

2017/11: Rapist shaming: should alleged rapists be named online?

What they said...

'It's almost like taking back the power, taking back whatever you can to push against the system that isn't working'
Sydney journalist Lauren Ingram, explaining her decision to name her alleged rapist on Twitter

'I made up those lies about him to get attention while I was going through a difficult period in my life...I publicly retract my statements about Conor Oberst, and sincerely apologize to him, his family, and his fans for writing such awful things about him'
A woman who had made false rape accusations online retracting her allegations

The issue at a glance

On August 6, 2017, Radio National's Background Briefing broadcast a program titled 'Rape shaming: Why some women are naming their alleged attackers online'.

The program detailed the growing phenomena of women making online accusations of sexual assault, often naming their alleged assailants.

The program interviewed supposed victims who had 'outed' their claimed rapists and included comments from police advising against the practice. It focused on a claim made by Sydney journalist, Lauren Ingram.

On June 18, 2015, Ingram, had named on Twitter a man she claimed had raped her on April 25, 2015. The man had been a member of and an official for the New South Wales Greens.

Ingram claims that the Greens were slow to act against him and that the police have not investigated her case effectively. One officer, she states, has made inappropriate remarks about her assault.

Ingram has further claimed that her Twitter post was a response to her inability to gain appropriate redress by any other means.

The naming of alleged rapists online, in England and elsewhere, has been a growing practice since at least 2010, when it was advocated by feminist Germaine Greer. It forms part of the debate currently occurring in Britain as to whether those accused of sexual assault should have their names published prior to having been charged with the offence.

There are those who argue that the names of alleged rapists should remain unpublicised even after charges have been laid.

Background

Rapist shaming

Rapist shaming is primarily an on-line development. Victims of sexual assault name their alleged attackers publicly through some media outlet, usually online. Sometimes commentators or broadcasters also name alleged rapists.

Rapist shaming is a response to two phenomena. One is the difficulty of achieving a successful prosecution in rape cases. The other is the tendency to blame victims of sexual assault for the crimes committed against them. Typically, women who feel the system has failed them are using the Internet to name their alleged rapists or attackers, as part of a growing trend some have referred to as digital vigilantism. Women have named their rapists on Facebook, on Twitter, on Tumblr and other sites.

Opponents of the practice argue that it undermines the rights of those publicly accused of these sexual assaults. Defenders claim that even with growing public awareness and some reforms the legal system remains loaded against those who make accusations of sexual assault and that rapist shaming is one way of redressing the imbalance.

Victim blaming

Victim blaming occurs when the victim of a crime or any wrongful act is held entirely or partially responsible for the harm that befell them. The study of victimology seeks to mitigate the perception of victims as responsible. There is a greater tendency to blame victims of rape than victims of robbery if victims and perpetrators know each other.

Sexual assault victims experience stigmatization based on rape myths. A female rape victim is especially stigmatized in patrilineal cultures with strong customs and taboos regarding sex and sexuality. For example, a society may view a female rape victim (especially one who was previously a virgin) as "damaged". Victims in these cultures may suffer isolation, physical and psychological abuse, slut-shaming, public humiliation rituals, be disowned by friends and family, be prohibited from marrying, be divorced if already married, or even be killed. However, even in many developed countries, including some sectors of United States society, misogyny remains culturally ingrained.

One example of a sexist allegation against female victims of sexual assault is that wearing provocative clothing stimulates sexual aggression in men who believe that women wearing body-revealing clothes are actively trying to seduce a sexual partner. Such accusations against victims stem from the assumption that sexually revealing clothing conveys consent for sexual actions, irrespective of wilful verbal consent. Research has yet to prove that attire is a significant causal factor in determining who is assaulted.

Victim blaming is also exemplified when a victim of sexual assault is found at fault for performing actions which reduce their ability to resist or refuse consent, such as consuming alcohol. Victim advocacy groups and medical professionals are educating young adults on the definition of consent, and the importance of refraining from victim blaming. Most institutions have adopted the concept of affirmative consent and that refraining from sexual activity while under the influence is the safest choice.

