Gender and Education

ISSN: (Print) (Online) Journal homepage: www.tandfonline.com/journals/cgee20

Protecting the perpetrator: value judgements in US and English university sexual violence cases

Erin R. Shannon

To cite this article: Erin R. Shannon (2022) Protecting the perpetrator: value judgements in US and English university sexual violence cases, Gender and Education, 34:8, 906-922, DOI: 10.1080/09540253.2021.1955093

To link to this article: https://doi.org/10.1080/09540253.2021.1955093

© 2021 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group

Published online: 20 Jul 2021.

Submit your article to this journal

Article views: 2194

View related articles

View Crossmark data

Citing articles: 11 View citing articles

Full Terms & Conditions of access and use can be found at
https://www.tandfonline.com/action/journalInformation?journalCode=cgee20

GENDER AND EDUCATION
2022, VOL. 34, NO. 8, 906–922
https://doi.org/10.1080/09540253.2021.1955093

Protecting the perpetrator: value judgements in US and English university sexual violence cases

Erin R. Shannon

Department of Education, University of York, York, UK

ABSTRACT
This paper examines four interviews with student survivors about their experiences of reporting sexual harassment and violence to universities in the United States and England, and their experiences of how their universities protected the perpetrators. Interview participants revealed that their assailants were not held accountable because the university determined they were more valuable than the survivor, whether in terms of the role the assailant occupied or their potential to make an impact in their field. I analyse these instances by combining three theories to show both how power/value relations in the neoliberal university make certain people (in)dispensable, and how these power/value relations are enacted through power dynamics of speech and hearing to protect the more 'valuable' party in university sexual violence cases. The article concludes with possible recommendations for structural change.

ARTICLE HISTORY
Received 5 February 2020
Accepted 9 July 2021

KEYWORDS
Sexual violence; sexual harassment; higher education; power; gender; neoliberalism

Introduction

Sexual violence in United States and English universities remains a significant issue. The two countries share comparable student demographics and victimisation rates, as 21.2% of US university students of all genders will experience non-consensual sexual contact before graduating – though this disproportionately affects cisgender women and transgender students (Cantor et al., 2015) – while a (2010) survey found that 25% of female respondents in UK higher education experienced some form of sexual assault (National Union of Students (NUS)). Feminists have long recognised that gendered power imbalances lead to sexual violence (Brownmiller 1975), which is reflected in the gendered dynamics of perpetration and victimisation: Men are disproportionately perpetrators and women are disproportionately victims. Furthermore, in a university setting, most perpetrators have an existing relationship with the victim and tend to be students at the same institution (Fisher et al., 2000; NUS, 2010).

While there are similarities in terms of university cultures across the US and England, frameworks for institutional response vary between the nations: The US has a legalistic national framework for response, whereas England has no such regulation and encourages individualised responses focused on cultural change. Title IX, specifically its

CONTACT Erin R. Shannon erin.shannon@york.ac.uk; Department of Education, University of York, Heslington, York, North Yorkshire, YO10 5DD, UK @Erin_R_Shannon

© 2021 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group
This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (http://creativecommons.org/licenses/by-nc-nd/4.0/), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way.

Obama administration Dear Colleague Letter guidance, situates sexual violence as an issue of sex-based discrimination in education and requires universities to respond to all disclosures often via punitive student conduct consequences; if a university is found to be negligent, the government can revoke its federal funding (Ali 2011). On the other hand, instead of a legal mandate, English universities operate under the guidance found in the 2016 Universities UK (UUK) *Changing the Culture* report in response to sexual harassment, violence against women, and hate crime. These recommendations include: achieve senior leadership buy-in, implement an institution-wide approach, work to prevent violence through forming a zero-tolerance culture and using bystander intervention training, create a system to centrally record all reports and facilitate a clear path to disclosure and support, and create or strengthen partnerships in the local community such as with rape crisis centres (UUK 2016).

Although a comprehensive overview of all reporting and response options is outside of the remit of this paper – due to the sheer variation not only by geographical context but also by institution type – there are two overarching response pathways in US and English universities: informal and formal. Informal responses tend to focus on safeguarding measures (e.g. changing class schedules or housing arrangements to keep the perpetrator away from the survivor), whereas formal complaints involve investigations through student conduct or Human Resources (HR), depending on the student/staff status of those involved, and can result in punitive sanctions. The main difference between US and English university responses to sexual violence appears in the formal resolution process, specifically with regards to national oversight – or lack thereof – of campus adjudication, as previously mentioned. In addition to these framework differences, it is important to recognise that survivors experience formal university responses differently according to both their positioning within the institution and the positioning of the perpetrator(s); for example, an undergraduate student who reported an instance of sexual violence by a peer might go through student disciplinary proceedings, while a postgraduate student who reported an instance of sexual violence by a staff member might go through an HR process.

This paper draws on my doctoral thesis research, which investigated how a selection of universities in the United States and England respond to student disclosures of sexual violence. The thesis's overarching research questions asked how national policies and guidance in the US and England conceptualise sexual violence, how university staff in response roles perceive and navigate their university's response to sexual violence, and how student survivors experience university responses to disclosures of sexual violence in the US and England. It is this last research question that this paper explores. In conducting this research – via policy discourse analysis and interviews with student survivors and university staff – I found that, despite different response frameworks, institutional betrayal (Smith and Freyd 2013) was a shared theme in US and English universities responses. Institutional betrayal refers to a phenomenon in which an institution on which members rely for their wellbeing, such as a university, fails to support survivors following disclosures and subsequently exacerbates the initial trauma of sexual violence (Smith and Freyd 2013). In my sample, institutional betrayal often resulted from US and English universities prioritising the reputation of the university over survivor wellbeing, which I argue reflects neoliberal modes of power and value in western academia.

