

“‘Today I Fear for the Future’: Brett Kavanaugh’s ‘Riveting’ Defense of the American Every-Man from the Vengeful Every-Woman

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Through this analysis we examine the ways in which Brett Kavanaugh’s enactment of White male precarity, coupled with institutional and discursive frameworks, facilitated a compelling narrative during his 2018 confirmation hearing. Within the melodramatic battlescape of Kavanaugh’s victimage ritual and the formal and informal institutional structures of the hearing itself, the four Democratic women committee members were sacrificed as scapegoats, guilty of indicting Kavanaugh, the system in which he stood to benefit, as well as the American “Every-Man.” The following close textual analysis of Kavanaugh’s assertion of White, male victimhood in his opening statement interrogates the contextual constraints within a victimage ritual to address how self-victimization and vilification gain authority when self-identified victims assert symbolic precarity.

Keywords: Victimage, victimhood, informal institutions, masculinity, precarity

In a Senate Judiciary Committee hearing on September 27, 2018, senators from both sides of the aisle weighed the merits of a sexual assault allegation made against Brett Kavanaugh, President Donald Trump’s second judicial nominee to the US Supreme Court. During the hearing, Dr. Christine Blasey-Ford, the woman who came forward with her allegation against Kavanaugh, testified on her own behalf, calmly describing in vivid detail the events of the night in question. Blasey-Ford’s testimony well illustrates the debate among scholars regarding the rhetorical function of storytelling for sexual assault

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survivors and the purpose of those stories in defining dominant narratives. Any potential therapeutic benefits of documenting traumatic events notwithstanding, stereotypes of “feminized suffering” which may ultimately disempower survivors as the victims of and within their own narrative, created a murky rhetorical quagmire for the committee members sympathetic to Kavanaugh’s plight (Wieskamp, 2019, p. 134; See also Azoulay, 2008; Elshtain, 1982; Gring-Pemble, 1992; Pennebaker, 1997).

To navigate that quagmire, committee members who generally supported Kavanaugh’s nomination were left to grapple with how to support Kavanaugh’s ascension to the High Court while also avoiding the political fallout that would result if they were to attack Blasey-Ford directly. After Blasey-Ford provided the committee with the names of persons who could corroborate her testimony, events leading up to the party where she claimed the assault occurred, and graphic descriptions of the assault itself, few on the committee questioned her credibility or if the assault she described took place. Rather, doubt was cast on her “100%” certainty that Kavanaugh was the one who committed the assault, which enabled the performative reclamation of his reputation that would follow. As the hearing progressed, the litigation of the facts surrounding her assault were relegated to proverbial ‘B-role’ footage, subsuming the feminine ingenue in a televised melodrama that instead placed centerstage the precarity of American White masculinity.

The doubt sowed by committee members would be wielded by Kavanaugh in his own testimony, a statement full of impassioned and often belligerent admonishment for the Democratic politicians who had worked to prevent his confirmation to the High Court. Calling the confirmation process a “national disgrace” and a “circus,” Kavanaugh struck at the Democrats’ perceived intentions to “intimidate” him into withdrawing from the confirmation process and characterized their efforts as an “orchestrated political hit.” Kavanaugh’s quarrelsome conduct during the hearing did little to diminish his credibility with the Republican senators on the committee. Nor did it negatively impact his credibility with his nominator, Trump. In a tweet posted on the same day as the hearing, Trump praised Kavanaugh for his performance at the hearing, saying “his testimony was powerful, honest, and riveting.” Tweeting that “Judge Kavanaugh showed America exactly why I nominated him,” the president affirmed Kavanaugh as a victim on the basis

of “*felt* precarity,” encouraging the “well-off and privileged to adopt the mantle of victimhood at the expense of those who occupy more objectively fraught positions” (Johnson, 2017, p. 230). The president’s endorsement of Kavanaugh invited audiences to realize their own felt precarity, which was parroted in the public display of the hearing.

The hearing constituted a microcosm of perceived White, male precarity in the face of a shifting cultural landscape. Within the melodrama of the hearing, Democrats on the Senate Judiciary Committee, and particularly the four Democratic women, served as stand-ins for the players in the broader culture war, the feminization of American masculinity, and the systems that protect it. The deliberative, legal context in which the hearing took place was key to Kavanaugh’s achieved authority as an aggrieved party. Formal and informal institutional sanctions, applied against Democratic senators on the panel and coupled with Kavanaugh’s searing personal testimony, reified both cultural and institutional masculine dominance and provided a permission structure for viewers of the hearing to identify with Kavanaugh’s perceived victimhood. Situated within the discursive landscape of a politically divided America, and the rhetorical legacy of Kavanaugh’s nominator, the Kavanaugh hearing was a moment of power jockeying at the nexuses of White male precarity and institutional conventions. The ways in which the Democratic senators challenged the veracity of Kavanaugh’s testimony was portrayed as a direct challenge to the system from which he, and other men, stand to benefit. The presence of the Democratic *women* senators in particular served to personify the dangers of institutional feminization and the threat against Kavanaugh, a social status quo, and American men, writ large.

Therefore, we argue the formal and informal institutions that governed the deliberative context of the hearing created the rhetorical opportunity for Kavanaugh to credibly engage a victimage ritual in which the question of his own guilt was diminished relative to the guilt of his chosen scapegoats, the Democratic women on the Senate Judiciary Committee. Specifically, the following addresses how informal institutional processes lent authority to Kavanaugh’s ritual of self-victimization and vilification. More broadly, this case study reveals how self-identified victims who have experienced little to no material precarity can credibly vilify individuals who have and their allies. First, we

examine the informal institutional processes that led to Kavanaugh's use of victimage rhetoric.

