

Human Organization, Vol. 74, No. 3, 2015

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0018-7259/15/030276-11\$1.60/1

Title IX and the State of Campus Sexual Violence in the United States: Power, Policy, and Local Bodies

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In 2010, 21 million individuals were categorized as full- or part-time students in institutions of higher education in the United States. As the enrollment figures continue to grow, it is necessary to sharpen our focus on the lived experiences of those attending colleges and universities. Data indicate that one out of four college women are victims of sexual violence. Though the amount and magnitude of campus sexual violence federal legislation increases, there is little evidence to indicate that rates of campus sexual violence are decreasing. Following a rich history of anthropology concerned with violence and the structures of power that emerge around it, this article examines the process wherein legislation in the United States has invested substantial power and authority to colleges and universities with regards to campus sexual violence. I outline how college and university campuses are using this power to measure, name, and adjudicate acts of campus sexual violence. By situating college and university campuses at the nexus of state governance upon the body politic of campus students, I expose the disciplining nature of the state upon individual and communal bodies.

Key words: sexual violence, Title IX, higher education, structural violence, United States

In 2010, 21 million individuals were categorized as full- or part-time students in institutions of higher education in the United States (National Center for Education Statistics 2012). As the enrollment figures continue to grow, it is necessary to sharpen our focus on the lived experiences of those attending colleges and universities. Data indicate that one out of four college women are victims of sexual violence (Fisher 2004; Fisher, Cullen, and Turner 2000; Koss, Gidycz, and Wisniewski 1987), and between one-fifth and one-quarter of women students will be victims of completed or attempted rape (Fisher, Cullen, and Turner 2000; Fisher et al. 2003; Gross et al. 2006).¹ The problem of campus sexual violence

has become visible in the United States through various means. The news media increasingly exposes and investigates troubling investigations, such as the rape allegation case involving a college female and a Heisman Trophy-winning student athlete at Florida State University (Bogdanich 2014).² In addition, violence against women has been linked to other forms of highly visible criminal activity, such as the Virginia Polytechnic Institute and State University shootings in 2007 (Rasmussen and Johnson 2008). Finally, the Department of Education began posting publicly the names of higher education institutions for which sexual harassment complaints have been filed with the Office of Civil Rights. The initial list, released on May 1, 2014, included the names of fifty-five colleges and universities across twenty-seven states.

The Department of Education under the Obama Administration has placed a significant emphasis on addressing this crisis. This emphasis has resulted in new policies and guidance issued to colleges and universities with regards to the handling of reports of sexual violence. Following a rich history of anthropology concerned with violence and the structures of power that emerge around it, I critically examine the process wherein legislation in the United States has allocated substantial power and authority to college and university campuses with regards to campus sexual violence. The article examines the evolution of the policy infrastructures and systems put in place related to campus sexual violence through the lens of political economy. Specifically, through an

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ethnographic analysis of how violence is named at the local level, the mechanisms for measuring acts of violence, and the campus-based adjudication process, I argue that campuses are charged with extensive legislative authority that mimics the function of a state.

The Anthropology of Sexual Violence

The discipline of anthropology has historically been concerned with acts of violence and conflict, largely focusing on the presence of warfare or violence situated within cultural rituals, such as female genital cutting (see Wies and Haldane 2011a). However, these early studies tended to avoid casting an eye towards violence at the interpersonal level, namely what we would refer to today as gender-based violence.

The anthropology of gender-based violence has expanded significantly since the 1992 edited volume *Sanctions and Sanctuary: Cultural Perspectives on the Beating of Wives* (Counts, Brown, and Campbell 1992). While studies have since taken many directions, a particularly rich vein of work has examined the relationship between gender-based violence and the state. Parson's (2013) ethnography of social suffering in Chile confronts the mechanisms whereby the state reproduces inequalities that comply with the persistence of gender violence. Similarly, Alcalde (2010) traces women's experiences with domestic violence and the ways that those experiences intersect with state-imposed structures of inequality and violence in Peru. Located in a domestic violence shelter, Plesset's (2006) rich ethnographic data explores the institutions that respond to gender violence as intermediate agents of the state, while McClusky's (2001) deeply humanistic ethnography demonstrates the power of participant observation-based research to give voice to the women experiencing violence amidst an unstable state apparatus in Belize.

