Part Seven

Performance
How I Learned to Stop Worrying and Love the Rape Kit

Aliza Shvarts

We know less about the sexual life of little girls than of boys. But we need not feel ashamed of this distinction; after all, the sexual life of adult women is a ‘dark continent’ for psychology.


Dark continents require special rituals, types of magical thinking that allow them to be known. Originating in the contact of European traders with the tribes of West Africa, the fetish emerged to enact this alchemy of comprehension. For what other logic could so fearlessly approach the breadth and depth of darkness to derive knowledge and value from it? By what other means could the things that happen in obscurity be brought to justice and light? Since this primal colonial scene, the fetish has functioned as a language of exchange, translating content into meaning through the medium of materiality. A logic of slippage and substitution, translation and transposition, it renders the virtues of the material world visible in the virtualities of ideology and language—virtualities that are themselves equally material, but whose materiality is obscured by a dominating shadow of legibility. It does not apprehend but rather productively misapprehends, creating a basis of communication as part of an ideologically inflected misreading, an implicit criticism articulated through the imperative to production and profit. In this sense, the fetish is a thing that makes, and as a politicized making, it is successful only when its productive work is obscured. Always producing, the fetish is most often producing to reinforce a position of power, maintaining concepts of similarity and difference that echo the colonizing instinct from whence it came: it makes, generates, and as a generative tool, reproduces the body as raced, gendered, and classed.

The contemporary methods of probing the unknowability of the female organ certainly invoke the fetish's historical function. Indeed, the implements of measurement—the stirrups, the table, the speculum—enable a line of sight that makes clear the location of the observing and interpreting eye, the ideological perspective from which knowledge is produced. Violence perpetrated in or by the enigmatic darkness of the female body, within that realm of femininity which resists both knowability and visibility, is not like other violence, for it must be discovered. In the case of rape—that crime specific to either female or effeminized dark holes—a perspectivized gaze fabricates the legibility of bodily violation, translating flesh into fact by way of a spatialized scrutiny. This gaze is explicitly embodied by the set of standardized forensic objects and procedures commonly known as a rape kit, which is used to gather physical evidence to support a criminal investigation into reported instances of sexual assault. Through a fetishistic logic, the kit uses corporeality to legitimate an external system of value, impressing upon the skin not only specific conditions of visibility, but also specific modes of discourse. Through its systematized ritual of collection, the kit territorializes the victim's body as a crime scene, as a series of material surfaces from which a politicized meaning manifests. Knowledge of the crime and the value of prosecuting evidence emerge in a process of evaluation, translation, and exchange. In this sense, the rape kit represents an instance of how the fetish
makes, as its expository gestures work to re-make the body by transliterating the materiality of flesh into a mandate for State power. By strategically overexposing parts of the body, the kit makes a new whole, concealing not only that which falls outside normative narratives of bodily integrity and violation but also the ideological inflections with which the normatively narrativized body intones. To this end, the rape kit constructs not only the truth of a crime committed on an otherwise unknowable body, but also the truth of that body itself. Speaking in terms of power—through the persuasive language of medical fact and juridical force—the body produced by the kit speaks its own subjection and subjugation.

By reading the rape kit in relation to the historical lineage and theoretical applications of fetishism, I hope to discover what ideological work is accomplished through the kit’s forensic mode of knowing. By tracking how the term has been produced, reproduced, and circulated, I hope to reconstruct not a chronology but a genealogy of the fetish, making visible the figurative inheritance that reifies darkness through the bright light of medical and legal exposition. Yet I also hope to do something more. By plotting the kit’s function of the fetish’s legacy, I want to be attentive to its productive ability—to not only the purposes to which such production has been appropriated, but also to the capacity to which such production can be re-appropriated to serve different political ends. As a mode of making, the fetish could perhaps be employed to make otherwise, to do other things—even to address and dismantle those very structures of domination that have historically wielded its power. In this sense, my project is not to make a better rape kit—for no forensic law enforcement tool of this nature could ever be better than the larger purpose of State-mandated discipline and punishment to which it is employed. My project is not even to advocate for a better system through which to address the trauma of sexual assault than one of discipline and punishment enacted by the State—for insofar as we maintain a concept of criminality that organizes the body politic, rape and sexual assault must continue to be serious and prosecutable crimes. Rather, I mean to explore how although the rape kit serves a vital function in enabling the prosecution of a violent and hideous crime, its fetishistic apprehension of the body also mobilizes the victim in a larger structure of State power and domination. Furthermore, I want to understand how although fetishism is most often deployed as a violent tool of reification, it is also an abstract mechanism of making, a violence that can cut both ways. Through the specificity of this project, I hope to discover ways in which the existing kit can be employed to a different purpose: a purpose that harnesses its productive capacity to do something beside precipitating the juridical violence and disciplinary force that maintains the subjugation and vulnerability of certain raced, classed, and gendered bodies.
I should point out that my analytical methods of close reading are not all that different than the strategies of overexposure employed by the rape kit itself. The insidious work of the fetish, its creativity, is indeed work I engage in—albeit for the purpose of identifying and critiquing rather than concealing and upholding the ubiquity of State power. Yet this apparent irony bespeaks the very ambivalence that gives fetishism such great potential, its enormous productive capacities that can serve contradictory ends. The anxiety of overexposure, in this sense, rests in this duplicity—a duplicity I not only draw attention to, but actively deploy. In the first section of my analysis, I look at the speech that precedes the rape kit, which reproduces it in a cultural discourse on violence and violation. Reading a specific monologue on an instructional DVD that accompanies the kit alongside Claude Levi-Strauss’ correlation of literacy to power, I explore how the rape kit’s “language of healing” conscribes the body’s violation as a mandate for juridical force. The second section focuses on the text of the rape kit itself, analyzing its narrative of evidence collection through William Prier’s historical concept of the fetish—specifically its role in valuation and exchange—turning to Michel Foucault and Karl Marx in order to understand how the kit’s fetishistic creation of value uses the materiality of the body to produce a historicized concept of subjection, further substantiating the power of the State. The third and final section looks at the materiality of the object itself, using Sigmund Freud’s notion of the monument, Gilles Deleuze and Félix Guattari’s reading of property, and Marcel Mauss’ analysis of the gift to explore the rape kit as a site of alternate modes of making. By analyzing the rape kit as a fetish in these ways, I hope to open the possibility for performances of the kit that are not “healing” insofar as the language of healing has been marshaled to legitimize systemic modes of hierarchical power to both make and know the subjugated body, but rather repressive in the sense that the kit’s fetishistic and productive capacities can be re-deployed by a subjugated body in order to make and know something else—something that confronts rather than accepts the conditions of subjugation.

