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## **“A VAST CREVICE”: OLDER ASIAN WOMEN’S UNTOLD EXPERIENCE WITH SEXUAL VIOLENCE**

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Content Warning: This Note discusses sexual assault, rape, and violence.

### **ABSTRACT**

*The legal field’s silence on sexual violence against older women—especially older women of color—echoes. Piercing the silence, this Note discusses sexual violence against older Asian women through the lens of legal narrative theory to illuminate an often-overlooked group; begin to make sense of intersectional narratives uniquely integrating gender, age, and race; and emphasize the need for, and inspire, further legal scholarship on sexual violence against older women of all races.*

*As a starting point for such further scholarship, this Note examines narratives of older women and Asian women and observes how current narrative frameworks fall short, exacerbating harm against all survivors, including older Asian women. Proposals reframe sexual violence and introduce a new methodological narrative framework (“Narrative Tracing”). Survivors, clients, lawyers, advocates, and more, can use Narrative Tracing as a tool, in and out of the law, to better understand and address sexualized narratives and their consequences over an entire lifespan. Above all, this Note deeply affirms the power of stories—on one hand, to silence and suffocate, and on the other, to interrupt, offer hope, and free.*

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\* J.D. Candidate, Boston University School of Law, 2025. I am grateful to many people and name but a few. To my parents, for your unimaginable love. To Cara Byrne, for instilling in me a deep appreciation for stories. To Julie Dahlstrom, for your steadfast mentorship, which has taught me more than any law school class. To Sarah Miller, for your insightful feedback. To all the editors of *Boston University Law Review* and to those who worked on this Note—Shireen Ardaiz, Aryssa Harris, Alexander J. Bafer, Vanessa Feola Soto, Devan Greevy, Kai MacLean, Alejandro Perez, Lucas Coury-Ortiz, Katie “MVK” Lee, and Eric “princeeric” Connolly—for your countless hours and for making my time on *Law Review* so full of joy. To Crystal Hsu, for being an amazing, inspiring EIC, partner, and friend—you have left “a [miffy-shaped] handprint on my heart.” To Mehmet Tuna Uysal, *seni seviyorum*—your gentleness, kindness, and brilliance are unmatched in any person I will ever know. To my grandmothers, thank you for being the reason this Note exists.

## CONTENTS

INTRODUCTION .....	1077
I. NARRATIVE IS THE HEART OF LAW.....	1080
A. <i>Narrative in Legal Scholarship and Practice</i> .....	1081
B. <i>Sexual Violence Against Older Women</i> .....	1085
1. Incomplete and Invisible Narratives.....	1085
2. Sensationalized Narratives .....	1088
C. <i>Sexual Violence Against Asian Women</i> .....	1089
1. Narratives of Sexualization, Fetishization, and Dehumanization.....	1089
2. Narrative Legacies and Their Legal Consequences.....	1092
II. FAILURES OF CURRENT FRAMEWORKS.....	1093
A. <i>Limited Definitions: Incomplete Narrative Reach</i> .....	1094
B. <i>White-Centric Feminism: Biased Narrative Perspective</i> .....	1097
1. Misplaced Reliance on the Criminal Legal System.....	1097
2. The Faulty “Perfect Victim” Narrative.....	1098
C. <i>The Fallout: Erasure and Barriers for Older Asian Women</i> ....	1100
III. THREE-PRONGED PROPOSAL FOR SOLUTIONS.....	1102
A. <i>Reframing Sexual Violence</i> .....	1102
B. <i>Tracing Narratives</i> .....	1103
C. <i>Looking Forward</i> .....	1107
1. Generating Knowledge Through Interdisciplinary Collaboration .....	1107
2. Broadening Legal Narratives in the Here and Now.....	1108
3. Creating Long-Term Systems Change .....	1110
CONCLUSION.....	1111

*“What gets left behind? Gaps where people never see themselves or find information about themselves. Holes that make it impossible to give oneself a context. Crevices people fall into. Impenetrable silence.”*<sup>1</sup>

#### INTRODUCTION

On one October evening, a 29-year-old man entered a 77-year-old woman’s room in a senior living facility—and raped her.<sup>2</sup> Under the guise of being a maintenance man, he covered the door’s peephole, dragged her to the bedroom, and threatened to kill her.<sup>3</sup> He told her “he raped her because he had never had sex with an Asian woman” before.<sup>4</sup> This targeting was rationalized as “apparently some sick fantasy that he had”<sup>5</sup>—a rare occurrence from an anomalous actor. Such simplifications stick. A few years after this attack, a Georgia sheriff’s captain justified the murders of six Asian women because a man with a “sex addiction” was “having a really bad day.”<sup>6</sup>

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<sup>1</sup> CARMEN MARIA MACHADO, IN *THE DREAM HOUSE* 4-5 (2019). I am inspired by Carmen Maria Machado’s memoir, *In the Dream House*, in which she discusses her experiences in an abusive queer relationship. Machado writes, “I speak into the silence. I toss the stone of my story into a vast crevice; measure the emptiness by its small sound.” *Id.* at 5. I pray this Note, too, can be such a stone.

<sup>2</sup> Miya Shay, *Fake Worker Accused of Raping 77-Year-Old Texas Woman 10 Months Ago*, ABC7 (July 10, 2019), <https://abc7chicago.com/sexual-assault-rape-elderly-woman-living-facility/5387955/> [<https://perma.cc/E66Y-HRG2>].

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Bill Barajas, *Man Arrested, Accused of Brutal Rape of 77-Year-Old Woman at Assisted Living Facility*, CLICK2HOUSTON.COM (July 10, 2019, 5:32 PM), <https://www.click2houston.com/news/2019/07/10/man-arrested-accused-of-brutal-rape-of-77-year-old-woman-at-assisted-living-facility/> [<https://perma.cc/22XD-4LW3>].

<sup>6</sup> *Georgia Officer Condemned for Saying Atlanta Shooter Was ‘Having a Bad Day,’* GUARDIAN, <https://www.theguardian.com/us-news/2021/mar/17/jay-baker-bad-day-t-shirt-atlanta-spa-shooting> [<https://perma.cc/QUQ7-YD26>] (last updated Mar. 18, 2021, 1:11 PM).

Older<sup>7</sup> women<sup>8</sup> experience sexual violence.<sup>9</sup> Within the population of older women, older women of color, who contend not only with the vulnerabilities that come with age but also the specific barriers that come with being non-White, experience racialized sexual violence. However, we rarely focus on or know how to make sense of sexual violence targeting older women,<sup>10</sup> especially older women of color.

This lack of awareness permeates both social and academic spheres. Socially, we<sup>11</sup> perceive older women through sexist and ageist lenses, such that we often forget, alienate, and disbelieve them.<sup>12</sup> Academically, we put forth limited

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<sup>7</sup> This Note uses “older” in reference to people aged 60 and above, in accordance with the CDC. See *About Abuse of Older Persons*, CDC (Nov. 7, 2024), <https://www.cdc.gov/elder-abuse/about/> [https://perma.cc/7APV-5EGA]. Using “older” in lieu of terms like “elder” and “senior” minimizes othering and promotes age inclusivity. See Morgan Van Vleck, *Age-Inclusive Language: Are You Using It in Your Writing and Everyday Speech?*, WASH. UNIV. IN ST. LOUIS (Feb. 28, 2022), <https://publichealth.wustl.edu/age-inclusive-language-are-you-using-it-in-your-writing-and-everyday-speech> [https://perma.cc/M5HM-6QCT].

<sup>8</sup> “Women” in the context of this Note refers to cisgender women. Unfortunately, much of the existing research relies on gender binaries of men and women. See, e.g., Hannah Bows, *Sexual Violence Against Older People: A Review of the Empirical Literature*, 19 TRAUMA VIOLENCE & ABUSE 567, 580 (2018). Though I do not wish to exclude, I do not want to minimize or simplify the nuanced experiences of those who do not fall within this binary. See KHIARA M. BRIDGES, *CRITICAL RACE THEORY: A PRIMER* 266 (2019) (detailing “co-constitutive nature of race and gender,” where Asian transwoman learned specifically “how to navigate the exoticization of the Asian female body” and where Black transman experienced raced stereotypes of dangerousness). While men experience sexual violence, this Note focuses on women’s experiences of sexual violence as a gendered phenomenon because, despite differences across studies and disciplines, “women are victimized at significantly higher rates than men.” Bows, *supra*, at 570.

<sup>9</sup> This Note adopts the CDC’s definition of “sexual violence,” which refers to “sexual activity when consent is not obtained or freely given.” *About Sexual Violence*, CDC (Jan. 23, 2024), <https://www.cdc.gov/sexual-violence/about/> [https://perma.cc/2MJ3-WJ4P]. For discussion of “sexual abuse” of older people, see *About Abuse of Older Persons*, *supra* note 7.

<sup>10</sup> Anne Nobels, Christophe Vandeviver, Marie Beaulieu, Gilbert MD Lemmens & Ines Keygnaert, *Are Older Women Forgotten in the Fight Against Sexual Violence?*, 6 LANCET GLOB. HEALTH e370, e370 (2018).

<sup>11</sup> I write with the active voice not to place blame but to promote accountability and affirm that if we want something to change, we must change first. See Zanita E. Fenton, *Mirrored Silence: Reflections on Judicial Complicity in Private Violence*, 78 OR. L. REV. 995, 1027 n.130 (1999) (explaining author’s deliberate use of “we,” “us,” and “our,” because “we are all products of [often-exclusionary norms], we all live with them, and we must all work toward changing them”).

<sup>12</sup> Madison Stacey, *When Elderly Women Are Victims of Rape, No One Wants to Talk About It*, WTHR, <https://www.wthr.com/article/news/crime/older-women-are-victims-of-sexual-assault-too-why-dont-we-talk-about-it/531-b99c6b7a-483f-4b34-8e91-ec8ac630d392> [https://perma.cc/J6PX-8THA] (last updated Sept. 23, 2021, 5:19 PM).

resources, funding, and desire to pursue studies that center older people, who “are not seen as sexy subjects” or “considered exciting,” exacerbating their erasure.<sup>13</sup> The legal field likewise deprioritizes older women,<sup>14</sup> and no legal research, thus far, has examined the unique chemistry of gender, age, and race impacting sexual violence against older women of color.<sup>15</sup> This gaping hole renders many voiceless and perpetuates faulty frameworks that are ill-equipped to deal with complex realities, impacting all survivors of sexual violence. As our population trends increasingly older<sup>16</sup> and more diverse,<sup>17</sup> we cannot continue to ignore the voices of older women of color.

To begin illuminating older women of color and inspire further scholarship on sexual violence against older women of all races, this Note explores the experiences of older Asian<sup>18</sup> women. This Note highlights older Asian women

<sup>13</sup> *Id.*

<sup>14</sup> Ruthy Lowenstein Lazar, *Me Too? The Invisible Older Victims of Sexual Violence*, 26 MICH. J. GENDER & L. 209, 213 (2019) (“The legal academy has been almost entirely silent on sexual abuse of older people.”).

<sup>15</sup> Such an inquiry requires an intersectional lens. Kimberlé Crenshaw, who coined the term “intersectionality,” urges scholars and activists to move beyond one-dimensional views of identity. See Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1242 (1991).

<sup>16</sup> *Ageing and Health*, WORLD HEALTH ORG. (Oct. 1, 2024), <https://www.who.int/news-room/fact-sheets/detail/ageing-and-health> [<https://perma.cc/5BSC-3T67>] (estimating proportion of world’s population aged over 60 years will nearly double by 2050).

<sup>17</sup> Mike Schneider, *The Census Bureau Sees an Older, More Diverse America in 2100 in Three Immigration Scenarios*, AP NEWS, <https://apnews.com/article/growth-population-demographics-race-hispanic-f563ebc4537f83792f3f91ba5d7cdade> [<https://perma.cc/GX8K-M36B>] (last updated Nov. 9, 2023, 4:33 PM).

<sup>18</sup> This Note uses the term “Asian” to refer to “all people of Asian, Asian American or Pacific Islander ancestry who trace their origins to the countries, states, jurisdictions and/or the diasporic communities of these geographic regions,” in line with the Asian Pacific Institute on Gender-Based Violence. *Asian & Pacific Islander Identities: Definitions & Groupings*, ASIAN PAC. INST. ON GENDER-BASED VIOLENCE 1, <https://api-gbv.org/wp-content/uploads/2017/07/API-identities-definitions-groupings-2011.pdf> [<https://perma.cc/75BR-KY96>] (last visited May 2, 2025). However, I recognize aggregate terms are political, contentious, and dynamic. I also recognize that my positionality as a Chinese American necessarily informs my perspective, and research on Asian people prioritizes East Asian identities, as does this Note. Cf. Pratyusha Tummala-Narra, Anmol Satiani & Neha Patel, *Sexual Violence in an Immigrant Context: South Asian Women in the United States*, in GENDERED JOURNEYS: WOMEN, MIGRATION AND FEMINIST PSYCHOLOGY 167, 167 (Olivia M. Espín & Andrea L. Dottolo eds., 2015). While discussing these complexities falls outside the scope of this Note, this Note and scholarship like it have both intentional and unintentional consequences.

When referring to Asian women throughout this Note, I use the pronouns “we” and “they” interchangeably, in keeping with Kimberlé Crenshaw’s trenchant insights in Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1988). Crenshaw writes on how Black

due to their perpetual erasure, the rise in hate crimes targeting older Asian people during the COVID-19 pandemic, and the sexualization that makes Asian women of all ages vulnerable.<sup>19</sup> Further, this Note uses legal storytelling, and narrative more broadly, as a launching point to better understand our current realities—and envision a more expansive future.<sup>20</sup>

This Note contributes to the existing literature by (1) highlighting the dearth of scholarship on sexual violence against older Asian women and (2) building on previous work to reframe sexual violence and create a new method for tracing narratives that survivors, lawyers, and extralegal advocates can use as a tool for change in the short and long term, in and out of the law.

