
ON THE BASIS OF SEX: THE RELATIONSHIP BETWEEN
AMERICAN PATRIARCHAL IDEOLOGIES AND SEXUAL
HARASSMENT AGAINST WOMEN IN TRADITIONALLY
MALE-DOMINATED BLUE-COLLAR WORKPLACES

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We do not believe that a woman who chooses to work in the male-dominated trades relinquishes her right to be free from sexual harassment; indeed, we find this reasoning to be illogical, because it means that the more hostile the environment, and the more prevalent the sexism, the more difficult it is for a Title VII plaintiff to prove that sex-based conduct is sufficiently severe or pervasive to constitute a hostile work environment. Surely women working in the trades do not deserve less protection from the law than women working in the courthouse.¹

I. INTRODUCTION

Title VII of the Civil Rights Act of 1964 was signed into law on July 2, 1964,² and in it is a provision that bans employment discrimination on, among other things, the basis of sex.³ While Title VII is rightfully viewed as a victory for women in their fight toward equality, the addition of the term “sex” to Title VII of the Civil Rights Act of 1964 was proffered by “an eighty-year-old segregationist congressman named Howard Smith” in an effort, as many believe, “to try to sink the Civil Rights Act.”⁴ When Smith, a Southern Democrat and “an avowed enemy of civil rights,” suggested his amendment to the House of Representatives on February 8, 1964, the “virtually all-male audience” in the House Chambers erupted into laughter, and sexist remarks were muttered amongst the crowd.⁵ In an effort to silence the men and seriously advocate for the inclusion of the term “sex” to Title VII, several of the twelve female representatives in the House at that time addressed the body of legislators, to which they were met with more laughter from the men.⁶ It wasn’t until Martha Griffiths, a congresswoman from Michigan, addressed the male representatives that they stopped and listened.⁷ “I presume that if there had been any necessity to point out that women were a second-class sex, the laughter would have proved it[.]” remarked Griffiths.⁸ After several hours of debate, the

¹ *Williams v. Gen. Motors Corp.*, 187 F.3d 553, 564 (6th Cir. 1999).

² See, e.g., *Civil Rights Act*, ENCYC. BRITANNICA, <https://www.britannica.com/event/Civil-Rights-Act-United-States-1964> (last updated June 8, 2021).

³ 42 U.S.C. § 2000e-2(a).

⁴ GILLIAN THOMAS, *BECAUSE OF SEX* 1–2 (2016).

⁵ *Id.*

⁶ See *id.*; see also Sheryl James, *Civil Rights, Women’s Rights*, L. QUADRANGLE: FEATURES, <https://quadrangle.law.umich.edu/fall2014/features/civil-rights-womens-rights/> (last visited Sept. 7, 2021).

⁷ THOMAS, *supra* note 4, at 1.

⁸ James, *supra* note 6.

amendment passed the House of Representatives by a vote of 168 to 133, and from the House gallery, women cheered.⁹

While Title VII was a huge victory for working women, the fact of the matter is that women are still the minority in the American workforce, with only 47% of the American workforce being comprised of women as of 2020.¹⁰ Further, 56.2% of the female population in the United States participate in the labor force, compared to 67.7% of the male population.¹¹ However, in traditionally male-dominated industries, the number of female participants is much, much lower.¹² Nontraditional occupations for women are defined as those “in which women make up [twenty-five] percent or less of the total number of workers in that occupation.”¹³ Occupations that are the most disproportionately male-dominated are those in blue-collar industries,¹⁴ such as construction, manufacturing, law enforcement, military, agriculture, and transportation.¹⁵ In fact, women make up less than 6% of the workforce in occupations like construction laborers, carpenters, machinists, firefighters, truck drivers, automotive mechanics, general maintenance workers, and electricians, to name a few.¹⁶ While there are a myriad of issues faced by women employed in male-dominated blue-collar industries, sexual harassment is the most significant.¹⁷ A 2017 Pew Research Center study revealed that, of the 18%

⁹ THOMAS, *supra* note 4, at 2.

¹⁰ See, e.g., U.S. BUREAU OF LAB. STAT., LABOR FORCE STATISTICS FROM THE CURRENT POPULATION SURVEY, EMPLOYMENT STATUS OF THE CIVILIAN NONINSTITUTIONAL POPULATION BY AGE, SEX, AND RACE (2020), <https://www.bls.gov/cps/cpsaat03.htm> (last updated Jan. 22, 2021).

¹¹ *Id.*

¹² *Women in Male-Dominated Industries and Occupations (Quick Take)*, CATALYST (Feb. 5, 2020), <https://www.catalyst.org/research/women-in-male-dominated-industries-and-occupations/>.

¹³ 29 U.S.C. § 2508(2).

¹⁴ Kim Parker, *Women in Majority-Male Workplaces Report Higher Rates of Gender Discrimination*, PEW RSCH. CTR. (Mar. 7, 2018), <https://www.pewresearch.org/fact-tank/2018/03/07/women-in-majority-male-workplaces-report-higher-rates-of-gender-discrimination/>.

¹⁵ Alieza Durana et al., *Sexual Harassment: A Severe and Pervasive Problem*, NEW AM. 27–28, https://d1y8sb8igg2f8e.cloudfront.net/documents/Sexual_Harassment_A_Severe_and_Pervasive_Problem_2018-10-10_190248.pdf (last updated Oct. 10, 2018).

¹⁶ See, e.g., WOMEN’S BUREAU, U.S. DEP’T OF LAB., OCCUPATIONS WITH THE SMALLEST SHARE OF WOMEN WORKERS (2019), <https://www.dol.gov/agencies/wb/data/occupations/occupations-smallest-share-women-workers>.