Anthropologists have also addressed sexual violence in particular. Sanday's (1981) analysis of ninety-five band and tribal societies to determine characteristics associated with "rape free" and "rape prone" practices provides a framework for linking violence against women with other cultural patterns. A 2010 *VOICES* special issue interrogates the issue of sexual violence through a medical gaze focusing on bodily health. Within the scholarly examinations is a call to disciplinary action, wherein the editors state, "Greater visibility might bring further research as well as policy implications, believing that ethnographic research exposing the problem of sexual violence would help to ameliorate its prevalence in contemporary everyday life" (McChesney and Singleton 2010:1). Following this call, Baxi's (2014) *Annual Review of Anthropology* piece interrogates the cultural systems that maintain silence around rape.

It is of note that studying gender-based violence does not always necessitate a focus upon individual or local acts of violence. Anthropology has also been applied to studies examining the radiating effects of sexual violence by focusing on the structures that develop in relation to sexual violence

and its aftermath. This includes focusing on the myriad front-line workers involved with intervention services (Wies and Haldane 2011b), medical structures that provide aftermath care (Wies and Coy 2013), and the legal systems that emerge to adjudicate acts of sexual violence (Hautzinger 2007).

Theoretical interests in political economy have prompted anthropologists to explore the relationships between gender-based violence and the state in ways that specifically interrogate structural inequalities. According to Adelman (2004), acts of violence are situated within (1) the organization of the polity, (2) the arrangement of the economy, and (3) the dominant familial ideology expressed normatively through state policies. By using a political economy framework, the anthropology of sexual violence can take into account the structural pressures that affect local level experiences of violence and trace them through state policies and larger-scale economic philosophies.

Studying the intricacies and relationships within these structural pressures exerted through state policies is enriched through an ethnographic approach and an anthropological perspective that takes into account core disciplinary tenets such as history and holism (see Wies n.d.). Ethnography has the potential to expose political economic processes despite the significant amount of power that sexual violence wields in contemporary societies, since the intimacy of the methodology exposes experiences that are often rendered invisible to researchers. In addition, interrogating the issue of sexual violence is acutely emotional and inextricably interconnected to power inequalities in society. An ethnographic approach is important considering the emotionality of engaging ourselves and members of our own community as research subjects around the topic of sexual violence. The victims with whom we interact may simultaneously be colleagues, friends, or students, thus we rely on the detailed descriptions and interpretations provided by an ethnographic approach that can capture the tensions and connections within a cultural system. The holistic and comparative nature of anthropology allows anthropologists to expose the familiar in unique and critical ways. This approach is our most useful tool for influencing social change.

My ethnographic experiences with campus sexual violence in the United States span several different roles, all of which inform the analysis of campus sexual violence policies presented here. This intersectional positionality has served as a mechanism for acquiring an intimate understanding of campus sexual violence. Since the year 2000, I have worked with, advocated for, and conducted research with victims of sexual violence on campus. I have volunteered with community-based rape crisis centers, worked full-time as a domestic violence shelter advocate, worked as the Victim Services Coordinator at a publicly-funded, land-grant university, and worked as the director for a private university's women's center. Throughout these roles, I have maintained a research agenda exploring gender-based violence response and intervention structures. My intersectional identity as a scholar, advocate, and activist has yielded rich fieldnotes and has

enabled me to access people and places that would otherwise be invisible. Additionally, in these roles, I have had unique opportunities to review, analyze, and apply campus sexual violence policies. My experiences in traversing these multiple and intersecting identities resonate with Ortner's (1995:173) perspective on ethnography: "It has always meant the attempt to understand another life world using the self—as much of it as possible—as the instrument of knowing."

The following provides an abbreviated history of policies that shape campus sexual violence responses, followed by an analysis of how these policies establish power structures within campuses to name, measure, and adjudicate campus sexual violence on behalf of the larger political-economic structures within which they operate. Through ethnographic and archival accounts, I trace how policies have changed in ways that create complicated systems of intervention and prevention on campuses that must be understood in a historical context.

A Brief History of Campus Sexual Violence Policies

To understand the machinery of campus sexual violence policies, I review the evolution of federal laws pertaining to campus sexual violence through an investigation of "the forms of and forces of both the global and the local" (Lazarus-Black 2007:160). Reviewing the policies that serve as overarching forces also supports a political economy approach to understanding sexual violence, which "examines interlocking structural factors, changes over time, and differences across space" (Adelman 2004:61). Further, this follows the approach that Dobash and Dobash (1983) call for when examining acts of violence against women, which is to situate the problem in historical, institutional, and interactional contexts.

This brief policy overview focuses on three important pieces of legislation for understanding college and university responses to sexual violence: Title IX of the Education Amendments of 1972, the Jeanne Clery Act of 1990, and the Violence Against Women Act, first passed in 1994. I begin with the implementing regulations of the Education Amendments of 1972, which declare in Title IX that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance." In its essence, Title IX calls for equal access to educational programs and activities based on gender. Our cultural imaginary has been guided by the legal cases focusing Title IX upon women's inclusion in sports activities and teams organized by educational institutions. However, the spirit of Title IX is to establish equal access to "any" educational program for men and women. Therefore, it also informs the policies guiding campus sexual violence policy and practice.