Part I first briefly outlines this Note’s emphasis on legal storytelling and the relevance of a survivor’s narrative in the criminal legal system. It then provides context on narratives of older women and Asian women to situate the conversation on older Asian women. Part II explores how current narrative frameworks fall short and the resulting harm older Asian women suffer. Part III offers three proposals: (A) a reframing of sexual violence to encapsulate structures leading to an act, the act, and the consequences flowing from the act; (B) a new method for tracing the sexualization Asian women experience throughout their lives (“Narrative Tracing”); and (C) three recommendations for future directions alongside counterarguments. Last, this Note concludes with reanimated conviction about its proposals and the urgency of these issues.

## I. NARRATIVE IS THE HEART OF LAW

As this Note’s common thread interrogates narratives—who is permitted to construct and tell narratives, who hears and judges a narrative’s value, and who bears the immediate and lasting consequences of our narratives—this Part first observes the centrality of narrative to law and survivors’ experiences in the legal

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scholars’ use of “they” and “them” pronouns to refer to Black people in their scholarship “carries the appearance of objectivity but actually presumes a dominant group perspective,” creating a dilemma between “self-exclusion” and “adopt[ing] a seemingly unscholarly approach.” *Id.* at 1332 n.2. I seek to both align myself with communities to which I belong and acknowledge that I do not share many experiences detailed herein.

<sup>19</sup> See Olivia B. Waxman, *A ‘History of Exclusion, of Erasure, of Invisibility.’ Why the Asian-American Story Is Missing from Many U.S. Classrooms*, TIME (Mar. 30, 2021, 12:35 PM), <https://time.com/5949028/asian-american-history-schools/> [<https://perma.cc/M8CY-44BM>] (remarking on erasure of Asian American history, from anti-Asian discrimination and mass murders to landmark contributions).

<sup>20</sup> Let us ground ourselves in Toni Morrison’s wisdom: “[W]hen you enter those places of trust, or power, dream a little before you think, so your thoughts, your solutions, your directions, your choices about who lives and who doesn’t, about who flourishes and who doesn’t will be worth the very sacred life you have chosen to live.” TONI MORRISON, *THE SOURCE OF SELF-REGARD: SELECTED ESSAYS, SPEECHES, AND MEDITATIONS* 73 (2019).

system.<sup>21</sup> Given the silence on narratives of older Asian women, this Part then observes narratives surrounding older women and Asian women, respectively.

A. *Narrative in Legal Scholarship and Practice*

An abundance of scholarship details the centrality of narrative to the study and practice of law and the lives of those who turn to the law seeking justice and relief.<sup>22</sup> Even so, some legal scholars have not valued narrative as a legitimate legal undertaking.<sup>23</sup> These scholars dismiss stories as second-tier work that “adds little if anything to legal scholarship, and in fact serves only to degrade the level of quality in legal analysis.”<sup>24</sup> Constructed as the antithesis to narrative, “[t]raditional legal writing purports to be neutral and dispassionately analytical” through prioritizing doctrinal analysis.<sup>25</sup> Such a construction misses the fact that

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<sup>21</sup> I use the terms “survivor” and “perpetrator” to efficiently capture broad ideas; however, my intent is never to simplify dynamic relationships, assign praise or blame, or dehumanize anyone into a concept. See *infra* Section III.C.3; see also Negar Katirai, *Retraumatized in Court*, 62 ARIZ. L. REV. 81, 83 n.1 (2020) (explaining “victim” is common in legal settings, and individuals have varied views of and experiences with terms “victim” and “survivor”).

<sup>22</sup> Paul Gewirtz, *Narrative and Rhetoric in the Law*, in LAW’S STORIES: NARRATIVE AND RHETORIC IN THE LAW 2, 2-3 (Peter Brooks & Paul Gewirtz eds., 1996) (“[N]arrative and rhetoric pervade all of law and, in a sense, constitute law.”); see also Leigh Goodmark, *When Is a Battered Woman Not a Battered Woman? When She Fights Back*, 20 YALE J.L. & FEMINISM 75, 81 (2008) (“Narratives are central to the development of the law and the operation of the legal system. Stories are passed from actor to actor, shaping the way that a particular event or person is understood within a legal context and influencing the legal system’s reaction to that event or person.”).

<sup>23</sup> This perspective (not so curiously) took root *after* an influx of feminist and critical narratives. Ana Garza, Note, *The Voice of Color and Its Value in Legal Storytelling*, 1 HISP. L.J. 105, 106 (1994) (crediting opposition due to *content* of stories that remark on racism and discrimination rather than “traditionally accepted” themes); see also Kathryn Abrams, *Hearing the Call of Stories*, 79 CALIF. L. REV. 971, 973 (1991) (contrasting long-accepted use of narratives in legal scholarship with feminist and critical race scholars’ use of narratives, which “commanded attention, and generated controversy, in an unprecedented manner”).

<sup>24</sup> Garza, *supra* note 23, at 107. This dismissal impacts judicial decisions, legislative policies, administrative practices, legal scholarship, and legal academics’ careers. Deborah L. Rhode, *Legal Scholarship*, 115 HARV. L. REV. 1327, 1327-28 (2002). For example, Jacquelyn Bridgeman, the first African American tenure-track professor hired at the University of Wyoming College of Law (and second Dean of color within the entire university), described the obstacles she faced throughout the tenure process despite her superior qualifications. These included colleagues who expressed “concerns about the quality and quantity of [her] scholarship” centering Black racial identity that “did not demonstrate the kind of rigorous legal analysis” necessary for tenure. Jacquelyn Bridgeman, “*Still I Rise*,” in PRESUMED INCOMPETENT II: RACE, CLASS, POWER, AND RESISTANCE OF WOMEN IN ACADEMIA 13, 18 (Yolanda Flores Niemann, Gabriella Gutiérrez y Muhs & Carmen G. González eds., 2020).

<sup>25</sup> Doing so “obscures the moral and political value judgments that lie at the heart of any legal inquiry.” Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2440-41 (1989); see also Rhode, *supra* note 24, at 1339, 1342

“neutral” legal writing is simply a narrative that comports with dominant white norms.<sup>26</sup>

Despite this dismissal, some legal scholars, primarily those from marginalized and minoritized communities, deeply engage with legal storytelling.<sup>27</sup> For these scholars, storytelling is not some shiny practice to flippantly take up and put down: it is a means of survival.<sup>28</sup> An act of self-affirming defiance.<sup>29</sup> Indeed, for those “whose voice and perspective — whose consciousness — has been suppressed, devalued, and abnormalized,” stories create a shared space to sift through, understand, and make meaning out of our experiences.<sup>30</sup> Although some White scholars have engaged with narratives and counternarratives,<sup>31</sup> they have, too often, prioritized White voices at the expense of non-White ones.<sup>32</sup> This Note explicitly draws this distinction, calling attention to non-White scholars who center race in their stories in an urgent, important, and meaningful way.

In the context of this Note, narrative presents both an opportunity and a burden for survivors of sexual violence. In criminal cases,<sup>33</sup> survivors come to the first

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(characterizing doctrinal analysis as “the cheapest, easiest, and quickest way for authors to get into print,” such that “much conventional scholarship is out of touch with fundamental social problems”). For discussion of narrative’s limitations, see *id.* at 1346.

<sup>26</sup> See WENDY LEO MOORE, REPRODUCING RACISM: WHITE SPACE, ELITE LAW SCHOOLS, AND RACIAL INEQUALITY 27 (2008); Crenshaw, *supra* note 18, at 1352. See generally Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707 (1993).

<sup>27</sup> For example, Black law faculty have used narrative in legal scholarship since the 1980s. Renee Nicole Allen, *Legal Academia’s White Gaze*, 109 MINN. L. REV. 1827, 1833 (2025).

<sup>28</sup> “Oppressed groups have known instinctively that stories are an essential tool to their own survival and liberation.” Delgado, *supra* note 25, at 2436. See generally AUDRE LORDE, *Poetry Is Not a Luxury*, in SISTER OUTSIDER: ESSAYS AND SPEECHES 36, 37 (1984).

<sup>29</sup> “[I]f I didn’t define myself for myself, I would be crunched into other people’s fantasies for me and eaten alive.” AUDRE LORDE, *Learning from the 60s*, in SISTER OUTSIDER: ESSAYS AND SPEECHES, *supra* note 28, at 134, 137. Defining ourselves “strike[s] dangerously close to the things [legal scholars] hold most dear: legitimization, dominance, and superiority.” Garza, *supra* note 23, at 107.

<sup>30</sup> Delgado, *supra* note 25, at 2412.

<sup>31</sup> This Note uses “counternarratives” and “counterstories” interchangeably. Counternarratives are narratives that do not conform with common narratives. Scholars have discussed the need for advocates to break down stereotypes and paradigms by telling counterstories describing clients’ authentic experiences. Goodmark, *supra* note 22, at 124-26; see also Delgado, *supra* note 25, at 2414.

<sup>32</sup> See *infra* Section II.B. Relatedly, Richard Delgado explains that White authors may further marginalize minoritized authors when they praise minoritized authors’ work as “so personal, so colorful, so poetic,” because they both separate the work from their own and diminish it as a personal account rather than “an article that delivers uncomfortable insights and truths about society and injustice.” Richard Delgado, *The Imperial Scholar Revisited: How to Marginalize Outsider Writing, Ten Years Later*, 140 U. PA. L. REV. 1349, 1366 (1992).

<sup>33</sup> This Note focuses on criminal trials, but legal scholars have acknowledged the insufficiency of both criminal and civil practices in responding to survivors’ needs. For more

storytelling site<sup>34</sup> when they<sup>35</sup> report the crime to the police. At the second storytelling site, police and prosecutors interview survivors (and potentially other witnesses) to gather more information, testimony, and evidence.<sup>36</sup> Engaging in interviews can be difficult because a survivor may experience ongoing trauma and because investigators, who have gender biases, tend to be male and may not be trained in sensitively responding to these issues.<sup>37</sup> Many cases do not move forward from this stage. Prosecutors often deny cases they deem “difficult,” cases they believe cannot meet prosecutorial standards.<sup>38</sup> Their decision represents one instance, in a string of many, where an external actor can overcome the survivor’s voice. This site also demonstrates the “the myriad ways that racism and heteronormativity — both explicit and implicit — intersect and shape who receives protection and who faces punishment,”<sup>39</sup> for both survivors and perpetrators of violence.

If the prosecutor chooses to move forward with the case, the third storytelling site consists of case preparation: deciding the charges to file, determining the legal strategies to use, and crafting the story to present.<sup>40</sup> The case then goes to trial, the fourth storytelling site,<sup>41</sup> where the survivor may share their story in

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on civil remedies, see Julie Dahlstrom, *Trafficking to the Rescue?*, 54 U.C. DAVIS L. REV. 1, 35-38 (2020).

<sup>34</sup> Kim Thuy Seelinger, Helene Silverberg & Robin Mejia, *The Investigation and Prosecution of Sexual Violence* 9 (May 2011) (unpublished manuscript), [https://humanrights.berkeley.edu/wp-content/uploads/2018/12/the-investigation-and-prosecution-of-sexual-violence-sv-working-paper\\_0.pdf](https://humanrights.berkeley.edu/wp-content/uploads/2018/12/the-investigation-and-prosecution-of-sexual-violence-sv-working-paper_0.pdf) [<https://perma.cc/AVY5-BEGB>].

<sup>35</sup> This walkthrough assumes the survivor has voluntarily stepped forward to report their experiences. However, many survivors do not report or testify for varied reasons. See *The Criminal Justice System: Statistics*, RAINN, <https://rainn.org/statistics/criminal-justice-system> [<https://perma.cc/WSU5-AS73>] (last visited May 2, 2025) (“[M]ore than 2 out of 3 [sexual assaults] go unreported.”).

<sup>36</sup> Seelinger et al., *supra* note 34, at 9, 16-18.

<sup>37</sup> *Id.* at 17, 19.

<sup>38</sup> Dahlstrom, *supra* note 33, at 34; MELISSA S. MORABITO, LINDA M. WILLIAMS & APRIL PATTAVINA, *DECISION MAKING IN SEXUAL ASSAULT CASES: REPLICATION RESEARCH ON SEXUAL VIOLENCE CASE ATTRITION IN THE U.S.* 4-5 (2019), <https://www.ojp.gov/pdffiles1/nij/grants/252689.pdf> [<https://perma.cc/N9DR-M6J7>].

<sup>39</sup> Dahlstrom, *supra* note 33, at 34. Implicit bias shapes prosecutorial discretion, which disproportionately punishes individuals at the intersections of poverty, racism, and heterosexism. *Id.* at 34 & n.161; see also Angela J. Davis, *Prosecution and Race: The Power and Privilege of Discretion*, 67 *FORDHAM L. REV.* 13, 32-36 (1998); Leigh Goodmark, *Reframing Domestic Violence Law and Policy: An Anti-Essentialist Proposal*, 31 *WASH. U. J.L. & POL’Y* 39, 47 (2009) (“[W]hile all women who experience violence find their credibility sharply questioned when they seek assistance, none face greater skepticism, if not outright hostility, than women of color.”).

<sup>40</sup> Seelinger et al., *supra* note 34, at 9.

<sup>41</sup> *Id.* at 9, 41. Or, a defendant may enter into an agreement to plead to specific charge(s), which may deprive survivors of feeling that their experience has been acknowledged. *Id.* at

front of a jury. Here, too, legal practitioners discount narratives as mere “anecdotes, impressions,” not rising to the level of evidence,<sup>42</sup> despite the fact that the entire business of trial proceedings relies on weighing stories “deliberately placed in direct competition with each other.”<sup>43</sup>

Moreover, rules of evidence and standards of “objectivity” determine not only the stories that are permitted in court<sup>44</sup> but also the stories likely to be “successful,” such that the law dictates which stories—and which storytellers—are worth listening to. When a survivor’s story does not conform with expectations, “the judge may not recognize her narrative as one that warrants granting the court’s protection.”<sup>45</sup> So, too, for jurors. Biased assessments rooted in assumptions of appropriate demeanor, prejudicial stereotypes regarding survivors’ motives in seeking assistance,<sup>46</sup> and the “long-standing cultural tendency to disbelieve women simply because they are women”<sup>47</sup> often strip survivors of the ability to be heard.<sup>48</sup> (This does not even account for aggressive trial practices that distort survivors’ stories and discourage them from testifying.) On the flip side, “positive prejudice, connected to social identity,

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42-43. For discussion on the harms of the plea-bargaining practice, see generally Angelo Petrigh, *Counseling Oppression*, 104 B.U. L. REV. 1895 (2024).