Institutional Process

After the selection of a Supreme Court candidate, that candidate is to undergo a hearing with the Senate Judiciary Committee to determine whether they meet the requirements deemed necessary for the highest office of justice in the United States. During said hearing, there remains an expectation of adherence to specific norms and rules of conduct. Such conduct originates from the Senate procedural rules each committee member must abide by (U.S. Senate, 2019). Written norms include logistical considerations such as time requirements during proceedings, announcements of committee meeting dates, when to file written statements, and the number of members necessary for a vote. There remain, however, a number of unwritten norms such as avoiding interruptions, equal treatment, and collegial respect, the violation of which facilitated Kavanaugh's victimage ritual and his scapegoating of the following Democratic senators: Mazie Hirono (HI), Kamala Harris (CA), Amy Klobuchar (MN), and Dianne Feinstein (CA).

This section analyzes the informal institutional violations, or sanctions, that were used by Republicans on the Senate Judiciary Committee to police their Democratic women colleagues during the hearing. The conduct of committee chair Republican Chuck Grassley (IA), fellow Republican committee members, and Kavanaugh deserve specific scrutiny because they signal a renegotiation of deliberative and systemic power. The informal institutional sanctions deployed in the hearing granted authority to Kavanaugh's victimage rhetoric. We begin with a definition of informal institutions followed by specific examples of how Democratic women were disciplined through sanctions.

Informal Institutions

The process of the Senate Judiciary committee which involved both formal and informal rules, led to the suppression of the Democratic women senators. In contrast to formal institutions, informal institutions are "socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels"

(Helmke & Levisky, 2004, p. 727). Current literature posits that formal rules shape most expectations of organizational actors (Helms Mills & Mills, 2017). Yet formal rules are codified and are transparently communicated, whereas informal rules, which are not institutionalized, may be unequally applied or violated by the adjudicators of the hearing (Helmke & Levisky, 2004). All committee members are expected to equitably uphold formal rules by virtue of their participation in the deliberation, but informal institutional rules are more subtle. Their lack of codified regulation means informal institutions can obfuscate ethical breaches.

When a breach is recognized, informal institutional sanctions may be subtle or hidden and range from hostile remarks to direct ostracism (Helmke & Levisky, 2004, p. 733). The sanctions applied to the Democratic women committee members included verbal reprimand, heightened defensiveness, and the assumption they lacked credibility or knowledge about the formal rules. Importantly, the sanctions applied during the hearing were levied along gender lines, which left them largely unperceived as a normalized feature of the status quo (Waylen, 2014). Formal institutions alone do not adequately encapsulate the impact of interruptions, obstruction, and hyper defensiveness, which characterized the specific sanctions applied to the Democratic women on the committee. While the above sanctions may be common in deliberative exchanges in congress, we analyze these specific sanctions as they paved the way for the employment of Kavanaugh's victimage rhetoric. Below we outline how each informal rule built upon one another to create an opportunity for Kavanaugh to further his case.

Interruptions

Initially, the Democratic women were sanctioned in the form of interruptions in their allotted time for questioning Kavanaugh. Republican Senator Mike Lee (UT) interrupted Harris to defend Kavanaugh's refusal to answer her question. After Lee begins to speak, Harris asks for her time to be paused to ensure it is not absorbed by Lee's rebuttal. Lee does not request that Harris' time be paused, rather immediately begins talking. Such an interruption negates the expectation that members are permitted to question the potential nominee without obstruction. The Senate procedural hearing rules imply that no interruptions will be warranted unless the Chair of the committee

seeks to “entertain a non-debatable motion to bring a matter before the Committee to a vote” (U.S. Senate, 2019, para. 9). Lee was not appointed chair, nor was his defense of Kavanaugh in need of a committee vote. Nevertheless, Grassley does not intervene on behalf of Harris and allows Lee to absorb her allotted time. This example points to the ways in which informal institutional sanctions within the deliberative context of the hearing mirror the historical power imbalance between men and women. Historically, interruptions made by women have been perceived as a particularly intrusive violation of men’s conversational rights (Orcutt & Menella, 1995). In the present day, such sentiments persist as women speakers tend to be perceived as less friendly, ruder, and less intelligent than male speakers who display similar interruptions (Hilton, 2018). The gender disparity evident in the above exchange demonstrates the ways in which the rules of the game were deployed as sanctions to censor the Democratic women.

Obstruction

The Democratic women were also undermined with additional obstacles put in place to impede requests made by the Democratic women. For example, Klobuchar requested that results from Blasey-Ford’s polygraph test be included on the record. Grassley immediately asked for more information before the documents could be uploaded. Previous requests for documents to be added to the record by Republican men committee members had immediately been granted. By requesting more information from Klobuchar, Grassley manipulated her allotted time and required more preparation on her part for her request to be entertained (Heath et al., 2014). After Klobuchar voiced her request, Grassley immediately replied: “you got what you wanted. You’d think you’d be satisfied” (Blake, 2018, para. 17). Such a statement constitutes a verbal reprimand and expresses that Klobuchar should simply feel grateful her previous request had been granted. The expectation for overpreparation is well documented, with data indicating that women’s arguments are not immediately granted credibility. In contexts wherein this dynamic flourishes, men tend to overestimate their abilities and performance whereas overprepared and often overqualified women hold their opinions back (Kay & Shipman, 2014). While Klobuchar and other committee members provided the requested documents to Grassley, his call for additional material and his immediate

questioning of her rationale demonstrates the informal institutional sanctions applied in the hearing process.

Defensiveness

The last form of informal institutional sanctions includes the defensiveness exhibited by Grassley when the Democratic women criticized the process itself. For example, when Feinstein stated she would like to properly introduce Blasey-Ford, Grassley interjects and states his intentions of introducing Blasey-Ford. The tenor of his interruption of Feinstein indicated defensiveness in the face of criticism of his leadership on the committee. As Zink (2017) argues, “as a person becomes more and more defensive, they (sic) becomes less and less able to perceive accurately the motives, the values, and emotions of the sender” (para. 4). As the hearing progressed, each critique of the process made by Democratic women was met with a response by Grassley who defended his position (Blake, 2018, para. 17).

