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# Rape And Sexual Assault On Campus: Reasons And Prevalence

How much do you weigh? What were you wearing? Did you drink in college? Are you sexually active? Do you have a history of cheating? How many times did you black out?

On trial, these were some of the questions directed towards Emily Doe (pseudonym), a Stanford graduate victim of sexual assault who was found unconscious behind a dumpster, hair dishevelled, naked from the top down on January 17th 2015 and who had learnt of the grim details of her assault from a news article. The case of People v Turner raises debates over questions of autonomy and consent and concerns of the prominence of rape and sexual assault on campus. Her perpetrator, another Stanford student, Brock Turner was sentenced to six months in county jail for fear that it would severely impact Turner's opportunities as a rising, champion swimmer. Such leniency in Turner's sentence demonstrates how rape culture on campus and fraternities exerts a lack of accountability and justice served for rape and sexual assault victims. It further generates discussions over traditional notions of rape and sexual assault, in terms of this essay, against a woman, as forceful and non-consensual sex. Whilst this notion does provide a clear violation of a woman's autonomy, it questions whether the mere word of 'yes', Turner claims, the disorientated and unconscious, Stanford victim had muttered in response to whether he was allowed to finger her, reflects consent. On drawing on this, this dissertation will explore, in three subsections, the prevalence of rape and sexual assault on campus and American fraternities whilst examining how social and legal agencies surrounding rape culture constrains a woman's right to exercise her full autonomous value. I will first begin by discussing the socialisation of rape culture within fraternities and college as a social sphere to exert male dominance and power. Then, by utilising Schulhofer's parable of the hospitalised athlete, explore the importance of upholding autonomy in cases of rape and/or sexual assault. This will be followed by analysing the significant need to acknowledge the invisible harms of consensual unwanted sex as acts of rape and sexual assault.

## Rape as a social sphere of male power – Fraternities and rape on campus

Through a feminist interpretation, rape and rape culture as a social sphere of male power have become a by-product of society's perpetuation of gender norms. In this way, rape inherently becomes part of a cultural interpretation of sexuality that eroticises dominance, that is, male power over women's submission, humiliation, violation, and injury which reflects sexual excitement. These gender norms are historically reflected in an intrinsically gendered system of law and Western liberal thought, where the legal exclusion of women from participating in a male-dominant public sphere in activities such as voting to working as lawyers, emphasised the widely accepted objectification that a women's role should be confined within the domesticity of the home as child-bearers and submissive wives (Higgins, 1999-2000). This is in contrast to the association of strength, power, and the title 'breadwinner', tied to the attributes of men. Although acceptance and rigidity of these traditional roles have since shifted in contemporary society, the gendered social system of unbalanced powers and ideas of male domination are retained through society's psychological indoctrination of these values, exuded since early

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childhood. The retention of this socialisation is significantly shaped by the role of parents, particularly, the stereotypical relationship between fathers and sons. Fathers, driven by fears that their son might grow up being a “‘pussy,’ ‘sissy,’ ‘punk,’ or ‘softy’- terms commonly associated with boys who fail to meet the traditional standards of masculinities in America” (Harris & Harper, 2008) - contributes to an over-emphasis on the desirability of stereotypical masculine characteristics such as toughness and aggressiveness. These power “privileges” provided to men, instill the belief that they have complete power over women and thus, have the right to perform that power through acts of sexual assault.

Moreover, the entertainment industry has also significantly contributed to these attitudes which have created rape culture. The objectification of women as sexual objects and the dominance of men are leading images portrayed in advertisements. Particularly, the storylines developed concurrently with these images were problematic in curtailing rape and rape culture where “42% of the storylines suggested the victim wanted to be raped...and 46% suggested the victim was to blame for the assault” (Kahlor & Eastin, 2011). As an average American encounters 3000 advertisements a day, the repetition of these sexual and gendered depictions of women normalises such perspectives that are projected into rape culture.

These ideas portrayed by parents and the entertainment industry embody a larger force in supporting and reinforcing the perceptions of rape within college, particularly, fraternities. Fraternities or Greek letter organisations are male social organisations in American colleges or universities. Fraternities and its initiation rituals exert and emphasise masculine values such as obtaining “a clean cut, handsome appearance, athletic skills, wealth, a high tolerance for alcohol, and sexual success with women” (Schwart & DeKeseredy, 1997). The focus of sexual success and exploitation of women are repeatedly emphasised within college fraternity parties, as not only a desired characteristic of masculinity but a necessary condition of manhood (Ward et. al, 1991). In this way, the commodification of women as ‘bait’ for new fraternity members, intentionally utilise women as servers of their needs and as sexual prey (Martin & Hummer, 1989:b). This is exemplified in the Little Sister program. The Little Sister program, adopted by Fraternities recruits fashionably attractive women to not only assist in attracting new members but act as sexual utilities. As the title, Little Sister demonstrates subordination, it promotes a gender hierarchy on campus that fosters and encourages sexual exploitation. The display of attractive, skimpily dressed and nubile women in recruitment materials, allows fraternities to implicitly or explicitly promote free sexual access to women. The structural access to women, surrounding this program and the absence of normative support for refusing fraternity member’s sexual advances, as found in sororities, may make women in this program vulnerable to coerced sexual encounters and exploitation. The normalisation of the culture surrounding rape and sexual assault leads to a lack of accountability and demonstrates ineffective administration responses as seen in the tone and wording of campus alerts used after three incidents of rape were reported in a month at California Polytechnic State University (Cal Poly), in 2011. Due to the frequency and limited amount of time between the attacks, the University President, Jeffrey D. Armstrong issued an email to the Cal Poly community addressing the incidents. However, the contents found in the email took on the approach of victim blaming, drawing on discussions around the victims’ alcohol use, the importance of responsible alcohol and drug consumption, as well as numerous precautions women can take to avoid sexual assault. This fails to assign responsibility and accountability to the perpetrator by placing focus and blame on the use of alcohol and its consumption by the victim (Borgeson, 2011). By exercising such practices, it reinforces the socialisation of male power within on-campus rape culture without repercussions as well as denies victims’ validation and