¹⁷ Durana et al., *supra* note 15, at 14–15.

of women in the study working in male-dominated fields, 62% reported that sexual harassment was a problem in their respective industries, 49% reported that sexual harassment was a problem in their individual workplaces, and 28% had personally experienced sexual harassment at work.¹⁸

There are several factors which may explain the prevalence of sexual harassment in male-dominated blue-collar workplaces. First, in male-dominated workplaces, women are often isolated and “made to feel unwelcome.”¹⁹ Next, “locker room environment” and “macho culture” are often phrases used to describe typical male-dominated workplaces,²⁰ meaning profanity and sexual humor are commonplace.²¹ Finally, women frequently face “stereotypes of [a woman’s] place, capacity[,] and work” by their male counterparts in traditionally male-dominated industries, making them likely targets of sexual harassment.²²

This Note argues that there is a link between American patriarchal ideologies and the prevalence of sexual harassment against women working in traditionally male-dominated blue-collar occupations. Part II of this Note will expand on the patriarchy, specifically discussing how traditional gender roles and hegemonic masculinity work to perpetuate patriarchal ideologies in modern American society. Part III will explore American sexual harassment jurisprudence under Title VII of the Civil Rights Act of 1964, as well as the patriarchal undertones of each case. Specifically, Part III will analyze the pinnacle workplace sexual harassment case, *Meritor Savings Bank v. Vinson*, and how the Supreme Court and federal circuit courts have applied *Meritor* to blue-collar contexts.²³ Part IV will analyze the relationship between the patriarchal ideologies discussed in Part II and the sexual harassment cases discussed

¹⁸ Parker, *supra* note 14.

¹⁹ Lauren Sugerman, #MeToo in Traditionally Male-Dominated Occupations, CHI. WOMEN TRADES: NAT’L CTR. FOR WOMEN’S EQUITY APPRENTICESHIP & EMP. 2, http://womensequitycenter.org/wp-content/uploads/2017/10/Sexual-Harassment-Best-Practice_Revision2.pdf (last visited Sept. 7, 2021).

²⁰ *Id.*

²¹ Jill Maxwell, *Unifying Title VII and Labor Law to Expand Working Class Women’s Access to Non-Traditional Occupations*, 11 GEO. J. GENDER & L. 681, 689 (2010).

²² Sugerman, *supra* note 19.

²³ See, e.g., Rebecca K. Lee, *Pink, White, and Blue: Class Assumptions in the Judicial Interpretations of Title VII Hostile Environment Sex Harassment*, 70 BROOK. L. REV. 677, 680–84, 696–98 (2005).

in Part III. Finally, Part V will discuss the secondary consequences of workplace sexual harassment that impact blue-collar female workers.

II. THE HISTORY OF THE AMERICAN PATRIARCHY

A. *The Interplay Between Traditional Gender Roles, Hegemonic Masculinity, and the Perpetuation of the American Patriarchy*

Patriarchy can be defined as “[a] social or political system in which men govern.”²⁴ Patriarchal societies are, unsurprisingly, largely male-centered and male-dominated, which leads to societies valuing masculinity over femininity.²⁵ In fact, feminine traits are so devalued in patriarchal societies that feminine traits are used to define masculinity in the sense that masculinity is everything that femininity is not.²⁶ Essentially, “[m]en are men to the extent they are not women”²⁷ For example, masculinity tends to encompass certain traits that femininity does not, such as aggression, lack of emotion, strength, invulnerability, dominance, and ambition.²⁸ Conversely, femininity tends to encompass traits such as vulnerability, submissiveness, pliancy, emotionality, and dependency.²⁹ Consequently, patriarchal societies rely upon these masculine and feminine traits to establish gender roles that facilitate “male dominance and female subordination.”³⁰ Thus, women are viewed “as beings suited to fulfill male needs.”³¹ Women in patriarchal societies are expected to stroke male egos and provide nurturance so that men may attain more power and higher statuses within society, while also bearing the brunt of male aggression and rage in the event that men fail to succeed.³² Because patriarchal societies view women as subservient to men, it is unsurprising that women in patriarchal societies are seen as sexual objects, meaning “women’s sexuality exists to please men.”³³

²⁴ *Patriarchy*, BLACK’S LAW DICTIONARY (5th ed. 2016).

²⁵ Mary Becker, *Patriarchy and Inequality: Towards a Substantive Feminism*, 1999 U. CHI. LEGAL F. 21, 24–25.

²⁶ *See id.* at 27.

²⁷ *Id.*

²⁸ *See id.*; *see also* Jane L. Dolkart, *Hostile Environment Harassment: Equality, Objectivity, and the Shaping of Legal Standards*, 43 EMORY L.J. 151, 178 (1994).

²⁹ *See* Becker, *supra* note 25, at 27; *see also* Dolkart, *supra* note 28, at 178.

³⁰ Dolkart, *supra* note 28, at 178.

³¹ Becker, *supra* note 25, at 25.

³² *See id.* at 27.

³³ *Id.* at 28.

However, sexual harassment against women is not entirely attributable to pure male sexual desire; rather, sexual harassment against women in patriarchal societies serves as a way for men to put women down, reinforce male dominance over women, and reaffirm their masculinity.³⁴ In essence, sexual harassment is a manifestation of gender stereotypes, and “must be evaluated against the subordinate social role status and continued devaluation of women in society.”³⁵ Harassers aim to “shore up masculine workplace superiority, not to secure sexual gratification.”³⁶

It is no surprise that women working in traditionally male-dominated settings are more at-risk of experiencing sexual harassment in the workplace because women in male-dominated sectors “pose a threat to the masculine composition and image of the men’s jobs and to their sense of manhood.”³⁷ Traditionally male-dominated occupations epitomize gender stereotypes, promote patriarchal ideologies, and perpetuate hegemonic masculinity, as being a breadwinner, participating in the labor market by working in a “traditionally male job,” and possessing workplace superiority over women “are all central to mainstream masculinity.”³⁸

Hegemonic masculinity can be defined as “the configuration of gender practice which embodies the currently accepted answer to the problem of the legitimacy of the patriarchy, which guarantees (or is taken to guarantee) the dominant position of men and the subordination of women.”³⁹ The cornerstone of hegemonic masculinity is power, which can be achieved through sex segregation. Sex segregation consists of the rejection of femininity, the practice of heterosexuality, and the exertion of physical aggression by men.⁴⁰ The practice of sex segregation is one way

³⁴ See *id.* at 26–28.