The defensiveness displayed by Grassley stalled the hearing, which negatively impacted the efficiency of the process. The resultant inefficiency was attributed to the Democratic women, not the interrupters, which constituted inequitably applied sanctions against perceived breaches of informal institutions. Grassley stated “this (the questioning of Blasey-Ford) will be in stark contrast to the grandstanding and chaos that we saw from the other side during the previous four days in this hearing process” (Blake, 2018, para. 6). Grassley’s overt chastisement served to normalize his defensiveness and justify the ways in which sanctions were applied to the women throughout the hearing.

The above examples of interruptions, obstruction, and defensiveness employed by Grassley and Republican members of the committee created a rhetorical opportunity for Kavanaugh to engage in similar disciplinary action against the Democratic committee members. Throughout the questioning, Kavanaugh interrupted the women and responded defensively to their questions. For example, seeking more evidence per Blasey-Ford’s testimony, Feinstein begins to justify her rationale when Kavanaugh shouts “You’re interviewing me...you’re doing it....sorry to interrupt but you’re doing it...there’s no conclusions reached” (Collman, 2018, para. 11). Though in the proverbial hot seat, Kavanaugh enacts disciplinary authority by modeling the same behaviors as the

Republican committee members. When Klobuchar questioned Kavanaugh on his alcohol consumption, Kavanaugh became defensive at the question and subsequently deflects it by placing Klobuchar's drinking habits on trial. This shift censured Klobuchar, who is entitled by her position on the committee to pose relevant questions to the nominee. Kavanaugh later apologized for his tone, yet his deflection is an illustration of the ways in which informal institutions were used during the hearing to enforce gendered power dynamics.

Kavanaugh's behavior during the hearing signals a strategic framing of his own precarity. Lorey has characterized precarity as a "category of order that denotes social positionings of insecurity and hierarchization, which accompanies processes of Othering" (Berlant et al., 2012, p. 165). Echoing Lorey's characterization, Berlant argues that precarity is (among other things) a way to identify and organize a "loss of faith in a fantasy world to which generations have become accustomed," a way to "participate in a structure of feeling, a desperation about losing traction that is now becoming explicit and distorted politically" (Berlant et al., 2012, p. 166). In other words, while insecurity can be materially experienced in a capitalist, industrial society through a loss of income or other geopolitical inequities, it can also be performed symbolically. The performance of precarity laid the foundation for Kavanaugh's victimage ritual wherein he positioned himself as the victim of a powerful aggressor. That Grassley and the other Republican committee members did not discipline Kavanaugh's behavior in the same fashion as they did the Democratic women senators served to justify Kavanaugh's assertion of the women as scapegoats in his victimage ritual; perceived to have infringed upon male authority in a legal context, these women posed a threat to the system and the men who stood to benefit from it.

Victimage: Airing Grievance and Shifting Guilt

The gendered sanctions applied throughout the Kavanaugh hearing should be historicized within our discipline's focus on Forensic rhetoric. As a tradition in which guilt or innocence is determined and assigned, and the purview of which has evolved from the formal courtroom to socio-political contexts, Forensic rhetoric provides fertile ground for the current analysis (Engels, 2010). Intimately connected to that evolution is

Kenneth Burke's notion of victimage, a tenet of his larger theory of dramatism. Victimage seeks to explain the ways in which individuals ease guilt for their own actions by identifying an aggressor whose actions enable the former to claim status as a victim (Burke, 1984). Victimage is an interpretive rhetorical process; without an enemy, there is no victim and if one cannot be a victim, their own guilt persists. To ease one's guilt, a scapegoat is named. In so doing, the victim shifts the discursive focus away from their own actions and creates a new field of argument in which the scapegoat's behavior is put on trial (Blain, 2005; Hill, 2012, p. 50).

Importantly, victimage circumvents the traditional forensic methods for assuaging guilt, which might include accepting responsibility for deviant actions and the resultant consequences, as determined appropriate by the collective. By deploying victimage, individuals may avoid self-punishment or critique because the blame is instead shifted to the chosen scapegoat (Blain, 2005; Hill, 2012, p. 50). With the scapegoat in hand, a socially powerful and self-identified victim can assign greater importance to the scourge of the aggressor relative to their own moral infraction(s). Blain (1994) argues the primary social function of vilification and self-victimization is the "creation and maintenance of in-group solidarity through hostility toward out-groups, or what Kenneth Burke calls congregation through segregation" (p. 820). Victimage allows one to reframe what defines the in-group altogether, such that in-group identity is predicated on how we relate to and distinguish ourselves from the designated scapegoat, the newly anointed representative of the out-group.

Whether or not self-victimization and vilification will be persuasive relies, in part, on the ways in which members of the in-group also establish a tenuous relationship to a dominant authority of order. The question of sexual assault within the context of this hearing makes relevant extra-legal #MeToo and Mens' Rights Activist (MRA) social movement discourses, both of which represent an antagonistic reaction to perceived status quo socio-political order. As an answer to the silencing of sexual assault victims in the interest of protecting abusers and predators, the #MeToo movement creates a safe space for men and women to come forward with allegations of sexual wrongdoing. On the other hand, MRA offers, among other things, a "manosphere" wherein extreme

misogyny and antifeminist sentiments can be levied as shared social grievances (Ging, 2019). Though contrary to the goals and motives relative to the other, both of these discourses find currency with their audiences by elevating identifiable leaders who make resonant the socio-political implications within the discourse, specifically as they relate to one's individual position within the broader system of order. Leaning on Anker's (2014) examination of "felt powerlessness" as a touchstone for identity movements, Johnson (2017) argues: "Despite their inheritances, the privileged can still feel excluded and aggrieved. The demagogic rendering of personal existence as trauma entices subjects to attach to precarious feelings of not belonging and being "outside" politics (p. 239; See also Brown, 1995, p. 59). In other words, one's socio-political position - relative to others' - can create a rendering of a precarious existence, the lack of material precarity notwithstanding. Johnson (2017) similarly argues that for many in historically powerful positionalities, political exclusion may serve as an easy metric for felt precarity: "Far from seeming forthrightly illogical, claims of White, masculine victimhood encourage objectively well-off members of society to interpret the presence of difference and uncertainty as threatening the subject with unjust marginalization" (p. 231).

