

## ***Every Breath You Take: Stalking Narratives and the Law***

*Orit Kamir*

University of Michigan Press, Ann Arbor, 2001, 0 4721 1089 6, 218 pp

Not since discovering Robert Cover in my final year in law school have I so enjoyed reading a law-related work! As a storyteller, Kamir's writing is everything one could hope for: elegant, finely honed, passionate and seductive. As a legal and social analyst, she is astute and enormously innovative. Her book is a gem, one with a provocative and disturbing message, reminding us of the binding force of our cultural myths, their ability to seduce us, and of the power of law to construct the criminal it seeks to discipline and to punish. It is also about the persistence of patriarchal fears, fear of castration by the other, that sister-shadow withholding completeness and thereby unmanning, about the threat posed by the independent woman — in the modern lexicon, 'the feminist'<sup>1</sup> — demonised by some elements of the men's movement: she who falsely and maliciously accuses of rape, of harassment, of domestic violence, of child sexual abuse.

From Jewish mythology, where we encounter Adam's first wife (and sister-shadow) Lilit, to ancient Sumer, where Inanna once held sway as the all-powerful and sexually consuming mother goddess, Kamir weaves a subtle portrait of patriarchal fears. Lilit, the night flying owl — she who refused to allow Adam to 'ride' astride, rejecting his sexual advances for those of another, stealing the semen of men and the infants of (virtuous) women — is, Kamir argues, the ultimate female stalker. Independent, sexual, invading the sleep of Adam and his sons, remaining (sexually) unknown and unknowable, at once infinitely alluring and horrifying, she becomes the canvas upon which successive portraits of dis-orderly women are painted. As archetype, as the potential destroyer of patriarchal fantasies of power and control, Lilit is a recurring terror, a demonic fantasy figure around which fears of castration, of impotence and unmanning crystallise.

Kamir weaves a compelling story, showing how the night stalker owl-seductress Lilit became the European witch, at once familiar and Eve-like — for was not Eve seduced by the serpent in the Garden? — and diabolical. The late medieval witch, riding her broomstick as Lilit wished to ride Adam, became the symbol of woman as destroyer, her unbridled appetites threatening to unman men and corrupt women.

In a Europe beset by plagues and undergoing rapid economic and social change, the scene was set for a moral panic. The independent women of the late Middle Ages, the brewsters and silkwomen, the midwives and healers, the alewives and spinsters — women who could (and did) survive outside patriarchal control — threatened society and the Church. These dis-orderly women, women who remained independent, became Europe's witches, the

---

<sup>1</sup> Perhaps the feminist is the twentieth century Lilit, stalking men, stealing the children of virtuous men and women.

spells and herbs and potions of the traditional folk healer becoming, in the eyes of the law, something very different.

Against this background, Kamir traces the reawakening of Roman law with its legal prohibitions against 'sorcery' and the move to an inquisitorial system, in which interrogation under torture became normal. With these newly burnished weapons, a legal system responding to persistent moral panics created a world in which men feared witches and burned women. Kamir traces these persistent fears and the recurring moral panics into Victorian London and seventeenth century Massachusetts. Independent women, stalking and predatory prostitutes — these chimera were the target of legal intervention, yielding (as in medieval Europe) laws which demonised dis-orderly women, creating a criminal class which the law then was able to control and to punish.

If Lilit is the archetypal female stalker, Kamir suggests that the vampire is the archetypal male stalker. Whereas Lilit threatened to unman and destabilise patriarchy and thus evoked moral panic, demanding destruction, the male stalker is the eye in the panopticon, the all-seeing eye of patriarchal authority. Kamir traces the history of the male monstrous through romantic literature, both male and female, and suggests some of the ways in which literary renditions of the male monstrous underwrote the legends that encircled Jack the Ripper, including contemporaneous news stories suggesting that his prostitute victims 'brought it on themselves' and put all women at risk. Ultimately, of course, his victims became the stalkers and, as such, the demonised focus of the ensuing moral panic.

What puts Kamir's work in a class of its own is not her mastery of literary, cinematic and mythological genres, although that is remarkable in itself, but her understanding of those genres as maps of particular cultural and psychological terrains. I have sketched two of these foundational maps above, but her readings go far beyond those brief sketches, taking us into the world of the cinema (her reading of *Psycho* is dazzling) and the stranger worlds of twentieth century serial killers. She argues — persuasively, I think — that, just as medieval law-makers feared witches and burned women, and nineteenth century law-makers — fantasising sex workers as the ultimate female stalker — created the 'career' prostitute as a distinct criminal class, twentieth century law-makers, spurred into action by a moral panic surrounding 'celebrity stalkings', hastily enacted anti-stalking laws, creating a legal shell waiting to be filled — with what, one wonders?

At this point, she argues, the scene was set. Legal scholarship,<sup>2</sup> appropriating a psychiatric tradition pathologising stalking, began to demand that the law classify stalkers into clinical categories and deal with them accordingly. Thus a set of behaviours aimed at terrorising and controlling a desired object were translated into psychiatric categories: erotomanics, borderline erotomanics, former-intimate stalkers and sociopathic stalkers (or serial killers). Having created a fantasy world peopled by almost human and diseased figures, and thus having tamed and displaced the archetypal stalking myths, it was only a small step for scholars to call for statutes to be amended to

---

<sup>2</sup> Perhaps significantly, much of this burgeoning literature was written by women.

require psychiatric evaluation for accused (and convicted) stalkers. Once this displacement — for displacement it is — assimilated stalking to psychopathology, it was only a small step for popular culture to reappropriate the newly authoritative images, elaborating the myth of the stalker as psychotic monster.

