Title IX, Campus Sexual Misconduct, and the Criminalization of a U.S. Civil Rights Law

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The status of women and girls in American education has changed dramatically since 1973, when the *AJS* published its special issue on gender inequality. Today, girls graduate from high school at even higher rates than boys (Reeves, Buckner, and Smith 2021; see also Goldin and Katz 2008). Women comprise the majority of college students (U.S. Census Bureau 2021a) and earn a larger share of both bachelor's and doctoral degrees (National Center for Education Statistics 2022a; 2022b). The percentage of women in tenure-track and tenured faculty positions has also increased, more than doubling from 20 percent in 1975 to 45 percent in 2020 (National Center for Education Statistics 2021; Glazer-Raymo 1999, 52).

Title IX of the Education Amendments of 1972 helped usher in this new era (Ferree and Hess 1995). The law bars sex discrimination in education programs receiving federal financial support. It is a direct result of second-wave feminism. In 1969, Bernice Sandler, an instructor at the University of Maryland, was told by a faculty member that she "came on too strong for a woman" to be considered for a tenure-track position (Sandler 2000). This treatment was not illegal under existing civil rights law.[1] Sandler collected evidence documenting women's unequal experiences in universities that she supplied to feminist organizations and politicians. This coalition worked to create a new law giving girls and women the right to an education free from sex discrimination (Boschert 2022).

The text of Title IX is ambiguous, which has enabled advocates to shape its scope over time. The central provision reads: "No person in the United States shall, on the basis of sex, be

[1] Title VII of the U.S. Civil Rights Act of 1964 prohibits sex and other types of discrimination in the workplace but excluded educational institutions until 1972 (Galles 2004). Title VI of the same act prohibits discrimination on the basis of race, color, and national origin in education but says nothing about sex.

excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The statute does not define sex discrimination or specify how schools should address it. Although Title IX is best known for promoting gender equity in athletics (Brake 2010; Suggs 2006), advocates have relied on the civil rights law to require schools to provide equal opportunity in admissions, financial aid, and STEM programs (35 C.F.R. Part 106; U.S. Department of Education Office for Civil Rights (OCR) 2007). They have extended its scope to protect pregnant and parenting students, gay and lesbian students, and will likely extend it further to protect transgender students under the Biden Administration's new regulations (OCR 2022).

Each of these areas of the law merits an essay. Here, we take stock of one of the most common—and politically contested—uses for Title IX today: its prohibition of sexual harassment, including sexual assault, within higher education. Transforming sexual harassment into a civil rights violation under Title IX, we argue, marked a significant step towards gender equity in universities. It gave victims rights and made visible the harms of harassment as a form of discrimination. But the emphasis in Title IX law and politics on post-assault grievance procedures has directed attention away from prevention, structural change, and the provision of support to victims. Federal guidance that encouraged universities to make their grievance processes more victim-centered fueled a backlash to protect the due process rights of accused students. Reflecting on the historical trajectory of this use for Title IX raises larger questions about whether and how we can realize the emancipatory futures promised by civil rights law.

THE INITIAL APPLICATION OF TITLE IX TO SEXUAL HARASSMENT

Title IX was not designed to confront sexual harassment. Indeed, the term "sexual harassment" as we understand it today did not exist at the time of the law's inception. Naming the problem was a first step towards making it into a civil rights violation under Title IX (Reynolds forthcoming). The term emerged from a consciousness-raising session at Cornell University in the fall of 1974 (Farley 1978; see also Baker 2008; Siegel 2004). Lin Farley—a journalist, antiwar activist, and radical feminist—held the session as part of a course. She and her colleagues broadcast the concept to build a movement around it. A letter from the Cornell women brought the term to the attention of feminist legal scholar Catharine MacKinnon (MacKinnon qtd. in Strebeigh 1991, 31). MacKinnon wrote an influential book in 1979 that developed a legal theory for why sexual harassment is a form of sex discrimination in employment under Title VII.

Before publishing *Sexual Harassment of Working Women*, MacKinnon helped expand Title IX to encompass sexual harassment through a lawsuit against Yale University.[2] The case emerged from close collaboration between feminist students and lawyers (Reynolds 2022a). MacKinnon introduced Yale women to the concept of sexual harassment through courses she taught while still in graduate school. One of her students, Ann Olivarius, sought to explore the problem at Yale through an original survey. After unearthing numerous accounts of faculty-student sexual harassment, including sexual violence, Olivarius and her peers appealed to administrators, seeking a formal outlet for harassment claims. But civil rights law had not yet recognized sexual harassment as a form of discrimination in employment or education. It was still considered "a way of life" for women on campus (Till 1980, 9; see also Freedman 2023).

