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## ON THE DEFINITION OF SEXUAL HARASSMENT

Iddo Landau

In a recent article in this journal [4] Jan Crosthwaite and Graham Priest suggest a definition and analysis of sexual harassment. It runs as follows:

[A]ny 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. [4, p. 72]

I find Crosthwaite and Priest's suggestion problematic on a number of accounts.

### I. The Definition is Too Broad

The definition does not exclude numerous activities which many, including, I would think, the authors themselves, would not like to see as sexual harassment.<sup>1</sup> Take an example of a woman and a man kissing. Both want the kiss and enjoy it; both have initiated it more or less equally; and no violence or coercion is involved. They do not work in the same work place, nor is one of them a professor and the other his or her student. However, the woman is influenced by the many popular Harlequin and Mills and Boon novels, and films of the same genre, that she has read and seen. Among her many emotions, she emphasises to herself the real or imagined strength of the man with whom she is, and contrasts it with her own true or imagined powerlessness. Influenced by these romantic novels and films, she feels that he will protect her in case of danger; he will take care of her in general; she can lean on him. He can now think for both of them and tell her what to do. He is so clever, tough, and able to cope with that mean world out there. He is a man; he is strong. And she is weak, powerless, a woman. . .

Some readers may be smiling by now, feeling these emotions to be cheap and kitschy. But their evaluation is beside the point, which is that the man's behaviour, welcomed and even encouraged by the woman, is according to Crosthwaite and Priest sexual harassment. It is a case of sexual behaviour (holding gently, slowly bringing his lips to hers, kissing) by a member of the dominant gender (the man) towards a member of the subordinate gender (the woman) whose typical effect is to cause the member of the subordinate group to experience her powerlessness as a member of that group. However, I believe that most people, including Crosthwaite and Priest, would not think that this behaviour is an instance of sexual harassment. If we do classify it as sexual harassment, it would follow

<sup>1</sup> To avoid confusion between their notion of sexual harassment and that which sees it as a harassment that is sexual, Crosthwaite and Priest refer to their notion as 'SH'. [4, p. 70] Since I believe the confusion unlikely, I do not follow their practice.

that many women are sexually harassed of their own free will; that a high proportion of women want to be sexually harassed, eagerly wait for it to happen, encourage and initiate it, and are heartbroken when it stops; and that almost all men sexually harass.

This is not the only sexual behaviour that Crosthwaite and Priest's definition would include under sexual harassment. If, having received a proposal of marriage, a woman who believes in the traditional model of the patriarchal family decides to quit her job in order to be what she conceives as 'his little housewife', the man's act of proposing should be seen as sexual harassment, even if he himself opposes her move. Similarly, the script-writer, producer, director, actors, and distributors of 'Harlequinite' films such as *Pretty Woman*, if they are men, also sexually harass women merely by fulfilling their respective functions in the films, since they too are members of the dominant gender group who are involved in sexual behaviour which is directed, in part, towards women, and whose typical effect (as in the 'kissing couple' example above) is to cause women to experience their powerlessness as members of that group.

Defenders of Crosthwaite and Priest may argue that the men in the examples above do not commit sexual harassment since they do not intend their activities to have such an effect on women, and that much liability for the women's feelings lies with prevalent social norms. However, Crosthwaite and Priest declare that the existence or inexistence of intentions is irrelevant for their account, and that social norms indeed inform and effect sexual harassment [4, pp. 68–9, 81]. Likewise, supporters of Crosthwaite and Priest may claim that the scriptwriter of *Pretty Woman* cannot be seen as committing sexual harassment since his behaviour is not directed towards any particular woman. But this criterion is irrelevant for Crosthwaite and Priest's definition, and some of the behaviours they do present as examples of sexual harassment (e.g. of the worker who hangs sexually explicit images on the walls of his office) are also not directed towards particular women [4, pp. 68–9]. Partisans of the definition may also claim that writing a script for *Pretty Woman* cannot count as sexual harassment since this is not a sexual behaviour. But the term 'sexual behaviour' is vague and broad, and Crosthwaite and Priest do not clarify it [4, n. 10]. The man who hangs sexually explicit images on the walls of his office, or tells a sexist joke, is also not clearly indulging in sexual activity, at least no more so than the man who writes the script. Finally, defenders of Crosthwaite and Priest may claim that the reactions of the women in the examples above are not that typical. However, they are not any less typical than the reactions of women in Crosthwaite and Priest's own examples of sexual harassment. If Crosthwaite and Priest's definition and examples of sexual harassment are accepted, so should those I present here.

