

Sexual Harassment

Ilyssa Mae Geronimo

Northern Marianas College

Sexual harassment is even more difficult than rape to define and document legally; observers disagree as to when an act actually constitutes harassment. According to law, sexual harassment is an illegal form of sex discrimination that violates two federal laws: Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. Both laws address sexism and gender discrimination; the Civil Rights Act focuses on nondiscrimination in the workplace, while the Education Amendments focus on nondiscrimination in educational settings. As defined by the U.S. Equal Opportunity Commission (2002), “unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance or creates an intimidating, hostile or offensive work environment” (U.S. Equal Employment Opportunity Commission 2002, 1). There are two types of sexual harassment as defined by law: quid pro quo and hostile environment.

Quid pro quo, which means “something for something,” is a type of sexual harassment that occurs when “an employee [or student] is required to choose between submitting to sexual advances or losing a tangible job [or educational] benefit” (Rubin 1995, 2). Examples may include a boss harassing an employee, a teacher harassing a student, or a coach harassing an athlete. In quid pro quo sexual harassment there must be a power differential between the target and the harasser. The harasser must be able to exercise control over the threatened job or educational benefit. Sexual harassment occurs regardless of whether the target chooses to accept the sexual behavior as long as the conduct is unwelcome.

Hostile environment harassment is “unwelcome conduct that is so severe or pervasive as to change the conditions of the claimant’s employment [or education] and create an intimidating, hostile, or offensive work environment” (Rubin 1995). Hostile environment harassment can include gender- or sexual orientation–based jokes or comments, calling people by derogatory gender-related names (for example, “slut”), threats, touching of a sexual nature, offensive e-mail or Web site messages, talking about one’s sexual behaviors in front of

others, spreading rumors about coworkers' or other students' sexual performance, and negative graffiti (for example, in a bathroom stall).

In general, the standard for sexual harassment is what a "reasonable person" would find offensive. However, a decision by a 1991 circuit court allowed for a "reasonable woman" standard, allowing for differences in perception of offensiveness across gender lines (Rubin 1995). Some argue that jokes, comments, and sexual innuendos are actually compliments to women and are men's natural way of bringing their biological drive for sexual behavior to the forefront. However, men and women often report different perspectives on whether behavior is flattering or offensive.

Additional issues related to the legal criminalization of sexual harassment and rape concern encroachment on a person's sense of sexual safety and invasion of a person's space. This type of behavior may include a physical intrusion, such as "accidentally" brushing against someone in a sexual manner, but often does not involve actual touch. Sexual jokes, catcalls and whistles, leering at a sexual body part, and making sexual comments are all invasions of sexual space. Some argue that such behavior by men is actually complementary to women, and frequently those who speak up by identifying such behavior as degrading and disrespectful are labeled as vindictive feminists, jealous, or too serious. Comments such as "Lighten up, it's a just a joke" reflect this view. Sexual assault activists argue that this type of commentary sends a message condoning harassment and also contributes to silencing bystanders who seek to intervene. According to some activists, unwanted sexual touch is the first point on the sexual violence continuum. This is a point at which gender role messages conflict with sexual safety. In most social settings, men receive positive messages with regard to engaging in such behavior in a public setting, and women are often acutely aware of the message that it is not acceptable to embarrass a man. Often, if a woman rebuffs the initial stages of sexual touching, this results in both the woman and the man being viewed negatively in a social context.