A symbolic creation, victimhood may be asserted as a rhetorical tool to create awareness of systemic abuses and thereby enable positive social change. However, such rhetorics also evoke grievance and "can coerce publics and manufacture consent by manipulating the vitriolic emotions that often accompany the feeling that one is a victim" (Engels, 2010, p. 304). When deployed by someone whose precarity is not material or directly measurable, self-victimization grants authority to a master of a different order, a system wherein "democratic deliberation is less about finding consensus and more about achieving expiation, less about giving reasons and more about plotting revenge" (Engels, 2010, p. 304). Victimization and loss is not as inextricably tied to the material world as it is to the symbolic frame within which it operates; victimhood can be framed as the result of the specific manner of precarity that suits the victim's case. As the self-identified victim creates a deliberative context wherein the scapegoat must fight on the victim's terms, terms that have predetermined the victim's success, the sacrificial ritual is "accomplished through melodramatic enactments of power struggles" (Blain, 1994, p. 818). While the

rules and norms of a congressional hearing might have placed Kavanaugh in a position of lesser power, his assertion of White, male victimhood aligned with a melodramatic system of order in which he could reset the terms of the fight. The Kavanaugh hearing as a public, deliberative context, can be viewed as a “dramatic ritual [struggle] of heroes against villains, good against evil, the just against the unjust, to create, alter, or sustain power relations” (Blain, 1994, p. 818). And in Kavanaugh’s symbolic framework wherein he is cast as protagonist, the hero should always come out on top.

The rhetorical opportunities made available to the Republican senators and to Kavanaugh in the Judiciary Committee hearing were part procedural, part linguistic. At play were the implications of power relations, formal and informal institutional norms, and the argumentative resources made available by social movements like #MeToo and MRA. As Blain (1994) argues, “power relations are social relations” (p. 807). Order and hierarchy in a forensic context mirror the power struggles evident in social or political movements that “bring proponents into conflict with opponents, generating agonism of strategies and counter-strategies” (Blain, 1994, p. 807). The context of the hearings engendered the adversarial tone of one being “put on trial” and thereby made victimage a plausible process for Kavanaugh to regain control of his fate. The amalgamation of Kavanaugh’s symbolic victimhood and forensic or deliberative norms reconfigured the discursive practices that might otherwise have been considered “possible tools” for persuasion into an “arsenal of tactical weapons” to be unleashed against his manufactured foe (Blain, 1994, p. 807).

Discourses that rely on social movement rhetorics must accomplish two things: 1) constitute a field of knowledge in which the truth of a problem, injustice, or danger is argued in a convincing way, and 2) constitute an ethical paradigm in which solutions to the problem, injustice, or danger involves vilification of opponents and a heroization of one’s self, in which “tactics” or strategies are deployed to inspire moral outrage at the opponents’ actions (Blain, 1994, p. 808). In the current digital discursive climate, wherein public reaction to forensic and legal discourses are given as many column inches as the discourses themselves, the argumentative premises and assumptions of authority derived from social issues and movements inevitably integrate into the formal and unwritten

norms of a legal deliberative space. The procedural constraints of the hearing, working in tandem with Kavanaugh's appropriation of White, male precarity, were the rhetorical constraints that granted authority to Kavanaugh's victimage ritual, a ritual wherein the Democratic women senators became a sacrificial scapegoat and an emblem of imminent social change that threatened the status quo.

Kavanaugh's Plight: The Common Saint in a "Grotesque" Partisan Circus

Kavanaugh claimed the authority to deploy victimage by coupling an appeal toward procedural integrity with arguments designed to shift agency, and therefore blame, away from himself. Throughout the statement, Kavanaugh crafted a two-pronged rhetorical persona: 1) that of a well-vetted public servant, promotor of female career advancement, trusted confidant of female friends, devoted church-goer, and coach to his daughter's basketball teams, and 2) that of a young, dumb, naive kid who spent much of his time "working out, lifting weights, playing basketball or hanging out and having some beers with friends" (Kavanaugh, 2018, para. 35, 9). In short, he was and is "a man of the highest integrity" who also simultaneously embodies the 'flawed every-man,' the beer-drinking, goofball, red-blooded American man who now stands to lose out in the most significant job interview of his life (Kavanaugh, 2018, para. 53). As his two-pronged persona figuratively hangs in a balance between wunderkind and blockhead, so too did Kavanaugh's reputation, caught precariously in the balance between his nomination to the High Court and a so-called "character assassination" in which his family and his good name had been "permanently destroyed by vicious and false accusations" (Kavanaugh, 2018, para. 3). The following dissects Kavanaugh's victimage ritual to illustrate the ways in which self-victimization and vilification in this case was aided by appeals to procedural integrity, invitational appeals, and a melodramatic battlescape.

Appeals to Procedural Integrity

Key to Kavanaugh's victimage ritual was the assumption that America's trusted legal institutions should protect and insulate him from a heinous breach of law and order. Throughout this opening statement at the hearing, Kavanaugh alluded to due process and the "rule of law" as more than mere legal terms. Rather these were the shields that could protect victims of *allegations* of sexual assault.

