

## THE DEFINITION OF SEXUAL HARASSMENT<sup>1</sup>

Jan Crosthwaite and Graham Priest

### I. Introduction

Sexual harassment is a pervasive feature of the society in which we live. It occurs in both public and private life. It is distinctive both in the role that it plays in social interactions and in its phenomenology for those who experience it. A common response to the subject, particularly amongst men, is to consider it a trivial and unimportant one. This, we think, could not be further from the truth: it is a phenomenon of no little importance, not only to those who experience it, but to our understanding of the nature of the society in which we live. Understanding and combating sexual harassment, both in the workplace and more generally in women's lives, has been a concern for many feminists, and has produced a variety of analyses of the phenomenon ([1], [9], [14], [16], for example). A small number of philosophers, too, have addressed this issue and offered analyses of sexual harassment ([5] and [6], for example). We find none of these analyses of the nature of sexual harassment entirely satisfactory, and aim in this paper to give an account that is, we hope, more adequate.<sup>2</sup>

We will try to achieve this aim by providing a definition of sexual harassment. We are not after what is often called a nominal definition, that is, an analysis of the meaning of the phrase 'sexual harassment'. We are after a real definition of the phenomenon itself. Sexual harassment is a social phenomenon with a particular nature. The nature manifests itself in the causal role that sexual harassment plays in our society. An adequate grasp of this nature provides an explanation of various things whose connection is not immediately apparent, and a fuller understanding of the society in which we function.

An adequate understanding of the nature of sexual harassment must inform actions or policy in this area (practice without theory is blind), but we make no claims that the definition of sexual harassment will have straightforward legislative or regulatory implications. Many definitions of sexual harassment are given with this consequence in mind.<sup>3</sup> But such concerns may lead, for example, to overemphasising features of actions which are easily demonstrable, unlike, say, intentions, because these are easier to deal

<sup>1</sup> This paper was read to the Australasian Association of Philosophy Conference at the A.N.U., 1994, and we would like to thank the audience there for the many helpful comments and criticisms they gave us. We would also like to thank readers for the Journal for further helpful comments.

<sup>2</sup> One of us has written previously on this topic in [5]. While the focus of that earlier paper, on inadequate consideration of the interests of the victim of sexual harassment, rightly emphasises some significant failures in sexual interactions between persons, she now thinks that it does not sufficiently reflect the systemic nature of sexual harassment. This paper develops instead the suggestion in that earlier paper that the real significance of sexual harassment lies in its role in women's oppression.

<sup>3</sup> For example, various institutional pamphlets on harassment and sexual harassment need to char-

with in regulations. They have also motivated attempts to locate sexual harassment as a form of sex discrimination, because this would subsume it under already accepted regulations. But this approach restricts consideration of sexual harassment to its occurrence in public areas like the workplace. The risk of such distortions means that practical and policy concerns should not in themselves dictate understanding or theorising.

## II. Paradigm Examples

In approaching a definition, it helps to have before us some paradigm examples of the thing to be defined. So we shall start with a list of examples of sexual harassment. A diverse range of actions and situations have been identified as sexual harassment, from rape and coercive sexual intercourse through to actions which create a 'hostile environment' for women in the workplace. Some of these examples are contentious. In some cases a given action may have significance as sexual harassment only in the context of a pattern of behaviour.<sup>4</sup> However, we think that the most unproblematic examples of sexual harassment fall into the following categories. This list is not intended to be exhaustive, but we do think that it captures the most significant cases in an illuminating way.<sup>5</sup>

1) A position of power or authority may be used to secure sexual access of some sort to a subordinate. This includes such classic examples as an employer, teacher, etc., using either incentives (such as promotion or higher grades) or, more commonly, threats of sanction (such as dismissal or failure) to secure his sexual aims with respect to an employee or student. The threat of sanction is often explicit, but need not be. Victims may feel threatened simply because they know there is an institutional power inequality. (We are using 'institution' here in a conventional and rather narrow sense, to refer to economic, political (in the traditional sense), professional, etc., institutions – such things as businesses, universities, churches, etc., rather than in the wider sense it is sometimes given where any conventional social practice – like marriage or heterosexuality – is regarded as an 'institution'.)

The sexual access involved may be of many kinds, from a sort of voyeurism, through

<sup>3</sup> *continued.* . . .

acterise the phenomenon or behaviour they are addressing. And, Dodds, et al., explicitly list being 'useful for policy purposes' as a desideratum of an account of sexual harassment [6, p. 112].

<sup>4</sup> In a case which the Human Rights Commission (NZ) took to the Equal Opportunities Tribunal in 1991, a young woman, Mary, had complained that her employer 'hugged her, put his hands on her hips, would lie on the floor to clean the shelves in a way that she would have to step over him if she wanted to walk past him, and he also 'ogled' her'. He was alleged also 'to have made crude jokes, made comments about women's nipples and sharing a double bed . . .'. Some of these actions, while clearly components of harassment in this case, might not have been so in a different context (hugging, for example). In describing this case, the HRC comments of 'ogling' that it 'was a subjective perception on the part of Mary so the Tribunal exercised caution in viewing this particular allegation. It viewed the "ogling" in the context of the evidence as a whole' [15, pp. 62-63].

<sup>5</sup> In a survey of sexual harassment research [12], James Gruber finds 11 types of sexual harassment. All these types fall into one or other of the categories we outline here. For example, instances of Gruber's type 'sexual bribery' will be either category 1 or 2, and many of the types of sexual harassment Gruber groups as 'remarks' or 'verbal comments' will be of category 3 or 4.

sexual talk and touching, to sexual intercourse. A complaint by a woman in her mid-thirties, H, about her employer, E, gives an indication of the range of behaviour which can be involved.

