How We Got Here

From Carmita Wood to Anita Hill

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Professor Anita Hill's testimony last October at the Senate judiciary Committee hearing may have been some people's first exposure to the legal concept of sexual harassment on the job, but the issue had been named and developed in the mid 1970s.

The women's movement was full blown by the time Lin Farley, a 29-year-old activist, was teaching an experimental course on women and work at Cornell University in 1974. During a consciousness-raising session with her class, students talked about disturbing behavior they had been subjected to on summer jobs; in all the cases, the women had been forced off the job by these unwanted advances.

Coincidentally, Carmita Wood, a 44-year-old administrative assistant, walked out the office of a Cornell physicist after becoming physically ill from the stress of fending off his advances. When Ms. Wood filed for unemployment compensation in Ithaca, New York, claiming it wasn't her fault she had quit her job, the nascent movement acquired its first heroine, as well as a clear delineation of a problem as endemic as the abuse itself. The credibility of an office worker, a mother of four, was pitted against the reputation of an eminent scientist whose status was - and remains - so lofty that to this day his name has not appeared in accounts of her case.

Farley and two Cornell colleagues, Susan Meyer and Karen Sauvigné, found a lawyer for Wood and brainstormed to invent a name for their newly identified issue: "sexual harassment." The young feminists and their complainant proceeded to hold a movement-style speakout (a technique that had been used effectively to articulate the issues of abortion and rape) in a community center in Ithaca in May 1975. A questionnaire collected after the meeting showed that an astonishing number of women had firsthand experience to contribute.

Eleanor Holmes Norton, then chair of the New York City Commission on Human Rights, was conducting hearings on women and work that year. Farley came to testify, half expecting to be laughed out of the hearing room. "The titillation value of sexual harassment was always obvious." Farley recalls. "But Norton treated the issue with dignity and great seriousness." Norton, who had won her activist spurs in the civil rights movement was to put her understanding of sexual harassment to good use during her later tenure in Washington, D.C. as head of the Equal Employment Opportunity Commission (EEOC). But we are moving ahead of our history.

Reporter Enid Nemy covered the Human Rights Commission hearings for the New York Times. Her story, "Women Begin to Speak Out Against Sexual Harassment at Work" appeared in the Times on August 19, 1975, and was syndicated nationally, to a tidal wave of response from women across the country.

Sauvigné and Meyer set up the Working Women's Institute in New York City as a clearinghouse for inquiries and to develop a data bank with an eye toward public policy. Wood lost her case; the unemployment insurance appeals board ruled her reasons for quitting were personal. Lin Farley's breakthrough book, *Sexual Shakedown; The Sexual Harassment of Women on the Job*, was published by McGraw-Hill in 1978 — after 27 rejections. "I thought my book would change the workplace," Farley says. "It is now out of print."

Things had begun to percolate on the legal front. Working with a large map and color-coded push-pins, Sauvigné and Meyer matched up complainants with volunteer lawyers and crisis counselors. Initially, aggrieved women sought redress by filing claims for unemployment insurance after they'd quit their jobs under duress, or by bringing their complaints to local human rights commissions. Ultimately the most important means of redress became the EEOC, the federal agency charged with investigating and mediating discrimination cases under Title VII of the 1964 Civil Rights Act. (The inclusion of sex discrimination in the 1964 act had been introduced at the last minute in an attempt to defeat the bill.)

By 1977, three cases argued at the appellate level (Barnes v. Castle: Miller v. Bank of America; Tomkins v. Public Service Electric & Gas) had established a harassed woman's right, under Title VII, to sue the corporate entity that employed her. "A few individual women stuck their necks out," says Nadine Taub, the court-appointed attorney for Adrienne Tomkins against the New Jersey utilities company.

The Tomkins case, in particular, made it clear that the courts would no longer view harassment as a personal frolic, but as sex discrimination for which the employer might be held responsible. A young woman named Catharine MacKinnon had followed these cases with avid interest while a law student at Yale; later she published an impassioned, if somewhat obfuscating treatise. *Sexual Harassment of Working Women*, in 1979.

