

## BOOK REVIEW

**Title:** *Catch and Kill: Lies, Spies and Conspiracy to Protect Predators*

**Author:** Ronan Farrow

**Publisher:** Fleet/Little, Brown & Company, London

**Date of Publication:** 2019

**Hard Back, pp 448 (including endnotes)**

**Title:** *She Said: Breaking the Sexual Harassment Story that Helped Ignite a Movement*

**Authors:** Jodi Kantor and Megan Twohey

**Publisher:** Bloomsbury Circus/Bloomsbury, London

**Date of Publication:** 2019

**Hardback, pp 310 (including index)**

**Title:** *Brave – A revealing and empowering memoir*

**Author:** Rose McGowan

**Publisher:** HarperCollins

**Date of Publication:** 2018

**Hardback, pp. 245 (plus Author's Note & Preface ix-xvi)**

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On 6 January 2020 jury selection began in the trial of Harvey Weinstein, once famous together with his brother Bob Weinstein for establishing Miramax Films, a progressive filmmaking company. Success heaped upon success, Oscar win followed Oscar win, actresses found their careers enhanced and innovative filmmakers looked to New York and Miramax as a way of avoiding the increased control by accountants of the films produced by mainstream companies. Yet behind the success lay complaints of Harvey's conduct, and payoffs accompanied by confidentiality agreements. The complaints did not go unremarked. The lawyers who arranged the settlements, the media which tamped down on the stories, the writers of the cheques knew. Miramax accountants played a role in the running of the company, one that did not deter innovative filmmakers, although the same could not be said of the women who were subjected to the conduct, received the pay-outs, and signed the confidentiality agreements. As for those – like Rose McGowan, Ashley Judd, Mira Sorvino and more, who did not entertain any offers or settlements, nor sign any confidentiality agreements, as the word got around that they were 'difficult' and their careers suffered from blacklisting, accountants were far from their minds. Just like that other period of blacklisting in

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Hollywood's history, described so well by Bruce Cook in *Trumbo*, the biography of 'the Oscar-winning screenwriter who broke the Hollywood blacklist',<sup>1</sup> initially no supporters came forward. Yet as with that earlier blacklisting period, although it has taken longer, now voices can be heard in recognition of wrong done.

When Harvey Weinstein and his brother moved from Miramax to set up The Weinstein Company, they left behind the vehicle that bore the combined given names of their parents, Mira and Max. But they did not leave behind the conduct that reputedly played a part in their moving on. As Ronan Farrow in *Catch and Kill: Lies, Spies and Conspiracy to Protect Predators* and Jodi Kantor and Megan Twohey in *She Said: Breaking the Sexual Harassment Story that Helped Ignite a Movement* recount, the payoffs and the confidentiality agreements, the cover ups by lawyers and the media continued.<sup>2</sup> Harvey Weinstein had learned no lessons. Hence, in the month before his trial began, after 'two years of legal wrangling', Weinstein and the board of the now bankrupt film studio 'reached a tentative \$US25m settlement agreement with dozens of his alleged sexual misconduct victims'.<sup>3</sup> The deal, related by lawyers 'involved in the negotiations' as reported by the media, 'would not require [him] to admit any wrongdoing or pay anything to his accusers himself'.<sup>4</sup> This 'global settlement' involved 'more than 30 actresses and former Weinstein employees, who in lawsuits accused Mr Weinstein of offenses ranging from sexual harassment to rape'.<sup>5</sup> The deal, it was said, 'would bring to an end nearly every such lawsuit against him and his former company'.<sup>6</sup> So, just as the accountants and the company had done in the past, before any civil proceedings reached the door of the court, accountants and the company settled the bill.

Harvey Weinstein's criminal trial proper began on 23 January. Five charges involved three women. When the verdict came down, two charges resulted in a guilty verdict: forcing oral sex on actress and producer Miriam Haley,<sup>7</sup> under New York law a criminal sex act in the first degree carrying a maximum 25-year

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<sup>1</sup> Bruce Cook, *Trumbo* (Scribner 1977).

<sup>2</sup> Ronan Farrow, *Catch and Kill: Lies, Spies and Conspiracy to Protect Predators* (Fleet 2019); Jodi Kantor and Megan Twohey, *She Said: Breaking the Sexual Harassment Story that Helped Ignite a Movement* (Bloomsbury 2019).

<sup>3</sup> Megan Twohey and Jodi Kantor, 'Weinstein and His Accusers Reach Tentative \$25 Million Deal' *The New York Times* (11 December 2019) <<https://www.nytimes.com/2019/12/11/us/harvey-weinstein-settlement.html>> accessed 12 December 2019.