[2] *Alexander et al. v. Yale University*, 459 F. Supp. 1 (D. Conn. 1977)

Olivarius sought counsel from MacKinnon, who connected her to feminist lawyers at the New Haven Law Collective. The students shared their experiences with the lawyers, who helped them research case law and administrative regulations. Together, the two groups discovered that Title IX required schools to have an internal grievance process for addressing claims of sex discrimination. This discovery served as the basis for a pathbreaking lawsuit, alleging that Yale had violated students' right to equal educational opportunity by failing to provide an adequate procedure for sexual harassment complaints. In his decision, Judge Arthur Latimer legitimated the idea that the *quid pro quo* sexual harassment of students by faculty is sex discrimination under Title IX. The decision transformed the meaning of the law and defined the sexual exploitation of women students by male faculty as illegal.

The ruling also spurred the development of university policies and procedures that mimicked the civil legal order. Yale administrators created a version of the sexual harassment grievance process that the students wanted (Brandenburg 1982). It served as a model for other universities (Crocker 1983). By 1985, four years after the U.S. Department of Education also recognized faculty-student sexual harassment as actionable under Title IX (OCR 1981), hundreds of schools had initiated procedures for responding to sexual misconduct (Robertson, Dyer, and Campbell 1988).

The successful application of Title IX to *quid pro quo* faculty-student sexual harassment enabled other forms of sexual harassment in education to become unlawful. Three court decisions were especially consequential. *Patricia H. v. Berkeley Unified School Dist.*, 830 F. Supp. 1288 (N.D. Cal. 1993) established hostile environment sexual harassment as actionable under Title IX. *Gebser v. Lago Vista Independent School Dist.*, 524 U.S. 274 (1998) defined when schools are liable under Title IX for teacher-student sexual harassment, and *Davis v.*

Monroe County Bd. of Ed., 526 U.S. 629 (1999) clarified that schools could also be liable for student-on-student sexual harassment. These decisions, along with 1997 and 2001 guidance from the Department of Education, extended the rights Title IX affords victims. They also encouraged universities to elaborate their sexual harassment policies, which now needed to address a broader range of incidents. Yet the application of Title IX to peer sexual assault remained unclear until the 2010s.

ALTERNATIVE APPROACHES TO CAMPUS SEXUAL ASSAULT

Other feminist approaches to campus sexual assault shaped how Title IX came to regulate the problem. The anti-rape movement of the 1970s produced women's centers, sexual assault prevention programs, and *Take Back the Night* marches on college campuses (Ake and Arnold 2018; Heldman, Ackerman, and Breckenridge-Jackson 2018). It prompted empirical research, including the 1987 study by psychologist Mary Koss that defined and measured "date rape" (Koss, Gidycz, and Wisniewski 1987). The movement also generated new policy. The 1994 Violence Against Women Act (VAWA) criminalized domestic abuse and sexual violence and provided $1.6 billion to investigate and prosecute these crimes. Congress dedicated a portion of VAWA monies to campus sexual assault that schools could use to strengthen both protections for victims and sanctions against offenders.

VAWA evinced a decades-long rise of carceral politics in the feminist campaign to reduce sexual violence (Bumiller 2008; Coker 2001; Gottschalk 2006; Gruber 2020; Kim 2020; Richie 2012). Whittier (2018) shows that feminists allied with tough-on-crime conservatives to secure VAWA and related laws, compromising in the process (see also Corrigan 2013). The feminists who worked on VAWA, for example, were grounded in an intersectional approach: they sought to assemble a diverse task force to develop legislation that could serve all women.

But members of Congress, especially conservatives, struggled with this intersectional framing. Ultimately, a frame melding the language of gender justice with that of criminal justice prevailed in VAWA. This gendered crime frame continued to dominate feminist mobilization against sexual violence into the 21st century (Bernstein 2012).

THE 2011 DEAR COLLEAGUE LETTER

The Obama administration initiated the first White House effort to combat campus sexual assault. Multiple factors—including campus activism (Gronert 2019), investigative journalism (e.g., Center for Public Integrity 2010; Ali qtd. in Shapiro 2010), and growing rights consciousness and an associated increase in the formal mobilization of Title IX (Peterson and Ortiz 2016; Reynolds 2019, 2022b)—encouraged Obama's Department of Education to issue new guidance on how schools should handle sexual misconduct under Title IX (Heldman, Ackerman, and Breckenridge-Jackson 2018). In 2011, the Department of Education issued a "Dear Colleague" letter (DCL) to schools, triggering a contentious—and ongoing—shift in the politics of campus sexual assault.

The letter was contradictory. On the one hand, it defined campus sexual assault as a civil rights issue and asked schools to protect the rights of complainants in grievance processes. The guidance encouraged the use of a preponderance of the evidence standard (i.e., "more likely than not"), the standard used in adjudicating civil rights lawsuits. The DCL also advocated for "single investigator models" that enable the adjudication of complaints without formal hearings (Cantalupo 2012, 506; see also Baker 2015). Such models lighten the burden on complainants but offer fewer due process protections for respondents (Porter, Levitsky, and Armstrong 2022).