Next, there is the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990. This

requires schools to disclose crime statistics and information related to campus safety and security in an "Annual Security Report." The act references the tragic death of Jeanne Clery, a student at Lehigh University, who was raped and murdered in her campus residence hall in 1986. Without a federal mandate, there was no obligation for the university to make the crime information publicly available, and thus the institution did not. The 1990 Clery Act requires schools to report information related to crime statistics and missing persons. In addition, the 1990 Clery Act requires schools to provide timely warnings and emergency notifications to the campus community if there is a safety or security threat. Finally, the 1990 Clery Act mandates the provision of resources to victims of violence and notification services to victims related to their complaint. As the compliance authority for the Clery Act, the Department of Education may leverage fines of up to \$35,000 (per infraction) upon an institution that does not publicly make crime and safety information available by the annual October 1 deadline. In addition to fines, the Department of Education has the power to suspend the distribution of federal student aid packages to noncompliant institutions. With the implementation of the Clery Act, campuses across the United States developed processes for complying with the Annual Security Report mandates.

Finally in 1994, the United States Congress passed the Violence Against Women Act (VAWA) as part of the federal Crime Bill. VAWA was the result of more than four years of lobbying by more than a thousand organizations (Meyer-Emerick 2001). VAWA addresses several areas of women's physical and sexual safety and includes several areas where policies were clarified and practices were implemented to increase their safety. VAWA funds services for domestic violence and rape victims and for training police and court officials about domestic violence. In addition, the act provides victims the federal right to sue a perpetrator of gender-based violence. Finally, VAWA mandates that states and American Indian nations provide full faith and credit for restraining orders. The law seeks to move away from victim blaming to gaining the support and sympathy of the public for survivors of domestic violence (Brandwein 1999). Funding provided under the Violence Against Women Act allowed President Bill Clinton to announce a new national, 24-hour toll-free hotline in 1996. VAWA remains an important backdrop for campus sexual violence prevention because it provides both funding and continued national attention to the issue of gender-based violence broadly, inclusive of campus sexual violence. In fact, a VAWA "Grant to Reduce Campus Crimes Against Women" provided the soft monies for my first full-time campus advocacy position.

The rights and protections granted by VAWA provided for the development of an expansive infrastructure of violence against women intervention and prevention systems. However, for those of us in the campus anti-violence community during the early 2000s, the absence of a Title IX angle related to sexual violence, and an institution's lack of response to a victim's needs was a source of discussion and debate. When

I first began working full-time as a campus advocate directly with victims of sexual violence in 2005, the Title IX context for arguing that an institution was negligently unresponsive to sexual violence on campus—what is legally termed as “deliberately indifference”—was something I discussed with other advocates in private but not with clients. Yet, there was mounting momentum for considering the possibility of holding educational institutions accountable for such inaction. For example, in a 2007 case, “The court stated that under Title IX, a college or university can be said to have intentionally acted in clear violation of the law when the violence is caused by an official policy, which may be a policy of deliberate indifference to providing adequate training or guidance that is obviously necessary” (Lewis, Schuster, and Sokolow 2010:8-9). This ruling paved the way for issues of sexual violence and sexual harassment to be explicitly considered under the umbrella of Title IX, allowing campus citizens to lodge complaints against campuses in the event that those institutions failed to provide safe and equitable learning opportunities.

Then in 2009, the Center for Public Integrity released a report exposing the “open secret” of sexual violence on college campuses. The series of articles, collectively entitled “Sexual Assault on Campus: A Frustrating Search for Justice,” argued that significant gaps in services and policies exist on campuses across the United States. In the series:

The Center interviewed 50 experts familiar with the campus disciplinary process, as well as 33 female students who have reported being sexually assaulted by other students. The inquiry included a review of records in select cases, a survey of 152 crisis services programs and clinics on or near college campuses, and an examination of 10 years of complaints filed against institutions with the U.S. Education Department under Title IX and the Clery Act. The probe reveals that students deemed “responsible” for alleged sexual assaults on college campuses can face little or no consequence for their acts. Yet their victims’ lives are frequently turned upside down. For them, the trauma of assault can be compounded by a lack of institutional support and even disciplinary action. Many times, victims drop out of school, while their alleged attackers graduate. (Center for Public Integrity n.d.)

The Center for Public Integrity’s report and the companion reporting on National Public Radio gave the issue of sexual violence on campus unprecedented national attention, and campus constituents sought to harness this momentum to further address the issue of sexual violence in their communities.

