at least as a first significant step in a more compound journey of social reforms. Will the abolishment of the reasonable woman test reform reality? Formal state law codes a certain behavior as unlawful and frames a space in which criminal prosecution and the courts may punish (Sarat & Kearns 1993, 1998). But as comprehensive as the categorization of unlawful stalking may be, violence against women and stalking are graver social problems and not merely legalistic issues.<sup>14</sup> The inherent tension in trying to conjoin research of transhistorical mythologies with an attempt to shape a contemporary legal policy is prominent because legal formalities deal only with manifestations and not with the sociopolitical and cultural sources of male violence against women. The section below explicates possible directions for women's redemption.

### Can Legislation Quell Stalking?

In order to seriously confine the scope of male stalking, a broader legislation such as Kamir offers will not suffice. Instead, the prime strategy of feminists should be the deconstruction of the culture of patriarchy, even if that deconstruction is incrementally implemented. My advocacy of the author's criticism of the reasonable person test notwithstanding, the book expects too much from state law. Social forces, such as feminist NGOs, should carry the criticism and deconstruct patriarchy through placing nonnormative and normative mythologies, while state law cannot render such a social change by itself. Since patriarchy is grounded in state law itself—in its formalities, legal ideology, and practices (MacKinnon 1989; Olsen 1990; Polan 1993), legislation and court rulings are constitutive constructs of patriarchy itself, despite the contingencies and dynamics of hermeneutics. As the empirical findings point out above, it is significantly doubtful whether anti-stalking legislation,

<sup>14</sup> It is outside the scope of this article to debate legalistic calculus. A broad legal category of unlawful stalking may be ineffective in its enforcement or struck down as too vague.

as capacious as it may be, spurs fundamental sociopolitical changes. The formal legal text may form a basis of incremental legal change, but much more is required for inciting reforms in practices (G. Rosenberg 1991).

Anti-stalking legislation may benefit from knowing about the place of mythologies in culture and law, and it may touch upon some mythological thinking as nonnormative. Yet the origin of stalking is the subjugation of women, so feminism should endow its foremost efforts elsewhere, and not in formal law that may be futile without the liberation of women from the primary elements that constitute their subjugation (Brown 1995; Hartsock 1983; Nussbaum 1999). In order to significantly transform the status quo of patriarchy, above some legalistic moves of legislation and litigation, feminists have to practically expel the culture of patriarchy from law.

Such a claim has concrete consequences. State law should not be the main field of endeavors to expel patriarchy. Women have to acquire a strong collective feminist consciousness (Weiss & Friedman 1995), which is a precondition to the liberation of oppressed, nonruling communities (Barzilai 2003). Empirical studies show that grassroots efforts to build feminist consciousness are not futile and do have a record of success (Barzilai 2003; Weiss & Friedman 1995). One need not exclude using legal reforms as part of the process. State law may assist in mobilizing feminist purposes of constructing a feminist collective consciousness. Its assistance, however, may be confined within the basic patriarchal configurations in cultures and institutions (McCann 1994).

Legal reforms through state law should be a sociopolitical tactic and not a strategy in and of themselves. While the book invites a criticism of the strategy of legal reforms, its emphasis on legislation contradicts its cultural message. Feminists should begin with a concept of a feminist collective consciousness in order to challenge patriarchal myths outside and inside the law. Legal reforms by themselves are only secondary in constructing such a consciousness, since usually they would not transcend the prevailing legal ideology of the state and its prevailing patriarchal myths (Olsen 1990).

The book's findings should enable women to overcome the myths that feminine independence is evil and that assertive, educated, and liberal women are stalkers. Deconstructing culture through exposing mythologies, as Kamir does, should become part of education, in order to empower women to fight male stalking and acquire economic and social independence. When that politics prevails, while patriarchy has significantly been deconstructed, anti-stalking legislation will be effective, and yet prominently less relevant. Anti-stalking legislation that considers mythologies, as Kamir prescribes, is part of a more egalitarian society. Yet it is ineffective

without the other social forces of women's liberation coming to the fore, theorizing and practicing alternatives to settings of patriarchy and violence. Grass roots activities among women through unveiling and deconstructing mythologies may assist in reaching a communal feminist consciousness and economic independence. *Every Breath You Take* is an important base of such a feminist theory, since it genuinely explores how intensely violence, and particularly male violence, is embedded in our cultural psyches.

## Conclusion

Exploring the place of mythologies in law is an important endeavor to redeem law from its formalistic and positivistic stigmatizations and to deconstruct it in order to reform society. A narration analysis of transhistorical mythologies, through varied primary texts, is pathbreaking in studying popular legal cultures, since the temptation to be a stalker and the fear of being stalked are substantially framed and reproduced through such spaces as films (and lately the Internet) and through more traditional types of texts from antiquity to modernity (U.S. Attorney General 1999).

The book neither neglects the law nor neglects society. Its research advances scholarly endeavors in law and society because it enables us to better comprehend how popular beliefs and folk practices have constructed and shaped legislation, court rulings, law, and hermeneutics. The book provides us with a transhistorical model of law and culture against which scholars may evaluate the merits and deficiencies of contemporary law. That transhistorical model shows that due to power struggles; the intimacies between law, male violence, and popular culture; and the role of courts in regulation of sexuality existed even several millennia before the creation of the nation-state. One who reads Kamir's book can not but be impressed that instead of being either state critics or state protagonists, or both, we should be interested in the various historical configurations of power and violence against women.

Rather than suggesting abstractions detached from a concrete local knowledge, the book constructs a very detailed and compound picture of stalking from interdisciplinary perspectives without losing the conceptual aspects of feminist legal criticism. Conceiving it as an important book about violence in patriarchy, as I argue, offers a critical conceptual prism to evaluate its high quality and its potential to invite additional studies about mythologies and law. Understanding mythologies in law from antiquity to modernity, as Kamir does, is a very impressive, meaningful effort that should be prominent in both feminist theories and law and society studies, since with *Every Breath You Take*, someone is watching you.

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