<sup>42</sup> Catharine A. MacKinnon, *Law’s Stories as Reality and Politics*, in LAW’S STORIES: NARRATIVE AND RHETORIC IN THE LAW, *supra* note 22, at 232, 234 (arguing narratives “are at the very least testimony and, as such, evidence”).

<sup>43</sup> Robert A. Ferguson, *Untold Stories in the Law*, in LAW’S STORIES: NARRATIVE AND RHETORIC IN THE LAW, *supra* note 22, at 84, 85; see also THOMAS A. MAUET & STEPHEN D. EASTON, TRIAL TECHNIQUES AND TRIALS 13 (11th ed. 2021); ANDREW E. TASLITZ, RAPE AND THE CULTURE OF THE COURTROOM 7-8 (1999).

<sup>44</sup> See Gewirtz, *supra* note 22, at 9; see also Crystal Hsu, Note, *Character & Credibility: Combatting Epistemic Injustice Against Survivors of Sexual Violence*, 105 B.U. L. REV. (forthcoming Sept. 2025).

<sup>45</sup> Goodmark, *supra* note 22, at 82.

<sup>46</sup> DEBORAH TUEKHEIMER, CREDIBLE: WHY WE DOUBT ACCUSERS AND PROTECT ABUSERS 3-4 (2021) (surveying culture and law’s corruption of “our judgments, making us too prone to both discount the credibility of accusers and inflate the credibility of the accused”).

<sup>47</sup> Deborah Epstein, *Discounting Credibility: Doubting the Stories of Women Survivors of Sexual Harassment*, 51 SETON HALL L. REV. 289, 305 (2020).

<sup>48</sup> See Dahlstrom, *supra* note 33, at 34 (noting judges and juries’ hesitancy to believe survivors); see also Susan Estrich, *Rape*, 95 YALE L.J. 1087, 1091-92 (1986). These expectations particularly impact individuals who have different conceptions of appropriate demeanor due to their cultural backgrounds. See, e.g., Shamita Das Dasgupta, *Battered South Asian Women in U.S. Courts*, in BODY EVIDENCE: INTIMATE VIOLENCE AGAINST SOUTH ASIAN WOMEN IN AMERICA 211, 219-20 (Shamita Das Dasgupta ed., 2007) (explaining while eye contact is important in United States, South Asian women tend to not look directly at authority figures, negatively impacting their credibility in court).

provides a substantial—and not necessarily warranted—boost”<sup>49</sup> for men who abuse women.

At the fifth storytelling site—judgment, sentencing, and potential appeal—survivors may articulate their experiences through victim impact statements.<sup>50</sup> They may also do so further down the line with ongoing parole and hearings around release. While this walkthrough is far from exhaustive, and the storytelling sites are more nuanced than laid out here, this discussion demonstrates how much survivors must engage with narrative and how much their cases depend on the narratives they tell. The devaluation of narrative is thus determinative for many survivors of violence, whose only evidence is often their own voice.<sup>51</sup>

#### B. *Sexual Violence Against Older Women*

Survivors must confront the narratives society and the legal field impose on them, which shape their experiences, in and out of the legal field.<sup>52</sup> Through analyzing existing narratives surrounding sexual violence against older women, a contrast between inconsistent, missing narratives and sensationalized violent narratives emerges.

##### 1. Incomplete and Invisible Narratives

According to the Rape, Abuse & Incest National Network, the nation’s largest anti-sexual violence organization, 3% of survivors of sexual assault are aged 65

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<sup>49</sup> Epstein, *supra* note 47, at 316. The exception to men being believed over women is when White women allege sexual assault by Black men. See Tuerkheimer, *supra* note 46, at 15. I hope to further explore this dynamic in future work and expand on how White men may co-opt White women’s voices to exert control over Black men.

<sup>50</sup> For example, Chanel Miller, who shared her harrowing experience being raped, participating in the subsequent trial, and more in her memoir, CHANEL MILLER, *KNOW MY NAME* (2019), delivered a victim impact statement at the sentencing. Katie J.M. Baker, *Here’s the Powerful Letter the Stanford Victim Read to Her Attacker*, BUZZFEED NEWS (June 3, 2016, 4:17 PM), <https://www.buzzfeednews.com/article/katiejmbaker/heres-the-powerful-letter-the-stanford-victim-read-to-her-ra> [<https://perma.cc/6PTJ-2RLB>].

<sup>51</sup> See Seelinger et al., *supra* note 34, at 56 (describing difficulty of factfinding due to lack of eyewitnesses or other documentary support).

<sup>52</sup> See Kirsten Weir, *A New Concept on Aging*, MONITOR ON PSYCH., Mar. 2023, at 36, 36, 38 (“Ageism is defined as discrimination against older people because of negative and inaccurate stereotypes . . . .”); see also Ferguson, *supra* note 43, at 84 (stressing analysis lies “in the relation *between* legal and nonlegal narratives”).

years and older.<sup>53</sup> However, developed from limited, faulty, and inconsistent studies and severe underreporting,<sup>54</sup> this statistic is misleading.<sup>55</sup>

Limited studies and legal research regarding sexual violence older women experience<sup>56</sup> mask its prevalence. Moreover, many studies that *do* exist misrepresent reality. For example, a 2017 review of the few elder abuse studies that have included sexual violence found all such studies (1) included only questions about rape to the exclusion of other forms of sexual violence, (2) excluded older adults with cognitive impairments who are vulnerable to abuse, (3) and focused on assailants known to the survivor without acknowledging sexual violence perpetrated by strangers.<sup>57</sup> Indeed, research has focused on caregiver abuse situations, mostly when individuals live at institutional care centers, such that sexual violence outside of care facilities is less understood.<sup>58</sup> This narrow sample of perpetrators may not align with reality as some evidence indicates older people are more likely to be attacked by strangers in their own homes.<sup>59</sup> Because studies situated within different fields, including elder abuse, domestic violence, sexual violence, and criminology, vary in their definitions, methods, and sampling approaches, results are often inconsistent.<sup>60</sup>

Severe underreporting<sup>61</sup> due to caregiver bias and older adults' potential inability or hesitancy to report poses an additional hurdle to collecting data.

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<sup>53</sup> *Victims of Sexual Violence: Statistics*, RAINN, <https://www.rainn.org/statistics/victims-sexual-violence> [<https://perma.cc/UYC5-KDMK>] (last visited May 2, 2025).

<sup>54</sup> For example, the mentioned statistic is an estimate, "based on 10 or fewer sample cases." RACHEL E. MORGAN & BRITNEY J. MASON, U.S. DOJ, NCJ 248339, CRIMES AGAINST THE ELDERLY, 2003–2013, at 3 (2014); *see also Victims of Sexual Violence: Statistics*, *supra* note 53.

<sup>55</sup> Lazar, *supra* note 14, at 228-29 (clarifying "prevalence rates vary across studies and research fields," reported numbers are "unrealistically low," and sexual abuse of older people is underreported).

<sup>56</sup> *See id.* at 213, 227 ("Sexual abuse of older women remains unnamed, unrecognized, under-reported, and, as such, at the margins of legal research.").

<sup>57</sup> Nobels et al., *supra* note 10, at e370. This last omission seems to permeate elder abuse frameworks, as according to the CDC, elder abuse "occurs at the hands of a caregiver or other trusted person." *About Abuse of Older Persons*, *supra* note 7.

<sup>58</sup> *See* Stacey, *supra* note 12.

<sup>59</sup> Julien Chopin & Eric Beauregard, *Elderly Sexual Abuse: An Examination of the Criminal Event*, 32 SEXUAL ABUSE 706, 707-08, 713 tbl.1 (2020); *see also* Bows, *supra* note 8, at 578-79.

<sup>60</sup> Generally, elder abuse studies yield lower rates, domestic violence literature reports higher rates, and sexual violence research has varied findings that are difficult to compare. Bows, *supra* note 8, at 569.

<sup>61</sup> *The Criminal Justice System*, *supra* note 35; ANN BURGESS, PA. COMM'N ON CRIME & DELINQ., COMMONWEALTH OF PA. DEP'T OF AGING & PA. COAL. AGAINST RAPE, ELDER SEXUAL ASSAULT: TECHNICAL ASSISTANCE MANUAL FOR PENNSYLVANIA'S SEXUAL VIOLENCE

Professionals who work with older adults may miss its signs or fail to report, stemming from a lack of education and training as well as those professionals' own biases. Some may carry normative judgments that older adults should not engage in sexual activity, as older adults are often stereotyped as asexual, undesirable, and incapable of having sex.<sup>62</sup> Some may also see older women as not credible, which impacts how seriously complaints are taken.<sup>63</sup>

While some older survivors may not be able to report due to cognitive limitations,<sup>64</sup> others choose not to report. Indeed, "it is common for older survivors of sexual assault to bear the trauma of what happened in silence."<sup>65</sup> Older survivors of sexual violence may experience shame,<sup>66</sup> ascribe to different generational attitudes about privacy or cultural conceptions that normalize

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CENTERS 7 (2005), [https://www.nsvrc.org/sites/default/files/Elder\\_Sexual\\_Assault\\_Technical-Assistance-Manual.pdf](https://www.nsvrc.org/sites/default/files/Elder_Sexual_Assault_Technical-Assistance-Manual.pdf) [<https://perma.cc/RFX6-R3RK>].

<sup>62</sup> See BURGESS, *supra* note 61, at 7. These perceptions remain prevalent across both Eastern and Western attitudes. See Matthew Yau, *Sexuality and Ageing: The Ignored Desire*, H.K.J. MENTAL HEALTH, Winter 2009, at 9, 11, <https://www.mhahk.org.hk/wordpress/wp-content/uploads/2018/04/2009-352-9-15.pdf> [<https://perma.cc/EU5X-YB5W>] (showing prevalent belief of asexuality among older people in Chinese communities). Academic literature similarly forwards the impression that sex in later life either does not exist or is associated with negativity. Hannah Bows, *The 'Ideal' Rape Victim and the Elderly Woman: A Contradiction in Terms?*, in REVISITING THE 'IDEAL VICTIM': DEVELOPMENTS IN CRITICAL VICTIMOLOGY 229, 233 (Marian Duggan ed., 2018).

<sup>63</sup> Perpetrators of violence may even weaponize older women's cognitive and physical changes, which increases others' doubt in their credibility. Stacey, *supra* note 12 (showing man removed survivor's hearing aid to confuse her before raping her).

<sup>64</sup> Lazar, *supra* note 14, at 247. While out of the scope of this Note, further discussion on the shared experiences of people with disabilities and older people would be valuable, especially because older people often develop disabilities due to age, and people with disabilities are more likely to experience sexual violence than those without. See Vilissa Thompson, Nora Ellmann, Rebecca Cokley & Jamille Fields Allsbrook, *Sexual Violence and the Disability Community*, CTR. FOR AM. PROGRESS (Feb. 12, 2021), <https://www.americanprogress.org/article/sexual-violence-disability-community/>; Joseph Shapiro, *The Sexual Assault Epidemic No One Talks About*, NPR (Jan. 8, 2018, 5:00 AM), <https://www.npr.org/2018/01/08/570224090/the-sexual-assault-epidemic-no-one-talks-about> [<https://perma.cc/K9AN-HUSZ>].

<sup>65</sup> Stacey, *supra* note 12.

<sup>66</sup> *Id.*

sexual violence,<sup>67</sup> or refrain from reporting out of feelings of love or protectiveness for those who are violent against them, such as family members.<sup>68</sup>

The experiences of older women of color fall into even more uncharted territory. While research has found older survivors are usually White, many studies are limited to White samples, condense ethnic groups into White, Black, and “other” categories, or do not consider the fact that older people from minoritized groups may be more reluctant to report sexual violence.<sup>69</sup> Legal scholarship directly focused on older women of color who experience sexual violence does not exist<sup>70</sup>—a silence that reverberates with the academy’s dismissal.

## 2. Sensationalized Narratives

On the other extreme, when sexual violence against older people *is* centered, it is framed as exponentially worse—as more “unbelievable, shocking or horrifying”<sup>71</sup>—than sexual violence against younger women. To be sure, older women experience shocking and horrifying violence,<sup>72</sup> and violence directed

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<sup>67</sup> Lazar, *supra* note 14, at 261 (describing older women’s socialization “toward conservative values of gender roles, family, and marriage” and division between private and public spheres). For example, 40% of older women did not label sexual assault during a date as such, perhaps because the concept of “date rape” did not exist for them. Joan M. Cook, Stephanie Dinnen & Casey O’Donnell, *Older Women Survivors of Physical and Sexual Violence: A Systematic Review of the Quantitative Literature*, 20 J. WOMEN’S HEALTH 1075, 1077 (2011).

<sup>68</sup> Taylor Jillian Altman, Note, *A Crime at Any Age: Intimate Partner Abuse in Later Life*, 105 CALIF. L. REV. 1543, 1550 (2017).

<sup>69</sup> Bows, *supra* note 8, at 571-72; *see also* Cook et al., *supra* note 67, at 1078.

<sup>70</sup> This is not directly on point, but Margaret Salisu has written on how the lack of language to discuss sex and sexuality shapes older Black women’s construction of sexuality and sexual experiences. Margaret Salisu, *Older Black Women’s Narratives on Sexuality*, AM. SOC. ON AGING: GENERATIONS (Feb. 9, 2023), <https://generations.asaging.org/older-black-womens-narratives-sexuality> [<https://perma.cc/Y5ZE-2Y LX>].

