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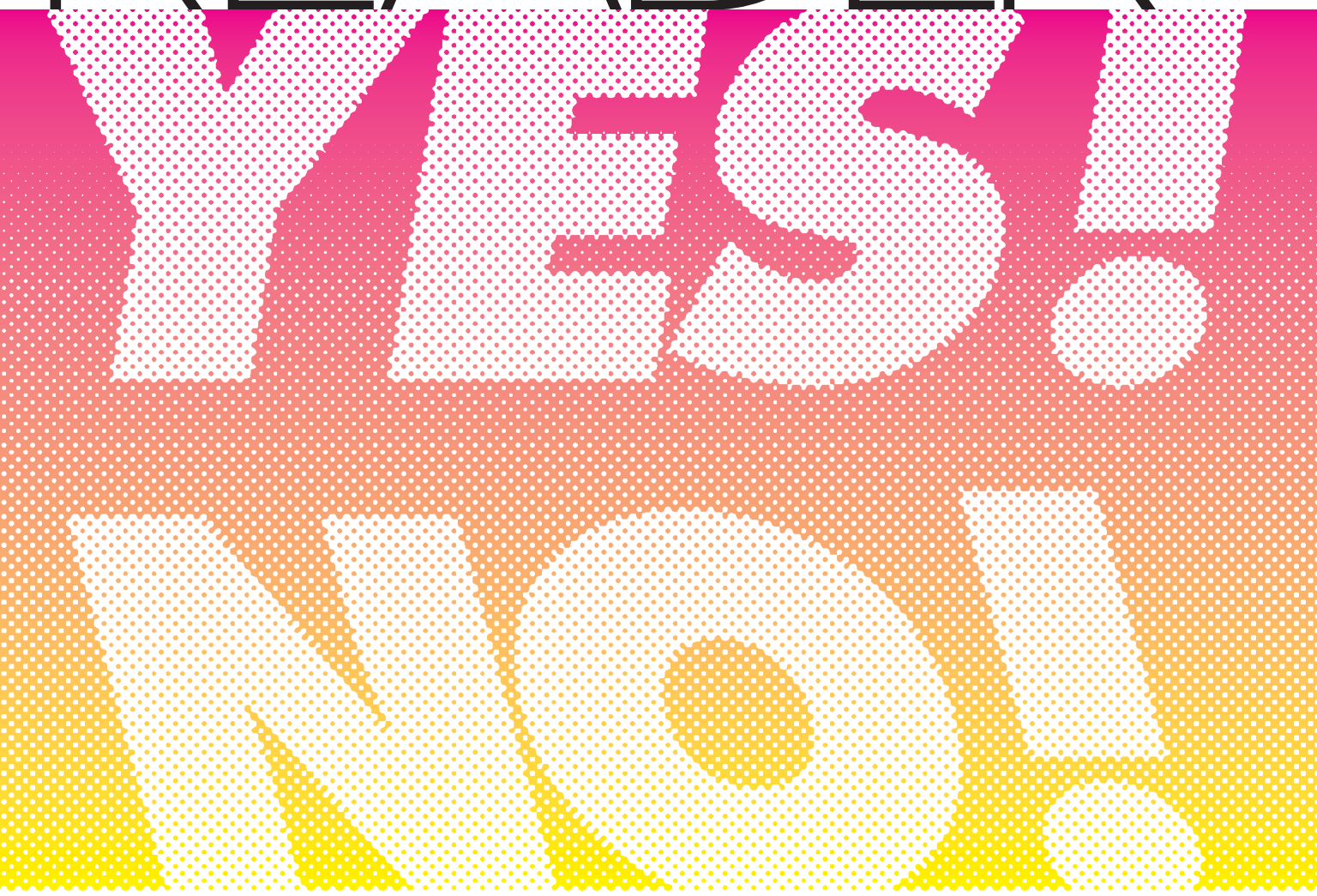

THE DEATH OF EROS?

Cristina Nehring asks whether new laws governing sexual behavior will do as much harm as good—to men *and* women

"Shall I take you home now?" he asked. It was one in the morning. I had recently arrived in a city whose geography was still opaque to me. I was in the car of a man I'd met at a dinner and who'd invited me to drinks.

