Reaction is Not Enough: Decreasing Gendered Harassment in Academic Contexts in Chile, Hong Kong, and the United States

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Around the world, academic communities are facing a reckoning regarding the everyday presence of gendered and sexual harassment. High profile cases have underscored how gendered harassment gets normalized in research contexts. These include, for example, the toleration of philosopher John Searle's harassment of students by the University of California-Berkeley, and the recent public defense of sexual harassment by National Prize of History Scholar Gabriel Salazar in Chile.[1] In ordinary discussions of harassment in higher education, women can also experience silencing in relation to the burden of proof, in working to confront norms that may be harmful to them, while men deny or dismiss charges, or are simply silent.[2] This atmosphere impacts the interrelated communities of students and academics.

Scholarly research on this topic is emerging. Institutional policies in universities and colleges have largely been the focus of the literature on sexual harassment in academic spaces.[3] In this literature, the main concerns have been the impact of anti-harassment or mandatory reporting policies, such as Title IX in the United States, and how sexual and/or gendered harassment and sexual consent are defined in higher education institutions.[4] Some literature

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1. Katie J.M. Baker, "UC Berkeley Was Warned About Its Star Professor Years before Sexual Harassment Lawsuit," *BuzzFeed News*, April 8, 2017.

2. Sara Ahmed, "Cutting Yourself Off," *Feministkilljoys,* (2017), https://feministkilljoys.com/2017/11/05/the-figure-of-the-abuser/.

3. Ece Canli and Cigdem Kaya, "Silence Of Academy: Expressing Harassment Through Collective Design Process," *Metu Journal of the Faculty of Architecture* 33, no. 2 (2016): 227-45; Rossalina Latcheva, "Sexual Harassment in the European Union: A Pervasive but Still Hidden Form of Gender-Based Violence," *Journal of Interpersonal Violence* 32, no. 12 (2017): 1821-52; Alison M. Thomas, "Politics, Policies and Practice: Assessing the Impact of Sexual Harassment Policies in UK Universities," *British Journal of Sociology of Education* 25, no. 2 (2004): 143-60.

4. Jan Crosthwaite and Graham Priest, "The Definition of Sexual Harassment," *Australasian Journal of Philosophy* 74, no. 1 (1996): 66-82; Laurie M. Graham, Sarah Treves-Kagan, Erin P. Magee, Stephanie M. DeLong, Olivia S. Ashley, Rebeca J. Macy, Sandra L. Martin, Kathryn E. Moracco, and J. Michael Bowling, "Sexual Assault Policies

focuses on perceptions about sexual harassment in higher education among women.[5] These

studies tend to be centered on the so-called victim, instead of interrogating the structure (or

organization) of sexism, and other oppressive ideological systems that enable, and even in some

cases help to perpetuate it, through protocols within universities.

This paper analyzes three recent cases for decreasing sexual and gendered harassment.

Our cases involve three levels of analysis, and three cultural contexts. The first is that of the

higher education community in Chile, where institutions have been pressed by federal legislative

actions to address sexual harassment and enact and implement anti-harassment policy. The

second is the University of Hong Kong (HKU), which has begun taking strides to decrease

harassment, not due to legislative concerns, but as influenced by international trends and faculty-

and student-based concerns. The third is the Philosophy of Education Society (PES), an

international academic society based in North America, which recently began to develop anti-

harassment policy. In each case we analyze how sexual and gendered harassment has been (1)

conceptualized, (2) responded to, and (3) contextualized. The paper ends with recommendations

for moving forward anti-harassment policies and programs, seen broadly.

Exploring these cases, we find that each partly has different difficulties, owing to their

different scales, from national and institutional, to organizational. Nonetheless, trends for

thinking through how to understand and decrease sexual and gendered harassment are similar

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and Consent Definitions: A Nationally Representative Investigation of US Colleges and Universities," *Journal of School Violence* 16, no. 3 (2017): 243-58; Iddo Landau, "On the Definition of Sexual Harassment," *Australasian Journal of Philosophy* 77, no. 2 (1999): 216-23; Wendy Perkins and Jessica Warner, "Sexual Violence Response and Prevention: Studies of Campus Policies and Practices," *Journal of School Violence* 16, no. 3 (2017): 237-42; Justine E. Tinkler, "'People are Too Quick to Take Offense': The Effects of Legal Information and Beliefs on Definitions of Sexual Harassment," *Law and Social Inquiry-Journal of the American Bar Foundation* 33, no. 2 (2008): 417-45; Karen G. Weiss and Nicole V. Lasky, "Mandatory Reporting of Sexual Misconduct at College: A Critical Perspective," *Journal of School Violence* 16, no. 3 (2017): 259-70.
5. Mari Carmen Herrera, Antonio Herrera Enriquez, and Francisca Expósito, "To Confront versus not to Confront: Women's Perception of Sexual Harassment," *The European Journal of Psychology Applied to Legal Context* 10, no. 1 (2017), http://ejpalc.elsevier.es/es/to-confront-versus-not-confront/avance-resumen/S1889186116300609/.