³⁵ Dolkart, *supra* note 28, at 224.

³⁶ Vicki Schultz, *Reconceptualizing Sexual Harassment, Again*, 128 YALE L.J.F. 22, 34 (2018).

³⁷ *Id.* at 45; see Dana Kabat-Farr & Lilia M. Cortina, *Sex-Based Harassment in Employment: New Insights into Gender and Context*, 38 L. & HUM. BEHAV. 58, 68 (2014) (“For example, when comparing a woman who works in a gender-balanced workgroup to a woman who works with almost all men, we find that the latter woman is 1.68 times as likely to encounter [gender harassment].”).

³⁸ Schultz, *supra* note 36, at 45.

³⁹ R.W. CONNELL, *MASCULINITIES* 77 (2d ed. 2005).

⁴⁰ David S. Cohen, *Keeping Men “Men” and Women Down: Sex Segregation, Anti-Essentialism, and Masculinity*, 33 HARV. J.L. & GENDER 509, 522 (2010).

in which hegemonic masculinity manifests in patriarchal, male-dominated societies.⁴¹

B. Sex Segregation as an Example of Achieving and Perpetuating Hegemonic Masculinity

First, sex segregation serves as a way for men to reject femininity by “protecting important segments of public life for men” and only men.⁴² Because the crux of masculinity is anti-femininity, the practice of sex segregation allows men to differentiate between activities or conduct that are feminine and those that are not.⁴³ An example of sex-segregation in this sense can be seen in the formerly sex-segregated United States military.⁴⁴ Until recently,⁴⁵ combat roles were reserved for men, and women were explicitly excluded from serving in the United States military in such roles.⁴⁶ When Congress contemplated permitting women to serve in combat roles, the response by men centered around the impact that allowing women in combat roles would have on the masculinity of men in combat.⁴⁷ A sergeant in the Special Operations division of their respective military branch testified before Congress that “the warrior mentality [would] crumble if women [were] placed in combat positions There needs to be that belief that ‘I can do this because nobody else can.’”⁴⁸ A female pilot in the Air Force also testified that a male pilot told her that he “can handle anything, but [he] can’t handle being worse than [her].”⁴⁹ In essence, the underlying purpose for keeping women out of combat positions in the United States military was to preserve the masculinity of men in combat positions;⁵⁰ in fact, the idea that combat positions were inherently masculine was premised on the belief that such positions were

⁴¹ See *id.* at 525.

⁴² *Id.* at 527.

⁴³ *Id.* at 526 (“[T]he dominant social notion of being masculine means ‘doing things that cannot and should not be done by women.’”).

⁴⁴ *Id.* at 527.

⁴⁵ Emma Moore, *Women in Combat: Five-Year Status Update*, CTR. FOR NEW AM. SEC. (Mar. 31, 2020), <https://www.cnas.org/publications/commentary/women-in-combat-five-year-status-update> (explaining the progress made with respect to integrating women into combat positions since the law banning women in combat positions was lifted in 2015, and the United States military began involving women in combat positions in early 2016).

⁴⁶ See Cohen, *supra* note 40, at 527.

⁴⁷ See *id.* at 527–28.

⁴⁸ *Id.* at 528.

⁴⁹ *Id.*

⁵⁰ See *id.*

valuable because women were incapable of fulfilling those roles.⁵¹ Performing a job that is considered unfeminine and unable to be performed by women is essential to “what it means to be a man”⁵² In the workplace context, sex segregation occurs in the form of workplace hierarchies where women are typically subordinate to men.⁵³ Men in positions of authority over women reinforce traditional masculinity by asserting power over women in the workplace.⁵⁴ In blue-collar industries, “women are rarely in charge” because there are so few women employed in those industries.⁵⁵ Even in female-dominated industries like nursing and teaching, those in positions of authority, such as doctors and principals, are most frequently men.⁵⁶

Second, heterosexuality is an important aspect of sex segregation and hegemonic masculinity as a whole because homophobia is synonymous with sexism.⁵⁷ In patriarchal societies, the practice of heterosexuality conflates homophobia with sexual dominance over women out of fear that, if men do not outwardly practice heterosexuality, “they will be perceived as gay by other men and thus ‘not a real man’”⁵⁸ Additionally, heterosexuality “keep[s] women sexually for men and men sexually inviolable.”⁵⁹ As such, sex segregation is a result of heterosexuality because heterosexual men seek out women for sex as a manner of asserting dominance and displaying masculinity.⁶⁰ Thus, because heterosexuality equals masculinity, in order to maintain heterosexuality as the norm in patriarchal societies, men and women must be separated in certain settings where sexual relations could occur due to seemingly unfettered male sexual desire.⁶¹ For example, men and women typically do not share public restrooms, which “maintain[s] the primacy of heterosexual sexual attraction” by segregating men and women solely based on the differences in the sexual anatomy of the two genders.⁶² Another example comes from

⁵¹ See *id.* at 527.

⁵² *Id.* at 528.

⁵³ Dolkart, *supra* note 28, at 183.

⁵⁴ *Id.*

⁵⁵ Durana et al., *supra* note 15, at 32.

⁵⁶ *Id.* at 15.

⁵⁷ Cohen, *supra* note 40, at 529.

