SEXUAL HARASSMENT
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To what degree are corporations responsible for working conditions that are harmful or offensive to female employees? In recent years, sexual harassment on the job has become a major issue for many companies and workers, mostly because of increasing governmental involvement. The root of the problem is that in the vast majority of workplaces worldwide, men hold positions of power over women. Power means the ability to coerce. Moreover, in most cultures there is a strong body of tradition in support of sexist beliefs and practices; including belief in the inferiority of women in economic spheres and the practice of sexual exploitation. Therefore, when you combine the fact of power with sexist tradition we end up with inequality.

Some evolutionary psychologists explain both the dominance of men in economic spheres and their predatory nature on the basis of evolutionary principles. Hence, they argue that in the state of nature unencumbered by sexist tradition, we would still find male economic dominance and sexual predation. Some even argue that this genetic predisposition is so powerful that it is extraordinarily difficult, if not impossible for culture to eliminate it. In other words, it is natural for men to exercise coercion over women. However, in this course I have tried to argue that there is a difference between descriptive facts and normative values. The fact that men are naturally prone to exploit women (not to mention other men, children, and animals!) does not morally justify it.

Although libertarians eschew almost all forms of personal coercion, welfare liberals, utilitarians, sometimes morally justify it based on utility. Based on utility, one might justify the use of coercive power in the advancement of company interests (wear that hard hat!), or based on beneficence one might paternalistically prevent harm to workers (wear that hard hat). However, when powerful men use that same coercive power to advance their own self-interest, especially sexual interest, then injustice, utility, and even harm may enter into the equation. But what exactly is sexual harassment? Do companies have a moral obligation to actively prevent it by instituting rules governing the hierarchical interaction of males and females? Or, should women simply exercise their own liberty by either accepting or rejecting these offers?

Contemporary discussion on sexual harassment focus on two forms: quid pro quo (you scratch my back…); and hostile work environment (unwanted sexually oriented workplace).

In quid pro quo, sexual harassment in the workplace involves offers and threats imposed upon subordinates by superiors in hierarchical social structures. In our society (and almost all other societies) sexual harassment involves men making offers and/or threats to women. Offers associated with sexual harassment typically involve trading sexual favors for advancement opportunities (benefits) within the corporation. Offers are more or less enticing. Threats typically involve retaliatory harms for non-compliance such as withholding opportunities, or demotion. Threats are more or less harmful.

On the surface, quid pro quo sexual harassment may seem to have the same basic logical structure as reciprocal-altruism: "You scratch my back and I’ll scratch yours" or "tit for tat." But sexual harassment potentially violates at least four moral principles: harm, liberty, utility, and justice.

First of all, sexual harassment violates the harm principle if retaliatory threats are involved, which makes those offers coercive and therefore also a violation of the liberty principle. However, in the libertarian tradition, if a female worker freely chooses to advance her career by sleeping with the boss, in the absence of any retaliatory threats, then it is hard to argue that the offer is either harmful to her or coercive. Therefore, at least some sexual offers made by superiors may not violate the liberty of female employees and therefore would not necessarily constitute harassment. But that’s not to say that promotion based on sexual prowess makes for a successful corporation. Stockholders would sell their shares if they knew that promotions are based on sexual favors.

Promotion based on sexual prowess may also violate utility and justice. Obviously, a company can be harmed financially when either inefficient workers get promoted because of exemplary non-work related skills, or when efficient but non-compliant women get passed over for promotion. Of course, based on libertarian policies, corporations have a right to harm themselves, as long as they do not threaten those non-compliant women.

The principle of justice requires that all employees (male and female) be treated equally and that promotions ought to be based on merit, and not on factors unrelated to job performance. If women who do great work, but get passed over for raises and promotion because they refuse to "play ball," then it is
obviously unfair to those non-compliant women. (Incidentally, it is also unfair to the other competent male workers, who ordinarily do not benefit from offers like this.)

The other form of sexual harassment relates to the presence of a hostile work environment toward women. Part of the problem here is differentiating between hostility and mere unpleasantries. Hostility can mean various forms of physical abuse such as unwanted touching, even rape. Or it can mean unpleasant language such as telling dirty jokes. This can involve a wide range of unpleasantnesses from crude language to outright physical threats. Of course, women have different thresholds when it comes to being offended. Some women (and men) are easily offended, while others are impossible to offend. So where’s the standard? Stockholder theorists say that the market place will set the standard. If the women in your corporation always complain about hostility in the workplace, and quit, then you might want to set some rules. Stakeholder theorists argue that government has to get involved.

But the main problem is how to regulate the workplace in such a way as to maintain efficiency without turning the workplace into a sterile, non-human environment. For example, a corporation could protect itself against hostile work environment by forbidding social interaction between workers. No talking in the workplace?

Some theorists do not generally employ the principles of liberty and justice in dealing with sexual harassment because they do not believe that human beings possess atomic free will nor do they necessarily accept the principle that all human beings should be treated equally. Instead, they rely on tradition to justify policy. Hence, some communitarians might accept sexism as a corporate tradition, while others might seek to re-engineer that tradition.

Because of the many moral and legal problems raised by sexual harassment, most companies have implemented rules governing the social interaction of male and female employees in the workplace. While everyone today agrees that sexual harassment is morally wrong, utilitarians often argue that it is notoriously difficult to regulate human sexual activity. After all, many of these personal "on the job" relationships also take place outside of the workplace, and therefore are inherently difficult to regulate. Indeed, companies that attempt to eliminate all sexual relationships from the workplace run against the force of tradition. The workplace has always been a great place to meet members of the opposite sex, and much more efficient than cruising bars!

Of course, there’s a big difference between sexual harassment and dating on the job. Few women seek to cultivate long-lasting friendships with bosses exchange job benefits in for sex. (But then again, men and women do not always seek long-term friendship in their dating preferences!) But even if the boss merely dates a subordinate, that fact alone tends to raise issues of distributive justice in the workplace. Remember, we do tend to treat our friends better than we do strangers. Would the boss be capable of acting impartially toward a woman he is dating? Did she really deserve that raise? Of course, co-workers tend to grumble when the boss treats his girlfriend better than all other workers. This might even affect corporate efficiency.

We might ask whether the government should attempt to regulate sexual harassment on the job? Again, libertarians argue that sexual harassment can be most effectively controlled by the self-interested, personal decisions of men and women on the job. If a woman is harassed, she ought to complain to a superior, if nothing is done, then she ought to quit and work for a company that treats women better. (If she’s raped she ought to prosecute!) After all, one would think that in the long run companies that sexually harass women would not be very successful in the market place, since they often promote incompetence.

However, if you are not a particularly valuable female worker and if you refuse your bosses sexual advances, and if the boss subsequently fires you, the cost to the company would be negligible. And because women tend to occupy the lower rungs of the corporate ladder, where replacements are easy to find, companies may not be particularly motivated to regulate sexual harassment. Moreover, if all the companies in a given industry routinely harass women, it may be difficult (if not impossible) for targeted women to find a less hostile work environment. Therefore, many of us argue that because sexism (like racism) is unjust, yet deeply entrenched in our culture, some form of governmental involvement is justified.

Libertarians, of course, argue that any attempt to limit what men say to women is a freedom of speech violation and that we’re all better off letting individual men, women, and corporations deal with sexual harassment.

Finally, corporations can always hire other corporations and/or entrepreneurs to teach workers how to comply with the law, and how to avoid expensive lawsuits. Sexual harassment training is a growing industry. I was not impressed with the quality of the training I had. It’s a good thing I’m not prone to sexually harass others.