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Title IX Activists: A First Look at Movement Goals

Jamie Huff and Sarah Cote Hampson

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With the proliferation of the #metoo movement, public attention has focused on the persistent issue of sexual violence. The movement to confront sexual violence has its roots on American college campuses in the activism of students. Beginning around 2011, many students demanded that their campuses create better policies to address sexual violence, and many initiated lawsuits through Title IX of the Education Amendments of 1972 (Title IX). Beginning in Fall 2017, we began a study of the goals and strategies of activists using Title IX to confront sexual violence on college campuses and how campuses respond to these demands. This brief article highlights the preliminary results from our ongoing study.

Title IX, the “Dear Colleague Letter,” and Legal Mobilization

For much of its history, Title IX has been known as a law affecting university sports. The law, which bars sex discrimination in educational settings, requires equal treatment in educational opportunities. A series of lawsuits gave rise to the idea that Title IX required something more. Beginning with cases like *Mullins v. Pine Manor* (1982), courts held that universities had obligations to keep students safe on campus. In 2011, the Obama administration codified guidelines to help universities determine their obligations under Title IX, called the “Dear Colleague Letter” (DCL). The DCL ordered campuses to

address allegations of sexual violence promptly, to use the preponderance of evidence standard used in the civil courts, and to provide accommodations to victims during the investigation process. The letter also required universities to treat all parties to a case equitably and encouraged schools to prevent violence through educational programs. Title IX activists consider the 2011 DCL a major development in addressing sexual violence.

Researchers in our field, Law and Society, have studied the relationship between activism, law, and social change. Using a framework called legal mobilization, we study how activists use law to pursue social change, and how the laws they interact with shape social meaning. Activists in the United

States have used law to push for social change from the abolitionist, women’s suffrage, and labor movements of the nineteenth century to the Civil Rights, women’s liberation, and LGBTQI movements of the twentieth and twenty-first centuries. American social movements used law to confront gender inequality in numerous areas, including



Timesup sign (Photo Credit: Wikimedia).

pay equity (McCann 1994), sexual harassment (Epp 2009), and parental leave policies (Albiston 2010; Hampson 2017). Legal mobilization studies examine how activists use the law to achieve their goals, often uncovering how activists make meaning of the law in the process. For example, McCann’s 1994 study of the pay equity movement found that while legal victories were few, activists were galvanized by their interaction with the law, ultimately raising their consciousness about issues of inequality. The legal mobilization literature finds similar patterns in other movements—that is, the law itself may not result in immediate social change, but activists’ use of the law raises their understanding of legal issues and allows them to draw public attention to social

problems. Our study is the first to apply a legal mobilization framework to Title IX activism.

Methods

This study relies on in-depth interviews with activists confronting campus sexual violence and with university administrators, such as Title IX coordinators, who ensure compliance with Title IX. In this article, we focus on the results from interviews with activists only. We have interviewed 22 activists from a variety of locations and interviews are ongoing.

The interview subjects for this study come from a variety of organizations. Some work for national policy advocacy groups, which shape policy surrounding sexual violence on a large scale. There are also organizations that provide legal assistance to victims of sexual violence by helping victims find legal services, providing legal representation to students, and advising universities on their policies. In addition, many current and former college students have formed organizations that educate others about sexual violence and raise awareness about the

outreach educators, policy trainers, staff attorneys, civil litigators, and policy advocates. Outreach educators conduct training for students to help them recognize and address sexual violence. Policy trainers take on advisory roles for universities, assisting when crafting policies, and providing training for coordinators and administrators on how to comply with Title IX. Staff attorneys provide legal representation for student survivors as they move through their campus's procedures. Civil litigators use lawsuits to shape the contours of the law. Finally, policy advocates push legislative solutions that they believe will induce change; this advocacy occurs at both the state and federal level. Our analysis includes responses from activists from each of these categories.

Preliminary Results

Within our interviews we found key themes that were immediately evident. First, we identified a set of goals among the activists we interviewed. These goals were: 1) advocacy for survivors 2) empowering students with education around sexual assault and 3) tackling the cultural roots of sexual violence. Three or more interview subjects mentioned each of these goals, and none presented these goals as in tension with the possible goals of other organizations. We believe that these three goals represent activist goals *generally* across the movement.

The first goal we identify in our interviews is advocacy for survivors. Advocacy for survivors means meeting survivors where they are and helping them through the process. Alicia, a staff attorney, says that "justice" may look very different from institutional or societal expectations for victims. She states,

"my Title IX clients have had concerns about, I don't want him to necessarily be punished or put in jail. I just want justice for what happened. I just don't feel safe at school anymore. I want him to

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Our interviews range from 30 minutes in length to an hour and a half. While all interview subjects are asked the same questions about activism, in-depth interviewing allows the subject to offer information beyond the confines of our predetermined questions. We analyze interviews for patterns in responses, tracking the contours of how activists articulate their goals, concerns, and experiences with Title IX.

requirements of Title IX. To protect the privacy of our interviewees, we use pseudonyms for individuals throughout this paper.

Interview subjects were also from a variety of occupational positions. The activist community surrounding Title IX comprises many occupations, from national policy advocates to staff attorneys. Our subjects include



Bridgewater State University women graduating. (Photo Credit: Tim Llewellyn).

go away from my school. So, that type of victim-centered justice is something that my organization feels very strongly about.”

