

12-31-2019

A Cacophony of Speech, Law, and Persona: Battling Against the Vortex of #MeToo in France and the U.S.

Anne Wagner

Sarah Marusek

Follow this and additional works at: <https://digitalcommons.law.lsu.edu/jcls>



Part of the Civil Law Commons

Repository Citation

Anne Wagner and Sarah Marusek, *A Cacophony of Speech, Law, and Persona: Battling Against the Vortex of #MeToo in France and the U.S.*, 12 J. Civ. L. Stud. (2019)

Available at: <https://digitalcommons.law.lsu.edu/jcls/vol12/iss2/3>

This Article is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Journal of Civil Law Studies by an authorized editor of LSU Law Digital Commons. For more information, please contact kreed25@lsu.edu.

**A CACOPHONY OF SPEECH, LAW, AND PERSONA:
BATTLING AGAINST THE VORTEX OF #METOO IN
FRANCE AND THE U.S.**

Anne Wagner & Sarah Marusek*

I. A Complexified Socio-Legal Environment	254
II. Challenges of Silence and Exposure	256
A. Survivors vs. The Unknown Soldier	261
B. Binary Nature of the Anonymous Elbow	267
III. Legal Dichotomy Between Free Speech and Hate Speech ...	270
A. American Perspectives	274
B. French Perspectives	276
IV. Being Visible and the “Forgetfulness of Being”	279

ABSTRACT

The pervasive proliferation of rumors, through #MeToo and #BalanceTonPorc, communicates meaningful and meaningless-making processes on misconducts both in the French and U.S. contexts. Such rumors have transformed the online practices by cultivating both verbal and non-verbal hate speech free and/or free speech. This cacophony of speech, law, and persona has led to a debate relayed on social media platforms, exposing people to a danger zone mostly based as shame, hate, fear, or even destruction, as anonymity and due process no longer prevail.

Keywords: #MeToo, #BalanceTonPorc, free speech, hate speech, right to be forgotten, Tarana Burke

* Anne Wagner, Professor, Centre de Recherche Droits & Perspectives du Droit, University of Lille; Sarah Marusek, Professor, Department of Political Science and Administration of Justice, University of Hawai'i Hilo.

We dedicate this work to the Exposure League, which decries bullying, theft, and the artificial within the danger zone while seeking remedy through verbal acumen, laughter, and genuine connection.

“[W]e are only just beginning to disentangle a few of the threads, which are still so unknown to us that we immediately assume them to be either marvelously new or absolutely archaic, whereas for two hundred years (not less, yet not much more) they have constituted the dark, but firm web of our experience.”¹

I. A COMPLEXIFIED SOCIO-LEGAL ENVIRONMENT

A binary representation appears when considering #MeToo. But the converging element remains culture and through the virtual spaces of the internet, its concrete symbolization serves as a central tenet for the unity of a people. Social media, therefore, are key facilitators in the communication process, which have in their possession the most powerful arsenals to hide, reveal, amplify and/or modify socio-cultural changes within our modern societies: “All acts of communication produce meanings. It is the power of these meanings, what we do to them, that shapes relationships, exercises influence, models reality, generates behaviors of domination and feelings of subordination.”²

Social media has a substantial influence over people and can even transform the ideology of entire communities with the speed of light. But this contextual exchange may also negatively impact the actors involved in this communication process through associated behaviors of domination versus feelings of subordination. Accordingly, these multiple-layered binary representations are part of a broader perspective shedding light on representations, pictures, power, history, social demonstrations, etc.:

Media texts intend to engage people, to convey some kind of

1. MICHEL FOUCAULT, *THE BIRTH OF THE CLINIC: AN ARCHAEOLOGY OF MEDICAL PERCEPTION* 199 (A.M. Sheridan Smith trans., Routledge 1973).

2. GRAEME BURTON, *MEDIA AND SOCIETY: CRITICAL PERSPECTIVES* 1 (Open U. Press 2005).

information, and to produce reactions in their audiences, which justify their continuing production. Even when treated as part of the environment, they can never be seen as passive in the way that the façade of the building or wallpaper is passive.³

The first aspect of this actively engaged representation tackles common understandings of the symbolism of #MeToo (U.S.) and #BalanceTonPorc (France) in two ways. The first element conveys a centralized representation of unity involving two peoples deeply rooted in their cultural and historical heritage with allegorical portrayals that could be extracted either from Japanese Noh theatre or from more contemporary pictures found in Time Magazine. As already stated by Marusek & Wagner⁴ with the Kraken theory, Kraken transmogrifies, and so rumors can be told to anyone. As such, #MeToo tellers could either be masked or unmasked.⁵ The second element of this binary code involves either wrongful or innocent misrepresentations substantiating the foundations of either #MeToo and/or #BalanceTonPorc. Wrongful misrepresentations are characterized as intentionally false statements and/or rumors that could unduly attract people to join #MeToo or #BalanceTonPorc, while innocent misrepresentations unintentionally connote falsity, such as the example of Alyssa Milano, who upon discovering her mistake in claiming to be the first to harness the “me too” phrasing as the basis for #MeToo, gave public tribute instead to the original founder of the #MeToo movement, Tarana Burke.

The second aspect of the binary representation examines the legal duality of free speech versus hate speech in the American and French contexts. The paradoxical distinction of speaking versus hearing blurs the boundaries between these two frameworks of

3. *Id.* at 5.

4. See Anne Wagner, *E-Victimization and E-Predation Theory as the Dominant Aggressive Communication: The Case of Cyber Bullying*, 29 *SOCIAL SEMIOTICS* 303 (2019), available at <https://perma.cc/3FVG-J6MX>. See also Sarah Marusek & Anne Wagner, *#MeToo: A Tentacular Movement of Positionality and Legal Powers*, 4 *INT. J. LEG. DISCOURSE* 1-14 (2019).

5. *Id.*

speech. Because the online nature of speech with regard to #MeToo is global in scope, the consequence from materials posted online either restricts (U.S.) or heightens (France) protections against defamatory speech. Constitutional limits are tested according to public and private spheres of persona and allegation. Legally, as a concept of liberty, speech champions the rights of the few against the tyranny of the many within this arena of politicized virtual communication.

II. CHALLENGES OF SILENCE AND EXPOSURE

First, the complexity of #MeToo assumes a triadic dimension as this (1) online movement (2) is related to demonstration (3) by challenging the State. To begin with, the online quality of #MeToo is an amorphous tangle of concealed spaces that become unraveled through their visible appearance on a computerized screen. On this screen, the depths of the Internet are animated despite the flat dimensions of the viewing platform. The screen represents the unity of those many people and ideas behind the hashtag. Yet, screens also serve as a metaphor for the filtering of vision, as the screen guards against transparency and the full perforation of light. It is through this screen that the identities of those who join the online movement of #MeToo are protected from public view. In fact, when visiting the #MeToo Movement webpage,⁶ one sees the image of a screen which appears to shield the discernible identity of a woman in the background. Identity is filtered, or screened, for purposes of anonymity.

