

Sexual harassment laws should not be abolished essay sample

[Sociology](#), [Bullying](#)



Laws that regulate sexual harassment were established for good reason, and without them it would pose major problems to anyone involved in such activity. Almost all companies, government agencies, colleges and organizations have some type of policy in place regarding sexual harassment. Sexual harassment is defined as: “ a type of employment discrimination consisting in verbal or physical abuse of a sexual nature” (Encyclopedia of Everyday Law). Over the years the basic outline of what is considered sexual harassment has been explored, along with what needs to be done to prevent it.

The histories of sexual harassment laws are not very old. Up until the 1970's sexual harassment was unheard of, mostly due to the fact that women did not hold a huge role in the workplace. However as the amount of women increased in the “ male” workplace, the need for sexual harassment laws became apparent. The Civil Rights Act of 1964, title VII prohibited discrimination by employers and organizations with 15 or more full time employees, and by the mid 1970's the courts began to accept sexual harassment as a form of gender discrimination. Since the 1970's in courts have continued broadened their interpretation of what is considered sexual harassment under law, as well as some exceptions. Since the creation of sexual harassment laws there has been several arguments against the laws in place. The counterarguments of sexual harassment laws range from false accusations to freedom of speech issues. A problem with sexual harassment laws, like any other law, there will be some instances where accusations are either misconstrued or blatantly false. Table 1 shows sexual harassment

charges to employers, in 1997, approximately 40% of EEOC reported cases were administrative closures, and 41.4% no reasonable cause.

An administrative closure is when a case is closed for administrative reasons including “ charging party requests withdrawal of a charge without receiving benefits or having resolved the issue” (Definitions of Terms). No reasonable cause is when the EEOC determines that there is no evidence to prove sexual harassment occurred but charging party still has right to bring suit in federal court or private court (Definitions of Terms). Comparatively, the percentage of administrative closures in 2011 dropped to 21%, while there was a rise in the number of cases with no reasonable cause resulting in a 53%. Table 1 suggests that there is tendency that individuals claim sexual harassment when there was none. A false accusation causes severe harm to the individual accused, especially with respect to a student accusing a teacher. Regardless of how ridiculous a claim may be can still take a long time.

During this long, costly, stressful, drawn-out investigating process to disprove the allegation can have a negative impact on ones reputation and career, discipline or potential job loss. The reputation of a teacher is closely linked to their ability to be successful. False claims can also cause higher financial ramifications to companies that already spent \$52.30 million, not including not including any costs spent in litigations or nondisclosure settlements, in 2011 (Table 2). Some firms or companies, especially well named ones, have settled cases, even when knowledge of the claim is false, out of courts because the process of clearing their name would be more

costly. This could be reason for why there is an increase in “ no reasonable cause” by the EEOC. False accusations, the high monetary costs to employers/accused individuals, and the personal costs to the accused individuals associated with sexual harassment laws are not only the arguments people can make.

Some will give an argument that sexual harassment impedes on freedom of speech given by the constitution. Some legal scholars, like Eugene Volokh, have raised concerns about strict harassment laws impeding on free speech. Volokh stated, “ Sexual harassment law sometimes punish speech that’s at the core of First Amendment protection” (p. 57). The First Amendment protects ones right to speech freely but people like Volokh argue that sexual harassment laws hinder this constitutional right. In the article Sexual Politics Volokh was quoted saying “ What’s really problematic is when you’re talking about imposing liability for speech”. Sexual harassment laws can be problematic to ones ability to practice free speech, runs the risk of false allegations, and can high monetary and personal, like lose of reputation, costs. With all those potential problems, sexual harassment laws serves a fundamental purpose to protect the civil rights not only women but also men. So the rights it’s made to protect out way the potential problem they may cause.

The Equal Employment Opportunity Commission (EEOC) has divided sexual harassment into two different types, Quid Pro Quo and Hostile-environment. Quid Pro Quo or “ this for that” harassment is the easiest kind of sexual harassment to prove. It involves an employer or other person in a position of

power, demanding sexual favors in return for some type of advancement, usually in the workplace. In order to prove that Quid Pro Quo harassment has taken place, the victim must show that they were subjected to unwanted, unsolicited sexual conduct. Hostile-environment harassment is created when an employee is subjected to unwelcome verbal/physical sexual behavior that is either extreme or widespread. Hostile-environment harassment includes; sexual jokes, pornographic images, repeated invitations to go on dates, however there is no threat to one's employment status. This form of harassment is most popular in courts but the most difficult to prove, due to the amount of variables that can determine hostile environment harassment.