across these cases, as they exist in an increasingly international and interdependent higher education field. To explore sexual harassment in different academic spaces such as Chilean universities, PES in North America, and HKU in Hong Kong enables us to develop a broad knowledge base to undergird future theory and practice. It also helps expose as a myth that sexual and gendered harassment is confined to exceptional spaces, cultural contexts, or communities. Harassment is not serial disparate incidents, but a norm across different settings. In this text we thus identify, and begin to respond to, the need to develop ways to assess (or calibrate) practices and policies for understanding and decreasing harassment in higher education. As we see it, this entails engaging in complex conversations across communities, not isolating incidents from the broader picture.

Conceptualizing, Responding to, and Contextualizing Harassment in Higher Education

Appropriately conceptualizing, responding to, and contextualizing harassment are important in effectively decreasing gendered and sexual harassment in higher education. *Conceptualizing* what is and is not harassment is a challenge both for philosophers and practitioners. Yet the definition of sexual harassment is fundamental for effective legislation and practices to prevent and decrease it. On the other hand, uncertainty in applying a definition may constitute a problem for the defense of victims and decision-making of authorities. Ambiguity over what constitutes sexual misconduct or harassment reduces reporting and allows the reproduction of violence within institutions.[6] Differences in how harassment is conceived also influence policies' impact. For example, a study in Czech universities found that 78% of students experienced professor behaviors that could be characterized as sexual harassment, while only 3%

6. Graham, et al., "Sexual Assault Policies and Consent Definitions."

asserted that they had been harassed, due to stringent definition requirements for harassment.[7]

Including definitions of *consent* is also vital, to protect victims from self-blame, identify sexual harassment and abuse, and encourage reporting.[8]

When it comes to the appropriate *response* to harassment, preventing harassment is most effective for decreasing it. Committing to prevention rather than reaction entails examining what is acceptable and unacceptable behavior and relational norms, while recognizing how (for example) sexist attitudes and beliefs interlock with individuals' beliefs and value systems.[9] In this case, what underlies sexual harassment behaviors and perceptions is rooted in cultural contexts. In British universities, prevention programs educate people as both potential harassers and victims, before setting out disciplinary consequences for those who breach policy.[10] When an institution considers prevention, it reflects that the community should take the responsibility to protect those in vulnerable positions. In this way, all members of the community can endorse the principle of safety that supports an institutional commitment to condemn harassment, assault and/or discrimination.

Such a focus on prevention requires making harassment visible and sayable, foregrounding the institutional, and communal, over the individual. On the other hand, policies that do not emphasize prevention fail to recognize sexual harassment as embedded and normalized in a social and cultural context, and how institutions reproduce injustices and

7. Kari Fasting, Stiliani Chroni and Nada Knorre, "The Experiences of Sexual Harassment in Sport and Education among European Female Sports Science Students," *Sport, Education and Society* 19, no. 2: 115-30.
8. Graham, et al., "Sexual Assault Policies and Consent Definitions."
9. Pierre, Joubert, Christo van Wyk and Sebastiaan, Rothmann, "The Effectiveness of Sexual Harassment Policies and Procedures at Higher Education Institutions in South Africa," *South African Journal of Human Resource Management* 9, no. 1 (2011): 47-61.
10. Thomas, "Politics, Policies and Practice."

inequalities through mechanisms that enable and naturalize unjust practices.[11] Instead, the

problem and responsibility is put on the individual to know and act against harassment. The

related discourse of victims and wrongdoers also presents danger as outside the institution or

community. Thus, "the location of danger in an outsider is how the institution appears as safe

and protective when it is not."[12]

The requirement of reaction to harassment can increase a person's vulnerability, as

victims have to prove wrongdoing, typically at the hands of someone better known and possibly

more highly reputed.[13] Ahmed in an analysis of sexual harassment in academic institutions,

unveils how complaint can be considered disloyalty: "a disloyalty not only to a department or

institution but to some we or another."[14] In such cases, victims are seen to damage a peer group,

a community, the reputation of the university, and other "important people." Furthermore,

reactive strategies can be traumatic for victims, who may have to reenter suffering to justify

complaints. Those who work in good faith to observe harassment within institutions also risk

being treated as melodramatic (and thus abnormal), if not disloyal, by those who assume

harassment is negligible. To critique limitations in efforts to decrease harassment is to question

what is framed as good and normal by others. Thus, even concerned parties can get framed in a

community as "naysayers," positioned as outside of normal. In this context, Ahmed observes

how people in higher education (students, academics, staff) "experience institutions" in ways that

influence how they handle harassment.[15] In this way, reactive strategies "educate" the

11. Leila Whitley and Tiffany Page, "Sexism at the Centre: Locating the Problem of Sexual Harassment," *new formations: a journal of culture/theory/politics* 86, no. 1 (2015): 34-53.
12. Sara Ahmed, "The Figure of the Abuser," *Feministkilljoys,* (2017), https://feministkilljoys.com/2017/11/05/the-figure-of-the-abuser/.
13. Liz Jackson, "The Smiling Philosopher: Emotional Labor, Gender, and Harassment In Conference Spaces," *Educational Philosophy and Theory* (forthcoming/online first).
14. Ahmed, "Cutting Yourself Off."
15. Sara Ahmed, *On Being Included: Racism and Diversity in Institutional Life* (Durham: Duke University Press, 2012).

community, as people observe how victims and others who make complaints get portrayed as problematic or obstructive.

Finally, reactive strategies disempower people in understanding harassment as a relational process, where one person's behavior is experienced negatively by another, before being formally recognized as harassing. In some contexts, people apply a "reasonable person test" to determine if a behavior is harassment. Such a strategy assumes that everyone (reasonable) would react similarly to, and thus know and agree upon, what is harassment. Yet in reality, diverse relationships are possible with consent. People do not always hold similar views or experiences of the same situation as harassment. Discussions of harassment among victims can show that what makes one person uncomfortable might not make another person uncomfortable (or that one might consent to a behavior with one person, but that does not mean they would consent to it with everyone). A reactive approach is thus disempowering to those who face harassment, and those who may be against harassment in the abstract, yet unwittingly engage in it due to misunderstanding.

Contextualizing harassment means to understand how the larger backdrop of violence against women and sexual minorities and the delegitimization of their views can negatively impact efforts to decrease harassment. In Chile, in 2005 there were almost six thousand reports of sexual abuse, with 85% of victims women. In 2015, the figures were slightly worse. More than 80% of those who suffer violence and minor and serious aggressions in intimate spaces are women.[16] In the case of rape, 97-99% of the victims are women. In Hong Kong, one in four women reported being victims of domestic violence, fourteen percent experienced sexual abuse,

16. Centro de Estudios y Analysis del Delito [Centre for Crime Research and Analysis], *Estadisticas Delictuales, Abusos Sexuales* [Legal Statistics, Sexual Abuse] (Santiago: Subsecretaria de Prevencion del Delito, 2017).

and 49% harassment.[17] In the United States, there are over 300,000 rape and sexual assault

victims per year, 90% of whom are female.[18] Contextualization here requires recognition that

higher education institutions and academic spaces do not operate outside of the cultural structure

of sexual and gendered violence.

Sexual harassment and abuse, and arbitrary discrimination based on sex, affect more

women than men in universities, as well as other groups that have been historically marginalized

due to race, ethnicity, sexual orientation, class, and disability. Yet as sexual and gender

harassment is normalized in society at large, it is not seen as harassment in universities.[19] In a

study of Spanish universities, 62% of students knew of or experienced sexual harassment, but

only 13% identified these situations formally, due to naturalization of violence in these spaces.[20]

Context should thus be kept in mind in developing efforts to decrease harassment in higher

education. The next sections explores the cases in Chile, Hong Kong, and the United States, first

giving an overall glimpse of the social context, before evaluating efforts in relation to

conceptualization, response, and contextualization.

Chilean Higher Education

Context

The higher education system in Chile has experienced a process of expansion and

diversification in the last decades. There are currently 60 universities, of which 12 are public, in

17. Joyce Man and Hedy Bok, "Many Domestic Violence Cases not Reported: Poll," *South China Morning Post*, January 22, 2013.

18. Callie Marie Rennison, "Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000," *Bureau of Justice Statistics Selected Findings*, NCJ 194530 (2002).

19. Whitley and Page, "Sexism at the Centre."

20. Rosa Valls, Lidia Puigvert, Patricia Melgar, et al., "Breaking the Silence at Spanish Universities: Findings from the First Study of Violence Against Women on Campuses in Spain," *Violence Against Women* 22, no. 13 (2016): 1519-39.

addition to over 100 private institutes and technical training centers. In 2017, over one million students were enrolled, with a female participation rate of 51%.[21] Of the 73,000 scholars working in universities, 43% are women.[22] While a federal law against sexual harassment was approved in 2005, higher education institutions have responded slowly to the call to create protocols against harassment. Just seven (of 60) universities have designed and published protocols as of early 2018, with four others in the process. One of the seven protocols focuses only on situations between students, leaving aside workers, researchers and professors. Out of the remaining 48 universities, four have responded that issues of sexual harassment and abuse are implied in labor protocols related to order, hygiene, and security.