Second, #MeToo is a demonstration in which the screening of identities represents a protest against the public humiliation and private trauma associated with sexual misconduct. For those who suffer in silence, joining this movement is the affirmation of a collective voice through which the individual is sheltered. This is similar to the projective technique used to help children with complicated grief,

6. See Me Too movement webpage, available at <https://perma.cc/R8GR-M7N8>.

breaking the silence to help survivors open doors to underlying and hidden grief by joining #MeToo but remaining enshrouded.⁷

Third, the breaking of silence through #MeToo admonishes the silent complicity of the State, which, in the view of many, does nothing to prevent sexual misconduct. This admonishment thickens as it becomes an open challenge to the sanctioned culture of silence that perpetuates the acceptance of such misconduct. Importantly, such a challenge takes place on the internet as the State itself is much fuzzier, as if behind a screen through which regulations cannot completely permeate. Moreover, behind the screen of the internet, Twitter posts on #MeToo are protected in the U.S. as free speech. However, in France, the use of Twitter as a similar type of platform for breaking the silence defies legal protections of free speech (#BalanceTonPorc) as the promulgation of hate speech. In both scenarios, #MeToo is a screen that selectively filters the incoming rays of legal regulation pertaining to internet-based speech.

Online social platforms are new emergent orders, an invisible fist power, that rely on visible demonstration online and also in the street to empower those who seek to transcend the perceived ineffectiveness of State actions against sexual misconduct. Women no longer hide themselves in shadows but want to shed light on the realities of their working conditions. The hashtag then constitutes the arsenal where blinds and other contrivances⁸ have been removed and replaced by a sort of omnipresence. Such transparency develops the idea of the Panopticon as “all seeing” insofar as #MeToo guards against future misconduct.

However, a consequence of the removal of any types of barriers fosters a kind of paranoia, fear, and delusion that some experience

7. LINDA GOLDMAN, *BREAKING THE SILENCE: A GUIDE TO HELPING CHILDREN WITH COMPLICATED GRIEF—SUICIDE, HOMICIDE, AIDS, VIOLENCE, AND ABUSE* (2d ed., Brunner-Routledge 2001).

8. Jeremy Bentham, *Proposal for a New and Less Expensive mode of Employing and Reforming Convicts* (1798), quoted in ROBIN EVANS, *THE FABRICATION OF VIRTUE: ENGLISH PRISON ARCHITECTURE, 1750-1840* 195 (Cambridge U. Press 1982).

in #MeToo. States may feel like they no longer have control to stop activity that could substantially damage targeted people. Somehow anxiety and paranoia defile the whole society, propagated at the speed of light by social media. There is much nervousness among those who may even question the authority to do their work properly insofar as fear and power are combined into malediction as the meaning of the song from Screamin' Jay Hawkins "I Put a Spell on You"⁹ suggests. As a way out of the curse, paranoia can be cured through a public self-admittance of the alleged behavior. But paranoia may also be incurable when allegations are denied and further generate a perpetual state of paranoia.

Focusing blame through the hashtag is perpetuated further through the body of the accused when captured through online images. Here, the presumption of guilt or innocence is associated with a depicted physical response embodied in the gaze of the accused. If the accused is shown as looking down, the gaze seems evasive and signals knowledge of culpability. If the gaze, though, is direct, the accused seems to repudiate allegations from the accuser in the fixed stare of veracity. This gaze symbolizes social retribution as "The tortured body is first inscribed in the legal ceremonial that must produce, open for all to see, the truth of the crime."¹⁰ For #MeToo, Foucault's spectacle of the scaffold is the hashtag transformed as the visual representation of guilt recorded through social media as an online testimonial in an approach to law that happens outside the courtroom in response to rumors.¹¹ Yet, as Foucault suggests, the spectacle is meant to imprison in the confines of publicized space for the purposes of demonization. It is this online social demonization that releases the State from taking legal action, i.e., enacting

9. SCREAMIN' JAY HAWKINS, *I Put a Spell on You*, in AT HOME WITH SCREAMIN' JAY HAWKINS (Epic Records 1958), available at <https://perma.cc/S35M-8FAJ>.

10. MICHEL FOUCAULT, DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON 35 (Alan Sheridan trans., Vintage Books 1977).

11. Marusek & Wagner, *supra* note 4, at 1-15.

more protective and articulate legislation, which might remedy a variety of harms in positioning justice to transpire in the courtroom rather than in the virtual scaffold.

The image of the scaffold is one of final judgment, and in the #MeToo environment, such judgment is often based upon legally unsubstantiated rumor. The audience of the scaffold displays the public masses who are easily misled and wanting a show. Recently in France, such an example of what can happen when fake news infects social media took place and resulted in bedlam. Through the rapid spread of rumor on social media, an unknown source insidiously claimed that a white van of Roma was traveling between the cities of Nanterre and Colombes (near Paris) wantonly abducting young women. Following the sharing of this rumor on social networks, two people were unfairly accused and lynched; on the evening of Monday, March 25, 2019, seventy people armed with baseball bats, knives, and rocks attacked Roma in Clichy-sous-Bois and Bobigny, in northern Paris. Roughly twenty were arrested with the police issuing a warning against this fake news. Such suspension of justice through public hanging is the contagion of rumors and the unthinkable and shameful exploitation of the innocent.

In the U.S., rumors on social media also triggered a witch hunt. There, #MeToo, which began as a wave of public denouncement against sexual misconduct, resulted in a wave of public accusation in which hundreds of men (and fewer women) were removed from their positions of employment. This upsurge of indictment was marked by a flurry of shifting employment with women replacing men in many of these same positions.¹² Yet, one year later, some of these same men returned to the same positions previously held. For instance, Louis C.K., a comedian who had lost his career after having publicly admitted to masturbating in front of his female colleagues, returned to the stage at Comedy Cellar in New York City.

12. Audrey Calrsen *et al.*, *#MeToo Brought Down 201 Powerful Men. Nearly Half of Their Replacements Are Women*, THE NEW YORK TIMES (2018), available at <https://perma.cc/RTP4-N8QQ>.

