



BOOK REVIEW / COMPTE RENDU

**Mandi Gray, *Suing for Silence: Sexual Violence and Defamation Law*. Vancouver: UBC Press, 2024, 180 pp.**

Sara Tonini 

Master's student, Department of Sociology and Legal Studies, University of Waterloo  
Email: stonini@uwaterloo.ca

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In a society that limits the discourse on heavy topics such as sexual assault, it is important to the socio-legal field that authors write about such topics. Mandi Gray's *Suing for Silence: Sexual Violence and Defamation Law* does just that. Gray calls out the harsh realities that survivors of sexual assault may face upon reporting. Citing Canadian legislation, Gray exposes how abusers—predominantly men in positions of power—can use defamation law to effectively silence their victims. Oftentimes, upon the initiation of a defamation suit, a survivor withdraws her accusations of sexual assault. The abuser can successfully use law to silence his victim and essentially make the crime disappear. Giving them the name “silence breakers,” Gray details the obstacles that survivors face when speaking out about the sexual violence or abuse that they faced. Gray begins by outlining the Canadian legal context in which she is writing. The book then provides an analysis of reputational harms that both victims and offenders can face through entering the legal system. In later chapters, Gray outlines the experiences of survivors in postsecondary institutions. Gray's honest assessment of legal practices, legislation and case studies provides a thorough account of how victims' voices can be stifled by a system that has historically protected the reputations of men.

Following the #MeToo movement, there has been an increase in awareness of how men—especially those in power—can use their position to commit sexual assault. Incidentally, women have been encouraged to share their experiences of victimization, especially on online platforms. While this shift has occurred, seldom has there been any discussion on the potential repercussions that survivors may face upon telling their truth. Gray details how posts to online platforms, publications and even reports to police forces can form the basis for a defamation lawsuit. What once began as a criminal case becomes a civil suit in

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which the survivor finds themselves under scrutiny for wrongful behavior. Gray cautions that the wide powers of defamation law effectively suppress voices of victims for fear of legal and financial burden and the potential to experience revictimization. Gray asserts that, if defamation law continues to be used to silence survivors, then survivors will cease coming forward to report instances of sexual assault.

Citing feminist research, Gray leads readers through the various institutional barriers to reporting sexual assault in which defamation law is used as a weapon of silence. Noting the power imbalances that exist between male offenders and their female victims, Gray explains the “gender of reputation” in Chapter 2, highlighting how the legal system places a higher importance on men’s reputations (p. 41). Taking a socio-legal position, Gray explains that defamation can be understood as a social concept, as reputation is intangible and socially constructed (p. 41). Gray asserts that defamation laws have a gendered nature, and that men and women use defamation law differently (p. 47). The use of defamation law by men attempts to frame the silence breaker as the actual offender, as the invocation of a defamation lawsuit works to bully the silence breaker back into silence (p. 89). Gray’s exposition of these realities allows the reader to place themselves in the position of a silence breaker and feel the isolation that is permitted by the legal system.

*Suing for Silence* does not shy away from the uncomfortable experiences that surpass the instance of reporting a sexual assault. Chapter 3 discusses the use of nondisclosure agreements (NDAs). While not generally at the forefront of discussion surrounding sexual assault, the use of NDAs is an additional tactic to silence survivors. Honest in her use of language, Gray refers to NDAs as “gag orders”, as this term better fits the often coercive and violent reality of this legal imposition (p. 70). Contributing to her use of feminist theory, Gray explains that a gag order perpetuates the power imbalance between the silence breaker and the offender. Silence breakers are often told that the gag order, imposed as part of a settlement, is nonnegotiable. Crucially, a gag order restricts the ability of silence breakers to discuss their experiences with others—sometimes including spouses or counselors—from the time of the assault to court proceedings (p. 71). This can be detrimental to the healing and mental well-being of survivors, as they are forced to internalize their traumatic experiences.

Chapter 4 on campus sexual violence—a topic of increasing public attention—sheds light on instances of reporting sexual assault in postsecondary institutions. Gray pulls on case examples, such as that of Franco-Canadian activist Julie Lalonde, whose experiences demonstrate the barriers to reporting in Canadian postsecondary institutions (p. 84). Postsecondary institutions with sexual assault offices generally try to incorporate intersectional frameworks but, in reality, offices do not use these frameworks to support survivors and have only adopted feminist language rather than addressing the root causes of injustice and protecting silence breakers from retaliation (p. 82). With limited resources for survivors, institutions conduct reputational risk assessments that either punish the survivor or view the offender as a “bad apple”. Gray further describes how institutions try to avoid economic consequences rather than focusing on student safety (p. 84).

Intentionally uncomfortable to read, Gray's writing makes readers consider the institutional and systemic barriers for silence breakers when reporting instances of victimization. Showcasing the gendered views of defamation law, Gray reveals why it can be difficult for women to come forward with their stories of sexual assault. Importantly, *Suing for Silence* informs how instances of reporting may continue to decrease and Gray shares that the silencing of survivors can have a detrimental impact on their well-being. Addressing difficult questions, Gray raises the point that there needs to be more legal protection afforded to survivors in the justice system. While Gray does acknowledge that men who are accused of sexual assault can be innocent, she takes the position that this is rarely the case. Foundational in her writing, Gray asserts that current legislation is insufficient for survivors and places offenders in a position of power. With a clear tone and stance, Gray's work is convincing and important to the socio-legal field, as it allows readers to ask the question of "where to go from here" to make substantive change for survivors and silence breakers.