Kamir argues that there is a price — a very high price — to be paid for law's capitulation to psychiatric categories and moral panics. As the law focuses not on acts, but on psychiatric profiles and appropriate treatments, we transform the stalker into an 'outlawed erotomaniac serial killer, lurking behind every bush in every neighbourhood'.<sup>3</sup> Reincorporated into popular culture, such images fuel further moral panics, creating increased pressure for further reforms and simultaneously reinforcing patriarchal power. Displaced in these increasingly pathologised scenarios — perhaps deliberately — is what Kamir identifies as the reality of stalking: the pursuit of a woman by a former intimate seeking to maintain patriarchal control through violence, aggression and surveillance.

This is a truly exciting and exemplary book, for the astonishing range of its scholarship, for its insights into the relationship between our fantasies, our fears and our disturbing cultural capacity to convert our inner monsters into monstrous legal regimes by creating pale and 'domesticated' simulacrum of our worst nightmares. Medieval men feared Lilit, created witches and burned women — thousands, perhaps millions, of them. Victorian men feared, loathed and denied female sexuality, whilst imaging the women's sexual desires as possessing almost infinite power to corrupt men and drain their life force, thus creating the prostitute. In both, law was complicit. Indeed, without the authority and legitimacy of law and its appropriation by the prevailing atmosphere of moral panic, both the witch and the prostitute would have remained minor notes in European history.

The logic of stalking — both male on female stalking and its counterpart, homoerotic stalking — escapes legal notice. Instead, our fantasy of the monstrous is pathologised and thereby rendered knowable, familiar, defined as a psychiatric disorder, demanding treatment and possible cure, not merely punishment. Law, seduced by science, risks being harnessed 'to the dangerous carriage of moral panic' as it was in the epidemic of sterilisations of 'mental defectives' under the imprimatur of *Buck v Bell*<sup>4</sup> that lasted until 1972. When Oliver Wendell Holmes Jr asserted, with the authority of the highest court in the United States, that:

It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind ... Three generations of imbeciles are enough.<sup>5</sup>

---

<sup>3</sup> Kamir (2001), p 203.

<sup>4</sup> 274 US 200 (1927)

<sup>5</sup> *Buck v Bell* 274 US 200 (1927)

With these words, Holmes legitimated — even normalised — an epidemic of compulsory sterilisations: of unwed mothers, prostitutes, petty criminals and children with disciplinary problems in the name of the dubious science of eugenics. There is, I think, a lesson to be learned — one that Kamir has rightly identified:

Positive law determines norms relating to social behaviour of individuals that affects the well-being of other members of society and common social values. Unlike literature, psychology, or sociology, positive law and criminal law, in particular, declare and constitute specific social norms, which are enforced through coercive, authoritative means. Law need not, and should not, speculatively explore human emotions, the psychological and psychiatric makeups of individuals, or the sometimes paradoxical logic of human behaviour in emotional situations. It should not, uncritically, play into the hands of moral panics.<sup>6</sup>

And what of the real stalker, the stalker identified by a 1998 US Department of Justice Survey which suggested that some 8 per cent of women and 2 per cent of men had been stalked at some time during their lives?<sup>7</sup> That survey suggested that the vast majority of stalkers were psychiatrically normal, and found a clear link between stalking and controlling and abusive behaviour — behaviour typically engaged in by men and directed at female former intimates or against former homosexual intimates. Perhaps our continuing cultural (and legal) fascination with the male monstrous, the vampiric stalker, newly given the authoritative garb of the DSM-III-R, reaffirms the eye of patriarchy at the centre of law's panopticon. Under its vampiric gaze, what space is there for law to identify and to punish the frighteningly normal reality of the stalker: the violent, abusive and controlling former intimate?

If male stalking, like sexual harassment, is performed by ordinary men, then mental diagnosis and treatment is not a relevant issue. Rather, male dominance, oppression, and inequality are the issues to be addressed. Alienation and castration anxieties need to be identified as such and treated critically, not through mythological imagery.<sup>8</sup>

Perhaps — just perhaps — as the stalker is pathologised, and the merchants of psychobabble gain legal and social credibility, we are already witnessing a replay of the moral panic that surrounded Jack the Ripper, in which the fear and loathing was displaced from the Ripper to his prostitute victims. Today, of course, it is not the prostitute who sparks fear and loathing. Rather, the fantasy figure of 'the feminist', excoriated on the websites of some elements of the men's movement, decried in the popular press for her

---

<sup>6</sup> Kamir (2001), p 204.

<sup>7</sup> Kamir (2001), p 205.

<sup>8</sup> Kamir (2001), p 213.

castrating power,<sup>9</sup> her threatened destruction of masculine authority, has become the new Lilit. When stalking becomes not an expression of particular forms of patriarchal power, but the external manifestation of a psychiatric disorder — demanding treatment and having, by implication, a cause — it would hardly be surprising if blame were displaced from the male stalker, the eye in the patriarchal panopticon, to that which created him — Lilit, the castrating woman, the feminist.

**SANDRA BERNS**  
**FACULTY OF LAW, GRIFFITH UNIVERSITY**

---

<sup>9</sup> I am thinking her of popular psychobabble specialists such as Bettina Arndt.