Other men, including radio personality Garrison Keillor and professional football team owner Jerry Richardson, have, like Louis C.K., returned to positions they held prior to their public shaming from #MeToo accusations. The problem is “when people accused of harassment return to power without making amends—or never lose it, at least financially—it limits the post-Weinstein movement’s potential to change how power is exercised in American society.”¹³

Even as the social tides change, not everyone is able to stay afloat. For those accused without subsequent finding, the damage has already been done. And it is not just a problem for men. Women, too, are accused of sexual misconduct through #MeToo with accusations challenging the safeguards of due process: “We should admit that power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge; nor any knowledge that does not presuppose and constitute at the same time power relations.”¹⁴

The most famous of these few cases where women were indicted is actress Asia Argento, who was accused, first, of sexual misconduct involving a minor (17-year-old boy), and, second, of paying him to keep him silent. Often, #MeToo allegations against public figures may be rooted in politicized vindication for past labor complaints. In the case of Andrea Ramsey, a U.S. Democratic political candidate accused of firing a male employee for refusing to have sex, this positioning is the heightening of power, the heightening of awareness. Ramsey discontinued her campaign and, in a rebuttal of power over accusation, proclaimed the following: “On balance, it is far more important to me that women are stepping forward to tell their stories and confront their harassers than it is to continue our campaign.”¹⁵ Ramsey’s concern for the significance of the larger movement and her own predicament within the chains of rumor is

13. *Id.*

14. FOUCAULT, *supra* note 10, at 27.

15. Jacey Fortin, *Accused of Sexual Harassment, Andrea Ramsey Ends Kansas Congressional Run*, THE NEW YORK TIMES (2017), available at <https://perma.cc/L5QE-U4SB>.

similar to how Tarana Burke described her own role in #MeToo: “Inherently, having privilege isn’t bad but it’s how you use it, and you have to use it in service of other people.”¹⁶

This vortex of sexual abuse allegations on #MeToo and #BalanceTonPorc amplifies the paranoia between men and women in the workplace. Everyone is now a suspect in a febrile atmosphere in which accusers, accused, and witnesses each feel pressure similar to the Middle Ages, when people were dragged into the public square and stoned. This combination of striking visual aspects acting through the inscription of #MeToo is intended to raise social awareness and compel the State to take all the necessary legal actions against these wrongful misconducts, but often vilify the innocent.

A. Survivors vs. The Unknown Soldier

The #MeToo movement is the enervation, planning, and coordination of social response aligned through an overall strategy that pressures the State for legal remedy while compelling a cultural shift pertaining to the discourse of sexuality. Through multiple techniques, such as the screen and the public shaming of those accused of sexual misconducts, these tactics are employed to spread the allegations that come from either #MeToo under the U.S. context or #BalanceTonPorc under the French context.

The explicit original goal of this movement is to organize and shape the foundations of the society so that women will no longer be victims but survivors of sexual misconducts, and so creates a kind of mass ideology, with the rise of global alliances for and against. Strategy becomes then limited to the tactics being used, given the size, the morality, and the types of resistance available. The confederation of these movements worldwide belongs to tactical principles shedding light on the offensive, the surprise, the unity, the force, and

16. Emma Brockes, *#MeToo Founder Tarana Burke: ‘You Have to Use Your Privilege to Serve Other People,’* THE GUARDIAN (2018), available at <https://perma.cc/5J8G-Y7GD>.

the maneuvering. Their subsequent results would lead to drastically alter men's roles within society, and so to unchain women, stop tyranny, and exit a shameful situation with heads held high as sung by Gloria Gaynor in "I will survive." The penetration in the enemy's field is the main attack to weaken harassers and make sure they come to the forefront instead of hiding themselves behind their positions in the hierarchy, as did Harvey Weinstein and those other Harvey Weinstein's who followed.

Survivors, as the main battlefield players, fight for their own rights, just like U.S. civil rights leaders did in the early 1950s. This was the case of Rosa Park in Montgomery, who refused to give up her place on a bus to a white man and was arrested by the police. On the day of her trial (December 5, 1955), the Montgomery bus boycott movement began to demand social justice. At its head was a 26-year-old pastor, Martin Luther King Jr. For 381 days, thousands of people refused to get on a bus, walking to work, sharing cars, or taking taxis. Rosa had thus emerged from her anonymity to bring water to the civil rights mill. This part of American history has also had a strong impact on French pop culture; a singer, Pascal Obispo, sang Rosa's story, her courage and her will to live in a more equitable world in "*Rosa*." Two verses are premonitory:

You didn't ask for anything there Rosa.
But it came upon you . . . that day.
You've only paved the way.
You had that courage there Rosa.
. . . .
If you saw Rosa
The roads you've made.
Because one day you dared.
Just stand up to it.¹⁷

Although the term at that time was "militant," it has evolved over time; now the term is "survivor," an individual who has faced or is still facing toxic relations, but is always there to communicate

17. Translated by the authors.

these incivilities, abuses or sexual misconducts loud and clear. People act first of all for their own rights, but with the influence of time individual stories become collective stories that build the foundations of a resistance movement. This was the case when, in 2017, women marched in the streets to assert their stance standing in high heels before the glare of their alleged aggressors. Their selfies taken from above resemble the outstretched arm of the Statue of Liberty (U.S. context) holding the torch of truth,¹⁸ freeing people from tyranny, like *R-E-S-P-E-C-T* sung by Aretha Franklin, in close relationship to #MeToo with its motto *R-E-S-I-S-T*,¹⁹ or with Marianne marching²⁰ in France, chanting in the streets of Paris with the song of Michel Delpech “*Que Marianne était jolie*.”²¹ Women stood boundless, in increasingly high social positions, with their fists²² reaching heavens as a means of social revolution, recognition, and achievement for their own rights. They are no longer voiceless; instead, now they are silence breakers.²³ Furthermore, people could first see their manicured red nails showing their femininity and strength, setting them free like in “Unchain my Heart,”²⁴ a song from Joe Cocker. As such women, these front battlefield leaders end by putting their nails on men’s coffins and the color turns into pink, as a remembrance of the expansion of sexual freedom. Additionally, this image of the chain brings us back to the links of the internet, where #MeToo originally started, and acts as a void, a reminder of our fears, and our own self-constructed paranoia.

18. Sophie Gilbert, *The Movement of #MeToo*, THE ATLANTIC (2017), available at <https://perma.cc/M6SM-6WW5>.

19. ARETHA FRANKLIN, *Respect*, in I NEVER LOVED A MAN THE WAY I LOVE YOU (Atlantic 1967).

20. See Eugène Delacroix’s famous painting, *Liberty Leading the People*, at <https://perma.cc/RR7N-5Z2U>.

21. MICHEL DELPECH, *Que Marianne était jolie*, in LES GRANDES CHANSONS (Tréma 1989).

22. See For All Womankind Website, <https://perma.cc/GC3N-RK4C>.

23. Stephanie Zacharek, Eliana Dockterman & Haley Sweetland, *Person of the Year—The Silence Breakers*, TIME (2017), available at <https://perma.cc/BCU9-Z75S> [hereinafter *The Silence Breakers*].