The Speech

A cultural echo produces the rape kit even in the absence of the object. This echo—This speech—is that of the good subject, and it makes explicit the ideological nature of the material exchange between kit and body. The New York State Division of Criminal Justice Services produces a video called A Body of Evidence: Using the NYS Sexual Offence Evidence Collection Kit, which is meant to instruct medical professionals on the proper use of a standardized rape kit manufactured for distribution throughout the state of New York. Though Ann Galloway, a sexual assault nurse examiner practicing in New York State,
conducts the instructional bulk of the video, the kit's function is perhaps more meaningfully illuminated by a short introduction that precedes this content and stars Mariska Hargitay—the actress who portrays one of the lead detectives in the television show Law and Order: Special Victims Unit on NBC (1999–present). Part fantasy and part reality, part actress and part officer, she performs and enforces the rape kit in a seamless simultaneity, as through her speech, Hargitay portrays the normative subjecthood the rape kit's strategies seek to construct. In this sense, the content of her speech as well as the fact of her participation construct the mythopoetic frame within which the rape kit operates. Before the rape kit ever appears on screen, indeed, even before it is named or mentioned, the good subject—the dual figure that is the real Mariska Hargitay and the fictitious Detective Olivia Benson—metaphorically stages its expository function. Describing the relationship between her dramatic and charitable work, she explains:

To prepare for the role I trained as a rape crisis counselor, and saw the epidemic's horrendous impact first hand. But the severity of the trauma and the complexity of the healing process truly hit home when I started receiving emails and letters from survivors sharing their stories. That these survivors would reveal something so intensely personal, often for the very first time, to someone they knew only as a fictional character on television, demonstrated to me how desperate they were to be heard, how desperate they were to be believed, understood, comforted, and healed. That led me to create my non-profit organization the Joyful Heart Foundation. Our mission is to heal, educate, and empower survivors of sexual assault, domestic violence, and child abuse, and to shed light on the darkness that surrounds these issues.  

Like the magical power attributed to the fetish object itself, the authority framing this video is both real and narrative: the actress who plays a fictitious rape detective but has trained as a real rape counselor and founded a real rape charity. In Hargitay’s figural presence—her recognizable voice, her facial expressions, her cadence and mannerisms—the fiction and fact of law converge. Her speaking figure intonates with resonances of a legal order that reverberates in the rape kit itself, her celebrity both illuminating and illuminated by the object’s aura of healing and power. In this sense, she is perhaps more accurately not only a metaphor for the kit that is the focus of the film, but a metonym as well, a contiguous part. The force of the object and the force of her speech are animated by the performative term “healing.” This term denotes an extemated, ongoing process of both reification

3 Taken from A Body of Evidence: Using the NYS Sexual Offense Evidence Collection Kit, an online video available at http://criminaljustice.state.ny.us/olpa/evidencekit.htm.
and transformation of the raped body—a process that encompasses the survivor, medical practitioner, and the actress. Hargitay suggests we can all participate in the survivor’s desire to be “believed, understood, comforted, and healed”—a desire articulated as the progression from remote to proximate intersections between the body and knowledge. If “belief” is the most remote, implying a knowing uncorroborated by worldly material, then “understanding” gains an object, and “comfort” goes further to invoke the sensuous tactility of flesh, and finally “healing” arrives at an interpenetration of the somatic and the signifying. This succession narrates a process of knowing that becomes contiguous with the body—the appendage of apprehension moving closer, moving in. In this sense, the language of healing is a language of discipline, a language that seeks to touch and transform the body in accordance with a State-sanctioned model of health, legality, and subjecthood.