Thousands of cases dealing with sexual harassment are brought up each year, but some have set the standard for how courts respond. Meritor Savings Bank v. Vinson decided in 1986 marked the first time the Supreme Court considered sexual harassment case under title VII. This court case involved a female bank employee who allegedly was forced to have sex with her supervisor, afraid that she would lose her job if she refused. The Supreme Court ruled that she had a case against her former employer on the basis of hostile-environment sexual harassment. The facts were " plainly sufficient to state a claim for hostile environment as well as a claim for quid pro quo sexual harassment" (Encyclopedia of Everyday Law). This was a landmark for sexual harassment rights, because it established legal legitimacy for both types of harassment.

Harris v. Forklift Systems, Inc. 1993, was the next landmark case for sexual harassment laws. A manager at Forklift Systems claimed to have been

subject to many continuous sexual comments by the president of the company, and was forced to quit her job because of it. The question left for the court was whether or not she suffered tangible psychological injury or was this misconduct enough to prove hostile environment sexual harassment. In the end it was found that she did suffer from the harassment laid upon her by upper management. This case was monumental in the broadening of sexual harassment laws, making it easier for plaintiffs to prove harm brought on by such harassment. The case *Oncale v. Sundowner Offshore Services, Inc.* marked the ratification on same-sex sexual harassment cases. The court decided in this case that same-sex harassment violates title VII of the Civil Rights Act of 1964. All of these cases are very important to the history of sexual harassment laws, as well as the present and without them sexual harassment laws may not be as well defined as they are today. Sexual harassment in schools has become an increased problem, from teacher to student, or student-to-student the cases keep rising. Under Title IX, the Education Amendments of 1972, which forbids gender discrimination in educational programs, has been used in many cases to protect harassed individuals.

In 1999 *Davis vs. Monroe County Board of Education* helped to improve the education amendment by including protection against student-to-student harassment. A fellow male classmate repeatedly harassed an 11-year-old girl who was good student, and a happy child. The girl told her teacher and principal numerous times about the harassment and no action was taken. Her mother as well called and expressed her concern about the situation; it

took 3 months of calls just to get the teacher to move her daughter's seat away from the boys. Finally it had gone so far that the girl became depressed, her grades dropped, and her father even found a suicide note. Her family took the case to the Supreme Court and won under Title IX, because the harassment affected the girls schooling and made her fear being in school. In 2000, Ray and Ray vs. Antioch Unified School District, a male student was sexually harassed because of his "perceived" sexual orientation. This case was covered under Title IX as well, due to the nature of the harassing is about sex, although there was no specific sexual conduct made. Snelling v. Fall Mountain Regional School.

District in 2001 brought to point that "sex-based stereotypes of masculinity" is also covered in Title IX. When two brothers being sexually harassed in school brought the situation to the principal and superintendent and no action was taken the brothers filed a lawsuit against the school. The court ruled in favor of the Snelling's because the school had notification of the harassment and did nothing even though the harassment continued to get worse. Sexual Bullying has become a major problem in schools all around the U. S. One case right here in Williamsville, NY Jamey Rodemeyer, 14, was sexually bullied for questioning his sexual orientation. His suicide became a national concern with sexual bullying; his story not only hit in the schools reality but well-known celebrities took a stand for him as well. The bullying didn't just happen in school it progressed to online where anonymous responses made it possible to harass him in his own home. Another case in California also became national which prompted California to pass a new law,

“ Seth’s” Law, after the case of Seth Welsh, 13, who committed suicide as well for being sexual harassed in school about his sexual orientation.

The California law now requires schools to address these problems and make sure it is known that sexually bullying against sexual orientation is unacceptable. If sexual harassment laws were abolished in the U. S. there is the chance of schools still providing their own regulation’s to protect students from sexual harassment but what about all the cases that the schools ignore or try to hide. Just as in the cases stated above, these victims had to bring their cases to Supreme Court just too actually be heard. The young girl whose whole life was affected because of her harasser may have made that suicide note a reality if her case couldn’t be taken a step further to Supreme Court. Sexual harassment isn’t just touching or making moves on the opposite sex, it also involves tormenting others using either spoken or writing words. That happens with the same sex, as shown in the case of Ray and Ray vs. Unified school District, opposite sex, unknown sexes; any kind of sexes, sexual harassment continues to persist.