The behaviour complained of included: a 'peeping tom' incident where E visited H's home late one night; remarks about H's sexual habits and the colour of her underwear; pinning H to the work bench; E asking H if he could have a 'peep' at her; attempts to lift her skirt and to kiss her; E exposing his erect penis and trying to force H to touch him; and discussions of a sexual nature. [15, p. 59]

Such behaviour can occur outside contexts of institutional power, but we would then categorise it differently. The distinguishing characteristic of this first category of examples is the use (indeed, abuse) of institutional power, in some form, for sexual ends.

2) Sexual access can also be sought and taken in contexts where there is no institutional power difference to serve as a source of threat or incentive. Groping, persistent sexual invitations, etc., by fellow workers and fellow students are common examples of this category. At the extreme of this category are acts of rape, including rape through violence or threat of violence. These interactions, like those in category 1, are directed towards some form of sexual access or gratification of the perpetrator. This distinguishes them from examples in the following groups.

3) Sexually harassing behaviour need not be directed towards sexual access or gratification. Its aim may be rather to make the victim aware of the presence of the perpetrator and her vulnerability to his sexual appraisal. Sometimes this awareness is the perpetrator's explicit aim; sometimes it is a corollary of another intention, such as showing oneself to be 'one of the boys'.<sup>6</sup> Leering, wolf-whistles, etc., fall into this category. Rarely does a wolf-whistler expect to obtain sexual favours. There may, but need not be, some sexual gratification from eliciting a response in the victim, but the point is really to force the presence and attention of the harasser on the harassee in a certain way. Ostentatious leering at a woman's breasts is unlikely to be a matter of obtaining sexual pleasure from looking at her breasts; it is better explained as forcing her to be aware of her sexuality as perceived by (some) men and of herself as vulnerable to the sexual predation of men. Sexual harassment of this kind may occur within or outside institutional power relationships.

4) Sexual behaviour may also result unintentionally in a similar response to that intended in examples of group 3. Telling 'dirty' jokes, and displaying sexually explicit pictures, etc., will be examples of this kind in certain contexts. The major difference

<sup>6</sup> Cheryl Benard and Edit Schlaffer report interviewing 60 men, in a range of age groups, who had 'addressed them on the street' [3]. They say that most men found it hard to explain their own behaviour. Some believed firmly that women enjoy receiving such attention, but many had given little thought to how women might feel. 'Only a minority, around 15%, explicitly set out to anger or humiliate their victims. This is the same group that employs graphic commentary and threats' [3, p. 71]. Around 20% would engage in such behaviour only in the company of other men, which 'supports the explanation that the harassment of women is a form of male bonding, of demonstrating solidarity and joint power' [3, p. 72].

between this group and the previous group of examples is that the intention of the harasser to have an effect on the harassee may be quite absent. Consider, for example, the case of a woman who reported feeling humiliated every time she came to work and 'saw this picture of a woman with her legs wide open, looking passive and provocative'. She explained that 'I felt it reflected on me, my work status, even my ability to do my job' [14, p. 14]. This response, though understandable and even predictable, need not have been foreseen, let alone intended, in displaying the picture concerned.

Unwelcome or inappropriate compliments on someone's physical appearance might be included in this category, in that while they are usually intended to have an effect on the victim, it need not be one which highlights the presence of the harasser in the way of examples in 3. (Of course, some compliments are offered and function in the same way as wolf-whistles characteristically do, and hence would fall into group 3.) Hadjifotiou cites a complaint by a woman manager which seems to provide an example of sexual harassment of this sort, though without further details the intention behind the comments (and hence categorisation as group 3 or group 4) is unclear.

My boss is incapable of having a meeting or discussion with me without some comment about my sex. There are constant references to the fact that you are a woman, your dress, etc., and remarks such as 'you're looking attractive today' or 'I know you will be able to influence so-and-so by fluttering your eyelashes'. I try to ignore it. [14, p. 14]

So much for the examples. It is clear from these that a range of morally problematic features is exhibited by actions classified as sexual harassment: abuse of power, injustice, failure of respect for the wishes and interests of victims, treating women as sex objects, causing distress or otherwise harming the victim, and creating sexually discriminatory work and study environments. While each of these has provided the focus for some account of sexual harassment, we don't think that any of them captures its real nature.

We are also concerned that, while a definition of sexual harassment should include all the examples above, it should not be so wide as to rule out the possibility of morally acceptable sexual interaction in the variety of situations in which people find themselves, even those where there is an institutional power imbalance. Nor do we think that every form of immoral or unacceptable sexual interaction counts as sexual harassment. Some sorts of sexual interaction might count as unprofessional conduct but not sexual harassment; for example, where a female academic has an affair with an older male graduate student she is supervising. With these points, and the above examples in mind, let us now turn to the question of a definition. We will start by considering an appealing but misleading approach, and then suggest a better one.

### III. Sexual Harassment is not Harassment that is Sexual

An obvious starting place for defining sexual harassment is the surface structure of the term itself, which suggests that sexual harassment is harassment of a sexual nature, as religious harassment and racial harassment are harassment of a religious or racial nature

respectively. We will argue, though, that such an approach yields a definition which is both too narrow and too broad. To avoid this suggestion that we think is misleading, we will refer to sexual harassment as SH from now on.

*The Shorter Oxford English Dictionary* says that to harass is: to trouble or vex by repeated attacks; to worry, distress. But applying this gives too narrow a definition of SH. There are classic examples of SH which do not involve harassment in this sense, such as the following example (of category 1) of SH of a college student by her teacher.