A body, once healed, will propagate this language of healing; indeed, such propagation is part of the healing process. As Hargitay tells us, to “heal” is the first component of a mission to “educate” and “empower”; it brings the survivor into a type of literacy that substantiates future authority. This link between education and power, however saccharine it might sound, is not a casual one, as it further performs the ideological frame in which the rape kit functions. The rape kit’s power of healing—of bringing the body into language and language into the body—should be understood within the terms of a larger structure of legibility and domination. Healing is itself an education, literacy in the look and language of power; it is a generative education, one that enables the subject—once fully conscribed as a subject—to write for herself in that powerful language, to produce and reproduce the authority of the State. As Claude Lévi-Strauss asserts in his essay “Writing Lesson” from *Tristes Tropiques*:

> If we look at the situation closer to home, we see that the systematic development of education in the European countries goes hand in hand with the extension of military service and proletarianization. The fight against illiteracy is therefore connected with an increase in governmental authority over citizens. Everyone must be able to read, so that the government can say: Ignorance of the law is no excuse.4

The rape kit works by enacting and enforcing this cultural imperative to literacy, by making dumb flesh speak. Indeed, the kit inscribes the terms of legibility onto the body, terms later reproduced in the more general civic mission of educating the public about risk. By making the corporeal literate, the rape kit as an object is itself “connected with an increase in governmental authority over citizens,” extending the gaze of sovereignty to the body’s deepest

crevices and subjection to the palpable surfaces of the skin: it is a writing mechanism, making marks that are as expressive as they are appropriative. Through the writing of the rape kit, the body becomes a prosecutable space under the State’s protection and dominion. As such, the claim to “empowerment” becomes a more complicated thing the body is indeed empowered insofar as it is brought to power, translated by the kit into the language of legal actionability. These empowered bodies can speak to the State by way of the forensic object; yet insofar as their speech reproduces the conditions of power to which they make themselves legible, they are also always already spoken to. To become empowered through these means is thus to become a subject under power, to become a vector of biopolitical force. In this sense, literacy is physical, felt tangibly on the flesh—not only in the sense that the literate body is a conscripted body, corporeally managed and marshaled in the service of the State, but also to the extent to which a literate body is a healed body, a body whose wound is exorcised through its articulation. The mission “to heal, educate, and empower” thus corresponds to the model of dominion that originated in the economic and anthropological project of colonialism, the context from which the early incarnations of fetishism first emerged. A metaphor for the fetish object’s transpositional stance, a metonym of its transliterative endeavor, Hargitay’s speech, like the rape kit itself, demystifies obscure places with an ideologized language. This speech, like the object—as part of the object—indeed functions to “shed light on the darkness,” furthering the greater ideological imperative began on the subjugated bodies and continents of history.

The Text

How the rape kit produces the good subject seems to have everything to do with how it produces itself, how it narrativizes its own function, which is immediately evident in its text. A note preceding the written instructions to New York’s Sexual Offense Evidence Collection Kit discursively positions it as a fetish: as a locus of productive misapprehension, as a medium of translation, a vector of exchange. In its instructional content and physical placement, this text functions figuratively to serve as a metonym of the kit’s overall purpose, a rhetorical part standing for the larger whole of its cultural capital, as well as a metaphor, a staging in language of what the rape kit does to the body. Like Mariska Hargitay’s speech in the instructional video, this note comes before any specific direction, serving as a metanarrative that harmonizes each forensic step in terms of a larger ideological mission. Directly addressing the question of purpose, the note explains:

Each step in this kit is designed for one of two purposes. The first is to recover potentially valuable physical evidence that will be useful in any
subsequent investigation and legal proceeding to identify the perpetrator of the reported assault (through forensic DNA analysis, for instance) and/or to verify the nature and circumstances of the reported assault. The type of evidence often detected includes saliva, semen, hairs, spermatozoa, blood, fibers, plant material, soil and other debris that may have been transferred from the perpetrator’s clothing or personal effects, or from the scene of the reported assault. The other steps are intended to collect evidence that will be used as a reference standard (controls from the victim). Each step is noted as either “Evidence Collection” or “Control Sample.”