⁵⁸ *Id.*

⁵⁹ Catharine A. MacKinnon, *The Road Not Taken: Sex Equality in Lawrence v. Texas*, 65 OHIO ST. L.J. 1081, 1087 (2004).

⁶⁰ See Cohen, *supra* note 40, at 529.

⁶¹ See *id.* at 529–30.

⁶² *Id.* at 530.

the segregation of male and female prisoners.⁶³ In such environments, male heterosexuality is assumed, so men and women must remain segregated because “men are heterosexual and will seek out sex with women, either consensually or non-consensually.”⁶⁴ In essence, sex segregation is important to the perpetuation of heterosexuality and hegemonic masculinity in general because it assumes that men are sexual subjects and women are sexual objects, so the two must be separated in certain settings.⁶⁵ Without sex segregation, the practice of heterosexuality among men would lose significance, thus becoming less masculine, because the underlying tone of male sexual dominance over women would be diminished if men and women coexisted in settings that may create opportunities for sexuality.⁶⁶

Third, sex segregation reinforces the notion that physical aggression is masculine, while passiveness is feminine, and women require protection from male physical aggression.⁶⁷ Sticking with the public restroom example, segregation of the sexes perpetuates the stereotype that men are naturally more physically aggressive than women by “foster[ing] subtle social understandings that women are inherently vulnerable and in need of protection when in public, while men are inherently predatory.”⁶⁸ Another example involves the case of *Dothard v. Rawlinson*,⁶⁹ where a woman was excluded from a prison guard position at an Alabama maximum-security prison for men.⁷⁰ The Alabama Board of Corrections formulated a regulation which established gender-based criteria for hiring prison guards in contact positions, meaning positions that require close physical contact with the inmates.⁷¹ The Supreme Court held that such a regulation was permitted due to the “rampant violence” that is commonplace in Alabama’s all-male prisons.⁷² The Court in *Dothard* explained that excluding women from contact prison guard positions in Alabama’s all-male prisons should not be considered “an exercise in romantic

⁶³ See, e.g., *id.* at 529.

⁶⁴ *Id.*

⁶⁵ See *id.* at 531; see also Becker, *supra* note 25, at 28; Barbara A. Gutek, *Understanding Sexual Harassment at Work*, 6 NOTRE DAME J.L. ETHICS & PUB. POL’Y 335, 353 (2012).

⁶⁶ See Cohen, *supra* note 40, at 531.

⁶⁷ *Id.* at 534.

⁶⁸ Terry S. Kogan, *Sex-Separation in Public Restrooms: Law, Architecture, and Gender*, 14 MICH. J. GENDER & L. 1, 56 (2007).

⁶⁹ 433 U.S. 321 (1977).

⁷⁰ See *id.* at 323–27.

⁷¹ *Id.* at 324–25.

⁷² *Id.* at 334 (quoting *Pugh v. Locke*, 406 F. Supp. 318, 325 (D. Ala. 1976)).

paternalism[;]”⁷³ however, the Court went on to explain that “[a] woman’s relative ability to maintain order in a male, maximum-security, unclassified penitentiary . . . could be *directly reduced by her womanhood*.”⁷⁴ The Court reasoned that a female prison guard working in a contact position in an all-male maximum-security prison would be at-risk of being attacked due to the male inmates being “deprived of a normal heterosexual environment” and the prevalence of physical violence in all-male prisons.⁷⁵ Essentially, the Court determined that hiring a female prison guard to a contact position in an all-male maximum-security prison would pose a high likelihood “that inmates would assault a woman because she was a woman[;]” and that her “very womanhood would . . . directly undermine her capacity” to fulfill her role as a prison guard and ensure security in the prison.⁷⁶ In essence, the Supreme Court in *Dothard* reaffirmed the notion that men are inherently aggressive and women are inherently weak and vulnerable to male violence, so women must be protected.⁷⁷

In short, hegemonic masculinity permeates modern society and works to perpetuate the patriarchy by encouraging men to promote gender stereotypes, and thus maintain dominance over women, through displays of hypermasculinity.⁷⁸ Masculinity is achieved, in part, by devaluing femininity, thus making it something that men must reject in order to achieve masculinity.⁷⁹ Patriarchal societies perpetuate male dominance and the superiority of masculinity through sex segregation, among other things.⁸⁰ Finally, sexual harassment is likely to occur in patriarchal societies when women seemingly challenge male superiority, which is very often seen in the context of women working in traditionally male-dominated fields.⁸¹

⁷³ *Id.* at 335.

⁷⁴ *Id.* (emphasis added).

⁷⁵ *Id.* at 335–36.

⁷⁶ *Id.* at 336.

⁷⁷ *See, e.g.,* Cohen, *supra* note 40, at 533.

⁷⁸ *See id.* at 523–24; *see also* Tea Torbenfeldt Bengtsson, *Performing Hypermasculinity: Experiences with Young Confined Offenders*, 19 *MEN & MASCULINITIES* 410, 424 (2016) (explaining that hypermasculinity is “an exaggerated and unique” display of traditional masculine traits that are rooted in hegemonic masculinity).

⁷⁹ *See* Cohen, *supra* note 40, at 525–26 (“In an early feminist writing, Nancy Chodorow described how society places immense pressure on boys from an early age ‘to reject identification with or participation in anything that seems “feminine.””).

⁸⁰ *See id.* at 537.

⁸¹ Dolkart, *supra* note 28, at 184.