<sup>4</sup> *ibid.*

<sup>5</sup> *ibid.*

<sup>6</sup> *ibid.*

<sup>7</sup> Miriam Haley <<https://www.imdb.com/name/nm2683663/>> accessed 15 April 2020.

sentence, minimum five years; and third-degree rape of a woman unnamed by the media, carrying maximum of four years, no minimum. On three charges Weinstein was declared not guilty: two counts of predatory sexual assault carrying a possible life sentence, and an alternative count of rape in the first degree.<sup>8</sup> Upon sentencing, Harvey Weinstein was taken into custody to serve 23 years. As he set out for Rikers Island, with a detour via Bellevue Hospital to spend 10 days suffering chest pains attributed to the heart, his attorneys immediately announced that the verdicts and the sentence would be appealed.<sup>9</sup>

Readers who demur at the notion that books pertaining to this issue, this trial, this phenomenon should be reviewed in the Denning Law Journal might take time to reflect upon why they adopt that position. Lawyers who believe that their reading should be limited to ‘straight’ law or so-called black letter law and books concerning them may consider themselves in and of the legal elite. However, the best lawyers surely are those who take themselves outside their all-too-comfortable zone of assumed superiority and seek to engage with expositions addressing real circumstances and situations that do come before the legal world for resolution and redress. The Sexual Offences Act 2003 sought to resolve the troubling question of consent in the domain of sexual offences. Yet complaint is still heard about this issue, from both sides of the equation: those who believe that the law is not ‘fair’ in the way it deals with victims and survivors of rape and other sexual impositions and exploitations, and those believing that the law treats alleged offenders unfairly. Reading the three volumes here under review – or at least reading the review – may provide some insights that could be useful, surely a possibility to be considered in an area that is so often seen as fraught with contradiction. This is all the more necessary to consider in light of the ways in which lawyers were implicated in the culture giving rise to or at least supporting and arguably condoning behaviour now recognised as illegal.

Ronan Farrow’s *Catch and Kill* and *She Said* by Jodi Kantor and Megan Twohey were published before the trial began. Following the personal memoir, *Brave*, by Rose McGowan,<sup>10</sup> they are the first of what can be predicted as an avalanche of books addressing the film and television industry, and the exploitation

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<sup>8</sup> Reuters, ‘Harvey Weinstein trial: how events unfolded’ *The Guardian* (24 February 2020) <<https://www.theguardian.com/world/2020/feb/24/harvey-weinstein-trial-a-timeline-of-how-it-happened>> accessed 15 April 2020.

<sup>9</sup> Our Foreign Staff, ‘Harvey Weinstein transferred to Rikers Island jail after ten days in hospital’ *The Telegraph* (6 March 2020) <<https://www.telegraph.co.uk/news/2020/03/06/harvey-weinstein-transferred-rikers-island-jail-10-days-hospital/>> accessed 12 December 2019.

<sup>10</sup> Rose McGowan, *Brave: A Revealing and Empowering Memoir* (HarperCollins 2018).

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of women harbouring the simple wish to fulfil their career ambitions. Just as in the world generally when these crimes occur, the stereotypical response of too many is to transfer responsibility for their rape and harassment to the women themselves. The alternative approach is to assert that, because some at least gained fame through Weinstein's films, they have nothing about which to complain. Countering this, both *Catch and Kill* and *She Said* acknowledge the importance of power imbalance in the industry, exploited by Harvey Weinstein and reputedly others. This power imbalance begins with the structure of society as a whole, which elevates men above women in business, economic and political institutions, and in male-female relations. The tendency for women to blame themselves, or construe their own actions as foolish and unlikely to be believed, adds to the likelihood that conduct such as that engaged in by Weinstein will not be subject to legal action. *Brave* recounts this from the perspective of one directly a part of the industry. In narrating her experience of Hollywood and her encounter with Harvey Weinstein, Rose McGowan speaks to the power factor as intrinsic to the long, long struggle it took in order to have her life and career disrupting story believed. The Weinstein episode is, for her, merely one part of what she characterises as the 'cult' of Hollywood.

Just as they raise this question, all three books need to be read against the backdrop of why it is that men, in the main, people the upper echelons of the movie world and 'call the shots'. *Brave* addresses this issue too in the context of the world in general. How and why is it that men rise to the top, whilst women are seen as 'lucky' or, more generally, taking advantage of their sex and sexuality, whenever they succeed, whether in show business or any other calling? Why are women considered to have slept their way to the top, or (when they 'fail' and complain about sexual imposition) considered to be liars whilst men succeed through talent and ability alone (or are assumed to do so, albeit success comes tempered by other considerations such as family background, political connections, status of mentors, and even without talent or ability), and are almost invariably the accepted truth-tellers when charged with sexual crimes and misdemeanours?