Well, [in] my freshman year I took a class. I didn't understand all of the readings and by the time the final came around I found myself with an F. So I asked him if I could talk to him about grades in his office. So I went to his office and he gave me a choice – either be with him or take the F. So I met him at his house, and spent three hours with him in his bed . . . I felt dirty but I didn't get the F. He gave me a D. Was it worth it? Yes and no. I felt it was something I had to do to save myself. [8, p. 59]

There is no repeated attack here; nor does the student's further description of her response to this choice fit our usual conception of being troubled or worried. (Though her feeling dirty does indicate a sense of humiliation or degradation.) Hence this is not harassment according to the above definition, but it is still SH.<sup>7</sup>

Any account of SH as a species of the genus harassment is also too broad. To make this clear, it will be useful first to note an ambiguity in the idea of harassing behaviour being *of a sexual nature*. This could mean harassment *by means of sexual behaviour*, or harassment *on the basis of the sex* of the victim. Definitions of SH sometimes run these two aspects together.<sup>8</sup> We think both meanings of 'sexual' are significant, though neither separately nor in combination do they define a category of harassment which is sexual harassment.

Religious and racial harassment are not harassment by religious or racial behaviour (though the latter will include some *racist* behaviour). Rather, the victim is subject to harassment *because of his/her race or religion*. Such parallels suggest that sexual harassment is harassment on the basis of sex.<sup>9</sup> There is some truth to the idea that the sex of the victim is a determining feature of SH, as our analysis will make clear. But not all

<sup>7</sup> This example illustrates also the point that neither the recipient's acceptance of a sexual invitation, nor her benefiting from it, remove it from the category of SH.

<sup>8</sup> For example, Title IX, 1972 Education Amendments (USA) specifies sexual harassment in terms of both kinds of behaviour, in claiming: 'Sexual harassment consists of verbal or physical conduct of a sexual nature imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provision of aid, benefits, services or treatment protected under Title IX.' (Cited by Dzeich and Weiner [8, pp. 19-20].)

<sup>9</sup> An emphasis on harassment on the basis of sex also tends to support approaches to SH which align it with sex discrimination. We think that SH has connections to sex discrimination; it is often a component of discriminatory environments and practices. But an emphasis on sex discrimination overemphasises the public (particularly employment or education related) occurrences of SH to the exclusion of its private and non-discriminatory occurrences. Catharine MacKinnon's 'inequality' account of discrimination ('that discrimination consists in the systematic disadvantage of social groups . . . that sex discrimination is a system that defines women as inferior from men, that cumulatively disadvantages women for their differences from men, as well as ignores their similarities' [16, p. 116] may avoid this problem. But it comes very close to our own emphasis on the role of SH in women's oppression, and we think that oppression rather than discrimination is the more satisfactory explanatory concept here.

harassment on the basis of sex is SH, as an example, suggested by Dodds, et al., makes clear. A 'female academic whose male colleagues continually ridicule her ideas and opinions may be the object of sexist harassment' though not thereby of SH [6, p. 114].

Is SH then harassment by means of sexual behaviour? The sexual nature of the behaviour involved is an important component of SH,<sup>10</sup> but not all harassment by means of sexual behaviour is SH. For example, one male might harass another who is modest or prudish by explicitly sexual behaviour towards women in his presence. Or consider a more contentious case. A woman employee wants to court her employer. Over a period of time she persistently asks him to go out with her, gives him gifts, etc., all in a very open and non-threatening way. The employer, we may suppose, does not want to have a sexual relationship with his employee, and comes to find the constant advances embarrassing and annoying. He is harassed, and the harassment is of a sexual nature. But we are inclined not to call this SH, for reasons we will make clear shortly.

We think then that SH is not best understood as harassment of a sexual nature; it is not a species of the genus harassment at all. To that extent, the terminology is unfortunate and misleading. We must look for another definition. Rather than explore other dead ends, we will turn now to the definition we think correct. We will then consider some reasons for preferring this to alternative analyses.

#### IV. SH and Oppression

We approach the issue of providing a definition of SH in good traditional form; first we locate its genus, and then its species. SH is a form of behaviour, but of what genus? Our answer is that SH is a form of oppressive behaviour. This, of course, raises the question of what oppression is. Various analyses of oppression have been given, particularly by feminist theorists. (For example, [2], [10], [22], and [24].) What they share, and what for our purposes is sufficient, is that oppression is a relation between social groups which involves one group wielding power which is illegitimate, in some sense, over another group in the society. Oppression is systematic and systemic, though not necessarily intentional. And it involves a limitation of the prospects for self-development, realisation of goals and material success, of members of the oppressed group, often through the psychological impact on these people of the behaviour and structures which sustain the oppression.

The illegitimacy of the exercise of group power or dominance involved in oppression is to be understood in terms of wider notions of political or moral rightness, rather than the narrower conventions of the particular society. Thus, slave-owners oppress slaves, but police do not oppress the general public in a democratic society. (At least, according

<sup>10</sup> While it is not easy to give a general characterisation of sexual behaviour, we think that it is clear that behaviour in the examples we mentioned at the beginning is of a sexual nature. Whether behaviour is sexual may depend on the context, and on other behaviour or intentions and attitudes apparent to those involved. Consider the touching of a woman's breast. The context of a medical examination normally removes the sexual nature of such touching, yet other behaviour within such a context may reintroduce this interpretation. While there is room for misunderstanding and subjective difference in response here, we think that for the most part both sexes are well aware of when behaviour is of a sexual nature and when not. It is also appropriate that there should be some areas of uncertainty, as there is room for debate in certain cases as to whether harassment has occurred or not.

to liberal political theory they do not. In practice police clearly do play an oppressive role sometimes, e.g., in race relations.) The room for debate about when power is illegitimate captures in part the room for contention about whether a particular group is oppressed.