III. AMERICAN SEXUAL HARASSMENT JURISPRUDENCE

A. *Meritor Savings Bank v. Vinson: The Origin of Title VII Protection Against Sexual Harassment*

In *Meritor Savings Bank v. Vinson*,⁸² the Supreme Court first recognized sexual harassment as a form of sex discrimination under Title VII of the Civil Rights Act of 1964.⁸³

The plaintiff in *Meritor*, Mechelle Vinson, began working as a teller-trainee at Meritor Savings Bank in 1974 under a male supervisor, Sidney Taylor.⁸⁴ A few months into the new job, Taylor took Vinson out to dinner and demanded that she have sex with him for the first time.⁸⁵ When Vinson declined, she recalled Taylor telling her that she should have sex with him, “because just like he made [her], he’d break [her]. Just like he hired [her], he’d fire [her]. And if [she] didn’t do what he wanted [her] to do, he’d have [her] killed.”⁸⁶ Over the next few years of Vinson’s employment at the bank, which ended in the fall of 1978,⁸⁷ Vinson estimated that she and Taylor had intercourse between forty and fifty times, typically at the bank.⁸⁸ In addition to “forcing [Vinson] to have intercourse or perform oral sex,”⁸⁹ Taylor would also grope her breasts and buttocks,⁹⁰ fondle her in the presence of other bank employees,⁹¹ follow her into the restroom and expose himself,⁹² make crude comments about receiving oral sex,⁹³ and “corner Vinson to warn her” that she and Taylor were going to have intercourse later.⁹⁴ If Vinson ever resisted, Taylor would become more violent which, at one point, resulted in Vinson needing “medical treatment

⁸² 477 U.S. 57 (1986).

⁸³ Lee, *supra* note 23, at 680–81.

⁸⁴ *Meritor*, 477 U.S. at 59.

⁸⁵ Kathy Hacker, *A Bank-Sex Case Becomes Cause Celebre*, PHILA. INQUIRER (June 1, 1986), https://nl.newsbank.com/nl-search/we/Archives?p_action=print&p_docid=0EB29B35457ECBD1.

⁸⁶ *Id.*

⁸⁷ *Meritor*, 477 U.S. at 60.

⁸⁸ *Id.*

⁸⁹ THOMAS, *supra* note 4, at 81.

⁹⁰ *Id.*

⁹¹ *Meritor*, 477 U.S. at 60.

⁹² *Id.*

⁹³ THOMAS, *supra* note 4, at 81–82.

⁹⁴ *Id.* at 82.

for tears to her vagina.”⁹⁵ Vinson endured Taylor’s abuse for several years, hesitant to quit her job at the bank for financial reasons, as well as out of fear for her physical safety due to Taylor’s threats that he would kill her if Vinson did not do what he wanted.⁹⁶ The stress of Vinson’s work life caused her hair to fall out, she became unable to eat, and she developed insomnia.⁹⁷

When Vinson filed her lawsuit against Taylor and Meritor Savings Bank for sexual harassment under Title VII in the fall of 1978,⁹⁸ the term “sexual harassment” was just making its way into the general public’s vocabulary, and into the courts.⁹⁹ Through the 1970’s, many judges were unwilling to label certain behavior “that, to them, amounted to ill-advised come-ons[,]” as sexual harassment.¹⁰⁰ Vinson’s case finally went to trial in early 1980 in the United States District Court for the District of Columbia, and Vinson lost.¹⁰¹ In coming to the conclusion that Vinson had not been sexually harassed, the trial judge found that, if Vinson and Taylor had engaged in a sexual relationship while Vinson was employed by Meritor Savings Bank, such relationship was voluntary, and had no bearing on her employment.¹⁰² However, Vinson appealed, and the Court of Appeals for the D.C. Circuit reversed the trial court’s decision, holding that there are two forms of sexual harassment that are actionable under Title VII.¹⁰³ The first form of sexual harassment is that which “involves the conditioning of concrete employment benefits on sexual favors”¹⁰⁴ The second form of sexual harassment is that which does not “affect[] economic benefits, [but] creates a hostile or offensive working environment.”¹⁰⁵ The appellate court determined that Vinson’s case clearly falls within the second form of sexual harassment—hostile work environment—which the lower court failed to consider.¹⁰⁶ Following the

⁹⁵ *Id.* at 83.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* at 89; *Meritor Savings Bank v. Vinson*, 477 U.S. 57, 59 (1986).

⁹⁹ THOMAS, *supra* note 4, at 84.

¹⁰⁰ *Id.* at 85.

¹⁰¹ *Id.* at 89, 90, 92.

¹⁰² *Meritor*, 477 U.S. at 61 (citing *Vinson v. Taylor*, No. 78-1793, 1980 WL 100, at *7 (D.D.C. Feb. 26, 1980)).

¹⁰³ *Id.* at 62.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

reversal by the Court of Appeals, the Supreme Court granted certiorari and affirmed.¹⁰⁷

One of the issues that the Supreme Court addressed was whether alleged sexual harassment that does not amount to any sort of economic or otherwise tangible loss beyond a psychological impact is actionable under Title VII.¹⁰⁸ The Supreme Court adopted the guidelines set out by the Equal Employment Opportunity Commission (“EEOC”), which determined that sexual harassment is actionable under Title VII, even if the harassment leads to a noneconomic injury.¹⁰⁹ Essentially, the Supreme Court stated that “the language of Title VII is not limited to ‘economic’ or ‘tangible’ discrimination.”¹¹⁰ The EEOC guidelines listed various types of conduct that constitute sexual harassment, including: “[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature”¹¹¹ Furthermore, the EEOC guidelines that the Court adopted in *Meritor* differentiated between the two actionable forms of sexual harassment under Title VII: quid pro quo harassment and hostile work environment harassment.¹¹² Thus, by adopting the EEOC’s guidelines, the Supreme Court effectively concluded that victims of sexual harassment need not have suffered some sort of economic or otherwise tangible injury in order to seek redress under Title VII.¹¹³ The Court reasoned that Title VII provides employees with “the right to work in an environment free from discriminatory intimidation, ridicule, and insult.”¹¹⁴

Next, the Supreme Court in *Meritor* established a standard for Title VII sexual harassment cases, which must be met in order to be actionable.¹¹⁵ The standard adopted for sexual harassment that is not linked to an economic or otherwise tangible loss is that the harassment “must be sufficiently severe or pervasive ‘to alter the conditions of [the victim’s] employment and create an abusive working environment.’”¹¹⁶ The Court went on to explain that “[t]he gravamen of any sexual harassment claim is that the alleged sexual advances were ‘unwelcome’ .

