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Gender in the Law  
11 December 2019

### Gender in the Law and Handmaid's Tale

The prominent effects of the social construction of gender in the United States has allowed for several issues to manifest, especially in American law. Because of the institutionalization of patriarchal ideologies within the construction of gender, there have been negative consequences that have impacted various institutions within society. Margaret Atwood's *The Handmaid's Tale* demonstrates the demoralization of women that prevails in their government in Gilead. In the novel, the regimen of Gilad has assigned roles where men were given access to education and women were treated as second class. The parallel between the way women are treated in *The Handmaid's Tale* and the way gender has been treated in American law is prevalent within the themes of sexual discrimination, harassment, and reproduction.

The communist type government that is presented in *The Handmaid's Tale* resulted in a group of totalitarian men that overthrew the government and called for women to be mistreated and have other men consent to this mistreatment.<sup>1</sup> This is evident in the United States patriarchy, which has allowed women's roles to be organized in a specific way. Patriarchy... means the manifestation and institutionalization of male dominance over women and children in the family

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<sup>1</sup>Atwood, M. E. (2017). *The Handmaid's Tale*. Random House Inc.

and the extension of male dominance over women.<sup>2</sup> Furthermore, the way in which women are constructed to act has impacted American society and this impact has affected the way the legal system functions, historically and today. One of the topics that have been impacted by the American legal system as a result of this is sexual discrimination.

Sexual discrimination and harassment in the United States have not been treated fairly among the American legal system and society as a whole. Historically, women have been harassed and assaulted in various institutions, especially in the workplace. This term did not come into fruition until the mid 1970s and was not fully articulated as a form of discrimination based on sex until 1979 with the publication of Cathrine MacKinnon's *The Sexual Harassment of Working Women*.<sup>3</sup> Some women who have experienced this have been silenced by the men who abuse them, and often not taken seriously when brought up. This is evident in the case of Anita Hill and Supreme Court Nominee Clarence Thomas. Hill had accused Thomas of sexual harassment while he was her supervisor at the U.S Department of Education and Equal Employment Opportunity Commission.<sup>4</sup> Hill stood in front of the Senate Judiciary Committee and explained her experience. The Senate, which was composed of mostly white men, ruled in favor of Thomas and awarded him the Supreme Court position despite the claims made against him. The overall premise of why the patriarchy has allowed men to be complacent about this issue and

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<sup>2</sup> "Introduction Readings" [https://blackboard.american.edu/webapps/blackboard/execute/content/file?cmd=view&content\\_id=4547223\\_1&course\\_id=182790\\_1](https://blackboard.american.edu/webapps/blackboard/execute/content/file?cmd=view&content_id=4547223_1&course_id=182790_1)

<sup>3</sup> "Sexual Harassment" [https://blackboard.american.edu/webapps/blackboard/execute/content/file?cmd=view&content\\_id=4547230\\_1&course\\_id=182790\\_1](https://blackboard.american.edu/webapps/blackboard/execute/content/file?cmd=view&content_id=4547230_1&course_id=182790_1)

<sup>4</sup> a film by Freida Mock. (2014). *Anita : speaking truth to power*. [New York, NY] :First Run Features,

have developed the audacity to misanalyze discrimination of women and harassment is because of the power dynamic that had allowed for this to be socialized and is reflected in the legal system.

Victim blaming is also a product of the power dynamic the patriarchy has built. Those who have experienced sexual assault are often blamed and asked questions such as “What were you wearing?” and “What did you say to him to make him act this way?” The blame is often on the victim and not the abuser, which is problematic and carries its way through the law, as we see that laws regarding sexual assault have become more victim-based. This is due to the fact that a man’s sexuality has historically been privileged and has allowed for widespread rape culture, this is very internalized in both men and women. Moreover, this idea of patriarchal power and sexual harassment and discrimination is prevalent in *The Handmaid’s Tale*. In the novel, Janine expresses that she was “gang-raped at fourteen and had an abortion”<sup>5</sup> (Atwood, 1986). When discussing the incident with Aunt Helen and the aunts Janine was very much blamed for the situation. The novel states,

But whose fault is it? Aunt Helen says holding up one plump finger.  
*Her fault, her fault, her fault, we chant in unison*  
 Who led then on... *She did. She did. She did.*  
 Why did God allow such a terrible thing to happen?  
*Teach her a lesson. Teach her a lesson. Teach her a lesson*<sup>6</sup> (1986)

This reaction the aunts had to Janine is evident in the internalized results of male dominance over women, the sexual privilege that men have and sexual assault, which is very prevalent in the law.

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<sup>5</sup> Atwood, M. E. (2017). *The Handmaids Tale*. Random House Inc.

<sup>6</sup> *ibid*

Another theme of male dominance that is prevalent in *The Handmaid's Tale* and seen in American law is reproductive rights.

Abortion laws in the United States have been a controversial issue. It is a reoccurring theme for men to make laws for women regarding abortion, which have impacted the way women can abort in specific states. The idea of women not having the ability to control their own bodies and make informed medical decisions regarding their own medical health is paralleled in the handmaid's tale. Women in the novel are subjected to the hands of men and do not have control over their own bodies when it comes to sexual intercourse and the fate of the child if they were to get pregnant.

To reiterate what was stated previously, themes regarding the men and women in the handmaid's tale are prevalent both historically in modern-day. The way in which the patriarchy is instilled and incorporated in *The Handmaid's Tale* and American law is strikingly similar. Although the novel is a depiction and is not our present reality, it depicts a tried and true experience that those who identify as women and contain the biological components of what one considers to be a woman, when it comes to gender and the law.

## References

A film by Freida Mock. (2014). *Anita : speaking truth to power*. [New York, NY] :First Run Features

Atwood, M. E. (2017). *The Handmaids Tale*. Random House Inc.

“Introduction

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