

## **Debating Rape: To Whom does the Uncanny ‘Myth’ Metaphor Belong?**

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*This article focuses on the language and metaphors used in debating rape myths, arguing that it is their uncanny aesthetic and affective qualities that accounts for the debate’s fractious nature but also brings the possibility of a more productive politics. For much feminist-informed rape myth acceptance scholarship (FRMAS), ‘myths’ in this context are more than merely mistaken beliefs: rather, they comprise a world made up of illusions or spectres that must be laid to rest. Critics of this view, too, while critical of feminists’ reliance on ‘myths’ as a way of stifling open discussion, likewise tend to use a discourse of myths explicitly or implicitly and with a similarly disorienting effect. For both sides of the debate then, ‘myth’ serves as a disquieting, uncanny metaphor that displaces and substitutes whatever else apparently erroneous beliefs, attitudes, and knowledges about rape might signify.*

### INTRODUCTION

In a recent publication I argued that the adolescent female victims at the centre of the English sexual exploitation trials of 2011 and 2012 significantly came to be associated in the public imagination with the cheap consumables that were used to win their trust. The most conspicuous example of this was the metaphor ‘white meat’ that identified the victims’ bodies as objects for the satisfaction of appetite and distinguished them racially from their

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predominantly Asian abusers.<sup>1</sup> Focusing here on debates about ‘rape myths’, this article builds on the basic insight of that previous work – namely, that we can learn something important about our political and cultural discourses on sexuality and violence by attending to such metaphoric substitutions – and takes it in a new direction.

It hardly needs to be said that the political stakes involved here are very high. The topic of rape myth acceptance has garnered a degree of convergence, but at the same time has also generated debate that is sometimes fraught with discord. On the one hand, a broad consensus of legal scholarship from various feminist positions insists that a ‘mountain of evidence’ supports the view that the public’s understanding of rape is widely and seriously distorted by the acceptance of myths: widely held stereotypical beliefs that either have no basis in fact or else are ethically wrong inasmuch as they serve to deny or trivialize male sexual violence against women.<sup>2</sup> For present purposes only, and without seeking in any way to deny the various differences and nuances of positioning, methodology, and genealogy, I hope I can be forgiven for referring to this consensus as Feminist-informed Rape Myth Acceptance Scholarship (hereafter FRMAS). On the other hand, a comparatively much smaller body of scholarship critical of FRMAS has always existed, though generally occupying a more marginal space. This latter body of work has questioned the methods FRMAS uses for ascertaining rape myth acceptance,<sup>3</sup> the significance of its findings,<sup>4</sup> and even the very label of ‘rape myth’ for the beliefs so determined.<sup>5</sup>

Without claiming to occupy a neutral or disinterested position, this article argues that it may be both possible and desirable to take a step back from the question of the *truth* of rape and rape myth acceptance, and to focus instead on the hitherto unexplored aesthetic and affective dimensions of this debate. It argues first that, being characterized as a dispute about beliefs, attitudes, and claims that somehow exist in a world of unreal and insubstantial

- 1 D. Gurnham, *Crime, Desire and Law’s Unconscious: Law, Literature and Culture* (2014) ch. 4.
- 2 This is the currently authoritative formulation as given in H. Gerger, H. Kley, G. Bohner, and F. Siebler, ‘The Acceptance of Modern Myths About Sexual Aggression Scale: Development and Validation in German and English’ (2007) 33 *Aggressive Behaviour* 422. The reference to a ‘mountain of evidence’ comes from J. Conaghan and Y. Russell, ‘Rape Myths, Law, and Feminist Research: “Myths About Myths”?’ (2014) 22 *Feminist Legal Studies* 25, at 26.
- 3 K.A. Lonsway and L.F. Fitzgerald, ‘Rape Myths: In Review’ (1994) 18 *Psychology of Women Q.* 133; D. Gurnham, ‘A critique of carceral feminist arguments on rape myths and sexual scripts’ *New Crim. Law Rev.* doi:10.1525/nclr.2015.150001.
- 4 W.A. Kerstetter, ‘Gateway to Justice: Police and prosecutorial response to sexual assaults against women’ (1990) 81 *J. of Criminal Law and Criminology* 267; D. Gurnham, ‘Victim-blame as a symptom of rape myth acceptance?: another look at how young people in England understand sexual consent’ (2016) 36 *Legal Studies* 1.
- 5 H. Reece, ‘Rape Myths: Is Elite Opinion Right and Popular Opinion Wrong?’ (2013) 33 *Oxford J. of Legal Studies* 445.

imaginings, debating rape in terms of myths amounts to using a metaphor that substitutes whatever other meaning, usefulness or nuance that those beliefs may otherwise have; secondly, that this use of metaphor has an important *uncanny* effect. FRMAS's critics, too, while sceptical of this understanding of myth, likewise tend to use the same sort of strategy, albeit for them the myth metaphor is applied to feminists' own claims to tell the truth about myths.

In approaching this debate by focusing on the aesthetic quality of the language used in debating the 'mythic' status of certain beliefs about rape, I will try also to give an account of the uncanny itself, a concept which, although not unknown within legal scholarship, has not to date been used to frame rape myth discourse as such. In very brief terms, 'the uncanny' is an imperfect English translation of the German word *unheimlich* and tends to be associated with the sense of unease, uncertainty, creepiness, and disorientation produced by the sinister and supernatural inventions of gothic literature and film.<sup>6</sup> In these respects the word may be understood as being opposed to *heimlich*, which in German conveys a sense of the homely or familiar. As a concept for intellectual study, the uncanny is most familiar in disciplines such as literary, film, and cultural studies, and with intellectual movements and positions such as psychoanalysis and deconstruction.<sup>7</sup> This article draws on Freud's association of the uncanny with repression, and uses this to emphasize the tendency for opposing factions in the rape myths debate to try to show that the other side subdues and obscures (that is, *represses*) the truth about rape.<sup>8</sup>

I should make it clear at this point that I do not try to argue that Freud had anything to say about rape myths as such (indeed, the term was unknown to him), and nor am I concerned here with Freud's claim to be able to trace the origin of the uncanny to childhood sexual repressions. Instead, my approach in this regard is pragmatically political (in seeking to use theory to reconfigure rape myth debate in a way that is productive and enabling) and opportunistically disloyal (in presenting the uncanny as cut off from Freud's larger psychoanalytical framework and alongside a theorization that Freud rejected). It is an effect of the use of myth as a metaphor by both FRMAS and its critics that means that the uncanny figure of the 'double' or 'doppelgänger' can be found lurking there. This article thus proposes some ways in which the uncanny might account for the particular difficulties associated with creating space for a more productive political debate about rape and its 'myths'.

6 S.S. Prawer, *Cajigari's children: the film as tale of terror* (1980) 112. On what English law owes to and shares with gothic literature, see S. Chaplin, 'Written in the Black Letter: The Gothic and/in the Rule of Law' (2005) 17 *Law and Literature* 47.