Sexual bullying in schools has really gone overboard especially because of technology, the internet has made it much easier to harass people in general any time of day, any place they want. No person should have to go through school feeling unsafe, for the two young boys, Jamey and Seth, they did but they didn’t go that next step and file charges against the school for not doing anything about the harassment. Although it’s too late for them they did impact the nation and schools all around to create stronger laws and regulations against that type of sexual harassment. Sexual harassment is an

ongoing problem in the United States today, and without the correct legislation the cases of sexual harassment would increase to an astronomical extent. Sexual harassment was at its peak in the 1990's, but recently it has been in the news again, but this time the focus is on new legislation that will help prevent sexual harassment from happening, as well as many cases being brought to the public's attention. One major problem with sexual harassment and why we need stronger new legislation that is enforced is the problem of sexual assault in the military. This ongoing problem has been happening more and more since the 1990's with the government doing nothing about these complaints.

There are women out there giving their lives to fight for their country and they end up being sexually assaulted numerous times while on duty, and usually by a higher-ranking officer. Sergeant Smith had a 17-year career with the U. S. Armed Forces performing various tasks for the fighter squadrons; Sergeant Smith said, " She had endured repeated sexual assaults and harassment." She also said " she has decided to speak out now after keeping silent for many years because senior officers were involved or appeared to tolerate improper behavior by fighter pilots, one of the military's most elite groups." The Air Force is turning a blind eye to the sexual attacks and harassment against women, claims Smith, and this is true because women that are currently in service and don't feel comfortable speaking out because they want to excel in their job. Defense Secretary Leon E. Panetta finally acknowledged in 2012 that the number of sexual assaults in the military is

far higher than the official statistics show, because so many situations are covered up.

Where more than 3, 000 cases of sexual harassment in the military were reported in 2011 there could have been as many as 19, 000 cases of sexual harassment that were not reported. Every one in three women in the military are sexually assaulted, where the average civilian not in any military forces the statistics are one in six. A 2011 Labor Department report concluded that “ Despite the implementation of prevention programs and improved reporting mechanisms, female soldiers continue to experience sexual harassment and assault and are reluctant to report incidents.” Kimberly Davis a victim of rape while assigned to Stewart Air National Guard Base in New York reported being raped and after she reported this to the officers on base, many of them including the officer that was assigned to help her with her sexual assault problem, conspired to cover up the episode. Davis said, “ The sexual assault program in the Air Force is a joke.” There have even been cases where women are hit and rude comments are made towards them, and when these women come forward with complaints the officer’s joke about it. This happened in Lola Miles case a former Air Force helicopter mechanic at an air base in Florida.

After Miles reported this and was laughed at she said “ the leaders in her unit sought to discredit her and force her out of the Air Force.” These are just some of the reasons why sexual harassment laws are necessary and to show how bad situations can be even when you’re serving your country. It is shocking that there has not been more done about the sexual harassment

and assault problems in the U. S. Military and Air Force. There needs to be new and strongly enforced legislation to prevent these absurd numbers of sexual assaults from happening. There also needs to be some kind of plan implemented so that women can feel safe and secure with coming forth with their sexual harassment and assault complaints. The Pentagon released reports on sexual assault in the military in 2010. These reports show that rapes and sexual assaults continue every day and military's efforts are proving ineffective.

Anu Bhagwati the executive director of the Service Women's Action Network said, " This crime continues to see massive amounts of underreporting because victims do not feel the climate is safe to report, and perpetrators are not being brought to trial in sufficient numbers." Out of the 3, 158 reports made in the year 2010 only 529 went to trial, not to mention that the actual number of sexual assaults and rapes is an outstanding number of 19000. In 2010 there was a survey conducted for active duty members, the survey revealed " 67% of women are " uncomfortable" with reporting 54% " fear appraisal", and 46% of men and women in the military believe that sexual assault was " not important enough" to report at all. The reason people view that it is not important to report sexual harassment is because they may have not been a victim, or a more general idea of that there is no sexual harassment laws being enforced here, there are no punishments for unlawful, and unethical actions. The program that the U. S. military has implemented to " solve" their sexual harassment and assault problems is

called the SHARP program (Sexual Harassment/Assault Response and Prevention).