These questions permeate the revelations recounted by Rowan Farrow and Jodi Kantor with Megan Twohey. They are questions that any critical thought needs to address, for at the heart of *Catch and Kill* and *She Said* are the stories of women, mostly told reluctantly, exposing the systematic, repetitious, slimy and sleaze-infused conduct engaged in by Harvey Weinstein – as they allege, and is corroborated by the payoffs and, now, findings of guilt. Equally so, there is the expose by, on the one hand, Farrow, and on the other, Kantor and Twohey, of the way Weinstein was enabled in his conduct by those within and outside the film and television industry. Apart from the diligent uncovering of the women's stories, Farrow relates how people at the top of the media collude in covering up potentially

criminal conduct, in this case, in order to protect Weinstein and his filmmaking. So, too, alongside the methodical baring of ‘what happened’ to the women, Kantor and Twohey reveal how it is that lawyers work – even connive – to cover up and to undermine the women’s experience. Just as the encounters of the women are not isolated, abnormal or extraordinary, being part of the everyday lives of millions of women the world over, so too the collusion and connivance of men (and some women) at the top of the media industry and the legal profession are played out with monotonous regularity globally.<sup>11</sup> In many ways it is these latter exposures that provide the most profoundly telling elements of these important books. The conduct and the covers-up are all, sadly, par for the course – yet it is the media heads’ and the attorneys’ repeated involvement that confirms the difficulty confronted by the elements in society that seek an end to sexual and sexist harassment, abuse and rape of women, along with the victimisation and bullying that comes after, or accompanies, these human rights wrongs.

*Catch and Kill* comprises five Parts, as well as a Prologue and an Epilogue. Beyond the journalistic skill, diligence and persistence in tracking interviewees and gaining their confidence, Ronan Farrow’s book is revelatory in its exposure of the tight media control and collusion that kept Harvey Weinstein’s conduct a well-known story in show-business circles, at least amongst the men and some women, without gaining traction in the world outside that circle. The most damning aspect from a media critical perspective is the trail leading to the story’s being canned by NBC. In the end, this meant Ronan Farrow took it to the *New Yorker* where its publication became a major story in itself. At the beginning and as he progressed in his research and gaining interviews, and in putting the story together at NBC, he had strong support from his producer, Rich McHugh, clearance from NBC News general counsel, Susan Weiner, and the go-ahead from Richard Greenberg, the NBC veteran who had editorial governance of the story. At a crucial juncture, Noah Oppenheim, executive in charge of the *Today* show, appeared equivocal. The result of this was the story’s being sent by Oppenheim ‘upstairs’ to NBCUniversal. There, it was blocked.<sup>12</sup> Ronan Farrow discovered that earlier attempts to write up the exploits of Harvey Weinstein had been stifled and stopped at various levels of the media, by executives and media advisors sympathetic to Weinstein.<sup>13</sup> The women were labelled untrustworthy, the narrative was considered

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<sup>11</sup> See for example JA Scutt, *The Incredible Woman – Power and Sexual Politics* (Artemis Publishing 1997) vols 1 and 2.

<sup>12</sup> Ronan Farrow (n 2) 135, 141, 147–8, 153–9, 191–2.

<sup>13</sup> Readers concerned about this approach to transparency and the media as the important fourth estate may be reminded of the cover-ups acknowledged, now, about Jimmy Savile and his unremitting trail of abuses conducted inside and outside institutions in the United

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unnewsworthy, Weinstein was considered too powerful, Miramax and then The Weinstein Company were extolled as bringing new ideas and daring to filmmaking, journalists were told they should dig deeper: their research was inadequate, that 'legal' would not pass their stories, that the risk and the potential cost of a lawsuit outweighed the possible newsworthiness of the report, if it were newsworthy at all. In all likelihood, at least some of those at the top who stifled the stories were offenders themselves<sup>14</sup> or, wishing for the opportunity to be so, lived vicariously through the descriptions of Harvey Weinstein's exploits recounted to them by their reporting teams. No doubt having heard this, and seeing no negative consequences, only support and cover-up, some gained the courage or arrogance to do it themselves.