Next, what species of oppressive behaviour is SH? Our answer is, essentially, that SH is a pattern of sexual behaviour that constitutes or contributes to the oppression of one gender group by another. ('Constitutes' because SH can itself be an exercise of illegitimate power; and 'contributes to' because SH has a role in creating and maintaining the general situation of men's oppression of women.) This, however, still lacks adequate specificity. For, as SH is normally practised, it constitutes or contributes to oppression in a quite distinctive way. Feminist analyses of oppression have pointed out the role of effects on the psychological states of victims in maintaining oppression.<sup>11</sup> We believe that SH contributes to the maintenance of gender power particularly through its psychological impact on victims. We therefore propose that SH is any form of sexual behaviour by members of a dominant gender group towards members of a subordinate gender group whose typical effect is to cause members of the subordinate group to experience their powerlessness as a member of that group. To say that the effect is typical does not imply, of course, that it is invariable.<sup>12</sup> Nor do we wish to suggest that the experience is one of complete powerlessness; all that is required is that the behaviour be of a kind which promotes in its recipients an awareness of having less power than the harasser, in virtue of their respective genders. This is the definition we will defend in the rest of the paper.

As given, the definition is gender-neutral. In our society, it is men who are the dominant gender group, and so only men who can sexually harass. (This is an important point, and we will return to it later.) But if there were, or could be, a society where the power roles between men and women were reversed, behaviour of the kind we are talking about directed by women against men would constitute SH.<sup>13</sup>

So much for the definition. We think that it has some initial plausibility, but not that it wears the mark of its correctness on its face. In what follows we will discuss the definition and try to show how it makes sense of a number of issues, including the paradigm examples. That it does so provides further evidence of the correctness of the definition.

## V. SH and the Abuse of Power

The definition we have given locates SH as an abuse of power of a certain kind. Many

<sup>11</sup> For example, Bartky suggests that psychological oppression 'can be regarded as the "internalization of intimations of inferiority"' [2, p. 34], and Tormey claims that 'to be oppressed . . . One must be made to have beliefs about oneself, including beliefs about the proper social position for one to occupy, that result in patterns of behaviour which conform to an inferior or subsidiary role' [22, p. 216].

<sup>12</sup> Indeed sometimes women who witness or are aware of SH suffered by another woman may feel both her and their own powerlessness more than she does herself. Gruber refers to this as 'bystander harassment' [12].

<sup>13</sup> It might also be argued that it is possible for there to be distinct and largely independent 'societies' within the larger society, in which women, rather than men, are the gender in power. If this is so, then it is possible that behaviour directed by women against men might constitute SH within such sub-structures.

have seen the issue of power, and the abuse or misuse of power, as central to SH.<sup>14</sup> We think that SH cannot adequately be characterised just as abuse of power for sexual ends, for reasons we will give shortly. But by placing it as we have in the context of the gender power of a group, and, specifically, the procedures that men use (collectively) for disempowering women, the power connection is made clear.

Abuse of power is a feature of the examples we mentioned in category 1. However, it is not this which constitutes their nature as SH. Institutional power may be abused in many ways, and misusing it for sexual ends shares the moral wrongness of any other form of corruption. Some misuses of institutional power for sexual ends will, in addition to being corrupt, be SH and wrong in this further way. But it is possible to misuse power for sexual ends without this being SH. Consider, for example, a club treasurer who uses club funds to take a prospective lover to dinner.

Moreover, focussing on SH as an abuse of power for sexual ends does not satisfactorily account for examples of SH in the other categories we have outlined. Examples such as wolf-whistling make clear that SH can occur in situations where there is no institutional power structure involved, and it is possible, even common, for male employees and students to sexually harass their female peers. Particularly, a definition directly in terms of the abuse of power would exclude category 2 examples, even though they may share all other features of examples in category 1.

One response to this problem might be to generalise the notion of power to include non-institutional power inequalities. Men are characteristically more powerful physically than women, and this difference is often present and carries an implicit threat in situations of SH. A harasser might also have some other non-institutional source of power through which he threatens the harassee – for example, information about her which she does not wish disclosed. However, appeal to a range of possible power inequalities is unsatisfactory. First, no power inequality need be present for SH (other than the background social inequality of the sexes to which our account appeals). Second, even if a satisfactory general account of the exercise of power can be given, it is difficult to give a clear content to the idea of an *abuse* of power outside institutional contexts. We think that the appeal to the socially structured power difference between gender groups, as it functions in our account, best captures the intuitions which have sometimes seen all SH as a function of power inequalities.

## VI. The Phenomenology of SH

The definition also makes sense of what is, emotionally, the dominant feeling that women experience when subjected to SH: one of powerlessness. This has two aspects; one general and one specific. First, the general: being subjected to SH makes women aware of their less powerful position in society in general, in sexual interactions with men particularly, and also in various other contexts such as the workplace. Women are

<sup>14</sup> This seems to be strongly emphasised in approaches to SH in universities and colleges. For example, Dzeich and Weiner claim that “Sexual harassment” implies a misuse of power and role by a faculty member’ [8, p. 21]; and that ‘There is too much difference in role and status of male faculty and female students to make flirtation or even seduction by students harassment. “Harassment” suggests misuse of power, and students simply do not have enough power to harass’ [8, p. 24].



aware that they are subject to sexual harassment as women in a way in which men are not subject to harassment as men. This brings home to women not just the existence of a gender-based power differential, but that it is peculiarly encoded in sexual behaviour.