<sup>71</sup> Bows, *supra* note 62, at 235 (remarking that such framing follows from dominant misconception that rape is about sex and sexual desirability rather than power).

<sup>72</sup> For examples reported in the news, see *21-Year-Old Man Brutally Beats, Tries to Sexually Assault 67-Year-Old Woman in East Los Angeles*, CBS NEWS, <https://www.cbsnews.com/losangeles/news/21-year-old-man-brutally-beats-tries-to-sexually-assault-67-year-old-woman-in-east-los-angeles/> [<https://perma.cc/8XAY-LML2>] (last updated July 21, 2023, 8:06 PM PDT); Jade Moreau & AnaClare Barras, *Elderly Woman Beaten and Sexually Assaulted in Her Own Home*, KPLC, <https://www.kplctv.com/2023/07/14/elderly-woman-beaten-sexually-assaulted-her-own-home/> [<https://perma.cc/FBD9-L7RF>] (last updated July 14, 2023, 8:10 PM); Nanette Asimov & Lauren Hernandez, *Man Drags 74-Year-Old Pedestrian into San Francisco Home, Rapes Her over 5 Hours*, Police Say, S.F. CHRON., <https://www.sfchronicle.com/crime/article/Man-draws-74-year-old-pedestrian-into-San-13869673.php> (last updated May 21, 2019, 9:42 PM); and Melissa E. Holsman, *82-Year-Old Woman in Court Thursday, Described Being Tied Up, Sexually Assaulted in May*, TCPALM., <https://www.tcpalm.com/story/news/crime/martin-county/2021/>

toward a woman of any age is abhorrent. However, this sensationalized narrative is dangerous. First, it creates a false binary between younger and older women, who share many similar experiences that may be mutually illuminating.<sup>73</sup> Second, it willfully ignores the everyday violence that does not shock the conscience enough to make splashy headlines; the everyday actors perpetrating violence rather than the “bad apple;”<sup>74</sup> and the structures embedding, upholding, and entrenching such violence. We are only willing to look at older women when we may be moved by our own feelings of pity and disgust.

Case law forwards this sensationalized narrative.<sup>75</sup> In a survey of cases involving sexual violence against women over the age of 60 in the United States between 2000 and 2018,<sup>76</sup> perpetrators of sexual violence were primarily strangers, and rape often took place alongside a home invasion, burglary, robbery, or battery.<sup>77</sup> The majority of these cases revolved around “horrific and brutal sexual crimes” and “involved extreme physical violence causing serious bodily injuries” and death.<sup>78</sup> Case law contrasts significantly with scholarly research, as abuse in institutional settings, abuse by spouses, and abuse by family members are essentially absent in United States case law.<sup>79</sup> The legal reality, thus, perpetuates a one-dimensional perspective that leaves many survivors—and their stories—in the shadows.

### C. *Sexual Violence Against Asian Women*

#### 1. Narratives of Sexualization, Fetishization, and Dehumanization

To interrogate narratives imposed upon older Asian women, this Section continues laying a foundation by briefly examining common narratives about Asian women and the history behind these stereotypes.

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09/23/82-year-old-woman-testified-thursday-described-being-sexual-assaulted/5804706001/  
[https://perma.cc/M34E-VTDD] (last updated Sept. 23, 2021, 5:58 PM).

<sup>73</sup> However, elder abuse frameworks are often modeled on child abuse rather than, for instance, intimate partner abuse. See Altman, *supra* note 68, at 1545.

<sup>74</sup> This “bad apple” reasoning paints perpetrators of sexual violence as rare and “mentally unwell.” It also bolsters traditional views of women as the gatekeepers of sexuality, bearing the responsibility of managing men’s innate sexual desires and consequent actions. See Sasha N. Canan & Mark A. Levand, *A Feminist Perspective on Sexual Assault*, in HANDBOOK OF SEXUAL ASSAULT AND SEXUAL ASSAULT PREVENTION 3, 4 (William T. O’Donohue & Paul A. Schewe eds., 2019).

<sup>75</sup> See Lazar, *supra* note 14, at 237–42. As mentioned above, not all survivors report in the first place, and prosecutors only bring certain cases, which then reflect a limited vision of sexual assault. *Id.* at 235–36 (“A review of reported legal decisions conveys a limited picture of the legal reality of a criminal phenomenon.”).

<sup>76</sup> *Id.* at 234–35. The survey of 1,308 cases included federal and state case law for all states found through legal databases LexisNexis, Westlaw, and Google Scholar. *Id.*

<sup>77</sup> *Id.* at 238–39.

<sup>78</sup> *Id.* at 241.

<sup>79</sup> *Id.* at 237, 242–43.

One narrative that emerged in the 1800s was a gendered version of the Yellow Peril stereotype,<sup>80</sup> reflecting white anxiety that Chinese women were promiscuous, would shake the traditional family structure of American society, and would threaten the moral integrity of the United States.<sup>81</sup> This anxiety led to the “Dragon Lady” stereotype, which casts Asian women as hypersexual, exotic, and manipulative—a danger to be extinguished.<sup>82</sup> Cities and states responded in varied ways; for example, San Francisco officials ordered the removal of “Chinese women of ill fame,” and subsequent California laws attempted to restrict immigration by Chinese women.<sup>83</sup> After striking down such laws as improper usurpation of federal power, the federal government promulgated laws that barred Chinese women from immigrating to the United States,<sup>84</sup> including but not limited to the Page Act of 1875,<sup>85</sup> the first federal immigration restriction in the United States.<sup>86</sup>

The “Dragon Lady” narrative began to shift during Western invasions of Asia and U.S.-led wars in Asian countries, including World War II, the Korean War, the Vietnam War, and the Philippine-American War,<sup>87</sup> resulting in “the immediate colonization of not just the lands but of Asian women’s bodies.”<sup>88</sup> During the Philippine-American War, U.S. military men dehumanized Filipinas as “little brown fucking machines powered by rice.”<sup>89</sup> During the Vietnam War,

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<sup>80</sup> See SUSIE LAN CASSEL, *THE HYPERSEXUALIZATION OF ASIAN WOMEN IN AMERICA: FROM STEREOTYPE TO MASSACRE* 20 (2021), [https://www.csusm.edu/apidafsa/documents/hypersexualization\\_asianwomen\\_april2021\\_readonly.pdf](https://www.csusm.edu/apidafsa/documents/hypersexualization_asianwomen_april2021_readonly.pdf) [<https://perma.cc/W8ZX-97XV>].

<sup>81</sup> Stewart Chang, *Feminism in Yellowface*, 38 HARV. J.L. & GENDER 235, 237, 243-45 (2015).

<sup>82</sup> CASSEL, *supra* note 80, at 12.

<sup>83</sup> Lorelei Lee, *The Roots of “Modern Day Slavery”: The Page Act and the Mann Act*, 52 COLUM. HUM. RTS. L. REV. 1219 (2021).

<sup>84</sup> See *id.* at 1219-21; Chang, *supra* note 81, at 240-42 (discussing government’s framing of Chinese immigration as issue of “public morality” fueled by pervasive stereotypes of Chinese persons as “thieves” and “prostitutes”).

<sup>85</sup> Page Act of 1875, ch. 141, 18 Stat. 477 (repealed 1974). The Page Act, as discriminatorily applied, labelled single Chinese women entering the United States as engaged in “commercial sex,” which both sexualized them and subjected them to harsh racism, xenophobia, and bias in the immigration system. See Chang, *supra* note 81, at 242; see also Rachel Ramirez, *The History of Fetishizing Asian Women*, VOX (Mar. 19, 2021, 4:00 PM), <https://www.vox.com/22338807/asian-fetish-racism-atlanta-shooting> [<https://perma.cc/4R7A-82C8>] (“The Page Act of 1875 reflected the fear of Chinese women as a source of contaminating sexuality.”). See generally Kerry Abrams, *Polygamy, Prostitution, and the Federalization of Immigration Law*, 105 COLUM. L. REV. 641 (2005).

<sup>86</sup> Lee, *supra* note 83, at 1220.

<sup>87</sup> See CASSEL, *supra* note 80, at 13.

<sup>88</sup> Ramirez, *supra* note 85.

<sup>89</sup> Sunny Woan, *White Sexual Imperialism: A Theory of Asian Feminist Jurisprudence*, 14 WASH. & LEE J.C.R. & SOC. JUST. 275, 283 (2008) (quoting Rachel Bundang, *Scars ARE History: Colonialism, Written on the Body*, in REMEMBERING CONQUEST:

U.S. military men degraded Vietnamese women as “not quite as human as white women,” telling stories about how their vaginas were “slanted, like their eyes.”<sup>90</sup> Indeed, “White men have been trained, peer pressured and hazed by the U.S. military to release their anxiety, self-loathing, and hatred of the enemy onto Asian women’s bodies.”<sup>91</sup> Sex industries “sprang up to cater the U.S. military men,”<sup>92</sup> and widespread perceptions of Asian societies as inferior reinforced sexually denigrating stereotypes of Asian Pacific women.<sup>93</sup>

The new narrative that emerged, solidified through films and artwork, culminated in the “Lotus Blossom” stereotype.<sup>94</sup> This narrative casts Asian women as “hypersexual but docile,”<sup>95</sup> desperate to be saved by White men, submissive, and dispensable.<sup>96</sup> Asian women were merely vessels *for* men, containing “a maddening, scary love and sex and feeling and desire.”<sup>97</sup> As a result, Asian women were permitted to enter the United States as war brides.<sup>98</sup> Pornography eroticized war brides after the Korean War, “romanticizing” the Asian woman “as an ideal American wife, because she was sexually servile but also a domestic servant.”<sup>99</sup> Thus, Asian women were weaponized “as hyper-

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FEMINIST/WOMANIST PERSPECTIVES ON RELIGION, COLONIZATION, AND SEXUAL VIOLENCE 53, 62 (Nantawan Boonprasat Lewis & Marie M. Fortune eds., 1999)).

<sup>90</sup> In fact, drill instructors actively instilled these attitudes, characterizing Asian women as dolls or toys. Evelyn Yoshimura, *G.I.'s and Asian Women*, GIDRA, Jan. 1971, at 4, 4, <https://downloads.densho.org/ddr-densho-297/ddr-densho-297-21-mezzanine-4c808d50d0.pdf> [<https://perma.cc/XM52-HLYS>].

<sup>91</sup> Cady Lang & Paulina Cachero, *How a Long History of Intertwined Racism and Misogyny Leaves Asian Women in America Vulnerable to Violence*, TIME (Apr. 7, 2021, 12:51 PM), <https://time.com/5952819/history-anti-asian-racism-misogyny/> [<https://perma.cc/WBY4-J9WU>] (quoting “Khara Jabola-Carolus, the executive director of Hawaii State Commission on the Status of Women”).

<sup>92</sup> Woan, *supra* note 89, at 283. At least 70,000 U.S. soldiers came to Thailand between 1966 and 1969 to engage in “Rest and Recreation” or “Rest and Recuperation,” igniting a sex industry that continues today. The U.S. government actively ensured Asian governments provided these stations for U.S. military personnel. *Id.* at 283-84, 284 n.69; *see also* Hanna Cho, *Racialization of South Korea in Camptowns and the Beginnings of Transnational Adoption* 5-6 (May 2024) (unpublished manuscript) (on file with author) (remarking on *kijichons*, camptowns commonly containing brothels near military bases, in South Korea and U.S. soldiers’ expectation of Korean women and girls’ “gratitude and services”).

<sup>93</sup> Woan, *supra* note 89, at 285.

<sup>94</sup> *See* CASSEL, *supra* note 80, at 15; Chang, *supra* note 81, at 236 (providing example of film and novel written by a White man, *The World of Suzie Wong*, “fetishiz[ing] the Asian woman into an object of desire and consumption for the Western white man”).

<sup>95</sup> Ramirez, *supra* note 85.

<sup>96</sup> CASSEL, *supra* note 80, at 15.

<sup>97</sup> Ramirez, *supra* note 85.

<sup>98</sup> War Brides Act, ch. 591, 59 Stat. 659 (1945); CASSEL, *supra* note 80, at 14.

<sup>99</sup> Ramirez, *supra* note 85.

domesticated, conservative foils to progressive feminism.”<sup>100</sup> Throughout, Asian women have been exploited at the intersection of racism, sexism, classism, and Western imperialism—“simultaneously fetishized and despised, hypervisible as subjects of desire but disposable as people.”<sup>101</sup>

## 2. Narrative Legacies and Their Legal Consequences

The sexualization of Asian women is not some historic relic; its claws pierce our everyday present. Still, Asian women are dehumanized as “vessels of excessive sexuality,”<sup>102</sup> specifically “hyper-heterosexuality, male-centered and male-dominated.”<sup>103</sup> Immigration policy shifts between exclusion and rescue, viewing Asian women as products that “can be redeemed by and assimilated into mainstream American domesticity.”<sup>104</sup> The myth of small, tight, slanted, and abnormal vaginas abounds.<sup>105</sup> In mentioning these and the “overwhelming majority of violent pornography featur[ing] Asian women in particular,”<sup>106</sup> the mail-order bride industry,<sup>107</sup> and the “Asian fetish syndrome,”<sup>108</sup> this Note barely scratches the surface of the experiences of Asian women.

Racialized sexualization limits Asian—and other non-White—survivors’ ability to access legal relief and healing.<sup>109</sup> First, Asian survivors are extremely

<sup>100</sup> Chang, *supra* note 81, at 237 & n.20.

<sup>101</sup> Lang & Cachero, *supra* note 91.

<sup>102</sup> See Ramirez, *supra* note 85.

<sup>103</sup> Woan, *supra* note 89, at 279. See generally Lisa C. Ikemoto, *Male Fraud*, 3 J. GENDER RACE & JUST. 511 (2000).