While institutional betrayal in the form of devaluing survivors was present across the vast majority of my student interview sample (17 of 19 interviews), this paper explores

a specific type of institutional betrayal, that of universities not only devaluing the survivor but also apparently prioritising the perpetrator in their responses. It examines four interviews with English and US university student survivors and argues that across these institutions, students' experiences of reporting sexual violence resulted in universities demonstrating that they valued the perpetrator more than the survivor through their (lack of) response. As mentioned, these four interviews come from a larger set of 19 interviews with student survivors in the United States and England, and were selected because they reflect a particular mode of reputational protection that universities appear to employ, that of benefitting from a 'high-value' perpetrator in addition to devaluing the survivor. The experiences recounted here ultimately offer an opportunity to understand how institutional cultures and the wider culture of neoliberalism exploit power and value.

Theoretical context

Neoliberalism in the academy

In order to make sense of how and why universities prioritise power and value, I examine the influence of neoliberalism in the English and US academy. While neoliberalism takes slightly different forms in England and the United States, there are significant similarities. Shamir (2008) defines neoliberalism as a system of contradictory acts that use the metaphor of 'the market' to organise social relations. He argues that neoliberalism ultimately 'dissolves the distinction between economy and society' (Shamir 2008, 3). In other words, neoliberalism spreads the logic of the market and its attendant principles – such as competition, individual responsibility, and meritocracy – into areas of our lives that are not market-driven. Under neoliberalism, universities are no longer places of learning but rather businesses offering commodities (i.e. degrees) to customers (i.e. students). This reconceptualisation of the university has shifted university tuition fees off of the state and onto the student, though this occurred at different rates in the United States and England (Brown and Carasso 2013; Heller and Rogers 2006). This turn to the market in universities not only affects the relationship students have with the university, but also the relationship universities and staff have with each other: scholarly collaboration is often replaced with competition for funding, resources, top ranking in the *US News & World Report* or Research Excellence Framework, and students. In such a context, anything that could threaten the income – and reputation – of the university must be eliminated via institutional airbrushing (Phipps 2018), while anything that could enhance it must be protected. While an in-depth exploration of neoliberalism in higher education is outside the scope of this paper, theorists such as Heller and Rogers (2006), Brown and Carasso (2013), and Naidoo and Williams (2015) have written about this phenomenon.

Neoliberalism's influence in universities extends to institutional responses to sexual violence. Phipps (2018) argues that market logic in universities creates hierarchies of value that inform the course of action taken following a sexual violence complaint. To describe how these modes of value determine someone's worth, Phipps introduces the theory of power/value relations, which are the intersection of a person's positioning within the academy (e.g. professor, undergraduate student) with their positioning in larger racialised, gendered, and classed hierarchies (2018). In applying Phipps's theory, Foucault's (1978) conceptualisation of power as a fluid dynamic partially informs my

analysis; he acknowledges its relationality without pre-emptively defining who has – or who lacks – power, which is helpful in unpacking cases of sexual violence in universities where victims and perpetrators may occupy multiple and competing identities when held in comparison to one another. Returning to power/value relations, a person's positioning in larger social hierarchies mirrors *and* maintains what value they have within the academy, as value-awarding activities such as high-profile publishing and grant capture are not equally distributed along race or gender lines (Phipps 2018). Racial and gender bias in citation practices (Schucan Bird 2011; Gutiérrez y Muhs et al. 2012; West et al. 2013) and grant awarding (van der Lee and Ellemers 2015) ultimately 'construct some people, usually privileged men … as institutional breadwinners who contribute and matter more' (Phipps 2018, 233).

Legitimate language and authorised speakers

Phipps's (2018) concept of power/value relations explains the rationale behind *why* universities make certain decisions in a neoliberal higher education landscape, but I turn to Bourdieu and Ahmed to show *how* universities enact these value judgements. I use Bourdieu's theory of legitimate language and Ahmed's theory of complaint as a technology of hearing to argue that in each of the following cases, dynamics of language and listening – which reflect the power/value relations of each party – inform whose account is legitimate. Bourdieu (1991) asserts that the power of language is not found in the words themselves, but rather in who speaks them, and argues that someone's connection to an institution determines the legitimacy of their language. Though I do not unequivocally agree with this – as I subscribe to a critical discourse analysis position that looks at power in and outside of text – Bourdieu's theory helps highlight how someone's position can grant or deny authority to their words. Due to my use of Bourdieu, my application of Foucault's theory of power includes a material element that views power as partially coming from a source, that of a speaker's position within an institution.

Hearing as a technology of complaint and disassociation

Whereas Bourdieu theorises about speech, Ahmed theorises about hearing, or how the way in which universities hear complaints determines their (in)action. She posits that complaints 'can be considered a technology of hearing,' (2017, n.p.) and claims that universities hear complaints as negative, like a refusal to accept the status quo; as destructive, like thinking the complainant wants to undermine the university; and as magnified, by assuming the complainant is asking for more than they are (2017). Once a university hears a complaint in these ways, it 'can then be treated as self-referential, as being about the complainer' (Ahmed 2017, n.p.). To the university, the complaint is therefore no longer about an act of violence, but rather about the complainant's refusal to assimilate into university culture. Should the university hear a complaint as self-referential, it will no longer recognise the survivor-speaker as part of *itself* and subsequently will not give them the institutional backing they need to become authorised speakers in Bourdieu's framework. In this way, the university shuts down complaints by refusing to acknowledge the legitimacy of complainants. By regarding complainants as institutional outsiders, universities remove any delegated power they might have had if they were

considered insiders; without this delegated institutional power complainants cannot access legitimate language, which ultimately enables universities to disregard their complaints.

