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Panel: Sexual Harassment in Higher Education: Understanding Root Causes and Developing Labor-Management Solutions

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ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

NEW LABOR FORUM



Gender & Sexual Identity Organized Labor & Worker Organizing

#MeToo Inside the Labor Movement

📅 January 2019 👤 Ana Avendaño

The #MeToo movement represents an opportunity for the labor movement to authentically connect to the experiences of women in all workplaces, and show that a union card means protection from sexual harassment, whether the harasser is the boss or a coworker. To seize that opportunity, the labor movement must confront hard truths and contradictions. Unions have played a mixed role in the long path to reckoning. Sexual harassment violates the fundamental principles of fairness and equity for which unions have fought so hard. Yet, with some notable exceptions, the labor movement has been a bystander or even complicit, especially in male-dominated industries where harassment is most pervasive. In handling grievances, unions frequently sided with union men who were accused of harassment; unions stood on the sidelines when women unionists brought legal claims that would set the boundaries of acceptable behavior in the workplace; and union leaders and members created and fed a hyper-masculine culture—in the union hall and on the

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shop floor—where harassment was accepted and, too often, condoned.

[1]As former National Labor Relations Board Chairperson Wilma Liebman,

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ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

male. It's been a hard issue to deal with.”[2]

“

... [W]ith some notable exceptions, the labor movement has been a bystander or even complicit, especially in male-dominated industries where harassment is most pervasive.

The history of unions and sexual harassment is in part shaped by labor markets that, to this day, remain highly segmented by gender and race. The gender composition of unions, particularly those that are occupationally based, mirrors gender segmentation in the labor market. Some unions represent overwhelmingly male constituencies: the building trades, pilots, and firefighters, to name a few.[3] Other unions have large female memberships, namely teachers' and nurses' unions. Unions that are organized around industrial or sectoral lines, such as auto and steel, also tend to be male-dominated. The result is what sociologist Ruth Milkman calls “the two worlds of unionism,” which remain distinct not only in their gender composition but also in their openness to reform.[4]

Labor's Legacy of Failure to Protect Women

The 1970s brought radical opportunity and enormous challenges for working women. As they entered the workforce in record numbers, women quickly began to challenge workplace norms, especially in occupations that had been the province of men. Those jobs—in construction sites, firehouses, auto manufacturing plants, mines from Minnesota to Tennessee, and many others—paid the highest wages, and often came with a union card.

Women faced difficult, often brutal, and sometimes violent conditions. In coal mines, they faced a strong fraternal culture built on generations of men working together in dangerous conditions, and a long-held superstition that women were bad luck in the mines. When forced to admit women into the mines by the courts and the government, the men in some places brought back an initiation rite where miners would strip and grease a new miner—a rite that had long been abandoned.[5]

Retweeted



Derek Gaskill

@DerekGaskillNYC

Today I received my Certificate in Civic Engagement and Leadership Development from @MurphyInstitute @CunySLU The classes were incredible and our cohort of students were so smart. Check out their workshops and classes!



Mar 30, 2019

In construction, tradeswomen fought their way into the industry, and documented the rampant sex discrimination in the industry and sex


[ABOUT US](#) ▾

[CURRENT ISSUE](#)
[ARCHIVES](#)
[FEATURED](#)
[WORKING-CLASS VOICES](#)
[POETRY /](#)

isolation.[6]

In the auto plants, the “new Rosies” confronted masculine shop culture that was “coarser, grosser, and more violent” than the sexist culture of earlier years. In the past, supervisors had been the main harassers and abusers, but now, coworkers became the harassers.[7] Women “endured the inappropriate language and touching and the degrading and humiliating treatment their work-mates meted out. At the same time, the shop floor was a man’s world, and upper-level managers, local union officials, and arbitrators were indifferent to the plight of women.”[8]



In the auto plants, the “new Rosies” confronted masculine shop culture that was “coarser, grosser, and more violent” than the sexist culture of earlier years.