¹⁰⁷ *Id.* at 63.

¹⁰⁸ *See id.* at 64.

¹⁰⁹ *Id.* at 65.

¹¹⁰ *Id.* at 64.

¹¹¹ 29 C.F.R. § 1604.11(a) (2021); *see also Meritor*, 477 U.S. at 65.

¹¹² *See Meritor*, 477 U.S. at 65; *see also* 29 C.F.R. § 1604.11(a) (2021).

¹¹³ *See Meritor*, 477 U.S. at 64–65.

¹¹⁴ *Id.* at 65.

¹¹⁵ *Id.* at 67.

¹¹⁶ *Id.* (quoting *Henson v. City of Dundee*, 682 F.2d 897, 904 (11th Cir. 1982)).

. . . not whether [the victim's] actual participation in sexual intercourse was voluntary."¹¹⁷ As such, the fact that the victim's "sex-related conduct was 'voluntary,'" meaning the victim did not participate against their will, is not a valid defense to Title VII sexual harassment claims.¹¹⁸ Finally, pursuant to the EEOC guidelines, the Court concluded that sexual harassment claims must be evaluated "in light of 'the record as a whole' and 'the totality of circumstances . . .'"¹¹⁹

In short, the Supreme Court's decision in *Meritor* is important because, for the first time, it recognized sexual harassment as sex discrimination that is actionable under Title VII,¹²⁰ and it established a standard that such harassing conduct must meet in order to be actionable.¹²¹

B. Harris v. Forklift Systems, Inc.: The Application of Title VII to the Blue-Collar Industries

Another key Supreme Court case with respect to Title VII sexual harassment claims is *Harris v. Forklift Systems, Inc.*¹²² The Court in *Harris* expanded on the standard for Title VII sexual harassment claims that was established in *Meritor*.¹²³

The plaintiff in *Harris*, Teresa Harris, began working as an equipment manager with Forklift Systems, Inc. ("Forklift") in April of 1985.¹²⁴ Forklift was involved in the construction industry, renting "cranes, trucks, and other equipment" to contractors.¹²⁵ Harris eventually became the target of her boss's sexual comments and conduct, which included: referring to Harris's buttocks as a "racehorse ass[.]"¹²⁶ suggesting that he and Harris should begin "screwing around[.]" and negotiate her raise at a Holiday Inn,¹²⁷ asking Harris to reach into the front

¹¹⁷ *Id.* at 68 (quoting 29 C.F.R. § 1604.11(a) (1985)).

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 69 (quoting 29 C.F.R. § 1604.11(b) (1985)).

¹²⁰ *See id.* at 73.

¹²¹ *See id.* at 67–68.

¹²² 510 U.S. 17 (1993).

¹²³ *See id.* at 21–22.

¹²⁴ *Id.* at 19.

¹²⁵ THOMAS, *supra* note 4, at 169.

¹²⁶ *Id.* at 170.

¹²⁷ *Id.*

pockets of his pants and retrieve coins,¹²⁸ dropping objects on the floor in front of Harris and asking her to pick them up,¹²⁹ making sexual comments about Harris's clothing,¹³⁰ and accosting Harris in front of other (mostly male) Forklift employees with sexist comments about her ability to fulfill her job duties because she is a woman,¹³¹ as well as suggesting that Harris secured contracts by sleeping with customers.¹³² The sexual, vulgar, and inappropriate comments and conduct displayed by Harris's boss were eventually echoed by Harris's male co-workers as well.¹³³

As a result of the demeaning, crass, and inappropriate treatment of Harris by her boss and co-workers, she developed insomnia and self-medicated with alcohol, which caused a strain on her family life and personal relationships.¹³⁴ Further, the stress from her work life manifested in other physiological ways, such as crying frequently, shortness of breath, and "shaking uncontrollably" in her office at work.¹³⁵ Although the abuse she faced in the workplace was significant, Harris did not immediately quit because she was a divorced, single parent with two sons, as well as "the main source of support for her ailing grandmother," so she could not afford to be unemployed.¹³⁶ When Harris finally submitted her resignation in August of 1987, her boss apologized for his behavior and stated that he was only "trying to make her feel like 'one of the boys.'"¹³⁷ After leaving Forklift, Harris was unable to find work and remained unemployed for five years.¹³⁸ Harris's inability to find work could have been due to her being blackballed by Forklift's competitors, or her lawsuit against Forklift causing her to appear problematic to prospective employers.¹³⁹ At any rate, Harris's prolonged unemployment resulted in her electricity being cut off twice, her car repossessed, her house sold in order to pay the bills that she had fallen behind on, and her credit destroyed.¹⁴⁰

¹²⁸ *Harris*, 510 U.S. at 19.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ See THOMAS, *supra* note 4, at 170.

¹³² See *Harris*, 510 U.S. at 19.

¹³³ THOMAS, *supra* note 4, at 170.

¹³⁴ *Id.* at 170–71.

