

## Response to the Allegations by Fernanda Lopez Aguilar

The internet is not a suitable place for adjudicating claims of misconduct for at least two reasons.

First, there are substantial limitations on the presentation of evidence. There is no opportunity, for instance, to interrogate the protagonists or witnesses. In the present case, additionally, I am not permitted to cite materials that Lopez Aguilar had presented to Yale's University-Wide Committee on Sexual Misconduct (including various provable falsehoods and inconsistencies that undermine her credibility), I must avoid anything that might be construed as retaliation against my accuser and I must respect the privacy of third parties who do not wish to be identified by name. Given these limitations, I focus here exclusively on alleged misconduct against Lopez Aguilar which, in any case, constitutes the bulk of the BuzzFeed article.

Second, participants in internet discussions often respond emotionally to the inherent feel and plausibility of a speed-read story without a substantial effort to look critically and impartially at the evidence presented by both sides. In this regard, each participant in an internet proceeding such as this bears an important responsibility not unlike that of a juror in a court room trial. We owe to feminists the crucial insight that some very important social rules and practices – for example, those governing the distribution of domestic work – are not codified in the law but rather consist in, and evolve through, myriad particular decisions of individual participants. Trial by internet will always be a greatly suboptimal procedure. But our individual contributions determine how far it falls short. At its worst, trial by internet is as haphazard and unfair as stonings in Afghanistan. At its best, it can clarify the issues and achieve at least a partial weighing of the evidence.

It is in the hope for as fair a trial as the internet can facilitate that I here submit my response to Lopez Aguilar's allegations. My response, in brief, is that none of the alleged misconduct ever took place. I doubt I will be able fully to convince many of you in this forum. But I can provide a substantial amount of evidence that should easily suffice to convince you to at least suspend belief until these allegations can once more be adjudicated in a proper judicial forum.

I understand why many people reading about the allegations on the internet rush to the conclusion that they must be true. We are only too familiar with the theme of older men making unwanted sexual advances to much younger women. There are frequent reports of sexual misconduct and assault in academia. We know that sexual

harassment often goes unreported and that there is a high price to pay in reporting it – which gives us all the more reason to believe them when they are reported. But all this does not entail that any particular allegation must be true. There are other familiar phenomena that can explain false allegations: we know of law firms going after rich institutions for the sake of winning large financial settlements, which can often be obtained through the extreme embarrassment of a media frenzy even without court proceedings in which the evidence could be carefully and critically examined. And we know that false charges and rumors can be highly effective weapons in the intensely competitive worlds of academia and university politics. The idea that there can be no motive for false misconduct accusations is far from true.

What reasons can I offer you for disbelieving Lopez Aguilar’s allegations? I here highlight five such reasons in particular. First, after the time of all my alleged misconduct, Lopez Aguilar spontaneously wrote me enthusiastic e-mails (“thank you for an amazing trip and for gracing us with your presence these past few days. I’m still ecstatic and sometimes pinch myself thinking about all the doors that you’ve lately opened” – 23 June 2010) and asked me to let her join me on a trip to Argentina: “Also, is the offer to accompany you in your foray to Argentina still standing? If by chance it is, please do let me know; I’d love to go” (5 July 2010). (The e-mail correspondence of the three relevant months is appended to this document.) Second, Lopez Aguilar has given four very different versions of the alleged misconduct. Third, one version of her allegations was thoroughly investigated in quasi-judicial proceedings by a Yale committee of five faculty members and one Federal Judge, who found her charges of sexual harassment to be not credible. Fourth, I have taken a polygraph test on some of her later specific allegations, and have passed this test. I stand ready to subject our conflicting claims to another polygraph test with a mutually agreeable expert, and I am prepared to cover the cost of this test for both parties. Fifth, I offer a plausible alternative explanation of Lopez Aguilar’s belated allegations of sexual misconduct by reference to our serious falling-out at the end of August 2010, which left both of us hurt and angry, and left her determined to take me down and, after her loss in the Yale proceedings, to win a financial settlement from Yale.

Lopez Aguilar’s allegations have changed considerably over time. The initial version (fall 2010) of her sexual misconduct claim was that I had rescinded a job offer to her because she had a boyfriend or because she had rejected my sexual advances. This claim makes no sense because we barely communicated between the date of the job offer – 21 July 2010 – and (what she calls) the rescinding of this offer at the end of August 2010. We exchanged a few emails long-distance, but nothing that could remotely be construed as a (rejected) sexual advance. And I had known about her

boyfriend all along and had stayed with both of them overnight in June. Had I been displeased in any way on either of these counts, I would surely have declined to write her the job offer rather than going through the trouble of first making and then withdrawing it.

The second version of her sexual misconduct claim (spring 2011) was that I had made various unwanted sexual advances toward her during her senior year (2009-10) and during the following June, when we traveled together to participate in several events in Santiago, Chile. This version was thoroughly investigated by five Yale faculty members and a retired Federal Judge in the proceedings of Yale's University-Wide Committee on Sexual Misconduct, reaching the conclusion that her allegations of sexual harassment were not credible. In these proceedings, even under extensive questioning, Lopez Aguilar never alleged that I had forced myself upon her physically in any way.

The third version of her sexual misconduct claim (April 2014) was that she "was attacked during our senior year by her thesis adviser, a renowned professor of ethics and human rights. His brutal, sadistic attempt at rape was the culmination of months of escalating harassment that she endured because she feared retaliation if she did not." It is inexplicable why, after such a horrible experience, Lopez Aguilar would, after her graduation, have gone on a trip with me to Chile. This same fundraising appeal also alleged that I am a "known rapist" and that there is a "substantiated case" of an equally horrible violent crime I have supposedly committed. These wild accusations are palpably false – and not believed by their purveyors, none of whom bothered to bring these supposed crimes to the attention of the police. They did nonetheless raise the full amount they sought for their lawsuit against Yale.

The fourth version of the sexual misconduct claim makes no mention of a physical attack during Lopez Aguilar's time as a student but instead describes such an attack in mid-June 2010. Confronted with this new allegation, explicitly confirmed by Lopez Aguilar "under oath and under penalty of perjury," I took and passed a polygraph test denying this and various other accusations. I propose and offer to pay for additional polygraph tests of both parties' conflicting claims with a mutually agreeable expert. I also point out that, after this alleged attack in June 2010, Lopez Aguilar took the initiative to ask to accompany me on a professional trip to Argentina: "Also, is the offer to accompany you in your foray to Argentina still standing? If by chance it is, please do let me know; I'd love to go" (5 July 2010). I never responded to this suggestion and traveled there alone.

The just-mentioned sworn statement by Lopez Aguilar was executed in July 2014 and transmitted to Yale University as part of a larger law-firm submission whose evident purpose it was to convince Yale of the strength of the legal case against it and thereby to oblige Yale to settle out of court. Yale did not settle; and Lopez Aguilar and her law firm/employer then had until December 2014 to file their case. They chose not to bring legal action, and the statute of limitations for challenging the decision of Yale's University-Wide Committee on Sexual Misconduct then expired. The BuzzFeed article speaks of another lawsuit she might file (without saying where and against whom such a suit would still be possible) and of a civil rights complaint with the U.S. Department of Education. I would welcome the opportunity to challenge her allegations in a proper judicial forum. But I fear that such talk of legal action is no more than a cover for legally extorting a financial settlement.

Let me in conclusion comment on how this friendly and constructive student-teacher relationship went so horribly wrong four months after Lopez Aguilar's graduation. (I append the preserved emails from this period of June till September 2010.) In retrospect, I believe that both of us were unnecessarily confrontational in our dispute and could and should have parted ways in a more civil manner.

I first met Lopez Aguilar when she was a student in a large lecture class I taught in the fall of 2008. In the fall of 2009, I agreed to supervise her senior thesis, which I did mostly by email, with a few face-to-face meetings. During this senior year (2009-2010), she told me that she would very much like to remain in the U.S. for a year of "optional practical training" (OPT). We agreed that I would write evaluation letters in support of her applications for suitable posts and also that, should no suitable position materialize, she could be affiliated with my Global Justice Program. She initially indicated that she would be happy with such an unpaid affiliation, but later expressed a desire to be financially independent of her parents by making at least \$1300 a month to cover "food, rent and utilities" because "I feel a bit bad about making my parents pay" (2 May 2010). I responded that I would help her: "we'll make it work out, don't worry." I believe that I knew when I wrote this that she comes from a wealthy family but that she told me only later that her family is among the five richest in Honduras. On 26 June 2010 she wrote me: "The good thing is that I'm actually quite comfortable financially."