## II. The Definition is Too Narrow

The definition not only includes many behaviours it ought to exclude, but also excludes many it ought to include. These are behaviours whose characteristics are similar to those Crosthwaite and Priest see as sexual harassment, but are performed by women and directed towards women, performed by women and directed towards men, or performed by men and directed towards men.<sup>2</sup> Crosthwaite and Priest acknowledge that many

<sup>2</sup> The authors cite some exceptions to the last category, to be considered below.

behaviours not included in their analysis and definition are, in common linguistic and legal use, referred to as sexual harassment. But they maintain that they are not interested in a lexicographical or legal definition; they are interested, rather, in understanding a certain social phenomenon [4, pp. 66–7, 76].

But even from a non-lexicographical and a non-legal perspective there are good reasons for seeing the behaviours that Crosthwaite and Priest include and those they exclude as of the same type. Behaviours should be grouped and analysed as examples of one social phenomenon, and seen as of the same type, if all or most of their characteristics are the same. But the behaviours excluded from Crosthwaite and Priest's analysis because they are not committed by men and directed towards women have many characteristics in common with those included. This similarity can be seen, for example, in the ability to describe both included and excluded behaviours in the same ways (except for the pronouns). Likewise, both excluded and included behaviours can be divided into the same categories (e.g. sexual coercion, sexual bribery, persistent sexual invitations, etc.). This is true both for Crosthwaite and Priest's own classification of sexual harassment types [4, pp. 67–9], and the other categorisations prevalent in the literature ([2], [5], [6] and [7, 23–4], for example). Similarly, both excluded and included behaviours are equally vulnerable or impervious to general criticisms of the notion of sexual harassment ([7, pp. 97–163], for example). Both excluded and included behaviours are morally wrong. Crosthwaite and Priest do not make it clear whether they take the excluded behaviours to be more or less wrong than the included ones. The same questions arise concerning both included and excluded behaviours: to what extent is sexual harassment a result of unclarity or miscommunication? Would laws against sexual harassment not make society too puritanical? The advice usually given to company directors on procedures to follow upon a complaint (such as maintaining secrecy, discussing the complaint with both parties, weighing the evidence; see [1] and [3], for example) are as applicable to the behaviours Crosthwaite and Priest exclude as it is to the conduct they include. The same is true for other means for fighting these behaviours, such as notices on billboards, fliers, group discussions, and other ways of explaining company policy [ibid.]. The characteristics of the behaviours that Crosthwaite and Priest include and those they exclude are similar in so many ways, that it makes more sense to see them as one social phenomenon.

Of course, Crosthwaite and Priest could respond that these points of similarity are insignificant for their concept of sexual harassment. But such a response would relate to another, deeper problem with their discussion: they consciously ignore the legal and practical aspects of sexual harassment [4, pp. 66–7]. They explicitly distance themselves from the issues as to what the laws and regulations about sexual harassment should be, how these laws actually work, or how the moral problems involved in implementing sexual harassment legislation should be solved. However, the legal and moral features of sexual harassment are central to it. The term 'sexual harassment' was invented in the mid-seventies for the very purpose of influencing law, and, through it, moral reality, and it now primarily functions as a legal and moral term in legal and moral discussions. Once Crosthwaite and Priest uproot the concept from the context of law and morality, it becomes unclear what is it that they are defining, and consequently it is unclear by what standards their definition should be judged. The concept of 'sexual harassment which has nothing to do with legal and moral considerations' is their own, and this ensures that it

will be up to them to decide how to define it. This means that they can always make their definition immune to objection by responding that it misses the concept they are defining. But this also makes their definition uninteresting.

### III. Crosthwaite and Priest's Motivation

Why are Crosthwaite and Priest committed to excluding from their analysis behaviours so similar to those they do include in it? They answer this question themselves: if the definition of sexual harassment were to include behaviours beyond those perpetrated by men and directed towards women, it would not be clear why feminists should be especially concerned about sexual harassment. After all, although men commit such behaviours more frequently than women do, and more women than men are victims of such behaviours, there are also women who adopt such behaviours, and men who are victims. The high proportion of men among perpetrators of sexual harassment and that of women among its victims is insufficient, according to Crosthwaite and Priest, to encourage women to be especially concerned with sexual harassment, or to explain why they have been so concerned with it up to now [4, p. 79].

This claim seems to me mistaken. Leaders of the black community may be especially concerned about welfare cuts even if they do not think that these are related to racism, and although they know that some of the poor are not black; they can be concerned because there are relatively many poor among blacks. Similarly, although gays are not the only people who have AIDS, leaders of the gay community may be especially concerned about cuts in AIDS research because the problem is more severe for the gay community. Likewise, a person from India may be more sensitive about world-hunger problems. The relatively high incidence of problematic phenomena in their communities is sufficient to make these activists, as it would make feminists in the context of sexual harassment, especially concerned.