In efforts to discredit alleged sexual assault victims in court, a defence attorney may delve into an accuser's personal history, a common practice that also has the purposeful effect of making the victim so uncomfortable they choose not to proceed. This attack on character, especially one pointing out promiscuity, makes the argument that women who lead "high risk" lifestyles (promiscuity, drug use) are not real victims of rape.

Internet information

On August 11, 2017, Noise published an interview with singer-songwriter Conor Oberst in which he explains the impacted that being falsely accused of rape on an Internet site had upon him psychologically and the effect it had upon his career.

The full text can be accessed at https://noisy.vice.com/en_us/article/evv4an/conor-obersts-long-few-years

On August 10, 2017, The New York Times published an opinion piece titled 'Is Naming and Shaming Rapists the Only Way to Bring Them to Justice?'

The comment outlines those circumstances in which the practice is acceptable.

The full text can be accessed at <https://www.nytimes.com/2017/08/10/opinion/is-naming-and-shaming-rapists-the-only-way-to-bring-them-to-justice.html>

On August 6, 2017, The Northern Territory News published a comment by Lauren Ingram titled 'Lauren Ingram: The reason I named my rapist'

Ingram explains what prompted her to name online the man whom she alleges raped her.

The full text can be accessed at <http://www.ntnews.com.au/news/northern-territory/lauren-ingram-the-reason-i-named-my-rapist/news-story/737a5b9723300fa0cb1cc2e4bbcc6143>

On August 6, 2017, Radio National's Background Briefing broadcast a program titled 'Rape shaming: Why some women are naming their alleged attackers online'.

The program detailed the growing phenomena of women making online accusations of sexual assault, often naming their alleged assailants. It focuses on a rape allegation made by Sydney journalist, Laura Ingram

A full transcript can be accessed at <http://www.abc.net.au/radionational/programs/backgroundbriefing/rape-shaming-why-some-women-are-naming-their-alleged-attackers/8762740#transcript>

On August 5, 2017, ABC News published an analysis titled "'I call him my rapist': Women accusing men of rape take justice into their own hands'

The piece looks at the growing trend among Australian women of naming their alleged rapists online. It focuses on a rape allegation made by Sydney journalist, Laura Ingram.

The full text of this report can be accessed at <http://www.abc.net.au/news/2017-08-03/women-accusing-men-of-rape-take-justice-into-their-own->

[hands/8767106](#)

On August 4, 2017, news.com.au published a report by Shannon Molloy titled, "He'll be famous for being a rapist": the rise of rape shaming, where victims name their attackers online'

The report includes arguments for and against naming alleged rapists online. The full text can be accessed at <http://www.news.com.au/lifestyle/real-life/news-life/hell-be-famous-for-being-a-rapist-the-rise-of-rape-shaming-where-victims-name-their-attackers-online/news-story/76a21018142afa833687966f1757b7b1>

On July 15, 2017, The Cut published a report titled 'Columbia University Settles Lawsuit with Accused Rapist'

The report details the circumstance of a student who, after being exonerated regarding a rape accusation, was publicly harassed by his accuser who carried a mattress with her around campus. The report details the results of the accused's attempt to sue the university.

The full text can be accessed at <https://www.thecut.com/2017/07/columbia-university-settles-lawsuit-with-accused-rapist.html>

On October 14, 2016, Medium published a comment titled 'Let's stop victim blaming and start rapist shaming'

The opinion piece argues for a shift in attitude from fixating on victims of sexual assault to holding the perpetrators legally and morally responsible.

The full text can be accessed at <https://medium.com/@annetteinafrica/lets-stop-victim-blaming-and-start-rapist-shaming-ae5b2446914e>

On October 5, 2016, The Atlantic published a comment titled 'The Psychology of Victim-Blaming' which analyses some of the causal factors behind blaming the victims of crimes, especially sexual assaults.