The second, and specific, aspect of the sense of powerlessness is the common feeling of women subjected to SH of being unable to do anything about the behaviour in question. Typically, what strikes home hardest is not being the object of such behaviour, but being unable to respond effectively. Other than flirtatious playfulness, the appropriate feminine response to sexual solicitation is meant to be a 'polite but firm' rejection. This is unlikely to be effective in stopping the SH behaviour, because feminine 'no-saying' is not to be taken seriously, particularly in the domain of sexual behaviour. Standard sexual stereotypes take sexual predation of women to be a natural expression and prerogative of masculinity. Any aggression or stridency in response is held to be unfeminine, and to diminish a woman's right to respectful treatment. No acceptable response allows the victim of SH to make clear her view that the behaviour is quite unacceptable and often humiliatingly inappropriate. Indeed, to make this clear one would have to address many cultural assumptions embedded in masculine and feminine sex and social roles, including assumptions of male dominance.<sup>15</sup>

To be unable to counter effectively behaviour one finds humiliating is to be further humiliated. Many studies indicate that a frequent response of women to SH is to try and ignore it (and add that this is not effective: the problem does not go away). Another common response is to remove oneself from the situation,<sup>16</sup> often at great personal cost where this is a workplace or educational context. Both attempting to ignore a problem-situation and leaving or withdrawing from it are indications of feeling powerless to respond effectively to the source of one's problems. Examples of category 3 make particularly clear the situation of lacking any effective response.<sup>17</sup> Protest is the only response available to wolf-whistles, and protest is ineffectual because it is precisely the response desired. But it is true of other cases also that what rankles is, typically, not being able to do anything effective about the unacceptable behaviour.

The definition also explains why there is typically a difference between the responses of women and of men subjected to apparently the same kind of sexually harassing behaviour. Again, this is most obvious with respect to cases of category 3. If a man is subjected to wolf-whistles, comments about his sexual attractiveness, etc., his reaction, though possibly mixed with embarrassment, will normally be one of some pleasure. He

<sup>15</sup> The possibility of effective response is in part a function of the availability of complaints procedures and the acceptability of using them. Women are becoming more empowered against SH as there is increasing public recognition not only of the moral unacceptability of sexual exploitation of various kinds, but also of its links to structures of male dominance and discrimination against women. SH may be becoming a less effective tool of oppression, as general awareness of and resistance to gender-based oppression increases. We think that this supports the analysis we are offering of the nature and role of SH.

<sup>16</sup> See, for example, [13, pp. 70-73].

<sup>17</sup> In 'So Many Choices, So Little Time', Jan Buckwald [20, p. 39] describes the effect of SH from building-site workers, familiar to most women: 'you, yourself have crossed the street probably a jillion times to avoid that scene. You've felt your face burn red in that confounding mix of anger and embarrassment and helplessness. While trying to look as if you didn't even notice them, you, too, have wished for some recourse, some response to their whistles and grunts and gestures and stares.'

does not feel any lack of power, and the experience is not an unpleasant one. This is precisely because of the asymmetry in power relations. Similar comments apply to situations like category 2. Sexual advances towards a man typically flatter him [13, p. 97]. And if he really does not want them, he just says so, and that is that. This is not true when the roles are reversed. Such gender differences in experience are explained in our account of SH by the role of power inequalities between the sexes.

### VII. Can Women Commit SH?

It is a consequence of the account we offer that, in societies where males are the dominant gender, women cannot commit SH, nor men be victims. This may seem counter-intuitive when both sexes can exhibit the sort of behaviour described in our paradigm examples of SH.

Analyses of SH differ about such gender asymmetry. Some feminist analyses explicitly define SH as something only males can do. For example, Lin Farley says:

Sexual harassment is best described as unsolicited nonreciprocal male behaviour that asserts a woman's sex role over her function as worker. [9, p. 33]

Philosophical analyses, though, are usually deliberately gender-neutral ([5] and [6] for example). So some further discussion and defence of our position on this issue seem in order.

We think our definition captures genuine and significant gender asymmetries with respect to SH which are often obscured by gender-neutral analyses. As well as the phenomenological differences mentioned above, our account explains, for example, the salient fact that women rarely engage in SH-type behaviour. SH is behaviour of a kind involved in the maintenance of an asymmetric power-structure, and one should therefore expect the dominant to employ it more than the subordinate. But because these gender asymmetries are contingent on particular, society-specific, gender power relations, we avoid the arbitrariness of stipulatively excluding the possibility of women committing SH. It is not an essential feature of SH that women cannot commit it; it is a contingent consequence of gender power relations in our society.

It is easy to think of situations apparently similar to cases of SH, but in which the roles of the sexes are reversed. For example, a woman employer might solicit sexual attention from a male employee under threat of firing him if he does not comply. Or a group of women, out for a night on the town, might harass a man in a restaurant with ribald jokes, sexual gestures and innuendo.<sup>18</sup> While such behaviour is similar in various ways to SH, it is not SH. Crucially, it has a different typical phenomenology and nett social effect.

Take the first (employer/employee) case. This is similar to SH of category 1. But even if the man feels powerless in the face of the threat of firing, he is unlikely to feel powerless *in virtue of his gender*: he feels powerless *qua* employee. Moreover, such

<sup>18</sup> It is also possible to conceive of a situation in which a man might be harassed by women on the basis of his sex, though not by sexual behaviour. Consider the case of a sole male 'invading' a classically female domain, such as a school for nannies.

cases clearly do not have the effect of sustaining gender/power structures – quite the contrary. The fact that the behaviour is not SH does not, of course, mean that it is morally acceptable. It is clearly an abuse of institutional power, as it is when a man does it.

The second sort of example (women out on the town) is more analogous to a case of SH of category 3. But again, the phenomenology is typically different. The man may be annoyed, even to the point of leaving the restaurant; he may even feel embarrassed; but he is unlikely to be reminded of his lack of power *qua* male. And again, such acts are hardly an affirmation of social power, more a subversion of it. This is simply harassment by sexual behaviour, which, as we have already argued, is different.