I return to Phipps (2018) to highlight an important distinction within this framework: the issue of sexual violence for universities operating under neoliberalism is not the violence itself, but rather the possibility of sexual violence becoming publicly known and thus impacting the university's reputation and income (Phipps 2018). As the party that makes the university aware of sexual violence, thereby opening the institution up to reputational and economic damage, the university positions the complainant – not the perpetrator – as the problem (Ahmed 2020). Such a positioning further delegitimises a complainant's language because of the threat it represents to the institution. When factoring in a perpetrator's power/value relations, universities may view perpetrators as institutional insiders or more enmeshed within the university than complainants, which in turn (further) legitimises perpetrators' language in ways that complainants cannot access. Ultimately, by combining Phipps (2018), Bourdieu (1991), and Ahmed (2017), I argue that insider/outsider status within the neoliberal university – informed by the intersection of someone's role within the university and location in larger social hierarchies – determines whose words carry weight, and subsequently the course of action that the university will take. In what follows, I draw on this conceptual framework to show how universities appeared to protect a more 'valuable' perpetrator when responding to four complaints of sexual violence.

Method

The University of York Department of Education Ethics Committee granted ethical approval for this research in April 2018. I conducted semi-structured interviews with current and former students of US and English universities who had experienced sexual violence while studying, and focused on their experience of disclosing to their universities. I used Twitter to call for participants, which produced a self-selected sample of seven students in England and 12 students in the United States who contacted me via email to express their interest in participating. Student participants were overwhelmingly white cisgender women in their early 20s who experienced sexual violence as undergraduate students. The interviews I explore here reflect that: three of the four women (Sydney, Marie, and Alexandra) are white while Tamara is Black; Sydney and Marie experienced sexual violence as undergraduate students while Alexandra and Tamara were postgraduate students. All participants and universities were anonymised and given pseudonyms. To minimise the potential for retraumatisation, I had a sexual violence survivor specialist review my interview schedules, created safety plans with each participant before the interview, and gave each participant a geographically tailored list of support resources.

These semi-structured interviews happened both in person and via Skype, and lasted around an hour. Prior to the interview with each participant, I went over the ethics forms, asked if they had any questions, asked for their pronouns and if they had a pseudonym in mind, and created a safety plan that covered issues that may arise in the interview as suggested by Fontes (2004). All interviews began with a discussion of the culture around sexual violence at the participant's university. I asked about participants'

experiences of disclosing sexual violence to their university, their knowledge of and confidence in university processes and support provisions, how they experienced their university's response, and what, if anything, they would change about the response process. Following the interviews, I explained the next step of the transcription process, again asked if they had any questions, and then provided each participant with a list of sexual violence specialist resources in their area.

After I transcribed the interviews, I automatically sent them out to each participant, who had a two-week window in which to comment on (e.g. further redact, clarify, or expand on) them. I updated the transcripts with their comments and these edited transcripts became what I used for coding and analysis. I then coded interviews in NVivo 11 using a mix of deductive and inductive coding to cover ideas that arose from set interview questions as well as ideas that arose from individual interviews unrelated to the fixed interview schedule. I used thematic analysis and Fairclough's (1992) method of discourse analysis to explore the macro- and micro-levels of narrative, word choice, and meaning in participant responses; since one of my research questions asked how policies conceptualise sexual violence and I conducted a policy discourse analysis using Fairclough, analysing the interview transcripts with the same framework provided continuity across my results section. This analysis involved close reading at multiple levels: at the textual level of spoken responses, at the '"discursive practice"' (Fairclough 1992, 4) level to understand what existing discourses participants were using to make sense of their experiences, and at the institutional level to understand the context in which participants spoke.

Results

The four women whose experiences I examine here have two things in common: they all experienced sexual harassment or violence while at university, and their universities did not hold or only reluctantly held the perpetrators accountable. Though a discussion of what accountability looks like was beyond the scope of this research, McGlynn and Westmarland (2019) found that female survivors of sexual violence have many understandings of what justice is, including but not limited to consequences for the perpetrator, recognition of harm, and enabling survivors to speak their truths. For Sydney, Marie, Alexandra, and Tamara, some or all of these elements are notably absent in their cases. The four women vary in age, race, and level of study. The dissimilarities between them extend to their universities: some are in the United States while one is in England; some are research-intensive while others are teaching-focused; and some belong to a top-tier competitive sports conference while others rarely acknowledge university athletics.

Given these differences in context, how do we make sense of their shared experience of institutional betrayal? Institutional betrayal – defined by Smith and Freyd as when 'an important institution acts in a way that betrays its member's trust,' and exacerbates the interpersonal trauma of the initial sexual assault (2013, 120) – in these cases was the result of universities making value judgements that determined the perpetrator was more valuable than the survivor, and acting accordingly. 'Value' differs in each case: sometimes there is a clear financial cost, such as the perpetrator bringing in research grant money, yet value elsewhere is harder to measure, such as the perpetrator's athletic

ability. Despite these differences in value type, all universities found the perpetrator to be more important than the survivors were, and subsequently only held him – because in every case here the perpetrator is male – accountable after a drawn-out process that required extensive survivor labour, or never held him accountable. In determining a perpetrator is valuable and therefore worthy of protection, universities are also implying that a survivor is not (Phipps 2018).

In the following, I use the framework proposed above to explore how power/value relations combined with dynamics of speech and hearing protected perpetrators in four instances of sexual violence response at English and US universities. I examine how universities force out survivors through Sydney and Marie's accounts, both of whom are white women that experienced sexual violence as undergraduate students and left their universities because of the lack of safeguarding. Through Alexandra and Tamara's cases – a white Ph.D. student and a Black postdoctoral researcher who experienced sexual violence or harassment from renowned professors – I then explore how powerful perpetrators can weaponise their status to commit violence and avoid consequences. I close with a discussion section that addresses the limitations and implications of these findings.