The approach of the upper echelons of the media was repeated by lawyers engaged by Miramax and The Weinstein Company, and those whom women contacted with complaints about Harvey Weinstein. This is well recorded in *She Said*. Consisting of nine chapters and a Preface, the book relates in Chapter 3 'How to Silence a Victim' precisely how this is done, and was done, to conceal or cover-up the serial predatory conduct carried out under the guise of setting up professional meetings with actresses or subordinates. Yes, victims can be and are silenced by their own fear and the manipulative conduct of a perpetrator which generates shame, embarrassment, self-doubt and even terror. But this is not the only way to manufacture silencing. Research by Megan Twohey into federal Equal Opportunity Commission (EEOC) and equivalent state bodies in New York and Los Angeles, where the Weinstein companies were located, found no records of claims lodged by Weinstein's targets. Yet at California's Department of Fair Employment and Housing, Grace Ashford, a *New York Times* junior colleague working on the story, unearthed a report showing a number of workplace complaints filed in relation to Miramax. As a consequence of its origin, the report

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Kingdom: JA Scutt, 'Charity, celebrity and the corporate condonation of child sexual abuse' (*OnLine Opinion*, 19 November 2012) <<https://www.onlineopinion.com.au/view.asp?article=14367>> accessed 23 May 2020.

<sup>14</sup> Roger Ailes is one such Media consultant for presidents Richard Nixon, Ronald Reagan and George HW Bush, and for Rudy Giuliani's first New York mayoral campaign, in 2016, he was an adviser to the Donald Trump presidential campaign, reportedly assisting with debate preparation. Chairman and CEO of Fox News and Fox Television Stations, in July that same year he resigned as a consequence of allegations of having engaged in multiple acts of sexual harassment against women in the Fox organisation: Melissa Albert, 'Roger Ailes', *Encyclopaedia Britannica* (2010) <<https://www.britannica.com/biography/Roger-Ailes>> accessed 12 April 2020. The 2019 film *Bombshell* is a fictional recounting of Roger Ailes at Fox and the sexual harassment allegations: *Bombshell* (IMdb) <<https://www.imdb.com/title/tt6394270/>> accessed 12 April 2020.

was written in bureaucratised, with the nature of each allegation indicated through numerical codes, plus dates and addresses and its resolution. Yet nothing in the report disclosed the names of the parties, nor how they dealt with or were affected by the complaint and its outcome.<sup>15</sup> People appeared to have disappeared, and so it proved. When Megan Twohey reached a government official who might have some answers, she was told ‘the complaint against Miramax and any other related records had been destroyed under an agency policy that prevented the retention of documents after three years’,<sup>16</sup> whilst another policy decreed that the name of the party filing the allegation could not be revealed.

The law and its potential for addressing and resolving sexual harassment claims were central to the investigation being carried out by Megan Twohey and Jodi Kantor. Their aim was not only to illuminate the in-depth sociological and historical investigation on which they had embarked, but to pinpoint flaws in, or the potential of, the legal process. Megan Twohey therefore followed up with women lawyers who held national and even international reputations, through regular television appearances as champions for women litigants. One with whom she spoke was Gloria Allred. She was circumspect in raising the question as earlier she had been approached by Gloria Allred’s attorney daughter Lisa Bloom, an approach surely triggered by an awareness of the story Twohey was following with her colleague Kantor. Declining to refer to Weinstein, Twohey asked for advice on the process she should follow to obtain an historical sexual harassment record from a Californian state government agency. Only long after the exchange, with Allred effectively declining to help, did Twohey discover that Allred’s firm held records relating to Weinstein. Allred had negotiated confidential settlements for clients who had made claims of sexual harassment and assault against Weinstein.<sup>17</sup> This highlights a practice that raises concern not only in the United States but elsewhere, including the United Kingdom and Australia.<sup>18</sup>

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<sup>15</sup> Jodi Kantor and Megan Twohey (n 2) 49.

<sup>16</sup> *ibid* 50.

<sup>17</sup> *ibid* 76.

<sup>18</sup> The Law Society, ‘NDAs and confidentiality agreements’, *Problems at Work*, <<https://www.lawsociety.org.uk/for-the-public/common-legal-issues/problems-at-work/non-disclosure-agreements/>> accessed 23 May 2020); JA Scutt, ‘The Privatisation of Justice – Power Differentials, Inequality and the Palliative of Conciliation and Mediation’ in Jane Mugford (ed), *Alternative Dispute Resolution* (Australia Institute of Criminology 1986); also in JA Scutt, *The Incredible Woman – Power and Sexual Politics* (n 11) vol 1, 159–184.

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Confidentiality agreements are projected as favourable to victims, enabling them to get on with their lives, retaining privacy and escaping shunning by employers or potential employers. In the United Kingdom, the media frequently pursues action to have court sanctioned confidentiality clauses lifted or set aside. This they do in the interests of the public right to know and the transparency of the justice process as well, of course, as a matter of 'news'. Although this may seem to undercut the rights of victims, as *Brave* clearly reveals, the interests of victims are not well served by non-disclosure orders (NDAs). Far from women being shielded or protected by privacy, the women who raise complaints are subjected to the precise prospect they were persuaded they would avoid. The industry learns who is 'difficult', who 'creates trouble', who simply doesn't take the sexual importuning as a part of the job. Future prospects narrow. Auditions fall through. Job offers are withdrawn. Hence, although some of those who have taken the confidentiality route stay to persist in their efforts to make a career in film, television or theatre, some inevitably return to the obscurity from whence they came.

