The Conceptual Morass of Sexual Misconduct Terminology in Higher Education

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PROJECT

Title IX prohibits sex discrimination in education, including sexual assault. Over the past decade, many higher education institutions (HEIs) have sought to change their policies and procedures in response to pressure from the federal government, the media, and student activism. This study of policies in 2016 is part of a larger project examining changes in sexual misconduct policies (SMPs) during a tumultuous legal period.

CONTEXT

- In 1988, Adams and Abarbanel August called for HEIs to make available policies defining, prohibiting assault.
- In 2014, the Obama Administration provided guidelines for HEIs that recommended standalone sexual misconduct policies that clearly define prohibited conduct and include the terms "sexual assault," "non-consensual sexual contact," and "non-consensual sexual intercourse."
- Women may interpret "sexual harassment" as only narrow, severe, and documentable acts, often to the exclusion of their own experiences. (Marshall, 2016; Shupe, 2019)
- Inconsistent and conflicting definitions may not only confuse students, but also impede research interpretations. (Fedina et al., 2016; NASEM, 2018)
- Consistent terms and definitions related to sexual misconduct thus may be an important factor in ensuring students can interpret and name their experiences, and they are critical to studying sexual misconduct on college campuses.

RESEARCH QUESTION

What terms associated with contact sexual assault were defined in HEIs' sexual misconduct policies?

METHOD

Data come from a nationally representative sample of 381 US colleges and universities. The lead author and a trained undergraduate research assistant coded sexual misconduct policies and student codes of conduct obtained from school websites in 2016. Coders captured definitions associated with contact sexual assault and the definition for sexual assault, if available.

DESCRIPTIVE RESULTS

- A total of 132 unique, defined terms were captured
  - 77% of terms were captured from a standalone SMP
- Each policy included as few as zero and as many as 20 defined terms
  - Most HEIs defined two (24%) or three terms (22%)
- Terms defined most often were sexual assault (68%), sexual misconduct (62%), non-consensual sexual contact (35%), sexual violence (30%), rape (28%), and non-consensual sexual intercourse (27%)

DEFINING SEXUAL ASSAULT

- At least one definition of sexual assault was provided by 258 HEIs (68%)
  - Of these, most (86%) provided a single definition
- Single definitions were coded as either *broad* (inclusive of non-penetrative contact sexual assault) or *narrow* (exclusive of non-penetrative contact sexual assault)
  - Example of a broad definition: *Sexual assault is sexual contact with another person without, or that exceeds, that person's consent.*
  - Example of a narrow definition: *Sexual Assault is defined as any sexual intercourse, however slight, by any person upon another person that is without consent and/or by force.*
- Most HEIs (90%) defined sexual assault broadly

DISCUSSION

- Changing definitions and cultural understandings of sexual violence have historically indicated broader shifts in women's political power, sovereignty, and citizenship. (Freedman, 2013)
- While HEIs are similar in that they typically aim for policies to be legally compliant, there is room for varying interpretations of what terms should be used and how or whether to define and provide examples of these terms.
- The proliferation of terms and clear lack of agreement in this sector suggests that there is a problem.
- As a result of decades of scholarship, advocacy, and legal reform, there is remarkable consistency in sexual harassment definitions among the same sample. Why have we not seen the same level of interest in clearly defining sexual assault?

Implications

- We propose HEIs provide a broad definition for sexual assault and define various types of sexual assault including rape and non-consensual sexual contact.
- We encourage and look to the American Law Institute, National Association of College and University Attorneys, Office for Civil Rights, Department of Education, policymakers and legislators in the federal government, and National Association of Student Personnel Administrators to advocate for consistency in terms and definitions related to sexual assault.

In future studies, we will:

- Explore the patterning of isomorphism among HEIs.
- Analyze sexual assault definitions with attention to which body parts and specific acts are mentioned.
- Examine the relations between HEIs' policies and state laws.

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RESEARCH TEAM

Broader Project Primary Investigators: Elizabeth A. Armstrong and Sandra R. Levitsky

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