24. JOE COCKER, *Unchain My Heart*, in UNCHAIN MY HEART (Parlophone Records 1987).

The envelopment of this social movement embedded within the hashtag comes from the Lone Wolf, Tarana Burke, who has unglam-
orously been striving for nearly two decades to help young African
American girls who are victims of abuse. Burke was an activist in
the movement of sexual violence well before the *mise-en-scène*²⁵ of
#MeToo. She spent time alone from the pack to listen to girls' calls.
Somehow the Lone Wolf alienated herself from others to find her
own paths and means of actions. Subsequently, she created her own
association in 2007 (Just Be Inc.) for freedom, truth, and authentic-
ity for these "endangered" groups of girls, as a "movement about the
1 in 4 girls and the 1 in 6 boys who are sexually abused every year
and who carry those wounds into adulthood."²⁶ This Lone Wolf rose
to the surface once #MeToo gained notoriety with Alyssa Milano,
who gave her back the torch. As she is now in front of this social
battlefield, Tarana Burke is viewed as "The Unknown Soldier," who
is protected by Alyssa Milano, harnessing her celebrity for the ben-
efit of the most vulnerable and anonymous. Therefore, Tarana Burke
symbolizes all the unknown people who experience sexual miscon-
duct and human rights violations, and who fight for the recognition
of their rights. She is *the* witness of these modern evils, the first per-
son to report these infamous acts in public, and so she needs a shield
for protection, as she is not used to this over-mediatized staging. Her
first shield was Alyssa Milano. Consequently, Burke's more famous
than a celebrity even though she was originally an anonymous per-
son. She arouses people's awareness as the key figure of this #Me-
Too movement. Tarana Burke, like *The Unknown Soldier* or *Le
Soldat Inconnu* both in the U.S. and France, is greater in terms of
visibility, albeit invisible most of the time. Accordingly, she is the
trigger, the unifying symbolic element, of a movement that not only
far exceeds herself as a human being, but also makes her a living

25. Roland Barthes, *Brecht et le discours : contribution à l'étude de la dis-
cursivité*, L'AUTRE SCÈNE (1975).

26. Doug Criss, *The Media's Version of #MeToo is Unrecognizable to the
Movement's Founder, Tarana Burke*, CNN (2018), available at <https://perma.cc/NHR4-7SCZ>.

and vivid symbol of a fight for human rights and against discrimination. In this way, her status becomes even more legitimate and sacred. *The Unknown Soldier* (U.S.) and *Le Soldat Inconnu* (France) are entombed in distinguished spaces. In the U.S., he rests at Arlington National Cemetery atop a hill overlooking Washington, D.C. under the supervision of the U.S. Department of Defense, with a guard just in front. In France, he remains under the Arc de Triomphe, a symbol of victory. For *The Unknown Soldier* and *Le Soldat Inconnu*, a torch is forever alight, known in France and the U.S. as the “Eternal Flame.” Just like this flame, Burke’s depersonalization makes her a bright eternal icon for #MeToo, which will survive her death, similar to Rosa Park, who will remain forever a civil rights leader in the United States, after having received the Presidential Medal of Freedom in 1996 and the Congressional Gold Medal in 1999. Rosa Park was a civil rights champion in the U.S., whereas Tarana Burke is still acting as a silence breaker. Furthermore, she is positioned as a human rights advocate, under Article 5 of the Universal Declaration of Human Rights: “No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”

#MeToo is widely related to the idea of keeping heads up high, against all odds, so that the truth can come out in the open to expose and defeat the oppressors, as sung by Kesha in “Praying.” Sexual harassers will then “return to the Abyss,”²⁷ showing the strength and determination of the oppressed, as her lyrics seem to suggest:

I’m proud of who I am.
No more monsters, I can breathe again.
And you said that I was done.
Well, you were wrong and now the best is yet to come.
Cause I can make it on my own, oh.
And I don’t need you, I found a strength I’ve never known.
I’ll bring thunder, I’ll bring rain, oh.
When I’m finished, they won’t even know your name.²⁸

27. Marusek & Wagner, *supra* note 4, at 6.

28. KESHA, *Praying*, in RAINBOW (RCA Records 2017).

Like personal relations, many social media actions are chaotic in nature. From this chaos arises a kind of vortex that amplifies and leads to the depth of nothingness and emptiness emerging as a result of the hashtag. Liberation then comes with the “Exposure League” under Alyssa Milano’s aura. This league could easily be compared to the *Justice League* with these superheroes, the 2017 movie, who met as a team of crime fighters to defend the earth from all kinds of threats and save the world from destruction. Fueled by their faith in social networks and inspired by Tarana Burke’s selfless acts, Alyssa Milano and her female vigilantes, who are devoid of any interested act, then become Burke’s spearheads, promoting all the principles and ideas put forward by #MeToo. This “Exposure League” includes Alyssa Milano, Ashley Judd, Taylor Swift, Susan Fowler, Adam Iwu, Rose McGowan, Lindsey Reynolds, to quote just a few of them. They act as silence breakers to protect the oppressed and expose the oppressors to the public. Like the *Justice League* in fiction, these personalities put their assets (notoriety and professional skills) at the service of the oppressed, of this silent part, which until then had not been able to point out the dysfunctions of today’s society due to their social status, which is common and unlikely to interest the media as a whole. Unlike imaginary vigilantes, these personalities act not to “save the world,” but to expose the abuses of the most powerful—in the broadest sense—against the least vulnerable. They are there to protect and denounce what some consider being their undeniable gains and privileges (e.g., the case of Harvey Weinstein): “Law becomes generally and integrally associated with the mythic settling of the world—its adequate occupation and its bestowal on the rightful holders, the Occidental ‘possessors and builders of the earth.’”²⁹ The laws appeal of universal gain is contextualized according to winners and losers.

29. PETER FITZPATRICK, *THE MYTHOLOGY OF MODERN LAW—SOCIOLOGY OF LAW & CRIME* (Routledge 1992).

Due to their renown and their address book, the “Exposure League” has the ability to bring to the forefront in the media, at the local, national, and international levels, these acts violating the rights of women and men. Indeed, as Alyssa Milano is under the celebrity aura with her female vigilantes, she has the necessary means and abilities to fight back against this vortex that spins around very fast and pulls the torch of enlightenment into its empty space (i.e., social media). After resurfacing from the mingled waters of fury, she is then in a position to hold high this torch and to hand it over to Tarana Burke, the symbol of the “Unknowns,” willing to sacrifice herself for the benefit of others.