In Chile, the prevalence of sexual harassment in higher education in unknown, apart from *in crescendo* denouncements by undergraduate students against professors, which usually fall under confidential procedures. In spite of the lack of indicators, sexual harassment has become visible and speakable in the past few years. There have been public denouncements, as well as public questioning of women making accusations. In January, 139 women researchers signed a letter demanding that the National Commission of Science and Technology, the main public research funding institution in Chile, incorporate as a principle for research funding the condemnation of sexual harassment, sexual violence, and intrafamily violence. They required that any scholar found guilty of such crimes be made ineligible for public research funds.[23] Representatives from the National Commission replied that it lacks authority to apply such

21. Consejo Nacional de Educación, *Estudiantes 2006-2017* [Students 2006-2017] (Santiago: Consejo Nacional de Educación, 2017).
22. Servicio de Informacion de Educacion Superior, *Informe Personal Academico* [Information about Academic Personnel] (Santiago: Ministerio de Educación, 2017).
23. "Académicas y Estudiantes Realizan Declaración: 'Conicyt: ¡Basta de Financiar Abusadores y Acosadores!'" [Academics and Students Demand: "Comission: No More Funding for Abusers and Harassers!"] *El Mostrador*, January 10, 2018.

penalties apart the legal system, which could be incorporated into adjudication processes of funding in academic institutions.[24] As we write (May-June, 2018), almost all universities across the country have been on a feminist strike and many institutions occupied to protest against the absence and insufficiency of sexual harassment protocols and the need for non-sexist education. This has been accompanied by a heterogeneous discussion in the media, by student organizations and academics involved in complaints, about harassment in universities.

Analysis

Possibly motivated in part by complaints of harassed faculty members and/or students, protocols against sexual and gendered harassment in Chilean universities were constructed via a "top-down" strategy, without a systematic examination of experiences within the academic community. They provide a limited and vague conceptualization of sexual harassment. They largely follow the Chilean legislation definition, which is framed in terms of "labor harassment," a unilateral, unwelcome sexual advance or request for sexual favors, that entails a clear threat to employment opportunities or adversely affects work environment or performance. For example:

> Labor relations must always be based on a treatment compatible with the dignity of the person. Contrary to it, among other conduct, is sexual harassment, understood as when a person performs improperly…of a sexual nature, not consented to by the recipient and that threatens or impairs their employment status or employment opportunities. (Protocol University One)

Two protocols identify "arbitrary discrimination" in their discussion of harassment, and three mention "sexual orientation" as a possible factor in discrimination. The requirements of the

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24. "Conicyt Responde a Académicas y Estudiantes que Cuestionaban Financiamiento a Personas Denunciadas por Conductas de Acoso Sexual o Violencia Contra Las Mujeres" [Commission Responds to Academics and Students that Question Funding to People Reported for Sexual Harassment or Harassment Against Women], *El Mostrador*, January 12, 2018.

definition do not address what makes it sexual or gendered. They require only that harassment is "conduct" which is "not consented" to. These requirements exclude other possibilities, for example for harassment to include unwelcome sexual attention that is offensive or threatening to the victim in other ways.

Defining sexual harassment as conduct or behavior also limits what counts to discrete and obvious events. For example, behaviors such as offensive jokes or remarks, which depend on context, are difficult to frame as sexual harassment according to this definition. One protocol recognizes jokes or offensive comments as "sexual harrying," but not as "sexual harassment," while another considers language with sexual connotations as discrimination. The protocols separate sexual harrying and arbitrary discrimination from sexual harassment, because national law on sexual harassment does not include sexual harrying in its definition, against the recommendation of the Chilean Committee of Human Rights. By implication, there is a burden of proof on victims to identify a clear act or event as harassment, leaving out more everyday issues and concerns. This contrasts with United States law, where "environmental" harassment covers less tangible action, like displaying pornography, touching, and sexual or sex-based jokes. Additionally, only two of the Chilean university protocols describe consent, noting that silence does not necessarily indicate consent.

Protocols have been implemented as a reactive strategy. Most do not include preventative action or discussion about responsibilities in prevention. The focus is on what to do in case of harassment. Two protocols consider issues related to prevention. One also gives "general recommendations" lined up with the idea of prevention (Protocol, University Four). Of those universities that mention prevention, one presents a process of training and awareness for the community:

Article 41. The University will develop protocols, digital material and others, in addition to a comprehensive prevention and awareness program, training students, assistants, professors and staff in order to reduce the conditions that facilitate the occurrence of sexual violence conducts or situations. The information and contact of counselors, complaint channels and other resources available to address situations of sexual violence will be published on the University's website. (Protocol University Seven)

The second mentions prevention as one objective, but does not discuss how to implement prevention as part of policy.