7 See N. Royale, *The Uncanny* (2003) 23; A. Masschelein, *The Unconcept: the Freudian Uncanny in Late-Twentieth-Century Theory* (2011) 13–14.

8 Freud's 1919 essay 'The Uncanny', in S. Freud, *The Uncanny* (2003).

In very general terms, FRMAS uses the metaphor of the rape myth to construct rape-as-popularly-understood in terms of a ghost that must be exorcised and laid to rest. In one way or another, FRMAS seeks to expose the unreality and insubstantiality of popular beliefs about rape, and the failure of those beliefs to withstand cold, hard scrutiny in light of the facts. The designation of these beliefs as myths aims to show that, despite their regrettable prevalence and durability, there is something ghost-like about them, and as such they may be dispelled by being exposed to the ‘daylight’ of informed opinion. Following this metaphor further, FRMAS also demonstrates why people are not generally willing to ‘give up their ghosts’ since, qua myths, they serve a useful social purpose. Ernst Jentsch characterized the uncanny (*unheimlich*) by associating it with resistance to ideas that challenge received wisdom. He describes the bewildering sense of a ‘lack of orientation’, the ‘mistrust, unease and even hostility’ that tends to greet new ideas that seem to undermine ‘the power of the habitual’.<sup>9</sup> It is this sense of security and familiarity in a corpus of received wisdom or orthodoxy that Freud finds in the meaning of *heimlich*:<sup>10</sup> a sense that may be disrupted when we encounter its opposite (*unheimlich*). However, unlike Jentsch, Freud describes *unheimlich* as a symptom of the return of buried knowledge, or as he puts it himself, ‘that species of the frightening that goes back to *what was once well known* and had long been familiar.’<sup>11</sup> The uncanny is thus a disruption of what we generally take to be real or natural, as a result of the return of something which, for whatever reason, had long ago been banished, suppressed or otherwise kept out of sight. The troubling influence of the ‘repressed’ that gives rise to a sense of the uncanny represents what this article seeks to bring out in analysing the texts of FRMAS and its critics, as we shall see.<sup>12</sup>

A strange quality of the German words *heimlich* and *unheimlich* as highlighted by Freud and by subsequent commentators, is that in fact they are not merely opposites: they oppose each other in the sense that the former means ‘homely’ and the latter ‘unhomely’ as I have said already, but at the same time both words can mean *hidden*.<sup>13</sup> In other words, the ‘un’ of uncanny (or *unheimlich*) does not necessarily negate or cancel out its sup-

9 E. Jentsch, ‘On the psychology of the uncanny (1906)’ (1997) 2 *Angelaki: J. of the Theoretical Humanities* 7, at 8–9.

10 Freud, op. cit., n. 8, p. 126.

11 id., p. 124, emphasis added.

12 Royale, op. cit., n. 7, p. 1.

13 Freud, op. cit., n. 8, p. 132. In English too, canny and uncanny are rarely used in opposition to one another, and indeed may be more likely to be used to convey a complementary meaning, for example: ‘As a spy, Bond was a canny operator, and had an uncanny ability to turn an apparent dead-end into an opportunity.’

posed opposite, but merely ‘hides’, ‘covers’ or ‘denies’ it. It is not difficult to appreciate therefore why Freud came to insist that the prefix ‘un’ is the ‘token of repression’,<sup>14</sup> or the broader implication that ‘denying something at the same time conjures it up’; that what is repressed is ‘always too near’.<sup>15</sup> These observations arguably carry a normative implication for critical scholarship and one that I propose to apply in the context of rape myths: that we ought to be sceptical about claims that a certain belief may be negated by exposure to ‘the facts’; that we ought to remain open to the possibility that such a claim merely represses that belief and doing so does not kill it but merely keeps it at bay. On the one hand, therefore, for FRMAS the truth of acquaintance and partner rape is repressed in favour of false beliefs and stereotypes about ‘natural’ male sexual aggression and ‘blitz’ or ‘stranger’ rape its other. On the other side of the argument, FRMAS’s designation of certain beliefs as *fundamentally* wrong or unacceptable and hence beyond any further debate, is itself claimed to be repressive.<sup>16</sup>

### 1. ‘Miscommunication’ as a repressive myth

One argument commonly made within FRMAS is that to excuse rape and sexual assault as innocent miscommunication and misunderstanding constitutes a *knowing denial of deliberate coercion* that serves dominant male interests. To this end, and in a manner not dissimilar to a psychoanalyst’s identification of unconscious knowledge and intentions in a language-user’s unintended slips, Kitzinger and Frith’s exposé of miscommunication works on the basis that ‘even the finest levels of conversational detail, every speech error, pause, overlap or lexical correction may be a “designed” or consequential feature of social action.’<sup>17</sup> Their analysis of non-sexual conversations in which people are heard to make – and to understand – refusals without explicitly saying ‘no’ (and instead using techniques such as ‘pausing, hedging, producing a palliative ...’) leads Kitzinger and Frith to surmise that:

young women are communicating in ways which are usually understood to mean refusal in other contexts and it is not the adequacy of their communication that should be questioned, but rather their male partners’ claims not to understand that these women are refusing sex.<sup>18</sup>

14 *id.*, p. 151.

15 Masschelein, *op. cit.*, n. 7, p. 8; H. Cixous, ‘Fiction and its Phantoms: a reading of Freud’s *Das Unheimliche* (The “uncanny”)’ (1976) 7 *New Literary History* 525, at 537.

16 Reece, *op. cit.*, n. 5.

17 C. Kitzinger and H. Frith, ‘Just say no? The use of conversation analysis in developing a feminist perspective on sexual refusal’ (1999) 10 *Discourse & Society* 293, at 299.

18 *id.*, p. 310.

In other words, the claim that responses like ‘um, I’m not sure . . .’, ‘maybe later’, and ‘I’d love to *but* . . .’ are inadequate as expressions of refusal is a dishonest one that may be facilitating and covering up acts of sexual coercion by men.

O’Byrne, Rapely, and Hansen followed this up with a study that analysed responses given by men in two focus groups, finding that the men were fully competent to comprehend the idea of refusing sex indirectly as well as non-verbally.<sup>19</sup> The researchers note how, when asked about how women might signal refusal, the young male participants responded with examples involving ‘a complete absence not only of . . . the word “no”, but of verbal refusals of *any* kind’.<sup>20</sup> Then Jozkowski and Peterson’s questioning of college students uncovered a host of imaginative strategies amongst young men for deploying miscommunication cynically to ensure they get the kind of sex they want, irrespective of their partner’s wishes.<sup>21</sup> For example, a theme that the researchers discovered ‘unexpected[ly]’ was the use of deception by some men (11.8 per cent) to gain consent to anal sex:

‘Most women hate it, so I would slip it in the back door and pretend like I had done it by mistake.’ Similarly, other men wrote, ‘I would pretend like I did not know I was putting it in her ass’, ‘I would flip her over and pretend like I was going to do it doggy style [rear-entry sex], but then I would stick it in her butt’  
.. .<sup>22</sup>

What all these studies seem to agree on is that the figure of the innocently misunderstanding man, although apparently real for many people, on closer inspection turns out to be a fictive creation of male-dominated culture that serves as ‘a self-interested justification for coercive behaviour’.<sup>23</sup> This creation – this spectral double for ‘real’ man – tends not to be directly invoked as such, but his haunting presence in the language of FRMAS is (I suggest) an effect of constituting one thing (whatever it is that actually happens when D claims that V’s complaint can be explained as ‘miscommunication’) in the terms of another (a belief that is so fundamentally wrong that it amounts to a myth).

