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# UNDERSTANDING SEXUAL HARASSMENT AT WORK†

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## I. INTRODUCTION

The topic of sexual harassment at work was virtually unstudied until the concern of feminists brought the issue to the attention of the public and researchers. Much of the research on sexual harassment addresses two complementary questions. (1) How do people define sexual harassment? (2) How common is it? Research on these two issues provide useful background information for lawyers and policy makers interested in seeking legal redress for harassment victims, and ultimately in eradicating sexual harassment.

The primary aim of this article is to inform legal scholars about the research on these two issues. The first issue, people's definitions of sexual harassment, shows the extent to which laws and regulations reflect broad public consensus. Knowing the frequency of sexual harassment—a workplace problem that had no name until the mid-1970s<sup>1</sup> is important for those seeking to establish laws and procedures to remedy the problem. Further, frequency or prevalence deserves study because sexual harassment has negative consequences for women workers and organizations. These two areas—definition and prevalence—are often studied independently, using different research subjects, research designs, and methods of data collection.

This article traces the development of research on sexual behavior in the workplace from its early emphasis on defining and documenting sexual harassment through other findings concerning sexual nonharassment. In order to understand sex at work, several frameworks or theories are discussed, with special emphasis on the concept of sex-role spillover.

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1. See LIN FARLEY, *SEXUAL SHAKEDOWN: THE SEXUAL HARASSMENT OF WOMEN ON THE JOB* (1978).

The term "sexual behavior" will be used throughout this article to encompass the range of sexual behaviors, such as, non-work related behavior with sexual content or overtones, found within the workplace and included in many research studies. Few studies attempt to limit themselves to legally liable sexual harassment. Thus, the term "sexual behavior" consists of behavior that is legally considered sexual harassment as well as nonharassing sexual behavior.

Finally, it should be noted that this article is not a review of the status of sexual harassment laws or legal practices. It is limited to the social science research which addresses issues relevant to sexual harassment policy and lawsuits.

## II. THE DISCOVERY OF SEXUAL HARASSMENT

In the mid-1970s, sexuality in the workplace suddenly received considerable attention through the discovery of sexual harassment, which appeared to be relatively widespread and to have long-lasting, harmful effects on a significant number of working women. This "discovery" was somewhat counterintuitive, since some women were believed to benefit from seductive behavior and sexual behaviors at work, gaining unfair advantage and acquiring perks and privileges from their flirtatious and seductive behavior.<sup>2</sup> The first accounts of sexual harassment were journalistic reports and case studies.<sup>3</sup> Soon the topic was catapulted into public awareness through the publication of two important books. Lin Farley's book, *Sexual Shake-down: The Sexual Harassment of Women on the Job*, aimed to bring sexual harassment to public attention, create a household word, and make people aware of harassment as a social prob-

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2. JEAN LIPMAN-BLUMEN, *GENDER ROLES AND POWER* (1984); Robert Quinn, *Coping with Cupid: The Formation, Impact, and Management of Romantic Relationships in Organizations*, 22 ADMIN. SCI. Q. 30-45 (1977); Jean Lipman-Blumen, *Toward a Homosocial Theory of Sex-Roles: An Explanation of the Sex Segregation of Social Interaction*, in *WOMEN AND THE WORKPLACE* (Martha Blaxall & Barbara Reagen eds., 1976). The belief that women use sexuality to obtain work-related goals is still prevalent in movies and films. For example, the recent film, "Other People's Money," shows an attractive female lawyer openly engaging in seductive and flirtatious behavior to try to influence her client's opposition. *OTHER PEOPLE'S MONEY* (Warner Brothers 1991).

3. Patricia Bernstein, *Sexual Harassment on the Job*, HARPER'S BAZAAR, Aug. 1976, at 33; Karen Lindsey, *Sexual Harassment on the Job*, Ms., Nov. 1977, at 47-51, 74-78; Letti Pogrebin, *Sexual Harassment: The Working Woman*, LADIES HOME J., June 1977, at 24; Caryl Rivers, *Sexual Harassment: The Executive's Alternative to Rape*, MOTHER JONES, June 1978, at 21-22, 24, 28-29; Claire Safran, *What Men do to Women on the Job: A Shocking Look at Sexual Harassment*, REDBOOK, Nov. 1976, at 149, 217-23.

lem. Catharine MacKinnon's book, *Sexual Harassment of Working Women*, sought a legal mechanism for handling sexual harassment and compensating its victims.<sup>4</sup> In a strong and compelling argument, MacKinnon contended that sexual harassment was primarily a problem for women, that it rarely happened to men, and therefore that it should be viewed as a form of sex discrimination. Viewing sexual harassment as a form of sex discrimination would make available to victims the same legal protection available to victims of sex discrimination. In 1980, the Equal Employment Opportunity Commission (EEOC) established guidelines consistent with MacKinnon's position and defined sexual harassment under Title VII of the 1964 Civil Rights Act as a form of unlawful sex-based discrimination. Several states have passed their own increasingly strong laws aimed at eliminating sexual harassment<sup>5</sup> and legal scholars have sought additional avenues to recover damages incurred from sexual harassment.<sup>6</sup> Various public and private agencies as well as the courts have seen a steady if uneven increase in sexual harassment complaints since the early 1980s.<sup>7</sup>

The various guidelines and regulations define sexual harassment broadly. For example, the updated EEOC guidelines state that

[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting such individual,

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4. CATHARINE A. MACKINNON, *SEXUAL HARASSMENT OF WORKING WOMEN: A CASE OF SEX DISCRIMINATION* (1979).

5. MARILYN I. PEARMAN & MARY T. LEBRATO, CALIFORNIA STATE PERSONNEL BOARD & CALIFORNIA COMM. ON THE STATUS OF WOMEN, *SEXUAL HARASSMENT IN EMPLOYMENT INVESTIGATOR'S GUIDEBOOK* (1984); Sandra Shullman & Barbara Watts, *Legal Issues*, in *IVORY POWER: SEXUAL HARASSMENT ON CAMPUS* 251-64 (Michele A. Paludi ed., 1990) [hereinafter *IVORY POWER*].

6. Terry M. Dworkin et al., *Theories of Recovery for Sexual Harassment: Going Beyond Title VII*, 25 *SAN DIEGO L. REV.* 125 (1988); Susan Estrich, *Sex at Work*, 43 *STAN. L. REV.* 813 (1991); Joan Vermeulen, *Preparing Sexual Harassment Litigation Under Title VII*, 7 *WOMEN'S RTS. L. REP.* 331 (1982).

7. Jay Livingston, *Responses to Sexual Harassment on the Job: Legal, Organizational, and Individual Actions*, 38 *J. SOC. ISSUES* 5 (1982); National Council for Research on Women, *Sexual Harassment: Research and Resources, A Report in Progress* (Susan A. Hellgarth & MaryEllen S. Capek eds., Nov. 1991).

or (3) such conduct has the purpose or effect of reasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.<sup>8</sup>

Researchers began serious study of sex at work only after Farley's and MacKinnon's books and two compendia of information on sexual harassment<sup>9</sup> were in progress and generally after the EEOC had established guidelines in 1980. Not surprisingly, researchers were heavily influenced by these important developments in policy and law. These developments focused the concerns of researchers on the two specific issues mentioned above: definition of harassment and frequency of occurrence.