Objective 1. Preventing acts of sexual violence through awareness, psychoeducation and delivery of self-care tools for all members of the [University One] community. (Protocol University One)

Only one protocol recognizes the broader context of harassment:

When it comes to detecting those who are harassed, it is widely recognized that sexual harassment disproportionately affects women. This is why it is recognized as a manifestation of violence against women which constitutes an extreme form of discrimination and violation of their human rights. (Protocol University Two)

Elsewhere, neutral language in protocols neglects that sexual harassment disproportionately affects people that have been marginalized due to gender, race, ethnicity, sexual orientation, class, and disability. Vulnerability and structural issues of power are overlooked in protocols, as well as discrimination due to sexual orientation. Only two protocols mention that "any attempt against a person because of gender or sexual orientation will be considered gender violence" (Protocol University Seven), and that arbitrary discrimination may be "exclusion and restriction without a reasonable justification…because of sex, sexual

orientation, gender identity, civil statuses, age, affiliation, personal appearance, sickness or disability" (Protocol University Five).

Nonetheless, structural issues remain visible in public discourse, where the questioning and scrutiny of women in contrast to men reflects and perpetuates discourses that naturalize and bolster violence against women. For instance, Gabriel Salazar, the National Prize of History, publicly stated:

> There are professors who seek more than a friendship relationship with their students, but they (the complainants), I see them as very *pintiparadas* (proud and disdainful), giving statements from here to there. I didn't see them that destroyed psychologically. Those who are destroyed are the two accused professors, Ramírez and León. They are screwed. I do not know if a *stupid harassment* is enough for the loss that was produced by this situation (the dismissal of both professors). You have to see a balance here.[25]

Salazar continues defending his view in different forums. While women on social media condemned Salazar's view, no university leader or other leading scholar has questioned him. Furthermore, the Director of the Department involved in the incident admitted he was aware for decades about one harasser:

> Professor Leon has a historical record [of sexual harassment]. Many people told him when he entered the University of Chile: "Stop, do not do silly things." Nonsense is the euphemism for saying: "Do not do what you have done in another place."[26]

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25. Camila Ossandón and Jose Tomas Tenorio, "Sexo, Mentiras y Denuncias: La Facultad de Filosofía y Humanidades de la Universidad de Chile y Los Casos de Acoso y Abusos" [Sex, Lies and Denunciations: The Faculty of Philosophy and Humanities of the University of Chile and the Case of Harassment and Abuse], *El Mostrador*, December 27, 2016.
26. Ibid.

Here we find powerful men marking the views of less powerful women as suspect. Such discourse helps maintain a state of heightened vulnerability for disadvantaged groups, lacking appreciation for the context of making allegations of sexual harassment and abuse within structurally unjust circumstances.

The University of Hong Kong

Context

The University of Hong Kong is one of Asia's leading international research institutions. It is the first higher education institution to join the United Nations-backed movement #HeForShe that aims to engage men in promoting gender equality and eradicating violence against women. In 2016, then Vice-Chancellor Peter Mathieson asserted that HKU is "committed to addressing violence, sexual harassment, and bias in all its forms." In 2015-2016, HKU had 72% (796) men professors (of all ranks) and 28% (311) women professors, an improvement from 2005-2006, when women accounted for 22%.[27]

HKU's Equal Opportunity Unit (EOU) provides policy and procedures for enquiries and complaints, in alignment with the Hong Kong Sex Discrimination Ordinance (SDO). In 2017, the HKU Force for Good initiative held a three-day program for reducing sexual harassment in Hong Kong workplaces. Recently HKU produced a voluntary online course for students about preventing sexual harassment. Such initiatives have not had a major impact on the HKU community in many stakeholders' eyes. As Lockey notes, "gender [equality] mainstreaming is still very slow or absent" while cultural gender roles remain influential.[28] Groups have emerged

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27. Helen Lockey, "Achieving Gender Parity in Hong Kong's First and Oldest University" (lecture delivered at the APRU-APWiL workshop, Cebu, Philippines, November 22, 2016).
28. Ibid.

in Sciences and Arts faculties to address gender and sexual bias. Although the Equal Opportunities Commission (EOC) found in 2013 that 50% of tertiary students in Hong Kong experienced sexual harassment,[29] a request for the HKU Centre for Teaching and Learning to provide gender and sexual bias and harassment prevention training for staff was reportedly dismissed on the ground that there was no need identified for such training. To date, no systematic study of harassment at HKU has been completed. The EOU has recently started making available university statistics, which indicate sexual harassment as the most common cause of complaint, with disability and sexual discrimination also common.