"Yes, of course," I said, giddy from a goodly amount of rosé. Dozens of turns and traffic lights later, we pulled up in front of an unfamiliar apartment building. It was his home. Not my home.

My heart plunged. I'd never spent the night with a man. But what to do? Confess I'd misunderstood the question? Show that I, an international college exchange student, was that uncool, that frigid and frightened? Plead, like an innocent, to go home, to *my* home? I twisted my face into a smile, kept silent, and followed my companion to his flat the way I pictured a cow heading to slaughter.

There was a twin bed in his tiny apartment. One. "I'm beat," I murmured, and clambered, Goldilocks-like, into the small bed, turned against the wall, and attempted to stop audibly breathing. "Good night," he said after a long while, and climbed in behind me. I didn't move, didn't speak, and didn't unglue my face from his flowered wallpaper.

The night passed with excruciating slowness, punctuated only by an occasional attempt on my part to add inches to my black dress by tugging on its hem. And then, just before the sun rose, the man behind me began to stroke strands of hair out of my face. He stroked my temples, shoulder, shin, my bare side under my dress. His caresses explored, were eluded, slowed, circled, soothed, revived, roamed. Dawn broke slowly, and my defenses with it. Somehow, in these moments, I became his lover.

I remained his lover—and we a fast

couple—for the next six years. They were years of passionate devotion, discovery, complicity; years of nearly accepted marriage proposals, intercontinental moves, and high romance.

But then again, this was the 1990s. And this was Paris. Were it today and in the U.S., our first time together could readily be considered "rape."

As I write these words, the "yes means yes" bill governing behavior on college campuses has passed in my home state of California and is being enforced at UCLA, my alma mater. Similar "affirmative consent" policies have been adopted at more than 800 campuses around the country, according to the National Center for Higher Education Management. For sex to be legal between college students, the California law states, the noninitiating party must not just *not* say "no"; he or she must verbally, and soberly, pronounce "yes." If the noninitiating member has not audibly articulated her assent at every stage of the exchange, the encounter may legally be determined a rape, even if the couple have been lovers for a long time and no threat was implied.

Here is the text of the law: *Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them should never...be assumed to be an indicator of consent.*

Also: *It shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent... [because of] alcohol or medication [or] a mental or physical condition....*

We all understand that the law protects those who are unable to consent because of mental illness or impairment, but it's hard not to wonder what other mental conditions the legislators may have in mind. Infatuation, perhaps? Love, as biologists, neurologists, and poets have all attested, is a notoriously mind-altering condition, and thus, under California law, someone in love should never make any sexual decisions at all.

My French lover today would have almost every strike against him. His conquest: a disoriented foreign visitor, to whom he'd given drinks and never clearly told she was headed to his domicile; a girl who hadn't uttered a word of assent during their encounter and with whom he lacked any previous "dating relationship" but enjoyed a power differential via both local savvy and his status as director of an art group I'd just joined.

Yet rape—despite any and all stories of French seduction and love—is an unsettling and intolerable reality. To my Parisian tale I add another, one that took place 12 years earlier. I was eight.

It was a Christmas party in the suburban home of a family friend. My parents and I had attended it four years running. Which is why no one wondered when the host's 19-year-old son took me to an attic room while Santa was handing out gifts.

"I'll get you a better gift," he said as we entered a dimly lit space under the sloping rooftop. "Would you like this camera?" He retrieved a small Nikon from a chest. "I will give it to you if you take off your clothes."

"Why?" I asked, perplexed.

Another object came out of the chest. He unfolded it. This time it was a pocketknife. "What about this?"

I retreated.

"How about you lie down?" he asked.

"I'm not tired," I said, panic rising in my throat.

He tugged my skirt down with his free hand. Then, with equal rapidity, he pulled down his dress pants. Putting the knife out of my reach, he turned back to the chest and withdrew two rubber balls, twice the size of the bouncy toys my mother had sometimes bought me from coin-operated supermarket machines.

"Look," he said. "I put these here sometimes." He slid the balls into his briefs. "Girls make fun of you unless you have something in your pants."

"Let's go back to Santa Claus," I said.

He pushed me onto the carpet. Before I could react, he'd straddled me and was grinding the rubber balls against my pelvis. "If you make a sound, you'll be in *big* trouble with your parents," he said.