B. Binary Nature of the Anonymous Elbow

Burke’s attention to the mundane, the nameless, the less famous, the vulnerable propels us to rethink what “me too” really means. Lest we get caught up in celebrity narratives and the stories of the rich and famous, let’s return to the anonymous elbow on Time Magazine’s Person of the Year³⁰ as a place to begin. The phrase “me too” began with Burke as an emendatory credo for own sense of powerlessness in not finding the words of this empathetic idiom when hearing the account of sexual violence from a child under her care. Developed as a mantra for actively compassionate listening, the words “me too” were originally a statement of support for those who needed to hear this expression of sensitivity and understanding, i.e., the vulnerable, the nameless, those without power or voice. The visual representation of the unannounced victimization as an indirect correlation of Burke’s original intent is to recognize the struggle those in everyday situations encounter. This struggle is seen in the image of the anonymous elbow in Time Magazine’s 2017 Person of the Year cover, *The Silence Breakers*: “For giving a voice to public

30. Alissa Wilkinson & Emily Stewart, *Time’s 2017 Person of the Year is the “Silence Breakers.” Trump is runner-up*, VOX (2017), available at <https://perma.cc/4V9S-D299>.

secrets, for bringing to life the murmurs on social networks, for pushing us to refuse the unacceptable, the Silence Breakers are the personalities of the year 2017.”³¹ The embodied presence of the faces and identities are depicted; the cover also included unclaimed and unnamed extensions of the body, such as the arm/elbow. In the bottom left-hand corner of the picture,³² a clothed arm bent at the elbow is leaning on the table. In what can be called here as “the anonymous elbow,” this appendage belongs to a young hospital worker from Texas who was the victim of sexual harassment. This woman did not wish to appear in the cover photo because she feared negative reprisals toward her family for showing her face and disclosing her identity.³³ Barthes gives a mode of image observation.³⁴ He envisages the *punctum* (here, the elbow) as a way to “emphasize on the viewers’ capacity of zooming in, of paying more attention to some elements than others.”³⁵ This *punctum*, a small detail, is not always present in images, but when it appears it can transform and enrich the whole meaning of a picture. This incomplete but still striking visual element makes it possible to avoid visualizing only a web of constraints and rituals and allow readers to appropriate this intriguing element and give it a particular inflection:

The Photograph is pure contingency and can be nothing else (it is always *something* that is represented)—contrary to the text which, by the sudden action of a single word, can shift a sentence from description to reflection—it immediately

31. Melanie Roosen, *Celles et ceux qui dénoncent le harcèlement sont la Person of the Year du Time*, L’ADN (2017), available at <https://perma.cc/DW5Y-DTQA> (author’s translation).

32. This image is readily available online; see *The Silence Breakers*, *supra* note 23, at <https://perma.cc/33FZ-7F6Y>.

33. Alle McMahon, *Time Magazine’s Person of the Year: Who are the Women on the Cover and What’s With the Elbow?*, ABC NEWS (2017), available at <https://perma.cc/H6LN-SNGE>.

34. ROLAND BARTHES, *LA CHAMBRE CLAIRE. NOTE SUR LA PHOTOGRAPHIE* (Seuil 1980).

35. Anne Wagner, *Visual Rhetoric as a “Space-in-between”—Semiotic Account of French Official Presidential Photographs*, in 13 *STUDY IN HISTORY OF LAW, JUSTICE: SENSING THE NATION’S LAW* 153-172, 155 (Mark Antaki et al. eds., Springer 2017).

delivers those ‘details’ that make up the very material of ethnological knowledge.³⁶

Given the richness of the image, this photograph forms a labyrinth, at the center of which the reader will find nothing else but this elbow. Therefore, Time noted that portraying the elbow was more generally portraying all women who were reticent to make their identities and claims known insofar as the appearance of the elbow “is an act of solidarity, representing all those who are not yet able to come forward and reveal their identities.”³⁷ Indeed, in considering the anonymity of the elbow further, we might consider the slogan of the #MeToo movement on their website: “you are not alone.”³⁸ The collective identification of those subject to sexual harassment and sexual violence may be a sufficient step in healing through the survivorship affiliation group. Yet, the larger question of achieving justice in a legal manner invites further consideration into constructions of the accuser as well as the accused through image and voice frameworks that ultimately lead to a paradox of social versus legal forms of due process.

While celebrities in Hollywood have brought crucial social awareness to the realities of sexual harassment and sexual violence by men in the entertainment industry, the realities of those who suffer with a less pronounced voice have been neglected by the movement’s momentum, as the images and voices of both victims and accused are limited in their representativeness. As a result, those without the accompanying veneration of exposure associated with publicly expressing “me too” are represented by the anonymous elbow. The elbow represents the many women and men who come from disparate and varied situations and backgrounds. The paradox between those with voice (Hollywood women with agency) and those with a less pronounced voice (domestic violence survivors, victims of sexual predation in sports and religious settings, even the

36. BARTHES, *supra* note 34, at 52 (author’s translation).

37. McMahan, *supra* note 33.

38. See Me Too Movement Webpage, *supra* note 6.

vulnerable in nursing homes) generates contradictory images of a racialized and sexualized heteronormativity in which wealthy and named white men and women dominate within a presumed binary of masculine power/female victimhood. As Tarana Burke notes “#MeToo does not have space for black girls.” Burke said this at the stage of the School of the Art Institute:

It doesn't have space for black women, it doesn't have space for queer folk, it doesn't have space for disabled people, people of color, trans people, anybody else that's other #MeToo is about who is going to be taken down next—what other powerful, white, rich man is going to lose his privileges for a period of time.³⁹

In this way, the anonymity of the elbow is much more nuanced than the representation of multiple anonymous identities in signaling the struggle for those without celebrity status and bringing awareness to the otherwise muffled quiescence of sexual trauma. Yet, as #MeToo reminds us through the collectivization of identities who join the hashtag, unpopular ideas that challenge a culture of permissiveness can themselves be traumatic. In this way, the elbow is the embodied symbol of suppressed speech and the potential harm from accusation that the hashtag perpetuates.

III. LEGAL DICHOTOMY BETWEEN FREE SPEECH AND HATE SPEECH

The legal dichotomy between free speech and hate speech in both U.S. and French sides of the Atlantic is prominent. It radically represents two legal spins for racist, homophobic, or sexist discourses,⁴⁰ while bringing attention to hate speech and free speech under three spectrums. The duality in these types of speech consti-

39. Morgan Greene, *#MeToo's Tarana Burke Tells Local Activists Movement 'By Us and For Us' Must Include Women of Color*, CHICAGO TRIBUNE (2018), available at <https://perma.cc/WHM7-W8QZ>.

