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Thinking about Sexual Harassment: A Guide for the Perplexed by Margaret A. Crouch

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Margaret A. Crouch, *Thinking about Sexual Harassment: A Guide for the Perplexed*. New York: Oxford University Press, 2001. Pp. ix, 315.

Margaret Crouch offers a balanced, comprehensive introduction to the philosophical, legal, and empirical issues surrounding the vexed topic of sexual harassment. The book is divided into two parts. The first discusses the competing conceptual schemes under which sexual harassment has been defined, the history of case law surrounding sexual harassment claims, and empirical measures of the extent and common beliefs about sexual harassment. The second part of the book treats philosophical and legal questions surrounding sexual harassment, and a concluding chapter offers some suggestions for a political solution to the controversies.

Crouch begins by setting out three competing perspectives on sexual harassment in order to explain the origins of controversies about sexual harassment and examine the underlying assumptions from which they arise. The “natural/biological perspective,” associated with evolutionary psychology, holds that much of what is called sexual harassment is misunderstanding between the sexes arising from different mating strategies that males and females pursue. On this view, male sexual behavior is predatory, promiscuous, and opportunistic, while females are coy and choosy. Thus, males are likely to be more sexually aggressive than females would like, and males will tend to interpret attention from females as sexual interest, while females will regard interest from males as threatening. Sexual harassment is nothing more than the natural outcome of this difference when the sexes mix in work and educational settings. Proponents of this perspective claim neutrality about the morality of behavior called “sexual harassment,” but are generally skeptical about much of sexual harassment law. The “sociocultural perspective,” exemplified by Catherine MacKinnon’s dominance perspective, proceeds from a general theory of feminism. On MacKinnon’s view, gender is a social category that divides society into two classes: a dominant and a subordinate class. It follows from this view that all sexuality is coercive and that only women can be sexually harassed—both conclusions that Crouch disagrees with, though she accepts the basic feminist idea that society is gendered. The third perspective is the “liberal perspective,” which is motivated by a political theory of freedom and equality. Under this category Crouch lumps both Drucilla Cornell, who holds that sexual harassment should be seen as a violation of individuals’ rights to sexual happiness and sees women (and gays and lesbians) as socially at a greater risk of such violation, and Ellen Frankel Paul, who holds that sexual harassment should be seen as a form of coercion that is not essentially linked to gender. Although Crouch clearly sides with the liberal approach, she does not entirely dismiss either of the other two perspectives.

Chapter 2, on the legal history of sexual harassment, will be useful for anyone desiring a primer on the history of sexual harassment law in the United States, or an overview of legal approaches in Canada, western Europe, New Zealand, and Japan. Chapter 3, on empirical studies of the concept of sexual harassment, surveys and critiques the work done by journalists and psychologists to study the prevalence of and beliefs about sexual harassment. These studies are survey studies, in which persons are asked about behaviors that they have been exposed to or have performed in work or education settings, and are by their nature subjective. Crouch raises four kinds of problems for them: definition problem, sample bias, reporting bias, and researcher bias. The discussion of each of these is problematic. For example, Crouch critiques some of the studies for defining sexual harassment in a way not entirely consistent with legal definitions of sexual harassment, but this is a problem only if the researchers are claiming to examine the prevalence of what is legally defined as sexual harassment. Furthermore, the legal definition of sexual harassment is a moving target, as Crouch demonstrates in other chapters. The category of researcher bias is also problematic. Here she criticizes the studies for defining sexual harassment differently from the subjects, claiming that subjects are victims of sexual harassment when the alleged victims do not see themselves as such. She writes: "The suggestion is that this shows people's ignorance. But this begs the question. If subjects do not believe that they have been sexually harassed, perhaps it is because they have a different conception of sexual harassment" (105). Disagreement with the subjects over what constitutes sexual harassment is not question begging, though. Social theorists often claim that the victims of oppression are unaware that the harm they suffer is oppression, but to define it as such is not question begging, provided that they make a case for their definition. Although there is much to critique in these studies, Crouch illegitimately labels many of the disagreements she has with the definitions of sexual harassment in these studies scientific or logical flaws.

Chapter 4, on philosophical issues, examines the two views that come out of the radical feminist, dominance perspective of Catherine MacKinnon, then looks at various liberal conceptions of sexual harassment, and finally looks at two attempts to reject the concept altogether. Crouch's strategy is to critique each of the theories for failing to provide a univocal concept of sexual harassment that includes the kinds of cases that have been successful in courts of law. For example, she rejects the two dominance views for holding that only women can be sexually harassed. Here she misses the point of those discussions of sexual harassment, which is not to save the legal phenomena, but rather to try to articulate the special kind of (moral, group-based) wrong that women suffer from the wide varieties of behaviors that are classified as sexual harassment. The most successful of the liberal perspectives for Crouch is Cornell's, since it can accommodate same-sex harassment, and thereby fits the widest set of cases. In chapter 5, on legal issues, Crouch rejects the "reasonable woman stan-

dard” as unnecessary and insufficient. She argues that it is unnecessary since she believes that the differences in what men and women see as sexual harassment are narrowing. She also thinks it is insufficient, since it will “become the very thing that many fear it already is: a capitulation to people who claim that women are fragile and just need more protection than men” (193), and this will have a discriminatory effect on women in itself. What is missing in this analysis, and in other places in the book, is a clear discussion of the objective harm of harassment. Crouch glosses over the objective facts of gender segregation and the implications of workplace segregation on economic inequalities between men and women. In this discussion, for example, to discuss the objective harm of sexual harassment would partially undercut the claim that women object to harassment only because they are fragile or in need of protection. They object to harassment because it excludes them from equally participating in economic life. In discussions of whether sexual harassment harms men as it does women it is imperative to discuss this differential group impact of sexual harassment on men and women.

Crouch argues that we can and should seek a political compromise among the competing perspectives. She offers a dual analysis of sexual harassment: one for quid pro quo sexual harassment, and another for hostile environment sexual harassment. The former type of harassment is seen as the imposition of sexuality in an environment where that is unwelcome and coercive because of men’s sexual and economic dominance. In analyzing hostile environment sexual harassment, Crouch follows Vicki Schultz’s argument that this is a legitimate claim only where the harassment is aimed at keeping women out of a particular field. What is at issue is the protection of equal rights for men and women, then. While a step in the right direction, the focus on aims is misplaced; what is relevant is the objective effect of the treatment, and not the (subjective, unprovable) aims of the suspected harassers.

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