It might still be asked why the same behaviour should count as SH when done by one sex but not the other. What lurks behind this question is a simple empiricist assumption to the effect that phenomena must be defined in terms of their empirical manifestations. Such empiricism is, in general, quite unsustainable in the social sciences.<sup>19</sup> Empirical manifestations do not float in mid-air: they draw their nature from both the social structure in which they are embedded and the effects they have on this structure. For example, the same utterance could be a request or an order depending simply on the social relationship between the persons involved. There are also familiar cross-cultural examples of very different behaviour having the same empirical manifestation.<sup>20</sup> The point of distinguishing between behaviour of men and women which appears the same is that (as things are) it differs in the much more fundamental ways we have indicated; specifically, in its relation to one of the fundamental structural features of our society: patriarchy. To focus simply on the observable behaviour of SH is to be superficial and miss its essence.<sup>21</sup>

It is, of course, possible for someone to say that they intend to use the term ‘sexual harassment’ just to mean harassment of a sexual nature. And if someone wishes to do this, we are prepared to yield the term. As we said before, we are not interested in lexicography; we are interested in understanding a certain social phenomenon, the maintenance of a power structure by certain kinds of sexual behaviour. In the last instance, it does not really matter what you call it.

### VIII. SH and Homosexuality

But even if it is accepted that women cannot commit SH against men, can’t men commit SH against men (and maybe women against women for that matter)? Perhaps the focus of our attention so far has been too heterosexual?

<sup>19</sup> And in the natural sciences, though we will not stop to argue this here.

<sup>20</sup> For example, belching is offensive in Western cultures, but in some other cultures it may be a polite expression of appreciation of food offered.

<sup>21</sup> Dodds, et al., offer a behavioral definition of SH. They identify the behaviour concerned in terms of its ‘typical’ location as associated with certain attitudes in the harasser and producing certain effects in the victim, though they insist that it is the behaviour itself, rather than such attitudes or effects, which identifies an interaction as harassment [6, pp. 119-120]. That is, behaviour of a type usually associated with certain mental states is SH even in the absence of any such states. We agree that the behaviour which constitutes SH needs to be identified more subtly than through its simple overt characteristics. But we disagree about the features which do identify it. Our account locates the behaviour in terms of its locus (causes and effects) in a social structure and divorces it from the intentions and attitudes of perpetrators.

Putative examples of SH of men by men seem to be of three kinds. The first is where someone is abused on the basis of their sexual preference. Thus, for example, a gay man might be the butt of unpleasant jokes, verbal abuse, or physical assault (including some sexual acts – homophobia sometimes expresses itself in such violence). This is simply harassment on the basis of sexual preference; it is no more SH than harassment on the basis of sex (or race, or whatever). The second is where a person simply tries to obtain sexual access to someone of the same sex. If this is any form of harassment, it is harassment by sexual behaviour (and if institutional power inequalities are exploited, it may also be corruption). But as we have already argued, SH and harassment by sexual behaviour are distinct.

The third sort of homosexual behaviour, which would appear to be the clearest counter-example to our definition, is where coercive sexual interactions are part of, and serve to maintain, a power structure. This seems to occur in male prisons and male boarding schools.<sup>22</sup> Within such institutions men belonging to institutionally powerful or dominant groups may sexually exploit men who are members of groups of lower standing. In such cases, sex is actually used as a tool of domination, with the same effects and phenomenological symptoms as in the male/female cases of SH that we have discussed. Sexual acts are both an arena within which, and the means by which, power is announced and affirmed.

These cases then seem to be SH except for the sex of the victim. One response might be to delete 'gender' from the phrase 'gender group' in our definition of SH. Thus, we could define SH as any form of sexual behaviour which one social group uses to keep another oppressed. We are not inclined to this response for the following reasons. First, it raises a problem of the identification and individuation of social groups. People usually belong to more than one social group, in virtue of such things as race, ethnicity, occupation and economic standing, as well as by sex and/or gender. Different groups according to these criteria may be dominant in different contexts or situations. A particular racial group may be subordinate and oppressed within the wider society but dominant through gang structures in a prison environment, for example. Indeed, in some cases it seems that the only thing which might identify those subject to sexual exploitation as a group, and differentiate them from those who dominate, is their subjection to sexual domination.<sup>23</sup>

Second, though sexual violence might function as simply another form of assault used to emphasise dominance, we think that there is more to SH than this. Typically it is experienced as more degrading and dehumanising than other assaults, even where less physically damaging. Moreover, SH may involve only non-violent attempts to secure sexual interaction. How this can serve to assert group dominance needs explanation.

<sup>22</sup> The importance of this kind of example was brought home to us by David Armstrong and David Braddon-Mitchell. The same phenomenon does not appear to happen, by and large, in similar women's institutions. Why this might be so is an interesting question, but not one we shall take up here.

<sup>23</sup> Power relations and consequent sexual victimisation in prisons may more often be a matter of individual rather than social group power. While the physically powerful may dominate the physically weaker in prisons, it seems odd to describe this in terms of relationships between different social groups. Where group dominance seems clearest is where there is some sense of mutual identification and shared interest, as, for example, where race or gang affiliation provides group identification.

The possibility of using sexual activity to assert and maintain group power, arises primarily through the connection to gender. Sexual aggression and predation is masculine; vulnerability to it is feminine. Masculinity is powerful and dominant and femininity is weak and submissive, and not only in the stereotype of heterosexual intercourse, but in other social arenas. Hence, a masculine sexual role casts one as dominant and a feminine sexual role casts one as subordinate.