<sup>104</sup> Chang, *supra* note 81, at 250-51 (observing, in discussing sex trafficking industry, we redirect attention from Western demand, colonialism, and militarism, and capitalize on “patriarchy and backwardness” of Asian cultures).

<sup>105</sup> These myths lead to products like China Shrink Cream—featuring a topless East Asian woman on the packaging—to tighten vaginal walls. *China Shrink Cream*, AMAZON, <https://www.amazon.com/China-Shrink-Cream-Pack-ounces/dp/B01HFKH0EQ> [https://perma.cc/834C-LAXU] (last visited May 2, 2025).

<sup>106</sup> Woan, *supra* note 89, at 292; see also Rachel Kuo, *How Rape Culture and Racism Combine to Hurt Asian Women*, EVERYDAY FEMINISM (Jan. 2, 2017), <https://everydayfeminism.com/2017/01/rape-culture-racism-asian-women/> [https://perma.cc/CD2M-A8L9] (“[S]earching for ‘Asian women’ on Google reveals predominantly sexualized and pornographic images [and] keyword searches on ‘torture’ reveal images of Asian women.”).

<sup>107</sup> See Woan, *supra* note 89, at 294 (describing increased popularity of mail-order bride industry for conservative White men in response to American feminist movement); Chang, *supra* note 81, at 248; Rachelle Sico, *In the Name of “Love”: Mail Order Brides—The Dangerous Legitimization of Sex, Human & Labor Trafficking*, 18 LOY. PUB. INT. L. REP. 199, 200 (2013) (illuminating abuse and murders of mail-order brides and vulnerabilities due to immigration status).

<sup>108</sup> See Woan, *supra* note 89, at 276-77, 294-97.

<sup>109</sup> Naomi Mann, *Classrooms into Courtrooms*, 59 HOUS. L. REV. 363, 392-95 (2021) (describing stereotypes Black, Indigenous, Asian, and Latine women face).

unlikely to disclose their experiences of sexual victimization to authorities, friends, or family.<sup>110</sup> Exploiting this reality, harassers act on their belief that Asian women will be “good” victims, passive and submissive to their advances.<sup>111</sup> When Asian women do fight back and report, administrative, legal, and community intimidation discourages survivors from coming forward,<sup>112</sup> redoubling their fear. Second, law enforcement and prosecutors are less likely to move the cases of Asian women forward.<sup>113</sup> Stereotypes of Asian women as always consenting to sex leads to disbelief that they *can* be raped; consequently, legal and medical systems treat Asian women differently than White women.<sup>114</sup> Last, these biases impact whether juries ultimately convict perpetrators of violence. Asian survivors not only must repeatedly contend with the widespread disbelief that they face violence<sup>115</sup> but also must disprove the narrative that when they do face violence, they enjoy it.<sup>116</sup>

## II. FAILURES OF CURRENT FRAMEWORKS

When attempting to address the faults in our narratives, our current frameworks fall short. This Part outlines some of these limitations, namely our narrow definitions and biased narrative perspective, and reflects on how they perpetuate erasure and barriers for older Asian women.

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<sup>110</sup> Woan, *supra* note 89, at 298; Ikemoto, *supra* note 103, at 542 (“Asian and Pacific Islander women are particularly likely to fall through the cracks because of cultural norms against reporting incidents of domestic violence and seeking assistance from outside the community.”).

<sup>111</sup> Sumi K. Cho, *Converging Stereotypes in Racialized Sexual Harassment: Where the Model Minority Meets Suzie Wong*, 1 J. GENDER RACE & JUST. 177, 190 (1997); *see* Woan, *supra* note 89, at 296 (detailing man who specifically raped Japanese schoolgirls because he believed them to be submissive and less likely to report).

<sup>112</sup> Cho, *supra* note 111, at 179. Sumi Cho writes on a White male professor who preyed upon multiple Japanese female students. The case was unsuccessfully resolved due to intimidation by the university’s affirmative action office, the law firm that defended the professor (and threatened legal action against student organizations who warned incoming students), and the university’s attorney. *Id.* at 179-80, 180 n.14.

<sup>113</sup> In general, non-White survivors of sexual assault are less likely to be believed, and their cases are less likely to be prosecuted. Mann, *supra* note 109, at 392; *see also* Dasgupta, *supra* note 48, at 219 (discussing police, prosecutors, and courts’ dismissal of South Asian women).

<sup>114</sup> Woan, *supra* note 89, at 287, 293; *see* Crenshaw, *supra* note 15, at 1251 n.35 (connecting “[m]yths about women of color being promiscuous and wanting to be raped” to differential treatment); Marina Fang, *Chanel Miller, Rowena Chiu and Defying Stereotypes as Asian Sexual Assault Survivors*, HUFFPOST (Oct. 7, 2019, 3:24 PM), [https://www.huffpost.com/entry/rowena-chiu-chanel-miller-asian-women-sexual-assault\\_n\\_5d9b46dce4b0fc935eddeace](https://www.huffpost.com/entry/rowena-chiu-chanel-miller-asian-women-sexual-assault_n_5d9b46dce4b0fc935eddeace) [<https://perma.cc/RGW3-VRPB>] (remarking stereotypes “can make it difficult for our stories to be taken seriously”).

<sup>115</sup> *See* Kuo, *supra* note 106.

<sup>116</sup> Woan, *supra* note 89, at 286, 294.

A. *Limited Definitions: Incomplete Narrative Reach*

Deficient definitions inhibit discussion because we do not yet have the terms to envision and articulate a more complete understanding.<sup>117</sup> For example, sexual violence is often thought of (and defined in criminal law) as an act that “takes place in discrete, aberrant occurrences.”<sup>118</sup> This construction results in “the tendency of legal structures and social services to focus on act-based responses.”<sup>119</sup>

This traditional definition also misplaces focus on the agent performing the act of violence—and their force and intentionality behind the act—even though a person may experience violence regardless of the perpetrator’s intentionality.<sup>120</sup> Discourse that does focus on the survivor relies on “psychologizing and victim-blaming terms,”<sup>121</sup> delving into the survivor’s thoughts without acknowledging that our patriarchal society informs these very thoughts.<sup>122</sup> The focus—and the quality of that focus—on both the individual agent and the individual survivor of a single act are thus ill-equipped to capture complex realities.

Scholars have affirmed the importance of expanding our definitions of violence. Some have proposed increased focus on the structures leading to and maintaining violence through revisiting the forgotten second part of the “Power and Control Wheel,”<sup>123</sup> a diagram depicting tactics abusive partners may use to reinforce power disparities and keep survivors in cycles of vulnerability.

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<sup>117</sup> For a discussion on epistemic injustice, see Jasmine B. Gonzales Rose, *Critical Race Theory as Legal Epistemic Justice*, 104 B.U. L. REV. 1295, 1304-06 (2024) (“Hermeneutical injustice occurs when a minoritized or subordinated social group is deprived of an epistemological framework to define the injustices they experience.”); and Hsu, *supra* note 44 (manuscript at 11-21).

<sup>118</sup> Aisha K. Gill, Gina Heathcote & Emma Williamson, *Introduction: Violence*, 112 FEMINIST REV. 1, 3 (2016).

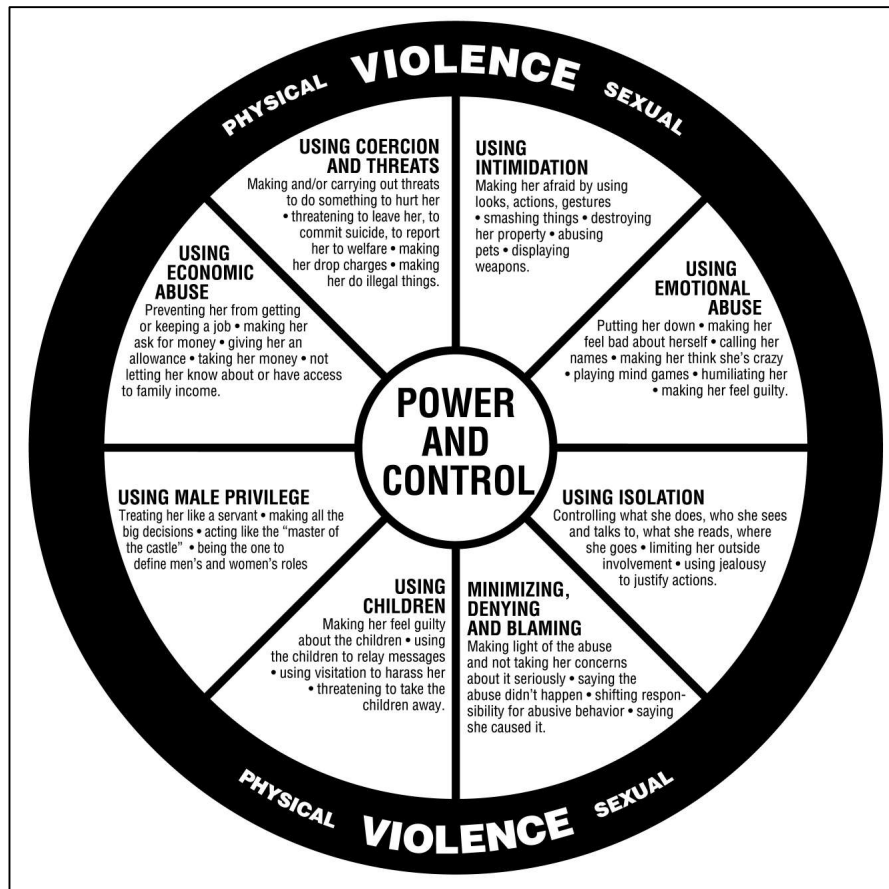
<sup>119</sup> *Id.*

<sup>120</sup> See Vittorio Bufacchi & Jools Gilson, *The Ripples of Violence*, 112 FEMINIST REV. 27, 32 (2016).

<sup>121</sup> Carine M. Mardorossian, *Toward a New Feminist Theory of Rape*, 27 SIGNS: J. WOMEN CULTURE & SOC’Y 743, 747 (2002).

<sup>122</sup> *Id.* at 758.

<sup>123</sup> See generally Tamara Kuennen, *Uncharted Violence: Reclaiming Structural Causes in the Power and Control Wheel*, 55 ARIZ. ST. L.J. 561 (2023); Tamara Kuennen & Jennifer Eyl, *Reviving “Part Two” of the Power and Control Wheel*, 27 DOMESTIC VIOLENCE REP. 17 (2022). Because older women’s experiences both differ and overlap with those of younger women, certain parts of the wheel may be more relevant for older women. See Altman, *supra* note 68, at 1551-52. The wheel implicitly recognizes that violence can take many forms. For example, the domestic violence literature has referred to nonviolent forms of abuse as “coercive control.” See Courtney K. Cross, *Coercive Control and the Limits of Criminal Law*, 56 U.C. DAVIS L. REV. 195, 197-99 (2022).

**Figure 1.** Power and Control Wheel.<sup>124</sup>

When it was first conceived in the 1980s, a worksheet called “Institutional and Cultural Supports for Battering” was intended to accompany the wheel.<sup>125</sup> This worksheet asked survivors to identify how institutions and culture supported the abuse to illuminate “a fuller understanding of the ways institutional and cultural norms reinforce[d] battering behavior” and facilitate more expansive “future actions for change.”<sup>126</sup> Unfortunately, when the criminal legal system took precedence, the worksheet was deprioritized.<sup>127</sup> So, too, went

<sup>124</sup> *Power and Control*, NAT’L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/identify-abuse/power-and-control/> [https://perma.cc/9HFS-LU5B] (last visited May 2, 2025).

<sup>125</sup> Kuennen, *supra* note 123, at 563.

<sup>126</sup> *Id.* at 583.

<sup>127</sup> *See id.* at 603 (reiterating many activists, especially activists of color, took issue with prioritization of criminal legal system). Proponents of the wheel may be more representative

nuanced understanding. For example, immigrant women may face perpetrators' threats to report their immigration status or destruction of important papers, but exclusive focus on these acts results in little discussion on discriminatory background legal structures and immigration laws, xenophobia, the detention and deportation process, and more.<sup>128</sup>

**Figure 2.** Institutional and Cultural Supports for Battering Worksheet.<sup>129</sup>

Tactics of Power and Control	Institutional and Community decisions which support individual batterer's ability to use abusive tactics (police, courts, media, medical, clergy, business, education, human services).	Cultural Values and Beliefs that support batterers.
Physical Abuse		
Sexual Abuse		
Isolation		
Emotional Abuse		
Economic Abuse		
Minimizing and Denying		
Using Children		
Threats		
Using Male Privilege		
Intimidation		

Other scholars have proposed viewing violence as an experience in terms of its ripple effects, from the impact of violence to its time-indeterminate consequences.<sup>130</sup> They illuminate the deficiencies in assuming "that violence has a fixed temporal existence, which can be tracked by a starting point and an end point."<sup>131</sup> While these proposals offer meaningful insights, they ultimately fall short because they fail to seamlessly tie the elements together. They identify parts of violence without envisioning how the parts fit into the whole. This Note expands upon their insights below.<sup>132</sup>

of carceral feminism, which contributed to the shifted focus on the wheel and away from the worksheet. I highlight the wheel only as a helpful reference, bearing this history in mind.

<sup>128</sup> See *id.* at 595 (citing JOSHUA M. PRICE, STRUCTURAL VIOLENCE: HIDDEN BRUTALITY IN THE LIVES OF WOMEN 41-42 (2012)).

<sup>129</sup> See *Institutional and Cultural Supports for Battering* (illustration), reprinted in JOSHUA M. PRICE, STRUCTURAL VIOLENCE: HIDDEN BRUTALITY IN THE LIVES OF WOMEN 23-25 (2012). The version in this Note is a reproduction of the original.

<sup>130</sup> Bufacchi & Gilson, *supra* note 120, at 28, 32.

<sup>131</sup> *Id.* at 34.

<sup>132</sup> See *infra* Section III.A.