At the same time however, FRMAS seeks to suppress the metaphorical character of construing miscommunication as a myth by expounding on the cultural basis for the false beliefs in question. By showing that those beliefs serve a broader ideology that prioritizes the interests of one group (men) over

19 M. O’Byrne, M. Rapely, and S. Hansen, “‘You couldn’t say ‘No’, could you?’” Young men’s understandings of sexual refusal’ (2006) 16 *Feminism and Psychology* 133, at 9–10, 13–15, and 16–17 respectively.

20 *id.*, p. 147: ‘Mike: “. . . [if] she doesn’t respond in the same way then you know it’s a pretty good sign and you’re not on the same level.’”

21 K.N. Jozkowski and Z.D. Peterson, ‘College Students and Sexual Consent: Unique Insights’ (2013) 50 *J. of Sex Research* 517.

22 *id.*, p. 520.

23 Kitzinger and Frith, *op. cit.*, n. 17, p. 295.

another (women) they implicitly claim that the label of myth is a literal truth, rather than a metaphor.<sup>24</sup> Hence the three studies referred to above all agree that, to the extent that miscommunication is popularly believed to be real, this is explicable in terms of the strength of that ideology and the incentives it offers both men and women to try sustain it. Imbuing ‘miscommunication’ with explanatory power, for example, arguably allows women to avoid the ‘negative ramifications of being a rape victim’,<sup>25</sup> keeps at bay ‘the possibility that men are abusing their power in heterosexual relationships’, and offers women a sense of control over their future by ‘learn[ing] to communicate more effectively’.<sup>26</sup> For men, meanwhile, it serves to ‘rationalize and justify’ coercive behaviour,<sup>27</sup> and to ‘delete the accountability of men for rape [and] to preserve a positive shared masculine identity’.<sup>28</sup> For society as a whole it fosters and sustains a sense of a just world (the belief that rape does not happen to those who communicate ‘properly’)<sup>29</sup> and draws attention away from structural inequalities and injustices that might otherwise threaten social solidarity and cohesion.

Therefore, although I characterize these claims as an effort to suppress the metaphorical character of myth, they are made in order to establish that our culture itself suppresses the truth that men are routinely excused when they subject women to sexual coercion, and to combat that suppression. For FRMAS, heterosexual culture enlists a broad coalition of interests to sustain its repressive ideology. For those individuals who buy into that ideology, it should not be surprising if the *encounter* with the repressed truth (if truth it be) might be experienced as unpleasant, disorienting, or as a ‘species of the frightening [that] ... should have remained hidden and has come into the open.’<sup>30</sup>

## 2. *What’s sauce for the goose ... turning the uncanny tables on FRMAS*

But if the production of an uncanny effect can be described as any kind of rhetorical strategy, it is one that is also available to and discernible in scholarship that is critical of FRMAS. For example, replying to critics of her

24 See Lonsway and Fitzgerald, *op. cit.*, n. 3, p. 134.

25 K.M. Ryan, ‘The Relationship between Rape Myths and Sexual Scripts: The Social Construction of Rape’ (2011) 65 *Sex Roles* 774, at 777.

26 H. Frith and C. Kitzinger, ‘Talk about sexual miscommunication’ (1997) 20 *Women’s Studies International Forum*, 517, at 524, 525.

27 Ryan, *op. cit.*, n. 25, p. 775; see, also, M. Duran, M. Moya, J. L. Megías, and G.T. Viki, ‘Social Perceptions of Rape Victims in Dating and Married Relationships: The Role of Perpetrator’s Benevolent Sexism’ (2010) 62 *Sex Roles* 505.

28 O’Byrne et al., *op. cit.*, n. 19, p. 46.

29 T. Stahl, D. Eek, and A. Kazemi, ‘Rape Victim Blaming as System Justification: The Role of Gender and Activation of Complementary Stereotypes’ (2010) 23 *Social Justice Research* 239, at 241–2.

30 Freud, *op. cit.*, n. 8, p. 148.

argument that feminists have systematically exaggerated the prevalence and impact of rape myths,<sup>31</sup> Helen Reece argues that it is FRMAS, not the myths themselves, that silences honest and open discussion.<sup>32</sup> Her calling into question the designation of certain beliefs about rape as myths – on the basis that some myths are factually true, that others are not in fact widely believed, and others still are not myths about rape at all – does two important things. First, it draws attention to the fact that the term ‘rape myth’ is not necessarily meaningful in any literal sense but is, in fact, a figure of speech designed to group together a number of different matters under one banner, and to deflect from potentially troubling factual distinctions. Secondly, it draws attention to the repressive nature of the metaphor itself, both because of this substitution of those different matters (factual truths, falsities not widely believed, and sex myths) for one thing (rape myths) and the repressive use to which it is put by FRMAS.<sup>33</sup> An example of this repressive use is the campaign led by *Feminists@Law* (a group of feminist legal scholars based at Kent Law School) condemning both Reece’s arguments and the LSE for providing her with a platform from which to advance them.<sup>34</sup> It made no difference that LSE was Reece’s own employer, that her paper had been peer reviewed and deemed fit for publication by the eminently respectable *Oxford Journal of Legal Studies*, or that she shared that platform with Professor Jennifer Temkin (whose book *Rape and the Legal Process* is something of a classic<sup>35</sup>) and Chief Crown Prosecutor for North West England, Nazir Afzal to contest her position. In a telling passage, the editors of *Feminists@Law* declared that they:

deplore LSE Law’s decision to give a platform to Reece and Hewson’s *dangerous and unsupported* views and its failure to engage responsibly with the public on such an important and sensitive issue as rape. Stating that there is a distinction between blame and responsibility *cynically elides the appeal to rape myths embedded in the argument itself*.<sup>36</sup>

The claim made in the passage above is that to call into question the truth about rape myths as understood within FRMAS is a practice that is necessarily and inseparably intertwined with rape myth acceptance itself, and thus endorses beliefs that are fundamentally either false or unethical. Reece reframes the distinction, crucial to the intellectual and moral integrity of FRMAS, between right and the absolutely wrong as a *mere difference of*

31 As presented in her 2013 article (Reece, op. cit., n. 5).

32 H. Reece, ‘Debating Rape Myths’, LSE Law, Society and Economy Working Papers 21/2014 (2014), at <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2497844](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2497844)>. For relevant criticism of Reece, see Conaghan and Russell, op. cit., n. 2, p. 27.