The full text can be accessed at <https://www.theatlantic.com/science/archive/2016/10/the-psychology-of-victim-blaming/502661/>

On September 13, 2016, The Guardian published an analysis titled 'My own form of justice': rape survivors and the risk of social media "vigilantism"

The article outlines some of the complications which have occurred as a result of sexual assault victims naming their alleged abusers online. The full text can be accessed at <https://www.theguardian.com/society/2016/sep/13/social-media-rape-survivors-justice-legal-system>

On May 16, 2016, The Guardian published article titled 'Breaking the shackles of shame': the rape survivors leading a new wave of activism'

The article details the stories of a number of US women who have named their alleged assailants online.

The report can be accessed at <https://www.theguardian.com/world/2016/may/16/rape-survivors-victims-activism-millennial-women>

On January 20, 2016, Spiked magazine published a comment by its law editor, Luke Gittos, titled 'Why rape defendants shouldn't be anonymous'

Though Gittos argues that those formally charged with rape should not have anonymity in the media, his principal concern is to defend the presumption of innocence which is, he claims, the only basis on which publication of the accused's identities can be allowed.

The full argument can be accessed at <http://www.spiked-online.com/newsite/article/why-rape-defendants-shouldnt-be-anonymous/17941#.WZDgLVFLdVc>

On October 19, 2015, The Sydney Morning Herald published a comment by Marilyn Warren, the Chief Justice of Victoria, titled 'In defence of suppression orders, by Victoria's Chief Justice'

The comment defends the bases on which suppression orders are issued. The full text can be accessed at <http://www.smh.com.au/comment/valid-reasons-for-suppression-orders-victoria-chief-justice-20151017-gkbkvu.html>

On June 18, 2015, Sydney journalist, Lauren Ingram, named on Twitter a man she claimed had raped her on April 25, 2015.

The partial text of the allegations can be accessed at <https://twitter.com/laureningram/status/876372864479379456>

On March 11, 2015, Dame Magazine published an interview with a sex educator who had recently published the name of her alleged rapist online and explains why.

The full text can be accessed at <https://www.damemagazine.com/2015/03/11/i-named-my-rapist-internet>

On September 18, 2014, Slate published a comment by Cathy Young titled 'Crying Rape'.

The comment argues that it is necessary to admit that some accusers lie about having been raped.

The full text can be accessed at

http://www.slate.com/articles/double_x/doublex/2014/09/false_rape_accusations_why_must_be_pretend_they_never_happen.html

On July 14, 2014, Spin published an article titled 'Conor Oberst's Name Cleared; Rape Accuser Admits She Lied'

The report details a popular singer, Conor Oberst, being falsely accused online of rape.

The full text can be accessed at <http://www.spin.com/2014/07/conor-obersts-name-cleared-rape-accuser-admits-she-lied/>

On February 26, 2014, The Center for Inquiry published an article titled 'The Anatomy of False Accusations: A Skeptical Case Study' which details five cases in which schoolgirls or adult women made false accusations of rape in order to avoid the consequences of something else.

The full text can be accessed at http://www.centerforinquiry.net/blogs/entry/the_anatomy_of_false_accusations_a_skeptical_case_study/

On October 18, 2013, the ABC News published a report titled 'Derryn Hinch fined \$100k but avoids jail on contempt of court conviction'

The report details Derryn Hinch's conviction for posting information likely to prejudice the trial of accused rapist and murderer, Adrian Bayley.

The text can be accessed at <http://www.abc.net.au/news/2013-10-18/derryn-hinch-sentenced-for-breaching-court-order/5030536>

In 2012 the United States National Sexual Violence Resource Center published a report titled 'False Reporting - Overview' which looked at the incidence of false reporting of sexual assault.

The full text can be accessed at https://www.nsvrc.org/sites/default/files/Publications_NSVRC_Overview_False-Reporting.pdf

On November 10, 2012, The Guardian published an opinion piece titled 'The ethics of outing your rapist'

The comment explains a range of historical and legal circumstances which justify women electronically shaming their alleged abusers.

The full text can be accessed at <https://www.theguardian.com/commentisfree/2012/nov/09/ethics-of-outing-rapist>

On October 11, 2010, The Daily Mail published a report in which feminist Germaine Greer was cited urging women to name their alleged rapists online.