We live in a country devoted to due process and the rule of law. That means taking allegations seriously. But if the mere allegation, the mere assertion of an allegation, a refuted allegation from 36 years ago is enough to destroy a person's life and career, we will have abandoned the basic principles of fairness and due process that define our legal system and our country. (Kavanaugh, 2018, para. 64)

In this passage, Kavanaugh reiterates the significance – and specific type – of order in American justice. Circumventing due process by allowing an allegation to “destroy a person's life and career” makes one guilty of a sinister infraction against the system itself. Within the context of Kavanaugh's narrative, Blasey-Ford's guilt lies not in her choice to come forward and the Democratic woman senators' guilt lies not in their choice to take the allegation seriously; rather their respective guilt manifests as having cheated the system. One of Kavanaugh's primary argumentative premises is that their guilt is of a higher order than his own alleged sexual misconduct. Because the merits of the sexual assault allegation against him are being weighed without the parameters and protections of a criminal court, Kavanaugh contends that the Democratic senators have broken the covenant of law and order and due process. From Kavanaugh's perspective, the way back toward the right order of things is to situate the allegation against him, and indeed the process of his confirmation, within the standards and norms of a legal hearing. A breach in the systems of order that govern social life brings guilt, and guilt requires redemption. As the self-purported victim of Blasey-Ford's allegation, given weight by the Democratic senators' collective infraction against due process, Kavanaugh encourages piety to a legal system of order in order to purge the guilt of those who led us astray.

Invitational Appeals

One might expect that Kavanaugh's attempt to establish his own self-victimization and the simultaneous vilification of the Democratic senators would be bolstered by strong assertions and bold arguments. His ascerbic assertions of his own innocence notwithstanding, Kavanaugh also deployed more invitational appeals throughout his statement wherein he deferred to others involved with the hearing, including the “brave” and “awesome” witnesses who voiced support for him and senators on the committee who ultimately would determine his fate. At several points in his opening statement,

Kavanaugh invited the body to simply “think” about specific information. In so doing, Kavanaugh rhetorically prostrated himself and offered his self-defense to the committee invitationally. After quoting a passage from a letter released by one witness’ attorney wherein the witness, Leland Keyser, states that she has no recollection of being at a party or gathering with him, Kavanaugh implores the committee to “*Think about that*” (Kavanaugh, 2018, para. 2, italics mine). At another point in his statement, Kavanaugh asks again that the senators “think” about what was said: “A Democratic senator on this committee publicly referred to me as evil. Evil. *Think about that word*” (Kavanaugh, 2018, para. 5, authors’ italics). These pleas to think about the information positions Kavanaugh as a mere messenger and defers to the senators who retain the power to weigh the facts and take action.

Several times, Kavanaugh also implores the body to “listen” and asserts listening as an integral marker of the rule of law: “Due process is the foundation of the American rule of law. Due process means *listening* to both sides” (Kavanaugh, 2018, para. 15, authors’ italics). As with his plea that the senators “think,” his request that they listen also serves the function of disempowering Kavanaugh to position the senators as agents of change, righteous only to the extent to which they are willing to listen to his defense.

Listen to the people I know. *Listen* to the people that have known me my whole life. *Listen* to the people that I’ve grown up with and worked with and played with and coached with and dated and taught and gone to games with and had beers with. And *listen* to the witnesses who allegedly were at this event 36 years ago. *Listen* to Ms. Keyser. (Kavanaugh, 2018, para. 4, authors’ italics)

In this passage alone, Kavanaugh implores the committee to “listen” five times. Naturally, from Kavanaugh’s perspective, the assumed outcome of this careful listening would be to ascertain the strong content of his character. Kavanaugh’s friends, loved ones, colleagues, and acquaintances served as witnesses who could supply evidence that the allegation leveraged against him should be construed as an attack on an innocent victim and cast reasonable doubt on that allegation. Within Kavanaugh’s victimage ritual, the committee wields great power: power over Kavanaugh as agents of a powerful system. Both overtures to think and listen serve argumentative functions in the deliberative

context of the hearing, a quasi-legal context in which *listening* and *thinking* are primary strategies deployed in the pursuit of justice.

Along with bolstering Kavanaugh's invitational appeals, the testimonies provided from female friends whom he cited throughout his opening statement also reinforced Kavanaugh's self-victimization. In their willingness to come forward to support him, these women lend credibility to Kavanaugh's claim that his character was being purposefully assassinated by Democratic members of the committee. When developing an extensive list of women who had come out of the woodwork to offer their support to him ahead of the hearing, Kavanaugh references a letter penned by 65 women who knew him in high school. In his statement, he notes that the women who signed the letter knew they were likely to be vilified for defending him: "That letter came together in one night, 35 years after graduation, while a sexual assault allegation was pending against me in a very fraught and public situation where they knew, they knew they'd be vilified if they defended me. *Think about that*" (Kavanaugh, 2018, para. 47, authors' italics). He invites the committee to view a scene in which the hero (Kavanaugh) who stands firm in his commitment to the rule of law and due process, is the victim of others' choice (Democratic senators) to eschew that order in the effort to harm him, and is subsequently defended by 65 women who in their support of Kavanaugh also defend the institutions that would exonerate him (legal/deliberative norms).

In addition to the letter penned by women he knew in high school, Kavanaugh cites a letter written by women who knew him in college who attested to having been treated as friends and equals (Kavanaugh, 2018, para. 48). Near the end of his statement, Kavanaugh devotes several paragraphs to relaying the messages of support they sent him, including "Deep breaths, you're a good man, a good man, a good man," "Brett, be strong. Pulling for you to my core," and "I'm holding you in the light of God" (Kavanaugh, 2018, paras. 49-51). He goes on to cite a letter signed by 84 women who worked with him in the Bush White House from 2001 to 2006 in which he was described as "a man of the highest integrity" (Kavanaugh, 2018, para. 53). From there, he cites an op-ed written by Sarah Day, a woman who worked with him at the White House. The passage he quotes

details the ways in which Kavanaugh supported Day in her role and encouraged responsibility and confidence:

Brett was an advocate for young women like me. He encouraged me to take on more responsibility and to feel confident in my role. In fact, during the 2004 Republican National Convention, Brett gave me the opportunity to help with the preparation and review of the president's remarks, something I never – something I never would have had the chance to do if he had not included me. And he didn't just include me in the work. He made sure I was at Madison Square Garden to watch the president's speech instead of back at the hotel watching it on TV. (Kavanaugh, 2018, para. 54)

Kavanaugh presents the testimonies of Day and others as evidence of his commitment to *supporting* women, to his being an *advocate* for women and not a *predator* of women. Such testimony is meant to show, not tell, the committee that the allegation against him must be dismissed in light of reasonable doubt. Notably in these sections, however, he does not state outright his claim to innocence. He presents the witness testimony as evidence and urges the body simply to “cherish your friends, look out for your friends, lift up your friends, love your friends. I felt that love more over the last two weeks than I ever have in my life. I thank all my friends. I love all my friends” (Kavanaugh, 2018, para. 52). Rather than use the testimonies as the set-up to a directly articulated argument of his innocence, Kavanaugh invites the committee to reach their own conclusions as to the veracity of the women's testimonies.