33 On this last point see Reece, id., p. 20.

34 ‘A Response to the LSE Event “Is Rape Different?”’ (2013) 3 *Feminists@Law*. See, also, Reece, id., p. 22.

35 J. Temkin, *Rape and the Legal Process* (2002).

36 Editors, op. cit., n. 34, p. 3, emphasis added.



*opinion*. For Reece, the idea that having the ‘wrong’ belief about rape amounts to a myth is to create *myths about myths*. In appropriating talk of myths in this way, Reece not only exposes the metaphoric quality of myth discourse, she also makes a bid actually to steal it from FRMAS and claim it for its critics!

We can readily appreciate the uncanny effect of this attempt to prise the myth metaphor away from FRMAS and to use it to undermine feminist scholarship. In this move, FRMAS find themselves in the sort of position that Freud describes in *The Uncanny*: that of a staunchly rational person who despises superstition being one day ‘caught’ indulging in superstitious thinking.<sup>37</sup> Similarly, the hostility within FRMAS to the *myths about myths* claim cannot be surprising, given that FRMAS fundamentally relies upon being able to separate truth from myth and facts from fictions. We saw above that the studies seeking to establish that miscommunication is a myth evokes the sense that the man who *genuinely* misunderstands the cues is a largely fictional character. In the same way, Reece’s argument implies that FRMAS’s image of the feminist researcher as a reliable guide shining an authentic light of truth and ethical correctness on the dark landscape of ignorant prejudice – is similarly fictional. In both cases, the character of the ‘double’ is invoked as a result of talking about rape in terms of myths.

To the extent that FRMAS finds its own status undermined in this way, it is not far-fetched to imagine its proponents experiencing that same discomfiting and disorienting feeling of the ‘unhomely’ (*unheimlich*) that they are more used to producing in others. As if to confirm this, Conaghan and Russell’s rebuke to Reece takes the phrase ‘Myths about myths’ as its title and hence as *the* central problem for positioning FRMAS. If it is correct to say that the myth metaphor as deployed in FRMAS is repressive, then this move by Conaghan and Russell arguably evokes Cixous’s characterization of the repressed as ‘always too near’.<sup>38</sup> In this light we may understand more clearly the insistence by the *Feminists@Law* editorial that Reece’s arguments ‘appeal to existing rape myths in society’. Only by positioning her criticism as *itself* a symptom of rape myth acceptance can FRMAS re-establish its claim to control the myth metaphor it relies so heavily upon, thereby re-establishing the reality of its own claim to truth, and its own footing.

## THE DOUBLE IN THE JURY ROOM: RAPISTS AND NORMAL MEN

Let us now delve a little further into how the metaphor of the rape myth evokes an uncanny effect by implying the presence of the fictional or imagined character of the ‘double’. Such an effect is sometimes invoked

37 Freud, op. cit., n. 8, pp. 154–5.

38 Conaghan and Russell, op. cit., n. 2; Cixous, op. cit., n. 15, p. 537.

directly as an integral part of the myth metaphor, for example, in Kathryn Ryan's description of rape myths in general as 'a projection . . . of fears and desires',<sup>39</sup> or by Michelle Anderson in conceiving rape myths as visions 'conjure[d] up' in the mind.<sup>40</sup> But if we are to find in FRMAS evidence of the uncanny double whose defining feature is seeming to be *identical* to a real person, we must dig slightly deeper into the metaphorical allusions in FRMAS and their (sometimes intended, sometimes not intended) implications.<sup>41</sup> In literature and film, the encounter with one's own 'double' is uncanny in the sense I have described above because it is associated with experiencing the hitherto familiar (that is, one's own identity) as unfamiliar.<sup>42</sup> In Dostoevsky's short story *The Double*, for example, the protagonist Mr. Goliadkin is initially 'confused, and even frightened', when he first perceives that 'this stranger [whom he passes in the street on a miserable night in St Petersburg] now seemed somehow familiar to him.'<sup>43</sup> When this stranger then turns up at Mr. Goliadkin's place of work as a new clerk (the same job as Goliadkin), the protagonist perceives with 'horror' that he is:

a different Mr. Goliadkin, *completely different*, but at the same time *completely identical* to the first [such that it might be impossible to] determine precisely which was the real Goliadkin and which was the counterfeit.<sup>44</sup>

What makes the story of Mr. Goliadkin uncanny for the reader is the uncertainty it sustains about the status of his double: are we supposed to think of the 'other Mr Goliadkin' as real, as a ghost, or an illusion produced by Goliadkin having a nervous breakdown? What makes this 'counterfeit' Goliadkin ultimately so dangerous for the protagonist of Dostoevsky's story is that, not unlike a metaphor, the double quickly begins to substitute and marginalize the real. This process of doubling and substitution is key to understanding how FRMAS uses the rape-myth metaphor and in so doing achieves an uncanny effect. The remainder of this section analyses four examples of this challenge. In each case, FRMAS moves to strip away a normalizing disguise for rape and in doing so invokes the metaphor of the double. We will focus here on intimacy, seduction, kink, and social drinking.

39 Ryan, op. cit., n. 25, p. 274.

40 M. Anderson, 'Diminishing the Legal Impact of Negative Social Attitudes toward Acquaintance Rape Victims' (2010) 13 *New Crim. Law Rev.* 644, at 645.

41 Freud, op. cit., n. 8, p. 142; J. Fletcher, 'Freud, Hoffman and the Death-Work' (2002) 7 *Angelaki: J. of the Theoretical Humanities* 125, at 126; Royale, op. cit., n. 7, p. 6.

42 See, for example, *The Double Life of Veronique* (Sideral Productions, 1991) and *The Double* (Alcove Entertainment, 2013). The device is arguably also used, though in a different way, in *Fight Club* (Fox 2000 Pictures, 1999) and in *The Devil's Double* (Staccato Films, 2011).

43 F. Dostoevsky, *The Double and the Gambler*, trs. R. Pevear and L. Volokhonsky (2005) 48.

44 id., p. 55, my emphasis.