40. MICHAEL HERZ & PETER MOLNAR, *THE CONTENT AND CONTEXT OF HATE SPEECH: RETHINKING REGULATION AND RESPONSES* (Cambridge U. Press 2012); IVAN HARE & JAMES WEINSTEIN, *EXTREME SPEECH AND DEMOCRACY* (Oxford U. Press 2009).

tutes the evil twin, ready to collaborate with the other, but also willing to have the last word over the other. So, the triadic dimension on dominance patterns can lead to permission (U.S.), prohibition (France) or cacophony in #MeToo.

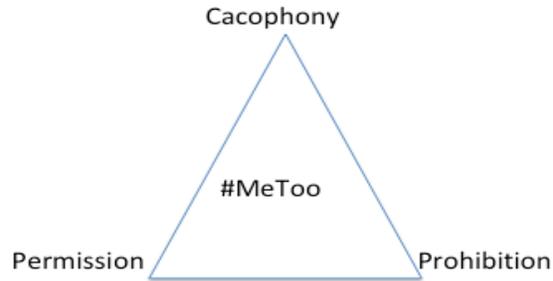


Figure 1. “Dominance Patterns” from #MeToo

The first spectrum, the U.S. spectrum, is much more permissive than the French spectrum. The First Amendment of the U.S. Constitution (1787) states that “Congress shall make no law . . . abridging the freedom of speech, or of the press.” Since the nation’s inception, legislative restrictions have happened repeatedly, with the United States Congress first passing the Alien and Sedition Act of 1798 as legislation that limited First Amendment freedoms. Under this spectrum and in cases since then, the American wording is vague in setting constitutional limits on freedoms of speech. In fact, the Supreme Court has recognized that:

[It] is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or ‘fighting’ words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.⁴¹

41. *Chaplinsky v. New Hampshire*, 315 U.S. 568, at 571-572 (1942) (footnotes omitted).

However, the counter spectrum comes from one of the more recent U.S. Supreme Court decisions from 2011 that rejected any legal restriction of hate speech as a form of censorship incompatible with freedom of expression:

Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and—as it did here—inflict great pain . . . [W]e cannot react to that pain by punishing the speaker. As a Nation we have chosen a different course—to protect even hurtful speech on public issues to ensure that we do not stifle public debate.⁴²

In an approach that nearly suggests absolutism, Supreme Court jurisprudence indicates that while the First Amendment does not protect expressive acts that cause violence, it does protect speech that incites hateful or discriminatory attitudes. This protection is based in the so-called “balancing approach” that limits legislative censorship of speech to protect against the disapproval of unpopular content or possible responses to unpopular speech.⁴³ This means that inflammatory actions such as supremacists marching in Nazi uniforms in a small town populated by many Holocaust survivors,⁴⁴ or those of members of the Ku Klux Klan who burn crosses for purposes of intimidating African-American and Jewish people, are effectively protected by the Constitution insofar as legislative targeting of marginalized groups is unconstitutional.⁴⁵

The second spectrum, the prohibitive one, prevails in France. It sanctions some of these acts of speech insofar as they are perceived as abuses of this freedom. Article 24 of the Act of July 29, 1881 on Freedom of the Press (amended in 2004)⁴⁶ relates public provocation “to discrimination, hate, or violence against a person or group of persons on account of their origin or membership or non-membership of a specific ethnic group, nation, race or religion,” and

42. *Snyder v. Phelps*, 562 U.S. 443, 460-61 (2011).

43. *R.A.V. v. St. Paul*, 505 U.S. 377 (1992).

44. *Collin v. Smith*, 578 F.2d 1197 (7th Cir. 1978).

45. *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

46. *Loi sur la liberté de la presse* (29 July 1881) (amended in 2004) [hereinafter *Press Law of 1881*].

“their gender, sexual orientation or disability,”⁴⁷ resulting in an offence punishable by one year’s imprisonment and a €45,000 fine. The Freedom of the Press Act also punishes insult more severely⁴⁸ and defamation,⁴⁹ when they are committed “against a person or group of persons because of their origin or membership or non-membership of a particular ethnic group, nation, race, or religion” or “on account of their sex, sexual orientation or gender identity or disability.”⁵⁰

Insofar as insult and defamation constitute expressive acts, there is no indication that the aggravating circumstance should be read in the same way as the aggravating circumstance identified by article 132-76 of the French Criminal Code (the motivation of the perpetrator), as the possibility of inciting a discriminatory attitude towards the individual or group concerned. While hate speech cannot be minimized with the above ideas, French law defines them as provoking hatred, and so covers some offensive or defamatory speech, by punishing expressive acts, which publicly designate some individuals to be insulted, defamed, discriminated against or assaulted.

The third spectrum, cacophony, is a “marketplace of ideas,”⁵¹ a place where freedom of expression is protected, accepted, and/or respected without any temporal limitations, even though in a specific spatiotemporal continuum (the U.S. context) Jacob Abrams challenged social normativity in the context of WWI. The concept of exchanging ideas brings hate and freedom to the forefront so that they combine both their strengths and weaknesses in order to safeguard their respective identities,⁵² similar to the evil twin mentioned at the beginning of this section. However, they cannot work without one another, creating some unavoidably conflicting, incongruous,

47. *Id.* at art. 33.

48. *Id.* at art. 29 (“offensive expression, terms of contempt or invective which do not contain an accusation of any fact”).

49. *Id.* (“allegation or accusation of a fact which damages the honor or consideration of the person or group to whom the fact is attributed”).

50. *Id.* at art. 33.

51. *Abrams v. United States*, 250 U.S. 616 (1919).

52. GASTON BACHELARD, *THE POETICS OF SPACE* (Beacon Press 1994).

dissonant, chaotic, and paranoid disturbances, and here comes cacophony, the worst scenario that sucks #MeToo into the vortex.