It states in the SHARP guidelines that “ senior commanders at all army installations must prepare to implement SHARP program manager” what is even the point of this if in the past the commanding officers are the ones who are committing the crime of sexual assault/harassment, and when the reporting officer also takes these serious allegations as a joke. Recently the U. S. Army has also started a sexual harassment extension to their campaign the I. A. M. Strong to combat sexual assaults by engaging all soldiers in preventing sexual assault before they occur. The SHARP program states that all U. S. Army members are “ Grounded by our shared belief in the Army Values, we are a band of brothers and sisters, placing mission first, never accepting defeat, never quitting and never leaving a fallen comrade. Our interdependence and shared respect among comrades frames who we are as a Team and an Army - a Team that finds sexual assault reprehensible and beyond toleration. Those who commit assaults hurt a member of our Team and wound our Army. This criminal act is cowardly and damaging to the very moral fiber that gives our Army its innermost strength.” This new program should help with the prevention of sexual harassment in the U. S. Army.

The program was first implemented in 2010 and continues to be the leading sexual harassment/assault program for the U. S. Army, there needs to be more regulations with stronger action taking place, the statistics are still too high and the amount of unreported even is unacceptable, the U. S. Army needs to come up with stricter legislation with strict guidelines and strong

reinforcement of policies established. Another place where sexual harassment is relevant is in politics. In June of 2012, sexual harassment is being used as a tool to control its female voters in Egypt. 26-year-old IT officer Nihal Saad and her friends were joined together at Tahrir Square to protest the verdict that sent Egyptian President Hosni Mubarak to life in prison. Tahrir Square is a very important place in Egypt, for it is the birthplace of Egypt's 18-day revolution that brought down the Mubarak regime.

As Nihal and her friends were protesting in the square, a group of men approached them at 8: 30 p. m. The men surrounded Nahir and her friends and continued to sexually assault them. Nahir says that the men were raping them with their hands. For that whole week men were sexually harassing women. According to a 2008 study by the Egyptian Center for Women's Rights, 83 percent of Egyptian women have experienced some amount of sexual harassment on the streets, as have 98 percent of foreign visitors. Also, 62 percent of men actually admit to sexually harassing women. After Mubarak's reign came to an end, the Supreme Council of the Armed Forces (SCAF) took power. It is believed that military-led harassment of women became a part of the intimidation of the protesters. With little to no protection for these women, there is nothing that they can do for themselves. They try to make an influence by participating in the voting of a new president, but these sexual attacks on them turn them away (Topol).

An U. S. example of sexual harassment in politics shows up in a case that involved 72-year-old Brooklyn Assemblyman Vito Lopez. Lopez invited one of

his female employees to join him on a trip to Atlantic City. On the trip, she constantly had to steer clear of Lopez's sexual advances. She said that he was a very persistent man and that he went so far as putting his hand between her legs. Some of the things that Lopez would make her and other female employees do, include inappropriate touching, comments about their bodies, how they were dressed, and he would make comments about how well their relationships with their boyfriends were. An investigation of Lopez led to more accusations of sexual misconduct, and \$103, 000 payoff to the accusers to keep quiet. Lopez had to publicly admit to his wrongdoings to concealing the case, and promising not to do this again (Gormley). This is good example on why sexual harassment laws were put into place. The women victims in this case were violated both verbally and physically in sexual nature, to a point beyond just feeling uncomfortable. The laws are meant to prevent this from happening, but when individuals do not follow the law, like in this case, victims can at least recover money from damages caused.

Sexual harassment occurs very often on the Internet these days. With all of these new social network sites and how available the Internet is to everybody, it was bound to happen. There are many mediums available on the Internet where it is possible for sexual harassment to occur. Some examples are in chat rooms, Internet forums, instant messaging, emails, avatars, and many more. The main forms of sexual harassment on the Internet are gender harassment, unwanted sexual attention, and sexual coercion. Gender harassment can be communicated verbally or graphically.

It can be described as “unwelcome verbal and visual comments and remarks that insult individuals because of their gender or that use stimuli known or intended to provide negative emotions” (Sexual Harassment On The Internet). Verbal gender harassment is categorized as offensive sexual messages aimed towards victims that are initiated by the harasser. These messages can include gender humiliating comments, rape threats, and unwelcome sexual remarks. The comments that are made can be labeled as either active or passive. They are defined as active when the abuser targets a specific victim and are defined as passive when the abuser targets potential receivers.

