**Norm Change and Gender-Based Violence: The Role of Criminal Law**

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Given the prevalence of sexual violence in the US, some support a change to criminal rape laws to require affirmative consent for the purpose of reshaping the social norms that contribute to the prevalence of rape. Social norms are a community’s shared expectations of how people will act. Some social norms feed sexual violence, for example, the norm that men should be sexually aggressive, seeking sex as a type of conquest. This paper will argue that we have reason to be skeptical that increased criminalization will change such norms by examining and rejecting two plausible mechanisms through which such laws could change social norms.

One plausible mechanism is that people who are already uncomfortable with discussions of sexual ‘conquests’ could appeal to the law in order challenge others without having to challenge masculinity norms. This parallels Ryan Muldoon’s argument that the Civil Rights Act provided legal cover to business owners who already preferred to integrate without directly challenging their community’s norms.

A second mechanism is that legislation can update expectations about social attitudes. Richard McAdams argues that legislation presumptively reflects the most prevalent social attitudes, and individuals generally prefer to avoid social sanction. Thus, changes in legislation can accelerate nascent norm change because people will change their behavior to align with the law as a proxy for prevailing norms.

We should be skeptical that either of these mechanisms apply in this case. Unlike racial segregation in businesses, rape is particularly likely to happen in private spaces. Individuals can publicly endorse new social norms while privately committing violence. Moreover, people can express support for sexist norms with what Cristina Bicchieri calls their ‘reference network,’ while adopting anti-sexist norms in public. Directly challenging harmful norms within reference networks that endorse ‘sex as conquest’ is more likely to be effective than criminal law in changing sexist social norms.