Analysis

Like in Chilean higher education, at HKU policy has been developed with definitions of harassment coming from top-down, without open internal dialogue. The SDO describes sexual harassment as occurring when a person makes an unwelcome sexual advance or "other unwelcome conduct of a sexual nature" toward a woman, with a 2008 amendment including reference to "a hostile or intimidating environment."[30] Unequal treatment based on gender and marital status are also noted as discrimination, although sexual mistreatment of sexual minorities is not included. HKU procedures cite the SDO. They indicate that one can commit harassment unintentionally, and that harassment can be based on sexual orientation and/or carried out by someone of the same gender. HKU leaflets repeatedly observe that sexual harassment includes sending pornography. The only reference to consent is an encouragement of potential victims to say "no" to "the harasser," or else "it might be taken as tacit consent,"[31] foreclosing more critical

29. Jennifer Ngo, "Half of Students in Hong Kong 'Sexually Harassed', Survey Reveals," *South China Morning Post,* March 3, 2013.
30. Sexual Discrimination Ordinance of Hong Kong, Cap. 480.
31. The University of Hong Kong Equal Opportunity Unit, "Handling Sexual Harassment A Guide for Staff and Students," *Leaflets*, (2011), http://www.eounit.hku.hk/eng/shtextonly.htm.

orientations to consent. A "reasonable person test" is referenced in cases of ambiguity, observing that jokes and circumstances can be ambiguous.

HKU Equal Opportunity Policy states that the "University will take whatever action may be needed to prevent, and if necessary, discipline behavior which violates this Policy,"[32] and elsewhere notes that "guidelines have been drafted with the intention of preventing rather than creating problems."[33] Beyond this, prevention has not been highlighted. Descriptions of how to handle alleged harassment and discrimination place responsibility on allegers to prove beyond reasonable doubt that specific incidents were threatening. Apart from the previously mentioned voluntary course for students, no preventative program has been developed.

That some groups may be at greater risk due to gender or other factors is not emphasized in guidelines. Yet media reveal a context of heightened threat toward women. Recently, "a student was sexually assaulted in a dormitory by a group of men who described it as 'good fun'."[34] Media reports and surveys show that victims are not likely to report incidents due to "slut shaming" and victim blaming.[35] That gender bias is normalized can be seen in a recent incident wherein the EOC chief Alfred Chan Cheung-ming stated that women are not concerned with equal pay, and are more attentive and better at looking after the family. These statements were made at an event by the Hong Kong Women's Foundation, in a campaign called "My Real Career Line"—"career line" in local slang refers to women's chest cleavage.[36] That such a context may stymie efforts to decrease harassment is not recognized in university policy.

32. The University of Hong Kong Equal Opportunity Unit, "Policy Statement," (2011), http://www.eounit.hku.hk/eng/policy.php.
33. The University of Hong Kong Equal Opportunity Unit, "Guidelines," (2011), http://www.eounit.hku.hk/eng/guide
34. "HKU Hit by Another Sexual Assault Scandal," *ejinsight: on the pulse*, April 6, 2017.
35. Medhavi Arora, "Sexual Harassment at Hong Kong's Universities—Rarely Reported, But Not Rare," *Hong Kong Free Press*, January 3, 2016.
36. Ellie Ng, "Equality Chief Faces Calls to Resign After Making 'Sexist' Remarks on Internairoal Women's Day," *Hong Kong Free Press*, March 14, 2017.

The Philosophy of Education Society

Context

The Philosophy of Education Society is a North-American based international forum for the promotion of philosophy of education. Generally, 300-400 people attend its annual conferences, including postgraduate students, employed and emeritus professoriate staff, and independent scholars. Although women and men have been roughly proportionate in representation on the society's executive committee in recent years, some members have voiced concerns that the society does not provide an inclusive environment for women (among others). The Committee on the Status of Women has focused on promoting women in the field and the society, through developing scholarship and supporting inclusive environments.

In 2017, a message was sent to PES members through an email bulletin, signed by the president and immediate past president, announcing that the executive committee had learned of "troubling behavior towards female PES members and PES members of color."[37] In this context an ad hoc committee convened to draft a policy for the society website and conferences, to be discussed in future conferences. This text included the following:

> While all forms of harassment are unwelcomed by the recipient, some forms are not recognized as harassment by the perpetrator. Harassment can be unintended and not malicious. Moreover, when one person has formal or informal power over the other, it may be difficult to ascertain what is unwanted. An individual might tolerate unwanted behavior if there are power imbalances between the individuals involved, but tolerance is

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37. Correspondence received from then-PES President Deb Kerdeman and Immediate Past-President Barbara Applebaum via Joshua Corngold, "PES Members' Bulletin (February, 2017)" email to PES Members, February 2017.

not consent. It is every member's responsibility to be vigilant about how their behavior affects the experiences of others.[38]

Its 2017 and 2018 conferences provided forums on the policy and how to understand and decrease harassment, and a member survey of experiences and perspectives was informally reported on in 2018. In 2018, four senior members of the society were formally nominated and named as an anti-harassment policy working task force. The policy and procedures remain a work in progress. There is no legal process involved in PES policy making at this time, while legal implications of developing more specific guidelines are under consideration.

Analysis

Unlike the previous two cases, the way policy was developed by PES was not as top-down. One of the named members of the ad hoc committee that wrote the initial policy is a representative of COSW, while the policy was motivated by complaints of PES members who reportedly wished to remain anonymous. In the 2018 forum, it was explained that the task force was comprised of (four) senior members of the society, to protect more vulnerable members of the community, at the recommendation of some junior members.