In researching the Weinstein story, Megan Twohey and Jodi Kantor heard the reality lying behind the fairy tale that non-disclosure agreements (NDAs) are negotiated for claimants' advantage and in their favour. Allred acknowledged this. After outlining the supposed benefits for her clients of such agreements, she confirmed that confidentiality clauses operate as a cover up for the perpetrators of sexual misconduct. The powerful figure 'wants peace, wants to end it, and wants to move on', says Allred, the contention being that this is merely a quid pro quo, an ad idem in that both seek to move beyond the claim and the event leading to it.<sup>19</sup> As it proves, however, the perpetrator, powerful man, does not want to move on 'in the same way' as the victim wishes. Not for him moving on carrying shame and fear and career disruption with him. Far from it. He wants to move on in the same way as he has moved on in the past, never curbing his conduct nor ending his exploitative and power grabbing ways of putting women down. Non-disclosure agreements allow him to do so. . Those devising them, on both sides of the negotiating table, know this. Lawyers fashioning these contractual arrangements are in no doubt.

The truth is, just as this practice does not help future victims to escape, the perpetrator, that powerful man, remains free to exploit and damage, exert power and subjugate and, where the women resist, destroy careers. Like Rose McGowan, Mira Sorvino and Ashley Judd had their careers truncated through the collusion of media and lawyers in protecting Harvey Weinstein's. They suffered the consequences of confidentiality agreements written between other actresses or workers with Miramax and The Weinstein Company. Years later, when the

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<sup>19</sup> Jodi Kantor and Megan Twohey (n 2) 78.

#MeToo movement gained traction not only in Hollywood, but internationally, directors came forward to acknowledge their part in protecting Harvey Weinstein along with their own film industry fortunes. So Ronan Farrow quotes the Aotearoa/New Zealand director Peter Jackson as saying that when he was ‘considering Mira Sorvino and Ashley Judd in *The Lord of the Rings*, Weinstein had interceded’.<sup>20</sup> Miramax ‘told us they were a nightmare to work with and we should avoid them at all costs,’ said Jackson, adding that at the time there was ‘no reason to question what these guys were telling us’.<sup>21</sup> In hindsight, acknowledges Jackson, ‘this was very likely the Miramax smear campaign in full swing’.<sup>22</sup>

*Catch and Kill* refers directly in its title to the media collusion underpinning the Weinstein story: ‘catch and kill’ is the term coined to describe the taking up of a story, then ‘killing’ or ‘spiking’ it, so that it never appears. The expose is effectively stricken from the record. Where the story takes the attorney track rather than trailing into the pathway of the journalist, the confidentially agreed settlement acts to put a firm cap on any exposure of harm, nullifying legal consequences. Thus are the women silenced. Thus are the misdeeds of Harvey Weinstein and his cohort disappeared. This meshes with Rose McGowan’s narration of the Weinstein world. *Brave* addresses the phenomenon as part of the ‘cult’ of Hollywood or that is Hollywood.

Growing up in a cult in the Italian countryside, the Children of God, Rose McGowan is well-versed in the practice of sect capture, control and collusion. Women are susceptible as devotees, and women are susceptible as being drawn in, to become a part of the supporting structure that maintains the power of the ruler of the cult. Ronan Farrow describes how this cult phenomenon worked for Mira Sorvino. Daughter of former actor (now deceased) Paul Sorvino, Mira Sorvino, is a Harvard graduate cum laude. A United Nations Ambassador to Combat Human Trafficking, she also ‘advocated for [other] charitable causes related to the abuse of women’.<sup>23</sup> At the 1995 Toronto International Film Festival, where she was promoting Woody Allen’s film *Mighty Aphrodite*, she ‘found herself in a hotel room with Weinstein’.<sup>24</sup> Unfortunately, she did not know – the truth so frequently concealed by the media’s ‘catch and kill’ approach to stories, and the attorneys’ confidentiality agreements – that this was Harvey Weinstein’s modus operandi. Mira Sorvino described that a shoulder massage (making her ‘very uncomfortable’) led to a ‘sort of chasing around’ and ‘trying to kiss’ leading to her having to

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<sup>20</sup> Ronan Farrow (n 2) 239.