## 1. *Intimacy*

Louise Ellison and Vanessa Munro describe, across a number of publications, how participants in their empirical research (recreating the conditions of a rape trial in order to study jury deliberations) betray reliance on mythical thinking. They report, for example, that mock jurors try to explain away a counter-stereotypical rape – alleged to have been committed by the complainant’s former lover after having shared a glass of wine at her invitation – as a mutual and spontaneous rekindling of sexual passion.<sup>45</sup> In the case put before a panel of mock jurors, the ‘defendant’ was designed so as to challenge stereotypical assumptions by being apparently *completely identical* to the stereotypically ‘normal’ man in every respect except that he seems to have raped a woman (that is, *completely different* from a normal man).<sup>46</sup> For the researchers, jurors’ reluctance to convict in this case of disputed consent indicates that acquaintance rape ‘remains peculiarly problematic’ in the popular imagination.<sup>47</sup> Despite being ‘receptive, in principle’ to the idea of rape between former and current sexual partners, jurors felt moved to reconstruct the event as one of consensual sex – even filling in the facts with speculation about the parties’ internally conflicted emotional and sexual desires.<sup>48</sup> The degree of detail with which jurors perform this extra-factual thinking would seem to imply that they are, in effect, *seeing double*: by identifying so closely with a potential rapist, jurors are moved to conjure a new and different character in order to save him from conviction.

A very interesting double-doubling is happening here, because while the implication of Ellison and Munro’s research is that it is the *jurors* who are projecting a fictional double to substitute the defendant on trial, this is itself an implication that can only be drawn by first accepting that a plethora of beliefs, attitudes, and perceptions about rape can be substituted for the metaphor of the rape *myth*. The researchers’ language testifies to a courtroom full of ghosts: to the ‘*spectre* of sexual miscommunication [that] *loomed large*’ in jurors’ imaginations, creating a murky ‘grey area’ in their moral reasoning.<sup>49</sup> Of another of Ellison and Munro’s jury studies, Carline and Eastale observe that a ‘culture of scepticism continues to *haunt* the jury room.’<sup>50</sup> The language carries obvious overtones of spectral, other-worldly

45 L. Ellison and V. Munro, ‘Better the devil you know? “Real rape” stereotypes and the relevance of a previous relationship in (mock) juror deliberations’ (2013) 17 *International J. of Evidence & Proof* 299.

46 On the stereotypical belief that ‘normal men’ do not rape, see Temkin, op. cit., n. 35, pp. 95–6.

47 Ellison and Munro, op. cit., n. 45, pp. 304, 302.

48 id., pp. 309, 312–14.

49 id., pp. 314 (emphasis added), 310.

50 A. Carline and P. Eastale, *Shades of Grey—Domestic and Sexual Violence Against Women* (2014) 184.

presences in the minds of jurors and in the legal process. In this respect, we can build on Sue Chaplin's appeal to the gothic in her critique of the 'marginal, mercurial quality' of law that acts 'as a point of passage between one order [namely the real world] and another [i.e. the supernatural].'<sup>51</sup> I would suggest that Chaplin's description could also apply to the function of the myth metaphor, transferring or carrying over the meaning of a disputed incident: from whatever might *literally* be going on to an uncanny *figurative* language.

The language used in FRMAS to describe these spectral presences is very appropriate, since the jurors' apparent motivations for projecting this 'double' strikingly reflect the motivations described by both Freud and Otto Rank respectively: as 'a means of protection' and as a 'paranoid awareness of oneself as an object of someone else's observation'.<sup>52</sup> Participants in studies such as those of Ellison and Munro would be quite right to perceive themselves as the objects of someone else's observation, and if we assume that their responses are accurately represented in the published articles, they would furthermore have reason to feel it necessary to protect themselves somehow against the implications of being provoked to identify with a rapist (or victim). Like the initially sceptical Hamlet confronted with the 'questionable shape' of his father's ghost,<sup>53</sup> Ellison and Munro's jurors are invited to question the basis in reality for their beliefs. Indeed, the title that Ellison and Munro give to their article – 'Better the devil you know' – signifies much more than a facile idiom. It also alludes to the devil's traditionally infamous expertise in exploiting people's susceptibility to seduction and disguise, misleading them with potentially disastrous consequences.

## 2. *Seduction*

A review of other studies provides further examples of how this imaginative appeal to the double comes about when a potential rapist appears in the guise of normality. These studies all achieve an unsettling effect by framing apparently common and popular attitudes about aspects of 'ordinary' sexual life in terms of rape myth acceptance. A classic example is the ostensibly sociable and pleasurable practise of sharing a bottle of wine during which a woman and a man chat and flirt. For Ellison and Munro, these activities take on the far darker quality of being 'grooming' behaviours if they are engaged in with the intention of having sex with the other.<sup>54</sup> For Ryan, similarly,

51 Chaplin, *op. cit.*, n. 6, pp. 54–5.

52 S. Meckled, 'The Theme of the Double: An Essential Element throughout García Márquez Works' (1982) 6(2) *The Crane Bag* 108, at 108.

53 W. Shakespeare, *Hamlet*, Act I, scene IV, line 43.

54 L. Ellison and V. Munro, 'Of "Normal Sex" and "Real Rape": Exploring the Use of Socio-Sexual Scripts in (Mock) Jury Deliberation' (2009) 18 *Social & Legal Studies* 291, at 301.

'[t]he socially skilled *predator* may be able to con himself and potential victims because he does not resemble the myth of the obviously different rapist.'<sup>55</sup> In this passage of Ryan's, any doubt about the truth of the defendant's nature is entirely erased, but access to this truth is so compellingly and seductively disguised by rape myth that it even convinces the rapist himself. At the same time, however, Ryan insists that such men are not unaware that they are committing rape, but that they simply 'believe it is acceptable to coerce sex.'<sup>56</sup> Certain empirical studies of sexual behaviour and attitudes confirm the existence of this double-faced perpetrator, for example, Jozkowski and Peterson's young college men who self-identify as masculine seducers or lovers rather than rapists, but who (as noted above) also openly advocate the use of various forms of deception or coercion.<sup>57</sup> For Ryan, not only is 'sexual foreplay' a 'precondition' for men to get away with rape, but she further identifies the date rapist as he who will 'frequently profess love, promise to further the relationship, and threaten to terminate the relationship.'<sup>58</sup> The meaning of all of these words and actions, which we might traditionally think of as part of ordinary sexual negotiations or scripts, can thus be swallowed up by the myth metaphor.

### 3. *Kink*

This is a technique that is given something of a twist by Alex Dymock, analysing the trial of *R v. Lock* (unreported) in England in 2013. Steven Lock was acquitted on charges of assault occasioning actual bodily harm to his female partner, whom he chained up and beat 14 times with a rope, in accordance with a 'master/slave' contract they had drawn up together.<sup>59</sup> The contract stated that her body was to become his sexual property (a fact further emphasized by a tattoo around her genitals stating as much) and, furthermore, that he would be entitled to punish her if she failed to fulfil her obligations.<sup>60</sup> Although according to the authorities of *R v. Brown* and *R v. Donovan*<sup>61</sup> consent is not available to violence that inflicts bodily harm for sado-masochistic sexual motives, the judge did leave the defence to the jury, and the jury duly acquitted him. Dymock describes Lock's defence – that they were acting out a *Fifty Shades of Grey*-type scenario – as 'ingenious'. Notwithstanding the extremity of the behaviour and the complainant's resolute insistence that she did not consent at the time, Lock apparently

55 Ryan, op. cit., n. 25, p. 779 (emphasis added).

56 id., p. 778. Presumably such a belief would be held unreflectively.