This text asserts that the primary function of the rape kit is to “recover potentially valuable physical evidence,” yet what, exactly, is the nature of its value? What does the note mean by “recover”? These terms seem to make explicit that the kit’s process of evaluating the body is in fact a process of valuating the body, that is, enacting the alchemy of exchange that transforms bodily excess and excrement—literally what can be swabbed and scraped from flesh—into evidence. Such recovery transforms the physical substances in question—the “saliva, semen, hairs, spermatozoa, blood, fibers, plant material, soil and other debris” that have no value outside the legibility of the rape kit—into the literacy of law. Evidence functions as the point of translation that turns the substrate that is the material body into a vector of State power. When the process of evidence recovery objectively discovers the body as violated, it enables and legitimates the consolidation of power: the ever-increasing force and jurisdiction of police, courts, and laws. In this sense, the text positions the rape kit within the lineage William Pietz describes in his historical genealogy of fetishism, for it, like the Fetisse, is primarily a marker of exchange value—or more specifically, an object that makes possible exchange in differing systems of valuation. As Pietz writes:

The fetish, then, not only originated from, but remains specific to, the problematic of the social value of material objects as revealed in situations formed by the encounter of radically heterogenous social systems, and a study of the history of the idea of the fetish may be guided by identifying those themes that persist throughout the various discourses and disciplines that have appropriated the term.5

As a fetish, the rape kit negotiates the “problematic of the social value of material objects formed by the encounter of radically heterogenous social systems” insofar as it turns physicality into forensics. Valuation becomes a type of ideologized knowing; bodily material becomes produced as evaluate-able

and thus valuable knowledge. The centrality of evidence to the rape kit—similar to the centrality of trade to the *Fetisso*, the centrality of labor to the commodity fetish, and the centrality of the phallus to the sexual fetish—elides the radical heterogeneity between the two systems it straddles. In a productive misapprehension, the materiality of the body becomes reproduced as the literacy of legal value.

Yet the term that serves as the point of translation is defined by the dominant conception of one system or culture rather than a synthesis of both. The fetish, it seems, tends to always speak in the language of domination, in the legibility of hegemonic systems, and in this tendency is both a gesture of political consolidation as well as a potential for an implicit critique. As the note asserts, in addition to evidence collection, the rape kit’s other purpose is “to verify the nature and circumstances of the reported assault.” The “and/or” that precedes this second statement of intent bespeaks an ambivalence in the rape kit’s strategy of valuation, an inherent skepticism of the very body it seeks to produce as knowledge. This simultaneous valuation and skepticism of the body points to a duality undergirding the fetish’s work. As Pietz writes:

The fetish might then be viewed as the locus of a sort of primary and carnal rhetoric of identification and disavowal that established conscious and unconscious value judgments connecting territorialized social things and embodied personal individuals within a series of singular historical fixations. It would thus be the site of articulation both of ideological reification and hypostasis, and of impassioned spontaneous criticism.6

The rape kit literalizes the fetish’s “carnal rhetoric” as through its forensic mechanisms of evaluation, it turns the embodied personal individual into a territorialized social thing: a mandate for the consolidation of juridical force and the exercise of State power. Yet in the duplicity of its speech, the “and/or” of its text, the rape kit takes on a multiplicity of political potentials, potentials present in structure of the fetish itself. Because the carnal rhetoric of the fetish is a double rhetoric, an identification and disavowal, the rape kit functions not only as the site of “ideological reification and hypostasis” that its mobilization of the State would suggest it is, but also a site of “impassioned spontaneous criticism”—a criticism that its normative usage and deployment work to obscure. The proper use of the rape kit conceals such potential for criticism through its manipulation of time. As Pietz asserts, the fetish’s value judgments take place within “a series of singular historical fixations,” and in the case of the rape kit, these historical fixations could not only refer to the legal, medical, and social context in which the rape kit emerged as a forensic

technology (one that privileges, for example, a patriarchal legacy of visibility), but also the historicity the rape kit itself creates. The indexical nature of evidence—the "this was there" quality that characterizes its material—constructs a timeline that substantiates a genealogy of subjection. By evaluating what happened to a body in its recent past, the rape kit constructs a mandate for the present and future exercise of legal force of that body's behalf. As the deployment of sexual violence in prison and combat zones demonstrates, only fully established subjects—citizens—are raped in prosecutable ways; thus, the rape kit discovers not only a past crime but also past subjection, for no crime occurs on bodies un-evaluated by the kit and un-interpolated by the State's language of healing. The prosecution of the crime presumes a cohesive temporality of the subject, and by making the crime prosecutable through its process of evidence collection, the rape kit fabricates the historical continuity of the subject. The temporality of the rape kit thus positions it as a negotiation of not only a possible crime, but also a possible subjectivity, and through this historicizing function, the rape kit transforms the material fact of the body into a broader mechanism of security. In *Security, Territory, Population*, Michel Foucault identifies how security functions within multiple modalities of power, explaining that:

> ... sovereignty capitalizes a territory, raising the major problem of the seat of government, whereas discipline structures a space and addresses the essential problem of a hierarchical and functional distribution of elements, and security will try to plan a milieu in terms of events or series of events or possible elements, of series that will have to be regulated within a multidimensional and transformable framework. The specific space of security refers then to a series of possible events; it refers to the temporal and the uncertain, which have to be inserted within a given space. 7