B. *White-Centric Feminism: Biased Narrative Perspective*

Grounding the narrative in a white perspective displaces the voices of those from minoritized communities to the detriment of non-White individuals. In *Against White Feminism*,<sup>133</sup> Rafia Zakaria calls attention to this “seldom acknowledged” issue in the feminist canon, where “[t]he authoritative universal voice—usually white male subjectivity masquerading as non-racial, non-gendered objectivity—is merely transferred to those who, but for gender, share many of the same cultural, economic and social characteristics,” namely, White women.<sup>134</sup> As a result, even when non-White women speak, they are neither listened to nor heard.<sup>135</sup> This Section delves into some of the harmful ramifications of white-centric feminism, including misplaced reliance on the criminal legal system and the “perfect victim” narrative.

1. *Misplaced Reliance on the Criminal Legal System*

One stark failure of white feminism is the reliance on carceral punishment. In the late 1970s, White feminists, including lawyers, judges, and organizers, “link[ed] battering to patriarchal marriage norms and vehemently rejected the contention by many feminists of color that racial and economic inequality contributed to violence.”<sup>136</sup> The emphasis on individual abusers advanced solutions revolving around pro-arrest policies, including mandatory arrests regardless of the survivor’s wishes, despite the fact that women of color often viewed the police and courts as “sites of peril, not protection.”<sup>137</sup> Accordingly, “feminist critical law reform had become less about critiquing the state and society’s treatment of women and more about allying with police power to find newer and better ways of putting men, who themselves often occupy subordinate

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<sup>133</sup> See generally RAFIA ZAKARIA, *AGAINST WHITE FEMINISM* (2021). Zakaria defines a white feminist as “someone who refuses to consider the role that whiteness and the racial privilege attached to it have played and continue to play in universalizing white feminist concerns, agendas, and beliefs.” *Id.* at ix. As a result, “Black, Asian, and Brown women’s experiences, and so their needs and priorities, remain sidelined.” *Id.* She clarifies that white feminists can be of any racial identity. *Id.*

<sup>134</sup> Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 154 (footnote omitted).

<sup>135</sup> See *id.*

<sup>136</sup> Aya Gruber, *Reckoning with Carceral Feminism in the Fight to End Mass Incarceration*, EMANCIPATOR (June 27, 2023), <https://theemancipator.org/2023/06/27/topics/legal-system/reckoning-with-carceral-feminism-fight-end-mass-incarceration/> [<https://perma.cc/LHQ5-7BAR>]. I do not mean to imply that *only* White feminist leaders contributed to increased policing. See, e.g., Mimi E. Kim, *The Carceral Creep: Gender-Based Violence, Race, and the Expansion of the Punitive State, 1973-1983*, 67 SOC. PROBS. 251, 259 (2020).

<sup>137</sup> Gruber, *supra* note 136. Mandatory arrest laws substantially increased the arrest of women as well. *Id.*

statuses, in jail.”<sup>138</sup> Similar to feminist reliance on criminalization, responses to elder abuse in the United States have turned to the criminal legal system despite criticisms.<sup>139</sup>

However, many survivors do not wish to pursue criminal measures.<sup>140</sup> Litigation, which subjects survivors to intense scrutiny, may retraumatize survivors, discredit their experience, and strip them of agency and power.<sup>141</sup> Moreover, because survivors of sexual violence are “diverse across racial, ethnic, [and] socio-economic lines,” and with respect to sexual identity, they face varied harms and have different needs and objectives that criminal adjudication processes cannot respond to.<sup>142</sup> Thus, the focus on criminal legal interventions “absorbs women victims into its punitive mission while largely ignoring their material needs”<sup>143</sup> and shuts down other forms of thinking, acting, and problem-solving.<sup>144</sup>

## 2. The Faulty “Perfect Victim” Narrative

White-centric feminism also contributed to the rise of the “perfect victim” narrative, the stock portrayal of sexual violence survivors as White, middle-class, heterosexual, cisgender women, who are often helpless, weak, and vulnerable.<sup>145</sup> In the 1970s, leaders of the battered women’s movement promoted the message that domestic violence happens not only to poor Black women, as was the previous dominant narrative, but also to White women, and as such, “was worthy of the attention of those in power.”<sup>146</sup> This reframing

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<sup>138</sup> Aya Gruber, *A “Neo-Feminist” Assessment of Rape and Domestic Violence Law Reform*, 15 J. GENDER RACE & JUST. 583, 584 (2012) (footnote omitted).

<sup>139</sup> See Lazar, *supra* note 14, at 212-13.

<sup>140</sup> Lara Bazelon & Bruce A. Green, *Victims’ Rights from a Restorative Perspective*, 17 OHIO ST. J. CRIM. L. 293, 325-26 (2020) (stating many, especially those from communities impacted by mass incarceration, do not wish to be part of “destructive” criminal process). Instead, survivors have named gaining validation and acknowledging the crime and resultant harm as key goals. Epstein, *supra* note 47, at 321.

<sup>141</sup> Bazelon & Green, *supra* note 140, at 297; see also Stefanie Mundhenk, *I Was Sexually Assaulted. And I Believe Incarcerating Rapists Doesn’t Help Victims Like Me.*, APPEAL (July 18, 2019), <https://theappeal.org/i-was-sexually-assaulted-and-i-believe-incarcerating-rapists-doesnt-help-victims-like-me/> [<https://perma.cc/4D8P-QKGH>].

<sup>142</sup> Bazelon & Green, *supra* note 140, at 295-96, 324.

<sup>143</sup> Gruber, *supra* note 138, at 611.

<sup>144</sup> Gill et al., *supra* note 118, at 2. For example, sexual violence is an “economic, public health, community, and human rights” problem; pursuing supportive structures in these spheres can help lead to more effective solutions. LEIGH GOODMARK, *DECRIMINALIZING DOMESTIC VIOLENCE: A BALANCED POLICY APPROACH TO INTIMATE PARTNER VIOLENCE* 1 (2018).

<sup>145</sup> See Goodmark, *supra* note 22, at 83, 86-87.

<sup>146</sup> *Id.* at 76, 87-88. Again, I do not mean to imply that *only* White feminist leaders contributed to the “perfect victim” narrative. See Kim, *supra* note 136, at 258-59 (describing how, in 1976, African American and Asian American women attorneys switched from

tended to be successful because “[w]hile politicians may not have been terribly interested in the problems of poor [B]lack women, it was easier to sell them on the need to protect their own mothers, sisters, and daughters.”<sup>147</sup> However, this recasting ultimately erased low-income women and non-White women from the dominant view.<sup>148</sup> Because the “perfect victim” narrative forwards a single view of what a survivor—and woman—can be, those who do not fit such a mold are forced to contort themselves to appear credible in court.<sup>149</sup>

In some ways, older women fit squarely into the “perfect victim” narrative. Indeed, Nils Christie listed “[s]ick, old or very young” people as examples of those who are deemed weak, fulfilling one of the five requirements he viewed as necessary to create the “perfect victim.”<sup>150</sup> In a similar vein, some opine that older women are actually given a leg up in legitimacy because older people are portrayed as “inherently vulnerable” and are likely to be viewed as blameless and respectable.<sup>151</sup>

Despite the ways older women may fit into the “perfect victim” narrative, we have seen the one-dimensional portrayal of older women in existing case law as well as our minimal initiative to seek their stories out, deficient training of professionals, and lack of overall social care for older women.<sup>152</sup> This suggests that, for marginalized groups, multilayered “perfect victim” narratives compound each other. These individuals contend with both the traditional “perfect victim” narrative *and* a “perfect victim” narrative shaped by the web of

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“race/class/gender analysis to one based on gender alone” when affluent White women contacted them for legal aid and when legal field failed to respond to intersectional claims).

<sup>147</sup> Goodmark, *supra* note 22, at 88. Interest convergence theory, a principle in critical race theory that argues that social change for marginalized groups only occurs when their interests align with those in power, often White cisgender men, may apply here. *See generally* Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980).

<sup>148</sup> Goodmark, *supra* note 22, at 88-89 (explaining resources and concerns of lower-income non-White women in abusive relationships are different than those of middle-class White women, and movement failed to address these needs).

<sup>149</sup> *Id.* at 100-01 (detailing barriers Black women, who are associated with strength and aggression, experience in courtroom). As this narrative promoted a single image of a survivor, it likely also contributed to the focus on younger White cisgender women to the exclusion of older women of color. *See Lazar, supra* note 14, at 252 (explaining older women, who do not conform to “ideal victim” image, are perceived as “lesser victims”).

<sup>150</sup> Nils Christie, *The Ideal Victim, in REVISITING THE ‘IDEAL VICTIM’: DEVELOPMENTS IN CRITICAL VICTIMOLOGY*, *supra* note 62, at 11, 12. In the context of rape cases, Nils Christie listed five attributes that create a “perfect victim”: being weak, carrying out a respectable project, and being somewhere one could not be blamed for being. Additionally, the offender must have been “big and bad” and unfamiliar to the survivor. *Id.* Christie continued that the ideal victim also must be powerful enough that others will listen, yet at the same time, weak enough not to become a threat. *Id.* at 14-15.

<sup>151</sup> Bows, *supra* note 62, at 229-30.

<sup>152</sup> *See supra* Section I.B.

oppression circumscribing their particular group. For example, older women must fulfill the traditional “perfect victim” requirements (being White, weak, etc.) as well as the “perfect *older* victim” requirements (as older women contend with invisibility, older survivors must present a sensationalized narrative to attract attention). The “perfect victim” cage is ever-shrinking and ever-suffocating.

Analyzing the “perfect victim” narrative from a non-white-centric perspective prompts us to wonder how to untangle the narratives surrounding Asian women, older women, and the “perfect victim.” Literature on racialized sexualization directed at Asian women does not clarify whether older Asian women experience the same kinds of sexualization as younger Asian women, and if not, how their experiences differ. So, what makes a “perfect Asian victim” or a “perfect older Asian victim”? What box do we have to crush an older Asian survivor into to be satisfied?

C. *The Fallout: Erasure and Barriers for Older Asian Women*

These limitations exacerbate the erasure and barriers older Asian women suffer. Consider an experience of an 82-year-old Cantonese woman.<sup>153</sup> While riding in an ambulance to the hospital, a paramedic<sup>154</sup> turned off the lights, blindfolded the woman, and sexually assaulted her—all while she was strapped down and fully immobilized.<sup>155</sup> This woman was physically frail, diagnosed with Parkinson’s disease, and only spoke Cantonese.<sup>156</sup> Her “age and culture made relating the facts of what happened terrifying.”<sup>157</sup> Despite suffering emotional distress and trauma, she was unable to find an affordable therapist who speaks her native language.<sup>158</sup> A definition limited to the act of violence erases the structures upholding the act—from sexist, racist, and ageist social norms to localized structures, such as the ambulance company’s lack of action despite the paramedic’s history of assaulting older women—and consequences flowing from the act, like the woman’s emotional pain and suffering. A white-centric perspective erases the woman’s unique barriers, including but not limited to language.

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<sup>153</sup> *AMR Sued for Paramedic’s Violent Sexual Assault of 82-Year Old Asian Woman in Ambulance*, COTCHETT PITRE & MCCARTHY LLP (May 22, 2023), <https://www.cpmlegal.com/news-AMR-Sued-for-Paramedics-Violent-Sexual-Assault-of-82-Year-Old-Asian-Woman-in-Ambulance> [<https://perma.cc/N2W8-P4VC>].

<sup>154</sup> This paramedic had sexually assaulted an 80-year-old patient only seven months prior. Complaint at 12, *Doe v. Am. Med. Response W.*, No. 23-CIV-02303 (Cal. Super. Ct. May 19, 2023), [https://www.cpmlegal.com/media/news/15144\\_2023-05-22%20Complaint%20%20Exhibits\\_compiled.pdf](https://www.cpmlegal.com/media/news/15144_2023-05-22%20Complaint%20%20Exhibits_compiled.pdf) [<https://perma.cc/U6HV-RLN9>].

<sup>155</sup> *Id.* at 8.

<sup>156</sup> *Id.* at 7-8. After arriving at the hospital, she could not communicate that she had been sexually assaulted. *Id.* at 8.

<sup>157</sup> *Id.* at 9.

<sup>158</sup> *Id.* at 17.

These failures also overlook barriers from within the community that may dissuade Asian survivors from seeking help.<sup>159</sup> For example, because Asian cultures often prioritize family harmony over the individual<sup>160</sup> and traditionally discourage revealing challenges, especially those that are personal or familial,<sup>161</sup> Asian survivors may hesitate to report due to fear of harming their own and their family's reputation.<sup>162</sup> The fear of reputational harm may be heightened for Asian survivors because Asians tend to hold more negative attitudes toward rape victims and to believe in rape myths,<sup>163</sup> which increases anxiety about being blamed and facing prejudice and stigma.<sup>164</sup> Additional cultural values, like emphasis on perseverance and endurance, being able to self-manage, and not being a burden,<sup>165</sup> as well as a general lack of knowledge of resources<sup>166</sup> and difficulty identifying sexual violence,<sup>167</sup> may further contribute to underreporting.

Because many services do not sensitively address these values or modify their approaches to be culturally appropriate for Asian populations, Asians are unlikely to seek them out. Indeed, Asians generally view calling 911 or participating with courts, law enforcement, and shelter services as particularly unappealing.<sup>168</sup> Asian populations are also the least likely to seek and receive

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<sup>159</sup> This is not to justify a “white savior” mindset. While legal and social services should consider culture, how to constructively do so is not clear. *See* Sharmila Rudrappa, *Law's Culture and Cultural Difference*, in *BODY EVIDENCE: INTIMATE VIOLENCE AGAINST SOUTH ASIAN WOMEN IN AMERICA*, *supra* note 48, at 181, 183-85, 189-94 (observing messiness and difficulty of cultural arguments in court).