57 Jozkowski and Peterson, op. cit., n. 21.

58 Ryan, op. cit., n. 25, p. 778.

59 s. 47 of the Offences Against the Person Act 1861.

60 'Gardener cleared of assault after *Fifty Shades of Grey*-inspired sado-masochistic sex session' *Independent*, 22 January 2013.

61 *R v. Brown* [1994] 1 A.C. 212; *R v. Donovan* [1934] 25 Cr. App. R. 1 CCA.

succeeded in positioning himself in jurors' minds within familiar normative bounds, and hence what had happened as 'harmless' consensual kinky sex rather than abuse.<sup>62</sup> Importantly it is not the improbable figure of the billionaire dom, Christian Grey, who was summoned in the imaginations of the jurors to acquit Mr Lock but, rather, that of the ordinary consumer of popular fiction, whose sexual behaviours are likewise deemed to be within tolerable bounds. For Dymock, however, *Lock* is a case of a woman's 'subjective experience of non-consent' being 'silenced' by society's readiness to find ways to normalize and hence overlook male sexual violence.<sup>63</sup>

#### 4. *Social drinking*

In studies on attitudes towards alcohol consumption and its relevance for rape, we find a similar sense in which criminal activity is overlooked and excused as a consequence of the widespread normalizing of coercive strategies. FRMAS will often seek to refute beliefs such as that many alleged rapes can be explained as mere regrets about drunken sex, that alcohol merely reduces a woman's sexual inhibitions, and that a woman who alleges she was raped whilst too intoxicated to consent is likely to be lying. For FRMAS, these are all myths that serve to excuse male sexual coercion and to blame women.<sup>64</sup> This designation of prevalent beliefs as myths is a move to force people to confront the uncomfortable implication that practices (and beliefs) commonly accepted as normal are not necessarily distinct from rape (and rape-approval). As Shlomit Wallerstein warns, this does imply that 'the conduct of [normal] people in many cases [constitutes] a criminal offence, and [thus that they are] rapists and sexual assaulterers.'<sup>65</sup> Finch and Munro similarly refer with strong disapproval to the 'normalization' of the cultural intermingling of drink and sex that explains the strong resistance they find in their mock jurors to seeing alcohol-assisted sex as rape, despite those same jurors acknowledging that this could constitute 'taking advantage'.<sup>66</sup> Once again, we can see that the affective force of FRMAS lies in its defamiliarizing of apparently 'normal' behaviours, and thereby collapsing the distinction between rapists (or potential rapists) and non-rapists.

The argument is emphasized by undercutting the popularly assumed distinction between *normal* and *culpable* uses of intoxicating substances to

62 A. Dymock, 'Abject Intimacies: Sexual Perversion in the Criminal-Legal Imaginary', unpublished PhD thesis, University of Reading (2015) 228.

63 *id.*, p. 229.

64 S. Wallerstein, "'A Drunken Consent is Still Consent' – Or is it? A Critical Analysis of the Law on a Drunken Consent to Sex Following Bree' (2009) 73 *J. of Crim. Law* 318, at 329–33; Temkin, *op. cit.*, n. 35, pp. 4–8; Carline and Eastale, *op. cit.*, n. 50, p. 163.

65 Wallerstein, *id.*, p. 329.

66 E. Finch and V. Munro, 'The Demon Drink and the Demonised Woman: Socio-sexual Stereotypes and Responsibility Attribution in Rape Trials Involving Intoxicants' (2007) 16 *Social & Legal Studies* 591, at 593–4, 603.

gain consent. On this point, Finch and Munro are critical of their jurors' apparent belief that (say) the buying of double measures in order to get a woman drunk is normal, whilst the use of rohypnol would be compelling evidence of malicious intent.<sup>67</sup> The stereotypical thinking that jurors are engaged in here, claim Finch and Munro, relies on the mythical distinction between criminally devious rapists and the natural sexual opportunism of social drinkers. Challenging this stereotype, Gunby, Carline, and Beynon suggest that a man who uses socially normalized ways to 'cause' a woman to take alcohol (that is, by 'encouragement, social pressure, and the intentional buying of double measures') ought to be caught by s.75(2)(f) of the Sexual Offences Act 2003, triggering a rebuttable presumption that the complainant did not consent.<sup>68</sup> Despite the statutory provision seeming broadly enough worded to be applied in this way, barristers interviewed by Gunby et al. seemed to think that this presumption could apply only in a drink-spiking scenario. Even for legal experts for whom challenging the stereotype might be professionally advantageous therefore, there seemed to be some unarticulated and yet potent reason why the practice of merely buying alcoholic drinks needed to be kept separate from deceitful drink spiking.<sup>69</sup> Gunby et al. furthermore find it 'disappointing' that their interviewees seemed reluctant to treat a complainant's lack of memory as evidence of a lack of consent and thus for a prosecution to proceed.<sup>70</sup> But are such apparent failures not entirely predictable within the critical framework that Gunby et al. assume, in which myths about alcohol and sex constitute a part of a '*supposed reality*' in the popular mindset about rape and sexual assault?<sup>71</sup> If nothing else, then this research further demonstrates ways in which we might view the affirmation of stereotypes as another example of a self-defensive reaction against the troubling implications of being too closely associated with the perpetrator of rape.

## FRMAS AND THE CARCERAL STATE

This article has argued so far that the feminist-informed criticisms about the insubstantiality of popular beliefs about rape ('myths') as well as counter-criticisms about how FRMAS construes those beliefs ('myths about myths') can be understood in terms of a struggle for control over the myth metaphor. Freed from its fuller Freudian foundation in castration anxiety, the uncanny offers a valuable tool for understanding the particular toxicity of debates

67 *id.*, p. 604.

68 C. Gunby, A. Carline, and C. Beynon, 'Alcohol-related Rape Cases: Barristers' Perspectives on the Sexual Offences Act 2003 and its Impact on Practice' (2010) 74 *J. of Crim. Law* 579, at 591.

69 *id.*, pp. 594–5.

70 *id.*, p. 591.

71 *id.*

such as this in which opposing sides accuse the other of using repressive strategies in this way. But it is helpful also for guiding us towards a potentially more politically enabling engagement with FRMAS's broader theoretical underpinnings.