While these discussions were gaining momentum in the public media at the national level, I was continuing to provide intervention services to victims of campus sexual violence. Attuned to the changing policy context by necessity, as any changes in national policy would directly affect the services that I provided or my position itself, I followed the news stories and carefully read listserv discussions about the increased attention to campus sexual violence. From the frontline advocate perspective, the notion that the inclusion of sexual harassment and sexual assault within an interpretation

of Title IX seemed inevitable. Thus in 2010, I found myself listening for the possibility of “deliberate indifference” by the institution when listening to a client’s story. Then on April 4, 2011, Vice President Joseph Biden and Department of Education Secretary Arne Duncan announced that, in response to growing concern at the local level and national attention towards sexual violence on college campuses, the relationship between sexual violence, education, and discrimination would be clarified. In a statement issued to colleges, universities, and schools across the country, the Assistant Secretary for Civil Rights, Russlynn Ali, (2011:1) wrote:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students’ rights to receive an education free from discrimination and, in the case of sexual violence, is a crime.

The “Dear Colleague Letter,”³ as it is referred to, provided unprecedented direction to campuses concerning sexual violence cases by clearly stating that sexual violence is a violation of the institution’s commitment to providing a discrimination-free learning environment under Title IX. Furthermore, the letter stated that schools should provide educational programs to prevent sexual violence.

On March 7, 2013, President Barack Obama reauthorized the Violence Against Women Act. Included in this Act is Section 304, commonly referred to as the SaVE Act. This Act expands the 1990 Clery Act by specifying additional categories of reportable violence, including: crimes based on gender identity, crimes based on national origin, domestic violence, dating violence, and stalking. In addition, this act requires that the Annual Security Report (established by the 1990 Clery Act) include statements pertaining to (1) the school’s programs designed to prevent domestic violence, dating violence, sexual assault, and stalking and (2) the policies and procedures that are in place when a report of these incidences are received.

A notable aspect of Section 304 is the mandate that colleges and universities provide prevention education related to domestic violence, dating violence, sexual assault, and stalking. This prevention education is required to be offered to all incoming students and all new employees of the institution and is to follow the model of bystander intervention, a prevention model that provides students with information about campus sexual violence and develops skills to facilitate everyday, peer-to-peer interventions to prevent acts of sexual violence. While there is evidence for increased intervention activities among student peers when training is implemented among college-aged students (Banyard 2008; Banyard, Plante, and Moynihan 2004; Coker et al. 2011; Gidycz, Orchowski, and Berkowitz 2011; Potter and Stapleton 2011), this initiative is an unfunded program. Thus, campus personnel are charged with introducing or strengthening prevention efforts without being given financial support for doing so.

State Policies, Local Bodies: Tracing Power

This brief history illustrates the ways that the federal government of the United States, through the Department of Education, has invested college and university campuses with substantial power to define and respond to campus sexual violence. In the following critical analysis, I outline how college and university campuses are using this power to measure, name, and adjudicate campus sexual violence. By situating college and university campuses at the nexus of state governance upon the body politic of campus students, I contribute to a growing body of anthropological research that exposes the disciplining nature of the state upon individual and communal bodies. The creation and maintenance of campus sexual violence policies constitute a unique lens into the cultural construction of policies at the local level and how this process is influenced by transnational discourses of gender violence (see Merry 2006).

Seeing Like a Campus: Naming Sexual Violence

In *Seeing Like a State*, Scott (1998) persuasively illustrates a variety of mechanisms deployed by states to “simplify” the complexities found in human societies with the goal of exacting greater and more precise governance. Scott shows that one of these mechanisms is to provide detailed categories of human behavior that can be easily summarized to promote direct rule. In a similar pattern, campuses in the United States are charged by the state via the Department of Education to define and codify campus sexual violence in an effort to create consistent structures for oversight.

The “Dear Colleague Letter” defines sexual violence as “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol.” These acts include “rape, sexual assault, sexual battery, and sexual coercion” (Ali 2011:1-2). However, the letter then purposively subsumes this definition within a larger framework of sex discrimination:

Title IX does not require a recipient to adopt a policy specifically prohibiting sexual harassment or sexual violence. As noted in the 2001 Guidance, however, a recipient’s general policy prohibiting sex discrimination will not be considered effective and would violate Title IX if, because of the lack of a specific policy, students are unaware of what kind of conduct constitutes sexual harassment, including sexual violence, or that such conduct is prohibited sex discrimination (Ali 2011:7).