I kicked under his weight like a potato bug on its back. He tore off our underpants; the balls rolled idly across the carpet. He reached into the shadows and retrieved the knife. "And you'll be in trouble with *me*, too."

I lay paralyzed as he began to move back and forth. I did not understand what he was doing or why.

There was a final hard thrust, and it was over.

I did not say a word. Not then. Not when we rejoined the festive crowd downstairs. And not for many, many years after. I did not grasp until junior high school health class what exactly had transpired. That night, I did not know it was rape. I knew only that I was terrified. Sullied. And intimidated by young men for years.

A culture that conflates my suburban rapist and seducing Frenchman is a culture that is fundamentally confused. And I say this although I survived the encounter with the former reasonably well—better, in the long run, than he did. The young man who pinned me to his attic floor ended up, years later, in a mental institution, where he was killed by a fellow inmate who bludgeoned him to death. By the time I learned this, I felt, for the most part, only shock and pity. I had ceased torturing myself over that Christmas night some time before.

IT SEEMS CLEAR THAT SOPHIA WAS NOT OVERPOWERED BY STAN SO MUCH AS SHE TACITLY ACCEPTED A SEX-FOR-RENT DEAL WITH HIM.

But several hundred thousand women worldwide are raped every year with infinitely greater fallout than I experienced. They are left for dead, rather than escorted downstairs to see Santa Claus. Women's bodies—in Iran and India and Saudi Arabia and, yes, the United States—are mangled, their human dignity and intimate integrity trampled.

We owe it to these women—and to the girls protected under statutory rape laws, who often don't even realize that "no" is an option—to avoid mistaking emotional risk for actionable crime. The loudest of rape alarmists think of themselves as vanguard feminists—but, in a significant way, they are antifeminists: They turn their backs on the most victimized members of their sex; they confound messy human relations with criminal sexual coercion, ambivalence with iniquity.

Take a not-untypical story that originated recently, tore its way through the Internet, and sparked international debates on Facebook and Twitter. It was written by a 20-year-old woman named Sophia

Former football player—and male feminist activist—Jackson Katz thinks men hold the key to ending sexual violence. Read Nina Burleigh's profile of him at ELLE.com/jackson-katz.

Katz who made a trip to New York to network for her prospective writing career, after accepting a twentysomething editor's invitation to stay at his place. "Stan" had e-mailed her that she was "welcome to sleep in my bed—ha ha."

Sophia accepted his invitation, appeared in the editor's Brooklyn pad soon afterward, and spent many days accompanying him to readings and nights sleeping next to him in his bed. On the second night, "we were sitting on his bed and he began kissing me.... I had no interest in making out with him or having sex with him but had a feeling that it would 'turn into an ordeal' if I rejected him.... I knew I had nowhere else to stay, and if I upset him, then I might be forced to leave." When she hears his roommates enter, she speaks up: "Stan, please, can we just do this later? Your walls are really thin."

He reassures her that his roomies don't mind.

"Wait," she says, "aren't you going to use a condom?"

"Please don't make me do that..." he implores. "I'm clean. Are you?"

"There was no way for me to win," she declares, and gives herself over to the advances of her host. The scenario repeated itself again and again over the several days she remained in his flat. Back home, her networking trip over, she wrote about the incident.

Similarities between stories like Sophia's and my own are easy to spot: new girl in town, powerful host, some misunderstanding of host's intentions, no unambiguous verbal consent to sex. There are also differences. Sophia seems to have made some hardheaded calculations: She did not want her host's sexual advances, but she preferred them to maybe having to leave or arrange different accommodations.

The criminal law takes account of implied threat, where a woman fears harm based on a man's size, menacing demeanor, or factors such as blocked exits, but by Sophia's telling none of that pertained in her case. As difficult as it can be to judge the suffering of others, it seems clear that she was not overpowered by Stan so much as she tacitly accepted a sex-for-rent deal with him. Worrying that erotic activity will be overheard by acquaintances a few feet away—rather than, say, signaling to them for help—suggests assent. As does, perhaps, continuing to have sex with him after he brushed off her suggestion that he use a condom. To claim that Sophia presented to Stan "every iteration of 'no' that a person could muster," as a Salon writer and many others have done—is simply inaccurate.