As women fought their way into these male-dominated workplaces, masculine privilege was deeply ingrained in the functioning of unions—masculinist assumptions were normalized elements of bargaining strategies, contract provisions, and the day-to-day functioning of the union. The International Longshore and Warehouse Union (ILWU), for example, maintained a provision in its contract that allowed the “son of an active deceased longshoreman” the right to join the union by “taking his father’s union book”—a provision that remained until the mid-1970s, when a Southern California female dock worker sued the union.[9]

Unions were noticeably absent from the early efforts to combat sexual harassment. To the contrary, many labor leaders fought vehemently to lessen liability under Title VII for themselves, by trying to weaken the Equal Employment Opportunity Commission (EEOC), and diverting claims away from the courts to EEOC, for both gender and race. Some unions also strongly urged the EEOC to narrowly interpret bona fide occupational qualifications, which would allow employers and unions to continue to discriminate based on gender and race despite anti-discrimination laws.

[10]





Employment Opportunity Commission...

Even as women rose to power within their unions in larger and larger numbers, bringing with them a commitment to end sexual harassment, those gains did not spill over into male-dominated industries, where the leadership and the culture remained hyper-masculine and unwilling to challenge sexist norms.

A shocking New York Times exposé of brutal conditions endured by United Auto Workers (UAW) women at two Chicago auto plants published in December 2017 puts into question whether unions have evolved when it comes to addressing sexual harassment. Women told the New York Times that “bosses and fellow laborers treated them as property or prey. Men crudely commented on their breasts and buttocks; graffiti of penises was carved into tables, spray-painted onto floors, and scribbled onto walls. They groped women, pressed against them, simulated sex acts and punished those who refused.”^[11]

Harassers include managers and coworkers, and most recently, the UAW bargaining committee chairman, Allen Millender. Save for the failed efforts of one steward, the union took no steps to protect the women, yet went out of its way to protect the accused harasser. When Millender received a two-week suspension following a company investigation, the union grieved the case to arbitration.

The hyper-sexualized, often violent shop floor culture is nothing new to the UAW. In the early 1990s, the union faced public scrutiny when it failed to protect its female members from harassment at the very same plants featured in the New York Times exposé. In the mid-1990s, the union was broadly criticized for its role in one of the largest cases of sexual harassment in history, at Mitsubishi Motors. In that case, the EEOC investigation found obscene, crude sketches of genital organs and sex acts, and names of female workers scratched into unpainted car bodies moving along the assembly line. Women were called sluts, whores, and bitches, and subjected to groping, forced sex play, and male flashing. Explicit sexual graffiti such as “KILL THE SLUT MARY” were scrawled on the rest-area and bathroom walls.^[12]



Men also assaulted women with factory equipment, placing hoses, wrenches, and air guns between women's legs. They also sabotaged


[ABOUT US](#)
[CURRENT ISSUE](#)
[ARCHIVES](#)
[FEATURED](#)
[WORKING-CLASS VOICES](#)
[POETRY /](#)


Men...[at UAW's Mitsubishi Motors plant]... assaulted women with factory equipment, placing hoses, wrenches, and air guns between women's legs.

In these early cases, like today, the union ignored the women's complaints and only grieved discipline of harassers.^[13] In each instance, the union responded to criticism by issuing public statements about its commitment to ending sexual harassment, and promising training. Following the New York Times' recent exposé, the UAW International President said at a press conference "[l]et me be very clear about this: The UAW has a policy of no tolerance—zero tolerance—when it comes to sexual harassment," and then announced that the union and Ford would jointly set up training to combat harassment.^[14]

Labor Movement Culture

This history evolved in a culture rooted in struggle and conflict, and shaped almost entirely by white men. As Professor Marion Crain explains, "incubated in bars and taverns, and permeated with language such as "brothers" and "brotherhood," male labor did not construct unionism as either accessible or comfortable for women."^[15] A particular brand of loyalty—one that labels anyone who criticizes the union or its leaders as a traitor worthy of banishment—is baked into union culture.

Traditions, customs, iconography, and the physical spaces of a large number of unions continue to point to periods in history when unions openly practiced sexism and racism. The most awe-inspiring room at the AFL-CIO, with its twenty-foot ceilings and framed by Lumen Winter's beautiful mosaic mural of glass, marble, and gold, is named after Samuel Gompers who believed that "a woman's place is in the home" and who, in his memoir, expressed his belief in "the principle that maintenance of the nation depended upon maintenance of racial purity."^[16]

Some union social practices continue sexist traditions of the past. The Union Sportsmen's Alliance, founded in 2007, has hosted an annual event



at AFL-CIO headquarters, which consists of an upscale, catered cocktail party and gun show. Models in micro mini-skirts and five-inch heels serve



ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /



A particular brand of loyalty—one that labels anyone who criticizes the union or its leaders as a traitor worthy of banishment—is baked into union culture.