Harassment has been defined to acknowledge complexity, as well as the importance of genuine consent. Nonetheless, such a definition can be difficult to operationalize. As noted in the policy text, society members may have informal, not formal, power over one another, rather than direct and clearly drawn employment relations. In such a context, identifying consent is not straightforward. Some may still interpret the statement to suggest that securely employed academics cannot experience sexual harassment, if no power imbalance is observed. Yet sexual and gendered expectations and relations can still be threatening even among colleagues who are

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38. PES, "Safe Environment/Anti-Harassment Policy," approved 2016, received via Joshua Corngold, "PES Members' Bulletin (February, 2017)" email to PES Members, February 2017.

"equal." Environmental harassment and arbitrary treatment due to difference are also difficult to decipher in the PES context. Given the philosophical quirks of diverse PES members, it may be difficult to develop community agreement about what is required to ensure a positive environment for all, as discussed at the 2018 forum.

In relation to prevention, draft documents and forum discussions provide encouragements for people to look out for one another, and check in about whether people are uncomfortable in some situations. Nonetheless, victims still face a burden of proof in this context, as none will witness or observe harassment before or at the same level of intensity as victims, particularly without a broader educational campaign to know and understand the experiences of vulnerable parties. Furthermore, indicating individuals' responsibilities to not harass or to act against harassment falls short of elaborating what is entailed in the responsibility to prevent. The apparent silence or lack of participation by some stakeholders in extended discussions may reflect that some view themselves as not problematic or relevant. When nobody sees themselves as a problem, problems can easily be overlooked. Additionally, in some ways the policy was reactive, as indicated in the introduction of the policy. Some voiced in the 2017 forum that they had wished for recognition of a problem with harassment in PES in the past, but felt ignored.

Nonetheless, PES is now taking aims to note the prevalence of various forms of harassment and bias diverse society members experience. The ad hoc committee and the anti-harassment task force have taken strides toward framing harassment as a matter of injustice rather than normal behavior. Although PES may have some variant of a "boy's club," at the same time the historical focus of the society on justice, fairness and equity can bolster its capacity to acknowledge how normalized hierarchies operate. On the other hand, in the United States, higher education violence against women has also been normalized, such as in the case of John Searle, a

known harasser protected by his institution. Despite the prevalence of sexual and gendered violence in the United States, which disproportionately impacts people based on race, class, gender and sexual orientation, privileged people still tend to see the social context as safe, not recognizing the culture of violence at hand. Recognizing disparities in perception may be helpful as PES aims to understand its culture, as that experienced by more and less empowered members.

Possibilities for Decreasing Harassment in Higher Education

Effectively conceptualizing, responding to, and contextualizing harassment are vital components in efforts to decrease sexual and gendered harassment in higher education. In relation to conceptualization, in the cases explored here, a binary view of harassment tends to be assumed. Such a binary view provides little opportunity to reflect on grey areas, between harrying and obvious abuses of power. Harrying and minor offenses, or offenses which may not be easily identified as sexual (or racial, etc.), slip under the radar, as it is more difficult to prove they are related to sexual, racial, or other identity characteristics, or if a person "treats everyone that way." A binary view also frames people as perpetrators and victims, making victims responsible for identifying harassment, in contrast with a more community-oriented and relational view. Harassment can occur as a slippery slope of occurrences, as slightly bad behavior is endured until harms are normalized or framed as reasonable, as if victims ask for it by not obviously and immediately fighting back. A community-oriented definition should be promoted in its place, which emphasizes inclusivity toward diverse others and observes a spectrum of more and less equitable and respectful ways of relating to others. The PES policy makes some strides in this direction acknowledging how community can play a role.

Relatedly, the requirement of non-consent within definitions as seen here also burdens those more vulnerable to harassment with the task to overtly reject others, lest they get accused of sending mixed messages: for example, tolerating winking or a hug, but then regretting implied consent to the extension of the hug, or an increase in its intensity. In an ideal world, consent should be continuous and transparent. Lacking relational equality (and lacking awareness of the more general context of ongoing marginalization of women and minorities in higher education and society), those with more privilege do not always recognize non-consent in silence or polite rejections and refusals. When harassment is defined simply in terms of non-consent, women and other less privileged people may opt out of professional relations in the first place, rather than engage in contexts where they remain vulnerable, seeing these as "no-win" situations, where they must put on their "bitch face" and prepare to continuously, emphatically not consent, or else endure harassment.[39] This experience is neglected in definitions which emphasize non-consent.