<sup>21</sup> *ibid* 239–40.

<sup>22</sup> *ibid* 240.

<sup>23</sup> *ibid*.

<sup>24</sup> *ibid* 238.

‘scramble away’ whilst ‘improvising ways to ward him off’.<sup>25</sup> Having protested that it was ‘against her religion to date married men’, Sorvino left the room no doubt believing that her escape meant that was the end of the matter.<sup>26</sup> But persistence appears to have been a Weinstein trait, using career-orientated ploys to trap his targets. Hence, several weeks later when she was in New York City, Sorvino received an after-midnight phone call from Weinstein, asserting that he wished to meet up with her to discuss new marketing ideas for *Mighty Aphrodite*. An offer to meet with him at an all-night diner met with the rejoinder that he was ‘coming over to her apartment’, upon which he ‘hung up’. Sorvino called a friend, asking him to come to her apartment to ‘pose as her boyfriend’. Weinstein arrived first, bypassing the doorman. When, clutching her ‘twenty-pound Chihuahua mix’ to her chest, she told him ‘her boyfriend was on his way’, Weinstein departed, ‘seeming dejected’.<sup>27</sup> The response when Sorvino later spoke to a Miramax female employee, relating the harassment, is described in *Catch and Kill*: wearing ‘a look on her face, like I was suddenly radioactive’, the woman’s reaction ‘was shock and horror that I had mentioned it’.<sup>28</sup>

Hotel rooms appear to be de rigueur for predatory sexual harassers and rapists, at least in the film industry. Rose McGowan describes an episode early in her film career, when she worked as an extra and was targeted by ‘a guy on the set who was probably in his late forties’ (she was a young teenager).<sup>29</sup> Reminding him of her father in his nicer moments, he was friendly and jokey in his interaction with her. An invitation to ‘walk around downtown with him and some of the other extras’ was interpreted by her as just that – a group expedition. It proved to be a predatory meeting arranged with her alone, leaving McGowan feeling ‘dirty and ashamed’.<sup>30</sup> Now, as an adult, she recognises the man as ‘just another industry paedophile’,<sup>31</sup> but then she did not realise it. She classed the episode as an unwelcome sexual experience rather than as the assault it was. Lawyers who, in reading this together with other incidences recounted in *Brave* along with *Catch and Kill* and *She Said*, turn away as if this is irrelevant to their professional work show all too clearly how relevant it is, and how their ignorance and condescension are a part of the legal system’s problems.

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<sup>25</sup> *ibid.*

<sup>26</sup> *ibid.*

<sup>27</sup> *ibid* 241.

<sup>28</sup> *ibid.*

<sup>29</sup> Rose McGowan (n 10).

<sup>30</sup> *ibid* 74.

<sup>31</sup> *ibid* 75.

Similarly as to the Rose McGowan encounter with Harvey Weinstein, whom she determinedly, throughout the book, refers to never by name but as the ‘Studio Head’. In *Brave* McGowan writes that this took place in 1997, when she was promoting at the Sundance Film Festival the four movies in which she appeared that year, one short and three films. Her (female) manager animatedly advised that Weinstein was sitting behind her, Rose, in the cinema. Later, McGowan learned from her that the Studio Head had summoned her (Rose) to a business meeting the following day. This was set for 10.00 am at the restaurant in ‘the fanciest hotel in Park City, the Stein Eriksen’.<sup>32</sup> The restaurant was, of course, not to be. What was to be was the hotel room ... comprising the entire floor of the hotel. Later reflection had her realise that the ‘grim faced restaurant host’ who directed her away from the dining room to Weinstein’s hotel room, and the two assistants who exited the suite as she entered, had foreknowledge of what awaited her. In this backward reflection, she surmised that the duo saw her somehow as grubby and soiled even before she put one foot through the door.<sup>33</sup> Her genuine thought was that Weinstein had set up a business meeting because he cared about what she might say about the films, their production and their marketing. The view of others, she now realises, was that she was there for a purpose other than work. It was she who was wrong.<sup>34</sup>

It was only later that Rose McGowan discovered that warnings had been given to other actresses ‘about what could happen when this Studio Head summoned you to a meeting’.<sup>35</sup> Even later, she found out more, namely that although unknown to her as a new person in the industry, Harvey Weinstein ‘had a long track record of preying on young women’.<sup>36</sup> Even as long ago as 1997, his way of ‘doing business’ was ‘an open secret in the industry’.<sup>37</sup> ‘Everybody’ in the business side of Hollywood knew that if a young, female actress was called to a meeting, ‘it was probably going to go differently’ from what she expected.<sup>38</sup>

What comes through strongly in McGowan’s book is the failure of those with the power and responsibility to halt this exploitation and abuse, mainly of actresses, sometimes of young actors, to do so. She could focus on the lawyers, as do Jodie Kantor and Megan Twohey, or the media as does Rowan Farrow. Her book’s contribution lies, however, directly in the responsibility (or lack of responsibility) on the part of the film industry itself. What, she remarks, is the role of the union,

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<sup>32</sup> *ibid* 115–6.