Other activists also talked about the importance of protecting survivors against retaliation. As Megan, also a staff attorney, notes:

“Two of our really big concerns right now...one has to do with retaliation and making sure that survivors are better protected both from retaliation by the original offender but also third parties, so their associates, and then the other thing is ensuring that accommodations are put into place...”

The second goal we identified was the need to empower students on campuses with education about sexual assault prevention and response. When talking about the relationship with campuses, Shannon, a policy trainer, states, “a lot of what I talk to them about is how are you structuring your campus systems

to ensure that victims feel that they can report and that the process is there.” Empowering students with the information they need to take advantage of their rights under Title IX was a thread that ran through the interviews at all levels of activist organizations. “One of our main goals...is really informing students about the rights that they have...as much as anyone can try make schools more compliant...I think ultimately empowering students is one of the things we strive for,” says Alicia. Chelsea, an outreach educator, noted that her organization is interested in informing students about resources: “for me what I am most concerned about is what resources are available on campus and those outside. And are they fully aware of what the options are?”

The third goal identified in our interviews was that of activists discussing the need to tackle the roots of sexual violence in our culture more broadly (and the limitations of Title IX in getting at this problem). Kate, an outreach

educator, noted that her organization provides workshops aimed at “changing campus culture.” Other activists stated that Title IX is a limited tool in working toward a more important goal—that of systemic cultural change. Bev, an outreach educator, states:

“Title IX most often deals with an act of sexual violence or acts of sexual violence that have happened against a person. It doesn’t deal with the kind of systemic and institutional macro aggression that also creates a hostile environment... A college campus is a microcosm of the larger society. We’re not going to end sexual violence in our society until we look at the root causes of why sexual violence occurs... And for me it’s just so much bigger than a federal policy.”

Indeed, several activists identified the ability to effect cultural change as a limit to Title IX and its related

policies. Many students are now receiving training about sexual assault and harassment during college orientation sessions. However, activists argued that this was far too late to change students' attitudes about sexual violence. Liz, a policy advocate, noted that they are focusing on "working with younger kids in the K-12 environment" because this group was more likely to be affected by prevention workshops. Another outreach educator had devoted several years to prevention workshops for young people of color for similar reasons—she believed that prevention must begin before students arrive on college campuses.

Attention to the cultural sources of sexual violence is especially important for activists working with marginalized communities. Marginalized students are impacted by sexual violence in unique ways, and cultural norms or stigmas often leave their voices out of the conversation about sexual violence on campus. Several activists discussed their organization's goals in tackling the cultural stigmas around marginalized students. Shannon, the director of a legal aid project, noted that she hears from survivors: "I'm undocumented. I'm LGBTQ, I'm not out, or I'm in an older Christian conservative school and I can't be out, or my family doesn't know. I will be shunned. I'm an immigrant who cannot return home because I've been assaulted. There's just a million identities and policies need to reflect the communities that are going to be frankly, the most vulnerable."

Concerns about marginalized students were at the forefront for many interviewees. The increasing diversity of younger generations means that activists are working with a student population diverse in terms of race, sexuality, gender identity, class status, and immigration status. In keeping with activists'

focus on student empowerment, nearly every interview subject mentioned the need to understand how to best reach marginalized populations.

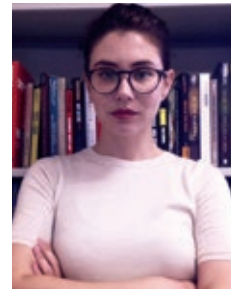
Conclusion and Future Directions

While much of this paper detailed the goals of activists working to confront campus sexual violence, our interviews revealed a much richer picture about the concerns, frustrations, and limitations activists faced. Many activists found themselves working with student clients in situations that Title IX was not drafted to address. For example, a staff attorney noted that Title IX guidance documents have not offered instructions that address retaliatory complaints against student survivors. Other activists noted that even the best, most thorough policy could still be implemented by an incompetent administrator. Still others felt that campus policies veered too much toward the language and process of the criminal justice system. In future work, we will analyze interview responses that speak to the limits of the law and activists' difficulties in using it to address campus sexual violence.

In addition to discussing the perceived limits of Title IX, our future work will also explore how activists and Title IX coordinators view the issue of due process. Our interview subjects expressed divergent views on the issue of due process in Title IX procedures. Most responded that Title IX includes a sufficient equity requirement for the investigation and hearing process. Further, many activists perceived critiques surrounding Title IX and due process to be intentional misunderstandings of the law. Though most activists felt that Title IX procedures were fair to all students involved, some did mention concerns about unfair treatment in campus proceedings. One activist

who had previously worked in criminal defense noted that she felt stronger due process protections beyond the already-existing equity requirement would be beneficial to all students.

Finally, we are planning to investigate further how both activists and coordinators view motivations for institutional changes. What are the proverbial "carrots" and "sticks" that make universities change their practices on campus around prevention and response? Moreover, we hope to uncover how effective those changes are when they *do* happen, from the perspective of those involved in their implementation, and from the perspective of those on the outside, looking in, and demanding meaningful change.



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