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Meeyoung Lamothe
University of Oklahoma

Megan Lepere-Schloop
The Ohio State University

Sungdae Lim
Sam Houston State University

Jungwon Yeo
University of Central Florida

Erynn Elizabeth Beaton
The Ohio State University

See next page for additional authors

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Authors

Meeyoung Lamothe, Megan Lepere-Schloop, Sungdae Lim, Jungwon Yeo, Erynn Elizabeth Beaton, Ralph Brower, Sung Ju Kim, Misun Lee, and Eunsil Yoo



Commentary

Meeyoung Lamothe, Megan LePere-Schloop, Sungdae Lim, Jungwon Yeo, Erynn Elizabeth Beaton, Ralph Brower, Sung-Ju Kim*, Misun Lee and Eunsil Yoo

Sexual Misconduct: Policies to Improve Institutional Accountability and Reduce Individual Burdens

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1 Introduction

Sexual misconduct is prevalent across sectors. Recent nationwide awareness and responses to sexual misconduct cases led to the “Me Too” movement, and allegations continue, including in nonprofit education and practice (Battaglio, Goodman, and Sabharwal 2018; Beaton, LePere-Schloop, and Smith. 2021b; Gibelman and Gelman 2002; Lamothe et al. 2022; LePere-Schloop and Beaton 2022; Sutton et al. 2022; Wood et al. 2021; Young and Wiley 2021). In higher education, 50–90% of college-level + female students are reported to have experienced sexual misconduct (Wood et al. 2021). Yet, sexual misconduct in academic settings is

***Corresponding author: Sung-Ju Kim**, School of Social Work, North Carolina State University, Raleigh, NC, USA, E-mail: skim67@ncsu.edu

Meeyoung Lamothe, Department of Political Science, University of Oklahoma, Norman, OK, USA

Megan LePere-Schloop and Erynn Elizabeth Beaton, John Glenn College of Public Affairs, The Ohio State University, Columbus, OH, USA

Sungdae Lim, Department of Political Science, Sam Houston State University, Huntsville, TX, USA

Jungwon Yeo, School of Public Administration, University of Central Florida, Orlando, FL, USA

Ralph Brower and Misun Lee, Askew School of Public Administration and Public Policy, Florida State University, Tallahassee, FL, USA

Eunsil Yoo, Department of Public Policy Leadership, The University of Mississippi, University, MS, USA

seldom publicized or reported despite legal protections such as Title IX. When it comes to faculty perpetrators, the unique power relations between faculty and students may discourage affected students from making formal complaints. In addition, the combination of lack of trust in institutional responses to such cases, fear of retaliation, the potential for losing financial and referential support, and rejection from colleagues inhibit survivors from seeking their legal rights (Cruz 2021).

Institutional investigations often do not bring significant consequences to faculty perpetrators (Cruz 2021; Meyers 2004). Also, such cases place undue burdens on affected students and whistle-blowers. They focus more on whether administrative actions have been taken, rather than the effectiveness of actions in deterring future misconduct and/or justice for those harmed. Recently, media reports exposed decades of sexual misconduct by a senior faculty member in public affairs education who targeted primarily international graduate students, which prompted wide condemnation in academia. The Korean Nonprofit and Philanthropy Researchers Network (KNPRN)¹ responded to the scandal, forming the Professional Ethics Committee (PEC) in March of 2021. The PEC organized a colloquium session on sexual misconduct at the 2021 ARNOVA annual conference. The colloquium addressed sexual misconduct present in and around the nonprofit service and education fields and provided suggestions to protect affected individuals and improve institutional accountability. The session focused on three topics: 1) situational diagnosis, 2) identification of causes, and 3) potential courses of action.

While the salience of sexual misconduct in the workplace has long been apparent, we note that only a small body of nonprofit research tackles this issue (Beaton et al. 2021). Therefore, this commentary attempts to solicit nonprofit scholarly attention by extending our discussion during the colloquium regarding how to promote institutional accountability and establish a safe workplace for all. The following sections provide a brief overview of research on sexual misconduct in the nonprofit sector, a summary of the colloquium discussion, and suggested directions for resolution.

