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RESTORATIVE JUSTICE FOR CURBING CAMPUS SEXUAL VIOLENCE

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Restorative justice approaches can facilitate healing and have been shown to minimize the number of repeat offenses. Stock image.

Forcible sex offenses represented 29% of all reported campus crime in 2015.¹ Current implementations of Title IX policies in higher education emphasize punitive responses to sexual assault rather than restorative methods which require counseling for affected parties. The tendency toward punishment neither attends to the needs of assaulted students nor of those perpetrating assault, and studies have shown that members of both populations are likely to have been assaulted in the past. Further, the use of campus law enforcement to address sexual assault reproduces racial, gendered, and sexual inequality that results in the disproportionate victimization, over-policing, and criminalization of people of color and gender non-conforming people.

Given that 69.7% of 14- to 17-year-olds in the United States have been assaulted, and of those, 27.4% have been sexually victimized, universities and colleges cannot ignore students' prior histories of abuse or how intersectionality shapes students' experiences of sexual violence.² This brief presents restorative justice approaches that aim to address these issues.

SEXUAL VIOLENCE IS A MAJOR issue on college campuses across the nation. 23.1% of undergraduate college women and 5.4% of men experience rape or sexual assault.³ Approximately one in ten graduate and undergraduate students experience rape at college.⁴ There were about 8,000 police-reported cases of forcible sex offenses at colleges in 2015, a 262% increase since 2001.⁵

Negative stereotypes about people of color and gender non-conforming persons have placed them at a higher risk of both sexual abuse and accusations of campus sexual violence. For example, Black women, men, and gender non-conforming persons are often depicted as more promiscuous and thus sexually available than their white peers.⁶ These stereotypes mean that they are more vulnerable to sexual violence. Studies show that Black women and gender non-conforming people of all races are more likely to be victims rather than perpetrators of sexual assault. Of a sample of Black college women, 37.6% had experienced rape.⁷ Another study found 21% of transgender, genderqueer, or non-conforming undergraduate college students have been sexually assaulted twice.⁸ Although high-profile cases of campus sexual assault often involve perpetrators who are

white men, Black men, who are often stereotyped as deviant or criminal, are more likely to face legal consequences for perpetrating sexual violence.⁹ While schools are not required to disclose the identities of accused persons, we can extrapolate from studies undertaken within the population at large to estimate the impact on Black men. A nationwide study of arrests in the United States found that Black men represented a plurality of people arrested for sexual assault at 49%, while white men made up 38%.¹⁰

An additional problem with current approaches to sexual violence is the failure to deal with the cyclical nature of violence and trauma. Studies of college students who either perpetrated sexual violence or were victims of sexual violence found that many had prior experience with abuse as children.¹¹ One study found that college students who had survived childhood sexual assault were two to three times more likely than their peers to be assaulted in adolescence and at college.¹² Also, college men who were sexually victimized as children were twice as likely as non-victims to perpetrate sexual coercion as adolescents, which in turn increased their likelihood of sexually assaulting others during college.¹³ Still, policy has failed to recognize violence as a cycle, and the ways that racism and sexism increase different demographic groups' experiences with the cycle of sexual violence.

CRITIQUE

First instituted by the Office of Civil Rights (OCR) in 1972, Title IX prohibits sex discrimination, including sexual violence, in schools that receive federal funds. Over the years, various documents have attempted to clarify its meaning including the 2001 "Revised Sexual Harassment Guidance" and

the Obama Administration's "Dear Colleague" letters of 2011 and 2015.¹⁴ These policies require that each school designate a Title IX Coordinator whose duties include "overseeing all Title IX complaints" and "addressing any patterns or systemic problems that arise during the review of such complaints." The language of these policies thus emphasizes the policing role of this position.¹⁵ Furthermore, the preventive education that the policies suggest places students in the role of law enforcement by emphasizing that schools teach students how to identify and report sexual misconduct. According to the 2001 "Revised Sexual Harassment Guidance" currently in effect, training for students "can help to ensure that they understand what types of conduct can cause sexual harassment and that they know how to respond."¹⁶ Similarly, the "Dear Colleague" letters suggest that preventive education can be squeezed into new student orientation programs, staff trainings, and "back to school nights," implying that the subject matter can be handled in a brief information session.¹⁷ Title IX does not acknowledge the role that childhood sexual abuse can play in adult students' experience with sexual violence. Furthermore, these documents fail to address ways that race and other markers of one's identity have historically rendered certain groups more susceptible to sexual violence and conviction of sexual violence.¹⁸ Current policies to curb campus sexual violence neglect students' needs to heal from past experiences of violence.

RECOMMENDATIONS

Instead of emphasizing policing methods, Title IX should require an equitable restorative justice approach as an initial step to addressing cases of campus sexual violence before any punitive measures are pursued. A restorative

justice approach seeks answers to the following questions: Who was harmed? What needs contributed to the incidence? How can the harm be repaired, relationships repaired, and future harm avoided?¹⁹ Interventions often take the form of counselor-facilitated healing circles with affected individuals to seek answers to these questions. While restorative justice approaches have been understudied, one study of sexual violence offenders found that the restorative justice approach minimized the number of repeat offenders.²⁰ Title IX should require that at least one Title IX Coordinator on each campus be a licensed counselor who can offer mediation and individual counseling to encourage healing for students who have directly and indirectly experienced sexual violence. Following the restorative justice approach, survivors should then have the option to pursue a punitive approach toward their assailant if that remains an interest.

Since over half of students were assaulted as children or teenagers, and childhood victimization has been found to be associated with experience of sexual violence as a perpetrator or victim, lawmakers should revise Title IX to mandate that Title IX Coordinators be charged with designing an anti-violence curriculum for the student body which consists of a two-course series for students' first year of college that challenges them to transform prior beliefs about violence.²¹ The first course would focus primarily on sexual violence and address ways that experience with sexual violence as victim or perpetrator has been historically determined by certain identity markers like gender, race, and sexual orientation.²² The second course would allow students to choose from a range of university-offered courses that address other types of violence, such as school mass shootings, to help students see how conditions which cause one

type of violence undergird other forms of violence.

Colleges have long missed the opportunity to offer students much needed healing from violence. Restorative justice must now be the fulcrum of any plan for addressing issues of campus sexual violence.



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NOTES

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