Throughout his opening statement, Kavanaugh assumed the role of a victim being acted upon rather than the perpetrator of an alleged sexual offense. As has been illustrated, he accomplished this in multiple ways. Primarily, Kavanaugh deferred the conclusion of his guilt or innocence to the results of the formal, legal investigation, in which he expressed full faith: “I know that any kind of investigation, Senate, F.B.I., Montgomery County police, whatever will clear me” (Kavanaugh, 2018, para. 4). A pious defender of the status quo who “welcomed any kind of investigation” and “cooperated fully” with the legal proceedings under which allegations of sexual wrongdoing should be weighed, Kavanaugh situated the power to righteously exonerate him within the realm of legal deliberation (Kavanaugh, 2018, para. 3). With full faith and trust in the system, Kavanaugh justified his actions and tone at the hearing by asserting as delinquents the

Democratic women who would interrogate the merits of his character and fittingness to be a Supreme Court Justice on the weight of Blasey-Ford's allegation alone. From his perspective, their actions circumvented the norms and institutions that *ought* to govern his confirmation and the hearing. Speaking as collateral damage of their infraction, Kavanaugh presents flattering testimonies of women as evidence of his victimization. The next section illustrates the ways in which Kavanaugh vilified the Democratic committee members in a metaphorical melodramatic battlescape.

Creating a Melodramatic Battlescape

Within the victimage ritual, there must be a guilty party upon whom wrongdoing can be foisted. In Kavanaugh's opening statement, he shies away from assigning guilt to Blasey-Ford, a woman who he does not deny had been assaulted: "I'm not questioning that Dr. Ford may have been sexually assaulted by some person in some place at some time. But I have never done this to her or to anyone... I intend no ill will to Dr. Ford and her family" (Kavanaugh, 2018, para. 19). Yet, someone must take the blame and serve the role of the aggressor. In this case, the Democratic senators fit the bill. In his castigation of them, Kavanaugh uses language that frames the committee's actions within tropes of war: "The Constitution gives the Senate an important role in the confirmation process. But you have replaced '[advise] and consent' with '*search and destroy*'" (Kavanaugh, 2018, para. 4, authors' italics). Within the context of his victimhood, Kavanaugh's combative metaphorical language constructed White male precarity as a simultaneously defensive and offensive position, one in which he, the target of enemy fire, could enact a masculine morality by fighting back.

Kavanaugh positioned congressional Democrats as an active attacking party on both procedural and linguistic levels. On the procedural level, Kavanaugh cites the personal cost that he and his family experienced after the committee delayed the hearing: "Unfortunately, it took the committee 10 days to get to this hearing. In those 10 long days [...] *my family and my name have been totally and permanently destroyed* by vicious and false additional accusations" (Kavanaugh, 2018, para. 3, authors' italics). Indeed, Kavanaugh framed the delay in the hearing and the tenor of the hearing itself as purposeful tactics used as weapons against him, "a long series of false last-minute smears

designed to scare [him] and drive [him] out of the process before any hearing occurred” (Kavanaugh, 2018, para. 9). In his statement, Kavanaugh references a “frenzy on the left to come up with something, anything to block my confirmation” and how a Democratic senate leader (presumably Chuck Schumer) voiced a commitment to oppose Kavanaugh’s confirmation with “everything he’s got” (Kavanaugh, 2018, para. 5). In choosing to frame Democratic opposition to his confirmation as something uniquely ardent, vile, and soldierly, Kavanaugh portrays these efforts as a ‘disproportional response.’

The framing of the proverbial proportionate/disproportionate response, a signifier of tactics of war, enabled Kavanaugh to justify his full-throated and often belligerent self-defense. From Kavanaugh’s perspective, Democrats had gone too far; it would have been more honorable to do only that which ensured their own victory, to take measured action and avoid undue collateral damage to their adversary. The unwitting victim of a perceived breach of battle etiquette, Kavanaugh positions himself as the underdog who has been disproportionately attacked by a far more powerful adversary: “Given comments like those, is it any surprise that people have been willing to do anything to make any physical threat against my family? To send any violent email to my wife, to make any kind of allegation against me, and against my friends, *to blow me up and take me down*” (Kavanaugh, 2018, para. 6, authors' italics). For Kavanaugh, the Democratic committee members’ actions signified a call to arms, after which members of the public joined ranks in opposition of his confirmation by any means necessary. Kavanaugh undermines the legitimacy of the hearing by playing the role of an unwitting victim of a “calculated and orchestrated political hit” carried out for partisan motivations by “outside left-wing opposition groups” (Kavanaugh, 2018, para. 10).

From a linguistic standpoint, Kavanaugh carefully crafts verbal cues to evoke a melodramatic battlescape. Words and phrases like “tactic,” “lying in wait,” “deploy,” and “unleash” enabled him to vilify political rivals as adversaries: “When I did at least O.K. enough at the hearings that it looks like I might actually get confirmed, a *new tactic* was needed. Some of you were *lying in wait* and had it ready... When it was needed, this allegation was *unleashed* and publicly *deployed*...” (Kavanaugh, 2018, para. 8, authors'

italics). Kavanaugh also referred to the allegation and subsequent hearing as a “grotesque and coordinated character assassination” (Kavanaugh, 2018, para. 11). In these specific sections of the statement, Kavanaugh’s rhetoric took on a more assertive tone, used to justify his aggressiveness as a defensive strategy:

I will not be intimidated into withdrawing from this process. You have tried hard. You’ve given it your all. No one can question your efforts. Your coordinated and well-funded efforts to destroy my good name and destroy my family will not drag me out. The vile threats of violence against my family will not drive me out. You may defeat me in the final vote, but you’ll never get me to quit. Never. (Kavanaugh, 2018, para. 13)

In the passage above, Kavanaugh frames the motives behind the hearing as a coordinated effort to destroy him, his reputation, and his family. From his perspective, the hearing was not a necessary aspect of the confirmation process nor an historically situated response to alleged sexual misconduct. Rather, the hearing was constructed as an abhorrent departure from the norm and the result of calculated political strategy from the left.