Through its inherent skepticism or ambivalence towards the body it evaluates, the rape kit functions as a milieu that negotiates or manages the possible event—the hidden truth of rape. The evidentiary processes described by the kit are therefore not the linear deductions they appear to be, but rather represent circular relationships of cause and effect, for they treat the event of rape not as a historical fact, but rather an event that has taken place only once an evidentiary threshold has been met. In this manner, the rape kit not only capitalizes the body as a territory from which value can be derived and structures it as a space of greater and lesser legibility or worth, but furthermore temporalizes it as a zone of possibility, creating a milieu which suspends not only the certainty of the criminal event but also the status of the

---

body’s subjecthood. Such temporalization renders a rape no longer a unique event in time, but rather a suspended and ever-present possibility, a statistical likelihood, a risk. The kit produces the evaluable subject in relation to this perpetual time of risk, reconstructing the crime through various thresholds of likelihood, destabilizing both certainty of the body and the certainty of the event. In doing so, the rape kit manages the very terms of risk that it constructs.

The subjecthood that the rape kit reproduces on the body recapitulates the political conditions that structure the rape kit’s mode of production. The substrate of the kit’s transformative action—the “saliva, semen, hairs, spermatozoa, blood, fibers, plant material, soil and other debris” which are turned into evidence—bespeaks the ideology that motivates its alchemy, for in its description of the materials it deems valuable, the text of the rape kit invokes the values of ownership and territory. These materials that are evaluable and valuable as evidence are ultimately proprietary materials, derived either from the “perpetrator’s clothing or personal effects” or “the scene of the reported assault”—that is to say, derived from property. In this sense, the transformative action of the kit functions in an economy of larger transformations and is itself a territorizing discipline, mobilizing the body in a capitalist construction of value and subjectivity: a microcosmic staging of the larger biopolitical mechanism by which spaces, objects, and bodies take on meaning through the exclusionary and hierarchizing investments of property ownership. The role of property or proprietary-ness in the production of value so central to the rape kit’s process of evaluation—that hair, sweat, soil, or grass is valuable evidence because it belongs to someone or to somewhere—not only conforms to a model of capitalist private property, but furthermore hints at what Karl Marx, in his dialectical analysis of the capitalist political economy, calls “the negation of the negation.” In Capital, Marx theorizes a point of crisis through the notion of capitalist property, which lays the foundation for his subsequent influential work on class antagonism and revolution. He writes:

The capitalist mode of appropriation, which springs from the capitalist mode of production, produces capitalist private property. This is the first negation of individual private property, as founded on the labour of its proprietor. But capitalist production begets, with the inexorability of a natural process, its own negation. This is the negation of the negation. It does not re-establish private property, but it does indeed establish individual property on the basis of the achievements of the capitalist era, namely co-operation and the possession in common of the land and the means of production produced by labour itself.³

This is to say, capitalist private property negates individual private property by displacing the mode of production from the labor of the proprietor; yet, “with the inexorability of a natural process” capitalist production furthermore negates this negation through its own exercise, re-establishing “co-operation and the possession in common of the land as the means of production produced by labor itself.” This formulation bespeaks the double-edge of property—its crisis—the coupling of the material with the social that constitutes both its limitation and potential. On one hand, the negation of the negotiation could be read as a model of stasis, pointing to capitalism’s futility, its own undoing of itself. At the same time, it could also be read as a formulation of the new, a Hegelian motion of thesis, antithesis, and synthesis.

The rape kit, as a mode of appropriation that produces the fact of capitalist private property, is amenable to either reading. On one hand, as a process of territorialization that reproduces implicit values of ownership and property, the rape kit negates not only the association of value with individual labor—the victim’s declaration “I have been raped”—but is furthermore a negation of this negation, performing its processes of evidence collection so that the victim can say, “I have been raped.” On the other hand, through these same evidence collection processes, redundant though they might seem from the perspective of the victim, the rape kit instantiates a new thing entirely: a mode of producing speech on the body that functions differently than the speaking body can. This second reading opens up the possibility of using the kit in new ways—ways that exploit its generative capacity rather than its redundancy, its capacity for spontaneous and impassioned criticism rather than ideological reification. To this end, the rape kit lends itself to an artistic exploration of what not only speech, but also the body itself can do. After all, the implicit values of ownership and territory that are the basis of the rape kit’s construction of value ultimately derive from the body’s corporeal essence. Committed to this corporeality, this mining of materiality, the rape kit further evokes Pietz’s description of the fetish, for as he writes:

The fetish is, then, first of all something intensely personal, whose truth is experienced as a substantial movement from “inside” the self (the self as totalized through an impassioned body, a “body without organs”) into the self-limited morphology of a material object situated in space “outside.” Works of art are true fetishes only if they are material objects at least as intensely personal as the water of tears.9

The fetish is an instance of the personal literally becoming the political. By bringing the body into legibility—into language and into speech—fetishism endows the inchoate materiality of flesh with a performative force. To the extent that it mobilizes, enlists, and conscripts the body to legitimize and