As in any organization, union culture does not exist in isolation: it shapes how unions function, allocate resources, set priorities, and respond to issues that challenge established norms. Organizational culture is also the most important element of any strategy to address sexual harassment. As the EEOC and countless studies have found, “workplace culture has the greatest impact on allowing harassment to flourish, or conversely, in preventing harassment.”^[17] If unions are serious about ending sexual harassment in the workplace, the labor movement must ensure that its own culture is intolerant of harassment.

The Beginning Stages of Progress

Unions have responded in varying degrees to the #MeToo movement. Not surprisingly, the most visible efforts are led by women union leaders on behalf of their majority female membership: UNITE HERE’s Hands Off, Pants On campaign on behalf of hotel workers who experience high rates of harassment from customers and managers, and United Service Workers West’s Ya Basta! Coalition. The latter is an effort by the janitors’ union in Los Angeles to address harassment in that industry through a coalition of anti-violence advocates, worker advocates, union leaders, and women worker leaders. Both efforts include raising public awareness, worker education, and state legislation, and both were well underway before the Harvey Weinstein scandal broke.^[18]



...[T]he most visible efforts are led by women union leaders on behalf of their majority female membership...



Others have adopted new codes of conduct (AFL-CIO, Screen Actors Guild–American Federation of Television and Radio Artist [SAG-AFTRA], Writers


[ABOUT US](#) ▾

[CURRENT ISSUE](#)
[ARCHIVES](#)
[FEATURED](#)
[WORKING-CLASS VOICES](#)
[POETRY /](#)

AFL-CIO adopted a resolution at its 2017 Convention pledging to help unions better address sexual harassment.^[19] The National Council for Occupational Safety and Health has also brought together local unions with low-wage worker advocates, academics, rape crisis centers, and other non-profits to create the Our Turn: Sexual Harassment Action Network. While still in its infancy, the network plans to implement various strategies to create work-places free of sexual harassment.^[20]

While these efforts hold promise, those that do not clearly prioritize changing workplace culture are not likely to fully succeed. Codes of conduct, even if accompanied by training do not by themselves stop sexual harassment. According to a June 2018 report by the National Academies of Sciences, Engineering, and Medicine (the National Academies), “if reactive complaint mechanisms are the only route to intervention in an institution, then it most likely misses a majority of the sexual harassment that takes place.”^[21] Both history and current research teach that while policy statements, especially those coming from the highest levels of leadership, are important, they, too, are not enough.

UAW President Doug Fraser issued a forceful administrative letter to all locals in the early 1980s, stating that “sexual harassment of workers by members of supervision or coworkers...should not be tolerated at any workplace organized by the UAW.”^[22] Fraser directed local staff and local leaders to “commit to its elimination,” encouraging locals to use the grievance procedure to fight harassment as a form of sex discrimination under the contract’s anti-discrimination clause. This policy was in force as women auto workers were being traumatized by their male coworkers at Ford and Mitsubishi plants, in the 1990s and in 2017. The climate in the plants throughout those decades contained all the elements identified by the National Academies and the EEOC as the indicia of a permissive climate toward sexual harassment:^[23]

- perceived risk to victims for reporting harassment;
- lack of sanctions against offenders; and
- the perception that one’s complaints will not be taken seriously.

Change Workplace Culture

Unions—both as collective bargaining agents and as employers—have a substantial role to play in creating a climate where careers flourish and harassers do not. The end goal is a culture that values diversity, inclusion,



and respect, and a climate that demonstrates that these values are put into action. Change starts with an understanding of the existing culture.



ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

bargaining table to require employers to conduct those surveys regularly, and to monitor progress. Acting together, unions would have an especially powerful impact on modeling culture and behavior change. With a majority of unions' consent, the AFL-CIO could require all unions to conduct climate assessment surveys annually and make those reports public. In 2005, the AFL-CIO Convention adopted a sweeping resolution on improving diversity in labor movement leadership. That resolution required "national unions to report annually on the representation of women and people of color in their membership as well as in staff and elected leadership positions at all levels."^[24] The added requirement of making the information accessible to the public would show members, workers who are not yet in unions, and labor movement observers that the commitment to change is real.