Job-threatening though it was, sexual harassment

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remained on a back burner of the public conscience, as life threatening issues — rape, battery, child abuse and the ongoing pro-choice battle — continued to dominate feminist activity and media attention.

"We felt so alone out there," remembers Freada Klein, whose Boston area advocacy group was called The Alliance Against Sexual Coercion. "There was a *Redbook* survey in 1976 and a *Ms.* speakout and cover story in 1977. That was all. Peggy Crull, director of research for the New York City Commission on Human Rights, recalls that by the close of the decade, however, "every women's magazine had run a piece."

Slowly and quietly case law broadened the definition of unlawful harassment. As women entered the work force in greater numbers, committing themselves not only to jobs but to careers, new cases went beyond those situations in which a boss suggested sex to a subordinate as a quid pro quo for keeping her job or getting a promotion. A court decision in Minnesota established that coworker harassment was as inimical to working conditions as harassment by a boss. A New York decision held that a receptionist could not be required to wear revealing clothes that brought her unwanted attention.

Meanwhile, a clerk-typist named Karen Nussbaum was pursuing her own mission to organize women office workers through a national network she called *9 to 5*. An old friend from the antiwar movement, Jane Fonda, visited her headquarters in Cleveland with the idea of making a movie about underpaid and unappreciated secretaries in a large U.S. corporation.

9 to 5, produced by Fonda's IPC Films and starring Fonda, Lily Tomlin, and Dolly Parton, was released in 1980, with Parton playing the plucky secretary who fends off her lecherous boss. The loopy movie, a commercial success, used broad comedic strokes to highlight the woman's perspective.

In the waning days of the Carter administration, when Eleanor Holmes Norton was chair of the EEOC, she seized the initiative by issuing a set of federal guidelines on sexual harassment. The guidelines, a single-page memorandum issued on November 10, 1980, as Norton's tenure was running out, stated with admirable brevity that sexual activity as a condition of employment or promotion was a violation of Title VII. The creation of an intimidating, hostile, or offensive working environment was also a violation. Verbal abuse alone was deemed sufficient to create a hostile workplace. The guidelines encouraged corporations to write their own memoranda and inform employees of appropriate means of redress.

Guidelines are interpretations of existing statutes and do not have the full authority of law. But in 1981 (while Anita Hill was working for Clarence Thomas at the Department of Education), the EEOC was required to defend itself in Bundy v. Jackson, said the former EEOC general counsel Leroy D. Clark, The District of Columbia circuit court ruled in favor of Sandra Bundy, a corrections department employee, and accepted the EEOC guidelines as law , holding that Title VII could be violated even if a woman remained on the job.

Employers who were caught off guard were in for another surprise. During that same first year of the Reagan administration, the Merit Systems Protection Board, a regulatory agency that seldom makes news, released the results of a random survey of 20,100 federal employees. The findings revealed that a staggering 42 percent of the government's female workers had experienced an incident of sexual harassment on the job in the previous two years. "It was the first decent methodological study," says Freada Klein, who served as an adviser. "They did it again in 1988 and came up with the same figures."

It took the US Supreme Court until 1986 to affirm unanimously, in Meritor Savings Bank v Vinson, that sexual harassment even without economic harm was unlawful discrimination, although the court drew back in some measure from employer liability in hostile environment cases.

Five years later, Anita Hill's testimony to 14 white male senators, and the merciless attacks on her credibility, echoed the agonies of her predecessors from Carmita Wood to Mechelle Vinson, who came forward at the risk of ridicule to tell about an abuse of power by a favored, institutionally protected, high-status male,

Detractors of the feminist role in social change have sought to create the impression that sexual harassment is yet another nefarious plot cooked up by an elite white movement to serve middle-class professionals. As it happens, veterans of the battle have been struck time and again by the fact that the plaintiffs in most of the landmark cases, brave women every one, have been working class and African American: Paulette Barnes, payroll clerk; Margaret Miller, proofing machine operator; Diane Williams, Justice Department employee; Rebekah Barnett, shop clerk; Mechelle Vinson, bank teller trainee.

We collected many speculations as to why black women have led this fight, but the last word goes to Eleanor Holmes Norton, who said, succinctly, "With black women's historic understanding of slavery and rape, it's not surprising to me."

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