9 Pietz, “Problem of the Fetish,” 12.
propagate the power of the State, the fetish’s power to make the personal political is a damning power, a totalization of subjugation. Yet to the extent that the body can give an idiosyncratic performance, convey the force of its specificity, a minoritarian-ness that falls outside dominant narratives of subjecthood, the body can perform—as it did in the feminist movements of the 1960s and 70s—to further a more radical and liberatory politics. To this extent, the body is always already political: it performs for the State insofar as it is mobilized in the apparatuses of education, citizenship, the military, and the law; and it performs for something else—something minoritarian, something systematically oppressed in normative formulations of subjecthood—insofar as it falls outside of a political economy of production and reproduction, insofar as it is a figure of resistance, protest, intervention, or art. By bringing outside what was inside, by making matter into value, the rape kit presents an opportunity wherein the body can be mobilized conservatively or radically—as a mandate for the propagation of power, or as a mode of intervention that insists on the body’s material specificity, its aesthetic. In this sense, the kit’s practice of property proposes two very different potentials: the conservation, consolidation, and propagation of an existing power through a normative embodiment of a capitalist subjecthood, as well as the radical critique of that power through the non-normative embodiments made possible by an artistic reinvestment in the political potentials of the material body.

The Object

It seems that an artistic reinvestment into the material potentials of the body would need to begin with an artistic reinvestment into the material potentials of the object that so normatively and powerfully interpolates that body: the rape kit itself. Although this study has heretofore focused on the New York State's Sexual Offense Evidence Collection Kit, the specificity of this particular kit might not speak fully to the way the rape kit functions as an object in the world, as the kit exists in endless variations, standardization being more an overall sense than a concrete reality. A way of accounting more fully for the object's function might be to ask, what is the virtue of the rape kit? The rape kit, as an object, is really just so many containers—boxes, envelopes, and vials; so many skins waiting to be filled. In fact, the rape kit is virtually skin: a labeled wrapping of the body’s essential fragments that organizes inchocate flesh into a meaningful and legible form. The kit’s membranous body, like the ectodermal ego, creates surfaces that function as an interface between the dark interiority of the violable physical body and the illuminated bodies of medicine and law. In this sense, the virtue that elides each iteration of the rape kit is the object’s relationship to virtue and vitality: the virtue of ideology and essentialized embodiments, the virtuality of signification
and language. Not only is the kit narrativized within a discourse of healing justice and forensic virtue, but it is itself an object of virtue, as there are several groupings of meaning inherent to the word “virtue” which animate the fetishistic workings of the kit. The first grouping has to do with the power of a supernatural or divine being becoming embodied or personified, either in the form of a “mighty work” or miracle, or in enumerations such as the seven virtues that oppose the seven deadly sins—something that is perhaps not so different from the fetish’s metaphoric and material embodiment of an omniscient power, be it God, Medicine, or Law. The second grouping refers more specifically to the life and conduct of people, to moral fortitude and observance, to the abstention from vice—something not so different, it seems, than the fetish’s valuation of the perpetrator’s trace, the wrongdoer’s malevolent part left behind that becomes valuable for its metonymic qualities, its conjuring or evidentiary power. This latter grouping of meanings becomes further specified in two distinct ways: the first, as chastity or sexual purity, especially on the part of women, and the second as industry or diligence—that is, as the reproductive disciplining of women and the productive duties of men as they converge in issues of generation and inheritance under capitalism.

These aspects of virtue seem particularly prominent in the working of the rape kit, both in the way the object frames sexual violence—as an all-permeating wound, a localized event that stains (literally, in the terms of contagion and trace) the entire-body—as well as the way it constructs its own labor, that is, as an obligatory industriousness aiding the larger paternalistic industries of medicine and law enforcement. In this sense, the question of virtue at the heart of the rape kit’s physical performance of collection and measurement resonates with the notion of virtue that underlies the idea of value in the fetish, particularly of the commodity. In Capital, Karl Marx anchors his larger discussion of value in a footnote that reads:

\[
\text{Things have an intrinsic virtue (this is Barbon's special term for use-value) “which in all places have the same virtue; as the loadstone to attract iron” (op. cit., p. 6). The magnet’s property of attracting iron only became useful once it had led to the discovery of magnetic polarity.}^{10}
\]

The commodity fetish as a reified social relation, it seems, is not so different than the idea embodied by virtue in all its enumerations—the latter innovation haunted by this earlier definition. Perhaps the fetish as a negotiating term of value is always imbricated in this concept of virtue—a concept which blurs the bounds between economic empiricism and the murky mists of valuation. Yet as an interface, the rape kit seems to go even further, not only articulating virtue in terms of value, but also mediating between virtue and virtuality. That is to say, the materiality of the object translates the virtue of

\[^{10}\text{Marx, Capital, 125.}\]
the body’s essence, the corporality of its mucosal membranes, into the 
virtuality of measurement, effluvia made legible in clean white envelopes and 
clearly labeled slides. And again, this material function seems to correlate to 
an etymological evolution. Virtuality, like virtue, has the Latin root of virt-
us, which means manhood or manliness. Both terms, it seems, despite their 
difference in meaning now, have in common the same figural—masculine—
core. This is interesting in relation to Jean Baudrillard’s revision of Marx’s 
notion of the commodity fetish, which insists on a shift of focus from the 
materiality of the object to the immateriality of the sign:

