

"FROM #METOO TO POLICY REFORM: TRACING THE MULTIDIMENSIONAL IMPACT OF SEXUAL HARASSMENT"

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Article Info

Keywords: Sexual Harassment, Legal Evolution, Workplace Impact, Gender Discrimination, Accountability

Abstract

Sexual harassment has persisted in corporate America and government spheres for over half a century, with its legal underpinnings rooted in the Civil Rights Act of 1964. However, what distinguishes the current era is the heightened visibility of these abuses of power in mainstream media. Yet, compliance and accountability have often been lacking. Recent high-profile cases involving figures like Harvey Weinstein and the harassment endured by Gretchen Carlson at Fox News underscore this pervasive issue. These incidents resonate alongside historic events like the Bill Clinton controversies and the Anita Hill-Clarence Thomas hearings during his Supreme Court nomination. While these represent only a fraction of cases, they garnered substantial media attention. Notably, over 22,000 cases of sexual harassment were reported to the EEOC annually from 2010 to 2016, raising the question of how many incidents remain unreported. The labor force participation rate for females remained at 56% in both 1990 and 2016.

This paper delves into the legal evolution of sexual harassment, its definition, notable cases, and its profound impacts on both individuals, particularly females, and the companies they work for. It endeavors to address critical questions: How does sexual harassment affect female employees within companies? And, in turn, how does it impact a company's productivity and, ultimately, its bottom line?

Introduction

Sexual harassment in corporate America and the government is not new. The protection by Federal law has its origins of gender discrimination and sexual harassment in the Civil Rights Act of 1964. Thus, the incidents within

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organizations has been around for more than 50 years, but what has changed is these acts of abuse and power have been elevated into the media and main stream America. What has been missing is compliance and accountability. The two most prevalent cases recently are Harry Weinstein, a powerful Hollywood executive and the sexual harassment of Gretchen Carlson at Fox News. We can span the years and see other prevalent cases such as former President Bill Clinton and his sexual improprieties in the White House and the Anita Hill and Clarence Thomas case during his appointment to the United States Supreme Court. Although, these are not the only cases, they are some which gained many hours of media time. There have been over 22,000 cases of sexual harassment per year reported to EEOC from 2010 through 2016. How many more have not been reported? The rate of employment of females in 1990 and 2016 was 56% for each year (Labor Force Participation Rate, n.d.). In this paper, the topics of legal evolution of sexual harassment, what is sexual harassment; prominent cases of sexual harassment, impact on individuals (females) and impact on companies will be discussed. The questions posed, and evidence provided will be how does sexual harassment impact female employees of companies; how does sexual harassment impact a company's productivity and eventually impact profits?

Women constitute 50.8% of the U.S. population (Fact Sheet, n.d.).

- They earn almost 60% of undergraduate degrees, and 60% of all master's degrees.
- They earn 47% of all law degrees, and 48% of all medical degrees.
- They earn more than 44% of master's degrees in business and management, including 37% of MBAsconferre.
- They are 56% of the U.S. labor force, and 59% of the college-educated, entry-level workforce.

The rise in women in leadership positions, awareness and involvement in a band of power, can have an indepth impact on business productivity and profits. Sexual harassment and victimizing women is one of the causal connections to a lack of progression into leadership positions. This subjugates females to being relegated to a position of little to no power and control. Thus, gender equality is not achieved.

Legal evolution of sexual harassment

The Civil Rights Act of 1964 guidelines broadly define the definition and application of discrimination and harassment based on race, color, national origin, gender, religion, age and disability. However, it was not until the 1990s based on the Supreme Court ruling that sexual harassment violated the prohibition against sex discrimination (*Meritor Savings Bank v. Vinson*) impacted a beginning of awareness and change. Highly publicized cases in the 1990s included 1991 Clarence Thomas hearings for Supreme Court nomination, the Navy's 1991 Tailhook convention in Las Vegas, the 1994 investigation of Senator Bob Packwood from Oregon, and the 1994 suit filed against then President Bill Clinton. The attention of the United States public has been focused on sexual harassment in the workplace since the Supreme Court's ruling and high-profile cases. Many U. S. Supreme Court rulings and separate State Supreme Court rulings have further defined what constitutes hostile working environment sexual harassment and *quid pro quo* sexual harassment, as well as what must be presented and proven for the complainant to prevail in an investigation and court action. This includes but is not limited to *Harris v. Forklift Systems Inc.* in 1993 (U. S. Supreme Court), *Neal v. Riley* (1994), *Stafford v. Missouri* (1993), *Burns v. McGregor Electronic Industries, Inc.* (1992) (Lee & Greenlaw, 1995). Although the listed cases are not all inclusive, they are some of the foundation to current laws and what courts view as the precedence in sexual harassment cases. One must understand that the baseline of the Civil Rights Act of 1964 was challenged and clarified in the courts. Thus, the clarification and meaningful standards have been established.