If the perpetrator is valuable, then the survivor is expendable

Inextricable from power/value relations is comparison of one person to another and what each can offer the university. What power or value one person has in the university is increased or decreased when viewed against another, as is the case in any disciplinary proceeding which positions people in binaries (i.e. complainant versus respondent). This comparison privileges one person over another through making value judgements based on what each contributes to the university. Phipps gives the example, '[c]ompared to the eminent professor, the complainant is dispensable' (2018, 234). Power/value relations are not only present in cases where there are staff or faculty perpetrators, and extend to value judgements universities make in cases of student-on-student sexual violence. In the following cases, student value comes in the form of athletic ability and rare subject knowledge. For Sydney and Marie, staff at their universities determined their assailants were 'worth' more than they were and so protected the perpetrators.

Sydney's Division I university recruited her to be a swimmer. Division I is the most competitive of the three inter-university athletic divisions in the United States ('About NCAA Division I,' n.d.), and many Division I university athletes go on to become professional athletes. Division I universities also spend a lot of money on their athletes, notably in the form of athletic scholarships; Sydney received a partial scholarship from her university. While this position as a top athlete may seem to give her value, the value she had as a swimmer depended upon her athletic performance. What complicates Sydney's value is the value of her assailant, who was also a recruited swimmer on a partial scholarship. Her swimming suffered as a result of the assault, yet his was unaffected.

When she told their coach what happened, the coach's immediate and only response was to offer Sydney help transferring universities. I asked why she thought her coach responded in that way and she paused before saying,

> I don't like to think this, but I was swimming really bad because of what happened. So I think maybe it was like, 'oh well he's still swimming great, we don't want—' you know? Like, 'it's good for the team to have him here and Sydney is kind of like not … necessary.'

Sydney was aware of the different value team members had in this ultra-competitive context. In this case between two students who initially appear to offer similar value to the university, performance – and thus contribution to university reputation – differentiates them and determines who is more important and therefore who must be protected. Although her assailant was not speaking to the coach about the incident, his (legitimate) language was unnecessary because there was a power/value disparity between them – in which he offered more 'value' to the university – which implicitly delegitimised her account.

When Sydney's assailant did speak to staff about the assault, staff in the Campus Life office appeared to reinforce this assessment of value and legitimacy: they 'called him in and he denied everything and that was the end of it.' Sydney interpreted this lack of action as an institutional effort to protect a top swimmer, as she explained that staff appeared willing to help until it came time to 'do something as a consequence to the other person.' Her experience in the eventual Title IX conduct case reinforced this assessment, as the conduct board found the statements given by the assailant and witnesses (his male friends) – legitimised by his status – more convincing than Sydney's own account and ultimately found him not responsible.

Whereas athletic performance determined the value and legitimacy of Sydney's assailant, academic subject area was the determining factor in Marie's case. Marie attended the same university in England for both her undergraduate education and her Postgraduate Certificate in Education (PGCE), a Masters-level teaching qualification. In her second year of undergraduate study, a group of students assaulted her, one of whom went on to be in her PGCE cohort. Though she did not pursue a university investigation, she did disclose the assault to multiple staff members and registered her PTSD with the university. When Marie walked into her first PGCE lecture, however, and saw that one of her assailants was going to be studying with her, things began to deteriorate. The only safeguarding measure in place after she disclosed the situation was the course leader telling her to stay away from the assailant in lectures:

> I basically got the sense that … because he was a maths trainee and they wanted to keep the maths trainees, it felt like they were prepared to put me at risk in order to keep him … there was very, very much a sense that maths and physics are the chosen ones … because they're a much rarer commodity than people with history degrees … You know, us history graduates are a dime a dozen …

Marie's language choices reflect how marketised the university is: she calls his subject matter, maths, 'a rarer commodity,' something more in demand than her history knowledge, since history teachers are 'a dime a dozen.' Not only is value linked to subject matter, but the subject matter itself also translates to higher employability and therefore better placement success for the PGCE program. Furthermore, the discourse of subject rarity mobilises an implicit discourse of gender makeup in teaching: women outnumber men as schoolteachers ('School Teacher Workforce,' 2018), so in retaining a desirable 'rarer' subject expert, the PGCE program also retained a coveted male future teacher who would have an easier time securing a job in a feminised industry.

Using the framework set out at the beginning of this paper, it is possible to view the programme staff's lack of safeguarding as a result of value judgements which subsequently informed notions of (not) belonging. In acknowledging the power/value of Marie's perpetrator to the PGCE programme, accrued via his rarer subject knowledge and maleness in a female-dominated teaching field, the PGCE programme recognised the perpetrator as part of itself because it wanted to benefit from what he had to offer the programme's reputation. On the other hand, the programme viewed Marie as expendable because of her less employable subject specialisation and her gender in a female-dominated field. It is possible to frame this translation of perceived value into belonging as informing how PGCE staff heard Marie's request for safeguarding: since she was less valuable to *and therefore less enmeshed in* the programme than her assailant, staff saw her request as illegitimate. Marie explained that 'the attitude I got from the department was, "you keep away from him and it will be fine."' There was no option to change their lecture schedules in order to separate them as the whole cohort attended the same lectures, and staff did not put in place any measures to keep him away from her while engaged in cohort activities.