On the other hand, the letter defined campus sexual assault as a crime. Its third sentence reads: "The sexual harassment of students, including sexual violence, interferes with students'

right to receive an education free from sex discrimination and, in the case of sexual violence, is a *crime*" (OCR 2011, emphasis added). This rhetorical move invoked the logic and stakes of the criminal justice system, which stacks the odds against victims (Collins 2016, 367; see also Brubaker 2019; Herman 1997; Koss, Wilgus, and Williamsen 2014). More generally, the guidance dedicated significant (if not exclusive) attention to processes aimed at holding individual perpetrators accountable.

The letter provoked a powerful backlash that supercharged the legalization and criminalization of university sexual misconduct processes. Understanding the sources and power of the backlash requires tracing the history of student due process rights in higher education.

DUE PROCESS AND THE CONFLICT OF RIGHTS

In *Dixon v. Alabama State Board of Education et al.*, 294 F.2d 150 (5th Cir.1961), six students sued Alabama State College for their unlawful expulsion. The college dismissed the students for protesting segregated service at the Montgomery County Courthouse lunchroom. The Fifth Circuit Court of Appeals held that public university students are constitutionally entitled to due process protections in serious disciplinary hearings. The decision, which the Supreme Court reaffirmed in 1975 (*Goss v. Lopez*, 419 U.S. 565 1975), "marked the beginning of a rush on many campuses to adopt legalistic, adversarial procedures that mirrored those of our criminal system" (Dannells 1997, 11).

Ensuring due process rights—not protecting victims—became a focal point for universities as they developed student conduct procedures that incorporated aspects of adversarial litigation proceedings. Student handbooks elaborated detailed procedures for hearings in sexual misconduct cases, with a trial-like setting that allowed parties to confront and question evidence provided by witnesses in front of a hearing board comprised of faculty, staff, and

sometimes students (Dannells 1997; Konradi 2017; Wilson 2015). Critics observed that while many of the features of these hearings were lauded for their due process protections, they offered few victim protections (Bohmer and Parrot 1993; Cantalupo 2021). For example, in-person cross-examination is known to be re-traumatizing for survivors of sexual assault (American Bar Association Commission on Domestic & Sexual Violence 2019; Parsons and Bergin 2010).

Although many schools later strengthened victim protections in student conduct processes (see Cantalupo (2008) for a comprehensive analysis), the 2011 DCL laid out a civil rights approach that explicitly placed the rights of complainants and respondents on more equal footing. The letter recommended grievance procedures that, to some, seemed insensitive to the stakes of rape allegations, expulsion from school, and the body of law safeguarding student due process rights. A diverse group of actors—including lawyers, professors, conservatives, self-identified feminists, and misogynistic men's rights organizations—joined together in protesting the 2011 DCL (American Bar Association Commission on Domestic & Sexual Violence 2019; Bazelon 2018; Halley 2015; Joyce 2017; Rudovsky et al. 2015). As the Department of Education stepped up investigations into universities for allegedly deviating from the guidance,[3] due process advocates decried the "pressure" on schools to overcorrect by creating procedures they saw as favoring complainants (Ellman-Golan 2017; Harris and Johnson 2019).

At the same time, students found responsible for perpetrating sexual misconduct on campus started suing their universities. They alleged due process violations, unfair sanctions, and/or anti-male bias under Title IX (Behre 2019; Buzuvis 2017). Many lawsuits proved legally meritless, but some raised issues that the courts considered legitimate, generating legal victories for those defending the rights of the accused (Dauber and Warner 2019; Harris and Johnson

[3] The OCR followed up the DCL by dramatically increasing enforcement: by July 2016, nearly 300 universities were under federal investigation for possible Title IX violations (Lipka 2016).

2019). For example, in *Doe v. Baum*, 903 F.3d 575 (6th Cir. 2018), the Sixth Circuit Court of Appeals required schools to use adversarial cross-examination instead of more victim-centered investigatory techniques.

After Trump's election, the backlash had access to the highest levels of power (Muratova 2021): Secretary of Education Betsy DeVos rescinded the DCL in September 2017 and issued new regulations in May 2020 (OCR 2017, 2020). The replacement rule—clocking in at 554 pages of legal jargon—rolled back victim protections and prioritized the due process rights of accused students (OCR 2020; see also Behre 2019; Cabrera 2021; Cantalupo 2021; Holland, Bedera, and Webermann 2020; Porter, Levitsky, and Armstrong 2022).

By invoking the language of crime and prioritizing punishment rather than prevention, the feminist civil rights approach set up a conflict between the rights of victims and accused students that further entrenched highly legalized (and increasingly criminalized) procedures for responding to campus sexual misconduct.

WHERE DO WE GO FROM HERE?

Contemporary university Title IX sexual misconduct procedures are at odds with the law's utopian promise (e.g., Albrecht, Nielsen, and Wuorinen 2022; Ispa-Landa and Thomas 2023). Organizational and sociolegal scholarship, from Weber forward, suggests that these bureaucratic structures are here to stay (DiMaggio and Powell 1983; Weber 1952). Feminists working inside universities confront the challenge of muting the harms of these structures and working to reform them to operate in the spirit of the law (Cruz 2021; Gualtieri 2020; Janson 2020).