What is sexual harassment

Sexual harassment may seem that gaining sexual favors is the intent. However, sexual harassment is based on power (Uggen & Blackstone, 2004), abusive behavior (Keashly, Trott & MacLean, 1994), and bullying (MacIntosh, Wuest, Gray, & Aldous, 2010). Most managers have all five of the managerial powers and many have some of the five powers. The powers a manager has is legitimate, reward, coercive, expert and referent (Jones & George, 2015). Generally, the two powers which are prevalent in sexual harassment are reward (promise of or withholding) and coercive (intimidation and threats). The types of power used can be either covert or overt or in other words implied or expressed. Theorists contend that sexual harassment is a product of a gender system which is perpetuated and inflicted based on a dominant and normative of masculinity (Uggen & Blackstone, 2004).

Sexual harassment as defined by the Civil Rights Act of 1964 and further clarified and expanded by the Supreme Court violates Title VII of the Act. There are two forms of sexual harassment; hostile working environment and *quid pro quo* (Latin of this for that). Generally, hostile working environment is committed by a non-managerial person who uses coercive power to subjugate the victim. Although, managerial personnel can create a hostile working environment. The *quid pro quo* sexual harassment is committed by a managerial person who has coercive and/or reward power. Thus, they have the power to impact the victim's working environment. And, there are instances of a non-employee sexual harassing a person within the work environment. The organization is responsible for such harassment when they knew or should have known of the harassment and did not take the appropriate action to stop the behavior, ensure it will not continue or begin again, and enforce action to protect the victim in the future from further harassment or retaliation. Harassment is any unwelcome verbal or physical conduct based on race, color, religion, sex, national origin, age disability or retaliation that is so objectively offensive as to alter the conditions of the victim's employment. This standard is met when the conduct culminates in a tangible employment action or the conduct was sufficiently severe or pervasive enough to create a hostile work environment.

Hostile working environment

Hostile working environment is unwelcome comments or conduct based on sex which is unreasonable and interferes with the employee's work performance or creates an intimidating, hostile or offensive work environment.

Examples of actions that may create a sexual hostile environment can include, pressure for dates, making offensive remarks about looks, clothing, body parts, touches in a way that may make an employee feel uncomfortable (which could also be considered sexual assault), telling sexual jokes, or hanging sexual posters, etc. The key issues are frequency and severity, the individual's job need not be affected, and severe psychological harm is not necessary to establish a violation (Lee & Greenlaw, 1995).

Quid Pro Quo

Not until 10 years after the Civil Rights Act of 1964 was passed was a case of *quid pro quo* to reach a Federal Court. This means District Federal Court and not the Supreme Court. In 1976, a District Federal Court (*Williams v. Saxbe, 1976*) was the first ruling made whereas *quid pro quo* was actionable under Title VII of the Civil Rights Act of 1964. In *Neil v. Ridley, 1994* and *Karibian v. Columbia University, 1994*, the precedent was established that supervisors demanding sex from female employees, and making threats of retaliation for refusing their advances and complaining violated the law (Lee & Greenlaw, 1995). Thus, in the early 1990's the precedent and "teeth" to the law was launched.

What is involved in *quid pro quo* is a person who has authority (power) makes sexual demands from an employee. Rejection of or submission to the demands can result in promises of tangible rewards or punishment. Promises of tangible rewards may be a promotion, a bonus, increased pay, or any aspect of the employee's job which has tangible rewards. Punishment for refusing the advances, requests or demands could be a demotion, suspension, termination or any other negative result of rejection of the advances (Lee & Geenlaw, 1995).

As stated in the research by Hunt, Davidson, Fielden, & Hoel (2010), "Researchers have also highlighted a number of psychological dimensions to sexual harassment, these are: gender harassment, unwanted sexual attention and sexual coercion" (p. 657). "The majority of sexual harassment literature appears to have been published in the 1990s, with less being published in recent years. The emergence of the term "sexual harassment" can be traced back to the mid-1970s in North America" (Hunt, et al. 2010, p. 655). With more studies and more attention in the news of high level executives and those with power, the impact on society and organizational culture and productivity cannot be ignored.