For both Sydney and Marie, their assailants did not (initially in Sydney's case or ever in Marie's) go through a conduct investigation, so the speaking and listening dynamics that resulted in staff prioritising the perpetrators ultimately reflected the perceived institutional (dis)connection of the survivors. This disconnection, or lack of belonging, is a direct result of their status as survivors of sexual violence who spoke out about more institutionally 'valuable' assailants. In these cases, the intersection of the perpetrator's power/value with the survivor's inability to access legitimate language, and how these dynamics informed staff (in)action led to both Sydney and Marie (in)voluntarily leaving their universities: Sydney transferred after only her first semester at university and Marie dropped out of her PGCE program after a forced leave of absence. Value judgements in these cases are not abstract concepts with no material impact; they have tangible effects and further harmed already traumatised students.

Weaponising status to harm with impunity

Despite the clear value differentiation in Sydney and Marie's cases, neither woman indicated that their perpetrators knew their comparative value; the perpetrators mentioned in the next two interviews were highly aware of their power and used it to not only harm others, but also to attempt to avoid facing consequences for doing so – phenomena documented by Phipps (2018) which can look like men occupying powerful positions in universities knowingly harming others because they are aware of their 'untouchable' status. Those who have power because of their academic fame or the grant money they bring in tend to know this protects them, as their university will be reluctant to force them out: by expelling a multi-million dollar grant winner, the university no longer benefits from the acclaim or funding of that person. Should an investigation begin, Phipps notes that the institutional and social power perpetrators have can also give them 'more leverage to protect themselves,' (2018, 234). This dynamic of powerful institutional players committing harm is complicated by the issue of permanent job security, as universities face legal difficulty should they want to remove someone in a permanent position, such as a tenured professor in the United States.[1] In Alexandra and

Tamara's cases, the perpetrators were renowned tenured professors in the United States. Both cases feature a significant institutional power gap between the perpetrator and survivor, as Alexandra was a first year Ph.D. student and Tamara was a postdoctoral research fellow. Despite these similarities, Alexandra and Tamara's universities responded in nearly opposite ways, though the status of the perpetrator was still the main issue.

In the first year of Alexandra's Ph.D., a famous professor in her department raped her. This act was the culmination of months of him pursuing her, during which time he used the power difference between them to control her:

> sometimes he would snap into a very aggressive, 'I am your professor. You are the student. You need to defer to me for this reason,' right? So sometimes it was like a kind of more manipulative intimate kind of like demand for deference. And other times it was very explicitly professional.

In muddying the boundaries between professional and personal, this professor made it impossible for Alexandra to deny him and to hold him accountable for the harm he caused her, unless she was willing to risk her career and wellbeing. Due to his status as a tenured professor, her assailant had institutional and economic stability that she herself as a Ph.D. student did not: she did not have access to the kind of job protection or economic resources that he had. Alexandra was very aware of his power as a famous academic and her relative vulnerability, as she explained to the Title IX Coordinator that '"this man can ruin my career, this man can ruin my life, like I'm a first year graduate student … He will ruin me." Like he was the most famous [professor] in the department, like far and away.' Since Alexandra wanted a career in academia, she knew that he could prevent her from getting a job if she were to speak out about his behaviour: his power/value granted his words legitimacy that she could not access as a female early career researcher and sexual violence survivor. He could potentially have the support of the field behind him not only because he was well-established, but also because she was a woman in a male-dominated field.

The very power/value that Alexandra's assailant weaponised to harm her, however, ultimately cost him his job once news of his violence and the university's tacit acceptance of it became public. An undergraduate student had previously made a formal complaint against the same professor and was suing the university for mishandling her case against him. This lawsuit subsequently brought in a lot of negative press; in the context of the neoliberal university, negative press translates to reputational damage, which subsequently translates to potential loss of income. Phipps (2018) explains that universities' desire to appear unblemished (i.e. marketable) can, especially when the media intervenes, override the gendered, social, and institutional power an assailant offers, which proved true in this case: this professor's power/value, which initially enabled him to harm others without facing repercussions, turned him into an institutional liability because of the negative press his fame garnered the university. Although he retained his power in larger gendered and raced hierarchies as a white man, this professor lost his value within the institution and thus the university needed to remove him in order to cleanse itself (Whitley and Page 2015).

Using the proposed framework, it is possible to read this interaction as an inversion of the institutional insider/outsider status of the perpetrator and survivor – and therefore an inversion in the legitimacy of their language, which impacted how Title IX staff

approached the new complaint. Due to his tenured status, the university could not investigate him again for the same instance of assault so staff needed a new complainant in order to fire him for cause, and coerced Alexandra into becoming this complainant. She informally shared with her advisor that this professor had harmed her. Her advisor, a mandatory reporter,[2] had to report this to the Title IX Office, which meant that staff knew Alexandra could be the complainant they needed – and as a precarious Ph.D. student, she was more vulnerable to institutional coercion than her assailant. It is important to note that Alexandra was not willingly a complainant in this case. In her first meeting with the Title IX Coordinator, Alexandra said she 'broke down bawling and told [the Title IX Coordinator] like, "yes absolutely believe everything that [the initial complainant] is saying, but please leave me out of it."' Instead, by continually trying to get in contact with her personally and then through her supervisor, the university forced her into the formal position of complainant against a powerful professor. She explained that, '[w]hen they pushed me to come forward, I believe they literally used the language amongst themselves and with my dissertation advisor of me being a "golden ticket" out of a PR problem.' As opposed to hearing a complaint – levied by a less powerful/valuable female student against a more powerful/valuable male staff perpetrator – as negative, destructive, magnified, and self-referential (Ahmed 2017), due to the perpetrator's institutional devaluation, which simultaneously worked to legitimise any complainant's language, staff in the Title IX Office heard this new 'complaint' by Alexandra as valid and subsequently fired the professor.

Much like Alexandra's assailant, Tamara's harasser, the primary investigator (PI) on her postdoctoral research fellowship, was also well aware of the power he had as a white male tenured professor who brought in millions of dollars in research grants. Tamara said:

> he told students to seek out tenure positions because if they raped the Vice Chancellor's daughter, they would still have a job … it's like he just knew the system would protect him because … if you're tenured or highly funded, you're okay. You're going to be safe.

