

The witch-hunting of professor John Comaroff: Harvard seeks dismissal of sexual harassment lawsuit

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On May 31, lawyers for Harvard University asked US District Court Judge Judith G. Dein to dismiss a civil lawsuit filed by three graduate students in February. The students—Lilia Kilburn, Margaret Czerwinski and Amulya Mandava—claim that Harvard “ignored” sexual harassment and retaliation directed against them by anthropology professor John Comaroff.

The lawsuit is entirely without merit, consisting of a heap of unsubstantiated allegations, gossip, innuendo and worse, as the WWS has previously argued.

Kilburn alleges that Comaroff sexually harassed her, and Mandava and Czerwinski claim that Comaroff retaliated against them when they began speaking about his alleged sexual misconduct.

A yearlong investigation by Harvard’s Office for Dispute Resolution (ODR) dismissed all the charges against Comaroff, including Kilburn’s claims of sexual harassment, except one. The ODR found that Comaroff’s warning Kilburn “over the course of approximately five minutes” about the danger of traveling with her partner as a same-sex couple in African countries where homosexuality was criminalized constituted “severe” sexual harassment. In fact, it was Comaroff’s professional responsibility to offer such a caution.

After the ODR issued its findings, the Faculty of Arts and Sciences instigated a second inquiry. A fact finder found that Comaroff had threatened Mandava (which he denies) during an advising session to stop her spreading rumors about his alleged sexual misconduct.

The case against Comaroff, in other words, reduces itself to two comments made during office hours, one of which was entirely appropriate and the other he denies making. On this basis, a hysterical, toxic atmosphere has been created, spearheaded by the *Crimson*, the student newspaper, and the affluent, gender-fixated elements that inhabit the Democratic Party. Harvard capitulated to the intimidation by placing Comaroff on unpaid administrative leave in January and barring him from teaching required courses or taking on any additional graduate student advisees through the next academic year. These illegitimate sanctions have only encouraged the identity politics crusaders.

Through its recent legal action, Harvard is seeking to protect itself. Its various motions assert that the three students’ allegations were thoroughly investigated, and defend the sexual harassment mechanisms in place at the university as “robust.” The university’s lawyers also justify the sanctions imposed on Comaroff. Nonetheless, in the course of defending itself, the university is obliged to shed further light on the antidemocratic, genuinely heinous character of the

campaign against Comaroff.

The graduate students’ lawsuit consists of 10 counts. On May 31, Harvard filed a motion for summary judgment (i.e., for a decision without even going to trial) on count 10 of the suit. That count claims the university improperly obtained and released Kilburn’s therapy records. Harvard’s lawyers, without great difficulty, demonstrate that Kilburn herself brought the therapist and her notes into the inquiry and was informed no less than *seven times* that any such material would be shared with Comaroff. In requesting summary judgment on this matter, Harvard’s lawyers point out—in the strongest language included in the pair of motions—that count 10’s allegations “are not only indisputably false, they are irresponsible.”

The university asked the judge to dismiss the remaining nine counts of the lawsuit on various grounds, including “failure to state a claim” (i.e., even if the allegations were true, they would not indicate that the claimant was entitled to a legal remedy) and statute of limitations issues.

The nine counts circle around certain common themes, that Harvard demonstrated “deliberate indifference” to Comaroff’s alleged harassment and subsequent retaliation, and that the university’s decision to “ignore” the situation violated federal law (Title IX) and various Massachusetts state laws protecting civil rights and prohibiting sexual harassment.

In their memorandum in support of the motion to dismiss counts one through nine, Harvard’s lawyers point out that far from “ignoring” the complaints of the three graduate students, the original complaint itself “makes clear that Harvard repeatedly took appropriate action, culminating in four thorough investigations, interim measures provided to Plaintiffs, and sanctions issued against Comaroff.”

The memorandum points out that in the course “of the investigations into Comaroff’s conduct, ODR interviewed at least 52 different witnesses (some multiple times) and reviewed thousands of pages of exhibits.” Moreover, consistent with “Title IX and Harvard’s Title IX Policy, each complainant and the respondent [Comaroff] were interviewed multiple times and provided abundant opportunities to share their perspectives.” Each of the complaining students was “interviewed at several stages, including upon initial review of the complaint, again after the respondent’s response to the complaint, and once more, prior to the investigation’s conclusion for a review of the evidence.”

All of the complainants, along with Comaroff, were invited “to identify witnesses; to review all evidence submitted by a party and all evidence upon which ODR might rely, that was submitted by a third

party; to review and provide comment on ODR's Draft Final Report prior to its finalization; to select a personal representative to attend all ODR interviews with them; and to appeal any decision."

The exhaustive, heavy-handed character of the Harvard procedure speaks to the dominance of academic life at present by middle-class layers obsessed with gender and race, endlessly striving for privilege and determined to identify any purported obstacles to their careers and advancement.

Along these lines, highlighting the essentially authoritarian character of these social forces, one of the many extraordinary and revealing claims in the students' lawsuit is that by seeking to defend himself against the allegations, Comaroff engaged in "retaliation."