¹³⁵ *Id.* at 171.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.* at 175.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

After having no success in the lower courts, Harris filed a petition to have her case reviewed by the Supreme Court.¹⁴¹ The Supreme Court granted certiorari to clarify the standard for actionable sexual harassment under Title VII based on a hostile work environment.¹⁴² The Court reiterated the standard that they set out in *Meritor*, which stated that the harassment must be severe and pervasive enough to create a hostile work environment, but the Court in *Harris* clarified that an inquiry into whether the harassment was sufficiently severe and pervasive has both objective and subjective elements.¹⁴³ First, the harassment must create “an environment that a reasonable person would find hostile or abusive”¹⁴⁴ Second, the victim must subjectively perceive their work environment as hostile or abusive because; if they do not perceive their work environment as such, then the harassing conduct “has not actually altered the conditions of [their] employment”¹⁴⁵ Further, the Court explained that a finding of a hostile or abusive environment is not predicated on whether it was “psychologically injurious” to the victim, but rather, whether the environment was perceived, both objectively and subjectively, as hostile or abusive.¹⁴⁶ Essentially, in the Court’s words, “Title VII comes into play before the harassing conduct leads to a nervous breakdown.”¹⁴⁷

Teresa Harris was subjected to relentless sexual comments, conduct, and put-downs in an effort, as her boss said, to make her feel like “one of the boys.”¹⁴⁸ When she addressed the harassment she was enduring, and subsequently left Forklift and filed a lawsuit against the company, she was blackballed in the construction industry and remained unemployed for five years.¹⁴⁹ Having been unable to find work, Harris lost her home, her car, and her bills went unpaid, resulting in her electricity being cut off twice and her credit destroyed.¹⁵⁰ Not only did the sexual harassment Harris endured impact her financially, but it led to her developing a drinking problem and psychological issues, which negatively impacted Harris’s

¹⁴¹ See *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 19–20 (1993).

¹⁴² See *id.* at 20.

¹⁴³ *Id.* at 21.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 21–22.

¹⁴⁶ *Id.* at 22.

¹⁴⁷ *Id.*

¹⁴⁸ THOMAS, *supra* note 4, at 170–71.

¹⁴⁹ *Id.* at 171, 175.

¹⁵⁰ *Id.* at 175.

personal life.¹⁵¹ The snowball effect that the sexual harassment against Harris had on her was tremendous, and it stemmed from Harris working in an environment that was comprised mostly of men who used Harris as the target for their sexual innuendos and put-downs because of her gender. In claiming that he was trying to make Harris feel like “one of the boys,” Harris’s boss revealed the nature of many other male-dominated blue-collar occupations. It is evident that sexual harassment is commonplace in those environments, or at least at Forklift in particular, because Harris’s boss and male co-workers were so comfortable and direct with their inappropriate comments and conduct. Even after Harris unequivocally stated that she wanted the sexual innuendos and conduct to stop, Harris’s boss and co-workers persisted.

*C. Williams v. General Motors Corp.: Reaffirming Title VII
Protection of Blue-Collar Women*

The Sixth Circuit’s decision in *Williams v. General Motors Corp.*¹⁵² determined that the coarse and inappropriate nature of blue-collar occupations does not insulate blue-collar employers from Title VII’s reach.¹⁵³

The plaintiff in *Williams*, Marilyn Williams, was employed by General Motors Corporation (“GMC”) for thirty years, working specifically in the company’s tool crib, which is a materials warehouse, from September of 1994 until May of 1996.¹⁵⁴ In May of 1995, Williams was moved to the midnight shift, where she was subjected to harassment by her male co-workers until May of 1996, when Williams filed a lawsuit against GMC for sexual harassment.¹⁵⁵ The harassment included the following incidents: one male co-worker used profanity regularly at work, and also referred to Williams as a “slut” on one occasion; another male co-worker looked at her breasts and suggested that she rub against him; one day, Williams was bending over and a male co-worker came up behind her and told Williams that she could “back right up” to him; another male co-worker came up to Williams, placed an arm around her neck and his face against hers, and made references to male anatomy.¹⁵⁶ Williams also had

¹⁵¹ *Id.*

¹⁵² 187 F.3d 553 (6th Cir. 1999).

¹⁵³ See Lee, *supra* note 23, at 696–97.

¹⁵⁴ *Williams*, 187 F.3d at 558–59.

¹⁵⁵ *Id.* at 559–60.

¹⁵⁶ *Id.* at 559.

papers glued to her desk and boxes thrown at her, she was padlocked in the warehouse by another employee, and she was not allowed to take breaks.¹⁵⁷

The lower court ruled that the treatment of Williams did not rise to the level of actionable sexual harassment under Title VII, concluding that, although the conduct of Williams's co-workers was offensive, it did not meet the standards set out in *Meritor* and *Harris*.¹⁵⁸ On appeal, the Sixth Circuit found that the lower court incorrectly applied the "totality of circumstances" standard that the Supreme Court had established in *Meritor* and reaffirmed in *Harris*.¹⁵⁹ The *Williams* Court also took the time to note that the totality of circumstances standard should not be construed to mean that "long-standing or traditional hostility toward women" in certain work environments can be used to excuse sexual harassment in the workplace.¹⁶⁰ The *Williams* Court expressly rejected the idea that "the standard for sexual harassment varies depending on the work environment[,]"¹⁶¹ which was the position that the Tenth Circuit had taken in *Gross v. Burggraf Construction Co.*¹⁶² Further, the Sixth Circuit explained that excusing sexual harassment because it took place in a male-dominated field, which are "more hostile" and largely saturated with sexism, would be illogical.¹⁶³ The Sixth Circuit concluded by saying that it is not the judiciary's place to judge "a woman's assumption of risk upon entering a hostile environment"¹⁶⁴

In essence, the Sixth Circuit's decision in *Williams* is important for two reasons. First, it recognizes the vulgarity that is inherent in male-dominated blue-collar jobs, like Williams's warehouse job at GMC.¹⁶⁵ Second, it rejects the idea that women employed in male-dominated blue-collar environments (where, as the court says, sexism and hostility are more prevalent) must assume the risk of being sexually harassed as an

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 561.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 564.