Late in the statement, Kavanaugh enumerates the personal costs of war. Initially, he references the joy he gets out of teaching law at Harvard: “I love teaching law. But thanks to what some of you on this side of the committee unleashed, I may never be able to teach again” (Kavanaugh, 2018, para. 59). He then highlights some of the personal cost that he has endured by referencing the joy he gets from teaching his daughter’s basketball teams: “I love coaching more than anything I have ever done in my whole life. But thanks to what some of you on this side of the committee have unleashed, I may never be able to coach again” (Kavanaugh, 2018, para. 61). The possibility that Harvard might take pause in continuing his appointment as an educator or that he may not be asked to coach minors in the wake of a sexual assault allegation was framed as the direct outcome of the “circus” put into motion by members of an opposing political party for partisan gain. Kavanaugh’s victimage ritual obfuscates the fact that in professional settings, individuals are often evaluated on their merits without the procedural rigidity of a court of law. A person is not presumed innocent until proven guilty. If/when an individual is accused of wrongdoing, and that person is unable to satisfactorily defend their character

to their employer, that person might be terminated, or at the very least, denied a promotion. Kavanaugh's victimage ritual attempts to resituate the hearing within a "court of law" context by delegitimizing the motives of the hearing, vilifying those who accept and enforce quasi-legal deliberative norms as opposed to legal procedure, and portraying himself as the unwitting victim of a partisan war.

"Today, I Fear for the Future": The Assassination of the "American Every-Man"

A primary objective of this analysis has been to ascertain the ways in which Kavanaugh claimed the authority to be the victim of a coordinated and elaborate attack, the outcome of which was not criminal prosecution or jail time or loss of job but rather, a job promotion. The prior sections outlined the procedural constraints and informal institutions that defined the hearing as a gendered deliberative context, and explored self-victimization and vilification in Kavanaugh's victimage ritual. This section will elaborate on how Kavanaugh crafted a compelling narrative in which he served as synecdoche for the "American Every-Man" under attack by a "Vengeful Every-Woman." By strategically defining the nature of his precarity as respective to the actions of Democratic women on the committee, Kavanaugh implicated American men as the next targets of the purported attack being waged against him. A proverbial canary in the coalmine, Kavanaugh asserted his confirmation battle as a cautionary tale that highlighted the stakes of the broader culture war for American men.

To do so, Kavanaugh first established identification with the "American Every-Man." A wealthy, intellectual, well-educated man, Kavanaugh is not the natural choice to represent an Average Joe. Nevertheless, Kavanaugh makes several allusions to his younger years in which he claims to have spent much of his time "working, working out, lifting weights, playing basketball or hanging out and having some beers with friends as [they] talked about life and football and school and girls" (Kavanaugh, 2018, para. 35). In one passage wherein he recounts the way he used calendars to record his day-to-day, much as one would use a diary, Kavanaugh reiterates that he would "lift weights at Georgetown prep," attend and watch many sporting events like a habit, and go to weekday gatherings at friends' houses to "meet up and have some beers and work out" (Kavanaugh, 2018, para. 37). He also mentions his summer jobs, which included working

construction and mowing lawns: “I had my own business of sorts” (Kavanaugh, 2018, para. 36). Each of these recollections serve to make his youth identifiable with American men who might also recall younger years filled with fun times with “the guys,” a devotion to sports, and the hard work and discipline they learned while working first jobs. Moreover, Kavanaugh alludes to his commitment to his faith from a young age: “Some have noticed I didn’t have church on Sundays on my calendars. I also didn’t list brushing my teeth and for me, going to church on Sundays was like brushing my teeth. Automatic. Still is” (Kavanaugh, 2018, para. 35).

Taken together, these recollections craft the yin and yang of American youth. Kavanaugh’s experiences paint a picture of a young man who’s innocent naivete is complimented by a deep, mature integrity bolstered by faith. In this way, Kavanaugh casts a romantic lens over the frivolity of his younger years, and thereby diminishes the impact of Blasey-Ford’s allegation. Kavanaugh states: “I drank beer with my friends. Almost everyone did. Sometimes I had too many beers. Sometimes others did. I liked beer. I still like beer. But I did not drink beer to the point of blacking out and I never sexually assaulted anyone” (Kavanaugh, 2018, para. 41). Within the narrative, Kavanaugh is at once a young, dumb kid who sometimes made mistakes (as we all do and have done), and a person of surpassing integrity; even in his dumb youth under the influence of alcohol, perpetrating sexual assault is a line he would never have crossed. Drinking to excess is portrayed as innocent fun rather than the fertile soil that demonstrably breeds bad judgement and illicit behavior. Kavanaugh insists that his moral fortitude would have circumvented the power of alcohol to cloud his thinking, overcome his impulses, and effect his memory. His masculinity is rooted not in his ability to physically overpower a woman, but in his ability to master his mind and actions, even in compromising situations.