He knew that he was untouchable because other students years earlier had brought multiple complaints against him for sexual harassment, yet the university let him continue working with no repercussions. Tamara, on the other hand, as both a Black woman and an early career researcher, had relatively little institutional or social power. Like Alexandra, Tamara also had to contend with income and job security disparities between herself and her harasser: not only did her tenured PI make significantly more money than she did as an early career researcher, but he also had a permanent job while her contract was tied to his specific research project. Her job depended on working with her harasser.

Tamara's case highlights the extent to which multiple social hierarchies play into academic power/value, as she is a Black woman and her harasser is a white man. In a white supremacist patriarchy such as the United States or England, white men benefit from both their whiteness and their maleness and thus occupy the most culturally valued position. Black women, conversely, face oppression at the intersection of their race and gender, as Crenshaw (1991) explains. In the context of academia, these already existing social power disparities are exacerbated because of the overwhelming white-maleness of senior academic staff and underrepresentation of women of colour in every rank of academic staff (Gutiérrez y Muhs et al. 2012). Gutiérrez y Muhs et al. (2012) point out the hypocrisy of US academia for celebrating meritocracy – allegedly unencumbered by racial and

gendered dynamics – while relying upon dominant racist and misogynist discourses to assume women of colour in universities are incompetent. When factoring in these social positions, the power/value disparity between Tamara and her PI becomes even greater, as does his ability to get away with abusive behaviour.

Whereas Alexandra's university made Alexandra into a hyper-visible complainant in order to fire her assailant, Tamara's university tried to cover up what her harasser did to her and others. Tamara described his behaviour as an open secret in her university: 'everybody knew he was a sexual harasser or that he was a bully, but since he brought in so much [redacted] funding, nobody cared.' His ability to win large grants from a prestigious funding body made the university loathe to correct his behaviour. When Tamara first tried to report her PI's sexual harassment, the Title IX Coordinator 'was very dismissive of what I was saying … She knew that [he] was famous, and so she talked a little bit about that.' Given the clear disparity in their power/value relations – both within and beyond the university – it is possible to read the Title IX Coordinator's initial attitude as a response to viewing Tamara's harasser as more valuable to, and therefore more of an insider within, the university than Tamara herself. As a result of her status as a (comparative) institutional outsider, Tamara lacked access to the legitimate language required to make staff respond to her complaint: senior management and administrators in the Title IX Office prioritised his value to the university over the harm he caused. I asked her if she thought the Title IX Coordinator believed her account, and she said:

> I felt that they thought it was possible that he could do stuff to me but I think at the same time, they were just like, 'he's very famous, he brought in a lot of good media, good press,' and millions of dollars to [the university] that they were willing to overlook it.

In Tamara's case, lacking access to legitimate language did not result in disbelief, but rather in apathy. This apathy is a direct result of the status he had as a high-profile tenured professor combined with her own positioning as an institutional foreigner due to her status as a Black female early career researcher. When Ahmed speaks of foreigners in the university, she refers to the perceived failure or refusal of a complainant to assimilate into institutional cultures that normalise sexual violence (2017). In making formal complaints about sexual violence or otherwise reporting it, complainants reject the presence of sexual violence as acceptable, and mark themselves as outsiders; in this marking, complainants confirm judgements that they are not members of the university (Ahmed 2020), which makes it possible to turn complainants' rejection of sexual violence into an institutional rejection of – or disassociation from – the complainant. For Tamara, this foreigner behaviour involved violating institutional norms because she refused to let her PI continue to harass her; in this refusal, staff saw her as 'other' and therefore no longer as an acceptable member of the university.

For Alexandra and Tamara, their perpetrators weaponised their power in order to harm others. Both men were powerful in that they were well-known scholars, and Tamara's harasser also brought in significant funding. These cases differ, however, in how each university responded: where Alexandra's perpetrator's power made him a publicity liability, Tamara's perpetrator's power made him a publicity asset. Another student at Alexandra's university went to the press about how it allowed this professor to operate with relative impunity after she reported him for assault, and his tenure made it difficult for the

university to remove him. On the other hand, Tamara's perpetrator's power brought in positive press coverage through his funded work. Knowing these disparities in press coverage helps make sense of the outcomes of these cases. Since Alexandra's university forced her into becoming a complainant, her assailant was ultimately fired in order to eliminate bad press, and, while Tamara's perpetrator was found responsible for harassment – only after Tamara mobilised five other women as complainants – her university wanted her to be quiet so he could continue the work that made the university look good. That both men faced some form of consequences for their actions does not detract from the harm caused by institutional power/value relations: Alexandra had to take three years out of her Ph.D. to fight lawsuits and recover, and, at the time of interview transcription, Tamara was on leave because of PTSD.

Discussion

I have discussed how Sydney and Marie's universities prioritised their assailants over their safety and how the perpetrators in Alexandra and Tamara's respective cases weaponised their power to harm them and (attempt to) avoid the consequences. These cases – despite their differences in location, types of perpetrators, and categories of victims – demonstrate how universities make value judgements and opt to protect those with more to offer the university. In each case, this more valuable person was the perpetrator. Value judgements matter in this context because of the translation of value into institutional power: those with value are seen as legitimate speakers because of their connection to the institution. The more connected someone is to a powerful institution, the more powerful they are, and subsequently the more weight their language carries. The stronger institutional connection the perpetrators had in the above cases – such as grant winners, famous scholars, successful athletes – validated their language and made it legitimate in ways that the comparatively less powerful victims could not access. Interestingly enough, belief was not an issue for each of these women. Their universities believed them – but that belief simply did not matter as soon as the more powerful perpetrator offered his (legitimate) account. Without institutional authority, each woman could not access the legitimate language necessary to be 'heard,' and make her university act.