### III. DEFINING SEXUAL HARASSMENT

The first issue can be succinctly stated: "What constitutes sexual harassment?" For lawyers, the courts, personnel managers, ombudspersons, and others, this is perhaps the most important issue that they must face.<sup>10</sup> If "it" is harassment, it is illegal; otherwise it is not. Researchers, aware of the problems in defining harassment and perhaps eager to contribute to the developments in law and policy, began to supply a spate of studies.

Studies concerned with the definition of sexual harassment come in two types. First are surveys of various populations of people who are asked to tell whether various acts constitute sexual harassment. Second are experimental studies in which students, employees, or managers are asked to rate one or more hypothetical situations in which aspects of the situation are varied along important dimensions. These experimental studies using a hypothetical situation, also known as the "paper people paradigm," come in two variants. In the first variant, subjects are asked to determine whether a particular scenario depicts an instance of sexual harassment.<sup>11</sup> In the second vari-

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8. EEOC Guidelines on Discrimination Because of Sex, 29 C.F.R. § 1604.11 (1991).

9. CONSTANCE BACKHOUSE & LEAH COHEN, *THE SECRET OPPRESSION: SEXUAL HARASSMENT OF WORKING WOMEN* (1978); *SEXUALITY IN ORGANIZATIONS: ROMANTIC AND COERSIVE BEHAVIORS AT WORK* (Gail Ann Neugarten & Jay M. Shafritz eds., 1981).

10. Patricia Linenberger, *What Behavior Constitutes Sexual Harassment?*, 34 *LAB. L.J.* 238 (1983); Gary N. Powell, *Sexual Harassment: Confronting the Issue of Definition*, 26 *BUS. HORIZONS* 24-82 (1983) [hereinafter *Confronting the Issue*].

11. Douglas D. Baker et al., *The Influence of Individual Characteristics and Severity of Harassing Behavior on Reactions to Sexual Harassment*, 22 *SEX ROLES* 305

ant, researchers examine the attributions of subjects to understand how subjects' interpretations of a scenario affect their use of the label, sexual harassment.<sup>12</sup>

The strengths of the experimental research design—random assignment to conditions and manipulation of causal variables—allow researchers to make causal statements about what affects how people define sexual harassment. The weakness of the design is that the situation is invariably insufficiently “real”: subjects who have limited information and little appreciation of, or experience with, the subject matter may not respond the way people would in a real (rather than hypothetical) situation.

The survey studies show that sexual activity as a requirement of the job is defined as sexual harassment by about eighty-one percent<sup>13</sup> to ninety-eight percent<sup>14</sup> of working adults, and similar results have been reported with students as subjects.<sup>15</sup> Lesser forms of harassment such as sexual touching are not as consistently viewed as sexual harassment. For example, I found that fifty-nine percent of men but eighty-four percent of women asserted that sexual touching at work is sexual harassment.<sup>16</sup> A sizable minority (twenty-two percent of men and thirty-three percent of women) considered sexual comments at work meant to be complimentary to be sexual harassment.<sup>17</sup>

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(1990); Barbara A. Gutek et al., *Interpreting Social Sexual Behavior in the Work Setting*, 22 J. VOCATIONAL BEHAV. 30 (1983) [hereinafter *Interpreting Social Sexual Behavior*]; *Confronting the Issue*, *supra* note 10, at 24-28; Timothy Reilly et al., *The Factorial Survey: An Approach to Defining Sexual Harassment on Campus*, 38 J. SOC. ISSUES 99 (1982) [hereinafter *Factorial Survey*]; David E. Terpstra & Douglas D. Baker, *A Hierarchy of Sexual Harassment*, 121 J. PSYCHOL. 599 (1987); Eleanor Weber-Burdin & Peter H. Rossi, *Defining Sexual Harassment on Campus: A Replication and Extension*, 38 J. SOC. ISSUES 111 (1982).

12. John Pryor & Jeanne Day, *Interpretation of Sexual Harassment: Attributional Analysis*, 18 SEX ROLES 405 (1988); John E. Pryor, *Sexual Harassment Proclivities in Men*, 13 SEX ROLES 273 (1987).

13. Barbara A. Gutek, *Sexuality in the Workplace*, 1 BASIC & APPLIED SOC. PSYCHOL. 255 (1980).

14. BARBARA A. GUTEK, *SEX AND THE WORKPLACE: IMPACT OF SEXUAL BEHAVIOR AND HARASSMENT ON WOMEN, MEN AND ORGANIZATIONS* (1985) [hereinafter *SEX AND THE WORKPLACE*].

15. S.J. Adams & S.E. Peterson, *A Survey of Students' and Professional College Staffs' Experiences with and Definitions of Sexual Harassment* (1983) (unpublished Master's thesis, University of New York (Plattsburgh)); Gary N. Powell et al., *Sexual Harassment as Defined by Working Women* (1981) (paper presented at the annual meeting of the Academy of Management, San Diego, CA).

16. *SEX AND THE WORKPLACE*, *supra* note 14, at 40.

17. *Id.* at 43.

In contrast to the survey studies which often ask respondents to specify which of a set of actions constitutes harassment, in experimental studies, subjects are usually asked to rate how harassing some incident is, on a five-point or seven-point scale. Such a method makes it impossible to say what percentage of people consider any particular act or event harassment and results are usually reported as mean scores (on, say, a three-, five-, or seven- point scale). It should be noted that experimental studies are generally not concerned with the percentage of their subjects, usually students, who consider behavior X to be harassment, but instead address the factors or variables which affect whether or not some specified incident or act is labeled harassment.

The experimental studies show that except for the most outrageous and clearly inappropriate behavior, whether or not an incident is labeled harassment varies with several characteristics of the incident and the people involved. In these studies, the following variables make a difference: (1) the behavior in question, (2) the relationship between harasser and victim, (3) the sex of the harasser, (4) the sex and age of the victim, (5) the sex of the rater, and (6) the occupation of the person doing the rating. Another way of categorizing these factors is shown in Figure 1: characteristics of the behavior, nature of the relationship between the actors, characteristics of the observer/rater, and context factors all affect whether or not a particular act or event is considered sexual harassment.

FIGURE 1: FACTORS AFFECTING THE DEFINITION OF SEXUAL HARASSMENT

1. *Characteristics of the behavior.* The more physically intrusive and persistent the behavior, the more likely it is to be defined as sexual harassment by an observer.
2. *The nature of the relationship between actors.* The better the two actors know each other (friends, spouses, long-time co-workers) the less likely the behavior will be labeled sexual harassment by an observer.
3. *Characteristics of the observer.* Men and people in authority (e.g., senior faculty, senior managers) are less likely than others to label a behavior sexual harassment.
4. *Context factors.* The greater the inequality (in position, occupation, age), the more likely the behavior will be labeled sexual harassment by an observer. When the "recipient" of the behavior is low status or relatively powerless (female, young, poor), the behavior is

more likely to be judged harassment than when the "recipient" is high status or relatively powerful.