<sup>33</sup> *ibid* 115–9.

<sup>34</sup> *ibid* 199.

<sup>35</sup> *ibid* 119.

<sup>36</sup> *ibid*.

<sup>37</sup> *ibid*.

<sup>38</sup> *ibid*.

the Screen Actors Guild? No support of women in the industry there, against the predatory conduct the industry knows is endemic. Why do producers not step in, when they know that directors are notorious for taking advantage of their role to engage in exploitation and abuse, and, not infrequently, bullying?<sup>39</sup> When a producer is on a film set with one of those notorious directors and young, vulnerable actresses or any actresses for that matter, each of whom may be vulnerable, why not step in? Why not at least warn or, better still, warn the director off? Why does the industry continue to employ and even worship directors and producers and others on-set who use their positions in an industry swathed in ‘glamour’ to indulge their selfish predilections, or to fail to call a halt to unprofessional and indeed criminal conduct? *Brave* takes the matter beyond Harvey Weinstein and into the industry as a whole, alongside the issue of power and male-female relations, with the impact of film and television and their depiction of women in the wider world. Surely the legal profession, as a part of both the inner and the wider world, should pay attention rather than shrug off these books and their message as lacking traction.

Why, asks Rose McGowan, should her job as an actress entail ‘being a piece of meat to be consumed and savaged and judged ...’<sup>40</sup> She describes walking the red carpet at film premiers in this way, doing what she is asked by the photographers, standing and twirling, looking back over her shoulder so that both her face and the rear of her body can feature in the image to be sold to the highest bidder. Hollywood, she writes, ‘thinks this is normal – they started it – but it’s not normal’.<sup>41</sup> This stereotyped view of what is ‘beauty’ is projected onto the world stage, with every female participant a part of the projection.<sup>42</sup> Underlying this is the question why women who are political activists, directors and producers in their own right are categorised simply as ‘actresses’ when the crimes of sexual abuse and rape are revealed.<sup>43</sup> McGowan’s demand is that the industry as a whole should change, to represent women as real human beings, in real roles, rather than as the artificial appendages common in movies where they are secondary characters to the main event, the male character.

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<sup>39</sup> *ibid* 75.

<sup>40</sup> *ibid* 131.

<sup>41</sup> *ibid*.

<sup>42</sup> *ibid*.

<sup>43</sup> See for example Miriam Haley (n 7); Ashley Judd is a producer and political activist: ‘Ashley Judd’, (IMdb) <<https://www.imdb.com/name/nm0000171/>> accessed 12 April 2020; Rose McGowan is a director: ‘Rose McGowan’ (IMdb) <<https://www.imdb.com/name/nm0000535/>> accessed 12 April 2020.

Beyond the immediate issue of #MeToo in Hollywood, *Catch and Kill*, *She Said*, and *Brave* extend their reach as commentary and critique of power and responsibility. Beyond the expose by Ronan Farrow of the surveillance carried out against the authors and Rose McGowan – possibly others – by a company known as ‘Black Cube’ on behalf of Harvey Weinstein and his company,<sup>44</sup> each of the books and their authors add an additional dimension. This makes an excellent coda for any review and reader who considers the responsibility she or he holds as a member of the community and within the legal profession.

As to *Catch and Kill*, Ronan Farrow’s personal reflection of his response to an episode in his own life indicates that even good men can lack insight. Even men striving to be decent men can be so much a part of the culture that they condone or at least consider that women should ‘go along to get along’ or simply stay still, be quiet and get on with life. Ronan Farrow confesses to this in relation to the revelation by his sister, Dylan Farrow, that their father Woody Allen had sexually abused her as a child,<sup>45</sup> a contention Allen has denied.<sup>46</sup> When the Harvey Weinstein story is in doubt, ‘people’ at the top of NBC going cold on it, an exchange occurs between brother and sister, Dylan and Ronan, highlighting that indeed the personal is political. She asks about the story, fearing that Farrow may drop it because of the pushback coming from NBC’s higher echelons. When he responds that there are other priorities, she replies that she knows ‘what it’s like to have people stop fighting for you’.<sup>47</sup> Later, when pressure returns for him to drop the story, he reflects upon his and her family’s reaction when Dylan Farrow advised of her intention to revive her allegation of sexual assault against Woody Allen. The notion of ‘just moving on’ played a significant part in the exchanges, at home in Connecticut where the discussion took place.<sup>48</sup> Finally, when the story is published by the *New Yorker*, he is forced to face up to his own connivance with the powerful, in his evasive response to questions about the (lack of) ethics of his former employer NBC in ‘killing’ the story.<sup>49</sup>

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<sup>44</sup> Ronan Farrow (n 2) 95–6.