Let me stop here to say that Stan is a jerk, a boor, and an opportunist. His encounter with Sophia was seedy. Had I stayed in his bed that night and subsequent nights, I'd regret it very badly too. But regret is not the same thing as being victimized.

The fact that a number of young (and less young) women feel moved to equate the two suggests a real fragility in our culture. As sex has become an expectation between available single persons rather than a surprise or a transgression, it has also become less tempting and meaningful. And as touch—via "Cuddle Up To Me" parlors, Tinder-style apps, and ubiquitous massage and sensual "service" providers—has become available on tap, it has grown easy for a person "tapped" to feel used and unsatisfied—especially when she is emotionally invested. But these are the risks of freedom.

WE EMBRACE ENDLESS RISKS IN OUR LIVES, THE FRUITS OF WHICH CAN MAKE US UNHAPPY OR UNPROUD OR ANGRY—JUST AS THEY CAN ENCHANT, INSPIRE, AND TRANSFORM US.

And if, by our teens, we have not followed Hamlet's advice to Ophelia to "get thee to a nunnery," there are endless risks and trade-offs we embrace in our lives. The fruit of these risks can make us legitimately unhappy or unproud or angry—just as they can enchant, inspire, and transform us for the better. Either way, the attempt to eliminate them, via Big Brother–like legislation and finger-pointing, is a cure often worse than the disease.

It's worse because it turns the clock back on gender equality and gender relations both. It cuts the breeze of freedom, exploration, and responsibility that was once integral to the American dream. In the distrust it sows between the sexes, in its reinfantilization of women, and in its recasting of eroticism as crime, it in fact puts one in mind of America's alleged antithesis, religious fundamentalists who stone women to death for being raped.

Regret about sexual mistakes is as old as Western civilization—and it is emphatically gender neutral. Shakespeare pays tribute to it at the beginning of the seventeenth century:

Th' expense of spirit in a waste of shame
Is lust in action...
Enjoyed no sooner but despisèd straight,
Past reason hunted; and, no sooner had
Past reason hated as a swallowed bait...

On the other end of the spectrum, Katie Roiphe evoked it at the end of the past century: Her 1993 book, *The Morning After: Sex, Fear and Feminism on Campus*, appeared in the wake of America's first college-rape panic. Roiphe was a student riding the collegiate romantic roller coaster—loving some, losing some, regretting some, and rousingly celebrating still others. She contends that the morning after a charged sexual-emotional experience can be painful, but that it's inseparable from a rich, free, and unsheltered existence. The only way to cure it would be to bleed the patient of life.

But the media, university, and government sex-assault panic has only barreled on since Roiphe's book, moving from Antioch College, an offbeat liberal arts college that pioneered the speech codes intended for sexual encounters in 1993, straight to the White House, which, in April 2014, created the Task Force to Protect Students from Sexual Assault. It is not the reality of sexual assault but its definition that has broadened in America. Where the word *rape* once implied the threat of violence, it now simply means, in the words of one new California college sex policy, that an "individual is hesitant, confused, uncertain" in the course of an erotic encounter.

To expel this uncertainty, we are encouraged, now, to preface our every sexual move with a question and documented answer: "May I kiss you?" (Please sign here.) This is the greater shame for the fact that the extraordinary virtue of erotic life is precisely that it is not identical to verbal life: If we require every touch to be preceded by a speech, the irreplaceable revelation of touch is eliminated.

All great love stories have a moment when the protagonists abandon the codified rigidities of language for the fluent river of sensuality. Take Dante's famous lovers, Paolo and Francesca, as captured

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perhaps most concisely in a sonnet by Edna St. Vincent Millay: Studying literature together one long afternoon, one of the two smitten scholars—till recently an awkward jumble of elbows and explanations—"lets fall the coloured book upon the floor." Or as Dante put it: "That day they read no more."

In our safety-checked and responsible culture, in our endlessly chattering, texting, blogging, brownnosing, apologizing, analyzing, verbalizing culture, eroticism may be the last frontier we can explore intuitively. Like dance, sexuality is at once preverbal and transverbal: It predates the word and outstrips it. To pin it down with questions and formulas is like pinning a butterfly to a wall. You can see it better there, but it no longer flutters. And neither, in all likelihood, does your heart.

There is a second, entirely different reason that the new regulations and terminologies are profoundly damaging: When we use the word *rape* to designate a hesitation during—or a second thought after—sex, we rob the victims of real sexual violence of credibility and support. To confound women who are overpowered with weapons or muscles or threats or fear with women who are simply of two minds about their romantic forays afterward is to obfuscate terror.

For when everyone is a rape victim, no one is a rape victim. When enfranchised women who take their chances with men they find attractive or useful are equated with those who are forced to have sex via threats or deeds, everybody loses: The enfranchised women are cheated of the personal equality and responsibility for which their feminist forebears fought. The women assaulted are robbed of legitimacy because those who might hear of their plight are increasingly desensitized to the concept of rape and fail to act with conviction to punish and prevent it.

We live in a world in which horror is real, and opportunities for activism abundant and insistent. We must protect and defend the women and girls in our midst who run the risk of sexual assault. But that is not best accomplished when we cry wolf at every sheep we spot. To do so turns our allies into skeptics, supporters into passive bystanders.

It also destroys the erotic wilderness. There must always remain some part in sexuality of the "selva oscura"—of Dante's dark forest, his mysterious wood. It cannot be all brightly lit airstrips, big arrows, wide landing lanes. The power of eros lies in its anarchism—in its surpassing and bypassing of the verbal, the logical, and the polite.

I've known disasters along my amorous way, but I've also known magic. And of one matter I'm nearly certain: I would never have pursued anything in love or bed had I been asked to consent to it in advance or explicitly name it afterward.

It's no accident, I believe, that two out of three major world religions prohibit us from naming the Godhead, from calling out what is most holy to us. The devil may be in the details—but the divine is in the abstract, the unpredictable, the forever unsayable. ●

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my body had honorably answered for my whole family this lingering question of whether there would be a next generation of Hodells. I'd done my duty, and now we could all move on. The two kids with their high, white socks were now undeniably middle-aged.

One afternoon, Christian e-mailed to say that he and Mikey had something important to talk to me about. His Important Conversations could be unpredictable and sometimes terrifying: Why He Is the Wrong Boyfriend for You; Your Job Is a Poisoned Chalice; That Lipstick Shade Does Not Flatter. (We all feared the familiar words, "I'm going to say this with love....") We Skyped; I trained my face to look serenely receptive.

But this time it was not about me. The comedy of it! While my family had glanced covertly my way, wondering when I'd get around to marrying, my gay brother had gone and done it. And now he'd visited a clinic in Connecticut to flip through binders of baby mamas. He and Mikey squeezed close so they'd both fit onto my monitor to say that they'd picked an egg donor—a pretty brown-eyed law student of Czech extraction from Rhode Island—and with luck and about $100,000, in a year's time they'd be parents. I hadn't even known they were considering it.

In Connecticut, Mikey and Christian met the law student for 15 nervous minutes before she was wheeled in to have her eggs vacuumed up. They both contributed—I didn't ask, but I imagined it involved specialized magazines in a toilet stall—and the results were eyedroppered onto her eggs. "We've got 13 embryos in the freezer," Christian reported expansively. "You could have one, if you want."

They'd also found a surrogate, the magnificent and sainted Sharla, who lived all the way out in Wichita, Kansas. She was flown to the clinic, and several embryos were implanted. Christian returned to London, and I was visiting him there—I'd moved back to the U.S.—when he got the news of a strong single heartbeat. Sitting in his fishbowl office with his staff clapping around him, he rejoiced and we all cracked each others' spines with hugs like a convention of chiropractors. But when he shut the door, tears glazed his eyes: "I mind that there aren't going to be two to grow up together."

Soon, Sharla e-mailed ultrasounds in which a little bean could be seen and then not seen, inky and blurred, like an old mezzotint. Christian and Mikey talked baby names for hours. "Now let's do jewels! Ruby. Pearl? Jade." In the end, she was Elsa. I flew to Kansas on her birth to be housekeeper while they figured out how to be parents. Christian was Papa; Mikey was Daddy. But the dot of blood harvested when she was minutes old would show that she was Christian's biological child. "That's mine," he whispered disbelievingly.