Janet Halley has argued that at the root of feminism from its second wave to postmodernizing strands, is a sense that injury (and sexual injury in particular) is only really intelligible or important when it can be articulated through the formula of 'm/f, m>f and carrying a brief for f'.<sup>72</sup> The feminist 'politics of injury' carries the implication that, for example, an increased proportion of accused men who are finally convicted and punished for committing rape and sexual assault against women may be thought of as a political victory (so long as the numbers of reported rapes also do not drop for any reason), notwithstanding any possible costs that might also thereby fall 'on myriad social interests that can't be spelled in the alphabet of m/f'.<sup>73</sup> Such costs might be, for example, an erosion of defendants' rights to due process or the potentially harmful effects of incarceration itself that most often falls upon men who are already those most socially marginalized and disadvantaged.<sup>74</sup>

Halley's formula can seem provocatively reductive and she has been criticized on this basis elsewhere.<sup>75</sup> Whether or not we agree with Conaghan's assessment of Halley's argument as merely 'a series of glib equations', it seems clear that what gives her critique bite is a quality that she shares with all the other commentators (FRMAS or otherwise) considered above, namely, her recourse to wresting control over a particular metaphor that allows her to command her own terms of reference. Halley asserts that feminism has a secret 'Will to power',<sup>76</sup> in allying itself with the aims of the carceral state to inflict punishment: an alliance and a Will that (Halley claims) is denied by feminists, who in maintaining a critical distance from the state need instead to be seen as identifying with the *powerlessness* of women subordinated by men (hence the 'politics of injury'). Relevantly for our own analysis of FRMAS and its critics, we might observe that a frequently alleged consequence of rape myth acceptance is that too many men go unpunished when they commit rape or sexual assault and that too many victims are left without justice as a consequence of allegedly low rates of reporting, investigating, prosecuting, and convicting rape.<sup>77</sup>

72 J. Halley, *Split Decisions: How and Why to Take a Break From Feminism* (2008) 289, 342.

73 *id.*, p. 343.

74 U. Khan, *Vicarious Kinks: s/m in the socio-legal imaginary* (2014) 265–6.

75 J. Conaghan, 'The Making of a Field or the Building of a Wall? Feminist Legal Studies and Law, Gender and Sexuality' (2009) 17 *Feminist Legal Studies* 303.

76 Halley, *op. cit.*, n. 72, pp. 22, 32, 342.

77 See J.M. Brown, C. Hamilton, and D. O'Neill, 'Characteristics associated with rape attrition and the role played by scepticism or legal rationality by investigators and prosecutors' (2007) 13 *Psychology, Crime and Law* 355; also, Carline and Eastale, *op. cit.*, n. 50.



Subjecting more men to carceral punishment arguably represents a shared aim, at least in principle, but in practice, law's apparent failure to rid itself of patriarchal bias blocks any formal alliance and legitimizes feminists' refusal to acknowledge one. There is an uncanny evocation of the 'doubling' between truth and illusion here too, since the perspective that Halley advocates is one in which feminist theorizing (and consequently, by implication, FRMAS) involves the projection of the myth of a powerless, subordinated, and injured group (or 'class' if we follow MacKinnon's Marxist terminology) that, in being popularly believed, masks the reality that feminism in alliance with the carceral state is an empowered, influential, and furthermore *dangerous* political force.

Halley certainly does not paint her picture (of feminism as secretly allied with the state) in terms of repression, nor the exposure of this alliance in terms of an uncanny return; however, her argument leads us nicely to what I contend is the broader political significance of the uncanny. Halley writes of her desire to cause 'disorientation' in her readers: 'Above all I hope this disorientation – however painful it might also be – will be pleasurable, erotically animating, and politically enabling.'<sup>78</sup> But *for whom* could this disorientation be 'pleasurable' and 'politically enabling'? Halley's account of the benefits of 'Taking a Break From Feminism' repeatedly returns to the point that it is only *certain people* who are capable of (even temporarily) putting aside feminism's presuppositions – 'm/f, m>f and carrying a brief for f' – who can 'see around the corners' of these notions and treat them simply as working hypotheses that may be laid aside when other, potentially contradictory hypotheses may be more useful.<sup>79</sup> Halley does not specify what hypotheses may actually be 'around the corners', but that is really the point since for her: '*Not knowing* ... is an erotic event – risky, pleasurable, obliterating, full of promise.'<sup>80</sup> Those too dogmatic or unimaginative to embrace such a laying aside will prefer to 'wrap [themselves] tightly in [their] secure and familiar social theory.'<sup>81</sup> If this point of Halley's carries any whiff of intellectual elitism, then, in this respect too, there is a point of contact between her 'erotic' politics and Freud's uncanny. As Brian McCuskey has pointed out, in the romantic tradition of the nineteenth century, the uncanny is not *merely* unpleasant for those equipped to appreciate it properly, but is, rather, an affect in part to be desired by intellectuals and artists seeking to distinguish themselves from soulless rationalists, capitalists, and the working classes prosaically occupied by more mundane concerns.<sup>82</sup>

78 Halley, op. cit., n. 72, p. 285.

79 id., p. 321.

80 id., p. 236.

81 id., p. 304.

82 B. McCuskey, 'Not at home: Servants, scholars, and the uncanny' (2006) 121 *PLMA* 421.

What this suggests to me, however, is that (for example) Reece's disorientating critique of FRMAS and its theoretical commitments – that the editors of *Feminists@Law* and those who supported their campaign were able only to understand as 'deplorable' and 'dangerous' – also carries productive and enabling potential. Inasmuch as this disorientation is identifiable with the 'uncanny' affect described here, it may not be very surprising to find the sort of invocations of the gothic in Halley's writing as we earlier noted in Ellison and Munro's mock jury research. For example, describing feminists' privileging of harms that are expressible in terms of m/f and m>f, Halley invokes the metaphor of superstition ('our precommitments ensure that we'll "see it because we believe it"')<sup>83</sup> and of death (the 'death-like pall of sexual injury').<sup>84</sup> Describing feminists' defensiveness about 'prodigal' theorists who abandon feminism in favour of other possibly more exciting arenas, she refers to feminists experiencing a sense of being 'pushed into the grave'<sup>85</sup> and to being 'buried alive' by such betrayals.<sup>86</sup> Reinforcing this imagery of the grave, Halley imagines feminism as a kind of coffin that traps its proponents with fixed and unbending conditions that fail to 'create *living space*' for the intellectual and emotional growth necessary for a living, breathing movement.<sup>87</sup> Feminism is furthermore conceived as an executioner who, wielding the power that it does and with the consequences that this inevitably has, 'must find itself occasionally looking down at its own bloody hands.'<sup>88</sup>

We can follow the implications of Halley's use of such noticeably marked metaphors to situate a *carceral* form of feminism, which is to say: a feminism with hidden teeth and claws that are capable of inflicting real injuries. Halley imagines this creature, first, as an:

old ... dog ... roaring that ominous roar and baring its teeth [and because he was blind] I could not communicate to him by mutual gaze his success [at controlling me] or the possible harm I could do to him.<sup>89</sup>

Secondly, she presents a re-reading of the Texas Supreme Court ruling of *Twyman v. Twyman*,<sup>90</sup> which found a husband (William) liable for the tort of negligent emotional distress after he tried to insist that his wife (Sheila) engage in bondage, despite it reminding her of being raped. Reading the facts against the grain so as to reverse the order of (male) injurer and

83 Halley, op. cit., n. 72, p. 344.

84 id., p. 354.