Thus the fetishization of the commodity is the fetishization of a product 
emptied of its concrete substance of labor and subjected to another type of 
labor, a labor of signification, that is, of coded abstraction (the production 
of difference and of sign values).\(^\text{11}\)

While Marx emphasized the material qualities of the commodity fetish—a 
“congealing”\(^\text{12}\) of ideology into physical form—Baudrillard understands the 
commodity fetish as precisely immaterial, “emptied of its concrete substance 
of labor” and circulating as a virtuality of signification. Yet bound to Marx 
by a common root—by “virtus” and its classical imagining of the body—does 
Baudrillard’s shift away from the materiality of the object towards the im-
materiality of the sign, really hold? Or does the ideological nature of the 
sign mask its materiality? Though functioning as the objective tools of me-
asurement, the materiality of the rape kit—its own semiotic virtuality of the 
body—is still real, still sensuous. The tactility of its parts—so apparent when 
handling it—disappears into the dominant narrative of evidence collection, a 
narrative whose authoritative act overshadows its sumptuous matter. In this 
sense, the productive misapprehension of the fetish—the turning of material 
into value—seems to cut both ways, as it is not only the sumptuousness of the 
dark that becomes reified, but also the heft and weight of the light.

There is yet another meaning of virtue that has a curious relationship 
to the rape kit object. In addition to the connotations mentioned above, the 
word virtue also refers to a personified moral quality, or a representation of 
this, usually in art. The fetish furthermore has a unique relationship to art 
in its memorializing function, for as Sigmund Freud writes, the sexual fetish 
comes into being when “the horror of castration sets up a sort of permanent 
memorial to itself.”\(^\text{13}\) This memorializing function lives on in the rape kit, 
as in it, the rape lives on as a permanent reification, a lasting memory of a

\(^{11}\) Jean Baudrillard, For a Critique of the Political Economy of the Sign, trans. Charles 
Levin (St. Louis: Telos 1981), 93.

\(^{12}\) Marx, Capital, 128.

\(^{13}\) Sigmund Freud, Fetishism, trans. James Strachey, standard ed. (London: Hogarth 
1961), 21; 147–57.
fleeting horror: a horror of violation and powerlessness insofar as power is constructed on phallic terms. In this sense, the rape kit functions semiotically by bringing the body into language, virtue into virtuality; yet it also works materially, as a coagulated memory, as a sedimentation, a monument. This observation inspires a question: although the material qualities of the rape kit have been largely narrativized within the larger structures of medical knowledge and legal authority, would it—given this additional connotation, this memorializing function—be possible to understand it also as an objet d’art? It seems that the fetishistic logic of the rape kit, through its generative force and territorializing function, enacts what is often a goal of art practice: to make in both creative and politically incisive ways, as speaking in the language of domination, the rape kit can use its creative capacities to launch a powerfully legible and material critique. In this sense, the object’s relationship to capitalist private property invests it not only with a unique capacity for political intervention, but also a unique potential to make art. As Gilles Deleuze and Félix Guattari assert in *A Thousand Plateaus*: “territorial marks are ready-mades,” suggesting that gestures of appropriation—of marking, of seizure—are already creative gestures. This is to say not that one must find art in what these marks do, but that the mark itself is a found art object, a readymade. Towards their larger purpose of exploring capitalism and its lines of flight, Deleuze and Guattari go on to write:

Property is fundamentally artistic because art is fundamentally poster, placard. As Lorenz says, coral fish are posters. The expressive is primary in relation to the possessive, expressive qualities, or matters of expression, are necessarily appropriative and constitute a having more profound than being. Not in the sense that these qualities belong to a subject, but in the sense that delineate a territory that will belong to the subject that carries or produces them. These qualities are signatures, but the signature, the proper name, is a domain, an abode. The signature is not the indication of a person; it is the chance formation of a domain. Abodes have proper names, and are inspired. “The inspired and their abodes...”, it is with the abode that the inspiration arises. No sooner do I like a color that I make it my standard or placard. One puts one’s signature on something just as one plants one’s flag on a piece of land.