The central goal of Title IX is to ensure that students are not denied the opportunity to fully participate in and benefit from their school's educational programs and activities on the basis of sex. A first step toward recentering that aspiration is attending to the perspectives of

anti-carceral and intersectional feminists, who have been consistently skeptical of turning to the law—especially criminal law—to advance feminist goals (Bumiller et al. 2011; Crenshaw 1989, 2012, 2016; Mahan 2017; Richie 2015; Whittier 2018). They often advocate for restorative or transformative justice approaches to repairing harm (Hudson 1998; Kim 2018; Méndez 2020). Listening to survivors to learn what they need to both heal and stay in school is key (Bedera 2021; Herman 2023; Porter 2022).

Perhaps most critically, the relentless focus on responding to individual incidents of sexual misconduct has eclipsed the importance of preventing sexual misconduct in the first place. How can we think about the social ecology of sexual violence on college campuses? What dimensions of the physical, social, and cultural environments of campus life make sexual violence more or less likely (Hirsch and Khan 2020)? How might more analyses that attend to the racialized nature of campus rape cultures provide insight into the causes behind—and ways to prevent—sexual assault (Grundy 2021)? How might organizational changes such as flattening university hierarchies, hiring and promoting more women and people of color, and training leaders to identify and intervene in problematic behavior help eliminate the conditions that lead to sexual harassment and assault (National Academies of Sciences, Engineering, and Medicine 2018; Hart, Crossley, and Correll 2018; Dobbin and Kalev 2019, 2022)?

Despite this critique of how Title IX has been interpreted and implemented in university policies governing sexual misconduct, it is important not to lose sight of progress since 1973. Sexual harassment has a name. Sex discrimination of all forms in education is widely viewed as illegitimate. Sexual misconduct policies prohibit many nonconsensual behaviors which, as Ahmed (2021, 58) argues, matters in and of itself. When Title IX was passed in 1972, no one predicted the evolution and impact of the law. Generations of students have discovered that Title

IX entitles them to an education free from sex discrimination. The law made and continues to make other worlds thinkable. With fifty more years of feminist scholarship and activism, our world will look unimaginably different than today.

REFERENCES

Ahmed, Sara. 2021. *Complaint!* Durham: Duke University Press.

Ake, Jami, and Gretchen Arnold. 2018. "A Brief History of Anti-Violence against Women Movements in the United States." In *Sourcebook on Violence Against Women*, 3–30. Thousand Oaks: SAGE Publications, Inc. https://doi.org/10.4135/9781483399591.

Albrecht, Kat, Laura Beth Nielsen, and Lydia Wuorinen. 2022. "Misunderstanding Law: Undergraduates' Analysis of Campus Title IX Policies." *Educational Evaluation and Policy Analysis*, https://doi.org/10.3102/01623737221113576.

Alexander et al. v. Yale University, 459 F. Supp. 1. 1977. D. Conn.

American Bar Association Commission on Domestic & Sexual Violence. 2019. "Recommendations for Improving Campus Student Conduct Processes for Gender-Based Violence." https://www.americanbar.org/content/dam/aba/publications/domestic-violence/campus.pdf.

Baker, Carrie N. 2008. *The Women's Movement against Sexual Harassment*. New York: Cambridge University Press.

Baker, Katharine K. 2015. "Why Rape Should Not (Always) Be a Crime." *Minnesota Law Review* 100 (1): 221–80.

Bazelon, Lara. 2018. "I'm a Democrat and a Feminist. And I Support Betsy DeVos's Title IX Reforms." *The New York Times*, December 4. https://www.nytimes.com/2018/12/04/opinion/-title-ix-devos-democrat-feminist.html.

Bedera, Nicole. 2021. "Settling for Less: How Organizations Shape Survivors' Legal Ideologies around College Sexual Assault." Ann Arbor, MI: University of Michigan. https://proxy.lib.umich.edu/login?url=https://www.proquest.com/dissertations-theses/settling-less-how-organizations-shape-survivors/docview/2638700574/se-2.

Behre, Kelly Alison. 2019. "Deconstructing the Disciplined Student Narrative and Its Impact on Campus Sexual Assault Policy." *Arizona Law Review* 61 (4): 885–944.

Bernstein, Elizabeth. 2012. "Carceral Politics as Gender Justice? The 'Traffic in Women' and Neoliberal Circuits of Crime, Sex, and Rights." *Theory and Society* 41 (3): 233–59.

Bohmer, Carol, and Andrea Parrot. 1993. *Sexual Assault on Campus: The Problem and the Solution*. Lexington Books.

Boschert, Sherry. 2022. *37 Words: Title IX and Fifty Years of Fighting Sex Discrimination.* New York: The New Press.

Brake, Deborah L. 2010. *Getting in the Game: Title IX and the Women's Sports Revolution*. *Getting in the Game*. New York: New York University Press.

Brandenburg, Judith Berman. 1982. "Sexual Harassment in the University: Guidelines for Establishing a Grievance Procedure." *Signs* 8 (2): 320–36.