The full text can be accessed at <http://www.dailymail.co.uk/news/article-1319322/Germaine-Greer-Name-shame-rapists-online.html>

Arguments in favour of naming alleged rapists online

1. The legal system does not always offer justice to the victims of rape

Those who defend rapist shaming online argue that, despite some recent reforms, the criminal justice system offers women very little opportunity to see their abusers charged and successfully convicted. Indeed, it is claimed, knowledge of how unlikely they are to receive any form of legal redress leads many who have suffered rape not to report the crime.

In an analysis published in The Guardian on September 13, 2016, dealing with the increasing incidence of online rape allegations, statistics were given regarding the numbers of successful rape prosecutions that occur annually in the United States. The article claims 'Not surprisingly, most people who are raped do not turn to law enforcement for help. For every 1,000 rapes in America, 344 are reported to police, 63 reports lead to an arrest, 13 cases get referred to prosecutors, and seven will lead to a felony conviction, according to the Rape, Abuse & Incest National Network. Only six rapists out of 1,000 will be put behind bars.'

The Guardian analysis refers to Patti Giggans, the executive director of the United States advocacy group, Peace Over Violence, who states, 'Even with the advances we've made, going through the justice system is an ordeal and still, most rapists are not convicted. That hasn't changed.'

The same point was made by Lisa Pryor in a comment published in The New York Times on August 10, 2017. Apparently referring to the situation in Australia, Pryor remarked, 'Publicly accusing rapists is far from a perfect solution, but at a time when a vast majority of rapes still go unpunished by the criminal justice system, despite decades of reforms aimed at making the process more hospitable to victims, it may be one of the few options that many victims have for bringing some consequences to bear on those who rape.'

Pryor further noted, 'It is time to accept that the criminal justice system may never be capable of providing justice for the vast majority of sexual assaults. The problem is not that we do not take rape seriously; we take it so seriously that we demand silence about perpetrators unless we are reporting on a court case and, as a result, very few perpetrators face any consequence at all.'

2. Publicising alleged rapists would warn potential victims

Many of those who favour naming alleged rapists online claim that this may be the only way that other women can be protected from being assaulted by these men. Many women who have accused their supposed rapists online have stated that they see this as a means of warning and thus protecting other women.

Sydney writer, Erin Riley, has indicated that she wishes she had made the name of her rapist known as he went on to rape another woman whom she knew. In an analysis published on the ABC on August 5, 2017, Riley states, 'I felt so guilty. I felt like if I had recognised it and if I'd said something earlier, if I'd warned her...'

The ABC briefing referring to the online naming of alleged rapists states 'Despite police warnings that public shaming could backfire, women across Australia are joining private Facebook groups that share stories about which men to avoid.'

It quotes one woman who has made such posts stating, 'I'm a part of the secret underground feminist mafia that tells all of my friends, and even just women I meet ... about who the bad guys are, who the rapists are.'

News Corps journalist, Lauren Ingram, has similarly posted her alleged rapist's name online, at least in part to warn other women. Ingram states, 'I felt naming him, my abuser, online was my only option. I knew he had assaulted at least one other woman and I was driven by a need to protect others from a man who is a serial rapist.'

Hagar Cohen, who recently wrote a background briefing for the ABC on women naming their alleged rapists online, stated, '"The women I spoke to felt a desire to protect other people from their abusers and many felt a sense of guilt that if they didn't do something, they would let down other people.'

In 2010, feminist author, Germaine Greer, encouraged women to name their alleged rapists online in order to protect other women. She stated, 'Years ago I knew we would never get convictions in a court of law for date rape, so I suggested women kept an online dossier, so if a woman had a date with a guy and he did something to her, or frightened her, and she asked him to stop and he didn't, then instead of going to the police she should put him online.'

Other women could check this dossier, look up a guy and see that he has form. Then she can say no, or if she does go, goes knowing it's a high risk strategy.'

3. Naming their alleged rapists can give victims psychological relief

Those who support naming alleged rapists online argue that this can be of psychological value for the victims of the alleged assaults. It has been suggested that as rape is such a disempowering act, leaving the victim feeling violated, vulnerable and without redress, the public naming of their assailants helps to reduce this sense of powerlessness.

