SEXUAL HARASSMENT ON THE JOB

1. General Theory and Analysis


Although Brodsky's study does not focus on sexual harassment per se, his account is useful to an understanding of the nature and scope of psychic injury on the job. During the course of his investigation, Brodsky interviewed a substantial number of employees claiming work-related injury disabilities resulting from cruel treatment by employers, coworkers, and consumers, or from excessive work pressure. This book describes the process of harassment, how this process is manifested in work situations, and its broad-ranging effects on individuals, families, and communities. Brodsky suggests ways of identifying, discouraging, and eliminating harassment in the work place.


Evans in cooperation with the Working Women United Institute has written an interesting chapter tracing myths about women's feelings toward male sexual aggression, examined in light of the results of several informal surveys of women. She argues that sexual harassment plays on the basic contradiction posed for women: self as a sexual being vs. self as a worker. She examines public policy toward sexual harassment, focusing on litigation under Title VII of the 1964 Civil Rights Act. Her discussion also addresses harassment of men as well as homosexual harassment.


Farley provides a well-written history of the origins of sexual coercion of women on the job. Using several case studies and interviews to punctuate her arguments, Farley discusses the scope and extent of the phenomenon, what women can do about it, the role of the women's movement, the attitudes of corporate management, the impact on women's professional advancement, job security, salary, mental and emotional health, and the legal remedies and challenges encountered.

2. Special Studies, Surveys, and Discussions


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**Items from this list should be ordered directly from the publisher. Addresses are given in connection with each reference.
A joint survey aimed at measuring opinions on and awareness of the issue of sexual harassment on the job was conducted in 1980 by Redbook magazine and Harvard Business Review. Over 1800 subscribers to HBR responded to the mailed questionnaires. The major findings of the survey include the following: 1. Most people agree on what harassment is and on its seriousness, but men and women disagree on how frequently harassment occurs. 2. Sexual harassment is seen as an issue of power, and a supervisor’s behavior is rated as more serious and threatening than the same action by a coworker. 3. Top management appears isolated from occurrences of harassment, and middle-level managers are less aware of misconduct than lower-level managers. 4. Most respondents favor company policies against harassment, but few organizations have such policies. 5. Most see the 1980 EEOC guidelines as reasonable and not difficult to follow.


Rowe offers three practical approaches to dealing with sexual harassment. She suggests specific actions complainants can undertake to effectively help themselves. She stresses the need for improved company complaint procedures to deal adequately not only with harassment issues but with all types of complaints. Finally, companies are advised to take a closer look at the general issue of sexual relationships in the supervisory context where power differences can create serious conflicts.


The Senate Labor and Human Resources Committee hears testimony at hearings intended to focus public attention on the problem of sexual harassment and sexual discrimination and to determine how effective the 1980 EEOC guidelines will be in eliminating sexual harassment. Witnesses include: Acting EEOC Chairman, J. Clay Smith, Jr.; former EEOC Chair, Eleanor Holmes Norton, Phyllis Schlafly; and economist, Judith Finn.


During nine days of hearings, people representing the views of labor, management, academia, public interest groups, and others testified on the effects of modern workplace practices and strategies on employees and the kinds of “pressures” that workers are forced to deal with. Although the major topic of discussion was the role of management consultants during union organizing campaigns, serious consideration was given to certain practices impacting workplace privacy, including pre-employment screening, post-employment data collection, access to information, polygraph tests, surveillance, and sexual harassment. Subsequently, in March of 1980, Democrats on the House Labor Subcommittee on Labor-Management Relations issued a report summarizing these hearings and calling for stricter reporting requirements for consultants under the Landrum-Griffin Act and meaningful action to discourage employment practices which amount to sexual harassment and invasion of privacy. (Daily Labor Report, March 11, 1981, pp. D-1 to D-15).

Ledgerwood and Johnson-Dietz review the new EEOC sex discrimination guidelines covering sexual harassment on the job (effective March 11, 1980) particularly in the context of the appellate decision in Miller v. Bank of America. They define possible affirmative measures which employers may take with respect to these guidelines, and they produce a model which traces possible employer liability for the sexual harassment activities of its employees under the guidelines.