This connection between sexual activity, gender, and power, is born out by a closer look at the supposed problem cases of sexual harassment of males in the maintenance of male power hierarchies. The gender-stereotyping in such examples is striking. Wooden and Parker comment that 'the targets of [sexual exploitation in prisons] tend to be the young, the good-looking heterosexual, and the known homosexual. These are the persons the assaulter tends to *treat like females*' [23, p. 227, our italics]. They are categorised as female or feminine, and are encouraged or forced to adopt feminised roles and behaviours, both in sexual activity and in other areas like names, dress, mannerisms and domestic tasks.<sup>24</sup> The sexual activity required of them is receiving anal penetration or giving oral or manual stimulation; these are identified with the 'feminine' role in heterosexual sex. Such assaults are often seen as further enhancing the masculinity of the aggressor. Anthony Scacco argues, for example, that rape in prison is 'an act whereby one male (or group of males) seeks testimony to what he considers is an outward validation of his masculinity'.<sup>25</sup> The 'marked' men who succumb to this sexual pressure are tolerated since by conforming to the role of the woman, they protect (and enhance) the masculine image of the man with whom they have sex [23, p. 15]. As Wooden and Parker put it, 'the distinction is between the strong and the weak, the dominant and the dominated, and ultimately between men and women' [23, p. 3].

What we do say in response to the third sort of counter-example, then, is that it is already encompassed in our definition! We say this since we take the word 'gender' seriously. We understand gender to refer to one's categorisation as feminine (a woman) or masculine (a man), and that this categorisation carries with it expectations of both social and sexual behaviour, role, and other characteristics (including physical and psychological characteristics). While gender is normally assigned on the basis of biological sex (maleness or femaleness) and is often thought to be a natural consequence of this, gender and biological sexuality are distinct.<sup>26</sup> The recipients of SH in prisons are gendered feminine, or women, within that micro-society (though not necessarily in the wider society). Hence, this is still gender oppression. This sort of example then turns out to be

<sup>24</sup> This is particularly true of homosexuals who identify as 'feminine'. Wooden and Parker comment that heterosexual victims of sexual assault often do not accept this feminisation [23, p. 108], but add that the demoralising effects of their sexual victimisation may be worse than for effeminate homosexuals also subjected to sexual assault [23, pp. 112-113].

<sup>25</sup> Anthony M. Scacco Jr., *Rape in Prison* (Springfield, IL: Charles C. Thomas, 1975) p. 3. (Cited by Russell [18, p. 69].)

<sup>26</sup> This is clear from studies of cross-gender identities of the sort reported by John Money and Anke Ehrhardt (*Man & Woman, Boy & Girl: differentiation and dimorphism of gender identity from conception to maturity* (Baltimore: Johns Hopkins University Press, 1972)). The precise delineation of the concepts of sex and gender, like the precise extent of the interconnection of the biological and the social, is of course open to debate. But we think it is clear that there is a distinction here between the biological division of sex and the social dichotomy erected on top of it. We recognise also both that there are social and cultural variations in the articulation of gender divisions and characteristics, and that individuals may not conform to these.

a striking confirmation of the definition, rather than a counter-example to it. It is, in the proper use of that medieval saying, the exception that proves the rule.

### IX. Feminism and SH

Our account coheres well with many feminist concerns about SH, and it explains the significance of SH for feminists. While SH is not a recent phenomenon, theoretical and policy oriented attention to it has arisen along with and out of feminist awareness. The definition we have offered makes it clear both why SH received little analysis or attention prior to the rise of modern feminism, and why feminists should attach the importance they do to what might seem (in some cases at least) rather trivial misdemeanours. SH is of concern to feminists because of its role in sustaining the oppression of women; and it is appreciating this role that allows one to see the connections between such apparently disconnected phenomena as rape and the decoration of workplaces with posters which sexually objectify women.

Many accounts of SH focus on it as a species of unacceptable sexual conduct (while providing different analyses of what makes it unacceptable). These may rightly pick up connections between SH and other sexually problematic behaviour,<sup>27</sup> but without the location in social structures which an account like ours provides, these leave one puzzled as to why SH should be of such concern to feminists. Women, just as much as men, may behave unacceptably, sexually; though it seems men do it more. Neither does the fact that women are more commonly than men the victims of SH suffice to fill this gap. Or, at least, not without this itself being located within a general pattern of discriminatory or oppressive behaviour and institutions. (Poverty is disproportionately a problem for blacks, but this doesn't make it a race problem, independently of an analysis which ties the incidence of poverty to other specifically race-based inequalities.)

The role of SH in creating discriminatory workplace and educational environments makes it more understandable why SH should be of specific concern to feminists. However, the arguments for SH being a form of sex discrimination must themselves appeal to the sorts of sex differentiated effects which we think locate SH within the realm of oppression. Moreover, while the discriminatory aspect of SH in the public domain is an important feature, an analysis in terms of this does not capture the uniformities underlying both public and private spheres as does our account of SH in terms of women's oppression. We think that it is obvious that SH occurs in contexts other than the workplace; both public (verbal and physical harassment on the street, for example) and private (men can sexually harass wives and girlfriends as much as employees and co-workers).<sup>28</sup> It is a virtue of our account that it explains and unifies many different areas and kinds of SH.

The definition of SH we are defending is consonant with significant feminist

<sup>27</sup> For example, accounts of SH in terms of the sexual objectification of women, or failures of respect in sexual interactions, emphasise features which may be common to different kinds of unacceptable sexual behaviour. Swanton, Robinson and Crosthwaite [21] analyse the idea of treating women as sex-objects in similar terms to the account of SH given in Crosthwaite and Swanton [5].