“Graphic gender harassment refers to the intention sending of erotic, pornographic, lewd, and lascivious images and digital recordings by a harasser to specific or potential victims” (Sexual Harassment On The Internet). Unwanted sexual attention occurs when direct personal communication from harasser to harassed victim. These messages often refer to the victim's sex organs or sex life, to intimate subjects, impose sex related images or sounds, or insinuate or offer sex related activities. While, the least common form, sexual coercion uses different methods on the Internet to pressure victims for their sexual cooperation. The usual ways one uses to gain cooperation from victims include explicit threats of harm to the victim, or victim's family or friends. Sexual coercion is being seen most often is in cyberstalking. Cyberstalking occurs when a person uses the Internet or other electronic devices to stalk or harass an individual, group, or an organization. The case of *Blakely v. Continental Airlines* was a case where

the plaintiff Tammy S. Blakely, who was a female airline pilot, who complained about the conduct and comments, directed towards her which included pornographic video from the Internet and vulgar gender-based comments. She complained that it was a violation of Title VII of the Civil Rights Act.

While the litigation was going on, workers continued to make harassing, gender based messages that were aimed towards her. These messages were being posted on the company's website. She filed the lawsuit in the Superior Court of New Jersey and the court held that harassment outside of the workplace could be actionable, but because the acts arose from employee relationships, the courts concluded it was relevant. Sexual harassment does not only occur by colleagues, peers and superiors in the workplace, education, the military, and even on the internet, it could also occur in public places by an unknown individual or individuals. This type of sexual harassment is called public harassment or street harassment. The definition of street harassment is the " Unwelcome words and actions by unknown persons in public which are motivated by gender and invade a person's physical and emotional space in a disrespectful, creepy, startling, scary, or insulting way" (Definitions). The types of street harassment ranges from displeasing and even annoying acts like " leers, whistles, honks, kissing noises, and non-sexually explicit evaluative comments" to behaviors that are offensive and threatening like " vulgar gestures, sexually charged comments, flashing, and stalking, to illegal actions like public masturbation, sexual touching, assault, and murder" (What is Street Harassment).

The two differences between this type of sexual harassment and the others, is that it is completely one-sided against females and there are no laws in place to protect them against the hostile environment in causes. There are laws for physical harassment and stalking but for men that are not physical and but commit acts like leering, whistling, honking, and making kissing noises to complete strangers. Why is this a big deal well in a 2008 Stop Street Harassment study of 811 women, found nearly 25% of them had experienced street harassment before the age of 12. By age 19, it increased to approximately 90%. (What is Street Harassment). This creates a serious human rights problem because women cannot go out in public for any reason without, having the fear of being sexually harassed will in public, There is more than a probable chance of getting sexually harassed at least with things like leers whistles and honks, because there is no way to protect yourself from it. This causes a serious gender discrimination for women because their ability to be in public as comfortably or even as often as men. Sexual harassment laws in the workplace does not impede on free speech.

According to Volokh, free speech only protects you from the government and criminal charges. One's right to free speech in the workplace only goes as far as the company wants it to go. "Harassment law is constitutional because speech in private workplaces is already subject to the workplace owner's control and thus the government should also be free to suppress speech in those private workplaces" (p. 61). Also it does not protect you against civil suits when someone feels harmed by your speech. Because free speech only protects you from criminal charges, private organizations and even

government one have the right to censor it. The debate on whether to keep or abolish sexual harassment laws in the workplace or in education or even in the military, raise some valid points.

Though sexual harassment laws can create problems that include false accusations that can damage ones reputation, career and life, and also causes high monetary to businesses. Arguments arise that it conflicts with individuals' freedom of speech. As you can see there are complying reasons to keep them and even adding new ones for public harassment. Though there can be some fault with the laws they're ultimately necessary to protect peoples civil rights. The laws keep people out of hostile environments at work, or at school. Also women in the military, this gives them one less hostile thing to worry about. Also if sexual harassment does occur, the victim can at least see some justice on their behalf and recover the damages brought on them. By keeping employees, students, and soldiers safe from those acts, they are able to become more productive in their respected areas. In return companies, schools, the military and society as whole all benefit.

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