Hagar Cohen, an ABC journalist who has investigated the issue, has stated with regard to one of the women whom she interviewed, 'He had taken so much power from her, she felt powerless, and she thought it would be beneficial to take some back.'

Some counsellors have suggested that the positive sense of acting collectively with and on behalf of other rape victims may also be of psychological benefit to women who have been sexually assaulted. Judith Herman, author of 'Trauma and Recovery' has stated 'Survivors undertake to speak about the unspeakable in public in the belief that this will help others. In so doing, they feel connected to a power larger than themselves.'

Louise, in an article titled, 'Speaking Out: The Benefits for Survivors of Sexual Assault' published on 'Pandora's Project: support and resources for survivors of sexual assault' has similarly noted, 'I have experienced the sense that not only does speaking out help other survivors feel less isolated, but that I, too, feel less alone as I join with others engaged in the same battle. It is also richly empowering to have transformed my experiences into the ability to offer something worthwhile to other survivors.'

In speaking out, you become part of destroying the forces that have harmed and hurt you. This has been one of the greatest expedients to my own healing. It is just such a fine way to fight back and can reduce one's own fear and shame.'

In an article accepted for publication on February 12, 2015, by Theoretical Criminology, Anastasia Powell stated, 'Naming their attacker or voicing their experience of victimization may go some way to empowering victim-survivors and facilitating a sense of justice, albeit informal or outside of the State.'

4. Presumption of innocence applies in a court of law, not online, or in private life

It has been argued that the presumption of innocence is not a concept that applies in an exchange between private citizens and therefore that a rape victim has no need to presume the innocence of someone she believes has assaulted her.

The presumption of innocence is a concept that applies only in the interaction between the State and someone facing criminal charges. Its intent is to acknowledge the imbalance between the resources of the State, as represented by a prosecuting attorney and his/her office, and those of a private citizen and his/her lawyer.

By having the legal system presume innocence and requiring that the prosecution establish guilt beyond reasonable doubt, the legal system in countries such as England, Australia and the United States is attempting to ensure that the accused is treated fairly.

An article published in The European Journal of Law and Technology in 2013 explains the difference between what is allowable in a court of law and what may be said in private life. 'From a criminal law point of view, the presumption of innocence is applicable only in the framework of a criminal proceeding. It provides a procedural guarantee only to persons charged with a criminal offence before a court, notably to persons labelled as "suspects" in a criminal trial. By contrast, the right to be presumed innocent cannot be enforced out of the context of a trial or before a charge is formally submitted.'

In an opinion piece published in The Guardian on November 10, 2012, Jill Filipovic explains the difference between the presumption of innocence that the State owes someone facing trial and what a private citizen (in this case a woman accusing her father of sexual assault on YouTube) is able to say. Filipovic states, 'Protection for criminal defendants is crucial, and so is protection for the falsely accused and wrongly convicted. Putting the burden of proving guilt on the prosecution is a strength of the US legal system. But the video blogger is on YouTube, not in a court room. Her father isn't facing the curtailment of his liberties by the state.'

Filipovic further states, 'To suggest that she can't or shouldn't tell her own story - to suggest that she has to turn her story over to a court before we can accept her word as her own truth - effectively muzzles her and many other women. It clips our agency. It puts our own narrative in the hands of someone who presumably knows better.'

5. Alleged rapists seeking redress are able to sue their accusers or other bodies

Those who defend the right of survivors of sexual assault to name their alleged assailants online note that the accused can sue if they believe the accusations are false.

In a comment published in The Guardian on September 13, 2016, it was noted, 'Those who turn to social media for justice are at risk in many ways. Their online targets could sue them for defamation.'

A growing number of former students have sued their United States colleges for improper handling of rape allegations made against them. Many of these suits have been successful.