A. American Perspectives

The #MeToo hashtag is a form of symbolic speech representing an alliance of exposure that poignantly disturbs the silence surrounding sexual misconduct. The salience of this symbol is based on an online environment in which to be anonymous is to be hidden. Assuming an identity through the hashtag is the pronouncement of grief by making the past public. Yet, the hashtag is the illusion of action if viewed from the celebrity perspective that competes with the anonymity of private individuals. A critique of the hashtag movement reveals the *disillusionment* of power for the collective to rectify previous wrongdoing, to change culture, or to destroy the past as it remains to haunt the present. In the same way that paranoia is framed through an aggressive self-protectionist stance toward the wrongdoer, accusations made online must be legally proven in court to be valid. Otherwise, a culture based upon the righting of wrongs in a cultural setting becomes a witch hunt in which anyone can become the target.⁵³

In the legal culture of the U.S., the hashtag is a form of speech implicated in the allegation of wrongdoing. Yet, even as the allegation is allowed within the marketplace of ideas, speech happens within a chaotic discourse of words, identities, and reverberation:

It is a mistake, however, to think that the identification of truth is the only potential consequence of establishing an open marketplace for facts, ideas, opinion, and argument. When such a marketplace exists, its very existence may have a wealth of consequences on the behavior of those whose

53. NOUS TOUTES!, *Viol, harcèlement, sexisme : “La chasse à l’homme” est ouverte, vraiment ?!* (2017) (French perspective), available at <https://perma.cc/NE92-TFXU>. See also Lindy West, *Yes, This Is a Witch Hunt. I’m a Witch and I’m Hunting You*, THE NEW YORK TIMES (2017) (U.S. perspective), available at <https://perma.cc/CKZ7-VU65>.

activities are affected by the existence or location of the marketplace.⁵⁴

Those who engage in the marketplace have a variety of viewpoints. Yet, even as courts are tasked to protect the rights of minority viewpoints⁵⁵ and to tread lightly on abridging the freedoms associated with the constitutional protections of speech,⁵⁶ the meaning behind speech remains a salient juxtaposition between public and private understandings of exposure and identity (i.e. reputation). Proof of *actual malice* associated with defamatory speech must be proffered by those alleging claims of libel, which often provides more protections for less public individuals.⁵⁷ Moreover, the more public a figure is, the fewer protections against libel she or he has, and the more protections those who speak out against them have even in the disputable public forum of the internet.⁵⁸ As a case in point, for presidential candidate Donald Trump, the quality of being public could be linked to “fake news” as he stated, “I’m going to open up our libel laws so when they write purposely negative and horrible and false articles, we can sue them and win lots of money.”⁵⁹ For the courts, celebrity is mostly public, while anonymity is private, with protected speech as the critique of power, as in #MeToo. However, even this established jurisprudential binary is transmuted into a vortex of wealth, fame, and control as the category of a “limited-purpose public figure” thwarts protections for private citizens to prove libel.⁶⁰ The online forum of rumor and allegation of #MeToo tests the hegemonic normative paradigm of free speech in the U.S. insofar

54. Daniel E. Ho & Frederick Schauer, *Testing the Marketplace of Ideas*, 90 NYU L. REV. 1160-1228, 1163 (2015).

55. *United States v. Carolene Products Co.*, 304 U.S. 144 (1938).

56. *Near v. Minnesota*, 283 U.S. 697 (1931).

57. *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

58. *Knight First Amendment Inst. at Columbia Univ. v. Trump*, 302 F. Supp. 3d 541 (S.D.N.Y. 2018).

59. Adam Liptak, *Justice Clarence Thomas Calls for Reconsideration of Landmark Libel Ruling*, THE NEW YORK TIMES (2019), available at <https://perma.cc/8B6Y-T7LS>.

60. *McKee v. Cosby, Jr.*, 586 U.S. (2019) (the petition for a writ of certiorari was denied).

as the ability for private, hidden, and otherwise anonymous individuals, who become much more public through the internet, to prove libel and defamation is constrained through the global spaces of social media, as well as through the hate speech precedents articulated in American courts that may or may not involve cyber activity.

B. French Perspectives

The hashtag creates unique types of cultural narratives where “cultural stories circulating within and without legal discourse describe and construct women’s bodies and the feminine”⁶¹ under multiple scenarios and spaces. The hashtag shapes differently and supports stories that come from rumors⁶² involving either misrepresentations or allegations that must be proven in court to become factual in accordance with due process. From the French perspective, which is more prohibition-oriented, the boundary between private and public screenings is almost blurred, even invisible with a clear emphasis on shining the spotlight on alleged harassers.⁶³

The hashtag #BalanceTonPorc was created in October 2017 from the U.S. by a French freelance journalist, Sandra Muller, following the first revelations about Harvey Weinstein in Hollywood.⁶⁴ She clearly emphasized that her hashtag was intended to disclose full names and physical addresses of “aggressor(s),” being potential bases of defamatory speech with legal remedies against hashtag users. The responding deluge was almost immediate with hundreds, thousands of French women describing their tenuous professional positioning within firms. She herself posted allegations concerning Eric Brion, the former general manager of *Equidia*, whom she knew in the professional world, but with whom she had never worked before. However, she is now being sued for defamation because of the

61. Penelope Pether, *Critical Discourse Analysis, Rape Law and the Jury Instruction Simplification Project*, 24 S. ILL. U. L.J. 53-94, 60 (1999).

62. Marusek & Wagner, *supra* note 4.

63. Wagner, *supra* note 4.

64. Marusek & Wagner, *supra* note 4.

rumors she propagated against him appeared on this social vortex. This case was scheduled to go to court in May or June 2019, and the French courts were called to consider (1) if sexual harassment could be considered when they met only once in a cocktail party, (2) if their professional relationship was compulsory, and (3) if inappropriate and unsubstantiated comments during a single event in a public space could lead to actions in court.

In France, freedom of expression is restricted. The Declaration of the Rights of Man and of the Citizens 1789 provides that everyone has the right to freedom of opinion and expression,⁶⁵ but these rights can be limited. With pervasive new e-media platforms, no piece of legislation clearly forbids or screens the hashtag. However, under specific circumstances, some hashtags breach the law and are illegal, and must be removed from French social platforms. This is the case of #UnBonJuif and #AntiNoir (literal translations: #Be-GoodJew and #AntiBlack), which both targeted specific groups of the French population (Jewish and Black people) and escalated the threat of violence against them. Recently, the hashtag #JeSuis-Kouachi was scrutinized under both the Law on the Freedom of the Press⁶⁶ and the recent law of November 13, 2014 to combat terrorism.⁶⁷

However, in most cases, the hashtags in question emanate from or are taken over by persons acting under pseudonyms, which complicates their identification.⁶⁸ One example is the hashtag #UnBonJuif, for which Twitter had been given notice by privately-organized, anti-defamatory associations to promptly remove any mentions including the hashtag and to reveal the identity of the authors

65. Declaration of the Rights of Man (National Assembly of France 1789) in YALE LAW SCHOOL, *The Avalon Project*, available at: <https://perma.cc/R8A7-HML7>.

66. Press Law of 1881, *supra* note 46.

67. Loi renforçant les dispositions relatives à la lutte contre le terrorisme, no. 2014-1353 (13 Nov. 2014), available at <https://perma.cc/SSN7-EY3D>.