Limitations

There are several limitations to this framework. As I focused strictly on institutional responses to disclosure – as opposed to the experience of violence itself – I did not collect information on specific assault characteristics, which may have provided further grounds for comparison. In addition, I limited my interview questions to investigate the impact of only certain axes of identity on institutional response. Future research may investigate the impact of other vectors of identity beyond gender and race in university sexual violence response; an in-depth class analysis, which was beyond the scope of this research, would be particularly beneficial. Lastly, since this framework is the result of four specific experiences, it may be difficult to broaden its scope for experiences of sexual violence response that do not include elements of both institutional betrayal and universities prioritising the perpetrator.

Implications

This framework opens up avenues for future research into sexual violence in universities with regards to populations to study and avenues to challenge the marketisation of higher education. My work indicates that interviews with senior university leadership could offer meaningful contextual information for institutional responses to sexual violence. Whereas interviews with student survivors enabled the generation of this framework, interviews with senior leadership could confirm or otherwise change the framework's assumptions about how staff see complainants and perpetrators, hear complaints, and understand institutional priorities. Given how central neoliberalism is to this framework's analysis, it also highlights the necessity of challenging the role of reputation and the market in higher education: the data presented in this paper speaks to how (re)traumatising neoliberal institutional responses can be, and thus urges university staff to respond to sexual violence with compassion for survivors and concern for their agency – unlike Alexandra's university, who forced her into formal proceedings in which she did not want to take part – as opposed to with concern for the university's image.

Conclusion

When reporting sexual violence to their universities, Sydney, Marie, Alexandra, and Tamara all experienced the privileging of their perpetrator over themselves. This privileging is the result of the university making value judgements based on the comparative power/value relations of each party, conceptualised by Phipps (2018) as the intersection of a person's positioning in gendered, racialised, and classed hierarchies with their positioning in the neoliberal university. As illustrated by the narratives of these four women, power/value relations in university sexual violence cases can take several forms. Though these cases exemplify different aspects of power/value relations, they share the painful experience of institutional betrayal: instead of supporting the victims, each university opted to protect the perpetrator from accountability or delayed holding him accountable.

Power/value relations explain *why* universities frame certain people as (not) worth protecting, while Bourdieu's (1991) theory of legitimate language and Ahmed's (2017) theory of complaint explain *how* this framing leads to protecting powerful perpetrators. For Bourdieu, the power of language lies not in the words themselves, but in who voices them: the stronger the institutional connection a person has, the more legitimate they are seen as a speaker, which explains why those with more power so frequently evade justice in these cases. Furthermore, dynamics of hearing matter as much as dynamics of speech in determining case outcomes. Ahmed describes how universities hear complaints as negative, destructive, and magnified, which leads them to view complainants as failing to fit into institutional culture. Hearing a complaint of violence as a complaint about failed assimilation allows universities to position complainants as institutional outsiders. For these women, it was not only the perpetrators' value that prompted their universities to side with the perpetrator – it was also their universities' refusal to acknowledge the survivors as members of their institution deserving of support.

What these findings do not suggest, however, is that *only* powerful perpetrators get away with their actions, or that a less 'valuable' perpetrator would face consequences.

Academia does not exist in a vacuum; the same rape culture and patriarchal beliefs that exist in US and English society at large saturate the academy. The influence of these ideologies means survivors in universities still must contend with victim-blaming and tendencies to protect accused men, regardless of how institutionally connected their assailant is. What I attempted to show in this analysis is how the culture of neoliberalism in universities makes these value judgements possible in sexual violence cases, and how these value judgements impacted four women.

There are no easy solutions to this issue. The breadth of this interview set speaks to the fact that protecting valuable perpetrators at the expense of devalued victims is not an isolated intra-university matter, but something more insidious in the larger university system. We must look beyond the ivory tower to the system that incentivises the behaviour that takes place within it. Until universities move away from neoliberal modes of operation obsessed with 'excellence,' rankings, and performativity, we will continue to see comparatively more 'valuable' perpetrators evade consequences and comparatively less valuable victims punished and/or forced out of their institutions for speaking against them.

Those of us working within universities are complicit in these failures; when we become aware of them, we have a responsibility to act in whatever capacity we have. For example, graduate student workers in the US are unionising to fight for protection against sexual harassment (Yumusak 2020), and more of this grassroots organising would be welcome. There are, of course, limits of culpability and people occupying certain positions are better placed to enact change. Senior management, research funders, and administrators with a specific responsibility to safeguard students are best placed to change the system in which they work to make academia a more equitable place, a place that is less Machiavellian in its quest for 'excellence' at the expense of vulnerable members of the institution. If stakeholders can move away from promoting '*biographical solutions to systemic contradictions*' (Beck and Beck-Gernsheim 2001, 22, emphasis original) and think holistically about structural change, eventually we might see some improvements – not just for student survivors, but for everyone in academia.

Notes

1. According to the American Association of University Professors, tenure 'is an indefinite appointment that can be terminated only for cause or under extraordinary circumstances such as financial exigency and program discontinuation' ('Tenure,' n.d., n.p.).
2. A staff member at a US university that must tell the Title IX Office when they receive any report of sexual harassment.

Acknowledgements

Thank you to the students who spoke with me for this project, and to all participants in my doctoral research. Many thanks as well to my Ph.D. supervisor, Vanita Sundaram, and my thesis advisory panel member, Sally Hancock.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributor

Erin R. Shannon is a senior research associate on the ESRC-funded project, *Examining institutional responses to sexual misconduct: Higher education after #MeToo,* in which capacity she has worked at the University of Portsmouth and currently at the University of York. She completed her Ph.D. in the Centre for Research on Education and Social Justice in the University of York's Department of Education in September 2020.