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undermines their opportunity and right to uphold their autonomy. The next section will follow on questions of autonomy and how it is upheld and undermined.

## **Autonomy: Schulhofer and the hospitalized athlete**

Autonomy or to have one's own autonomous value can be defined as having the authority to determine and enforce the rules and principles to govern one's own life without the interference of external forces. However, the socialisation of male power and pertinence of rape culture on campus and in fraternities, undermines this right to autonomy, through MacKinnon's theory of dominance feminism. Dominance feminism exhibits how sexualised dominance suppresses and obstructs women's autonomous choices. However, the pervasive system of sexual domination and gender inequality ingrained within societal perspectives, affects more than just women's sexual choices but their capacity to exercise their autonomous value as conclusive second class citizens. This leads to concerns and debates around how as second class citizens, that is inferior to men, can women uphold their full autonomy as victims and/or potential victims of rape or sexual assault on campus?

Schulhofer argues that in order to enhance one's entitlement to autonomy, sexual intercourse, penetration or activity should always entail an affirmative indication of consent. This idea is demonstrated through Schulhofer's parable of an injured hospitalized athlete with chronic knee problems, who is recommended by his doctor to undergo surgery. However, the athlete cannot make up his mind about whether to undergo the surgery and does not voice his uncertainty and continues to remain silent even when the surgeon prepares the anesthesia and reiterates that he can stop the procedure. The surgery is undertaken despite the unresponsive nature of the athlete. Drawing on this parable it is clear the intrusion on the athlete's body requires "unambiguous, positive permission". This demonstrates how the duty to respect individual choice and autonomy is unequivocal. Furthermore, his choice of protagonist challenges claims that the protection of a woman's autonomy is inherently paternalistic. If the male athlete lying indecisive on the operating table is replaced with a woman or even so, a woman of colour, would the meaning of impermissible violation of autonomy still clearly remain? It is evident that gender, race and class are factors that hinder the type of care patients may receive and the way the patient's autonomy is upheld. For example, judicial reasoning in right-to-die cases found that gender becomes a significant determinant on a patient's autonomy in courts. The influence of gender has witnessed a court's willingness to accept evidence of men's preferences with regard to life-sustaining treatment, whereas women were more likely to be considered "difficult" and "to be talked down to, scolded, and patronized". In doing so, it reflects how society perceives the female patient as someone without a will, someone whom the intrusion is more likely to be permissible and someone whose autonomous value is disregarded. This draws back to the case of *People v Turner*, where Doe, subjected to questions of what she was wearing, how much she had drunk and more, attempts to undermine the autonomy of the victim and discredit their voice by defaming their character which adverts to an assault-deserving immorality that allows for such permissibility 'into' her body.

However on trial, Turner and his attorney justified the actions of Turner based on the narrative that Doe had eagerly consented, and if this was correct then by drawing on Schulhofer's argument, Doe's autonomy was upheld when she allegedly consented. Despite such claims, Doe argues that she had never consented. The issue around whether consent was present, as a means of upholding and protecting one's autonomy, is thus, ineffective. Instead, exercising

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full autonomy requires socially supportive relations, that can commence, in the context of rape and sexual assault on campus, through evaluating and revisiting existing campus policies in order to produce appropriate administrative responses that promote the protection of women's autonomy as a responsibility of both men and women. The current ineffectiveness of the policies and administrative responses in American colleges is a result of placing its focus on victim-blaming and its discouragement of reporting cases of rape and/or sexual assault. For example, a complainant was told at the University of Connecticut that "women have to just stop spreading their legs like peanut butter" or rape will "keep on happening till the cows come home". In order to overcome situations like this, proposals have been made to increase accountability and transparency for campus rape by requiring colleges to undertake and publish annual surveys to "assess the prevalence of sexual assault, the number and results of disciplinary hearings, and the effectiveness of remedial strategies". Such changes may give rise to a greater incentive to address and educate rape and the importance of respecting another's autonomy and body.