Reconceptualize Sexual Harassment

Unions too often conceptualize sexual harassment as a legal claim, usually accompanied by the image of a male supervisor harassing a female subordinate. That conception provides a comfortable blame-the-boss narrative that naturally leads to unionization as the solution. It does not, however, provide an accurate assessment of the problem, given that most studies show that abuse of power by a manager of a subordinate accounts for less than four percent of workplace sexual harassment.^[25]

A much better approach would be to follow the lead of social scientists, who view sexual harassment as composed of three distinct but related categories of behavior: sexual coercion, unwanted sexual attention, and gender harassment.^[26] These categories give a much better sense of the types of behavior that constitute harassment, and importantly, how victims experience the harassment. Given that gender harassment is by far the most common type of sexual harassment, unions should be focusing on addressing behaviors that fall under that category.



...[M]ost studies show that abuse of power by a manager of a subordinate accounts for less than four percent of workplace sexual harassment.



Gender harassment refers to “a broad range of verbal and nonverbal behaviors not aimed at sexual cooperation but that convey insulting,


[ABOUT US](#) ▾

[CURRENT ISSUE](#)
[ARCHIVES](#)
[FEATURED](#)
[WORKING-CLASS VOICES](#)
[POETRY /](#)

crude jokes, display of naked women and pornography, use of language such as “bitch,” or “slut,” and phrases such as “don’t be a pussy”— the types of behaviors that women in auto plants, on construction sites, and in other male-dominated union shops experience daily.

In addition to adopting more clear definitions, unions should recognize sexual harassment as a universal collective harm, which by its nature merits the full attention of institutions that exist to protect workers’ rights. Sexual harassers harm the mental, physical, and psychological health of their targets and their coworkers. Those injuries cut across socioeconomic groups, education levels, cultures, age groups, vocations, and geographies. [28]

End Union Protection for Members Who Harass

Unions should change the way they handle member-on-member harassment, especially in male-dominated workplaces. Unions are reticent to investigate claims of harassment by one member against another. The common pattern is that a victim complains to the union. The union representative ignores her, or points her toward the employer, encouraging her to file a complaint under the employer’s sexual harassment policy. The victim then files a complaint with the employer, who, in order to avoid legal liability, conducts an investigation. When the employer disciplines a harasser, the union grieves the discipline, forcing the victim and the employer to align in opposition to the union and the harasser. Sexual harassment grievances in labor arbitration overwhelmingly involve men challenging discipline for sexually harassing conduct.[29] These practices make it hard for union women to convince others that unions are as committed to women’s issues as they say they are.



...[G]ender harassment is by far the most common type of sexual harassment...

A much better practice would be for grievance-handlers to investigate claims and, when an investigation supports a claim of harassment, fully support the victim and make clear to members that the union will not use



its power to enable harassers. Even better, the union could let members know that it will not arbitrate claims of unjust discipline when a grievant is



ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

The union's duty of fair representation does not require differently. The legal obligation is to treat all members of a bargaining unit fairly and not act in a manner that is arbitrary, discriminatory, or in bad faith.[30] That duty requires that the union conduct an evaluation of the merits of a claim, and make a decision on how to proceed based on a fair and impartial consideration of the interests of members, free from political favoritism or ill will.[31] Unions have substantial leeway in this area; they are not required to proceed with every grievance filed by an aggrieved member.

Experiment with Informal Processes for Addressing Claims

Most women who suffer sexual harassment are not interested in filing grievances or complaints; they simply want the harassment to stop. Informal resolution mechanisms that address the offensive conduct and that give the victim a voice would complement grievance processes or, in some cases, provide an alternative. Restorative justice mechanisms are worth exploring. Unlike mediation, which treats all parties neutrally, restorative justice mechanisms are premised on the wrongdoer accepting responsibility and engaging with the victim to address the harm. Outcomes are not punitive. The process offers a much broader range of remedies, from asking for an apology to conducting a forum to discuss what happened to anything in between.[32] Schools, hospitals, communities, and the criminal justice system are increasingly using restorative justice mechanisms. In fact, the American Federation of Teachers (AFT) is experimenting with these practices in school districts and could have valuable lessons to share with other unions.