Data availability statement

The data that support the findings of this study are available on request from the corresponding author. The data are not publicly available due to their sensitive nature and their containing information that could compromise the privacy of research participants.

ORCID

Erin R. Shannon http://orcid.org/0000-0002-4765-4576

References

'About NCAA Division I.'. n.d. NCAA.org. Accessed November 1, 2019. http://www.ncaa.org/about?division=d1.

Ahmed, Sara. 2017. "Diversity Work as Complaint." Feministkilljoys. December 19, 2017. https://feministkilljoys.com/2017/12/19/diversity-work-as-complaint/.

Ahmed, S. 2020. "Closing the Door: Complaint as Diversity Work". International Women's Day: Public Lecture with Sara Ahmed, 5 March.

Ali, R. 2011. "Dear Colleague Letter".

Beck, U., and E. Beck-Gernsheim. 2001. *Individualization: Institutionalized Individualism and Its Social and Political Consequences*. London: Sage. http://ebookcentral.proquest.com/lib/york-ebooks/detail.action?docID=254692.

Bourdieu, Pierre. 1991. *Language and Symbolic Power*. Edited by John B. Thompson. Cambridge, Mass: Polity Press.

Brown, Roger, and Helen Carasso. 2013. *Everything for Sale? The Marketisation of UK Higher Education*. Abingdon: Routledge.

Brownmiller, S. 1975. *Against Our Will: Men, Women and Rape*. New York: Ballantine Books.

Cantor, David, Bonnie Fisher, Susan Chibnall, Reanne Townsend, Hyunshik Lee, Carol Bruce, and Gail Thomas. 2015. "Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct." *The Association of American Universities*. https://www.aau.edu/sites/default/files/%40%20Files/Climate%20Survey/AAU_Campus_Climate_Survey_12_14_15.pdf.

Crenshaw, Kimberle. 1991. "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color." *Stanford Law Review* 43 (1241): 1241–1299.

Fairclough, N. 1992. *Discourse and Social Change*. Cambridge: Polity Press.

Fontes, L. A. 2004. "Ethics in Violence Against Women Research: The Sensitive, the Dangerous, and the Overlooked." *Ethics & Behavior* 14 (2): 141–174.

Foucault, M. 1978. *The History of Sexuality: Volume I: An Introduction*. Translated by R. Hurley. New York: Random House.

Fisher, Bonnie S., Francis T. Cullen, and Michael G. Turner. 2000. "The Sexual Victimization of College Women." *National Institute of Justice.* doi:10.1007/springerreference_223719.

Gutiérrez y Muhs, G., Y. F. Niemann, C. G. González, A. P. Harris, and C. G. Gonzalez. 2012. *Presumed Incompetent: The Intersections of Race and Class for Women in Academia*. Boulder, CO: Utah State University Press.

Heller, Donald E., and Kimberly R. Rogers. 2006. "Shifting the Burden: Public and Private Financing of Higher Education in the United States and Implications for Europe." *Tertiary Education and Management* 12 (2): 91–117.

McGlynn, C., and N. Westmarland. 2019. "Kaleidoscopic Justice: Sexual Violence and Victim-Survivors' Perceptions of Justice." *Social & Legal Studies* 28 (2): 179–201.

Naidoo, R., and J. Williams. 2015. "The Neoliberal Regime in English Higher Education: Charters, Consumers and the Erosion of the Public Good." *Critical Studies in Education* 56 (2): 208–223.

NUS. 2010. "Hidden Marks: A Study of Women Students' Experiences of Harassment, Stalking, Violence and Sexual Assault." https://www.nus.org.uk/Global/NUS_hidden_marks_report_2nd_edition_web.pdf.

Phipps, A. 2018. "Reckoning Up: Sexual Harassment and Violence in the Neoliberal University." *Gender and Education* 32 (2): 227–243.

School Teacher Workforce. 2018. Gov.UK. September 24. https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/school-teacher-workforce/latest.

Schucan Bird, K. 2011. "Do Women Publish Fewer Journal Articles Than men? Sex Differences in Publication Productivity in the Social Sciences." *British Journal of Sociology of Education* 32 (6): 921–937.

Shamir, Ronen. 2008. "The Age of Responsibilization: On Market-Embedded Morality." *Economy and Society* 37 (1): 1–19.

Smith, Carly Parnitzke, and Jennifer J. Freyd. 2013. "Dangerous Safe Havens: Institutional Betrayal Exacerbates Sexual Trauma." *Journal of Traumatic Stress* 26 (1): 119–124.

Tenure. n.d. "American Association of University Professors." Accessed January 13, 2020 https://www.aaup.org/issues/tenure.

Universities UK. 2016. "Changing the Culture: Report of the Universities UK Taskforce Examining Violence Against Women, Harassment and Hate Crime Affecting University Students."

van der Lee, R., and N. Ellemers. 2015. "Gender Contributes to Personal Research Funding Success in the Netherlands." *Proceedings of the National Academy of Sciences of the United States of America* 112 (40): 12349–12353.

West, J. D., J. Jacquet, M. M. King, S. J. Correll, and C. T. Bergstrom. 2013. "*The Role of Gender in Scholarly Authorship*." *PLOS ONE*. doi:10.1371/journal.pone.0066212.

Whitley, L., and T. Page. 2015. "Sexism at the Centre: Locating the Problem of Sexual Harassment." *New Formations* 86 (86): 34–53.

Yumusak, Ege. 2020. "#MeToo's Strike Test." *The Drift*. June 20, 2020. https://www.thedriftmag.com/metoos-strike-test/.