The most important factor determining judgement of sexual harassment is the behavior involved. The experimental studies and survey studies yield the same pattern of findings: explicitly sexual behavior and behavior involving implied or explicit threats are more likely to be perceived as harassment than other, less threatening or potentially complimentary behavior.<sup>18</sup> Touching is also more likely to be rated as sexual harassment than comments, looks, or gestures.<sup>19</sup> In addition, Weber-Burdin and Rossi concluded that the initiator's behavior is much more important than the recipient's behavior, although if a female recipient behaved seductively, college student raters may reduce the ratings of harassment.<sup>20</sup>

The relationship between the two people is also important. The situation is considered more serious harassment when the initiator is a supervisor of the recipient rather than an equal or a subordinate<sup>21</sup> or more serious if the person previously declined to date the harasser<sup>22</sup> than if the two people had a prior dating relationship.<sup>23</sup> The incident is more likely to be viewed as sexual harassment when a man is the harasser,<sup>24</sup> a woman is the victim<sup>25</sup> and when the female victim is young.<sup>26</sup>

The person doing the rating makes a difference. The most important characteristic of the rater is gender. When women are doing the rating, they define a wide variety of sexual behaviors at work as sexual harassment, while men tend to rate only the more extreme behaviors as harassment.<sup>27</sup> Similarly, on a

18. *Factorial Survey*, *supra* note 11, at 99; *Confronting the Issue*, *supra* note 10, at 24; Weber-Burdin & Rossi, *supra* note 11, at 111.

19. *Interpreting Social Sexual Behavior*, *supra* note 11, at 30.

20. Weber-Burdin & Rossi, *supra* note 11, at 111. Sometimes there is no behavior to judge. Long-standing sexist terminology, posters or pin-ups, for example, usually cannot be attributed to anyone's behavior. Even the sudden appearance of pornographic material in the workplace often cannot be traced clearly to a particular actor or set of actors. Research subjects have generally not been asked to rate this kind of "behavior."

21. *Interpreting Social Sexual Behavior*, *supra* note 11, at 30; Pryor, *supra* note 12; Pryor & Day, *supra* note 12.

22. *Factorial Survey*, *supra* note 11, at 99.

23. *Id.*; Weber-Burdin & Rossi, *supra* note 11, at 111.

24. *Interpreting Social Sexual Behavior*, *supra* note 11, at 35.

25. *Id.*

26. M.F. Sherman & R.J. Smith, Was She Really Sexually Harassed? The Effects of the Victim's Age and the Job Status of the Initiator (Paper presented at meeting of Eastern Psychological Association, Philadelphia) (Apr. 1983).

27. Eliza G.C. Collins & T.B. Blodgett, *Sexual Harassment: Some See It . . .*



scale of Tolerance for Sexual Harassment (TSHI), college men reported more tolerance than women,<sup>28</sup> that is, men objected less than women to sexual harassing behavior. In short, the finding that women apply a broader definition of sexual harassment than men is pervasive and widely-replicated although not universally found.<sup>29</sup> It is worth noting that at least one factor strongly associated with gender, sex role identity, did not make much of a difference in people's judgments of sexual harassment. Powell, using a student sample, found that sex-role identity generally did not affect definition of sexual harassment although highly feminine subjects were somewhat more likely than others to label some behaviors sexual harassment and highly masculine male students were somewhat less likely than others to label insulting sexual remarks sexual harassment.<sup>30</sup> In addition, organizational status seems to have an effect. Higher-level managers rating an incident are less likely to see it as serious harassment than middle-level or lower-level managers.<sup>31</sup> In one study, faculty tended to view an incident as less serious than students<sup>32</sup> whereas in another, there were no substantial differences in the ratings of faculty and students.<sup>33</sup>

The experimental studies using an attribution analysis probe an evaluator's thought processes as he or she makes a determination whether or not a particular scenario constitutes harassment. Pryor suggested that people are more likely to judge a man's behavior sexual harassment if his behavior is attributed to his enduring negative intentions toward the target woman.<sup>34</sup> Such negative intentions can either reflect hostility or insensitivity to women. Pryor and Day found that the perspective people take in interpreting a social-sexual encounter affects their judgments of sexual harassment.<sup>35</sup> This may help explain why men and women tend to differ in their judgments

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*Some Won't*, 59 HARV. BUS. REV. 76 (1981); *Interpreting Social Sexual Behavior*, *supra* note 11, at 35; Gary N. Powell, *What Do Tomorrow's Managers Think About Sex Intimacy in the Workplace?* 29 BUS. HORIZONS 30 (1986); Pryor & Day, *supra* note 12.

28. Mary Ellen Reilly et al., *Sexual Harassment of College Students*, 15 SEX ROLES 333 (1986).

29. See Terpstra & Baker, *supra* note 11, at 599.

30. Powell, *supra* note 27.

31. Collins & Blodgett, *supra* note 27, at 76.

32. *Factorial Survey*, *supra* note 11, at 99.

33. Louise F. Fitzgerald & Mimi Ormerod, *Perceptions of Sexual Harassment: The Influence of Gender and Academic Context*, 25 SEX ROLES 281-94 (1991).

34. Pryor, *supra* note 12.

35. Pryor & Day, *supra* note 12.

of sexual harassment, that is, men may take the man's (usually the initiator's) point of view whereas women are more likely to take the woman's (the victim in many experimental studies) point of view. In support of this view, Konrad and Gutek found that women's greater experience with sexual harassment helps to explain the sex differences in defining sexual harassment.<sup>36</sup> In a similar vein, Kenig and Ryan came to the conclusion that men's and women's perceptions of sexual harassment reflect their own self-interest.<sup>37</sup> It is in men's self-interest to see relatively little sexual harassment because men are most often the offenders whereas it is in women's self-interest to see relatively more sexual harassment because women tend to be the victims in sexual harassment encounters.

Cohen and Gutek's analyses suggest that people may make different attributions depending on whether or not they view the initiator and recipient as friends.<sup>38</sup> More specifically, they found that when student subjects were asked to evaluate an ambiguous, potentially mildly sexually harassing encounter, they tended to assume that the two participants were friends, perhaps dating partners, and that the behavior was welcome and complimentary rather than harassing. Similarly, student subjects were less likely to rate a behavior harassment if they knew that the parties formerly dated<sup>39</sup> and were more likely to rate a behavior harassment if the woman recipient had formerly refused to date the male initiator.<sup>40</sup> In the latter case, subjects may attribute the man's overture to his "enduring negative intentions" toward the woman since her prior refusal of a date presumably eliminates the explanation that he was unsure how she felt about him.

#### IV. FREQUENCY OF SEXUAL HARASSMENT AT WORK

The other area of research that developed in response to legal and policy development was a documentation of the forms and prevalence of harassment experienced by people. In 1979, MacKinnon wrote: "The unnamed should not be taken

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36. Alison M. Konrad & Barbara A. Gutek, *Impact of Work Experiences on Attitudes Towards Sexual Harassment*, 31 ADMIN. SCI. Q. 422-38 (1986).

37. Sylvia Kenig & John Ryan, *Sex Differences and Levels of Tolerance in Attribution of Blame for Sexual Harassment on a University Campus*, 15 SEX ROLES 535 (1986).

38. Aaron Cohen & Barbara A. Gutek, *Dimensions of Perceptions of Social-Sexual Behavior in a Work Setting*, 13 SEX ROLES 317, 325-26 (1985).

39. *Factorial Survey*, *supra* note 11, at 106; Weber-Burdin & Rossi, *supra* note 11, at 117.

40. *Factorial Survey*, *supra* note 11, at 106.

for the nonexistent."<sup>41</sup> Thus, providing a label and then a definition for sexual harassment was an important step in developing ways to measure the prevalence of sexual harassment.