Crosthwaite and Priest also wish to locate sexual harassment as a form of oppression [4, p. 80], to emphasise that sexual harassment can be in continuum with rape [ibid.], and to present a definition which does not limit sexual harassment to discriminatory behaviours in the work place and educational institutions, but also includes behaviours in the street or at home [4, p. 79]. But these motivations likewise do not necessitate the exclusion of cases in which men harass men, women men, and women women.<sup>3</sup>

Another claim by Crosthwaite and Priest is that to group together the behaviours they see as sexual harassment with those they do not would not acknowledge how patriarchy both constitutes sexual harassment and is preserved by it [4, pp. 76, 81–2]. However, it seems to me that this claim is wrong; including the behaviours Crosthwaite and Priest exclude from their notion of sexual harassment could recognise the major effect that

<sup>3</sup> The authors take oppression to be 'a relation between social groups which involves one group wielding power which is illegitimate. . . over another group. . . it involves limitation of the prospects for self-development, realisation of goals and material success. . .'. [4, p. 71] Their notion is thus limited to cases which involve relations between social groups, and excludes those where individuals *per se* wield illegitimate power over other individuals. According to their notion, even severe cases in which men harass men, women women, or women men, if they do not involve relations between social groups, should not be seen as examples of oppression. But I see no reason for limiting the notion of oppression to activities related to social groups.

patriarchy has on sexual harassment, as well as the effect that sexual harassment has on patriarchy. It would merely not admit patriarchy as the only influence on sexual harassment, or as the only social construct influenced by sexual harassment. It would not deny the importance of patriarchy in relation to sexual harassment, only its exclusiveness.

Indeed, cases of sexual harassment—even if we take only those that Crosthwaite and Priest include in their analysis—seem to spring from many factors besides patriarchy. Such factors can be racism (when a purpose of the activity is to humiliate a member of another race), sadism, peer pressure, pursuit of sexual gratification, institutional power relations, and even miscommunication. Some factors (e.g. racism, institutional power relations) both produce sexual harassment and are affected by it. In many cases several of these factors are at work at the same time. The overriding proportion of cases in which women are the victims of sexual harassment, and men the perpetrators, suggests that patriarchy is an important factor in many sexual harassment cases; but not that it is the only factor which should be taken into account.<sup>4</sup> A more multi-dimensional definition and analysis of sexual harassment seems more plausible once it is remembered, e.g., that sexual harassment of women of other ethnicities or races is considered, in some groups, more permissible than that of women of one's own group. Similarly, women of some age groups are harassed more frequently than those of others. Such characteristics of sexual harassment suggest that it is influenced by other factors besides patriarchy.

#### IV. Specific Differences

To sustain their view, Crosthwaite and Priest claim that women harassed by men experience different feelings than those of men harassed by women. Even if this were true, I believe it would not justify excluding all behaviours not perpetrated by men and directed towards women, as Crosthwaite and Priest suggest. To do so would endow one characteristic of sexual harassment with disproportionate weight, while completely ignoring the importance of all others. Moreover, some of their claims seem wrong. For example, according to them part of the helplessness felt by women harassed by men, unlike that felt by men harassed by women, has to do with the standard views in our society about a woman's complete sexual availability to any interested male:

[F]eminine '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 sexual harassment to make clear her view that the behaviour is quite unacceptable and often humiliatingly inappropriate. [4, p. 74]

This is an unrealistic description of standard social norms in our society. *Pace* Crosthwaite and Priest, it is not considered unfeminine or not respectable for a woman to

<sup>4</sup> Surprisingly, in their classification of types of sexual harassment Crosthwaite and Priest do note that sexual gratification, peer pressure, or miscommunication affect sexual harassment. [4, pp. 67–9] But then they completely ignore these factors, and define the phenomenon only with reference to patriarchy and its relation to women's feelings of helplessness.

reject a sexual initiative by a man. Perhaps the contrary; it is considered inappropriate and unfeminine to accept such initiatives too frequently and 'easily'. Nor do men find it exceptional or bewildering when their initiatives are rejected, or when they hear that other men's are. Such rejections are thought to be a usual and normal component of romantic and sexual activity. It is also untrue that sexual predation is taken to be a 'prerogative of masculinity'. In more sexually permissive circles as in conservative ones, rape is seen as abhorrent. Crosthwaite and Priest's assertions that 'feminine "no-saying" is not to be taken seriously, particularly in the domain of sexual behaviour', and that 'no acceptable response allows the victim of sexual harassment to make clear her view' are equally false. These notions fall under what Naomi Wolf [10] describes as 'victim feminism', i.e. viewing men as beasts of prey on the loose, and women as helpless weaklings, thus encouraging in women a 'victim identity' which, besides being unrealistic, frightens and disempowers them.<sup>5</sup>