<sup>28</sup> The well-known phenomenon of requesting sex as a return for having bought a woman's dinner on a date is, we think appropriately, SH on our account.

approaches to the analysis of rape. Feminist accounts of rape are concerned to focus on it not as an individual aberration or sexual misconduct, but as slotting into the social framework of women's oppression. Some analyses specifically locate the distinctive wrongness of rape as its role in promoting male social control of women, and most others note that there is such a significant social effect even when they offer a different account of the wrongfulness of individual acts.<sup>29</sup> We see it as an advantage of our account of SH that (i) it shifts the focus on SH from individual wrongdoing or unacceptable sexual interaction to the social patterns within which individual actions occur and which they help to sustain, and (ii) rape emerges as an extreme form of SH.

We have argued that the background social context of power relations between the sexes means that only sexual behaviour by men directed towards women can be SH in our society. But does it also mean that all such behaviour is SH? Obviously, all sexual activity in our society takes place in the social context of gender inequality we have identified as crucial to SH. So won't any heterosexual interaction (or at least any which is male initiated) count as SH? We think not, because we believe that heterosexual interactions (even where male initiated) need not all be of a kind that serves to sustain women's oppression and make them feel powerless. However, we do acknowledge that there are analyses of heterosexual activity according to which all such activity expresses and contributes to the maintenance of male dominance.<sup>30</sup> If one were to accept such an analysis (which we most certainly do not), then all heterosexual activity could turn out to be SH on our account.

One final point in this context. We'd like to return to the question why SH should be called harassment if, as we claim, it is not in fact a species of the genus harassment. We can now give a simple answer.<sup>31</sup> Harassment is a gradual process of wearing down. While some cases of SH, including paradigmatic cases like a boss soliciting sex under threat of firing, may be single and isolated incidents for the individuals concerned, any isolated event of SH fits a much more general pattern of sexual behaviour as used in the disempowerment of women. The process of wearing down applies to women as a group, not necessarily to particular individuals. In that sense, the name 'harassment' is, after all, appropriate.

## X. The Examples Revisited

Let us, finally, reiterate some of our central points by way of reviewing our paradigm examples.

Examples of category 3: wolf-whistling, etc., fit the pattern of our definition most obviously. Behaviour of this kind typically impresses on the woman harassed a feeling of impotence, as we have pointed out. Notice that even though the harasser typically intends to have some effect on the harassee, this need not be, and usually is not, that of

<sup>29</sup> For example, Brownmiller [4] and Petersen [17], analyse rape as a social device for controlling women, and Shaffer and Frye [19] comment on the macro-level effects of rape (the restriction of women's freedom, specifically through fear), while analysing the wrongness of acts of rape in terms of violations of women's rights of consent.

<sup>30</sup> See [11], for example, or Dworkin's analysis of intercourse [7].

<sup>31</sup> And in doing so we meet the desiderata Dodds, et al., [6] suggest for any account of sexual harassment, that it 'show the connection between harassment in general and sexual harassment'.

making her feel powerless.<sup>32</sup> The feeling of powerlessness comes from the recognition that men have, and feel they have, the power to publicly express uninvited sexual appraisals of women. The significant point in classifying behaviour as SH is not the subjective intentions of the harasser, but its objective effect on the harassee, which is partly a reminder of, partly constitutive of, the power asymmetry.

Examples of category 4, jokes, posters, etc., reinforce this point. Since SH is not a matter of the intentions of the harasser, what he thinks is going on, whether or not he intends to offend, etc., are quite irrelevant. This is not to say that everyone who displays explicit sexual material is guilty of SH. Rather, the point is that if this is done in a context where it has the effect in question on women, it is SH. It is then explicable why sexual displays of this sort in the work-place in particular should be taken as SH by women. Highlighting women's sexuality in such a context may both denigrate women's status as workers and assert the dominance of masculine values and interests in the work-place. Hence it affirms and contributes to women's inequality to men in this area of common life.

Examples of category 2 also fit our definition well. Standard discussions of this kind of example tend to stress the taking of sexual liberties. This, though certainly morally objectionable, is not what constitutes SH. The point is, rather, the effect that this has on the harassee, and how this fits into the bigger picture of power relations in society. A woman can take sexual liberties, of course; but as we have already observed, the effect of this on men is typically quite different from the effect of men taking sexual liberties with women.

Finally, similar comments apply to examples of category 1. What makes this kind of example SH is not the attempt to obtain sexual favours. More serious is the effect that this has on people who are already in a vulnerable position (students, employees, etc.). This kind of example is also misleading in a certain way. SH has something to do with an abuse of power, and examples of this kind suggest that it is power of an institutional nature (that of an employer, teacher, etc.). It is not; it is power of a gender nature. What makes it so easy to confuse the two is just the fact that these are, or at least, have been, pretty much coextensive in our society.

## XI. Conclusion

Life is full of behaviour that is sexual in one way or another. Some of this is unacceptable. With the recognition, brought about by feminism, that much traditionally accepted male sexual behaviour is of this kind, it has become common to lump together much unacceptable sexual behaviour as SH. Though this has a political point, it can be quite misleading; and, in the end, it is harmful. We have located SH by the role it plays in the constitution and preservation of asymmetric gender power relations, i.e., patriarchy. As such, it is a quite specific form of unacceptable sexual behaviour. Lumping it together

<sup>32</sup> Benard and Schlaffer comment that such SH by ordinary 'men in the street' usually declines in the late evening and at night, precisely when it would be most intimidating. In explanation, they suggest that the ordinary 'man in the street' doesn't wish to face the consequences (like cries for help) of inducing real fear of sexual molestation in a woman, and take this as supporting the view that the behaviour is largely symbolic [3, p. 72].



with other things merely cloaks this, and so cloaks the important political role that it plays in our society. We hope that our account, by cleanly isolating its specificity, produces a clearer understanding of the kind of society in which we live and how it works, and so contributes, if only a little, to changing it.

*University of Auckland*  
*University of Queensland*

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