The research on frequency of harassment focuses heavily but not exclusively on heterosexual encounters.<sup>42</sup> It is often studied separate from the research on definition and employs a different research design and different subjects. Research aiming to establish rates of harassment in a population must be concerned with drawing a representative sample from a known population in order to generalize results in that population.<sup>43</sup>

The research on prevalence shows a broad range of rates, depending in part on the time frame used. The U.S. Merit Systems Protection Board's study found that forty-two percent of the women respondents reported experiencing sexual harassment on the job within the previous two years.<sup>44</sup> When the study was repeated several years later, the figure remained the same.<sup>45</sup> In a Seattle, Washington study of city employees, more than one-third of all respondents reported sexual harassment in the previous twenty-four months of city employment.<sup>46</sup> Dunwoody-Miller and Gutek found that twenty percent of California state civil service employees reported being sexually harassed at work in the previous five years.<sup>47</sup> Reviewing the results from several different measures of prevalence she used, Gutek suggested that up to fifty-three percent of women had been harassed sometime in their working life.<sup>48</sup> The figures are higher in the military; two-thirds of women surveyed in a 1990 study said they have been sexually harassed.<sup>49</sup>

41. MACKINNON, *supra* note 4, at 28.

42. See, e.g., U.S. MERIT SYSTEMS PROTECTION BOARD, SEXUAL HARASSMENT IN THE FEDERAL WORKPLACE: IS IT A PROBLEM? (1981) [hereinafter FEDERAL WORKPLACE]; U.S. MERIT SYSTEMS PROTECTION BOARD, SEXUAL HARASSMENT IN THE FEDERAL WORKPLACE: IS IT A PROBLEM?: AN UPDATE (1987) [hereinafter U.S. MERIT SYSTEMS].

43. VERA DUNWOODY-MILLER & BARBARA A. GUTER, S.H.E. PROJECT REPORT: SEXUAL HARASSMENT IN THE STATE WORKFORCE: RESULTS OF A SURVEY (1985); SEX AND THE WORKPLACE, *supra* note 14; DONNA M. STRINGER-MOORE, SEXUAL HARASSMENT IN THE SEATTLE CITY WORKFORCE (1982); FEDERAL WORKPLACE, *supra* note 42; U.S. MERIT SYSTEMS (1987) not found in list of references.

44. FEDERAL WORKPLACE, *supra* note 42.

45. U.S. MERIT SYSTEMS, *supra* note 42.

46. STRINGER-MOORE, *supra* note 43.

47. DUNWOODY-MILLER & GUTER, *supra* note 43.

48. SEX AND THE WORKPLACE, *supra* note 14.

49. See WOMEN'S LEGAL DEFENSE FUND, SEXUAL HARASSMENT IN THE WORKPLACE (1991).

Other studies using purposive or convenience samples generally show higher rates of harassment. In a study by the Working Women's Institute, seventy percent of the employed women respondents said they had experienced sexual harassment on their jobs.<sup>50</sup> An early study of the readers of *Redbook* magazine found that eighty-eight percent of those mailing in questionnaires had experienced sexual harassment.<sup>51</sup> Schneider reported that more than two-thirds of her matched sample of lesbian and heterosexual working women had experienced unwelcome sexual advances within the previous year.<sup>52</sup>

Because respondents in purposive or convenience samples can either choose whether or not to respond, and participating in the study may require some expenditure of effort, researchers assume that people who have been harassed may be more motivated to participate. Thus, the incidence rates are likely to be somewhat inflated.

Although women of all ages, races, occupations, income levels, and marital statuses experience harassment,<sup>53</sup> research suggests that young and unmarried women are especially vulnerable.<sup>54</sup> Not surprisingly, most women are harassed by men, not by women.<sup>55</sup> In addition, women in nontraditional jobs (e.g., truck driver, neurosurgeon, engineer, roofer) and in nontraditional industries such as the military and mining are more likely to experience harassment than other women. These higher rates are over and above what is expected by their high amount of work contact with men.<sup>56</sup> On the basis of the set of studies done so far, it seems likely that overall, from one-third to one-half of all women have been sexually harassed at sometime in their working lives, although frequency rates in some types of work may be higher.

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50. WORKING WOMEN'S INSTITUTE, *SEXUAL HARASSMENT ON THE JOB: RESULTS OF A PRELIMINARY SURVEY* (1975).

51. Safran, *supra* note 3..

52. Beth E. Schneider, *Consciousness about Sexual Harassment Among Heterosexual and Lesbian Women Workers*, 38 J. SOC. ISSUES 74, 88-91 (1982) [hereinafter *Consciousness*].

53. See FARLEY, *supra* note 1.

54. Barbara A. Gutek et al., *Sexuality in the Workplace*, 1 BASIC & APPLIED SOC. PSYCHOL. 255-65 (1980); *Consciousness*, *supra* note 52, at 85; Sandra S. Tangri et al., *Sexual Harassment at Work: Three Explanatory Models*, 38 J. SOC. ISSUES 33, 43 (1982).

55. *Consciousness*, *supra* note 52, at 94; FEDERAL WORKPLACE, *supra* note 42.

56. Barbara A. Gutek & Bruce Morasch, *Sex Ratios, Sex-Role Spillover and Sexual Harassment of Women at Work*, 38 J. SOC. ISSUES 55-74 (1982); Barbara A. Gutek et al., *Predicting Social-Sexual Behavior at Work: A Contact Hypothesis*, 33 ACAD. MGMT. J. 560, 571-72 (1990).

Sexual harassment at work has also been reported by men in several studies. The U.S. Merit Systems Protection Board's study found fifteen percent of the men to be harassed by males or females at work.<sup>57</sup> On the basis of men's reports of specific behavior, Gutek suggested that up to nine percent of men could have been harassed by women sometime in their working lives.<sup>58</sup> After a careful analysis of men's accounts of harassment, however, Gutek concluded that very few of the reported incidents were sexual harassment as it is legally defined, and some of the incidents may not have even been considered sexual if the same behavior had been initiated by a man or by another woman who was considered a less desirable sexual partner by the man.<sup>59</sup>

#### V. FREQUENCY OF SEXUAL NONHARASSMENT

Several studies have also examined other kinds of sexual behavior at work, behavior that most people do not consider harassment, including comments or whistles intended to be compliments, quasi-sexual touching such as hugging or an arm around the shoulder, requests for a date or sexual activity often in a joking manner, and sexual jokes or comments that are not directed to a particular person.<sup>60</sup> These other "nonharassing," less serious, and presumably nonproblematic behaviors are considerably more common than harassment. For example, Gutek, found that sixty-one percent of men and sixty-eight percent of women said that they had received at least one sexual comment that was meant to be complimentary sometime in their working lives.<sup>61</sup> In addition, fifty-six percent of men and sixty-seven percent of women reported that they had been the recipient of at least one sexual look or gesture that was intended to be complimentary. About eight out of every ten workers have been recipients of some kind of sexual overture that was intended to be a compliment. Schneider found that fifty-five percent of a sample of heterosexual working women and sixty-seven percent of a sample of lesbian working women reported that within the last year at work, someone had joked with them about their body or appearance.<sup>62</sup> Other studies

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57. Tangri, *supra* note 54, at 43.

58. SEX AND THE WORKPLACE, *supra* note 14.

59. *See id.*; see also Kathryn Quina, *The Victimization of Women*, in IVORY POWER, *supra* note 5, at 93.

60. Marilyn Brewer, *Further Beyond Nine to Five: An Integration and Future Directions*, 38 J. SOC. ISSUES 149, 156 (1982).