Impact on females

The impact of sexual harassment is beyond damaging to one's psychological state of mind and self-esteem. Women who report sexual harassment as subjected to retaliation, character assassinations, demotion, termination and blacklisting by those in power. Statistics captured indicates that one out of every four women in the workforce has been subjected to and experienced sexual harassment (de Haas, Timmerman, Hoing, Zaagsma, & Vanwesenbeeck, 2009). According to de Haas, et. al (2009) "Victims often have low job satisfaction, low affective commitment, mental and physical health problems and higher intentions to leave the organization" (p. 312). However, the de Haas study found that there were anti-discrimination policies and training in Western countries (such as the United States), but this is not generally the case in many other countries to include European countries. But, the impact of victims is the same regardless of the country where the sexual harassment occurred.

As indicated by Fitzgerald and her associates who conceptualized that "sexual harassment as a specific type of work stressor that varies as a function of organizational contexts" (Chan, Lam, Chow & Cheung, 2008, p. 362). The study further stated that the impact would be either job-related, psychological and/or physical outcomes which are impacted by personal vulnerability factors and coping style of victims. However, there is still an impact; it is just the degree of the impact that varies from person to person, but there is either a job-related, psychological and/or physical impact. The psychological impact of sexual harassment on individuals manifests in lower work satisfaction and less commitment to the organization. Employees who encounter sexual harassment experience job withdrawal to include increased absenteeism and avoidance of work related duties. In addition, the psychological results manifest in stress related symptoms such as lower self-esteem and increased depression. Post-traumatic stress syndrome (PTSD) is not uncommon because it is a traumatic event (Chan, et al, 2008).

As with any subjection to stress, there are always physical abnormalities which are a by-product of the stress. The results vary from individual to individual based on their coping mechanisms and personality. However, no matter how good the coping or how positive the attitude, there are still negative results. The physiological results or reactions can be suppressed immune functioning and heightened inflammation. With a continued subjection to stress related extended patterns of offensive behavior, ailments to include headaches, gastrointestinal disorders, sleep disturbances and long-term health conditions will occur. Long term health conditions can be high blood pressure, heart disease, diabetes and cancer, as well as other health issues are highly probable (Chan, et al, 2008).

The empirical studies reviewed indicates that sexual harassment results in power differentials and can differ in impact based on social categories to include gender, race, sexual orientation and organizational status. The result of subjection to sexual harassment is a perceived or actual loss of control of individuals. When any person

has a loss of control, there is a job-related deterioration of performance. The psychological impact and correlating physiological changes have a direct impact on one's job performance.

Impact on companies

Sexual harassment which is allowed, with or without harassment policies, and strategies of intervention change the culture of the organization. The culture of an organization is or should be people-centric and ensure employee needs are met and there is a level of satisfaction to meet the strategic goals of an organization. Thus, "the impact on successful, effective and efficient completion of goals is based on the culture of the organization" (Hudson, 2016, p. 663). Sexual harassment impacts the culture of an organization negatively. Even when an individual or individuals within the organization is not directly harassed sexually, knowing of or witnessing the harassment has a negative impact on everyone in the organization, as it permeates throughout the organization like a plague. Thus, the content is "A strong culture helps ensure that the strategic goals are completed successfully, effectively and efficiently. A weak or dysfunctional culture (as indicated in examples in this paper) result in failure to meet the strategic goals and in many cases, result in failure of the organization which may lead to bankruptcy, mergers and/or reorganization for survival" (Hudson, 2016, p. 665).

McLaughlin, Uggen and Blackstone (2016) contend that sexual harassment forces some women out of their jobs and may in turn impact their career goals and attainment of goals. Beyond creating a higher turnover rate which costs companies' money for recruitment and staffing, there is a lag in productivity until a suitable replacement is gained. Also, there is a loss of talent which may be replaced, but at a significant cost which could impact profits. What may also occur is "severing ties with employers, workers also relinquish firm-specific human capital, which is closely linked to earnings" (McLaughlin, et al, 2016, p. 336).