In addition to effectively documenting the experiences of sexual harassment, MacKinnon presents a legal study asserting that sexual harassment is sex discrimination because it undermines women's potential for social equality in two interconnected ways: by using her employment position to coerce her sexually, while using her sexual position to coerce her economically. The author advances a legal theory allowing the use of the Equal Protection Clause of the 14th Amendment and Title VII of the Civil Rights Act of 1964 to establish sex discrimination in cases of sexual harassment. She offers two legal perspectives from which to use these two statutes: sex differences and sex inequality.


Marmo reviews arbitration cases involving male employees (non-supervisory) who contend that management violated the contract when they were disciplined for sexually harassing women coworkers. Marmo finds that unions often experience role conflict when the woman and grievant belong to the same bargaining unit. In the cases examined, arbitrators tended to perceive verbal harassment as less serious than physical harassment, and in half of their decisions ruled that discharge constituted excessive punishment. Management, in contrast, supported discharge as the appropriate response in all cases. Marmo notes that, depending on the work environment, women fearing reprisals by male coworkers frequently avoid reporting incidents.


Nardino focuses on the significance of the Tomkins appellate court reversal and the logic of that court in establishing sexual harassment as actionable under Title VII.


This collection of reprinted and original essays explores romantic and coercive relations between men and women in work organizations. The first section of the volume covers sexual dynamics inherent in work set-
tings, the second investigates the nature and scope of sexual harassment, the third focuses on organizational responses to harassment, and the last chapter examines legal aspects of sexual harassment. Of particular interest are the reprinted papers of Alan Goldberg, "Sexual harassment and Title VII: the foundation for the elimination of sexual cooperation as an employment condition" (Michigan Law Review, May 1978, pp. 1007-1035); William C. Seymour, "Sexual harassment: finding a cause of action under Title VII" (Labor Law Journal, March 1979, pp. 139-155); and Mary D. Faucher and Kenneth J. McCulloch, "Sexual harassment in the workplace—what should the employer do?" (EEO Today, Spring 1978, pp. 38-46). Goldberg's piece analyzes the state of the law. Beginning with a history of Title VII, he notes the 1972 amendment that extended Title VII coverage to Federal employees and establishes that sex need not be the only factor in a sex discrimination case. In his examination of pertinent case law, Goldberg defines what he sees as three central questions: whether sexual harassment is a basis for a charge of sex discrimination, whether a plaintiff must establish that the behavior is a reflection of employer policy or practice, and whether a supervisor can be viewed as an agent of the employer. Seymour's article develops an argument in favor of sexual harassment being actionable under Title VII by first establishing the incidence, as reported in two surveys. His sophisticated analysis addresses existing legal remedies and the evolving theory behind court decisions. In his conclusion, he offers guidelines for corporations to avoid liability under Title VII. The article by Faucher and McCulloch advises employers to design a clear and well-publicized personnel policy against sexual harassment. Elements of such a preventive program would include: providing for workable procedural mechanisms; ensuring rapid warning to offending supervisors; allowing for complainant anonymity; and having a viable plan of action for dealing with offenders.

4. SEXUAL HARASSMENT IN THE FEDERAL WORKPLACE


The Subcommittee listens to testimony from a variety of groups and individuals with knowledge and concern about the problem of sexual harassment in the workplace, from some of the agencies where harassment was reported, and from agencies responsible for protecting Federal employees from such practices. A number of policy recommendations are extended by the Subcommittee.


This comprehensive report represents the culmination of nearly one year of original research and evaluation of the nature and extent of sexual harassment in the Federal Government. Over 20,000 Federal employees responded to a questionnaire designed to assist the Board in determining the views of Federal employees about sexual harassment. Aspects documented include: the extent of harassment in the Federal workplace; characteristics of victims and perpetrators of sexual harassment; perceptions and responses of victims to their incidents of sexual harassment; estimated dollar costs of sexual harassment in the Federal Government; and views of Federal employees about potential remedies and their effectiveness.