Brubaker, Sarah Jane. 2019. "Campus-Based Sexual Assault Victim Advocacy and Title IX: Revisiting Tensions Between Grassroots Activism and the Criminal Justice System." *Feminist Criminology* 14 (3): 307–29. https://doi.org/10.1177%2F1557085118772087.

Bumiller, Kristin. 2008. *In an Abusive State: How Neoliberalism Appropriated the Feminist Movement Against Sexual Violence*. Durham, NC: Duke University Press.

Bumiller, Kristin, Vincent-Arnaud Chappe, Séverine Lacalmontie, and Francis Corson. 2011. "Victims in the Shadow of the Law." *Politix* 94 (2): 131–52. https://doi.org/10.3917/pox.094.0131.

Buzuvis, Erin. 2017. "Title IX and Procedural Fairness: Why Disciplined-Student Litigation Does Not Undermine the Role of Title IX in Campus Sexual Assault." *Montana Law Review* 78 (1): 71–108.

Cabrera, Jessica Grace. 2021. "A New Diagnosis of the Title IX Problem: Barriers to Ending Campus Sexual Harassment and Sexual Violence Through Civil Rights Law." Ph.D., United States -- California: University of California, Irvine. https://www.proquest.com/docview/2588066009/abstract/91D3EC963C974A94PQ/1.

Cantalupo, Nancy Chi. 2008. "Campus Violence: Understanding the Extraordinary through the Ordinary." *Journal of College and University Law* 35: 613.

———. 2012. "Decriminalizing Campus Institutional Responses to Peer Sexual Violence." *Journal of College and University Law* 38 (3): 481–524.

———. 2021. "The Title IX Movement Against Campus Sexual Harassment: How a Civil Rights Law and a Feminist Movement Inspired Each Other." SSRN Scholarly Paper ID 3870785. Rochester, NY: Social Science Research Network. https://doi.org/10.2139/ssrn.3870785.

Center for Public Integrity. 2010. "Sexual Assault on Campus: A Frustrating Search for Justice." Washington, DC.

Coker, Donna. 2001. "Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review." *Buffalo Criminal Law Review* 4 (2): 801–60. https://doi.org/10.1525/nclr.2001.4.2.801.

Collins, Erin. 2016. "The Criminalization of Title IX." SSRN Scholarly Paper ID 2879542. Rochester, NY: Social Science Research Network. https://papers.ssrn.com/abstract=2879542.

Corrigan, Rose. 2013. *Up Against a Wall: Rape Reform and the Failure of Success*. New York: New York University Press.

Crenshaw, Kimberlé W. 1989. "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics." *University of Chicago Legal Forum* 1989 (1): 139–67.

———. 2012. "From Private Violence to Mass Incarceration: Thinking Intersectionally about Women, Race, and Social Control." *UCLA Law Review* 59 (6): 1418–72.

———. 2016. *Keynote address: on intersectionality.* Presented at Women of the World Festival, London, UK, March 14. Video, 30:46. https://www.youtube.com/watch?v=-DW4HLgYPlA

Crocker, Phyllis L. 1983. "An Analysis of University Definitions of Sexual Harassment." *Signs* 8 (4): 696–707.

Cruz, Jacqueline. 2021. "The Constraints of Fear and Neutrality in Title IX Administrators' Responses to Sexual Violence." *The Journal of Higher Education* 92 (3): 363–84. https://doi.org/10.1080/00221546.2020.1809268.

Dannells, Michael. 1997. *From Discipline to Development: Rethinking Student Conduct in Higher Education. ASHE-ERIC Higher Education Report, Vol. 25, No. 2*. ASHE-ERIC Higher Education Reports, The George Washington University. https://eric.ed.gov/?id=ED408920.

Dauber, Michele Landis, and Meghan O. Warner. 2019. "Legal and Political Responses to Campus Sexual Assault." *Annual Review of Law and Social Science* 15 (1): 311–33. https://doi.org/10.1146/annurev-lawsocsci-101317-031308.

Davis v. Monroe County Bd. of Educ., 526 U.S. 629. 1999.

DiMaggio, Paul, and Walter W. Powell. 1983. "The Iron Cage Revisited: Collective Rationality and Institutional Isomorphism in Organizational Fields." *American Sociological Review* 48 (2): 147–60.

Dixon v. Alabama State Board of Education, 294 F.2d 150. 1961. United States Court of Appeals, Fifth Circuit.

Dobbin, Frank, and Alexandra Kalev. 2019. "The Promise and Peril of Sexual Harassment Programs." *Proceedings of the National Academy of Sciences* 116 (25): 12255–60. https://doi.org/10.1073/pnas.1818477116.

———. 2022. *Getting to Diversity: What Works and What Doesn't*. Cambridge, MA: Belknap Press.

Doe v. Baum, 903 F.3d 575. 2018. United States Court of Appeals, Sixth Circuit.

Ellman-Golan, Emma. 2017. "Saving Title IX: Designing More Equitable and Efficient Investigation Procedures." *Michigan Law Review* 116 (1): 155–86.

Farley, Lin. 1978. *Sexual Shakedown : The Sexual Harassment of Women on the Job*. New York: McGraw-Hill.

Ferree, Myra Marx, and Beth Hess. 1995. *Controversy and Coalition: The New Feminist Movement across Four Decades of Change*. 1st ed. New York: Routledge.

Freedman, Estelle B. 2023. "'Not a Word Was Said Ever Again': Silence and Speech in Women's Oral History Accounts of Sexual Harassment." *The Oral History Review* 0 (0): 1–19. https://doi.org/10.1080/00940798.2023.2182695.

Galles, Kristen M. 2004. "Filling the Gaps: Women, Civil Rights, and Title IX." *Human Rights* 31 (3): 16–18.

Gebser v. Lago Vista Independent School Dist., 524 U.S. 274. 1998.

Glazer-Raymo, Judith. 1999. *Shattering the Myths : Women in Academe*. Baltimore, Md: Johns Hopkins University Press.

Goldin, Claudia and Lawrence F. Katz. 2008. *The Race between Education and Technology.* Cambridge, MA: Belknap.

Goss v. Lopez, 419 U.S. 565. 1975.

Gottschalk, Marie. 2006. "Not the Usual Suspects: Feminists, Women's Groups, and the Anti-Rape Movement." In *The Prison and the Gallows: The Politics of Mass Incarceration in America*. New York, NY: Cambridge University Press.

Gronert, Nona Maria. 2019. "Law, Campus Policy, Social Movements, and Sexual Violence: Where Do We Stand in the #MeToo Movement?" *Sociology Compass* 13 (6): e12694. https://doi.org/10.1111/soc4.12694.

Gruber, Aya. 2020. *The Feminist War on Crime*. *The Feminist War on Crime*. University of California Press. https://www-degruyter-com.proxy.lib.umich.edu/document/doi/10.1525/9780520973145/html.

Grundy, Saida. 2021. "Lifting the Veil on Campus Sexual Assault: Morehouse College, Hegemonic Masculinity, and Revealing Racialized Rape Culture through the Du Boisian Lens." *Social Problems* 68 (2): 226–49. https://doi.org/10.1093/socpro/spab001.

Gualtieri, Gillian. 2020. "Symbolic Compliance and Student Concerns: Legal Endogeneity and Title IX at American Colleges and Universities." *Sociological Forum* 35 (1): 207–28. https://doi.org/10.1111/socf.12574.

Halley, Janet. 2015. "Trading the Megaphone for the Gavel in Title IX Enforcement." *Harvard Law Review* 128 (103). http://harvardlawreview.org/2015/02/trading-the-megaphone-for-the-gavel-in-title-ix-enforcement-2/.

Harris, Samantha, and KC Johnson. 2019. "Campus Courts in Court: The Rise of Judicial Involvement in Campus Sexual Misconduct Adjudications." *N.Y.U. Journal of Legislation & Public Policy* 22 (1): 49–127.

Hart, Chloe, Alison Dahl Crossley, and Shelley J. Correll. 2018. "Study: When Leaders Take Sexual Harassment Seriously, So Do Employees." *Harvard Business Review*, December 14, 2018. https://hbr.org/2018/12/study-when-leaders-take-sexual-harassment-seriously-so-do-employees.

Heldman, Caroline, Alissa R Ackerman, and Ian Breckenridge-Jackson. 2018. *The New Campus Anti-Rape Movement: Internet Activism and Social Justice*. Lanham: Lexington Books. https://rowman.com/ISBN/9781498554039/The-New-Campus-Anti-Rape-Movement-Internet-Activism-and-Social-Justice.

Herman, Judith L. 1997. *Trauma and Recovery: The Aftermath of Violence -- from Domestic Abuse to Political Terror*. Second. New York: Basic Books.

———. 2023. *Truth and Repair*. Basic Books. https://www.basicbooks.com/titles/judith-lewis-herman-md/truth-and-repair/9781541600546/.

Hirsch, Jennifer S., and Shamus Rahman Khan. 2020. *Sexual Citizens: A Landmark Study of Sex, Power, and Assault on Campus*. First Edition. New York: W. W. Norton & Company.

Holland, Kathryn J., Nicole Bedera, and Aliya R. Webermann. 2020. "The Selective Shield of Due Process: Analysis of the U.S. Department of Education's 2020 Title IX Regulations on Live Cross-Examination." *Analyses of Social Issues and Public Policy* 20 (1): 584–612. https://doi.org/10.1111/asap.12216.

Hudson, Barbara. 1998. "Restorative Justice: The Challenge of Sexual and Racial Violence." *Journal of Law and Society* 25 (2): 237–56.

Ispa-Landa, Simone, and Sara E. Thomas. 2023. "Navigating the Risks of Party Rape in Historically White Greek Life at an Elite College: Women's Accounts." *Sociology of Education*, March, 00380407231163799. https://doi.org/10.1177/00380407231163799.

Janson, Lara Helena. 2020. "Neutralizing Title IX: Hyperlegal Consciousness on College Campuses in the Age of #MeToo." Ph.D. diss., University of Chicago. https://www.proquest.com/docview/2427492107/abstract/76274D632AC743EAPQ/1.