<sup>160</sup> NAT'L CTR. ON ELDER ABUSE, UNDERSTANDING ELDER MISTREATMENT IN ASIAN AMERICAN AND PACIFIC ISLANDER COMMUNITIES 3 (2023) [hereinafter UNDERSTANDING ELDER MISTREATMENT], [https://eldermistreatment.usc.edu/wp-content/uploads/2023/07/NCEA\\_NAPCA\\_FS\\_Part1\\_UnderstandingEMinAAPI.pdf](https://eldermistreatment.usc.edu/wp-content/uploads/2023/07/NCEA_NAPCA_FS_Part1_UnderstandingEMinAAPI.pdf) [<https://perma.cc/HA2R-RXKR>].

<sup>161</sup> *Id.*; Lorraine T. Benuto, Frances Gonzalez, Jena Casas, Rory Newlands & Brian D. Leany, *Cultural Considerations in Sexual Assault*, in *HANDBOOK OF SEXUAL ASSAULT AND SEXUAL ASSAULT PREVENTION*, *supra* note 74, at 55, 57.

<sup>162</sup> YOUNGJU JI ET AL., KAN-WIN, COMMUNITY SURVEY REPORT ON SEXUAL VIOLENCE IN THE ASIAN AMERICAN/IMMIGRANT COMMUNITY 12 (2017) [hereinafter KAN-WIN], <https://static1.squarespace.com/static/6480ae28e456fb732893d968/t/64dd10cf827e1742dec5e9cd/1692209360928/sareport.pdf> [<https://perma.cc/22NQ-RJ2X>].

<sup>163</sup> Woan, *supra* note 89, at 298. Research indicates Black, Latine, and Asian Americans are more likely than White Americans to agree with rape myths, even if they have experienced sexual violence themselves. Benuto et al., *supra* note 161, at 56.

<sup>164</sup> KAN-WIN, *supra* note 162, at 11.

<sup>165</sup> UNDERSTANDING ELDER MISTREATMENT, *supra* note 160, at 3.

<sup>166</sup> KAN-WIN, *supra* note 162, at 9-10.

<sup>167</sup> *Id.* at 11.

<sup>168</sup> *Id.* at 13; Dasgupta, *supra* note 48, at 218 (remarking within South Asian community, seeking assistance from law enforcement is taboo).

mental health treatment,<sup>169</sup> even though survivors report suffering symptoms of anxiety, depression, insomnia, post-traumatic stress disorder, and more after experiencing sexual violence.<sup>170</sup> Respecting this context, as well as external challenges like language barriers,<sup>171</sup> immigration status, and accessibility or location of resources, is important to better identify mistreatment of older Asian survivors and expand access to healing.<sup>172</sup>

### III. THREE-PRONGED PROPOSAL FOR SOLUTIONS

Responding to the issues outlined above, this Part (A) reframes sexual violence, (B) proposes a new method of tracing narratives to chart how narratives impact Asian women throughout their lives, and (C) offers recommendations on how to use these proposals going forward. Section III.C interweaves counterarguments throughout.

#### A. *Reframing Sexual Violence*

Building on scholars' prior work, this Note proposes reframing sexual violence as a process encapsulating structures contributing to the act, the act of violence itself, and the consequences flowing from the act. While previous scholars highlighted how these individual aspects are helpful to understanding violence,<sup>173</sup> this reframing ties all pieces together in a single definition. Because a survivor may not always experience the components—the lead-in, act, and

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<sup>169</sup> Indeed, “people of Asian American and Pacific Islander (AAPI) descent rank last among all ethnic groups in seeking care.” *Mental Health Care in AAPI Communities: Overcoming Language, Stigma, and Other Barriers*, COLUM. UNIV. IRVING MED. CTR. (May 23, 2022), <https://www.cuimc.columbia.edu/news/language-stigma-and-other-barriers-mental-health-care-aapi-communities> [<https://perma.cc/E2Z5-C4NQ>]; EMILY P. TERLIZZI & TINA NORRIS, U.S. DEP’T OF HEALTH & HUM. SERVS., NCHS DATA BRIEF NO. 419, MENTAL HEALTH TREATMENT AMONG ADULTS: UNITED STATES, 2020, at 3 (2021), <https://www.cdc.gov/nchs/data/databriefs/db419.pdf> [<https://perma.cc/U9ST-D7QC>] (reporting Asian people were least likely of all racial groups to receive mental health treatment, take medication for mental health, or attend counseling or therapy).

<sup>170</sup> KAN-WIN, *supra* note 162, at 11.

<sup>171</sup> See generally *Survivors with Limited English Proficiency: Barriers to Access*, ASIAN PAC. INST. ON GENDER-BASED VIOLENCE, <https://api-gbv.org/wp-content/uploads/2019/05/LEP-survivors-accessibility-9-2016-formatted-20191.pdf> [<https://perma.cc/923X-AGY5>] (last visited May 2, 2025) (showing high percentage of Asian households speak language other than English at home or have language access needs outside home).

<sup>172</sup> Cultural understanding is especially relevant for healing-based services as certain kinds of mistreatment may be more personally hurtful to older Asian people. For example, financial mistreatment may not be as hurtful to older Asian people compared to older Caucasian people due to the former’s cultural values about sharing assets. See UNDERSTANDING ELDER MISTREATMENT, *supra* note 160, at 2 (reporting older Chinese and Korean Americans “perceived psychological/emotional mistreatment, such as ignoring or isolating older family members, as the worst form of mistreatment or as harmful as physical abuse”).

<sup>173</sup> See *supra* Section II.A.

“ripple effects”—in a linear fashion, which may co-occur or cycle in varied patterns, we should analyze them separately and in relation to each other. Doing so may also lessen the likelihood of “parts” getting lost (as was the case with the “Power and Control Wheel” and “Institutional and Cultural Supports for Battering” worksheet)<sup>174</sup> simply because the definition requires all parts. This reframing sets a foundation for innovative solutions that can address the multifaceted needs of survivors, perpetrators, and our broader society.

#### B. *Tracing Narratives*

While many different structures sustain sexual violence, this Note focuses on one such structure: narrative. What narratives motivate a 26-year-old man to specifically target Asian women, leading to the assault of a 64-year-old Asian woman at a subway station?<sup>175</sup> Because “[b]efore one can be expected to avoid biases, they must be able to recognize them,”<sup>176</sup> this Note calls us to step back and do the difficult work of applying the reframing of sexual violence discussed above and of tracing narrative’s role in upholding sexual violence throughout a person’s life.

The proposed Narrative Tracing method was inspired by the Asian Pacific Institute of Gender-Based Violence’s “Lifetime Spiral of Gender Violence” (“Lifetime Spiral”). This Lifetime Spiral represents types of violence that Asian and Pacific Islander women can face in different life stages.<sup>177</sup>

<sup>174</sup> See *supra* notes 123-29 and accompanying text.

<sup>175</sup> Malcolm Johnson & Abbey Niezgoda, *Kidnapping of Woman from MBTA Station Spurs Demand for Self-Defense Classes*, NBC10 Bos., <https://www.nbcboston.com/news/local/kidnapping-of-woman-from-mbta-station-spurs-demand-for-self-defense-classes/2895938/> [<https://perma.cc/N77R-TLV8>] (last updated Nov. 17, 2022, 12:11 AM).

<sup>176</sup> Garza, *supra* note 23, at 118.

<sup>177</sup> I do not claim that the Lifetime Spiral is complete or even well-done. For example, one could argue that the spiral is misleading because it implies some acts of violence *only* appear in certain life stages, even though violence is more fluid in reality. I believe the Lifetime Spiral is a helpful reference tool to visualize forms of oppression that may become more relevant in different stages of life. However, I raise the Lifetime Spiral merely as one example to jumpstart further discussion. Other disciplines and scholars have explored similar frameworks. For example, in the immigration context, literature discusses stages of trauma across time. See RoseMarie Perez Foster, *When Immigration Is Trauma: Guidelines for the Individual and Family Clinician*, 71 AM. J. ORTHOPSYCHIATRY 153, 155-56 (2001). In the abolition context, a concentric circles exercise guides reflection on the multilayered prison industrial complex. See 2 *New Resources for Abolition on College & University Campuses!*, CRITICAL RESISTANCE L.A. (July 6, 2021), <https://criticalresistance.org/updates/2-new-resources-for-abolition-on-college-university-campuses/> [<https://perma.cc/ZWH3-A7J2>].

**Figure 3.** Lifetime Spiral of Gender Violence.<sup>178</sup>

To incorporate the proposed reframing of sexual violence, Narrative Tracing would lay out a similar spiral with three layers. The innermost layer would consist of structures contributing to acts of violence ("Violence Level 1"). The middle layer would consist of acts of violence, similar to the existing Lifetime Spiral ("Violence Level 2"). The outermost layer would consist of consequences flowing from the acts of violence ("Violence Level 3"). These interrelated layers map onto distinct but necessarily intertwined aspects of violence.

<sup>178</sup> *Lifetime Spiral of Gender Violence*, ASIAN PAC. INST. ON GENDER-BASED VIOLENCE (2010), <https://api-gbv.org/wp-content/uploads/2019/02/Lifetime-Spiral-of-Gender-Violence-HANDOUT-API-GBV-2016-formatted-2019.pdf> [<https://perma.cc/VXA9-ZHCN>].

**Figure 4.** Spiral Template.<sup>179</sup>

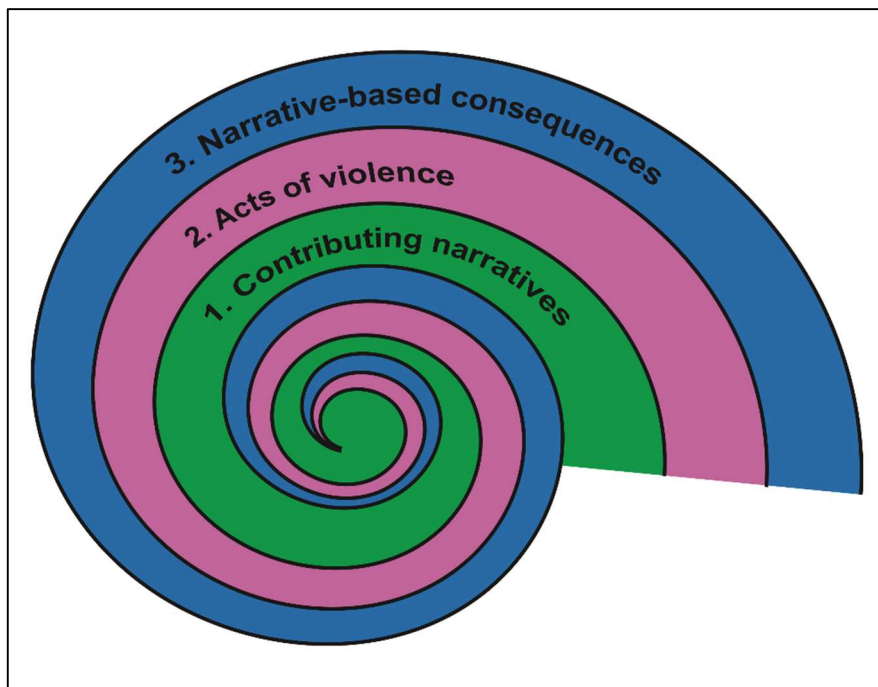
While a more complete account could include or emphasize other structures contributing to—and consequences resulting from—violence, such as material vulnerabilities like access to financial resources, safe housing, and nutrition, this Note illustrates how this proposal could work with narrative, specifically as applied to sexual violence. For example, Violence Level 1 could depict narratives that encourage sexual violence against Asian women, including stereotypes of Asian women as hypersexual, docile, and subservient.<sup>180</sup> Violence Level 2 could represent how these stereotypes manifest in (potentially specific kinds of) acts of sexual violence. Violence Level 3 could reflect the narrative-based consequences of such violence, such as narratives others impose onto Asian women as well as those Asian women may internalize about themselves (that they have been “saved,” that they should be ashamed, etc.). Repeating this process for every stage of life, from infancy to old age, closely examines the roots of violence through charting the racist sexualization and sexist racialization Asian women experience throughout their lives, anticipates how such violence

<sup>179</sup> Many thanks to Mehmet Tuna Uysal for assistance in creating this graphic.

<sup>180</sup> See *supra* Section I.C.1. As described above, material vulnerabilities and historical context informs narratives. See *id.*

can manifest as external acts or phenomena, and provides a glimpse into the consequences survivors may endure.

**Figure 5.** Narrative Tracing Spiral Template.<sup>181</sup>



This proposal contributes to the body of literature responding to the call for building out critical race methodologies.<sup>182</sup> Narrative Tracing seamlessly invites older women into the conversation by expanding current frameworks; this project can likewise be applied in many contexts and used by and for people from all different backgrounds.<sup>183</sup> After all, inclusivity does not necessarily

<sup>181</sup> Many thanks to Mehmet Tuna Uysal for assistance in creating this graphic.

<sup>182</sup> See, e.g., Lindsay Perez Huber, *Building Critical Race Methodologies in Educational Research: A Research Note on Critical Race Testimonio*, 4 FIU L. REV. 159, 159 (2008).

<sup>183</sup> While enumerating all individuals and groups impacted by the failures of our existing frameworks falls outside the scope of this Note, these proposals can be applied to different groups based on their distinct circumstances and experiences with oppression. See generally NAT'L COAL. AGAINST DOMESTIC VIOLENCE, DOMESTIC VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN (2016), [https://assets.speakcdn.com/assets/2497/american\\_indian\\_and\\_alaskan\\_native\\_women\\_dv.pdf](https://assets.speakcdn.com/assets/2497/american_indian_and_alaskan_native_women_dv.pdf) [<https://perma.cc/7BMS-J3V2>]; Joel R. Anderson, Elise Holland, Courtney Heldreth & Scott P. Johnson, *Revisiting the Jezebel Stereotype: The Impact of Target Race on Sexual Objectification*, 42 PSYCH. WOMEN Q. 461 (2018); Andrea L. Wirtz, Tonia C. Poteat, Mannat Malik & Nancy Glass, *Gender-Based*

entail devising separate systems that reinvent the wheel, but rather, envisioning how to adapt society and its presently exclusive structures to be more inclusive.