Crosthwaite and Priest also discuss the reaction of a man subjected to wolf-whistles and comments about his sexual attractiveness: 'though possibly mixed with embarrassment, [his reaction] will normally be one of some pleasure. He does not feel any lack of power, and the experience is not an unpleasant one.' [4, pp. 74–5] However, some women also feel pleasure—although mixed with some embarrassment—in such circumstances. And not all women feel lack of power in this context; some of them feel the power either to respond to the wolf-whistles, or to ignore them and thus give the whistlers the feeling that they are not worth even a nod. I am not sure that Jan Buckwald's reaction of 'your face burns red in that confounding mix of anger and embarrassment and helplessness' [4, n. 17] is so typical. On the other hand, many men in such circumstances will feel their faces 'burn red in that confounding mix' of Buckwald's description, as well as experience the other feelings Crosthwaite and Priest attribute only to women. Men too will experience the situation as unpleasant, wish the shouting and whistles to cease, feel frustration at not being able to stop it, and powerlessness in face of this noisy, semi-appreciative semi-jeering group. The same is true for another example Crosthwaite and Priest suggest, that of persistent and unwanted sexual invitations [4, p. 75]. They think that men, unlike women, will only enjoy and be flattered by these, while women, it seems to them, will only feel displeasure and frustration. But I think that again these claims will be untrue both for many men and for many women. Crosthwaite and Priest make unwarranted generalisations concerning all women and all men.

It would probably take men—on average—more time and persistent invitation to feel frustration and displeasure. Similarly, although a large proportion of men will feel powerlessness when wolf-whistles are directed at them, probably an even higher proportion of women will feel this way in similar circumstances. But the larger number of women does not justify the complete disregard of all the many men, as Crosthwaite and Priest suggest. The greater number of women who will feel powerless should be taken into account in the analysis, and can be explained by reference to patriarchy. But, again, the importance that should be given to patriarchy in such an analysis should not lead to seeing it as the only factor at work.

<sup>5</sup> Crosthwaite and Priest suggest that whatever weight women's 'no saying' does have today has been achieved through the growing awareness to sexual harassment issues [4, n. 15]. I believe that this claim too is unrealistic.

### V. Men Harassing Men; Women Harassing Women

As a rule, Crosthwaite and Priest do not consider cases in which men harass men as sexual harassment. They make, however, an exception: rape and other coercive sexual interactions in prisons and boarding schools where the victims are forced to behave generally in an effeminate way, and are treated by everyone as women, are cases of sexual harassment [4, p. 78]. Crosthwaite and Priest claim that in terms of gender, even if not sex, the victims are, in fact, women, and since their analysis refers to gender, these would be cases of sexual harassment. Other men-to-men cases of rape, sexual molestation, sexual blackmail, unwanted sexual exposure, etc. are not considered by Crosthwaite and Priest as sexual harassment.

Based on the many similarities between men-women and men-men harassments, I believe there are good reasons for including the latter in the definition of sexual harassment. (Crosthwaite and Priest do not even try to show, for cases where men harass men, that the feelings of the harassees differ from those in which men harass women.) But curiously, even according to Crosthwaite and Priest's own definition and analysis many men-men harassments may be seen as sexual harassment. They assert, for example, that a case in which 'a gay man...[is] the butt of unpleasant jokes, verbal abuse, or physical assault (including some sexual acts...)' should not be seen as sexual harassment [4, p. 77]. However, if gay men are seen as a subordinate gender group, and heterosexual men as a dominant gender group, such cases should be seen as sexual harassment even according to Crosthwaite and Priest's own definition. These would be cases of a 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. Viewing such cases as sexual harassment would also accord with Crosthwaite and Priest's deeper analysis, since patriarchal views (e.g. concerning the way 'real' men should behave, and how those deviating from this norm should be treated) influence the harassment of gay men by heterosexual men.

Crosthwaite and Priest neglect to discuss any cases in which women harass women. This is a pity, since according to some studies ([8] and [9], for example), the proportion of some forms of harassment among women is not low. I believe that the considerations I have presented above concerning women-men and men-men harassments apply here as well.

### VI. Conclusion

Crosthwaite and Priest's failure to exclude from their definition of sexual harassment behaviours they too would not like to see included, and their resistance to including, notwithstanding the obvious similarities, behaviours that should be included, are related to the same problem. Their analysis takes account only of one factor in sexual harassment: patriarchy. Wishing to emphasise its importance, they ignore all other factors, and present a definition based on a reductionist understanding. They are thus like a person who, wishing to emphasise the importance of racism on black poverty, would deny that it is affected by any other factor. It is hard to think of any social phenomenon which is influenced only by one factor. It would be surprising if sexual harassment were an exception to this rule. A definition based on a more sensitive, multi-dimensional

understanding of this intricate phenomenon, and which takes several factors into account, is advisable.<sup>6</sup>

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