

Growth: The Journal of the Association for Christians in Student Development

Volume 19 | Number 19

Article 7


2020

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Recommended Citation

Graber, Britney N. (2020) "The Campus Rape Frenzy: The Attack on Due Process at America's Universities," *Growth: The Journal of the Association for Christians in Student Development*. Vol. 19 : No. 19 , Article 7. Available at: https://pillars.taylor.edu/acsd_growth/vol19/iss19/7

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The Campus Rape Frenzy: The Attack on Due Process at America's Universities

Johnson, K. C., & Taylor, Jr., S., 2017
New York: Encounter Books

Reviewed by Britney N. Graber, MA, MAT

Two upper middle-class, highly-educated white men wrote a book on how the problem of campus sexual assault has gotten blown out of proportion and that women are “over-reporting” sexual assault to the point of false accusations; the term “witch-hunt” is used copiously regarding universities’ Title IX investigations. Welcome to *The Campus Rape Frenzy: The Attack on Due Process at America’s Universities*—a book that had potential in terms of an underlying compelling argument, evidence to support the claims, and well-known authorship. However, it lost most credibility with the inflammatory and accusatory language, a lack of alternate perspectives, clear partisanship, and overall misunderstanding of the original intent of Title IX, however misconstrued it has become.

Throughout the ten chapters, Johnson and Taylor describe the problem on college campuses as a “rape frenzy” and what has contributed to this frenzied perception of an epidemic of sexual assault. The main premise of their book, therefore, is to counter this perception—that the sexual assault epidemic is simply a perception, not reality. The authors utilize national news and court cases to illustrate their argument that what used to be “kids will be kids—get drunk, have sex, and regret it” has turned into

an accusation of sexual assault, presumed guilty until proven innocent, denial of due process, and forever labeled as a sexual predator ruining any hope of a future. In addition to individual cases, the authors critique the literature describing campus sexual assault statistics, citing inconsistencies within the literature between authors, biases, poor sampling methods, and a broadening definition of behaviors that are considered sexual assault—certainly topics of debate amongst scholars and practitioners. Although all fair criticisms, the authors *only* offer condemnation. Their argument falls on deaf ears for their lack of perspective-taking. Moreover, their lack of organization within each chapter leaves a reader wandering through pages of stories without a roadmap to the intended destination.

Despite offering a chapter on college athletes, Johnson and Taylor offer a disproportionate amount of attention to Greek Life and its relationship to incidents of sexual assault on college campuses. Moreover, the authors devote no time to discussing cases of female respondents and male complainants, or complainants and respondents of the same sex. Given the current political context, both seem appropriate and a large misstep to exclude from a book that is supposedly focused on the issue of fairness and equity. Further to the point of equality (or lack thereof), the authors' clear political bias leapt from the pages, denouncing the Obama administration's increased attention on and "radical" federal guidance to Title IX practices.

Throughout the book, I kept questioning why Johnson and Taylor repeatedly argued that the college Title IX investigative process needs to be more like the legal process—ensuring due process, legal representation for both parties, a higher standard of evidence, and innocent until proven guilty. But why replicate a process that already exists with more authority and power to adjudicate? Rather, why not make more of an effort to distinguish the distinctiveness of a campus Title IX investigation from a criminal sexual violence investigation? One point the authors strongly emphasize is that many of the behaviors that are reported and investigated at the institutional level under Title IX would not meet a legal definition of a crime; thus, the authors argue that the fact that a student can be punished by the institution for sexual misconduct that does not meet the legal definition is utterly egregious. But how does this argument hold up against other conduct violations that result in suspension or expulsion? Do those behaviors meet the legal standard of

a crime? And why *shouldn't* we address morally reprehensible behavior even if it isn't illegal by definition of the law?

What the authors miss is the possibility that Title IX exists to fill a gap that the legal system cannot offer, and vice versa. Proving beyond a reasonable doubt that a sex crime was committed in a “he said, she said” case is exceedingly difficult, and a victim might constantly be encountering his or her rapist in class, affecting concentration in class, mental health, academic success, among other things. Title IX says that it is not okay for an issue related to that person's sex to adversely affect his or her educational experience. Thus, Title IX offers a way for institutions to grant a reprieve to complainants of sexual assault or other forms of sex-based discrimination so that he or she can continue their academic career to the best of his or her ability. Yet, the authors did not explore the original intent of Title IX and why it might be needed as an alternative to or parallel to a criminal route.

To be fair, the authors conducted extensive research on sexual assault court cases and media coverage of the Title IX crisis. Moreover, they are skilled wordsmiths who leverage language to inflame the issue. Nonetheless, their perspective and argument has been lost on me due to their inflammatory writing. As I read, I felt my entire sex being accused of the ill and unfair treatment of men. Despite false reporting of sexual assault, it certainly is not the majority of cases; thus, it cannot be the standard by which we write policy or law.

What the authors do offer is a rationale to consider how we care for students who are accused of sexual assault. Just as students who are complainants are our students, so are the respondents. We have a responsibility and a duty to care for *all* of our students. However, this begs the question: How do we effectively and authentically care for both complainants and respondents equitably? How do we say to the complainant, “I believe you,” and to the respondent, “You're innocent until proven guilty”? The authors don't capture the complexity of this paradox, which I believe is important when talking about Title IX investigative procedures. It's not a black-and-white issue, but riddled with shades of gray.

If you are looking to stretch your thinking about the issue of campus sexual assault, explore the arguments for greater due process in Title IX investigations, or want to read something that will have you frowning every other paragraph, *The Campus Rape Frenzy* will fulfill your every desire. However, I caution any person who is a survivor of sexual assault to read with care.

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