To move toward prevention, rather than defining harassment as unprincipled behavior (one act, without consent), promoting a virtue orientation across a community can be more effective, from a contextualized view. Because harassment causes harm, prevention as a virtuous tendency can entail personal, relational, and communal cultivation of new kinds of awareness and understanding about communication and intergroup relations: new habits and attitudes, rather than rule-following. Harassment is rarely one-off in the experiences of perpetrators and victims. Active cultivation of relations which are more equitable, with clearer lines of communication, can go some way toward prevention, through education and training of all members of a community.

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39. Jackson, "The Smiling Philosopher."

Conceptualizations of harassment in the cases here also emphasize it as behavior across unequal parties, to identify harassment after it occurs. Harassment is enabled by the fact that some people are less empowered in social contexts than others. However, this does not mean that victims and perpetrators are necessarily in clearly defined, unequal employment relations. Here, the PES policy is distinctive in appreciating that harassing behaviors and experiences occur in complex power relations. In PES—and in academic settings more generally—a labor-based view of exploitation based on sexual demands is not always helpful. What would be more useful here is a critical appreciation for how vulnerability is distributed within communities.[40] That is, inequitably distributed vulnerability enables abuses of power such as harassment, and can disable remediation when vulnerable parties increase their vulnerability by defending themselves.[41]

The question then becomes not how to spot harassment, but how to redistribute vulnerability, recognizing it as openness, as well as susceptibility. Students, historically disadvantaged groups, women, etc., cannot be made invulnerable, but their voices have hardly been privileged, or placed on equal footing, in efforts to decrease harassment, as policies and practices have tended to be reactionary and in many cases top-down. To make vulnerable groups not "sore points," with the burden of proof to challenge the status quo, a virtue orientation toward vulnerability can also be promoted at community levels. Epistemic authority can be granted more equitably, as senior and more powerful parties seek to learn systematically from juniors and the less powerful. At the level of protocols, greater contextualization of vulnerability and the top-down views shaping conceptualizations of harassment, can help ensure that practices

40. Michele A. Fineman, " The Vulnerable Subject: Anchoring Equality in the Human Condition," *Yale Journal of Law & Feminism* 20, no. 1 (2008): 1–23; Erinn Gilson, *The Ethics of Vulnerability: A Feminist Analysis of Social Life and Practice* (New York: Routledge, 2014); Liz Jackson, "Reconsidering Vulnerability in Higher Education," *Tertiary Education and Management* (forthcoming/online first).
41. Alyson Cole, "All of Us are Vulnerable, but Some are More Vulnerable than Others: The Political Ambiguity of Vulnerability Studies, an Ambivalent Critique," *Critical Horizons: A Journal of Philosophy and Social Theory* 2 (2016): 260–77. See also Sara Ahmed, *The Cultural Politics of Emotion* (Berkeley: University of California, 2004).

and processes do not ultimately protect and make convenient a privileged position in contexts that have not been safe for all. It can help avoid a situation where policies and practices isolate or increase the vulnerability of underprivileged stakeholders, despite policy makers' intentions.

From a practical perspective, as context makes a difference for prevention, there are no easy remedies on offer. As we have found, often policies have developed as reactions to particular incidences, while prevention entails a different approach which is based in community engagement and reflection. We thus recommend as an initial step a greater focus on the so-called normal and "safe" context, and the cultivation of more open dialogue about sexism (and homophobia and other ideological systems) as a mechanism that structures violence and its institutionalization in academic spaces and society. Giving space for complex conversations allows the development of more widespread consciousness and recognition of how unequal relations are culturally naturalized and perpetuated. This dialogue should be framed not in terms of good/bad, victim/perpetrator, consent/not consent, etc., but should illuminate how inequality and oppression operate in complex ways often hidden to those in "normal" privileged positions, who may find it easier to react to harassment (with simple rules) than prevent it. More vulnerable community members must be meaningfully included in participating in and in staging such conversations. Thus, protocols should first open discussion about how harassment is experienced, rather than position it as outside the norm, experienced by others and "bad guys."

Anti-harassment policies founded on such dialogue can help develop broader recognition of how the cultures and hierarchies of higher education are experienced differently by diverse community members. In other words, such dialogue can help contextualize what is individualized and de-contextualized in simplified reactionary discourses. Sexual and gendered harassment should not be conceptually disconnected from understanding how hierarchical

institutional structures are experienced more broadly by those in their margins. Instead, the challenge of preventing harassment should be framed as within the larger aims of communities to enhance their institutional climates for equity. Women and minorities remain overrepresented in non-tenure track positions and in the humanities and social sciences, and underrepresented as tenured professors and in STEM fields. In each category, women and minorities are paid less and face barriers related to stereotypes. This is part of the context of harassment, and at the same time it points to diverse pathways for preventing harassment which recognize its relationship to unevenly distributed vulnerability. In sum, greater comprehension of sexual and gendered harassment should be extended through policies, protocols, and conversations, to understand how marginalization and discrimination operate. Separated from the broad aims of equity and inclusion in communities, harassment can hardly be understood or prevented effectively.