2 Sexual Misconduct in the Nonprofit Sector

Scholars have identified causes of sexual misconduct across various contexts (McDonald 2012). Given that organizations often reflect a larger social system,

¹ A U.S.-based Korean scholarly association for nonprofit and philanthropic studies.

both gendered expectations and a patriarchal socioeconomic structure are recreated as gender-based power arrangements within organizations and workgroups (Bishu and Kennedy 2020). Gender composition is one related organizational factor that scholars recognize as shaping workplace sexual misconduct (Chamberlain et al. 2008). Sexual misconduct is more likely in male-dominated workplaces as males attempt to retain a monopoly on work privileges by bullying female colleagues. Female-dominated organizations where there is a “high power distance between female subordinates and masculine leadership” (Bishu and Kennedy 2020, 1129) may also cultivate cultures that permit sexual misconduct.

Organizational culture and climate² can either facilitate or curb workplace sexual misconduct. The role of leaders is especially significant in shaping organizational culture and climate to deter sexual misconduct in workplace, as leaders can set goals and performance standards, dictate policies, set examples, and communicate organizational values and norms to subordinates (Bennis and Nanus 1985; Lim, Brower, and Berlan 2021, Ma, Beaton, and Bhati 2022). Campbell and Göritz (2014) show how leaders normalize corruption or toxic culture within their organizations through these processes (see also Meyers 2004).

Recently, scholars have begun to examine organizational factors conducive to sexual misconduct in nonprofits. For example, Bruno-van Vijfeijken (2019) reflected on sexual abuse scandals in INGOs and observed that nonprofits may suffer from the “myth of their own innocence,” leading to strong resistance to any attempt to improve accountability which may, in turn, promote cultures of silence and cover-up. Beaton, LePere-Schloop, and Smith (2021b) describe how resource dependency commonly observed among nonprofits can lead some organizations to sexually exploit their fundraisers by putting them in vulnerable positions with wealthy donors.

In addition, scholars have applied an institutional denial framework to sexual misconduct in nonprofit organizations. Venerated institutions such as churches, universities, and established nonprofit organizations may deny allegations of sexual misconduct for fear of losing their legitimacy, privilege, and power (Greer and McLaughlin 2015). According to Cohen (2013), organizations may go through different stages of denial, depending on how a scandal unfolds. Initially, organizational denials may involve flat rejection of the existence of misconduct—“literal denial”. Once scandals are fully exposed, nonprofit institutions may attempt to reframe the issue as a “less pejorative class of event”

² Organizational culture is generally defined as a “system of shared values which produces normative pressures on members of an organization” (Vardi 2001, 326). Organizational climate, on the other hand, is “shared perceptions [by employees] of organizational policies, practices, and procedures, both formal and informal” (Reichers and Schneider 1990, 22).

(Cohen 2013, 106), while acknowledging the known facts to the minimum extent or in a passive manner—“interpretive denial” (e.g. calling the misconduct an “unfortunate mistake” or “inappropriate behavior” rather than “rape” or “sexual assault”) (Greer and McLaughlin 2015). In contrast, with the significant public relations resources they can deploy, these institutions may take aggressive stances to defend their reputation by denying their culpability and questioning the credibility and motives of those claiming misconduct—“implicatory denial” (Greer and McLaughlin 2015). In cases of denial, by deflecting responsibility away from themselves these institutions place the burden on the individuals affected by the sexual misconduct.