61. SEX AND THE WORKPLACE, *supra* note 14.

62. *Consciousness*, *supra* note 52.

show similar findings. Dunwoody-Miller and Gutek reported that seventy-six percent of women and fifty-five percent of men indicated that as California state civil service employees, they had received complimentary comments of a sexual nature.<sup>63</sup> Looks and gestures of a sexual nature that were meant as compliments were also common (reported by sixty-seven percent of women and forty-seven percent of men).<sup>64</sup>

Although men seem rarely to be harassed, the amount of sexual behavior reported by them at work remains substantial. For example, Gutek found that men were more likely than women to say that they were sexually touched by an opposite-sex person on their job.<sup>65</sup> According to Abbey, Davies, and Gottfried and Fasenfest, men are more likely than women to perceive the world in sexual terms.<sup>66</sup> Also, men are more likely than women to mistake friendliness for seduction<sup>67</sup> and find the office is a little too exciting with women around.<sup>68</sup> This seems consistent with the common stimulus-response view that women's presence elicits sexual behavior from men. Reports from men, however, suggest that sex is present in male-dominated workplaces, whether or not women are actually present.<sup>69</sup> This "floating sex" takes the form of posters, jokes, sexual metaphors for work, comments, obscene language, and the like. The relationship seems to be quite straightforward: the more men, the more sexualized the workplace. The fact that much of this sexualization of work is degrading to women as well as sexual is what creates the "hostile" environment that government regulations aim to eliminate.

Taken together, the research on harassment and "nonharassment" shows that sexual behavior is so common at work that one might say that sex permeates work.<sup>70</sup> An equally important conclusion of this body of research is that the legal

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63. DUNWOODY-MILLER & GUTER, *supra* note 43.

64. *Id.*

65. SEX AND THE WORKPLACE, *supra* note 14.

66. MARGERY W. DAVIES, WOMEN'S PLACE IS AT THE TYPEWRITER (1982); Antonia Abbey, *Sex Differences in Attribution for Friendly Behavior: Do Males Misperceive Females' Friendliness*, 42 J. PERSONALITY & SOC. PSYCHOL. 830 (1982) [hereinafter *Sex Differences*]; Heidi Gottfried & David Fasenfest, *Gender and Class Formation: Female Clerical Workers*, 16 REV. RADICAL POL. ECON. 89, 96-100 (1984).

67. *Sex Differences*, *supra* note 66; Antonia Abbey, *Misperceptions of Friendly Behavior as Sexual Interest*, 11 PSYCHOL. WOMEN Q. 173, 191 (1987).

68. *Sexual Tension: Some Men Find the Office Is a Little Too Exciting with Women as Peers*, WALL ST. J., Apr. 14, 1981, at F1.

69. SEX AND THE WORKPLACE, *supra* note 14.

70. *Id.*

behavior is considerably more common than the illegal sexual harassment. This finding is not surprising, but it is important; when some people first hear about sexual harassment, they may confuse it with the more common legal behavior at work which they, themselves, have seen and experienced. This confusion of non-threatening legal behavior with sexual harassment can lead some to incorrectly denigrate women's complaints as prudish or overly sensitive.

## VI. IMPACTS OF SEXUAL BEHAVIOR AT WORK

Any behavior that is as common as sexual harassment and nonharassment at work is likely to have a wide variety of ramifications, for the individuals involved. So far researchers have concentrated on identifying negative effects of sexual harassment, in order to call attention to harassment as a social and workplace problem. Only scattered attempts, however, have been made toward studying the impacts of other types of sexual behavior at work.<sup>71</sup>

Sexual harassment has a variety of negative consequences for women workers.<sup>72</sup> In addition to the discomfort associated with the sexually harassing experiences and violation of physical privacy, women often find that their careers are interrupted.<sup>73</sup> Up to ten percent of women have quit a job because of sexual harassment.<sup>74</sup> Others fear becoming victims of retaliation if they complain about the harassment, and some are

71. But see P. Crull, *Stress Effects of Sexual Harassment on the Job: Implications for Counseling*, 52 AM. J. ORTHOPSYCHIATRY 539 (1982); SEX AND THE WORKPLACE, *supra* note 14.

72. DUNWOODY-MILLER & GUTK, *supra* note 43; SEX AND THE WORKPLACE, *supra* note 14; FEDERAL WORKPLACE, *supra* note 42; L. Evans, *Sexual Harassment: Women's Hidden Occupational Hazard*, in THE VICTIMIZATION OF WOMEN 203-23 (Jane Roberts Chapman & Margaret Gates eds., 1978); Barbara A. Gutek & Charles Nakamura, *Gender Roles and Sexuality in the World of Work*, in CHANGING BOUNDARIES: GENDER ROLES AND SEXUAL BEHAVIOR 182 (Elizabeth R. Allgeier & Naomi B. McCormick eds., 1982); Mary P. Koss, *Changed Lives: The Psychological Impact of Sexual Harassment*, in IVORY POWER, *supra* note 5, at 73; Donna J. Benson & Gregg E. Thomson, *Sexual Harassment on a University Campus: The Confluence of Authority Relations, Sexual Interest, and Gender Stratification*, 29 SOC. PROBLEMS 236, 244-45 (1982); *Consciousness*, *supra* note 52; Tangri, *supra* note 54, at 48-49; Peggy Crull & M. Cohen, *Expanding the Definition of Sexual Harassment*, OCCUPATIONAL HEALTH NURSING, Mar. 1984, at 141.

73. Heather Hemming, *Women in a Man's World: Sexual Harassment*, 38 HUMAN RELATIONS 67, 69 (1985).

74. SEX AND THE WORKPLACE, *supra* note 14; Barbara A. Gutek et al., *Sexuality in the Workplace*, 1 BASIC & APPLIED SOC. PSYCHOL. 255 (1980).

asked to leave.<sup>75</sup> For example, Coles found that among eighty-one cases filed with the California Department of Fair Employment and Housing between 1979 and 1983, almost half of the complainants were fired and another quarter quit out of fear or frustration.<sup>76</sup>

Women may also experience lower productivity, less job satisfaction, reduced self-confidence, and a loss of motivation and commitment to their work and their employer.<sup>77</sup> They may avoid men who are known harassers, even though contact with those men is important for their work.<sup>78</sup> Thus, harassment constrains the potential for forming friendships or work alliances with male workers.<sup>79</sup> Furthermore, women are likely to feel anger and resentment and even exhibit self-blame,<sup>80</sup> which leads to additional stress. Crull and Cohen also stated that, while the implicit/overt types of harassment may not have the same direct repercussions as those of the explicit/overt types, all types of sexual harassment at work create high stress levels and serve as a hidden occupational hazard.<sup>81</sup> Finally, sexual harassment helps to maintain the sex segregation of work when it is used to coerce women out of nontraditional jobs.<sup>82</sup>

Besides affecting their work, sexual harassment affects women's personal lives in the form of physical and emotional illness and disruption of marriage or other relationships with men.<sup>83</sup> For example, Tangri, Burt, and Johnson reported that thirty-three percent of women said their emotional or physical condition became worse,<sup>84</sup> and Gutek found that fifteen percent of women victims of harassment said their health was affected and another fifteen percent said it damaged their relationships with men.<sup>85</sup>

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75. Crull & Cohen, *supra*, note 72, at 141-45.

76. Frances S. Coles, *Forced to Quit: Sexual Harassment Complaints and Agency Response*, 14 *SEX ROLES* 81, 89 (1986).

77. *SEX AND THE WORKPLACE*, *supra* note 14.

78. See, e.g., Benson & Thomson, *supra* note 72, at 245-47.

79. *Consciousness*, *supra* note 52, at 87.