An article published in Inside Higher Ed on April 14, 2016 reported on a student successfully suing the University of Southern California for its treatment of rape allegations made against him by another student. The article notes, 'The case joins three other legal wins for accused students in the past two months, and at least 10 in the last year. Some legal experts, including the federal and state judges deciding the cases, say the flurry of recent successes for disciplined students may show how some colleges and universities are eliminating "basic procedural protections" in an attempt to combat campus sexual assault.'

These successful suits by American college students also demonstrate that it is possible to take legal action against rape accusations.

Arguments against naming alleged rapists

1. The accusations being made may be false

Those who oppose alleged rapists being named online argue that the accusations being made may be false.

A popular American singer-songwriter, Conor Oberst of the band Bright Eyes, was falsely accused online of rape. In July, 2014, a representative for Oberst announced that his accuser, Joanie Faircloth, had issued an official statement admitting that she lied in a post on the xoJane site and that she had subsequently repeated these lies on other sites.

Faircloth stated, 'I made up those lies about him to get attention while I was going through a difficult period in my life and trying to cope with my son's illness. I publicly retract my statements about Conor Oberst, and sincerely apologize to him, his family, and his fans for writing such awful things about him.'

There appear to be no reliable estimates of the number of false rape accusations that are made. A commonly cited estimate, apparently originating with feminist author Susan Brownmiller in the 1970s, is that they account for about 2 percent of rape reports; however, the basis on which this estimate was made is not given.

Other figures are as high as 10 per cent. A 2009 multi-site study of eight United States communities, including 2,059 cases of sexual assault, found a 7.1 percent rate of false reports. A study of 136 sexual assault cases in Boston from 1998-2007 found a 5.9 percent rate of false reports.

There is a general uneasiness about accusing those who claim to have been sexually assaulted of lying because, historically, sexual assault victims' testimony was uniformly and unreasonably doubted.

However, those who oppose the naming of supposed rapists online claim that it is also unreasonable to assume that everyone who claims to have been raped is telling the truth.

In an article published in Slate on September 18, 2014, Cathy Young stated, 'In challenging what author and law professor Susan Estrich has called "the myth of the lying woman", feminists have been creating their own counter-myth: that of the woman who never lies.'

2. The alleged rapist loses the right to a presumption of innocence

The naming of alleged rapists is condemned as a violation of the accused's right to be regarded as innocent until proven guilty. The presumption of innocence is a fundamental tenet of international, Australian, British and United States law. Under common law 'The proof lies upon him who affirms, not upon him who denies; since, by the nature of things, he who denies a fact cannot produce any proof.'

Critics of rapist shaming argue that many of the alleged victims who name their alleged rapists online offer no proof of their allegations. Often the accusers admit there is no proof possible as there is no corroborating evidence. No medical examinations were undertaken, there was no other physical evidence, the alleged victim had not immediately reported the supposed offence and there were no witnesses.

It cannot be assumed that a person is guilty merely because they have been accused, yet, critics maintain, that is often the effect of rapist shaming online. The declining rate of convictions for rape in Britain has been cited by some as demonstrating that accusation does not equal guilt. In a comment and analysis published in Spiked magazine on January 20, 2016, law editor, Luke Gittos, noted, 'The conviction rate in rape cases has started to fall, from its historic high of 63 per cent in 2013 to 56.9 per cent in 2014-2015.'

Rapist shaming is often seen by its critics as potentially unethical whether the alleged rapist has been tried or not. If the accused has not been tried then guilt has not been proven and accusations should not be publically made. If the accused has been tried and guilt was not established then it is equally not appropriate to condemn that person online.

Currently in Britain there is a movement to have the identity of accused rapists kept secret prior to trial because of the harm that can be done to their reputations. There are even those who argue that their names should not be published after the trial if they are found not guilty of the offence.

Spiked magazine's law editor, Luke Gittos, stated, 'It is important to recognise that the reason such calls for anonymity are being made in the first place is that the presumption of innocence, a vital principle of our justice system, is now held in very low regard. Today, the fact of an allegation can have a devastating effect on people's reputations precisely because we fail to distinguish between an allegation and a proven fact.'

3. The alleged rapist's reputation may be damaged within their community and beyond

There have been repeated cases of those accused of rape and other forms of sexual assault being harassed, often with unfortunate consequences for the person being publicly accused.