3 Colloquium Discussion

3.1 Situational Diagnosis

The colloquium began with a discussion of various definitions of sexual misconduct and their importance in shaping understanding of the phenomenon. First, based on their previous research (Beaton, LePere-Schloop, and Smith 2021b), Erynn Beaton and Megan LePere-Schloop highlighted the importance of understanding sexual harassment as a socially constructed concept; individuals have different definitions, understandings, and as a result, different levels of tolerance toward sexually harassing behavior. Beaton highlighted the importance of the legal framework for understanding definitional aspects of sexual harassment. LePere-Schloop added that individuals’ understandings of sexual misconduct are informed by the legal framework of their home country, making targets who experience misconduct outside of their home country particularly vulnerable. For example, the legal framework of an international student’s country of origin may serve as a basis for understanding their experience, especially if they are unfamiliar with the legal framework in their country of residence.

Sarah Young and Kim Wiley underscored international students’ vulnerabilities to sexual misconduct, given their immigration status. Likewise, Meeyoung Lamothe, based on a recent project with Eunsil Yoo and Jungwon Yeo on sexual harassment in higher education, stressed that international students are deeply concerned about the extent to which their future career relies on their professor’s reputation when considering the reporting of sexual misconduct by their advisor or learning about it. Lamothe also stated that international students often feel overwhelmed during the pursuit of their academic career and do not have time to learn about policies and procedures involving sexual harassment and reporting of such incidences. Even when misconduct cases are reported, they may not receive

any clear communication from the university regarding investigative processes, causing fear and mistrust toward university administration.

3.2 Identification of Causes

In addressing the causes of sexual misconduct, the speakers discussed various factors, including power imbalances, lack of resources to pursue legal redress, organizational culture, and complexity of relevant law, including Title IX. Beaton stressed power imbalance as a key cause of sexual harassment; harassers are exerting held power or seeking greater power over the target. Structural power embedded in gender, sexuality, race/ethnicity, and citizenship all create imbalances that increase the possibility of sexual misconduct. Moreover, this power is reconstituted when there is no accountability for perpetrators and their actions. Power imbalances in organizations make it challenging for targets to report incidents as noted above with regard to international students.

Organizational culture was discussed as another cause of sexual misconduct. Based on her research, Lamothe highlighted that organizations tend to be passive or reactive when facing sexual misconduct allegations while actively attempting to protect the organizational reputation and interest, often leaving the incidents as personal matters rather than taking any organizational responsibility. These passive responses manifest in various forms. For example, many nonprofits do not let outside entities conduct investigations on sexual misconduct allegations. They are also often deferential to perpetrators who are accomplished leaders or celebrities. Recently, some nonprofits have responded to allegations faster and more responsibly than before since the #MeToo movement raised awareness regarding sexual misconduct in the nonprofit sector (Gillespie, Mirabella, and Eikenberry 2019).

Young and Wiley drew attention to the inadvertent impact of Title IX, which dictates a complex process that heavily burdens victims. They pointed out that examination of sexual harassment allegations under Title IX can take years and similar cases can recur during prolonged investigation processes. They also noted that a case investigation requires voluntary collaboration across the units and organizations operating under different jurisdictions (e.g. local police and Human Resources departments). Yet, the voluntary collaboration requirement often leads to ineffective protection of, and responses to, victims.

3.3 Potential Courses of Action

The speakers discussed ways to promote institutional accountability in preventing and addressing sexual misconduct. While their suggestions primarily focused on academic settings, the implications apply broadly to general nonprofit practice. Ralph Brower suggested that one of the principal challenges involves culture change. He recommended organizational development exercises that might stimulate changes in organizational cultures that tolerate sexual misconduct. Leadership, especially chairs and deans in academic settings and CEOs in nonprofits, play critical roles in prevention through dialog and value clarification. In addition, HR officials need to expand their understanding beyond investigation methods and reporting rules. The training they offer to employees needs to be culturally sensitive and competent. In addition, Brower emphasized the leadership of senior faculty in addressing the problems, given the power imbalances facing junior faculty, which may inhibit reporting colleagues who are perpetrators.

Lamothe, Yeo, and Yoo pointed out that there are often no communication channels or coordinated initiatives between the university and individual departments in prevention efforts. According to their interviews with graduate students and faculty members across different programs, most departments do not make separate efforts from their universities to raise awareness concerning sexual misconduct within their units. Because sexual misconduct often occurs at the department level, this disconnect between the university and units may serve as an impediment to prevention effectiveness. In fact, their student interviewees stated that they frequently rely on informal and personal networks to address their concerns regarding issues such as sexual harassment in the absence of more formal mechanisms in their department.

