

Michigan State University ILL (EEM)



ILLiad TN: 1278752

ILL Number: 205610251



Borrower: NJR

Lending String:

*EEM,CLU,EMU,ZYU,CLE,COH,CUV,FUG,GU
A,SOI,TJC

Patron:

Journal Title: Politicking while female : the
political lives of women /

Volume: issue:

Month/Year: 2020

Pages: 158-180

Article Author:

Article Title: : #MeToo in the Statehouse

Imprint: Baton Rouge : Louisiana State
University Press, [2020]

Notes: Borrowing Notes: NO LESS THAN 12
WEEKS LOAN, NO LIBRARY USE ONLY, NO
MEDIA, NO MICROFILM, MICROFICHE,
ilsdept@libraries.rutgers.edu ODYSSEY
128.6.218.91 FEIN # = F1226001086 (maxCost:
\$25.00)

OCLC

Rec Date: 12/8/2020 12:01:12 PM

Call #: HQ1236.5.U6 P657 2020

Location: MSU MAIN LIBRARY
AVAILABLE

ISSN: 9780807172919

Charge

Maxcost: 25.00IFM

Shipping Address:

Rutgers University - BIG10
Technical Services Building -INTERLIBRARY LOAN
SERVICES
47 Davidson Road
Piscataway New Jersey 08854 - 5603

Fax:

Ariel:

Odyssey: rulill.rutgers.edu

Scan in ILLiad

#METOO IN THE STATE HOUSE

ANNA MITCHELL MAHONEY, MEGHAN KEARNEY,
AND CARLY MEGAN SHAFFER

In May 2013, the Iowa Senate communications director, Kirsten Anderson, complained of unwelcome harassment at work. She was subsequently fired, mere hours after the complaint was received. In response to her suspicious dismissal, Anderson sued the state and asked other staffers and legislators to write depositions to support her case (Wing 2013). In October 2018, the depositions from the Anderson case were released to the public, revealing a toxic and pervasive culture of sexual harassment in the legislature, including inappropriate and overtly sexual, misogynistic, and homophobic comments; repeated touching of women without their consent; and a suffocating patriarchal culture in the Iowa statehouse.

The problems in the Iowa General Assembly are common not just for state legislators but for workers across industries. In 2007, activist Tarana Burke created Just Be Inc., a nonprofit organization that helps victims of sexual harassment and assault, and launched MeToo on Myspace as a tool to connect them to resources (Garcia 2017; Harris 2018). On October 15, 2017, #MeToo went viral when tweeted by actress Alyssa Milano in the wake of the Harvey Weinstein scandal, wherein a powerful Hollywood producer was accused of multiple instances of harassment and assault (Garcia 2017). The #MeToo movement also had a large impact on state politics. The Associated Press reported that 76 state legislators were accused of sexual misconduct between October 2017 and August 2018 with at least 27 remaining on the ballot in 2018 and 19 surviving their primaries (Norwood 2018).

Scholars have demonstrated the gendered barriers for women seeking public office (Bauer 2015; Carroll and Fox 2012; Carroll and Sanbonmatsu 2013; Ditonto 2017; Ditonto and Andersen in this volume; Dittmar

2015) as well as the marginalization they face once inside the legislature (Brown 2014; Erikson and Josefsson 2018; Hawkesworth 2003; Mahoney 2018). Winning election to public office does not shield female legislators from the same harassment faced by women working in the private sector. In fact, like women in other male-dominated fields, female legislators may be particularly vulnerable to such behavior (Parker 2018; Krook 2017). In describing political institutions as gendered, Sally J. Kenney argues: “Although some state legislators are part-time or unpaid, and despite the distinctive features of political institutions, courtrooms, defense departments, embassies, and statehouses are workplaces, peopled by those in pursuit of a career. . . . Gender is continually produced in the workplace rather than something existing, stable, and fully formed, prior to one’s entry into it” (1996).

Sexual harassment, a gendered practice wherein (mostly) men exploit a power imbalance over (mostly) women due to gender hierarchies, can proliferate within deeply gendered legislatures where women are marginalized from positional and informal power and where relationships are currency (Berdahl 2007a; Duerst-Lahti 2002). In fact, evidence suggests that harassment is used as a tool to put in their place those women who have transgressed that power dynamic by achieving leadership positions (Berdahl 2007b; Hawkesworth 2019; McLaughlin, Uggen, and Blackstone 2012; Rudman et al. 2012)¹ where “they may be viewed and treated in a hostile way precisely because of their manifest competence” (Manne 2017).²

While women may organize collectively to counteract this marginalization, backlash may result as a consequence of such organizing (Barnes 2016; Mahoney 2018). Globally, women’s ability to shape the legislatures in which they work has been dependent on many factors, including the proportion of women in office, structural features like quotas, and levels of backlash from their male colleagues (O’Brien and Piscopo 2018). Regardless of the role female legislators can play in changing their workplace cultures, legislative leaders are ultimately responsible for protecting citizens, staffers, lobbyists, and legislators from all forms of discrimination, including sexual harassment.

Our research questions are: What sexual harassment policies exist for those working in US state legislatures? What are the characteristics of these policies, and do they adhere to best practices? Are all workers

(lobbyists, legislators, and staff) covered by the policies and held accountable for their behavior? How are elected officials, in particular, held accountable by these policies? As political institutions, are legislatures able to adequately adjudicate this type of workplace discrimination? We provide some background information on the evolution of sexual harassment policies and prevention in general before specifically describing the prevalence of policies in the fifty US state legislatures. We report the nature of these policies and how states measure up to best practices as recommended by the National Conference of State Legislatures. Finally, we discuss how even the best practices in sexual harassment policy fall short and how legislatures as political institutions may be uniquely challenged in holding perpetrators accountable.

The Evolution of US Sexual Harassment Policy

Although sexual harassment has a long history, sexual harassment policy is a relatively new phenomenon. The Equal Employment Opportunity Commission (EEOC), under the aegis of the Civil Rights Act of 1964, first articulated a legal definition of sexual harassment in the United States in 1980. Two types of sexual harassment were broadly outlined: quid pro quo harassment and a hostile environment. Quid pro quo harassment consists of attempts to extort sexual favors through threats of negative consequences or bribes of promotion or other workplace perks. A hostile environment is a space characterized by pervasive unwanted or offensive verbal or physical conduct that makes the recipient feel unsafe or unwelcome (Fitzgerald 1993). Current EEOC statistics state that 7,609 charges of sexual harassment were filed in fiscal year 2018, a 12% increase from 2017. Further, the EEOC filed 41 sexual harassment lawsuits, a 50% increase from 2017.³

Feminist theory regards sexual harassment as a consequence of gender inequality manifesting in exertions of power that disadvantage women (MacKinnon 1979). The theory of gendered institutions would suggest that sexual harassment is not just a result of bad apples and individualized behaviors, but a consequence of the underlying structures and norms that characterize these institutions marginalizing women and placing men at the top of the hierarchy (Britton 2000; Hawkesworth 2003; Kenney 1996). In male-dominated workplaces, like legislatures, “the harasser uses sexu-

alized and nonsexualized conduct to construct the harassed woman as an outsider in the workplace—de-authorized and denigrated, in her own eyes and in the eyes of others” (Siegel 2004). Inadequate sexual harassment policies may exacerbate this gender imbalance through policy feedback mechanisms whereby policies teach people where they stand in relationship to power influencing their own political efficacy (Lay 2019). As Kenney (1996) suggests, the gendered enactment of sexual harassment within legislatures “reinscribe(s) notions of gender that lead to women’s subordination rather than liberation.”

Despite the repeated conceptual expansion of what constitutes workplace sexual harassment, legal gaps still remain. Certain categories of workers, such as those who work at small businesses with fewer than fifteen employees, employees of religious organizations, people who work for tax-exempt nonprofits, and those who work as independent contractors or freelancers are not protected under current sexual harassment law and have no legal redress for harassment (Raghu and Suriani 2017). The size of the business for which the plaintiff works also determines the amount of compensatory and punitive damages, which means that two identical victims could receive differing amounts of compensation (Raghu and Suriani 2017). Discrimination policy has increasingly fallen under the purview of the courts and the bureaucracy, not the legislature. Consequently, enforcement agencies are vulnerable to pressure from the executive branch to enforce or not certain statutes on the basis of the president’s preference (Nackenoﬀ 2019). The prominence of the courts in determining what is and is not sexual harassment and what punishments should be delivered has had other negative effects.

Sexual harassment training, which was until recently supported and promoted by the EEOC, may be ineffective and used primarily by employers as a shield against liability and damages relating to harassment litigation (Bisom-Rapp 2018). In some cases, harassment training may have backfired because courts “accept these symbolic structures as relevant evidence on whether discrimination took place” (Bisom-Rapp 2018). The 1998 Supreme Court decisions in *Burlington Industries v. Ellerth* and *Faragher v. City of Boca Raton* established that an employer is legally responsible for a supervisor who harasses his subordinates but did not clarify employer liability in hostile environment cases (Bisom-Rapp 2018). These protections were weakened by the 2013 *Vance v. Ball State University* rul-

ing that narrowed the definition of supervisor harassment to include only supervisors who have control over hiring and firing, regardless of the fact that supervisors of day-to-day work still maintain enormous power over their subordinates (Raghu and Suriani 2017). The 1999 Supreme Court case *Kolstad v. American Dental Association* ruled that employers who “engage in good-faith compliance efforts should not be assessed punitive damages,” meaning, in effect, that employers can point to their sexual harassment policies and training as proof that they have done their due diligence and therefore avoid paying a settlement (Bisom-Rapp 2018). The existence of these structures also protects employers from being sued under Title VII.

Multiple studies have found that, in addition to being used mainly as a legal shield for employers, current sexual harassment policies and anti-harassment trainings are largely ineffectual and, in some cases, counterproductive (Miller 2017; Tippett 2018a). Experimental data have shown that exposure to sexual harassment policy “activates more male-advantaged gender beliefs” (Tinkler, Li, and Mollborn 2007). Other research shows that men who identify more strongly with socialized gender roles were more tolerant of harassment and that training helped participants to identify sexual harassment but did not change their attitudes toward it (Kearney, Rochlen, and King 2004). In many cases, “the law on the books often promises more than the law in action can actually deliver” in terms of workplace sexual harassment (Marshall 2005). The gap between what is theoretically due and what actually occurs is due to: lack of employee knowledge of sexual harassment policies, supervisors discouraging complaints, institutional skepticism toward complaints, fear of reprisals, the narrow understanding of what constitutes sexual harassment, and the failure of internal grievance resolution procedures (Miller 2017; Marshall 2005).

Better methods of deterring and punishing sexual harassment have been proposed. Bystander training, wherein a third party steps in to de-escalate a situation, confront a harasser after the fact, or support the victim, has been shown to be effective. Another tactic is civility training, which facilitates a healthier work environment that values everyone’s contributions (Miller 2017). The EEOC recommends that new and different approaches to training, like these, be integrated into current anti-harassment workshops (National Sexual Violence Research Center 2017). Sexual harassment training should be individualized, interactive, and experiential

with opportunities for feedback and practice; and its importance should be explained in order to deal with differing pretraining attitudes. Once training is complete, it should be periodically maintained through refresher courses and making adherence to the training a factor in promotions. The efficacy of sexual harassment training should be measured through posttraining attitude surveys, posttraining sexual harassment knowledge surveys, peer evaluations, and sexual harassment reporting (Perry, Kulik, and Field 2009). Monroe (2019) lists goals for reforms for universities that may be applicable to other workplaces, which should: ensure due process, protect privacy, apply censure equally to all individuals, ensure punishment is proportional to the crime, clarify reporting mechanisms, make the process transparent, create a process for publishing the results of investigations, and make public who conducts the investigations and makes the decisions. These and other reforms are difficult to implement because policies reinforce power structures and create rival interest groups that, once entrenched, can be difficult to shift (Lay 2019).

Sexual Harassment Policy in the States

State legislatures form the policy-making arm of the intermediate level of American government under the federalist system. Each state except Nebraska has a bicameral legislative system consisting of a larger lower house and a smaller upper house, wherein citizens of a state elect representatives for fixed terms. Since the 1950s, many states legislatures have undergone the process of professionalization: legislators serve for multiple terms, salaries have increased, legislatures meet more frequently and for longer periods, and legislators are supported by teams of professional staff (Engel 1999). State legislatures have enormous power to influence nearly every aspect of the lives of their constituents through constitutional amendments, taxes, welfare policies, infrastructure, criminalization of actions, business policy, and occupational licenses, among other initiatives. State government in general is also a large employer in many states, meaning that, in addition to setting workplace policy, they are themselves a model of workplace norms (Norwood 2018). States vary in how they manage this employer role, with each branch of government setting its own human resources policies in many instances (Selden, Ingraham, and Jacobson 2001).

The National Conference of State Legislatures (NCSL) was established in 1975 as a nonpartisan, nongovernmental organization to “support, defend, and strengthen state legislatures” (National Conference of State Legislatures undated). The organization also publishes a journal regarding policy innovations and professional development of state legislators and their staffs. In 2017, the NCSL published guidelines for sexual harassment in state legislatures and reviewed existing laws. According to an NCSL survey conducted 2016, 37 out of 44 state legislatures polled have “formal, written personnel policy or guidance for legislative employees” regarding sexual harassment (Griffin 2017). Our work updates this data in the wake of the #MeToo movement.

We began collecting data on legislative policies by surveying state legislative websites for public postings of their policy. If none was available, we then contacted clerks for both chambers for any information. Finally, if these routes proved fruitless, we surveyed news reports of harassment in those state legislatures for the names of those staff or legislators who were involved in calling out harassment or reforming policies. Thinking they would be the most likely to respond and have access to the policies, we emailed these specific individuals in certain states to obtain policies.

For each of the 50 states, we determined whether lower and upper chambers were covered by a singular or a joint policy. We were able to obtain 50 policies covering 64 chambers in 40 states.⁴ Of the ten states with missing policies, the proportion of women ranges from 37.2% in Rhode Island to 21.5% in Oklahoma in 2019. While most of them are Republican states, Illinois and Rhode Island are not. These states do not seem to have any obvious connections as they are in all regions and all levels of professionalism. Of the 35 chambers for which we could not obtain a policy, we know that 8 of them have one, as we learned of a policy revision in those chambers through media reports. Our attempts may not have reached the right staffer and/or reflect a general unresponsiveness of bureaucracies for these states. Whatever the explanation, it is concerning that policies in these states are not available to the public, and more disturbing, of course, if they are not available to the members and legislative staffs themselves. Lack of access to a policy would prohibit victims from participating in the process to receive an appropriate response. Michigan, in particular, responded to our initial request, indicating that releasing their policy would violate the House Information Access policy, meaning that insiders have

access while members of the general public do not. While at least members have access to this policy, the general public should know the standards to which their elected officials are being held.

We also found that 45 chambers had revised their policy since 2017, when #MeToo went viral.⁵ Alabama's House, Maine, Mississippi's House, New Hampshire, and Tennessee are those that have not updated since fall of 2017.⁶ Of the states for which a revision date for the policy was available, 12 were responding to a specific incident of sexual harassment documented in the media indicating the importance of the #MeToo movement's mission to give voice to victims. Additionally, #MeToo created a political opportunity for reformers (McCammon et al. 2001). The states with revised policies ranged across percentages of women in office, indicating critical mass is not necessary for a prioritization of this issue—particularly in a charged environment.

We then read and coded these policies to determine if the chamber policy contained the recommended characteristics suggested by the NCSL. These totals can be seen in table 8.1. In total, we examined 50 policies covering 64 chambers in 40 states.⁷ These guidelines included: (1) a clear definition of sexual harassment (92% of the examined policies), (2) examples of inappropriate behaviors (76%), (3) coverage of legislators, staff, and nonemployees (77%), (4) diversity of contacts to report to (96%), (5) a clear statement prohibiting retaliation (100%), (6) a confidentiality statement (96%), (7) specific examples of potential discipline (68%), (8) the possibility of outside parties to be involved in an investigation (54%), (9) an appeals procedure (24%), and (10) a statement informing victims of their right to report to EEOC and/or the state's human rights commission (50%). Of the 50 policies, the average total score out of 10 was 7.33. Twenty-two policies were above that average while 28 fell below that. Southern states in particular fell toward the bottom of the list. Of these states, the only "above average" policy is that of the Florida Senate. The rest are below average. The South is home to the legislatures with the two lowest scores (North Carolina and Tennessee). Of the policies we had from them (10), the average score for the southern states is 6.1, which is 1.23 points below the national average.

For example, Alabama's House of Representatives specifically considers sexual harassment to consist of: "(a) Making unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of

Table 8.1 National Conference of State Legislatures' Recommended Components by State

	Clear Definition	Examples	Applicable Groups	Reporting Contacts	Prohibits Retaliation	Confidentiality Statement	Discipline Examples	Outside Investigators	Appeal Procedure	EEOC Info	Total
AK	x	x	x	x	x	x	x	x	x		9
AL	x	x	x	x	x	x					7
AZ House	x			x	x	x	x				5
AZ Senate	x	x	x	x	x	x	x	x		x	9
CA		x	x	x	x	x		x		x	7
CO	x	x	x	x	x	x	x	x		x	9
CT	x	x	x	x	x	x	x	x	x	x	10
DE	x		x	x	x	x					6
FL Senate	x	x	x	x	x	x	x	x			8
GA	x	x	x	x	x	x	x	x			7
HI House	x	x	x	x	x	x	x	x		x	9
HI Senate	x	x	x	x	x	x	x			x	8
IA Senate	x	x	x	x	x	x		x	x		9
ID	x	x	x	x	x	x	x	x			8
IN	x			x	x	x					5
KS	x		x	x	x	x	x			x	6
LA	x	x	x	x	x	x	x			x	7
MA Senate	x	x	x		x	x	x			x	7
MD	x	x	x	x	x	x	x		x		8
ME	x	x	x	x	x	x	x			x	7
MN	x	x	x	x	x	x	x	x		x	9
MO House	x	x	x	x	x	x	x	x		x	9

a sexual nature as a condition of employment or continued employment. (b) Making submissions to or rejections of the conduct the basis for administrative decisions affecting employment. (c) Creating an intimidating, hostile, or offensive working environment by the conduct.” The policy also includes examples of inappropriate behaviors like, “jokes of a sexual nature . . . leering . . . Touching a person’s body, hair, or clothing or standing too close to, brushing up against, or cornering a person” (Alabama House of Representatives 2015). But of all ten characteristics recommended by NCSL, Alabama’s House and Senate policies both contain seven in total. They lack the possibility of involving outside parties in investigations, an appeal procedure, and a statement informing victims of their ability to complain to the EEOC or the state’s Human Rights Commission.

An example of the coverage component is illustrated in Hawaii’s State Senate policy, which protects a broad range of subjects, including “members and staff members, as well as between supervisors and subordinates of the Senate, or vendors or lobbyists” (“2015–2016 Administrative and Financial Manual of the Senate” 2015). This type of coverage is important because of the various types of employees and supervisors to whom these subjects report, some outside the legislature itself. Of the forty policies that cover members and staff, ten do not extend that coverage to nonemployees, potentially leaving lobbyists, contract workers, and others exposed to discrimination.

An appeals process may be both good and bad. Having an opportunity to appeal a decision is important but may allow for less transparent retraction of accountability. The Maryland Assembly appeals process allows for a party involved in the reported incident to appeal to the appropriate presiding officer within ten days of receiving notice about resolution of the complaint if the party is not satisfied (Maryland General Assembly Department of Legislative Services 2017).

Transparency about the consequences of this behavior are critical for victims as well as for enforcement authorities. Victims need to understand what they can expect if they come forward and be able to weight that decision against the remedy that may be enforced. Having a range of options to suit the severity of the case sends the message that no level of harassment is acceptable while giving authorities flexibility in meting out an appropriate level of discipline suitable to the particulars of the case. In the

thirty-four policies which describe specific penalties, eight of them cite only termination as a potential outcome.

Very few policies include all ten recommended components. In fact, of those policies we examined, only Connecticut, Nebraska, New Jersey, New Mexico, and the New York Assembly (12%) had policies with all ten components included. Several states had policies in at least one chamber with at least nine of the components, including Alaska, Arizona Senate, Colorado, Hawaii, Iowa Senate, Minnesota, Missouri House, Montana, New York Senate, Vermont, and the Washington House. The states with policies toward the bottom (a score of five or below) include Arizona House, Delaware, Indiana, North Carolina, South Carolina, and Tennessee.⁸

We determined that the definitions (92%), diversity of contacts to report to (96%), retaliation bans (100%), and confidentiality (96%) guidelines were most likely to be included. In fact, almost all of the policies include these components. An appeals process was least likely to be included (24%). Lastly, those states with the most guidelines covered had higher levels of professionalism, with the exception of Vermont. The states with the most covered components ranged in the proportions of women in office. No southern states had policies including nine or more recommended characteristics. We caution against any generalizations from these findings, as they are incomplete and represent only a snapshot in time. It is clear from the media coverage of these institutions that these policies remain in flux in many states.

We determined that legal guidelines which protected the institution from liability were most likely to be included, while the option for outside investigators, a statement of victims' rights, and an appeals process were least likely to be included. Further, we found that most states revised their policies in 2017–18 in response to harassment scandals in their ranks, indicating that #MeToo has had an effect. Lastly, those states with the most guidelines covered were those with higher professionalism scores, suggesting that structural features are important for worker protections.

Why Legislatures' Response to Sexual Harassment Matters

#MeToo's impact on state legislatures is obvious with seventy-six legislators accused since 2017 in thirty states (Lieb 2018). Sexual harassment policies

are one response to this gender discrimination, so examining their characteristics and their ability to shape these institutions is vital to women's ability to serve in office effectively and for our own understanding of the critical ways in which gender continues to shape policymaking bodies. Having a policy in place, however, does not ensure its enforcement; and not just any policy will do. While victims emboldened by heightened attention to the issue may seize the opportunity to push for change, legislative leaders may be incentivized to ignore this problem to preserve the institution and its hierarchies. Institutions are self-protective, which benefits harassers (Lay 2019). In her examination of sexual harassment policies within universities, Lay indicates that even these minimum benchmarks for harassment policies can be problematic in intended and unintended ways.

Compliance-based systems including mandatory training may backfire, enabling sexual harassment to flourish (Chappell and Bowes-Sperry 2015; Feldblum and Lipnic 2016; O'Leary-Kelly and Bowes-Sperry 2001). For example, even when policies are in place, the way they are implemented has serious consequences not only for the individual victims but for the status of women within the institution and their own political efficacy (Lay 2019). Many scholars suggest that our contemporary approach to sexual harassment prevention is more aligned with institutional preservation than with gender equality (Bisom-Rapp 2018; Lay 2019; Raghu and Suriani 2017). Some call for a shift from a compliance-based approach to one of "inclusion, ethics, and equity" (Lay 2019). Is such change possible in legislatures? Hinckley (1983) argues that change in legislative institutions is possible through turnover in membership and when skilled leaders are motivated to act. The Associated Press reported that thirty state legislators have resigned or been removed from their posts since #MeToo went viral in 2017, and twenty-six have lost party or committee leadership positions (Lieb 2018). The dynamics of sexual harassment are such that it may deter membership turnover by discouraging female candidates, and leaders may be much less likely to enforce new norms that threaten the status quo, particularly when, as in other industries, implicated leaders are often replaced by women (Carlsen et al. 2018).

Legislatures as representative and elected bodies have their own unique challenges in dealing with this problem. Raced and gendered institutions already restrict marginalized legislators' access to power and create hostile environments and hierarchies wherein harassers may hold the power of

committee and leadership appointments, party resources for reelection, and the ability to recruit primary challengers (Hawkesworth 2019). Even legislative leaders who do not engage in harassment may be incentivized to ignore or retaliate against accusers to protect political allies or in a misguided attempt to protect the institution. For example, Former Vice President Joe Biden has been criticized for his handling of the Clarence Thomas nomination hearings which he defended as necessary to uphold the norms and values of the Senate (Dionne, Washington Post 1992).

Another feature of legislatures complicating accountability is the diversity of workers within statehouses. Lobbyists, staff, and interns whose jobs depend on their ability to please legislators may be particularly vulnerable. Relationships are currency in legislatures, making power differentials and harassment particularly salient for those negotiating policy concessions in environments where quid-pro-quo harassment is rife. For those organizations or issues predominately advocated for by women, material policy implications may result.

Similarly, political campaigns are unique workplaces with volunteers, paid staff, and candidates all working in high-pressure, time-limited conditions, sometimes without clear organizational hierarchies or human-resources procedures. On-the-job training varies from campaign to campaign, resulting in varying levels of professionalism. Even with strict rules governing separation between legislative staff time and tasks and campaign staff time and tasks, it is likely that spillage may occur with informal norms of the campaign potentially encroaching upon the legislative office.

Legislators currently hold themselves accountable for a range of behaviors through self-regulation in ethics committees. The NCSL guidelines recommend the possibility of outside investigators indicating that these bodies may be unable to police themselves and that the traditional mechanisms for norm enforcement may not be enough in some cases. How likely are legislators to be capable of self-monitoring when it comes to sexual harassment?

State legislatures must get this right. In the first place, they make the law for the rest of the state's employers, and their ability to establish useful and accountable processes indicates their capacity to regulate others. If they do not understand the intricacies of sexual harassment in their own workplace, they are unlikely to be able to adequately set standards through state law. They are also an example to other employers not only by the

processes they put in place for themselves but by the message their adherence to and prioritizing of their response sends to businesses throughout their state. If legislators are able to clean up their own houses, they indicate to all employers the seriousness of sexual harassment as a form of sex discrimination.

Finally, legislatures' responses to this issue also send a message to potential candidates. With women's representation in state legislatures hovering at 29%, these institutions must communicate that they are welcoming places to work. Women remain reluctant to run for office for many reasons, including the impact it would have on their families, the burden of fundraising, and feeling unqualified to do the job (Carroll and Sanbonmatsu 2013; Elder 2008). Hostile working conditions are one obstacle to women's candidacy that legislatures can do something about directly. In 2016, the National Democratic Institute launched the #NotTheCost campaign to raise awareness about the violence waged globally against women who participate in politics as either activists, candidates, or elected officials. The campaign's title challenges the claim that politically active women must accept violence or harassment as a consequence of their engagement with politics (National Democratic Institute 2019). Female state legislators are likewise entitled to run and serve in office without threat of harassment. Staffers and lobbyists, too, need not endure harassment as a part of the job.

In October 2017, Arizona State Representative Michelle Ugenti-Rita went public with accusations of sexual harassment against several of her male colleagues in the Arizona state legislature. She declined to name said colleagues, but her accusations were serious enough to prompt policy change. The following month, the Arizona House implemented its first anti-sexual harassment policy, which includes the provision of mandatory ethics training for all members and staffers. Though a step in the right direction, that policy was not enough. By November 2017, additional claims of sexual harassment in the Arizona statehouse led to the opening of a formal investigation into the matter. Three months later, in February 2018, the probe concluded that state Rep. Don Shooter had sexually harassed at least nine women during his time in office. One of his accusers was revealed to be state Rep. Michelle Ugenti-Rita. In a decidedly affirmative vote, members of the Arizona House decided to have Shooter immediately

expelled from the legislature on grounds of “dishonorable behavior” (Leingang 2018).

By coming forward, Rep. Ugenti-Rita created a space for more victims to make complaints, which led to Rep. Shooter’s ousting. #MeToo as a public calling-out of unacceptable behavior has been characterized as transformative empathy (Rodino-Colocinco 2018), and Burke’s intention at the origin of #MeToo was empowerment of victims. But the movement clearly also has legal and policy implications. As the movement grows, and details about the pervasiveness and long-lasting effects of harassment become widely acknowledged, legal scholar Elizabeth Tippet (2018b) suggests that interpretations which now favor employers may be revisited—in particular, what kind of behavior counts as severe and pervasive and what responses by employers seem reasonable. She also argues that, with the dismissal of a few high-profile harassers, the expectation of appropriate penalties will also expand. As more people come forward and penalties are enforced, the norms around what is acceptable can evolve. Removal is only one important penalty. Hersch (2018) argues that the federal cap on damages for workplace harassment disincentivizes prevention and that increasing the allowable amount is critical to motivate employers to eradicate this type of behavior. Knowing that clear, consistently enforced accountability increases a victim’s likelihood to report, it is clear that the consistent application of strong and varied penalties is critical to any state legislative policy.

This Arizona example points to the need for legislatures to stay vigilant and to constantly reassess their policies and their effectiveness. Symbolic compliance (Dobbin and Kelly 2007) is not enough to eradicate discrimination and project an image of legitimacy and welcome to candidates and constituents. California, for example, has dedicated \$1.5 million to tracking sexual harassment in their state government and implementing new trainings for employees, despite being a year behind schedule (Ventecher 2019). Perhaps a more radical approach is necessary to eradicate this kind of behavior from society, and such proposals are unlikely to emerge from conservative state government. However, as employers, state legislatures are obligated to provide workplaces free from discrimination. The consequences of not doing so expand beyond the borders of the institution. Being able to recruit women for state legislative office and enabling

them to serve at their full potential has implications for policy and gender relations more broadly, meaning that addressing the scourge of sexual harassment inside these institutions is essential not just for women serving in office but for all of us.

Notes

1. Håkansson (2019) finds that, as women move to higher office, their experiences of harassment increase.

2. Scholars have found that female legislators are more competent than their male colleagues in a number of areas (Murray 2014; Anzia and Berry 2011; Volden, Wiseman, and Wittmer 2013).

3. Cortina and Berdahl (2008) find that less than 25% of victims choose to report their harassment to their employer or other authorities.

4. We were unable to obtain policies for the following chambers or verify that they had them through news reports of their revision: Arkansas House and Senate, Florida House, Illinois House, Kentucky Senate, Michigan House and Senate, Missouri Senate, Ohio Senate, Oklahoma House and Senate, Pennsylvania House, Rhode Island Senate, South Carolina Senate, Texas Senate, Virginia House and Senate, and West Virginia Senate. Of the ten states' chambers whose policies we could not obtain, we know the following have them as we were able to determine that they updated their policies through media reports: Illinois Senate, Iowa House, Kentucky House, Massachusetts House, Ohio House, Pennsylvania Senate, Rhode Island House, and Texas House.

5. This corroborates the Associated Press, which reported that about half of the states have updated since #MeToo (Lieb 2018).

6. Alabama's Senate revised their policy in March 2018. Maine had updated its policy, which covers both chambers, in December of 2016. Mississippi's House updated in January 2013, but its Senate has refused to adopt a policy at all. New Hampshire and Tennessee updated their policies in 2016. We have included in this total the policies we know have been revised, but which we could not access for analysis. These chambers include the Illinois Senate, Iowa House, Kentucky House, Massachusetts House, Ohio House, Pennsylvania Senate, Rhode Island House, and Texas House.

7. We did not obtain any policies for the following states: Arkansas, Illinois, Kentucky, Michigan, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, and Virginia. Michigan's House business director responded that providing the policy would violate the House Information Access policy.

8. We are unable to explain why the chambers in Arizona would be so widely different, although in our analysis this is the only state with such a large discrepancy.

References

"2015–2016 Administrative and Financial Manual of the Senate." 2015. State of Hawaii. January 21. www.capitol.hawaii.gov/docs/AdminManual.pdf (accessed August 1, 2019).

- Alabama House of Representatives. 2015. "Policy Against Sexual Harassment." March 18. www.legislature.state.al.us/aliswww/house/ALHouse_SexualHarassmentPolicy.pdf (accessed August 1, 2019).
- Anzia, Sarah F., and Christopher R. Berry. 2011. "The Jackie (and Jill) Robinson Effect: Why Do Congresswomen Outperform Congressmen?" *American Journal of Political Science* 55 (3): 478–93.
- Associated Press. 2018. "Sexual Misconduct Claims in State Legislatures since 2017." AP News, August 26. apnews.com/2ed7d1ofcea14efdaf5b668cdblbe450fi.
- Barnes, Tiffany. 2016. *Gendering Legislative Behavior: Institutional Constraints and Collaboration*. New York: Cambridge University Press.
- Bauer, Nichole M. 2015. "Emotional, Sensitive, and Unfit for Office? Gender Stereotype Activation and Support Female Candidates." *Political Psychology* 36 (6): 691–708.
- Berdahl, Jennifer L. 2007a. "Harassment Based on Sex: Protecting Social Status in the Context of Gender Hierarchy." *Academy of Management Review* 32 (2): 641–58.
- . 2007b. "The Sexual Harassment of Uppity Women." PSYCEXTRA Dataset.
- Bisom-Rapp, Susan. 2018. "Sex Harassment Training Must Change: The Case for Legal Incentives for Transformative Education and Prevention." *Stanford Law Review Online* 71: 60.
- Britton, Dana M. 2000. "The Epistemology of the Gendered Organization." *Gender & Society* 14 (3): 418–34.
- Brown, Nadia E. 2014. *Sisters in the Statehouse: Black Women and Legislative Decision Making*. New York: Oxford University Press.
- Carlsen, Audrey, Maya Salam, Claire Cain Miller, Denise Lu, Ash Ngu, Jugal K. Patel, and Zach Wichter. 2018. "#MeToo Brought Down 201 Powerful Men. Nearly Half of Their Replacements Are Women." *New York Times*. October 23. www.nytimes.com/interactive/2018/10/23/us/metoo-replacements.html (accessed June 15, 2019).
- Carroll, Susan J., and Kira Sanbonmatsu. 2013. *More Women Can Run: Gender and Pathways to the State Legislatures*. New York: Oxford University Press.
- Carroll, Susan J., and Richard L. Fox, eds. 2012. *Gender and Elections: Shaping the Future of American Politics*. New York: Cambridge University Press.
- Chappell, Stacie F., and Lynn Bowes-Sperry. 2015. "Improving Organizational Responses to Sexual Harassment Using the Giving Voice to Values Approach." *Organization Management Journal* 12 (4): 236–48.
- Cortina, Lilia M., and Jennifer L. Berdahl. 2008. "Sexual Harassment in Organizations: A Decade of Research in Review." *Handbook of Organizational Behavior* 1: 469–97.
- Dionne, E. J. 1992. "On Once and Future Supreme Court Nominations." *Washington Post*. June 19. www.washingtonpost.com/archive/politics/1992/06/19/on

- once-and-future-supreme-court-nominations/e725894a-99ed-4efa-bf22-180c4dfef1eea/ (accessed June 15, 2019).
- Ditonto, Tessa. 2017. "A High Bar or a Double Standard? Gender, Competence, and Information in Political Campaigns." *Political Behavior* 39 (2): 301–25.
- Dittmar, Kelly. 2015. *Navigating Gendered Terrain: Stereotypes and Strategy in Political Campaigns*. Philadelphia: Temple University Press.
- Dobbin, Frank, and Erin L. Kelly. 2007. "How to Stop Harassment: Professional Construction of Legal Compliance in Organizations." *American Journal of Sociology* 112 (4): 1203–43.
- Duerst-Lahti, Georgia. 2002. "Governing Institutions, Ideologies, and Gender: Toward the Possibility of Equal Political Representation." *Sex Roles* 47 (7–8): 371–88.
- Elder, Laurel. 2008. "Whither Republican Women: The Growing Partisan Gap among Women in Congress." *The Forum* 6 (1).
- Engel, Michael. 1999. *State and Local Government: Fundamentals and Perspectives*. New York: P. Lang.
- Erikson, Josefina, and Cecilia Josefsson. 2018. "The Legislature as a Gendered Workplace: Exploring Members of Parliament's Experiences of Working in the Swedish Parliament." *International Political Science Review* 40 (2): 197–214.
- Feldblum, Chai, and Victoria Lipnic. 2016. "Select Task Force on the Study of Harassment in the Workplace (Full Report)." Equal Employment Opportunity Commission. [nvcv.dspacedirect.org/handle/20.500.11990/620](https://www.eeoc.gov/eeoc/foia/2016-0011990/620).
- Fitzgerald, Louise F. 1993. "Sexual Harassment: Violence against Women in the Workplace." *American Psychologist* 48 (10): 1070–76.
- Garcia, Sandra E. 2017. "The Woman Who Created #MeToo Long Before Hashtags." *New York Times*, October 20.
- Griffin, Jonathan. 2017. "Sexual Harassment Policies and Training in State Legislatures." *National Conference of State Legislatures* 25 (26) (2017): 1–2. www.ncsl.org/research/about-state-legislatures/sexual-harassment-policies-and-training-in-state-legislatures.aspx (accessed March 24, 2019).
- Håkansson, Sandra. 2019. "Do Women Pay a Higher Price for Power? Gender Bias in Political Violence in Sweden." European Conference on Politics and Gender, Amsterdam. June.
- Harris, Aisha. 2018. "She Created MeToo. Now She Wants to Move Past the Trauma." *New York Times*, October 15, 2018.
- Hawkesworth, Mary. 2003. "Congressional Enactments of Race-Gender: Toward a Theory of Raced-Gendered Institutions." *American Political Science Review* 97 (4): 529–50.
- . 2019. "Visibility Politics: Theorizing Racialized Gendering, Homosociality, and the Feminicidal State." *Signs: Journal of Women in Culture & Society* 45 (2): 311–19.

- Hersch, Joni. 2018. "Valuing the Risk of Workplace Sexual Harassment." *Journal of Risk and Uncertainty* 57 (2): 111–31.
- Hinckley, Barbara. 1983. *Stability and Change in Congress*. 3rd ed. Harper & Row.
- Kearney, Lisa K., Aaron B. Rochlen, and Eden B. King. 2004. "Male Gender Role Conflict, Sexual Harassment Tolerance, and the Efficacy of a Psychoeducative Training Program." *Psychology of Men & Masculinity* 5 (1): 72–82.
- Kenney, Sally J. 1996. "New Research on Gendered Political Institutions." *Political Research Quarterly* 49 (2): 445–66.
- Krook, Mona Lena. 2017. "Violence against Women in Politics." *Journal of Democracy* 28 (1): 74–88.
- Lay, J. Celeste. 2019. "Policy Learning and Transformational Change: University Policies on Sexual Harassment." *Journal of Women, Politics, and Policy* 40 (1): 156–65.
- Leingang, Rachel. 2018. "Rep. Shooter Sexually Harassed Women, Created Hostile Work Environment, Investigator Finds." *Arizona Capitol Times*. Blog. January 30, azcapitoltimes.com/news/2018/01/30/arizona-don-shooter-sexually-harassed-women-hostile-work-environment/.
- Lieb, David. 2018. "Half of States Act as #MeToo Sexual Harassment Claims Mount." Associated Press. August 26. www.apnews.com/83caf61841a84db3bbd85648bce8fec5.
- MacKinnon, Catharine A. 1979. *Sexual Harassment of Working Women: A Case of Sex Discrimination*. New Haven, CT: Yale University Press.
- Mahoney, Anna. 2018. *Women Take Their Place in State Legislatures: The Creation of Women's Caucuses*. Philadelphia: Temple University Press.
- Manne, Kate. 2017. *Down Girl: The Logic of Misogyny*. New York: Oxford University Press.
- Marshall, Anna-Maria. 2005. "Idle Rights: Employees' Rights Consciousness and the Construction of Sexual Harassment Policies." *Law & Society Review* 39 (1): 83–123.
- Maryland General Assembly Department of Legislative Services. 2017. December 12. dbm.maryland.gov/eo/Documents/SexHarrassPolicy.pdf.
- McCammon, Holly J., Karen E. Campbell, Ellen M. Granberg, and Christine Mowery. 2001. "How Movements Win: Gendered Opportunity Structures and US Women's Suffrage Movements, 1866 to 1919." *American Sociological Review* 66 (1): 49.
- McLaughlin, Heather, Christopher Uggen, and Amy Blackstone. 2012. "Sexual Harassment, Workplace Authority, and the Paradox of Power." *American Sociological Review* 77 (4): 625–47.
- Miller, Claire Cain. 2017. "Sexual Harassment Training Doesn't Work. But Some Things Do." *New York Times*. December 11. www.nytimes.com/2017/12/11/upshot/sexual-harassment-workplace-prevention-effective.html?_r=0 (accessed June 15, 2019).

- Monroe, Kristen Renwick. 2019. "Ending Sexual Harassment: Protecting the Progress of #MeToo." *Journal of Women, Politics, and Policy* 40 (1): 131–47.
- Murray, Rainbow. 2014. "Quotas for Men: Reframing Gender Quotas as a Means of Improving Representation for All." *American Political Science Review* 108 (3): 520–32.
- Nackenoff, Carol. 2019. "Sexual Harassment Trajectories: Limits of (Current) Law and of the Administrative State." *Journal of Women, Politics, and Policy* 40 (1): 21–41.
- National Conference of State Legislatures. Undated. "About Us." www.ncsl.org/aboutus.aspx (accessed May 7, 2019).
- National Democratic Institute. 2019. www.ndi.org/not-the-cost (accessed August 1, 2019).
- National Sexual Violence Resource Center. 2017. "Key Findings of the Select Task Force on the Study of Harassment in the Workplace." www.ncsl.org/Portals/1/Documents/About_State_Legislatures/Harassment_in_the_Workplace_Task_Force_32048.pdf (accessed March 26, 2019).
- Norwood, Candice. 2018. "Does #MeToo Matter? Of 19 State Candidates Facing Accusations, Only 2 Lost." November 7. *Governing Magazine*. www.governing.com/topics/politics/gov-sexual-misconduct-lawmakers-midterms-2018.html (accessed August 1, 2019).
- O'Brien, Diana Z., and Jennifer M. Piscopo. 2018. "The Impact of Women in Parliament." In *The Palgrave Handbook of Women's Political Rights*, ed. Susan Franceschet, Mona Lena Krook, and Netina Tan, 53–72. London: Palgrave Macmillan.
- O'Leary-Kelly, Anne M., and Lynn Bowes-Sperry. 2001. "Sexual Harassment as Unethical Behavior: The Role of Moral Intensity." *Human Resource Management Review* 11 (1–2): 73–92.
- Parker, Kim. 2018. "Women in Majority-Male Workplaces Report Higher Rates of Gender Discrimination." Pew Research Center.
- Perry, Elissa L., Carol T. Kulik, and Marina P. Field. 2009. "Sexual Harassment Training: Recommendations to Address Gaps Between the Practitioner and Research Literatures." *Human Resource Management* 48 (5): 817–37.
- Raghu, Maya, and Joanna Suriani. 2017. "#Metoowhatnext: Strengthening Workplace Sexual Harassment Protections and Accountability." *National Women's Law Center*. nnedv.org/mdocs-posts/metoowhatnext-strengthening-workplace-sexual-harassment-protections-and-accountability-large-print/ (accessed March 24, 2019).
- Rodino-Colocino, Michelle. 2018. "Me too, #MeToo: Countering Cruelty with Empathy." *Communication and Critical/Cultural Studies* 15 (1): 96–100.
- Rudman, Laurie A., Corinne A. Moss-Racusin, Julie E. Phelan, and Sanne Nauts. 2012. "Status Incongruity and Backlash Effects: Defending the Gender Hier-

- archy Motivates Prejudice against Female Leaders." *Journal of Experimental Social Psychology* 48 (1): 165–79.
- Selden, S. C., P. W. Ingraham, and W. Jacobson. 2001. "Human Resource Practices in State Government: Findings from a National Survey." *Public Administration Review* 61: 598–607.
- Siegel, Reva B. 2004. "Introduction: A Short History of Sexual Harassment." In *Directions in Sexual Harassment Law*, ed. Catharine A. MacKinnon and Reva B. Siegel. New Haven, CT: Yale University Press.
- Tinkler, Justine Eatenson, Yan E. Li, and Stefanie Mollborn. 2007. "Can Legal Interventions Change Beliefs? The Effect of Exposure to Sexual Harassment Policy on Men's Gender Beliefs." *Social Psychology Quarterly* 70 (4): 480–94.
- Tippett, Elizabeth C. 2018a. "Harassment Trainings: A Content Analysis." *Berkeley Journal of Employment and Labor Law* 39: 481.
- . 2018b. "The Legal Implications of the MeToo Movement." *Minnesota Law Review* 103: 229.
- Volden, Craig, Alan E. Wiseman, and Dana E. Wittmer. 2013. "When Are Women More Effective Lawmakers than Men?" *American Journal of Political Science* 57 (2): 326–41.
- Wing, Nick. May 21, 2013. "State GOP Staffer: I Was Fired after Reporting Sexual Harassment." *Huffington Post*. www.huffpost.com/entry/kirsten-anderson-iowa_n_3314259 (accessed June 15, 2019).