Sexual harassment creates a toxic environment which is a resistance environment and diminishes growth of the company which allows or engages in these practices of sexual harassment (McLaughlin, et al, 2016). In addition, the reputation of the company is tarnished and can spread like "wildfire" through the consumer market impacting monetary gains. And, if the company must engage in a lawsuit defense, whether they win or lose or must pay damages, this impacts the profits of the company. But, beyond the monetary damage and tarnished reputation, the primary result is the loss of valuable human talent.

Companies which allow sexual harassment by "turning a blind eye" or where the leadership engages in the unlawful practice will create a male dominated work culture which is devoid of diversity. Diversity within the workforce impacts innovation, creativity and stability of any organization. "With bias come individuals who are not open to change and continue to do the same things the way they have always done them. This results in stagnation and a stifling of innovation" (Hudson, 2014, p. 78). "Sexual harassment tends to be prevalent in organizations where there are increased power differentials between men and women" (Hunt, et al, 2010, p. 659). Subjecting women to power differentials and the subsequent results of sexual harassment forces women into a fight, flight or endure mode of survival.

Fighting generally results in the complainant being "blackballed" and labeled an undesirable employee. This creates additional stress upon the woman. The flight mode is where the woman will not and cannot tolerate the undesirable behavior and terminates their employment with the organization. This is a severe impact to the morale and self-esteem of the employee, and the company loses valuable talent. Losing talent takes time to recruit new talent and money for recruitment, as well as loss hours of productivity. In some cases, it may take months or even up to a year to recoup the losses, and generally they are never fully recouped.

The endurance mode leaves the employee frustrated, experiencing PTSD, low self-esteem and diminished productivity in work slowdown, mistakes and increased absenteeism. Overall, everyone loses, the company, the employee and other employees, who are subjected to the results.

Discussion

The topics of legal evolution of sexual harassment, what is sexual harassment, prominent cases of sexual harassment, impact on individuals (females) and impact on companies have been discussed. A literature review, case law, empirical studies and longitudinal studies have been presented. The questions posed, and evidence provided a baseline for drawing conclusions and further research on does sexual harassment impact female employees of companies and how does sexual harassment impact a company's productivity and eventually impact profits?

The review of scholarly manuscripts, empirical studies and administrative law indicates that sexual harassment is not conducive to a productive, effective, efficient or human relation environment. Sexual harassment has been shown that it creates a toxic environment which impacts individuals. Individuals are the core of the organization's functionality and without functioning human capital, the organization, the community, nation and world will suffer. If sexual harassment is a condoned practice, then why has administrative law been enacted to address the action?

The leadership of an organization has an ethical obligation to create an environment which is productive, safe and people-centric. The leadership of organizations have power. As such, sexual harassment is a power issue and not for sexual gratification. Power in the form of coercion, threats, intimidation, fear and promises are power ploys used to control a person. Sexual harassment is based on control over another person. The use of coercion, threats, intimidation and fear and to some extent promises impact Maslow's Theory of Motivation (Hierarchy). Sexual harassment negatively impacts a person's need for physiological well-being which is a need for physical survival. This need is deprived of a person when sexual harassment impacts the person psychologically and physically. The safety need is deprived of a person when they feel unsafe by subjecting them to an environment at work where they are in fear of their physical safety and psychological well-being, as well as financial security. The need for social belonging is deprived when sexual harassment perpetuates a culture which causes a person to feel excluded and alone. Esteem is the need for respect. A person subjected to sexual harassment feels disrespected. Self-actualization is a level described as the desire to accomplish everything that one can, to become the most that one can be. Having to endure an environment which impacts this accomplishment, removes one's ability to meet this need. Sexual harassment impacts organizational stability, innovation, effectiveness, efficiency and results in an undesirable culture within the organization. Evidence provides a causal connection between sexual harassment and an organization's ability to maximize an environment which stimulates profitability and profits, as well as creating a positive return on investment for stakeholders.

Conclusion

"The benefits of tackling harassment can be substantial. Sickness absence, stress and conflict in the workplace are reduced. Staff retention, efficiency, morale and profitability are increased" (Hunt, et al, 2010, p. 668). Sexual harassment creates a toxic culture in an organization and relegates the leadership unreliable and not trustworthy for either "turning a blind eye" to the behavior, or condoning the behavior or participating in the behavior which impacts the organization's effectiveness and efficiency. But, beyond that, it is unethical to allow sexual harassment behavior, ignore it or participate in it and it dehumanizes a person. The result is it impacts the job (job-related) of that employee and other employees, and it impacts employees psychologically and physically. These three impact results ensuring that the company will find themselves in a lose-lose situation.

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