It would take a month to get Elsa's documents in order, and they rented a suite in a sort of shantytown for transient executives. Sharla pumped as much breast milk as she could. Bottles of it sat, unsettlingly yellow, in the fridge among our groceries. This generous stranger, no blood of ours, had the most sustained physical relation to Elsa of any of us. She had made her—or rather, she'd allowed Elsa to make herself inside her, spinning her little body from the genetic material of my brother and a woman none of us would ever see again.

Not everyone falls in love with a newborn. That is this auntie's secret. Elsa was a red and wrinkly visitor from outer space, skinny, with a slightly lopsided face and opaque mineral-blue eyes that minutely raked the face of whoever was bent over her with the bottle, searching as her little mouth worked. Things were most definitely going on in there, but who could say what? Her squalls were spasmodic, weak, shuddering, as if her small bones weren't sturdy enough to withstand the gusts of wanting. When I welled up at the noises of grief, Christian snapped, "Are you drunk?" He snatched her up, swaddled like a canapé, and speed-skated around the living room in his socks, singing Christmas carols as Elsa stared up at him, transfixed. He whisked past me. "There's Tatie Courtney!" This was the shocker. He was a natural father, easy, confident, fearless. How was he allowed to be different from me?

Wichita seemed to be all mall, and we toured one after another in an enormous rented SUV, shopping for the numerous items necessary for a weeks-old baby. Christian was explaining how her life was going to go. "She'll ski, and she'll speak French; she'll play tennis and the piano. Everything else she gets to pick for herself."

The atmosphere in the car shifted a little; I could tell he was working up to something. I glanced over at his profile with the ribbon of Kansas beyond it. His Byronic swoop of hair was clipped like Caesar's now, but he'd grown into his handsome nose, and I thought he looked very distinguished and not at all improbable at the wheel of the big car. "Tell me about the...about the coochy." He couldn't quite get the word out.

"You mean the vagina?" I bit down a laugh. Really, I was thrilled to be asked about a subject I could at last feel learned about. "Think of it as a kind of self-cleaning oven. You don't need to get up in there with any soap or whatnot. It takes care of itself as long as you keep the outside area clean...." And so I went on.

His knuckles tightened on the steering wheel after a time. "Okay, great. I don't think I can hear any more right now." He appeared to be breathing through his mouth. "But thanks. Really helpful."

Poor boy. I realized I didn't know if he'd ever seen a vagina up close, and now he was in charge of making someone feel comfortable about hers. We steered into a consoling Krispy Kreme drive-through with the HOT NOW sign lit up. I realized that it would probably be a decade before he next asked for my advice, when the dreaded menses loomed.

Elsa was no longer than my forearm, and there was just so much turbulence ahead. Girls are born with all the eggs they will ever have, enough to populate a small city. But these start dying off at birth, and only a few hundred of them will ever kick off into the fallopian tubes and mature into the big chance. Women have, I'd guess, about two decades of genuine, galloping fertility. Twelve periods a year, that's 240 shots at making a baby without enlisting a team of professionals and some lottery winnings. Why was I thinking about this already? She was a few weeks old. This was the telescoping nature of human endeavor. All that mad activity—going to parties, falling in love, buying houses, striving at work—could be smashed like a soda can into this flat fact: We have children so they can have children so they can have children. I had a blast of vertigo, as when you look into a puddle and see the stars falling away behind your head.

Elsa got her passport, Sharla's milk dried up, and we all dispersed, exhausted: Mikey and Christian to a wholly altered life, with unrecognizable hours and fears and blisses, and me back to mine, where there was still a sock lying in the middle of the rug and an empty glass in the sink.

I'm no Facebooker, but I started checking in daily to see photos of them settling in, 3,500 miles away. One morning Christian posted, *Last day of my paternity leave. Devastated. From this moment on, everything I do is for her and her wonderful daddy.*

Here it was: I'd been kicked out of our tiny Narnia. The wardrobe held only coats. The cold stone in my chest was the rightness of what he'd written. In his novel *On the Black Hill*, Bruce Chatwin describes grown twins: "Because they knew each other's thoughts, they even quarreled