As a result of this recent guidance, schools have adopted new language with the goal of distinguishing institutions of higher education from the criminal court system. The most notable change is the adoption of the term “sexual misconduct” rather than sexual assault or sexual violence. Indeed, the very term I use in this article, “sexual violence,” is no longer deemed advisable in a campus context. The phrase “sexual misconduct”

includes nonconsensual sexual contact, sexual harassment, nonconsensual sexual intercourse, and exploitation. In addition, the term “rape” is now replaced with “nonconsensual sexual contact” and voyeurism, bullying, domestic violence, and stalking all fall under the term “exploitation.” Nonconsensual sexual intercourse now includes penetration reports where the victim was assaulted without consent or by means of force.

And yet, the guidance is unevenly followed. For example, in a handout from the Office for Civil Rights entitled “Know Your Rights: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School,” the phrase “sexual violence” is footnoted with the following: “Use of the term ‘sexual harassment’ throughout this document includes sexual violence unless otherwise noted.” Yet, the title indicates that the information is about both sexual harassment and sexual violence.

More to the point, this turn-of-phrase in practice is poorly understood by the very people the policies are supposed to serve. In my experiences, student victims of sexual violence do not come in and report that they have been a victim of “sexual violence” or “rape,” much less “sexual misconduct.” Student victims often disclose that “something happened,” and it is the responder’s role to evoke meaning from that ambiguity. Therefore, frontline responders, such as professors (Richards, Branch, and Hayes 2013), student affairs personnel, campus advocates (Koikari and Hippensteele 2000), and student peers (Orchowski and Gidycz 2012) become responsible for “naming” an act of violence.

As an advocate, I participated in the naming process in two ways. First, I would allow a student victim to name their own experience (“something happened”), while sometimes invoking the labels of gender-based violence scholarship and activism, such as “sexual violence” or “rape.” Occasionally, student victims would adopt my language; other times, they would retain their own. Students who did name the violence often used the phrase “sexual assault,” which was largely driven by the campus leitmotifs invoking “sexual assault” in prevention programming and messaging. In the meantime, I would also perform my legislative mandates by recording my contact with the student victim and classifying their victimization according to the recommended categories.

Indeed, my own practices follow Scott’s (1998) argument in a compelling pattern. As a local actor, I engaged in the process of negotiating and creating, and occasionally subverting, state-instructed naming schemas. My naming imaginaries were influenced by the local-level interactions that I engaged in as well as the practical needs of the campus institution. However, those actions were persistently disciplined by the language of power developed by the campus in an effort to make local level experiences more accessible to the state. As a local-level actor, I drew power from the ambiguity of naming violence, as it allowed me to communicate with students in a way that was comfortable for them. However, that ambiguity also led to problems in identifying the form of violence on reporting forms and communicating to other employees about patterns of violence on campus.

Counting Cultural Artifacts: Measuring Sexual Violence

Another key vehicle for simplifying and standardizing local experiences is the development of techniques to consistently measure phenomena that are of official interest to the state. The reduction of local-level experiences into quantities defined by the state, using definitions determined by the state, provides an opportunity for the state to capture a slice of information about its citizenry. A significant amount of attention, activism, and legislation has tended to the issue of reporting sexual violence on campuses across the United States. This is the primary emphasis of the Jeanne Clery Act (described above) with the intent that colleges and universities are precluded from misrepresenting the safety of their campuses.

Therefore, campus sexual violence legislation charges colleges and universities to measure sexual violence and make those measurements available in various ways. Through the Annual Security Report, campuses are required to categorize and report numeric data related to sexual violence victimizations. The 2013 Campus SaVE Act specifies further that reports of domestic violence, dating violence, and stalking must be reported in the Annual Security Report. Yet, how do we measure acts of campus violence when such acts are designed to be invisible? In general, measuring campus sexual violence has presented a set of methodological challenges, including determining the range of sexual victimization behaviors, defining the interview and/or survey setting, and identifying the sample population (Belknap, Fisher, and Cullen 1999).

Also, the concept of measurement as a mechanism for social control is identifiable in the geographic construction of state-sponsored development spaces (Benda-Beckmann 2009; Scott 1998). Thus, to add another layer of measuring campus sexual violence, we must ask what denotes the "campus" as a space? Throughout this paper, I refer to college and university geographies as "campuses." While this is a useful term, it also immediately calls for a critical lens. A campus is both a geographic space and a social space; however, those spaces overlap and diverge.