80. Inger Jensen & Barbara A. Gutek, *Attribution and Assignment of Responsibility in Sexual Harassment*, 38 *J. Soc. ISSUES* 121, 126-30 (1982).

81. Crull & Cohen, *supra* note 72.

82. MACKINNON, *supra* note 4; *SEX AND THE WORKPLACE*, *supra* note 14; B. O'Farrell & S.L. Harlan, *Craftworkers and Clerks: The Effects of Male Co-Worker Hostility on Women's Satisfaction with Non-traditional Jobs*, 29 *SOC. PROBLEMS* 252-64 (1982).

83. See *SEX AND THE WORKPLACE*, *supra* note 14; Tangri, *supra* note 54, at 48-49.

84. Tangri, *supra* note 54, at 47.

85. *SEX AND THE WORKPLACE*, *supra* note 14.



What is even more intriguing is that nonharassing sexual behavior also has negative work-related consequences for women workers, although even they are not always aware of them. For example, Gutek found that the experience of all kinds of sexual behavior, including remarks intended to be complimentary, was associated with lower job satisfaction among women workers.<sup>86</sup> In addition, women reported that they are not flattered, and in fact are insulted, by sexual overtures of all kinds from men.<sup>87</sup> In one study, sixty-two percent of women said they would be insulted by a sexual proposition from a man at work.<sup>88</sup> Another example, the office "affair," can have serious detrimental effects on a women's credibility as well as her career, especially if the relationship is with a supervisor.<sup>89</sup>

Men seem to suffer virtually no work-related consequences of sexual behavior at work. Less than one percent of men reported that they quit a job because of sexual harassment, and, in the course of discussing sexual incidents, not one man said he lost a job as a consequence of a sexual overture or request from a woman at work.<sup>90</sup> In the same study, sixty-seven percent of men said they would be flattered by sexual overtures from women.<sup>91</sup> In addition, many men view a certain amount of sexual behavior as appropriate to the work setting,<sup>92</sup> and, as noted above, they are less likely to consider any given behavior as sexual harassment. In one study, fifty-one percent of the men who received overtures from women said they themselves were at least somewhat responsible for the incident.<sup>93</sup> That men experience so few work-related consequences of sex at work is especially odd, since they report so

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86. *Id.*

87. SEX AND THE WORKPLACE, *supra* note 14; C. Carothers & P. Crull, *Contrasting Sexual Harassment in Female and Male Dominated Occupations, in MY TROUBLES ARE GOING TO HAVE TROUBLE WITH ME* 219-28 (Karen Brodtkin-Sachs & Dorothy Remy eds., 1984); Susan Littler-Bishop et al., *Sexual Harassment in the Workplace as a Function of Initiator's Status; The Case of Airline Personnel*, 38 J. SOC. ISSUES 137, 147 (1982).

88. SEX AND THE WORKPLACE, *supra* note 14.

89. Beth E. Schneider, *The Office Affair: Myth and Reality for Heterosexual and Lesbian Women Workers*, 27 SOC. PERSP. 443, 454-57 (1984).

90. SEX AND THE WORKPLACE, *supra* note 14.

91. *Id.*

92. *Interpreting Social Sexual Behavior, supra* note 11, at 43-44; Jeffrey Hearn, *Sexism, Men's Sexuality in Management: The Seen Yet Unnoticed Case of Men's Sexuality*, in SEXUALITY, POWER AND ORGANIZATIONAL THEORY (Gibson Burrell ed., 1985).

93. SEX AND THE WORKPLACE, *supra* note 14.

much sexual behavior both that is directed at them by women and that seems to float throughout the workplace.

When men do report "consequences," they are personal rather than work-related, and again, they are viewed in a positive manner. Most often, they report dating relationships or affairs that they find enjoyable; for instance, "There was this little blond who had the hots for me" or "I think she liked me. I was young and she was married. She wasn't very happy with her husband."<sup>94</sup>

## VII. UNDERSTANDING SEXUAL BEHAVIOR AT WORK

As mentioned earlier, most studies of sexual behavior at work have been in response to the discovery of sexual harassment and policies developed to address harassment. Much of the research is descriptive and diverse, providing interesting information about sexual behavior at work, and useful information for policymakers and lawyers. Some researchers have begun to develop frameworks for studying sexual behavior at work.

One framework sometimes used to study harassment is the power perspective; that is, sexual harassment is an expression of power relationships, and women constitute a threat to men's economic and social standing.<sup>95</sup> Within that perspective, Lipman-Blumen viewed the women's "seductive" behavior as micro-manipulation, as a response to male control of social institutions—including the workplace and the academy—which she labeled macro-manipulation.<sup>96</sup> Other researchers explicitly borrowed from the literature on rape. They contend that sexual harassment is analogous to rape in that power, not sexual drive, is the dominant motivation. They further contend that victims of rape and harassment experience similar effects.<sup>97</sup>

In an attempt to explain their own findings on sexual harassment, Tangri, Burt, and Johnson developed three models: the natural/biological model, the organizational model, and the sociocultural model.<sup>98</sup> The natural/biological model assumes that sexual harassment and other forms of sexual

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94. *Id.*

95. IVORY POWER, *supra* note 5; Benson & Thomson, *supra* note 72; *Consciousness*, *supra* note 52; Heidi Gottfried & David Fasenfest, *Gender and Class Formation: Female Clerical Workers*, 16 REV. RADICAL POL. ECON. 89 (1984).

96. See LIPMAN-BLUMEN, *supra* note 2.

97. See Jensen & Gutek, *supra* note 80; M. Koss, *Changed Lives: The Psychological Impact of Sexual Harassment*, in IVORY POWER, *supra* note 5, at 73; Kathryn Quina, *The Victimization of Women*, in IVORY POWER, *supra* note 5, at 93.

98. Tangri, *supra* note 54, at 34.

expression at work are simply manifestations of natural attraction between two people. According to Tangri, Burt, and Johnson, one version of this model suggests that because men have a stronger sex drive, they more often initiate sexual overtures at work as well as in other settings.<sup>99</sup> The organizational model assumes that sexual harassment is the result of certain opportunity structures within organizations such as hierarchies. People in higher positions can use their authority (their legitimate power) and their status to coerce lower-status people into accepting a role of sex object or engaging in sexual interactions. The third model, the sociocultural model, "argues that sexual harassment reflects the larger society's differential distribution of power and status between the sexes."<sup>100</sup> Harassment is viewed as a mechanism for maintaining male dominance over women, in work and in society more generally. Male dominance is maintained by patterns of male-female interaction as well as by male domination of economic and political matters. Tangri, Burt, and Johnson's analysis revealed that none of the three models could by itself offer an adequate explanation of their data on sexual harassment.<sup>101</sup> Another model, emphasizing the effects of sex-role expectations in an organizational context, is called sex-role spillover. The following analysis builds on earlier research on this concept.<sup>102</sup>

### VIII. SEX-ROLE SPILLOVER

Sex-role spillover denotes the carryover of gender-based expectations into the workplace. Among the characteristics assumed by many to be associated with femaleness (such as passivity, loyalty, emotionality, nurturance) is being a sex object.<sup>103</sup> Women are assumed to be sexual and to elicit sexual overtures from men rather naturally.<sup>104</sup> In a thirty-nation study of sex stereotypes, the characteristics of sexy, affectionate, and attractive were associated with femaleness.<sup>105</sup> This aspect of sex-role spillover, the sex-object aspect, is most relevant to the study of sex at work.

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99. *Id.* at 35.

100. *Id.* at 34.