This argument is significant in that it enables spectators of the hearing to identify with Kavanaugh’s experience – and subsequently, to fear the change on the horizon. Early in his statement, Kavanaugh signals the danger: “I am an optimistic guy. I always try to be on the sunrise side of the mountain, to be optimistic about the day that is coming, but today, I have to say that I fear for the future” (Kavanaugh, 2018, para. 12). Kavanaugh draws upon the precarity of a cultural moment in flux, heralded by the #MeToo

movement. Before, men who had recollections of drinking too heavily might have been able to rest easier, able to credibly argue that their behavior did not reflect poorly on their character. To the contrary, men could take pride in their ability to maintain control over their actions even when intoxicated. As such, putting on trial Kavanaugh's tendency to drink heavily as a young man constituted an insult to American masculinity itself, a once indelible motif that in the current moment, has begun to shift in both meaning and credibility. Kavanaugh warns, "if every American who drinks beer or every American who drank beer in high school is suddenly presumed guilty of sexual assault, we'll be an ugly new place in this country" (Kavanaugh, 2018, para. 42). The hearing was framed as a cautionary tale for American men everywhere. If this can happen to Kavanaugh, just a normal, Average Joe who likes to drink beer and work out with friends, then this can—and *will*—happen to you.

As embodiments of the "Vengeful Every-Woman," the Democratic senators who committed themselves to investigating Kavanaugh's actions made for the perfect scapegoat and enemy. By questioning Kavanaugh's actions in his youth, the senators challenged his character in ways that were portrayed as 1) inappropriate to the discursive context and 2) a danger to American masculinity. Their presence and actions on the committee challenged the way the system *should* interrogate Kavanaugh's fittingness to serve as a justice on the US Supreme Court, and a challenge to the system was construed as a challenge against the people who uphold it. Kavanaugh's narrative framed Democrats as aggressors and victimizers of every man who either purposefully or inadvertently behaved questionably, which made it possible for Kavanaugh to construct the collective "Every-Man" into a victim of shifting cultural tides.

Kavanaugh's victimage ritual gained authority from the institutional constraints of the hearing itself, within which, informal institutional sanctions were applied to the Democratic women serving on the committee. Kavanaugh portrayed himself as a symbol of the system and the men who benefit from it, both of which he hearkened would be casualties of the war ahead. The women were then portrayed as a symbol of the burgeoning social change, fueled by feminine ire and more broadly, institutional feminization. Victimage is suasive, in part, because of the story it weaves, the

melodramatic narrative of “opponents engaging in villainous acts of violation and of activist heroes struggling against villainous powers” (Blain, 1994, p. 808). The gendered interplay of formal and informal institutions cast the hearing as a microcosm of a larger culture war. The hearing showcased a two-pronged assault on the “natural” order of things: 1) the deliberative context wherein the institutionalized norms were being enforced, and 2) the social context wherein a “tragic hero” struggles with some aspect of the self (Blain, 1994, p. 819). Victimage was a natural antidote to both prongs of the assault.

Deployed as a corrective, Kavanaugh’s victimage ritual asserted his precarity as a symbolic coat of arms, donned as armor designed to shield him from harm and call bannermen to the charge. Precarity “is not an identity, but rather a relation that is constantly shifting” (Berlant et al., 2012, p. 169). Victimage may be an “error in interpretation” or the result of “faulty means-selecting” but it can nevertheless achieve success if the narrative creates a compelling case for purification of the scapegoat (Burke, 1984, p. 15). In this sense, victimhood is not only intimately tied to identity, but also *process*. The authority with which someone is able to position themselves as a victim issues from the degree to which one is able to use the rules of the process to their advantage. Being a victim in a rhetorical/discursive sense has less to do with victimization brought about by lived experiences and more to do with one’s procedural authority and their cunningness to wield it.

Conclusion

Through this analysis we have examined the ways in which Kavanaugh’s victimage ritual facilitated a compelling narrative in which an indictment of Kavanaugh would serve as an indictment of the “American Every-Man.” Kavanaugh’s sacrifice of the four Democratic women committee members as scapegoats through victimage rhetoric was supported by Republican senators’ enforcement of informal institutional sanctions during the hearing. Specifically, in our analysis, we investigated interruptions, obstruction, and defensiveness as sanctions that were deployed by Grassley, fellow Republican committee members, and ultimately by Kavanaugh himself. As a result, the hearing promoted an adversarial setting, as “these rules (informal institutions) are created in a context in which

power and resources are unevenly distributed,” which produces “winners and losers” (Helmke & Levisky, 2004, p. 731; Knight, 1992). Winners in such contexts earn social privilege, which makes it more difficult for women to enact justice within formal systems wherein concrete, physical evidence of wrongdoing may be honored as more believable over testimonial evidence (Franceschet, 2011). Put more simply, informal institutional sanctions like those we analyzed tend to reduce women’s agency to challenge those in power, which may consequently grant credibility to some assertions of symbolic precarity at the expense of others (Franceschet, 2011).

In addition, this analysis elaborated on the ways in which Kavanaugh positioned himself as the victim of an orchestrated partisan “character assassination” and subsequently vilified the Democratic women as stand-ins for a “Vengeful Every-Woman” through appeals to procedural integrity and invitational appeals within a metaphorical melodramatic battlescape. In the wake of the hearing, Klobuchar warned that what occurred at the hearing wasn’t “normal.” Evoking James Madison, Klobuchar asserted that we are “a government of laws, not men,” yet Kavanaugh and the Republicans on the committee benefitted from informal institutions as they attempted to defend the system and their stature of privilege within it. As the four Democratic women on the committee fought against the sanctions deployed by their Republican colleagues and by Kavanaugh, their efforts only served to substantiate Kavanaugh’s self-victimization and his articulation of their vengeance.

Finally, we sought to explain how Kavanaugh claimed authority as a victim by evoking the “American Every-man” under attack from the “Vengeful Every-woman.” The interlocking function of language, argument, process, and deliberation in this case study illustrate the ways in which self-victimization and vilification gain authority in moments when the ‘rules of the game’ are being actively renegotiated. Positioned between legal and extralegal discursive landscapes, the Kavanaugh hearing provided the rhetorical opportunity to shift focus away from allegations of sexual wrongdoing toward a larger defense of systems of privilege. As spectators, Americans were left to grapple with who is entitled to challenge powerful people and what behaviors are worthy of castigation.

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