Defining the campus spatially provides the colleges and universities a tool for encompassment in the bureaucratic practice of naming campus sexual violence, since defining the campus provides a way for the state to fold itself around a defined spatial area (Ferguson 2002). In the past, I witnessed campus leaders maneuver the "campus" label to preclude the reporting and adjudication of sexual violence experienced and perpetrated by students at off-campus locations. Colleges and universities could define campus sexual violence as sexual violence that occurs on the campus grounds only. According to these policies, campus sexual violence could only be labeled as such if the individuals involved were enrolled students and the assault took place on campus grounds. Thus, a case of sexual violence involving students at an off-campus location, such as off-campus apartments or fraternity and sorority houses, could not be labeled or adjudicated as campus sexual violence within this policy imaginary of "campus."

Indeed, I have witnessed the metric of "campus" transform over the past 10 years. I recall a female student disclosing a horrific, multiple perpetrator sexual violence experience. At the time, the university where I worked would not pursue adjudication of the case that was before me because the party occurred at a private apartment complex *across the street* from the campus property. This particular case was interesting, and memorable, because the student expressed a strong desire to report the sexual assault to the campus judicial board because the student victim felt that an educational punishment should be pursued. When she was advised that an educational sanction could not be pursued because the campus judicial process would not be applicable to her case, she indicated she was not interested in pursuing a criminal charge. This is not an unfamiliar pattern to campus advocates. Students often refuse to pursue criminal charges because they do not wish the perpetrator to go through the process (Jordan and Wilcox 2004). Ultimately, the student persisted in school for another semester, then dropped out and finished her degree at a college closer to her family's origin.

Furthermore, the identification of "campus" becomes important in an analysis of campus sexual violence because it adds a layer of identity, and therefore jurisdictional governmentality, to the nature of a sexual violence accusation. For example, the invocation of the "campus" label requires that the perpetrator and/or victim of the sexual violence have an identity affiliation with the college or university. In other words, to be labeled as campus sexual violence, it follows that the individuals involved in the sexual violence would be enrolled students of that college or university.

The process of defining "campus" intersects with the process of defining "student," which in turn provides additional nuances to these policies in action. For example, if a student is assaulted on-campus by a non-student individual, the victimization would be recorded in the Clery Act-mandated Annual Security Report. However, the student victim would not have an on-campus adjudication option, as the campus judicial system applies only to those *students* accused of violating the campus's code of conduct. The student victim may have civil and/or criminal options, and the campus would still be responsible for "measuring" the violent act and responding to the victim's needs.

These examples illustrate the ways that inconsistent measurements of campus sexual violence are produced at the local level, while still adhering to the traditional state-issued guidance regarding campus sexual violence. However, the 2011 Office of Civil Rights "Dear Colleague" letter makes it clear that educational institutions are obligated to address sexual harassment complaints filed by students, "regardless of where the conduct occurred" (Ali 2011:4). The reasoning behind this guidance is that a student who experiences sexual violence on campus may continue to experience sexual harassment on the school grounds. The result of this guidance is that colleges and universities are provided with firm support for consistently measuring "campus" both geographically and based on student identity.

Disciplining Victims: The Campus Judicial Process

In keeping with the campus-as-state analysis, this section traces the ways that campus judicial systems act as intermediary structures between the state and victims of violence. Indeed, campus judicial systems serve as the performative process wherein campus sexual violence is adjudicated on behalf of the state. Campus judicial processes often operate subliminally on campuses throughout the United States as very few students, staff, faculty, and family members become familiar with their process unless they themselves have had occasion to utilize it.⁴ The processes are relatively invisible to scholars and activists as well, since local-level intricacies are not described in the literature, and very few people have access to their internal workings.

I have witnessed numerous judicial board cases at various educational institutions that illustrate the complexities and paradoxes of the campus judicial system. Capturing these rituals ethnographically is difficult, as parts of the interactions and observations are protected by federal privacy laws, such as the Family Educational Rights and Privacy Act of 1974 (FERPA). In addition, as a campus sexual violence advocate, there is an explicit understanding that information provided to me is to remain in confidence. However, student victims have the right to disclose their cases publicly through news media, which places the details of their experiences within the public domain. Here, I combine my participant observation data with newspaper sources to tell the story of Emily's judicial board case, which illustrates the complexities of the campus judicial board process when applied to sexual violence (see also Adelman, Haldane, and Wies 2012). In this case, Emily and a male student left an off-campus party, and on the way to her apartment, something happened (Kurtzman 2009). Two hours later, Emily filed a report with the campus police indicating that she was raped. Before leaving the police station, Emily signed a document stating that she did not wish to pursue additional action in the case. However, Emily rescinded the "no action" statement weeks later and pursued both the on-campus judicial board process and a criminal charge with the county Prosecutor's office. The ensuing judicial board hearing was scheduled beyond the university's stated adjudication timeframe, frustrating Emily and leading to her ultimate withdrawal from the university. In the judicial hearing, Emily and the accused student sat in a hearing room while the judicial board asked questions and called in additional witnesses. He claimed the sexual intercourse was consensual. The judicial board found him responsible for rape and issued an expulsion notice. The perpetrator, a student-athlete who lost his scholarship, appealed the educational sanction and was permitted to remain on campus. The appeals board maintained a finding of responsibility, however, lessened his sanction to suspension, and permitted him to finish the semester. The criminal case that Emily lodged against the perpetrator was not pursued by the county prosecutor.