68. Wagner, *supra* note 4.

of the disputed statements. After dealing with the international nature of the social network, which challenged the *res judicata* authority of the decision, these associations succeeded in obtaining from Twitter, in July 2013, through an amicable agreement, the identification data of the authors of the disputed tweets.

As a tool of expression and communication, the hashtag is subject to various criminal and civil provisions relating to the protection of fundamental freedoms. As such, any abuse can be legally punished. To date, Twitter has been the only social network subject to conviction in France for abusive hashtags in France, despite the high number of requests to delete tweets that had been issued. So, the online wall is highly pervasive and provokes visual confrontations that are abusive and disrespectful under current French legislation. For this reason, some cases went to court, especially in connection with Facebook.

On March 18, 2015, the Paris Regional Court gave comedian Dieudonné a two-month suspended sentence for publicly promoting acts of terrorism on his official Facebook page. This judgment was upheld by the Paris Court of Appeals in a decision dated June 21, 2016.⁶⁹ Then another case went to court. An employee of a company, who had sent an email to other employees criticizing the draft harmonization of the collective status of his company's employees, was fired for serious misconduct. With this May 19, 2016 decision,⁷⁰ the Court of Cassation confirmed the nullification of the employee's dismissal, stating that "to assess the seriousness of the remarks made by an employee, it was necessary to take into account the context . . . the publicity given to them by the employee and the recipients of the message." The court also further noted that "the remarks had been made in a message addressed to employees and trade union representatives concerning the negotiation of a collective agreement

69. Cour d'appel [CA] [Court of Appeal] Paris, (pôle 8 - ch. 1), June 21, 2016 (Association Avocats sans frontières et a. c/ D. Mbala Mbala).

70. Cass. Soc., 19 May 2016, 15-12.311, unreported (Fr.).

to defend rights that could be called into question,” meaning the employee had not abused his freedom of expression.

And to complete the prohibition-oriented approach from France, the “right to reply” has been implemented, giving the possibility to a person (natural or legal) designated in an online public communication the possibility of publishing a response. The request has to be sent by registered letter to the online platform manager, within three months from the date of publication of the online content. A proposed alternative is that people exercise their “right to reply” directly online.

IV. BEING VISIBLE AND THE “FORGETFULNESS OF BEING”

The echoing response to the first call of Being (#MeToo) is about the pervasive and even noxious characteristics of visibility within online social media. Openness is being challenged when exploring the unforeseen deviant paths or consequences that could lead to a kind of e-notoriety, more deeply rooted in individualism than in collectivism. In light of this, a being should be distinguishable from others, “by thinking Being as a being.”⁷¹ Blaming, shaming, targeting a being are self-centered actions of #MeToo, emphasizing “ourselves” (as a whole collectivity).

Vortex, as #MeToo, failed to delineate the notions of Being and beings as its main functions. Being is #MeToo, and beings are survivors, The Unknown Soldier and the alleged aggressors. Vortex arises from the abyss and generates a turbulent circular movement of particles around an instantaneous axis. The eye of vortex is dual. When caught in its nets, the vortex acts as a fury ready to drown anything and anyone into the depth, the abyss of darkness (i.e., incrimination, arraignment, or conviction). On the contrary, it could still be dangerous, though less, and let people consider the consequences they have taken that make the eye of vortex reappear, and

71. NINCENT VYCINAS, *EARTH AND GODS: AN INTRODUCTION TO THE PHILOSOPHY OF MARTIN HEIDEGGER* 11 (Martinus Nijhoff 1969).

propel them into the abyss of light (i.e., acquittal, absolution, or exoneration).

In *Balance ton quoi*, Belgian singer Angèle refers to #BalanceTonPorc and #MeToo. The title of her song is premonitory and directly refers to the Weinstein case, from which the famous #BalanceTonPorc was derived in France. In her clip,⁷² in a courtroom, she alternately takes the roles of judge, defense lawyer, victim, harasser, and instructor. In this video, the producers have tried to point out the entrenchment of sexism, sometimes unconscious to a part of the population. The singer at the end takes the role of a “feminist-in-progress” (the instructor) in an “anti-sexism academy,” located at the border between Belgium and France, to raise awareness and instill values of respect for women so as to break these rigid codes and prove that girls are not stupid, which are preconceived ideas still prevalent in our modern society. Her lyrics,⁷³ under the guise of decency, show how the evils of society have a hard life:

Throw your what.
Even if you speak badly about girls, I know that deep down
you understood.
Throw away your what, maybe one day it'll change.
Throw your what.

Therefore, people's relations and connections are deeply connected to the world in which they live. As such, the fullness of people's identity, “the Forgetfulness of being,”⁷⁴ cannot be defined without considering the right to be forgotten. The mingled waters of vortex engender the virtuosity of perpetuality, denying people as beings the right to be forgotten online, regulated by the European General Data Protection Regulation (GDPR) in articles 17 and 19, and substantially analyzed in *Ctrl + Z: The Right to Be Forgotten* by

72. ANGÈLE, *Balance ton quoi*, in BROL (Angèle VL Records 2018).

73. *Id.* Lyrics available at <https://perma.cc/L4WR-3N6X> (author's translation).

74. MARTIN HEIDEGGER, *BEING AND TIME: A REVISED EDITION OF THE STAMBAUGH TRANSLATION* (State University of New York Press 1962/2010).

Meg Leta Jones.⁷⁵ Professor Dubravka Zarkov voices her insight and leaves us with lessons for the future:

[A]s someone who has studied media representations, I am also worried that *visibility* and exposure will be taken as a *solution* to the problem of sexual violence. In other words, I am worried that ‘making a person (especially the accused) visible’ will be mistaken for ‘making the problem visible.’ Sadly, this is not the same, and the former can actually hamper the latter. Making powerful men as perpetrators and young, beautiful women celebrities visible as victims carries a danger of forgetting that sexual harassment, assault and violence are very much part of everyday life of many different women and men, and that when feminists say it is a matter of ‘power relations’ we do not actually reduce this power to a number of powerful men. We want to look at larger power structures that allow men—be they ‘powerful’ or not—to treat women as their sex objects. And this is where I also see the danger of this current mode of public ‘blaming and shaming’ of specific ‘bad men.’⁷⁶

As Zarkov warns, images can mask, even as they uncover injustice. What we see (and even more importantly, what we don’t see) can actually serve to misrepresent, and even camouflage, the (un)represented.

75. MEG LETA JONES, *CTRL + Z: THE RIGHT TO BE FORGOTTEN* (NYU Press 2006).

76. Dubravka Zarkov & Kathy Davis, *Ambiguities and Dilemmas Around #MeToo: #ForHowLong and #WhereTo?*, 25 *EUR. J. WOMEN’S STUD.* 3-9 (2018) (emphasis in original).