Sexual Harassment or Harassment of Sexuality? Bared Buttocks and Federal Cases

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Women in American society are victims of sexual harassment in alarming proportions. Sexual harassment is an inevitable corollary to class exploitation; as capitalists exploit workers, so do males in positions of authority exploit their female subordinates. Male professors, supervisors, and apartment managers in ever increasing numbers take advantage of the financial dependence and vulnerability of women to extract sexual concessions.

These are the assertions that commonly begin discussions of sexual harassment. For reasons that will be adumbrated below, dissent from the prevailing view is long overdue. Three recent episodes will serve to frame this disagreement.

Valerie Craig, an employee of Y & Y Snacks, Inc., joined several co-workers and her supervisor for drinks after work one day in July of 1978. Her supervisor drove her home and proposed that they become more intimately acquainted. She refused his invitation for sexual relations, whereupon he said that he would “get even” with her. Ten days after the incident she was fired from her job. She soon filed a complaint of sexual harassment with the Equal Employment Opportunity Commission (EEOC), and the case wound its way through the courts. Craig prevailed, the company was held liable for damages, and she received back pay, reinstatement, and an order prohibiting Y & Y from taking reprisals against her in the future.

Carol Zabowicz, one of only two female forklift operators in a West Bend Co. warehouse, charged that her co-workers over a four year period from 1978–1982 sexually harassed her by such acts as: asking her whether she was wearing a bra; two of the men exposing their buttocks between ten and twenty times; a male co-worker grabbing his crotch and making obscene suggestions or growling; subjecting her to offensive and abusive language; and exhibiting obscene drawings with her initials on them. Zabowicz began to show symptoms of physical and psychological stress, necessitating several medical leaves, and she filed a sexual harassment complaint with the EEOC. The district court judge remarked that “the sustained, malicious, and brutal harassment meted out...was more than merely unreasonable; it was malevolent and outrageous.” The company knew of the harassment and took corrective action only after the employee filed a complaint with the EEOC. The company was, therefore, held liable, and Zabowicz was awarded back pay for the period of her medical absence, and a judgment that her rights were violated under the Civil Rights Act of 1964.

On September 17, 1990, Lisa Olson, a sports reporter for The Boston Herald, charged five football players of the just-defeated New England Patriots with sexual harassment for making sexually suggestive and offensive remarks to her when she entered their locker room to conduct a post-game interview. The incident amounted to nothing short of “mind rape,” according to Olson. After vociferous lamentations in the media, the National Football League fined the team and its
players $25,000 each. The National Organization of
Women called for a boycott of Remington electric
shavers because the owner of the company, Victor
Kiam, also owns the Patriots and who allegedly dis-
played insufficient sensitivity at the time when the
episode occurred.

All these incidents are indisputably disturbing. In
an ideal world—one needless to say far different from
the one that we in habit or are ever likely to inhabit—
women would not be subjected to such treatment in
the course of their work. Women, and men as well,
would be accorded respect by co-workers and super-
visors, their feelings would be taken into account, and
their dignity would be left intact. For women to ex-
pect reverential treatment in the workplace is utopian,
yet they should not have to tolerate outrageous, of-
fensive sexual overtures and threats as they go about earn-
ing a living.

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One question that needs to be pondered is: What
kinds of undesired sexual behavior women should be
protected against by law? That is, what kind of ac-
tions are deemed so outrageous and violate a woman’s
rights to such an extent that the law should intervene,
and what actions should be considered inconveniences
of life, to be morally condemned but not adjudicated?
A subsidiary question concerns the type of legal rem-
edy appropriate for the wrongs that do require redress.
Before directly addressing these questions, it might
be useful to diffuse some of the hyperbole adhering to
the sexual harassment issue.

Surveys are one source of this hyperbole. If their
results are accepted at face value, they lead to the con-
clusion that women are disproportionately victims of
legions of sexual harassers. A poll by the Albuquerque
Tribune found that nearly 80 percent of the re-

dpondents reported that they or someone they knew
had been victims of sexual harassment. The Merit
Systems Protection Board determined that 42 percent
of the women (and 14 percent of men) working for the
federal government had experienced some form of

with unwanted “sexual teasing” identified as the most
prevalent form. A Defense Department survey found
that 64 percent of women in the military (and 17 per-
cent of the men) suffered “uninvited and unwanted
sexual attention” within the previous year. The United
Methodist Church established that 77 percent of its
clergywomen experienced incidents of sexual harass-
ment, with 41 percent of these naming a pastor or col-
league as the perpetrator, and 31 percent mentioning
church social functions as the setting.

A few caveats concerning polls in general, and these
sorts of polls in particular, are worth considering. Pol-
sters looking for a particular social ill tend to find it,
usually in gargantuan proportions. (What fate would
lie in store for a pollster who concluded that child
abuse, or wife beating, or mistreatment of the elderly
had dwindled to the point of negligibility!) Sexual
harassment is a notoriously ill-defined and almost in-
finitely expandable concept, including everything from
rape to unwelcome neck massaging, discomfort upon
witnessing sexual overtures directed at others, yelling
at and blowing smoke in the ears of female subordi-
nates, and displays of pornographic pictures in the
workplace. Defining sexual harassment, as the United
Methodists did, as “any sexually related behavior that
is unwelcome, offensive or which fails to respect the
rights of others,” the concept is broad enough to in-
clude everything from “unsolicited suggestive looks
or leers [or] pressures for dates” to “actual sexual assau-
lts or rapes.” Categorizing everything from rape to
“looks” as sexual harassment makes us all victims, a
state of affairs satisfying to radical feminists, but not
very useful for distinguishing serious injuries from the
merely trivial.

Yet, even if the surveys exaggerate the extent of
sexual harassment, however defined, what they do re-

dlect is a great deal of tension between the sexes. As
women in ever increasing numbers entered the work-
place in the last two decades, as the women’s movement
challenged alleged male hegemony and exploitation
with ever greater intemperance, and as women entered
previously all-male preserves from the board rooms to
the coal pits, it is lamentable, but should not be surpris-
ing, that this tension sometimes takes sexual form. Not
that sexual harassment on the job, in the university,
and in other settings is a trivial or insignificant matter, but
a sense of proportion needs to be restored and, even more
importantly, distinctions need to be made. In other
words, sexual harassment must be de-ideologized. State-
mements that paint nearly all women as victims and all
men and their patriarchal, capitalist system as perpe-
trators, are ideological fantasy. Ideology blurs the dis-
tinction between being injured—being a genuine
victim—and merely being offended. An example is this
statement by Catharine A. MacKinnon, a law professor
and feminist activist: