

The Impact on Employees of Workplace Sexual Harassment

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In the wake of allegations detailing years of workplace sexual harassment perpetuated by Hollywood mogul Harvey Weinstein and other leading media personalities, employees, employers, and the public alike have been forced to consider how enduring such abuse impacts women. A recent study conducted in Denmark on workplace sexual harassment provides empirical evidence reflecting how working in environments where predatory behavior and sexualized comments are tolerated by employers affects employees' mental health.

What Are the Effects of Workplace Sexual Harassment?

[The study](#), published in BMC Public Health, surveyed 7,603 employees from 1,041 Danish companies to find out how many had been sexually harassed at work, who had committed the harassment, and the employees' rates of clinical depression following the harassment. The study concluded that 2.4 percent of the surveyed employees reported being harassed by clients or customers, while 1 percent experienced harassment by their colleagues. When the survey authors analyzed how those numbers correlated with the risk of depression, they found that harassment of any kind leads to poorer mental health, but that harassment by supervisors, colleagues, and even subordinates was linked with worse outcomes than harassment by clients.

While this correlation does not explain why harassment by workplace colleagues might lead to higher rates of depression than harassment by third parties, the survey authors posited that colleague harassment might cause or exacerbate depression at higher rates because of the proximity and shared working space, which can make a harassed employee feel as if the abuse is inescapable. Further, they thought employees felt more betrayed by their managers where the culture permitted peer and supervisor harassment to go unchecked, while they had lesser expectations that employers could control the conduct of clients and customers.

It is important to emphasize that the findings demonstrate that all [sexual harassment](#) can have harmful effects on mental health - regardless of who the harasser is. Additionally, under U.S. law, regardless of whether a colleague or a customer/client harasses an employee, if the harassment is sufficiently severe or pervasive to alter her working conditions, it is unlawful, and employers can be held legally responsible for failing to prevent and address harassment of which they are aware.

The Danish study provides important evidence that workplace harassment takes a real toll on workers' mental health. Such harassment is far more pervasive in the United States than in Denmark, and thus significantly more women are experiencing these mental health consequences. [Earlier surveys](#) in the United States found that one quarter of all women have experienced workplace sexual harassment. According to a [more recent 2015 study](#) in which Cosmopolitan Magazine surveyed a younger segment of the workforce, 1 in 3 women ages 18 to 34 in the United States say they have experienced sexual harassment in the workplace. The study, like the Danish study, concluded that all employees who experience harassment are put in an emotionally vulnerable and challenging position.

What Remedies Are There for This Type of Harassment?

The Cosmopolitan study found that 71 percent of harassment victims do not report the conduct to their employers. An internal complaint is often a prerequisite for obtaining remedies for harassment in court because, in general, courts do not hold employers liable for discrimination of which they were unaware.

For the minority of women who report harassment and seek legal redress, juries and judges may compensate an employee's emotional distress in sexual harassment cases by granting a form of relief called "compensatory damages." Compensatory damages cover a range of mental and emotional harms, such as depression and anxiety, insomnia, loss of enjoyment of life and mental anguish, and reputational harm. Victims of sexual assault or persistent, enduring harassment may even suffer from Post-Traumatic Stress Disorder (PTSD). To obtain damages for these harms, employees must face the sometimes-challenging burden of proving that their emotional distress was due to the employer's conduct and not attributable to other stressful events in their lives, but with testimony and competent evidence, an employee may be able to recover for this harm.

Large jury verdicts and public settlements in harassment cases in recent years, while anomalies, demonstrate the benefit to reporting. For instance, in *Chopourian v. Catholic Healthcare West*, a federal jury in California awarded the plaintiff \$168 million, potentially the largest judgment in U.S. history for a single victim of workplace sexual harassment. The matter involved repeated sexual harassment over two years and an employer who refused to take action on any of the plaintiff's 18 complaints. 21st Century Fox, the parent company of Fox News, settled two sexual harassment cases in the past two years: one by former Fox News host [Gretchen Carlson](#) against chairman [Roger Ailes](#) for \$20 million and one by a longtime network analyst against top-rated host [Bill O'Reilly](#) for \$32 million. In *Alford v. Aaron's Rent*, a 2011 matter, Ashley Alford won a \$95 million verdict in her case brought by the U.S. Equal Employment Opportunity Commission in which her manager sexually harassed and assaulted her.

When women successfully sue to vindicate their right to be free from workplace harassment, it is important to note that the remedy they obtain is only that – an after-the-fact attempt to compensate the employee monetarily for the terrible emotional harm she has had to endure. Money cannot really restore the trust or self-confidence undermined by workplace harassment.

What about Women Who Don't Report Sexual Harassment?

Harassment causes other harms as well, especially for women who do not pursue legal redress against their employers but rather engage in self-help by leaving a job or career to escape harassment. [A 2017 study](#) on working women published in *Gender & Society* observed that workplace sexual harassment not only causes psychological distress but can disrupt working women's lives in myriad ways. Researchers concluded that "sexual harassment increases financial stress, largely by precipitating job change, and can significantly alter women's career attainment." These effects are even more damaging when the harassment occurs early in a woman's career. Therefore, not only is harassment making women more prone to depression and mental health issues, it is curbing their careers and financial success.

How to Prevent Harassment in the Workplace

Given the profound individual and societal costs of harassment and the impact on companies' reputations and financial resources if they do not create a zero-tolerance culture, employers have every incentive to make concerted efforts to *prevent* harassment. Successful preventive strategies, at minimum, require an employer to establish a written policy prohibiting sexual harassment. Anti-

harassment policies should define harassment, tell all employees that harassment will not be tolerated, and set out how employers and employees should respond to incidents of harassment.

They should also set forth a reporting mechanism by which employees can complain when harassment occurs, without fear of retaliation. To encourage employees to report, employers should provide a confidential mechanism through which to file a grievance.

If an employee does report harassment, employers should promptly investigate the reported harassment and support the reporting employee. Even if the investigation cannot conclusively corroborate the employee's allegations, employers will lose or alienate valuable employees if they demonize or isolate those who report harassment. Furthermore, employees experiencing depression, PTSD, or other mental health conditions are protected from discrimination and harassment at work due to those conditions, and employers should take care to provide reasonable accommodations that can help such an employee perform and keep her job.

While not required, employers can take additional steps to support their employees, such as offering to reimburse employees for any mental health counseling or hospitalization they require due to the harassment. Not only will prevention decrease employer liability, but, as the Denmark study demonstrates, it can lead to better mental health outcomes for employees.

If you are looking for more ways to prevent workplace harassment, read our post on the [three key steps to eliminating workplace harassment](#) or find answers to [common questions regarding sexual harassment](#).

This post was subsequently published in [Law360](#).