The fetish’s potential to make meaning politically relies on the dual nature of property that Deleuze and Guattari describe: the fact that not all art is property, but that property, being a thing made, produced through signification,

15 Ibid, 316.
is also an art. Objects of territorialization are not just appropriative, but are more broadly performative, as “the expressive is primary in relation to the possessive.” The force of an appropriating action is a creative process, a process of world-making through inhabitation, “a having more profound than being.” Property, the claim made on space and on matter, bespeaks an expressive and signifying intentionality: a signing. The material remnant of signing, the fact of having signed, the signature, presents a field in which one can exert power, as “the signature, the proper name, is a domain.” In this sense, property is predisposed to making, meaning that the rape kit’s ethic of property and proprietary-ness predisposes the object to artistic production. Furthermore, property presents—in addition to the deeply repressive ways it hierarchizes people into classes and substantiates practices of exclusion, exploitation, oppression, and alienation—a more politically radical potential as it is also a dwelling place. To linger, dwell, remain, or repeat is to avoid the imperative to move on, move through, and propagate. Such dwelling exerts pressure on the normative constructions of the body, reducing it again to its material components, and exposing how those components are mobilized to form a normative subjectivity. Dwelling is an intervention, an interruption, an aesthetic performance, it forces the object to speak about the fact of its materiality, interrupting, for a brief moment, the hegemonic mobilization of its matter. In forcing it to speak about itself, about its own material capacities, understanding the rape kit aesthetically and as an art object would work to mobilize it towards other political ends.

Dwelling, insofar as it is an aesthetic practice, invests the rape kit object with a performative potential beside that imbued by the State. If one dwells long enough in the text and form of the rape kit, one realizes that the kit could be only a thing performed upon the body; it is also a thing the body can do. As a potential performance of the body—as a thing one could do at anytime, repeatedly, an action one could perfect—the rape kit becomes not just a mechanism that translates the body to power, but a mechanism one can deploy for oneself: a tool, a talent, a gift. Here, the word gift resonates as both an object and an action, both the thing given as well as the capacity to give. As a material constellation as well as a performative potential, a gift—artistic or otherwise—works sensibly as well as suprasensibly, touching and moving the body through its material trace as well as the invisible structures of power that animate its force. In his analysis of gifts, Marcel Mauss proposes that an animate force possesses the object, a soul that, like a human soul, is a receptive organ, speaking to others of its own kind.

What imposes obligation in the present received and exchanged, is the fact that the thing received is not inactive. Even when it had been
abandoned by the giver, it still possesses something of him . . . the legal tie, a tie occurring through things, is one between souls, because the thing itself possesses a soul, is of the soul. Hence it follows that to make a gift of something is to make a present of some part of oneself. 16

The trace, this defining material of the gift, mobilizes the object in an economy of liability, creating cohesion between giver and receiver, encompassing them in a common field of force. Its ability to impose obligation functions as a mechanism by which power consolidates itself, as the gift is always that for which something was already given. Mauss explains that an object could not be a gift if it did not possess something of its gaver, and to this end, a gift is not only something that can be possessed, but also something that possesses—possesses perpetually through revolvolving obligation. In this sense, Mauss’ conception of the gift articulates a lens through which bodily trace—which is so central to the kit’s construction—can be mobilized to a political end, as the deployment of the rape kit as a gift would create a mode of circulation and communication based not on the assumption of a natural and cohesive body, but on the overt fabrication of the body, which can be exploited and deconstructed through its explicit staging. By making a gift of this explicit fabrication, this material mode of making, the excessive performance of the rape kit obligates any receiver of the gift, to perform reciprocally in this economy of bodily fabrication—implicating the ways the receiving body is already fabricated. The rape kit’s productive capacity is malignant, it seems, only insofar as it is a reproductive capacity, insofar as it produces and reproduces the conditions of power on the body. The perversity of the sexual fetish in psychological development, on the other hand, lies in its non-reproductive stance, its politics of dwelling, and perhaps this dwelling could serve as a political model. By treating the rape kit as a gift—by performing it as such—one could harness its productive capacity by positioning it in an economy of repetition rather than reproduction, by dwelling in the process that makes rather than privileging the object as an affirmation of a productive lineage. Making in this non-reproductive mode, the rape kit could perhaps make otherwise. After all, fetishism, particularly as Freud means it, is a politics of stasis, an attempt to supplement the body with the materiality of the object in order to maintain and propagate the myth and privilege of the phallic body—perverse only in relation to the progress narrative, the socio-political decree to go forth and propagate. By harnessing this capacity of the fetish—perversity’s spontaneous and impassioned critique of normative models of health—the rape kit, as a site of production but not reproduction, could function as a site of critical art practice rather than as the consolidation

and propagation of hegemonic structures. In this instance, the politics of fetishism could be crafted to overlap with the politics of feminism, as both can be used to rethink the historical construction of the female body—to deconstruct its fabrication rather than insist on a repressive model of cohesion. For this reason, the rape kit is a gift given by the hegemonic forces that narrativize the normative body, and artistic gift that can be mobilized—a material monument that can be held on to, as well as a performative potential waiting to be exercised. As a gift, the rape kit contains a trace of its making, a trace normally concealed by hegemonic structures of visibility and representation, yet a trace that can be made visible by deploying the kit to serve artistic rather than juridical ends. Choosing to receive the rape kit as a gift opens up the possibility of employing it beyond its intended function, using its fetishistic productivity to form alternate embodiments of subjecthood, to make a new type of body, one whose violation does not serve to mandate and legitimate the violence of State power.

Bibliography