On October 28, 2015, the situation of young man falsely accused of rape was reported in The Telegraph. In June, 2015, Jay Cheshire, a 17-year-old English man was cleared of rape when his accuser withdrew her allegations. Two weeks later he committed suicide. Cheshire's mother claimed he was unable to deal with the public humiliation that followed the accusation. Mrs Karin Cheshire stated, 'She accused him of rape and said he was a sexual offender. He was absolutely distraught.'

The same Telegraph article reported on the situation of another man who suffered as the result of a false rape accusation. He stated, 'I am tarnished, shamed and alienated... My hands still feel tied, and I am humiliated amongst my community - whilst the person who accused me is still walking the streets...telling people that I have raped others.'

The Telegraph article also reported the situation of a former school teacher, falsely accused of rape and child abuse and no longer working in his previous profession. He states, 'It's a sentence without a conviction.'

The Telegraph article concludes that those wrongfully accused of rape 'can never regain the same social or emotional standard of life as they previously had.'

An analysis published in The Guardian on September 13, 2016, noted the impact that online allegations can have. It stated, 'The destruction of a person's online reputation is no small thing in an age when every employer, landlord and potential romantic partner relies on Google as a free and easy background check.'

An article published in the Chronicle for Higher Education on September 1, 2014, looked at the consequences for American college students accused of rape. It states, 'Many students accused describe feeling much like their classmates who say colleges have mishandled their reports of being assaulted...

Alleged perpetrators...also feel betrayed and mistreated: presumed guilty, they say, by campus administrators so concerned with protecting victims that due process falls away. Some men found responsible lose weight, suffer depression, and watch their college and career plans crumble.'

4. If the alleged rapist has not been prosecuted, naming the person online could jeopardise a fair trial and any potential prosecution

Police and legal experts have warned that naming an alleged rapist before that person is tried could impede police investigations and make a proper trial impossible.

Detective Superintendent Linda Howlett, commander of NSW Police Sex Crimes Squad, has implored victims to let police deal with rape allegations. Radio National reporter Hagar Cohen has interviewed Superintendent Howlett and has paraphrased her comments. Cohen has stated, 'She Howlett pointed out that if public shaming occurs, it could damage the chances of success in court and also damage a police investigation.

She has obviously seen first-hand many cases that did achieve an excellent outcome for victims.'

The impact of creating prejudice against an accused before a case is prosecuted was brought to public attention in 2012-3, in the lead-up to the trial of Jill Meagher's alleged rapist and murderer. Police pleaded with the public not to make online comments and other accusations against the accused, Adrian Bayley. A suppression order was issued prohibiting the publication of information about prior offences committed by Bayley. Broadcaster Derryn Hinch was found guilty of violating this suppression order via comments he made on his website.

Suppression orders are issued to ensure that the case against an accused can proceed and that the accused will be given a fair trial. Where a case is heard before a jury, there is concern that prejudice will be created within the minds of jurors if extraneous, prejudicial information is made public. Trials may have to be suspended, potentially indefinitely, if community opinion has been swayed against the accused in a way that would prevent a fair trial. On October 19, 2015, The Sydney Morning Herald published a comment by Marilyn Warren, the Chief Justice of Victoria. Warren quoted the following judicial justification of a suppression order, 'This order is made for the purpose of ensuring the fair trial of the accused ... to prevent a real and substantial risk of prejudice to the proper administration of justice that cannot be prevented by other reasonably available means.'

5. Any suit brought by the alleged rapist may not undo the damage done to that person

It has been claimed that suing the accuser does not necessarily offer adequate redress for people falsely accused of rape.

One of the most famous cases where suing, in this case Columbia University, failed to give the accused real vindication is that of former Columbia student, Paul Nungesser. In 2012, former Columbia student, Emma Sulkowicz, accused Nungesser of rape. Columbia's disciplinary committee

dismissed the case and police declined to pursue charges. Sulkowicz launched a now famous art project, carrying her mattress around campus throughout the 2014-2015 school year and to her graduation.