Joyce, Kathryn. 2017. "The Takedown of Title IX." New York Times (Online). New York, United States: New York Times Company. December 5, 2017. https://www.proquest.com/docview/1972169521/abstract/57CDDF99ADE74B58PQ/1.

Kim, Mimi E. 2018. "From Carceral Feminism to Transformative Justice: Women-of-Color Feminism and Alternatives to Incarceration." *Journal of Ethnic & Cultural Diversity in Social Work* 27 (3): 219–33. https://doi.org/10.1080/15313204.2018.1474827.

Kim, Mimi E. 2020. “The Carceral Creep: Gender-Based Violence, Race, and the Expansion of the Punitive State, 1973–1983.” *Social Problems* 67 (2): 251–69. https://doi.org/10.1093/socpro/spz013.

Konradi, Amanda. 2017. “Can Justice Be Served on Campus? An Examination of Due Process and Victim Protection Policies in the Campus Adjudication of Sexual Assault in Maryland.” *Humanity & Society* 41 (3): 373–404. https://doi.org/10.1177/0160597616651657.

Koss, Mary P., Christine A. Gidycz, and Nadine Wisniewski. 1987. “The Scope of Rape: Incidence and Prevalence of Sexual Aggression and Victimization in a National Sample of Higher Education Students.” *Journal of Consulting and Clinical Psychology* 55 (2): 162–70. https://doi.org/10.1037/0022-006X.55.2.162.

Koss, Mary P., Jay K. Wilgus, and Kaaren M. Williamsen. 2014. “Campus Sexual Misconduct: Restorative Justice Approaches to Enhance Compliance.” *Trauma, Violence, & Abuse* 15 (3): 242–57. https://doi.org/10.1177/1524838014521500.

Lipka, Sara. 2016. “What the Future Holds for the Federal Crackdown on Campus Sexual Assault.” *The Chronicle of Higher Education*, July 31. https://www.chronicle.com/article/what-the-future-holds-for-the-federal-crackdown-on-campus-sexual-assault/?cid2=gen_login_refresh&cid=gen_sign_in.

Mahan, Margo. 2017. “The Racial Origins of U.S. Domestic Violence Law.” PhD diss., University of California-Berkeley.

Méndez, Xhercis. 2020. “Beyond Nassar: A Transformative Justice and Decolonial Feminist Approach to Campus Sexual Assault.” *Frontiers: A Journal of Women Studies* 41 (2): 82–104.

Muratova, Finley. 2021. “How to Survive Being a Student-Survivor.” *The Nation*, October 20. https://www.thenation.com/article/society/wendy-murphy-title-ix/.

National Academies of Sciences, Engineering, and Medicine. 2018. “Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine.” Washington, DC: The National Academies Press. https://doi.org/10.17226/24994.

National Center for Education Statistics. 2021. “Full-Time Faculty in Degree-Granting Postsecondary Institutions, by Race/Ethnicity, Sex, and Academic Rank: Fall 2018, Fall 2019, and Fall 2020.” Digest of Education Statistics. National Center for Education Statistics. https://nces.ed.gov/programs/digest/d21/tables/dt21_315.20.asp.

———. 2022a. “Undergraduate Graduation Rates.” National Center for Education Statistics. National Center for Education Statistics. https://nces.ed.gov/fastfacts/display.asp?id=40.

———. 2022b. “Doctor’s Degrees Conferred by Postsecondary Institutions, by Race/Ethnicity and Sex of Student: Selected Academic Years, 1976-77 through 2020-21.” Digest of Education Statistics. National Center for Education Statistics. https://nces.ed.gov/programs/digest/d22/tables/dt22_324.20.asp.

Parsons, Jim, and Tiffany Bergin. 2010. “The Impact of Criminal Justice Involvement on Victims’ Mental Health.” *Journal of Traumatic Stress* 23 (2): 182–88. https://doi.org/10.1002/jts.20505.

Patricia H. v. Berkley Unified School Dist., 830 F. Supp. 1288. 1993. N.D. Cal.

Peterson, Alyssa, and Olivia Ortiz. 2016. “A Better Balance: Providing Survivors of Sexual Violence with ‘Effective Protection’ Against Sex Discrimination Through Title IX Complaints.” *The Yale Law Journal* 125 (7): 2132–55.

Porter, Kamaria B. 2022. “Speaking into Silence: Intersections of Identity, Legality, and Black Women’s Decision to Report Sexual Assault on Campus.” PhD diss., University of Michigan.

Porter, Kamaria B., Sandra R. Levitsky, and Elizabeth A. Armstrong. 2022. “Gender Equity and Due Process in Campus Sexual Assault Adjudication Procedures.” *The Journal of Higher Education* 0 (0): 1–27. https://doi.org/10.1080/00221546.2022.2082784.

Reynolds, Celene. 2019. “The Mobilization of Title IX across U.S. Colleges and Universities, 1994-2014.” *Social Problems* 66 (2): 245–73. https://doi.org/10.1093/socpro/spy005.