Thus far, the prevalence of rape culture in fraternities and colleges, influenced by gendered systems in society and the media, in favour of male dominance have been addressed. As well, the exploration of autonomy and what may give rise to someone's autonomous value in cases of rape and/or sexual assault are discussed. The next section will look at how autonomy is secured in cases of consensual but unwanted acts of rape on campus.

## **The invisible harms of consensual, unwanted rape**

The expression of non-consent and the presence of physical force during a sexual encounter have been the dominant elements in identifying and determining an incident of rape. In doing so, acts of rape that do not embody these elements are marginalised from discussions and accountability. This becomes a result of the institutions and law that delineate certain requirements that may or may not make sexual encounters illegal or harmful (Schulhofer, 2005). In Massachusetts, for example, the law defines rape as an act of submission by force and requires proof beyond a reasonable doubt of both force and non-consent in cases of rape. The flaws found within these legal and social institutions in shaping sexual encounters as only harmful if compelled by forceful, physical injury, views other intrusions on freedom of choice as harmless. However, eliminating the requirement of force will not address the significant issues concerning rape on campuses as consent further produces difficulties in establishing autonomy and justice for its victims. In cases of rape, establishing the presence of affirmative and genuine permission may not be as straight-forward as Schulhofer (1992) argues above. Instead, consent may present practical legal problems in socially unequal circumstances, where coercion is evident (MacKinnon, 2016:459). For example, many American colleges do not explicitly prohibit sexual relations between professors and their current students. This can be seen within the policies found at the Massachusetts Institute of Technology, which only requires the professor who engages in a sexual relationship with a student, to disqualify him/her -self from grading the student's work. This can be damaging in hypothetical situations where students may be coerced into performing sexual favours in order to avoid failing a class. Likewise, the Little Sister Program, discussed above demonstrates how peer pressure and the social culture and unequal power balances within fraternities, may influence involvement in unwanted sexual acts. Thus, these circumstances demonstrate the failure to acknowledge acts of consensual but undesired sex as destructive to not only a victim's autonomy but her political security in the social world (West, 2017:805). In discussing this, questions that arise include, what characterises

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consensual unwanted sex and whether the rigid definitions of rape under-criminalise sex, that whilst at face-value is consensual, is fundamentally unwelcome.

First, consensual but unwanted rape may be defined as those acts where sex is mutually consented, but where one party does not physically desire, emotionally welcome, or find the encounter pleasurable (West, 2017:806). These acts can occur on campus in situations of peer pressure, influences of the culture found in social organisations or even in partner relationships. As there exists mutual consent, these acts are not defined as rape and thus go unaddressed. This produces the risk of undermining the significant harms caused by consensual sex. Krahé, Scheinberger-Olwig, and Kolpin (2000) reported that over one-third of college women in America, had consented to unwanted or undesired sexual intercourse. As a result, a high proportionate of female university or college students suffer from depression and other related psychological and emotional harm such as reduced self-esteem and sexual and political agency (West,2017:809). This brings forward the next question as to why are these harms of consensual unwanted sex, so under-criminalised and invisible?

Societally, the invisibility of such harms is a result of the principles of liberalism in which prioritises the importance of consent rather than the wellbeing of the person (West,2017:816). Within liberal theory, consent is recognised as the mechanism in which creates value, that is, the value to be free and autonomous in choosing the rules and policies that govern one's life politically, economically, socially, and so on. Sex, or specifically consensual sex ties in within these values of liberalism and consent, as opportunities to increase the autonomous value of the libertarian. This liberal focus on consent is continued politically within the structures of contemporary or liberal feminism. In battling centuries of responsibilities, roles, and infirmities inflicted on women without their consent such as rape, involuntary pregnancy, and motherhood, liberal feminism commits itself to enhance the liberty and equality of women through the necessary requirement of consent. The requirement of consent has, therefore, carried itself into institutions and culture which frames society's lived experiences. Thus, force and consent alone are not sufficient factors of a checklist that can determine whether sex is wanted, desired, or when someone's autonomous is upheld. However, by reversing the rigid institutional determinants on what impedes on pleasure, pain, desire and consent within the structures of universities, colleges and society as a whole, and acknowledging all spectrums of sexual harm – consensual or not, will enhance the moral quality and autonomy of each victim.

In analysing the prevalence of rape and rape culture on campus, it reflects the disheartening reality of rape supportive and victim blaming culture. These harmful acts on campus reflect how legal institutions and cultural dynamics concurrently work to erotise and normalise male dominance in sexual intercourse within colleges and broader society. In doing so, a woman's sexual and political agency becomes diminished along with her autonomy. Schulhofer (1992) argues that in order to uphold this, affirmative consent must be present. Although this is a valid point as the majority of cases of rape that are discussed involve forceful and involuntary penetration, what Schulhofer has failed to examine is not only the lack of effective administrative responses within American colleges but how consent is problematic in increasing cases of consensual, unwanted sex or 'rape'. By breaking and challenging the rigid institutions and social dynamics through educational and media strategies and expanding our conception of harmful acts of rape and sexual assault, it will assist in protecting and upholding each individual's sexual autonomy. Here, the only question that remains is when will things change for the better not only within our educational institutions but liberal society?