My optimism was vindicated in July 2010 when, with the help of my evaluations, she found "a job as a Senior Research Assistant" with the Brookings Institute "at a fine salary" (21 July 2010), which would give her OPT status and also relieve her from having to ask her parents for money.

But Brookings could not provide an offer letter to secure her lease of the apartment she wanted — or so she told me in the same email (21 July 2010). She asked me to step in with a Yale offer letter. I asked her to formulate such a letter and she sent me back a draft with the words “I drafted a theoretical offer of employment. We can rip it to shreds after I send it to the Taft if you like. I just wrote down something that they could be appeased with, as far as the salary figure was concerned.” I revised the draft offer letter (but not the salary figure of \$2000 per month which she had declared to be necessary for securing her lease) and returned it to her promptly with my signature.

Writing her a fake job offer letter was obviously wrong. I had no right to involve Yale, without its knowledge or consent, in securing an apartment lease for Lopez Aguilar. And there was no need for it, as I could have guaranteed her timely rent payments with my own resources, had I wanted to. Yale’s reprimand for my lapse of judgment here is entirely deserved.

On 30 August 2010, Lopez Aguilar presented herself with my fake job offer letter at Yale. This was remarkable for four reasons. First, she had never accepted the position by signing and returning the offer letter as the text of this letter clearly prescribed. Second, she showed up for work two days before the starting date specified in the offer letter, just before I would return from Latin America as she well knew. Third, she had a concurrent full-time job at the Brookings Institute and thus was not available for a second full-time job. Fourth, she obviously knew that she had asked for this letter to secure an apartment lease and had offered to “rip it to shreds” (21 July 2010) after it had served that purpose.

On the basis of Lopez Aguilar’s conduct and subsequent communications, I inferred that her plan was to force me into paying her a second full-time salary for the 2010-11 year. My alternative to somehow finding the money to pay her was to confess to Yale that I had provided her with a fake offer letter. Finding her totally transformed in the way she communicated with me, I also became mindful of the risk that she might make up some sexual harassment complaint if I refused to pay. She had once told me about a dorm room conversation among a few women students about how easy it would be to “take down” any professor in this way.

I nonetheless decided not to give in to her demands for a yearlong salary, instead confessing my transgression and sharing the relevant correspondence that clearly showed that the letter was meant strictly as a stand-in for the delayed Brookings offer. Lopez Aguilar then demanded a one-time payment of \$2000 for work supposedly done

over the summer of 2010. Not having asked her to do any significant work over the summer, not aware of her having done any and not having agreed to any paid summer work, I asked her to specify what she had done and to show me any work products. She gave various unsatisfactory answers and lied about having retyped a lengthy PDF document into Word when she had instead asked my assistant to convert it for her. Somewhat exasperated, I turned the case over to the relevant human resources department, which quickly decided that \$2000 wasn't worth the substantial hassle of a potential EEOC complaint. So Lopez Aguilar was paid what she asked for from my research account. I don't know what sort of statement Yale asked her to sign in exchange, but I know she had the services of a lawyer when she signed it.

Since that time, Lopez Aguilar has worked hard to take down this professor, first with her complaint to Yale's University-Wide Committee on Sexual Misconduct, then with a well-orchestrated internet campaign. Here she was aided by the Olivarius law firm, which also employed her (<https://www.linkedin.com/in/fernanda-lopez-aguilar-esq-2098664a>), by "Aye", whose secret recordings of our conversations and unauthorized copy of my hard drive ended up with Olivarius, and by a number of prominent philosophers some of whom have publicly denounced me as a rapist. They all have tried hard to find victims of my sexual misconduct – Jason Stanley by publishing this appeal on the internet where it has been near the top of "Thomas Pogge" search results for over two years: "Anyone with information that may be relevant to violation of university policy, i.e. that involves his professional behavior towards other philosophers in his status as a Yale Professor, even students in his areas at other universities, is encouraged to contact Deputy Provost Spangler at her personal email, [stephanie.spangler@yale.edu](mailto:stephanie.spangler@yale.edu). All comments will be kept in absolute strictest confidence." This appeal has produced no new allegations or new purported victims in two years. I am deeply grateful that, despite all the excoriation, no one else has brought forward a false charge – no one at Yale and no one at the 600+ academic venues I have visited since joining Yale. I will continue to do what I can do, under the circumstances, to put these allegations to rest.