The legal complaint denounces Comaroff and his wife for issuing a press release, organizing opposition among Harvard faculty (which rapidly and pathetically collapsed) and generally publicizing the case as an attack on academic freedom, which it unquestionably was. This the students' lawyers characterize as "textbook retaliation"!

One of Comaroff's great crimes in the eyes of the identity politics crowd is that he has refused to roll over and play dead. He has insisted on his thoroughgoing innocence from the beginning.

In this instance, Harvard's lawyers are obliged to remind the court that there is "no basis to hold the University liable for the conduct of faculty who respond publicly to the outcome of an investigation... Particularly in the university setting, where principles of academic freedom and expression are central to the entity's mission, the 'independent actions' of faculty responding to a complaint or its outcome will not render the entity liable."

The statute of limitations issues have more than a mere organizational-technical significance.

"Mandava alleges," Harvard's memorandum points out, "that Comaroff engaged in a single act of wrongdoing toward her at Harvard: he purportedly stated to her, during a conversation on October 13, 2017, that people who spread rumors about him would not get jobs... Mandava did not report this comment or file a formal complaint at the time... Mandava filed her own ODR Complaint on July 31, 2020." As usual in such situations, Mandava and the students' lawyers assert that she was intimidated by Comaroff's stature and professional reach into waiting nearly three years.

Harvard's memorandum describes the "single allegation concerning Comaroff's alleged misconduct toward Czerwienski" as "more attenuated." "More tortured" might be an apter phrase. Her claim of harassment "is based entirely on Mandava's October 13, 2017 interaction with Comaroff... during which Czerwienski herself acknowledges she was not named but supposedly identifiable by his reference to a 'person [he] hardly knew' and had 'never been in a room alone with.' ...The Complaint does not allege *any* direct interaction between Czerwienski and Comaroff"!

Czerwienski was neither present nor named, but nonetheless claims that Comaroff "harassed" her!

Kilburn's allegations that Comaroff tried to hug and kiss her twice "without her consent" and once "squeezed her thigh in public" were rejected by Harvard's investigators, and they have not gained in credibility or substance over time.

In response to the May 31 motions from Harvard's legal team, an amended lawsuit was filed by the graduate students' lawyers on June 21. It adds nothing in terms of corroboration of the various allegations, simply including more salacious and anonymous claims about Comaroff's alleged history of sexual misconduct. The guiding strategy here seems to be: Throw sufficient mud at a wall, and some of

it is bound to stick.

As noted above, the *Crimson*, Harvard's student newspaper, continues to play an extremely provocative role. In a piece posted last week, "Following Sexual Harassment Allegations, Comaroff Returns to Teaching at Harvard, Sparking Outrage," the paper attempts to incite the "campus and national outrage" it purports to be reporting.

"Thousands," reports the *Crimson*, "retweeted a tweet by Jessica E. K. Van Meir, a Ph.D. candidate in Public Policy, criticizing Harvard for Comaroff's return to teaching. In the tweet, Van Meir asked the University to explain 'why the professor you found responsible for sexually harassing his student is again... teaching students.'" Again, the claim that Comaroff was found responsible for sexually harassing his student hinges entirely on his warning to Kilburn that she faced danger in parts of Africa if she traveled with her partner.

The *Crimson* goes on to cite the comment of Van Meir that the sanction of barring Comaroff from teaching required courses is "'a total joke of a punishment,' since he may teach non-required courses, granting him access to students. 'It's not really a punishment,' she said. 'A professor who sexually harasses those students—who has been found responsible of sexually harassing their students—should be fired.'" The campaigners against Comaroff are vindictive, vicious and relentless.

The *Crimson* suppressed its "outrage" long enough to include a comment from one of Comaroff's lawyers, Ruth K. O'Meara-Costello, who pointed out in an email that "despite the lurid allegations of the lawsuit and the publicity surrounding them, Harvard's very thorough process found Professor Comaroff not responsible for the majority of the allegations against him, and not responsible for the most serious of the claims." Moreover, O'Meara-Costello added that Comaroff continues to dispute the conclusions of Harvard's investigations.

The general aim of the *Crimson* article, along with tweets from other supporters of the plaintiffs in the lawsuit, is to generate a lynch mob atmosphere at Harvard. In one tweet, for example, Harvard Law School's Ash Tomaszewski announced she had been notified that "Prof. Comaroff, accused of sexually assaulting and harassing my friends, and at least half a dozen women over ten years, who was found guilty of sexual harassment by the University, was going to be teaching at Harvard Law School this fall." There is not the slightest hint of concern with democratic procedure or elemental decency—or truth—in such a comment.

As we noted in March, "A climate of fear has been created on college campuses, in some ways worse than that prevailing during the McCarthy period, in which vast pressure is brought to bear on anyone audacious enough to come to the defense of those under attack. This has created an environment of humiliating recantations and escalating attacks on academic freedom and democratic rights."



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