### C. Looking Forward

Recommendations—and counterarguments—follow, offering insights on how to use this narrative framework as a tool for both short- and long-term change, in and out of legal spaces.

#### 1. Generating Knowledge Through Interdisciplinary Collaboration

This Note’s proposed reframing of sexual violence and method of Narrative Tracing can be used to generate knowledge—to understand our stock stories, subvert them, and tap into how law is made.<sup>184</sup> As cultural perceptions inform legal perceptions,<sup>185</sup> and activist feminism offers insight into the gaps within academic feminism,<sup>186</sup> such a venture requires an interdisciplinary approach. That is, legal and extralegal actors, such as academics, journalists, counselors, and community organizers, should collaborate<sup>187</sup> on quantitative and qualitative scholarship on issues involving sexual violence against older women, especially older women of color. A portion of such scholarship can use Narrative Tracing to create spirals on a societal level for different groups. This broader understanding can analyze the multilayered “perfect victim” narratives at work at all storytelling sites survivors engage with<sup>188</sup> to inform legal procedures at these sites, such as training for police and prosecutors, education for judges, and instructions for juries.

The Narrative Tracing project should center those with lived experience,<sup>189</sup> giving space not just for their *facts* but for their *truths*.<sup>190</sup> This grounding

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*Violence Against Transgender People in the United States: A Call for Research and Programming*, 21 TRAUMA VIOLENCE & ABUSE 227 (2020); Michelle VanNatta, *Constructing the Battered Woman*, 31 FEMINIST STUD. 416, 431 (2005) (describing marginalization of lesbian and bisexual women who do not fit preconceived models of “real battered women”); BRIDGES, *supra* note 8, at 253-74 (2019) (stating organizations have ignored LGBTQIA+ persons of color and have not conceptualized issues that affect them as issues of racial justice).

<sup>184</sup> Gewirtz, *supra* note 22, at 3.

<sup>185</sup> Gill et al., *supra* note 118, at 7.

<sup>186</sup> Canan & Levand, *supra* note 74, at 11.

<sup>187</sup> Movement lawyers call to “focus our lawyering on listening to community organizers, clients, and activists with a broader vision for social change.” Jennifer Ching, Thomas B. Harvey, Meena Jagannath, Purvi Shah & Blake Strode, *A Few Interventions and Offerings from Five Movement Lawyers to the Access to Justice Movement*, 87 FORDHAM L. REV. ONLINE 186, 186 (2018) (“Lawyers, judges, or courts will not save us.”).

<sup>188</sup> See *supra* Section 1.A.

<sup>189</sup> See Ching et al., *supra* note 187, at 194. However, survivors should not be forced to share their experiences, nor should doing so be a retriggering and retraumatizing burden.

<sup>190</sup> Toni Morrison describes the distinction between the cut and dry description of an event with a deeper account of its lived experience, explaining “facts can exist without human

principle can help ensure that any resulting legal and policy reforms are tied to impacted individuals and communities. Movements can incorporate other forms of storytelling as well, such as literature and art, to engage with each other, offer forums for self-expression, and promote public education within communities.<sup>191</sup> Through this interdisciplinary collaboration, lawyers “can become partners in transforming systems, rather than simply making them more hospitable.”<sup>192</sup>

One counterargument is that such an undertaking is simply infeasible. Systems actors have limited time to understand underlying factors impacting the narrative, especially because groups of people—like Asian women—are not a monolith. Moreover, stories may take even longer to be fully disseminated and absorbed into the public consciousness. After all, “[l]awyers in conflict look for a story that jurors will believe, and they understand that the most believable story will already appear familiar to their listeners.”<sup>193</sup>

The societal spiral is not meant to encapsulate every experience, which would indeed be an impossible undertaking. Instead, it merely hopes to broaden the scope for divergence from stock stories and chart recurring patterns. Even introducing this project raises awareness that such issues exist and primes people to confront their biases.<sup>194</sup> We are always racing against time, and this Note invites others to collectively envision how we can make this project more efficient with the time we have. If we truly work together, we can accomplish much more than we think.

## 2. Broadening Legal Narratives in the Here and Now

In the short term, generating knowledge through this Note’s proposals can assist survivors who enter the legal system through (1) providing a tool to reference during case preparation and (2) expanding acceptance of counternarratives survivors tell from the moment they choose to report.

First, survivors—and their lawyers—may use these proposals while crafting the legal theory of their case. Currently, survivors and lawyers may feel limited

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intelligence, but truth cannot.” Toni Morrison, *The Site of Memory*, in *INVENTING THE TRUTH: THE ART AND CRAFT OF MEMOIR* 101, 113 (William Zinsser ed., 1987).

<sup>191</sup> For examples of literature where authors delve into their experiences of rape, see MAYA ANGELOU, *I KNOW WHY THE CAGED BIRD SINGS* (1969); AKWAEKE EMEZI, *FRESHWATER* (2018); and ROXANE GAY, *HUNGER: A MEMOIR OF (MY) BODY* (2017). For examples of music, see Ann Powers, *Songs that Say ‘Me Too,’* NPR (Oct. 17, 2017, 12:45 PM), <https://www.npr.org/sections/allsongs/2017/10/17/558098166/songs-that-say-me-too> [<https://perma.cc/4XGW-HPPB>].

<sup>192</sup> Ching et al., *supra* note 187, at 186.

<sup>193</sup> Ferguson, *supra* note 43, at 85.

<sup>194</sup> Goodmark, *supra* note 22, at 124 (arguing that telling counterstories itself educates on diversity of experiences). See generally TUEKHEIMER, *supra* note 46 (emphasizing awareness of credibility bias can challenge societal norms and prompt self-reflection).

to telling “a tried-and-true legal claim,”<sup>195</sup> even if doing so flattens or misrepresents the survivor’s true story. Reframing sexual violence can provide survivors with more avenues to express themselves. Alongside referencing the broader spiral from the societal Narrative Tracing project, individuals can map their own narratives, including the structures, acts, and consequences they have personally experienced. Doing so may allow survivors to gain insight into, give voice to, and validate their experiences, as well as clarify—for themselves and for their lawyers—how they want to tell their story in the context of their legal case.<sup>196</sup> For example, for survivors who do not want to disclose certain facts, the personal and societal spiral can illuminate more options for their multifaceted experiences and guide their determination of what they do want to disclose.

Second, acceptance of counternarratives and the act of telling counternarratives mutually reinforce each other. Survivors and lawyers who tell counternarratives may help other survivors feel empowered to do so as well and may illuminate and foster acceptance of counternarratives by those involved in the criminal process, like police investigators, prosecutors, judges, and juries. Indeed, scholars have discussed the need to create space for counternarratives to help judges and jurors and to create legal precedent for future cases involving nonconforming survivors.<sup>197</sup> Hopefully, counternarratives can also promote empathy for survivors, especially when they recount traumatic events in court, and even inspire a more compassionate, alternative legal process.<sup>198</sup>

One compelling counterargument is that because a lawyer must often streamline the narrative or present a single legal theory, a counternarrative itself can *become* a stock narrative. We must actively work against this very real possibility. We must not merely supplant the current “perfect victim” narrative with a new version of it. To take a stand against this danger, we should continually ground ourselves in giving space for each individual’s truth. We should question whether we are excluding anyone from the conversation and listen to those we have excluded and continue to exclude. We should renew our “motivation, awareness, and effort”<sup>199</sup> to commit and recommit ourselves to unlearning our own biases.

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<sup>195</sup> David N. Rosen, *Rhetoric and Result in the Bobby Seale Trial*, in *LAW’S STORIES: NARRATIVE AND RHETORIC IN THE LAW*, *supra* note 22, at 110, 112.

<sup>196</sup> Survivors should maintain control and agency over their maps and lead the collaboration with their lawyer in constructing the narrative or counternarrative used for legal purposes. See Goodmark, *supra* note 22, at 127; cf. Petrigh, *supra* note 41, at 1899.

<sup>197</sup> Goodmark, *supra* note 22, at 125. See generally Hsu, *supra* note 44.

<sup>198</sup> See MARIE KEENAN & ESTELLE ZINSSTAG, *SEXUAL VIOLENCE AND RESTORATIVE JUSTICE* 73-74 (2022).

<sup>199</sup> Epstein, *supra* note 47, at 326 (“Each of us, in our role as listener, must take responsibility to intentionally and consciously shift our assumptions.”); see also AUDRE LORDE, *The Uses of Anger: Women Responding to Racism*, in *SISTER OUTSIDER: ESSAYS AND SPEECHES*, *supra* note 28, at 124, 128 (“If I participate, knowingly or otherwise, in my sister’s

### 3. Creating Long-Term Systems Change

While all proposals thus far have operated within our current dominant systems, this Note vehemently affirms that the criminal legal system is inherently coercive, violent, and unjust—to all involved. This Note views its proposals as precursors to creating solutions that render prosecutors, criminalization, and incarceration obsolete.<sup>200</sup> To this end, future research should focus on holistically understanding all actors, formulating solutions that move toward abolition, and building alternative paths to the criminal legal system.

For example, performing Narrative Tracing not only for survivors but also for perpetrators of violence can provide context<sup>201</sup> and humanize the individuals involved,<sup>202</sup> which is especially relevant because an individual can be both a survivor and a perpetrator of violence.<sup>203</sup> This understanding can give rise to solutions that do not rely on the criminal legal system and more effectively address healing and accountability. Such alternative paths can implement restorative justice principles,<sup>204</sup> alleviate material inequities that exacerbate sexual violence, and empower communities to build community-based systems

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oppression and she calls me on it, to answer her anger with my own only blankets the substance of our exchange with reaction. It wastes energy.”).

<sup>200</sup> Discussing abolition further is not within the scope of this Note, but this Note aligns itself with abolition and abolition feminism. For more, see Patrisse Cullors, *Abolition and Reparations: Histories of Resistance, Transformative Justice, and Accountability*, 132 HARV. L. REV. 1684 (2019). Cullors declares, “Abolition is taking a stand against sexual violence and abuse. Abolition seeks out restorative practices for all, even when that implies working with the perpetrator of said violence. Abolition finds new ways to operate within a society that considers its members disposable.” *Id.* at 1688.

<sup>201</sup> Some scholars have focused on how men conceptualize domestic violence. While “there are anxious voices” about centering men, this project illuminates the perspectives of those who perpetrate violence—who may not even conceptualize their behavior as “violence.” Liz Kelly & Nicole Westmarland, *Naming and Defining ‘Domestic Violence’: Lessons from Research with Violent Men*, 112 FEMINIST REV. 113, 117 (2016).

<sup>202</sup> For example, while teenagers should take accountability for their actions, writing off teenagers who sexually assault older women as inherently bad, and stopping the analysis there, is unproductive. *Cf.* Mike Gramajo, *Deputies: 14-Year-Old Arrested for Beating, Raping 91-Year-Old Woman in Marion County*, WESH2, <https://www.wesh.com/article/14-year-old-arrested-sexual-battery-older-woman-marion-county/61148824> [<https://perma.cc/3Q87-4HMJ>] (last updated June 18, 2024, 4:21 PM).

<sup>203</sup> *See* LEIGH GOODMARK, IMPERFECT VICTIMS: CRIMINALIZED SURVIVORS AND THE PROMISE OF ABOLITION FEMINISM 1-4 (2023) (providing example after example of women who were criminalized for defending themselves against rapists).

<sup>204</sup> KEENAN & ZINSSTAG, *supra* note 198, at 78. Veteran Treatment Courts, which divert veterans from the legal system and aim to provide treatment and support, may be enlightening. *See Veterans with PTSD and the Criminal Legal System*, U.S. DEP’T OF VETERANS AFFS., [https://www.ptsd.va.gov/understand/related/justice\\_system\\_vets.asp](https://www.ptsd.va.gov/understand/related/justice_system_vets.asp) [<https://perma.cc/J9NA-8HQX>] (last visited May 2, 2025).

of support. While proposing specific alternatives is out of the scope of this Note, interdisciplinary collaborators should build upon the ideas presented here to imagine and enact change in the long term.

#### CONCLUSION

Sexual violence toward older women of color is violence. Erasure is violence as well.<sup>205</sup> This Note highlights the largely ignored reality of sexual violence against older women, older women of color, and specifically older Asian women. Current frameworks, with their many pitfalls, actively harm most people, including older Asian women. Through building on scholars' prior work, this Note proposes a reframing of sexual violence. It also shares a new methodological approach to illuminate a more complete understanding of survivors' experiences, expand legal narratives for survivors in the current moment, and encourage long-term legal change. These proposals offer insight into how interdisciplinary collaborators and those with lived experience can work toward greater relief and protection for survivors from varied backgrounds.

While focusing on stories may not at first glance seem like an inherently legal approach, "[l]egal storytelling is an engine built to hurl rocks over walls of social complacency that obscure the view out from the citadel."<sup>206</sup> After all, "the real task is not one of law or of gentle nudges but of changing the culture."<sup>207</sup> This Note ends with the ultimate call to take this Note as it is—a small stone in a vast crevice<sup>208</sup>—to center the voices of older women of color, and to affirm the deep and transformative power of stories. They wield the power to save lives.

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<sup>205</sup> For further discussion on the pains of erasure, see Parul Sehgal, *Fighting 'Erasure,'* N.Y. TIMES MAG. (Feb. 2, 2016), <https://www.nytimes.com/2016/02/07/magazine/the-painful-consequences-of-erasure.html>. For context on the Asian/American experience, including erasure (both external and self-imposed), see CATHY PARK HONG, *MINOR FEELINGS: AN ASIAN AMERICAN RECKONING* (2020).

<sup>206</sup> Delgado, *supra* note 25, 2441.

<sup>207</sup> Bennett Capers, *Real Women, Real Rape*, 60 UCLA L. REV. 826, 882 (2013) (footnote omitted).

<sup>208</sup> See MACHADO, *supra* note 1, at 5.