LePere-Schloop highlighted the need for reporting structures that identify perpetrators that target people across multiple organizations. Such perpetrators can be difficult to identify because organization-based reporting structures make it difficult to detect their patterns of behavior. For example, Harvey Weinstein targeted women involved in different film projects, making it more difficult for the targeted women to connect the dots and recognize his pattern of sexual assault. LePere-Schloop suggested thinking about institutional arrangements that facilitate reporting across different contexts and moving beyond the organization-based framework for responding to sexual misconduct claims. Beaton added that reporting mechanisms beyond those of employers are possible. For example, ARNOVA has an anti-harassment policy. If the ARNOVA policy is violated at our respective institutions, the incident can be reported to ARNOVA's

anti-harassment committee. Most professions have similar trade or membership associations that can play such a role.

4 Ways Forward

Since the ARNOVA colloquium, the authors have reflected on the landscape, what the research shows, and what each author knows about sexual misconduct in and around nonprofits. The authors have discussed ways to better understand and prevent sexual misconduct in nonprofits through both organizational and public policy avenues. The authors note that many relevant and well-established recommendations are readily available to nonprofit organizations and their leaders (e.g. Beaton and LePere-Schloop 2021c, 2022; National Council of Nonprofits n.d.; Wallestad 2018). Therefore, the authors provide the following suggestions by adding to and echoing existing knowledge.

It is best practice for nonprofits to have a policy that prohibits harassment and misconduct. Nonprofits need to mobilize their capacity to put a policy in place that addresses sexual misconduct among internal employees as well as external stakeholders. Training is also important and should be customized based on all forms of relationships within and beyond the walls of the organization. Next is a misconduct-free organizational culture. Leaders can promote such a culture by explicitly stating their intolerance of any type of sexual misconduct. They also need to support employees who experience or witness sexual misconduct rather than prioritizing organizational interests, a commitment that can be formalized as part of existing anti-harassment, whistleblower, or grievance policies. Importantly, leaders must then follow through so that employees see the trustworthiness of their words. Finally, organizations can better address cases of sexual misconduct by proactively addressing incidents up front and leading the follow-up process until resolved with the consent of the affected individuals. When targets of sexual misconduct do not see recourse, future targets are less likely to report.

Given the role of societal norms and power structures, reform must also be initiated at the inter-organizational level. This could be accomplished through self-regulation by incorporating the above organizational practices into standards of practice and seals of approval (e.g. Better Business Bureau Standards for Charity Accountability). The government could also make small steps by incentivizing (or mandating) compliance with best practices. For instance, in the United States, charities file a report annually that notes whether they have a conflict-of-interest policy in place but does not identify whether the organization has an anti-harassment policy. Government funding entities could also require

such a policy before awarding funds, as could foundations and other private funders.

These organizational incentives to adopt best practices are not likely to be enough. To address the issue raised in the colloquium about stopping serial perpetrators, third-party reporting mechanisms, such as professional associations, need to be employed. In addition, the state attorneys general address complaints of fraud but could also solicit reports of some types of sexual misconduct, such as donors that harass fundraisers.

Despite the utility of identifying cross-context perpetrators, one must ask whether justice would be achieved even if they were identified. This is a matter of accountability. Policymakers and regulators can keep suggesting prevention policy ideas, addressing risk factors, and evaluating current policies and regulations under these changing contexts. Legal advocacy nonprofits could also actively bring cases that set precedents for broader employer liability.

In conclusion, the nonprofit sector has a long way to go to eliminate sexual misconduct in its purview. Still, there will be some distinct challenges and power imbalances following the attempts to prevent such issues. Yet, the authors hope this commentary expands the conversation on how the nonprofit sector can rise to the occasion.

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