<sup>45</sup> ‘Dylan O’Sullivan Farrow’ (IMdb) <<https://www.imdb.com/name/nm0642717/>> accessed 12 April 2020; BBC, ‘Dylan Farrow: outrage “after years of being ignored”’ (*BBC*, 17 January 2018) <<https://www.bbc.co.uk/news/entertainment-arts-42715715>> accessed 12 April 2020.

<sup>46</sup> BBC, ‘Woody Allen denies abusing his daughter Dylan Farrow’ (*BBC*, 8 February 2014) <<https://www.bbc.co.uk/news/world-us-canada-26096048>> accessed 12 April 2020.

<sup>47</sup> Ronan Farrow (n 2) 182.

<sup>48</sup> *ibid* 190.

<sup>49</sup> *ibid* 401–2.

## BOOK REVIEW

*Brave* has Rose McGowan reciting precisely why it is that she – along with Dylan Farrow and countless others – cannot simply ‘just move on’.<sup>50</sup> Referring to an incident during filming, where one of the male actors sexually assaulted her, she responds to the director who denies all knowledge of the incident, then reinvents it as ‘one actor spilling water on another’.<sup>51</sup> When in so doing he states that his job as director is ‘to make sure all my actors – male and female – feel as comfortable and protected as possible at all times’ she responds that she did not ‘feel comfortable’.<sup>52</sup> The director was, she says, speaking out of turn, engaging in misogyny, victim blaming and gaslighting in the dismissal of her experience. The body, she says, has memory. The memory of the mind changes every time an episode is returned to, reflected upon. But, she adds, the body’s memory is ‘more accurate’ than that of the mind.<sup>53</sup> Rightly, then, *She Said* ends with the story of Brett Kavanaugh at college, which surely will engage readers of the Denning, touching as it does upon the allegations made by Dr Christine Blasey Ford during the Senate hearings on the nomination of Kavanaugh to the United States Supreme Court.

In June 2018, Dr Blasey Ford e-mailed a friend ‘about her unease’ that the ‘favorite for SCOTUS’ was the man who ‘assaulted [her] at high school’.<sup>54</sup> His being her age meant that if appointed he would be on the Court ‘for the rest of [her] life’.<sup>55</sup> Jodi Kantor and Megan Twohey interview Blasey Ford, follow the story, watch the Senate hearings on television, see her give her evidence. Watch Brett Kavanaugh in his responses.<sup>56</sup> Then recite the outcome, namely that Kavanaugh is appointed. In all this, albeit aeons apart in their upbringing and career choice, just like Rose McGowan, Dr Christine Blasey Ford would say her body hasn’t forgotten.

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<sup>50</sup> Rose McGowan (n 10).

<sup>51</sup> *ibid* 102.

<sup>52</sup> *ibid*.

<sup>53</sup> *ibid*.

<sup>54</sup> Jodi Kantor and Megan Twohey (n 2) 193.

<sup>55</sup> *ibid*.

<sup>56</sup> For his denial, see Lawrence Hurley, Andrew Chung and Amanda Becker, ‘With anger and tears, Kavanaugh denies sex assault allegation’ (*Reuters*, 27 September 2018) <<https://www.reuters.com/article/us-usa-court-kavanaugh-idUSKCN1M70CY>> accessed 12 April 2020; Christina Wilkie, ‘Kavanaugh denies latest accusation: “This is ridiculous and from the Twilight Zone”’ (*CNBC*, 26 September 2018) <<https://www.cnn.com/2018/09/26/kavanaugh-denies-allegation-this-is-ridiculous.html>> accessed 12 April 2020; Eli Watkins, ‘Kavanaugh denies two additional accusations to Senate Judiciary Committee’ (*CNN Politics*, 28 September 2018) <<https://edition.cnn.com/2018/09/26/politics/brett-kavanaugh-allegations/index.html>> accessed 12 April 2020.

These three books should be required reading in all law schools, at least. Each has its own impact, its own perspective and approach. Together, they provide a profound antidote to the traditional way women have been seen and used in the film industry, and the traditional way in which the law has regarded women and shaped its response to rape, sexual exploitation and abuse. One might hope that readers of the Denning would understand the imperative need for extending the scope of their libraries.

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