101. *Id.* at 51.

102. VERONICA F. NIEVA & BARBARA A. GUTER, *WOMEN AND WORK: A PSYCHOLOGICAL PERSPECTIVE* (1981); *SEX AND THE WORKPLACE*, *supra* note 14.

103. *See* JOHN E. WILLIAMS & DEBORAH BEST, *MEASURING SEX STEREOTYPES: A THIRTY-NATION STUDY* (1982).

104. *Consciousness*, *supra* note 52.

105. *See* WILLIAMS & BEST, *supra* note 103.

Sex-role spillover occurs when women, more than men in the same work roles, are expected to be sex objects or are expected to project sexuality through their behavior, appearance, or dress.<sup>106</sup> What is equally important is the fact that there is no strongly held comparable belief about men. For example, of the forty-nine items that were associated with maleness in at least nineteen of the twenty-five countries studied by Williams and Best, none was directly or indirectly related to sexuality.<sup>107</sup> While it is generally assumed that men are more sexually active than women<sup>108</sup> and men are the initiators in sexual encounters,<sup>109</sup> the cluster of characteristics that are usually associated with the male personality do not include a sexual component. Rather the stereotype of men revolves around the dimension of competence and activity.<sup>110</sup> It includes the belief that men are rational, analytic, assertive, tough, good at math and science, competitive, and make good leaders.<sup>111</sup> The stereotype of men—the common view of the male personality—is the perfect picture of asexuality. Sex-role spillover, thus, introduces the view of women as sexual beings in the workplace, but it simply reinforces the view of men as organizational beings—“active, work-oriented.”<sup>112</sup> It should also be noted that these stereotypes of female characteristics and male characteristics have remained quite stable through the 1970s and into the 1980s.<sup>113</sup>

The spillover of the female sex-role, including the sexual aspect, occurs at work for at least four reasons.<sup>114</sup> First, gender is the most noticeable social characteristic, that is, people

106. See Gutek & Morasch, *supra* note 56, at 58.

107. See WILLIAMS & BEST, *supra* note 103.

108. See Shirley P. Glass & Thomas L. Wright, *Sex Differences in Types of Extramarital Involvement and Marital Dissatisfaction*, 12 *SEX ROLES* 1101, 1103 (1985).

109. ALFRED C. KINSEY ET AL., *SEXUAL BEHAVIOR IN THE HUMAN MALE* (1948); BERNIE ZILBERGELD, *MALE SEXUALITY* (1978); Elizabeth Grauerholz & Richard T. Serpe, *Initiations and Responses: The Dynamics of Sexual Interaction*, 12 *SEX ROLES* 1041 (1985).

110. Annie Constantinople, *Masculinity-Femininity: An Exception to a Famous Dictum*, 80 *PSYCHOL. BULL.* 389, 399 (1973); Kay Deaux, *Sex and Gender*, 36 *ANN. REV. PSYCHOL.* 49 (1985).

111. JANET T. SPENCE & ROBERT L. HELMREICH, *MASCULINITY AND FEMININITY* (1978); William & Best, *supra* note 103; S.L. Bem, *The Measurement of Psychological Androgyny*, 42 *J. CONSULTING & CLINICAL PSYCHOL.* 155 (1974).

112. Deaux, *supra* note 110, at 54-65.

113. Thomas L. Ruble, *Sex Stereotypes: Issues of Change in the 1970s*, 9 *SEX ROLES* 397, 401 (1983).

114. See Gutek & Morasch, *supra* note 56, at 59.

immediately notice whether a person is a man or a woman.<sup>115</sup> Second, men may feel more comfortable reacting to women at work in the same manner that they react to other women in their lives, and unless a woman is too young, too old, or too unattractive, that includes viewing her as a potential sexual partner. Third, women may feel comfortable reacting to men in a manner expected by the men, that is, conforming to the men's stereotype.<sup>116</sup> Fourth, characteristics of work and sex roles may facilitate the carryover of sex role into work role. Sex roles remain relatively stable throughout our lives and permeate all domains of life. On the other hand, the work role may change many times and is specific to only one domain of life. Sex roles are also learned much earlier than are work roles, and they entail a wide variety of diffuse skills and abilities. Work roles, on the other hand, call for more specific skills and abilities.

The important point here is that being sexual and being a sex object are aspects of the female sex role that frequently are carried over to the workplace by both men and women. A variety of subtle pressures may encourage women to behave in a sexual manner at work, and this then confirms their supposedly essential sexual nature. Because it is expected, people notice female sexuality, and they believe it is normal, natural, an outgrowth of being female.<sup>117</sup>

Unfortunately, women do not seem to be able to be sex objects and analytical, rational, competitive, and assertive at the same time because femaleness is viewed as "not-male-ness,"<sup>118</sup> and it is the men who are viewed as analytic, logical,

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115. SUZANNE J. KESSLER & WENDY MCKENNA, *GENDER: AN ETHOMETHODOLOGICAL APPROACH* (1978); JUDITH LONG LAWS, *THE SECOND X: SEX ROLE AND SOCIAL ROLE* (1979); Sandra L. Bem, *Gender Schema Theory: A Cognitive Account of Sex-Typing*, 88 *PSYCHOL. REV.* 354-64 (1981); Kathleen E. Grady, *Sex as a Social Label: The Illusion of Sex Differences* (unpublished Ph.D. dissertation, City University, New York 1977).

116. ROSABETH M. KANTER, *MEN AND WOMEN OF THE CORPORATION* (1977); *SEX AND THE WORKPLACE*, *supra* note 14; Gutek & Morasch, *supra* note 56, at 59.

117. See LIPMAN-BLUMEN, *supra* note 2.

118. Kay Deaux & Laurie L. Lewis, *The Structure of Gender Stereotypes: Interrelationships Among Components and Gender Labels*, 46 *J. PERSONALITY & SOC. PSYCHOL.* 991 (1984); H.C. Foushee et al., *Implicit Theories of Masculinity and Femininity: Dualistic or Bipolar?*, 3 *PSYCHOL. WOMEN Q.* 259 (1979); Brenda Major et al., *A Different Perspective on Androgyny: Evaluations of Masculine and Feminine Personality Characteristics*, 41 *J. PERSONALITY & SOC. PSYCHOL.* 988 (1981).

and assertive.<sup>119</sup> Despite the fact that the model of male and female as polar opposites has been severely criticized on several grounds,<sup>120</sup> a dichotomy is used by researchers and laypersons alike (for example, we speak of the "opposite" sex.) This is an important part of sex-role spillover. Not only are the sexual aspects of the female role carried over to work, but also they swamp or overwhelm a view of women as capable, committed workers. This is especially true in an environment where sexual jokes, innuendos, posters, and small-talk are common. A recent study by Mohr and Zanna showed that sex-role traditional men exposed to sexually explicit material behaved in a significantly more sexual and obtrusive manner toward women than men who did not see sexually explicit material.<sup>121</sup> As Kanter noted, a woman's perceived sexuality can "blot out" all other characteristics, particularly in a sexualized work environment.<sup>122</sup> Thus, sex role interferes with and takes precedence over work role.

What is doubly troublesome about this inability to be sexual and a worker at the same time is that women are not the ones who usually choose between the two. A female employee might decide to be a sex object at work, especially if her career or job is not very important to her. More often, however, the working woman chooses not to be a sex object but may be so defined by male colleagues or supervisors anyway, regardless of her own actions. A woman's sexual behavior is noticed and labeled sexual even if it is not intended as such.<sup>123</sup> In order to avoid being cast into the role of sex object, a woman may have to act completely asexual. Then she is subject to the charge of being a "prude," an "old maid," or "frigid," and in her attempt to avoid being a sex object, she is still stereotyped by her sexuality, or more accurately, by her perceived lack of sexuality.