85 id., p. 32.

86 id., pp. 12, 31, 32, 253, 255, 273, 275.

87 id. p. 341, emphasis added. Halley's morbid metaphors may betray the influence of Leo Bersani's 'Is the rectum a grave?' (1987) 43 *AIDS: Cultural Analysis/Cultural Activism* 197.

88 Halley, id., p. 33.

89 id., p. 343.

90 *Twyman v. Twyman* 855 S.W.2d 619 (1993).

(female) injured, Halley exhorts her readers to imagine Sheila ‘*pursuing William like a Valkyrie for breaking [the moral law of the couple’s sex life], and her alliance with the state against him.*’<sup>91</sup> The Valkyrie is of course invoked by analogy rather than metaphor, but the allusions to pursuit and to a wartime alliance are powerfully metaphoric. Halley’s reading provokes a sense of disorientation by defamiliarizing the predictable order of m>f. The point is to bring about the possibility for a creative ‘opening up’ of political discourse that we noted in Reece’s complaint about the censorious implications of labelling certain beliefs as ‘myths’. Like Reece, Halley seeks to trouble feminist readings in order to free questions of what a given account about sexual injury *means* from the ‘monolithic’<sup>92</sup> narrative of male entitlement and female oppression presupposed by dominance feminism and thereby to bring them within ‘our political reach’.<sup>93</sup> We might think of the idea of rape myths as part of such a monolith ripe for breaking up.

In order to regard either of these projects as potentially productive as opposed merely to disarming and diminishing, we need to be prepared to invest political capital in suspending commitments to presuppositions about gender and harm and thereby risk losing that which makes the diverse intellectual coalition that I have described collectively here as FRMAS as distinctive and effective as it is. The question of whether or not Reece’s and/or Halley’s re-appropriations of myth metaphors are indeed a positive contribution is brought into focus by the critical storm that blew up briefly around *Gone Girl* – the popular thriller novel<sup>94</sup> and Hollywood film<sup>95</sup> – which begins with the disappearance of a woman (Amy Dunne). The meaning of Amy’s disappearance for the police and for the public watching the case unfold in the media gradually emerges thanks to a trail of clues that she leaves behind that ingeniously frame her unfaithful husband for murder as well as for various acts of domestic abuse and rape. In this way she exploits – *apparently from beyond the grave* – the susceptibility of the police, public, and friends to being thus manipulated.

The key point of contention in *Gone Girl* that forced reviewers of both the novel and the film to take sides, is that it seems to imply that the reason why the police and public fall into error is that they do *not* operate on the assumption that women who suffer domestic abuse (including murder) ‘ask for it’ or that women ‘cry rape’. Some reviews condemned the story for this reason as ‘dangerous’, ‘a gift to rape culture’, the ‘wet dream of every misogynistic men’s “rights” activist’, ‘the justification to misogyny’, and as affirming ‘rape myths’ such as that ‘women are liars who will accuse you of

91 Halley, op. cit., n. 72, p. 356, emphasis added.

92 id., p. 178.

93 id., p. 301.

94 G. Flynn, *Gone Girl* (2013).

95 *Gone Girl*, Dir. David Fincher (Twentieth Century Fox, 2014).

rape if and when they want'.<sup>96</sup> Others celebrated it for challenging female stereotypes such as 'women [as] innately good, innately nurturing', incapable of callous and terrible deceit about rape, and as inevitable 'victims'.<sup>97</sup> The reception of *Gone Girl*'s audacious undermining of some key principles underpinning FRMAS serves as a case study of the disorientating, uncanny affect produced in rape myth debate. For some this affect may be experienced as 'pleasurable, erotically animating [or] politically enabling', but for others, merely as a deplorable appeal to sexist stereotypes and prejudice.

## CONCLUSION

This article has not sought to make any claims about the 'truth' of rape itself or about the culture in which beliefs about rape are formed. At the same time it has not pretended to take a disinterested or objective perspective on the relevant debates. It has instead offered some thoughts on the affective aspect of engaging in debate about rape myths, whether from the position of designating certain popular beliefs to be 'myths' on account of their being widely held despite being factually or ethically wrong, or else from that of criticizing such a designation as just another form of myth making. The article has looked to texts of FRMAS and also of scholarship that is critical of FRMAS and its broader feminist commitments. It has suggested that we can gain a clearer perspective on this point of contestation if we are prepared to recognize, first of all, that the term 'rape myth' is not (and indeed cannot be) a literal explanation for the beliefs in question, but a metaphor. Secondly, that there is profit in attending to the uncanny effect that myth-talk can have, again from and for both sides of the argument. For, advancing a 'myth' argument with respect to rape and sexual assault seems to involve drawing attention to the insubstantial, spectral qualities of beliefs that the 'other side' takes to be real and true. So the texts of FRMAS are populated with ghostly apparitions such as men who innocently misunderstand refusal cues, and who are merely the invented and imagined 'doubles' for men who in truth knowingly coerce and assault women. Conversely, the texts of FRMAS's critics are populated with similarly insubstantial figures: feminist theorists

96 J. Smith, 'Gone Girl's recycling of rape myths is a disgusting distortion' *Guardian*, 6 October 2014; Reel Girl, 'Gone Girl' makes violence against women a punchline', 4 October 2014, at <<http://reelgirl.com/2014/10/gone-girl-makes-violence-against-women-a-punchline/>>; L. Brookshier, 'The Misogynistic Portrayal of Villainy in *Gone Girl*' *GBDH Sadiron*, 2 December 2013, at <<http://www.gbdh.sadiron.com/archives/13093>>; M. Lovan, 'Gone Girl undermines rape' (2014), at <<http://www.imnotamotivationalspeaker.com/gone-girl-undermines-rape/>>.

97 E. Saner, 'The *Gone Girl* backlash: what women don't want' *Guardian*, 7 October 2014; R.L. Cosslett, 'Gone Girl is not anti-feminist. True equality is admitting that women can be evil too' *New Statesman*, 7 October 2014.

who *in truth* can show us how to separate fact from myth (Reece) and who are themselves disempowered, unheard, without any powerful friends, and incapable of harming men (Halley). All of these are examples of deployment of the same substituting metaphor, and consequently all are vulnerable to being criticized for strategically narrowing the terms of the debate to a certain extent. In highlighting this point, however, I have tried to emphasize not only the political dimension of the uncanny as a concept that has traditionally been marginalized in legal studies as being ‘merely’ aesthetic, but also some important continuities between conflicting perspectives on sexual violence. The juxtapositions of ‘reality’ and ‘myth’ in this debate invite us to consider the relationship between the seen and the unseen, and the implications and consequences of dedicating one’s efforts to bringing the latter to light.