Through legislation, campuses are invested with the power to both adjudicate incidents of sexual violence and operate judicial systems distinct from those found in civil society. One of the most discussed items that emerged from the "Dear Colleague Letter" was the requirement that campus judicial boards adopt a model of "preponderance of evidence" when hearing campus sexual violence cases. A preponderance of evidence means that "it is more likely than not that sexual harassment or violence occurred" (Ali 2011:11). This effort to outline the specifics of a preponderance of evidence standard came in response to campus judicial procedures that previously relied upon a standard of evidence that required "clear and convincing" evidence to render a responsible finding. Determining a preponderance of evidence is considered a lower burden of proof than substantiating a clear and convincing standard. For example, in judicial board trainings, members of a judicial board may be taught that an accused student would be found responsible for an infraction such as sexual violence in a preponderance of evidence model if the judicial board feels that there is more than a 50 percent likelihood that the infraction took place. A clear and convincing standard indicates that those hearing the case would find an accused student responsible only if the evidence clearly indicates that the infraction was "highly probable." In cases of campus sexual violence, the difference between the clear and convincing standard and a preponderance of evidence standard is significant, since the cases often rely on the verbal evidence presented by the victim and the accused about an incident that happened behind closed doors. The move towards a preponderance of evidence standard conforms to the civil legal system, where the preponderance of evidence is more commonly used in civil cases.

Furthermore, the campus acquires the responsibility to process the findings from a campus judicial process in a manner distinct from the rest of society. The campus judicial process results in findings related to the responsibility and not the guilt of the accused person. Thus, a student accused of sexual violence would be found "responsible" or "not responsible," but not "guilty" or "not guilty." While the move towards the preponderance of evidence standard aligns the campus judicial process with civil society, the language of findings of responsibility is a very poignant move to *distinguish* the campus adjudication process from a criminal justice proceeding. Since the campus judicial process is by definition an educational process, a finding of "responsible" on college and university campuses may result in suspension or expulsion of the student found responsible. This effectively turns over responsibility for the possibility of rehabilitation to the civil sector or creates the possibility of an individual repeating the sexual misconduct behaviors at another college or university.

One of the more controversial aspects of the 2011 Department of Education guidance also deals with the judicial system. The "Dear Colleague Letter" clearly indicates that equal rights are given to both the victim and the accused in the campus judicial process. In Emily's case, this guidance

would clearly indicate that the accused student be allowed to remain on campus until he is found responsible so as not to violate *his* equal rights to educational programs and activities. The ability for campuses to recognize an alleged perpetrator equally in the process has opened up an additional level of consideration when conceptualizing the campus as a state and students as the citizenry. Increasingly, campus and community news stories focus on the students accused of acts of sexual violence who assert that the campus process was not properly followed or does not meet the mandates set forth by the federal legislation. These cases are cast into the spotlight with accused students now considered victims, not of campus sexual violence, but of *state-sponsored violence* wherein the campus neglected to ensure equitable access to educational programs.

In describing and analyzing the campus judicial system, I follow others who have shown that local actors manipulate state-level laws related to violence against women, specifically through the construction of judicial systems (Merry 2000, 2001, 2006) and the power systems constructed therein (Basu 2012; Lazarus-Black 2007). Through a political economy framework, this analysis of sexual violence cases in the campus judicial system takes into account the structural pressures that affect local level experiences of violence, which can be traced through the continued interpretations of federal policies.

The Political Economy of Campus Sexual Violence: Everyday Structural Violence

While the amount and magnitude of federal legislation regarding sexual violence on campuses increases, there is little evidence to indicate that rates of campus sexual violence are decreasing (Banyard et al. 2005). I have demonstrated how the continued legislation of campus sexual violence creates and sustains a contested campus environment, wherein institutions of higher education are mandated to measure, name, and adjudicate sexual violence on their own terms. Legislation creates the opportunity for campuses to operate in manners distinct from civil society, and the powers invested in campuses create opportunities for campuses to distort the lived experiences of campus sexual violence victims while providing documentation that they are in fact meeting their federally-mandated responsibilities.