Sulkowicz had accused Nungesser of raping, beating and strangling her during her sophomore year. Though Columbia cleared him of the accusations, the school paper, *The Columbia Spectator*, named him. Nungesser was also one of four students accused of rape whose names were listed on flyers and scrawled on the walls of toilet cubicles.

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Nungesser sued the university, alleging it supported an 'outrageous display of harassment and defamation.' A Federal District Court dismissed Nungesser's case twice and though Nungesser and Columbia have now settled, the terms have not been disclosed.

The case has been used to demonstrate the inadequacy of suing as a means whereby someone falsely accused can achieve redress. Despite the initial charge being dismissed, Nungesser's suit was not upheld. Though Columbia later settled with Nungesser, his lawyer, Andrew Miltonberg, claimed the total experience was not satisfactory. Miltonberg stated, 'Paul still has to live with this, and I suspect he will for a long time.' ✂

Further implications

The following comment has been taken from an article titled 'Seeking Rape Justice: Formal and informal responses to sexual violence through technosocial counterpublics' by Anastasia Powell, accepted for publication by *Theoretical Criminology* on February 12, 2015. The full text can be accessed at

https://www.academia.edu/11093280/Seeking_Rape_Justice_Formal_and_informal_responses_to_sexual_violence_through_technosocial_counterpubli

The use of digital technology, especially via the Internet, to achieve 'informal justice' by naming alleged rapists creates significant problems.

'There are serious due process concerns (such as violations of the right to the presumption of innocence as well as a fair and impartial trial) where alleged offenders are named and shamed through informal justice mechanisms. Furthermore, in some instances formal legal responses, including suppression orders or defamation law suits, may fail due to the relative "ungovernability" of the Internet; where cross-jurisdictional issues, online anonymity and the sheer volume of material can all create barriers to protecting the civil liberties of accused persons...

There are also substantial negative impacts on victim-survivors of rape in this new technology-mediated justice environment. High profile cases of rape victim suicides following abuse on social media are tragic examples of the extent of the additional harm and trauma experienced by victims when the evidence of an assault never goes away - and when the response online via social media and the public sphere is all too often negative and victim-blaming... The ways in which communications technologies, and social media in particular, have been used to extend the harm of sexual violence through further harassing, humiliating, shaming and blaming victim-survivors... demonstrates how technologies are not unproblematically "liberatory" for women...

While such social media evidence may be used to facilitate formal justice in response to rape by demonstrating the victims 'on-consent...there is also potential for victims' own social media activity to be misused in efforts to discredit them in court. For instance, should a victim post about a holiday or a night out with friends after an alleged assault, or publish photographs and commentary that do not otherwise conform to community views of the traumatised mentality of a 'rape victim', this may be misused as counter-evidence of the rape...

The use of communications technologies by victim-survivors and their advocates...highlights that victim-survivors have justice needs and/or interests that are not currently being served by the formal criminal justice system...

The wishes and needs of victims are often diametrically opposed to the requirements of legal proceedings. Victims need social acknowledgement and support; the court requires them to endure public challenges to their credibility. Victims need to establish a sense of power and control over their lives; the court requires them to submit to a complex set of rules and bureaucratic procedures...Victims need an opportunity to tell their stories in their own way, in a setting of their choice; the court requires them to respond to a set of yes-or-no questions that break down any personal attempt to construct a coherent and meaningful narrative...Victims often fear direct confrontation with their perpetrators; the court requires a face-to-face confrontation between a complaining witness and the accused...'

Rape victim advocates suggest that the Internet will continue to be used by rape survivors as an attempt to gain 'justice' for as long as the legal system fails to provide other means through which their needs can be addressed.

From the Echo index: Newspaper items used in the compilation of this issue outline

The Guardian, July 31, 2017, background by Hagar Cohen and Rosanna Ryan, '*I call him my rapist: Women accusing men of rape take justice into their own hands*' ✂

News.com, August 4, 2017, news item (with Q&A video clip) by Shannon Molloy, '*He?ll be famous for being a rapist?: the rise of rape shaming, where victims name their attackers online*' ✂