The situation for men is entirely different. Benefiting from the stereotype of men as natural inhabitants of organizations—

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119. SPENCE & HELMREICH, *supra* note 111; Constantinople, *supra* note 110, at 399.

120. SPENCE & HELMREICH, *supra* note 111; Bem, *supra* note 111, at 155-62; Constantinople, *supra* note 110, at 400-05.

121. Doug M. Mohr & Mark Zanna, *Treating Women as Sexual Objects: Look to the (Gender Schematic) Male who has Viewed Pornography*, 16 PERSONALITY & SOC. PSYCHOL. BULL. 296, 305 (1990).

122. KANTER, *supra* note 116.

123. See SEX AND THE WORKPLACE, *supra* note 14; Carothers & Crull, *supra* note 87; *Consciousness*, *supra* note 52; see also *Sex Differences*, *supra* note 66 (Women's actions in a bar were discovered to be interpreted by men as sexual even though the women intended them merely to be friendly and not sexual.).

goal oriented, rational, analytic, competitive, assertive, strong, or, as Deaux puts it, "active, work-oriented"<sup>124</sup>—men may be able to behave in a blatantly sexual manner, seemingly with impunity. Even when a man goes so far as to say that he encourages overtures from women by unzipping his pants at work,<sup>125</sup> he may escape being viewed as sexual or more interested in sex than work by supervisors and colleagues. While the image of women acting in a seductive manner and distracting men from work is viewed as a detriment to the organization, many executives know of men in their employ who are "playboys" and harassers, yet they may not see that these men are a detriment to the organization. Although these men may hire the wrong women for the wrong reasons, make poor use of female human resources in the organization, squander the organization's resources in their quests for new sexual partners, and make elaborate attempts to impress potential sexual partners, all this may escape the notice of employers. In short, men's sexual behavior at work often goes unnoticed. At least two reasons for this can be cited. First, as noted above, there is no strongly recognized sexual component of the male sex role. Thus, men's sexual behavior is neither salient nor noticed. Second, perhaps sexual pursuits and conquests, jokes and innuendos can be subsumed under the stereotype of the organizational man—goal-oriented, rational, competitive, and assertive—which are expected and recognized as male traits. Men may make sexual overtures in an assertive, competitive manner. Likewise, sexual jokes, metaphors, and innuendos may be seen as part of competitive male horseplay.<sup>126</sup> Thus the traits of competitiveness, assertiveness, and goal orientation are noticed, whereas the sexual component is not.

To recapitulate, expectations about male and female behavior that are derived from stereotypes (clusters of beliefs) about men and women spill over, or are carried over, into work roles for a variety of reasons. While the female stereotype has a sexual component (sex object), the male stereotype revolves around competence and achievement. The stereotype declares men to be asexual and women to be sexual. People attend to behavior that is expected, and behavior that is consistent with a stereotype is expected. Beliefs (stereotypes) take precedence over behaviors. Thus, men's sexual behavior is not noticed, and even some men's sexually intended behavior is not inter-

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124. Kay Deaux, *Sex and Gender*, 36 ANN. REV. PSYCHOL. 49 (1985).

125. See SEX AND THE WORKPLACE, *supra* note 14.

126. Hearn, *supra* note 92.

preted by target women or their employers as such. On the other hand, women's behavior is interpreted as sexual even when it is not intended as such.

#### IX. THE SPILLOVER PERSPECTIVE: BEHAVIORS, IMPACTS, AND BELIEFS CONCERNING SEX AT WORK

How does the sex-role spillover perspective enrich our understanding of sex at work or integrate the diverse findings about sexual harassment? This perspective leads to an examination of both men's and women's behavior at work and stereotypes or beliefs about how men and women behave at work. It helps to explain the apparent paradox that women are perceived as using sex to their advantage, while, in practice, they are hurt by sex at work. On the other hand, while men are not perceived as sexual at work, they may display more sexual behavior and may benefit from it.

Sex-role spillover is further useful in explaining why sexual harassment remained invisible for so long. In the absence of data on the subject, women were labeled as sexy, men as asexual. Sexual overtures including harassment were elicited by the sexy women; men who are normally active and work-oriented, "all-business," could be distracted by seductively behaving women, but these distractions were considered a trivial part of men's overall work behavior. If the woman subsequently felt uncomfortable with the situation, it was her problem. If she could not handle the problem and complained about it, it was at least partially her fault. Men and women, including women victims, shared this belief. Thus a woman who complained might be labeled a troublemaker and be asked to leave the job or the company.

It should be noted that although the spillover perspective is not incompatible with a power perspective, it falls short when attempting to account for hostile sexual coercion at work. To take an extreme (but not unknown) case, one would hardly say that rape in the office is a spillover from externally imposed sex roles.<sup>127</sup> Rather, it might best be construed as aggression or power, and a power perspective of sexual harassment may be a better explanatory model.<sup>128</sup>

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127. See MACKINNON, *supra* note 4.

128. See O'Farrell & Harlon, *supra* note 82.



## X. CLOSING REMARKS

Much of the research on sexual harassment was inspired by the innovations and developments in law and policy and researchers have drawn directly from them in developing a research agenda. So far it has focused primarily on two issues, definition and prevalence, although topics such as consequences to victims and conditions under which harassment occurs have also been studied.

Recently, Terpstra and his colleagues have engaged in a program of research in a new area: the factors which affect the outcome of decisions in sexual harassment cases. Terpstra and Baker studied Illinois state EEOC cases and examined the factors associated with the outcomes of sexual harassment charges;<sup>129</sup> only thirty-one percent of formal charges (20 of 65 cases) resulted in a settlement favorable to the complainant.<sup>130</sup> Using the same set of EEOC cases, Terpstra and Cook found that employment-related consequences experienced by the complainant were the most critical factor in filing a charge.<sup>131</sup> Other research, for example, on men who harass<sup>132</sup> and the way men respond to women when sexually explicit material is or is not available<sup>133</sup> represent other new and important areas of research.

Overall, the research on sexual harassment and sex at work has provided data showing that many of the common beliefs about sexual behavior at work are false. The contribution of research toward understanding and explaining sex at work has been valuable. A domain of human behavior that was largely invisible a decade ago is now visible, numerous misconceptions have been uncovered, and some facts have been exposed as myths by researchers.

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129. David E. Terpstra & Douglas D. Baker, *Outcomes of Sexual Harassment Charges*, 31 ACAD. MGMT. J. 185 (1988).

130. In a recent study presented at the 1991 Academy of Management Meeting in Miami Beach, Terpstra and colleagues found that although the EEOC generally used more stringent criteria than many lawyers with respect to the cases they accept, they were not necessarily more successful than the average lawyer in winning sexual harassment cases. Nevertheless, the average sexual harassment suit is decided on behalf of the plaintiff in only about one-third of the cases.

131. David E. Terpstra & S. Cook, *Complainant Characteristics and Reported Behaviors and Consequences Associated with Formal Harassment Charges*, 38 PERSONNEL PSYCHOL. 559 (1985). Other researchers reviewed court cases in order to suggest preventive actions.

132. Pryor, *supra* note 12.

133. See Mohr & Zanna, *supra* note 121, at 301-05.