Campus sexual violence policies establish students (and by extension, faculty and staff) as citizens of the college or university, governed by unique policies and practices. Since the law requires campuses to comply individually, campuses are invested with significant levels of power that increase the state's surveillance and discipline. This presents several problems for reducing campus sexual violence, providing intervention services, and investigating reports and adjudicating complaints of campus sexual violence. However, by conceptualizing campuses as extensions of state governance over sexual violence, we can begin to understand the mechanisms that govern bodies and identity construction.

Lazarus-Black (2007:160) suggests that, "Laws name behavior as a new crime when specific political, social, and economic conditions coalesce in ways that enable changes in earlier relations and structures of power." Indeed, by connecting local level translations of campus sexual violence policies within a political economy of larger structures of power, the nature of structural violence can be exposed. By interrogating the macro-level campus sexual violence policies and their translation to local-level cultural institutions, invisible structures are made apparent and show how "political and economic forces have structured risk for forms of extreme suffering" (Farmer 2003:30). Throughout this article, I have situated campuses as "institutions involved in the allocation of resources within a system of property rights regulated and guaranteed by governments in a system that ultimately rests on the threat of force" (Graeber 2012:112). In this context, structural violence is a result of state-sponsored violence against its citizenry through a resource distribution system that falls short of providing adequate, safe, and responsive care to victims of sexual violence and pursues a goal of campus sexual violence maintenance rather than reduction.

A structural violence framework allows us to examine and challenge the notion that violence is a normal, everyday operant within culture (Adelman 2004; Alcalde 2010; Das 2001; Parson 2013; Rylko-Bauer 2009; Scheper-Hughes 1992; Wies and Haldane 2011b). This is particularly insidious when connected with the data from victims of violence, who repeatedly indicate that they do not pursue reports of their violence because it is "normal."

Conclusion

As I complete this article, campuses are negotiating their new federal mandates under the 2013 Campus SaVE clause of the Violence Against Women Act. At the same time, the Department of Education has indicated that additional changes and clarifications related to campus safety and security reporting will continue to be issued (Mahaffie 2013). As higher education institutions establish new policies and processes in response to the federal policy guidance, local-level responses need to consider the history of policy formation. Within the current policy context, new avenues for evidence-based campus sexual violence prevention and intervention are emerging.⁵ However, all levels of actors need to be involved in the construction of processes to ensure that potential conflicts of interests are adequately noted. Oftentimes, frontline workers, such as victim advocates, are absent from the policy table, yet this article underscores the importance of their positionality and experiences for addressing vulnerabilities in the campus sexual violence intervention system.

Adelman (2008:514) suggests, "To be effective in terms of social change is to present unfamiliar ideas or introduce new ways of presenting unfamiliar ideas or introduce new ways of presenting existing phenomena." Anthropologically, the issue of campus sexual violence is a unique theoretical

moment wherein we can apply our understandings of how cultures with which we are often uniquely familiar develop explanatory models and actions within a particular political context. As anthropologists working in higher education, teaching, researching, leading field schools, and including students in their research or practice are thrust further into the position of serving the state amidst the new Title IX guidance, it will be important to keep Adelman's entreaty in mind. Effective change will not come from reproducing the same systems and processes built upon structural inequalities. Transformative change will require us to continually expose and critically analyze the complexity of campus sexual violence policies, as well as consider our own, individual avenues for practice and the application of anthropology to contemporary human problems.

Notes

¹For additional discussion pertaining to the measurement of campus sexual violence see Krebs (2014) and Rennison and Addington (2014).

²For a summary of case law related to campus sexual violence cases, see Lewis, Schuster, and Sokolow (2010). For a description of campus sexual violence cases, see Cantalupo (2014).

³While there are many "Dear Colleague Letters," the April 4, 2011 letter is the letter that plays most prominently into the discussion related to sexual violence on campus and Title IX.

⁴In this piece, I focus my attention on the campus judicial process pertaining to students. Reports of sexual misconduct among faculty and staff may also result in an investigation by the Title IX unit, a process that has come to dominate the handling of such reports.

⁵For example, Banyard (2014) suggests that campus prevention programs strengthen practitioner-research partnerships to develop more complex prevention models that may yield greater efficacy. In addition, Koss, Wilgus, and Williamsen (2014) offer a compelling case for integrating a model of restorative justice into the campus judicial process that can satisfy the federal legal requirements and take into account the interests of the higher education institution and the respective student conduct professionals while providing a compassionate environment for victims. Finally, in response to the Obama Administration's call for regular campus surveys of sexual violence, Cantalupo (2014) finds that while this directive initially is challenging, the results can yield important improvements in campus culture.

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