Don't Alter Rape Law Because of Smith Case

To the Editor

In “The Palm Beach Hanging” (Op-Ed, Dec. 15), on the rape trial of William Kennedy Smith, Catharine A. MacKinnon suggests treating rape cases as civil cases, requiring proof by a preponderance of the evidence, rather than proof beyond a reasonable doubt. This suggestion is contrary to the interests of a society attempting to deal with rape as a real social problem, rather than an occasion for ideological rhetoric.

Although Professor MacKinnon may wish it otherwise, the state may not incarcerate, or otherwise criminally sanction, a defendant for a civil violation of sexual equality. Imagine her outcry if in following her suggestions, a state eliminated imprisonment as a penalty for rape and substituted a civil fine, just so it would be easier to hold the defendant liable. Of course, the victim of a rape already has the opportunity to bring a civil action against the offender.

Professor MacKinnon would have liked to make the question of whether William Kennedy Smith was a “sex bigot” central to his prosecution. I would not like to live in a society where one could be imprisoned (or even fined) for being a “sex bigot.” From her article, it appears not to be in Professor MacKinnon's interest either.

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