Model Employer Behavior

As employers, unions have a unique opportunity to model proper employer behavior by, for example, transparently assessing their own organizational climates and bargaining broad sexual harassment provisions in their staff union contracts.

Most important, unions should lead the way in holding insiders accountable for sexual harassment. Unions should not offer aid and comfort to sexual harassers, no matter how smart, strategic, or close to leadership the harasser happens to be. As Stephen Colbert recently said when discussing accusations of sexual harassment against his mentor, Les Moonves, "Everyone believes in accountability—until it's their guy... But



accountability is meaningless unless it's for everybody. Whether it's the leader of the network, or the leader of the free world.”[33]


[ABOUT US](#) ▾

[CURRENT ISSUE](#)
[ARCHIVES](#)
[FEATURED](#)
[WORKING-CLASS VOICES](#)
[POETRY /](#)

for its own internal harassment problems in a meaningful way. Shortly after the New York Times published the Weinstein story, various outlets reported that Scott Courtney, the SEIU architect of the Fight for \$15 campaign, had a long history of demanding sexual favors from female staffers.[34] He resigned. A month later, the AFL-CIO's chief budget officer, Terry Stapleton, resigned as Bloomberg prepared a story that he had been disciplined for sending lewd text messages to a secretary and for pressing her to come to his hotel room.[35] In the following months, the president of the Orange County AFL-CIO lost his post after an investigation found him responsible for extensive sexual harassment, and the president of the New Mexico AFL-CIO was ousted after he was accused in a lawsuit of extensive sexual harassment and retaliation.[36] In February 2018, the SEIU assembled an external panel to review its sexual harassment policies, [37] and the AFL-CIO hosted a convening to examine the issue of sexual harassment in general.



It remains to be seen whether the labor movement will take responsibility for its own internal harassment problems...

In a more effective course of action, when reports of sexual harassment by Oxfam managers and staff surfaced, the organization took immediate steps to address the problem, both internally and for the international aid community in which it functions. In addition to setting up an independent commission, the organization developed a plan along eight different streams of work, providing a framework for how it will improve its transparency, accountability, and policies, practices, and culture; increase investment into safeguarding and training; work with other non-governmental organizations (NGOs); and reform its recruitment and vetting processes. The plan is prominent on Oxfam's web page, which also tracks the effort's progress and promises updates every six months.[38] One major accomplishment is a pledge, signed by 118 heads of international aid organizations, which includes taking steps to ensure perpetrators cannot be re-employed by other members of the international aid community.



Organizational accountability is not about singling out bad actors; it is an essential element of eradicating sexual harassment. The labor movement



ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

with dignity, free from sexual harassment.

Reshape Labor Feminism

Union women—especially leaders and senior staff—also have an important role to play in reshaping labor feminism from its economic roots to one that recognizes the various experiences that shape the life of women, and which elevates fighting racism, xenophobia, homophobia, and all other forms of oppression to the working women’s agenda. When women unionists formed the Coalition for Labor Union Women (CLUW) in 1974 as a constituency group of the AFL-CIO, they sought to develop a working women’s agenda without attacking the male labor establishment. They wanted to win support from and gain credibility within the official labor leadership.[39] Women believed that it was not in their interest to challenge the patriarchy or sexism within labor’s own ranks as it would subject them to accusations of disloyalty and engender men’s wrath.[40] Instead, they focused on economic issues.

At that time, union women did the best they could within the constraints and ideology of the moment. Today, women make up 47 percent of the workforce and 46 percent of union membership.[41] The time has come to reconsider the choices made in the 1970s, and take on internal sexism. As Audre Lorde cautioned long ago,

the master’s tools will never dismantle the master’s house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change. And this fact is only threatening to those...who still define the master’s house as their only source of support.[42]

Photocredit: Original photo by Matt Popovick, Flickr

Author Biography

Ana Avendaño is Vice President for Labor Engagement at United Way Worldwide, and former Assistant to the President for Immigration and Community Action at the AFL-CIO. She also served as Assistant General Counsel at the AFL-CIO and Associate General Counsel at the United Food and Commercial Workers International Union, as well as a staff attorney at the NLRB and union-side law firms. The views reflected here are her own.

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ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

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ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

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ABOUT US ▾

CURRENT ISSUE

ARCHIVES

FEATURED

WORKING-CLASS VOICES

POETRY /

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