———. 2022a. “Repurposing Title IX: How Sexual Harassment Became Sex Discrimination in American Higher Education.” *American Journal of Sociology* 128 (2): 462–514. https://doi.org/10.1086/722299.

———. 2022b. “The Diffusion of Federal Title IX Complaints throughout U.S. Colleges and Universities, 1994–2014.” *Social Science Research* 108 (November): 102781. https://doi.org/10.1016/j.ssresearch.2022.102781.

———. Forthcoming. *Interactions into Imperatives: Students, Lawyers, and the Application of Title IX to Sexual Harassment*. Princeton, NJ: Princeton University Press.

Reeves, Richard V., Eliana Buckner, and Ember Smith. 2021."The Unreported Gender Gap in High School Graduation Rates." Washington, DC: Brookings. https://www.brookings.edu/blog/up-front/2021/01/12/the-unreported-gender-gap-in-high-school-graduation-rates/.

Richie, Beth. 2012. *Arrested Justice: Black Women, Violence, and America’s Prison Nation*. New York, NY: New York University Press.

———. 2015. “Reimagining the Movement to End Gender Violence: Anti-Racism, Prison Abolition, Women of Color Feminisms, and Other Radical Visions of Justice.” *University of Miami Race & Social Justice Law Review* 5 (2): 257.

Robertson, Claire, Constance E. Dyer, and D’Ann Campbell. 1988. “Campus Harassment: Sexual Harassment Policies and Procedures at Institutions of Higher Learning.” *Signs* 13 (4): 792–812.

Rudovsky, D, S Bibas, S Balganesh, M Berman, S Burbank, J Fisch, J Gelbach, et al. 2015. “Open Letter from Members of the Penn Law School Faculty,” February 18. http://media.philly.com/documents/OpenLetter.pdf.

Sandler, Bernice R. 2000. ““Too Strong for a Woman"—The Five Words That Created Title IX.” *Equity & Excellence in Education* 33 (1): 9–13. https://doi.org/10.1080/1066568000330103.

Shapiro, Joseph. 2010. “Campus Rape Victims: A Struggle For Justice.” *NPR*, February 24. https://www.npr.org/2010/02/24/124001493/campus-rape-victims-a-struggle-for-justice.

Siegel, Reva. 2004. “Introduction: A Short History of Sexual Harassment.” In *Directions in Sexual Harassment Law*, edited by Catharine MacKinnon and Reva Siegel, 1–42. New Haven: Yale University Press.

Strebeigh, Fred. 1991. “Defining Law on the Feminist Frontier.” *New York Times Magazine*, October 6.

Suggs, Welch. 2006. *A Place on the Team: The Triumph and Tragedy of Title IX*. Princeton, NJ : Princeton University Press.

Till, Frank J. 1980. “Sexual Harassment. A Report on the Sexual Harassment of Students.” ED197242. Washington, DC: National Advisory Council on Women’s Educational Programs. https://eric.ed.gov/?id=ED197242.

U.S. Census Bureau. 2021a. “Percentage of 18- to 24-Year-Olds Enrolled in College, by Level of Institution and Sex and Race/Ethnicity of Student: 1970 through 2020.” Digest of Education Statistics. National Center for Education Statistics. https://nces.ed.gov/programs/digest/d21/tables/dt21_302.60.asp.

U.S. Department of Education Office for Civil Rights. 1981. “Memorandum from Office for Civil Rights Director for Litigation, Enforcement and Policy Service, Antonio Califa, to Office for Civil Rights Regional Directors,” August 31.

———. 1997. “Sexual Harassment Guidance 1997.” Policy Guidance. US Department of Education (ED). March 13. https://www2.ed.gov/about/offices/list/ocr/docs/sexhar01.html.

———. 2001. “Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties.” U.S. Department of Education. https://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf.

———. “2007 Dear Colleague Letter,” June 22. https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20070622.html.

———. “2017 Dear Colleague Letter,” September 22. https://www2.ed.gov/about/offices/list/ocr/letters/colleague-title-ix-201709.pdf.

———. 2020. “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.” Department of Education. https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal.

———. 2011. “Dear Colleague Letter [Rescinded],” April 4. https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html.

———. 2022. “The U.S. Department of Education Releases Proposed Changes to Title IX Regulations, Invites Public Comment.” June 23, 2022. https://www.ed.gov/news/press-releases/us-department-education-releases-proposed-changes-title-ix-regulations-invites-public-comment.

Weber, Max. 1952. *The Protestant Ethic and the Spirit of Capitalism*. New York: Scribner.

Whittier, Nancy. 2018. *Frenemies : Feminists, Conservatives, and Sexual Violence*. New York, NY, United States of America: Oxford University Press.

Wilson, Robin. 2015. “Colleges Call in Legal Pros to Handle Sexual-Assault Cases.” *The Chronicle of Higher Education*. February 16. https://www-chronicle-com.proxy.lib.umich.edu/article/colleges-call-in-legal-pros-to-handle-sexual-assault-cases/.