¹⁶¹ *Id.*

¹⁶² *Gross v. Burggraf Constr. Co.*, 53 F.3d 1531, 1538 (10th Cir. 1995) ("[W]e must evaluate Gross' claim of gender discrimination in the context of a blue collar environment where crude language is commonly used Speech that might be offensive or unacceptable in a prep school faculty meeting, or on the floor of Congress, is tolerated in other work environments.").

¹⁶³ *Williams*, 187 F.3d at 564.

¹⁶⁴ *Id.*

¹⁶⁵ See Lee, *supra* note 23, at 696.

unfortunate consequence of the job.¹⁶⁶ It would be unfair, as the *Williams* Court recognized, to use the traditional vulgarity of male-dominated blue-collar jobs as a barrier to women rightfully asserting sexual harassment claims under Title VII.¹⁶⁷ Essential to the holding in *Williams* is the idea that women working in male-dominated blue-collar occupations “do not deserve less protection from the law than women working in a courthouse.”¹⁶⁸

IV. SEXUAL HARASSMENT IN TRADITIONALLY MALE-DOMINATED BLUE-COLLAR WORKPLACES

The term “sexual harassment” covers a wide range of conduct, including conduct that is not sexual in nature.¹⁶⁹ Sexual harassment encompasses “unwelcome sexual advances . . . requests for sexual favors, or other unwanted conduct of a sexual nature[,]” as well as conduct that is not inherently sexual, but is directed at an individual based on their gender identity or sexual orientation.¹⁷⁰ Sexual harassment also encompasses varying types of physical, verbal, and visual conduct.¹⁷¹ Physical conduct that constitutes sexual harassment ranges from “massages or hugs to sexual assault and rape.”¹⁷² Verbal conduct can include “vulgar jokes or discussions about sex[,]” while visual conduct can include “pornography, graffiti, or sexual gestures.”¹⁷³ Harassment that is not sexual per se, but constitutes sexual harassment nonetheless, can include “statements that belittle someone based on their sex . . . or an environment that is hostile toward members of the disadvantaged sex.”¹⁷⁴

Traditionally, blue-collar jobs are the pinnacle of masculinity; “[t]hey paid a breadwinner’s wage, embodied strength and formed the backbone of the American economy.”¹⁷⁵ In male-dominated fields, sexual harassment against women who enter those fields is used primarily as a

¹⁶⁶ *Id.*

¹⁶⁷ *See id.*

¹⁶⁸ *Williams*, 187 F.3d at 564.

¹⁶⁹ *See Know Your Rights: Sex Discrimination*, ACLU, <https://www.aclu.org/know-your-rights/sex-discrimination/> (last visited June 23, 2021).

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Susan Chira, *The ‘Manly’ Jobs Problem*, N.Y. TIMES (Feb. 8, 2018), <https://www.nytimes.com/2018/02/08/sunday-review/sexual-harassment-masculine-jobs.html>.

way for men to put women “in [their] place” by asserting their masculinity and reinforcing the women’s femininity¹⁷⁶ in an effort to preserve the fragile masculinity that is inherent in male-dominated occupations.¹⁷⁷ Men working in traditionally male-dominated blue-collar occupations view women entering such fields as a threat to their masculinity; they think that “[i]f women can do the job, maybe it’s not so masculine after all.”¹⁷⁸

Industries that employ “the highest concentrations of men” are typically blue-collar.¹⁷⁹ Consequently, sexual harassment in traditionally male-dominated occupations “is more regular and severe” than in other types of occupations.¹⁸⁰ In fact, women working in traditionally male-dominated industries are almost twice as likely to be subjected to sexual harassment than women working in “gender-balanced” industries.¹⁸¹ Further, women working in male-dominated fields are “significantly more likely” to identify sexual harassment as a problem in their field of work than women employed in other industries.¹⁸² In 2016, the EEOC estimated that 25–85% of women had personally experienced sexual harassment in the workplace.¹⁸³

A. *Quid Pro Quo v. Hostile Work Environment Sexual Harassment*

The EEOC established guidelines, which the Supreme Court adopted in *Meritor*,¹⁸⁴ that identified two forms of sexual harassment that are actionable under Title VII: quid pro quo harassment and hostile work

¹⁷⁶ *Id.*

¹⁷⁷ *See id.*

¹⁷⁸ *Id.*

¹⁷⁹ Parker, *supra* note 14.

¹⁸⁰ Chira, *supra* note 175. For example, in a 2017 Pew Research Center study, of the 18% of women who reported employment in a male-dominated workplace, 62% reported sexual harassment being a problem in their industry, 49% reported it being a problem in their workplace, and 28% reported personally experiencing sexual harassment at work. Parker, *supra* note 14. In contrast, of the 48% of women who reported employment in a female-dominated workplace, only 20% reported that they had experienced sexual harassment at work. *Id.*

¹⁸¹ *See* Durana et al., *supra* note 15, at 17.

¹⁸² Parker, *supra* note 14.

¹⁸³ Durana et al., *supra* note 15, at 17. In 2016 alone, the EEOC reported that 80% of the sexual harassment charges filed with the EEOC came from women. *Date Visualizations: Sexual Harassment Charge Data*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/statistics/data-visualizations-sexual-harassment-charge-data> (last visited July 15, 2021).

¹⁸⁴ *Meritor Savings Bank v. Vinson*, 477 U.S. 57, 65–66 (1986).

environment harassment.¹⁸⁵ Quid pro quo harassment refers to a form of sexual harassment in which “submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual”¹⁸⁶ In essence, quid pro quo harassment involves sexual conduct that is “implicitly or explicitly tied to economic or employment consequences.”¹⁸⁷ Hostile environment harassment refers to a form of sexual harassment in which “such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”¹⁸⁸ Although the EEOC and the Supreme Court have adopted distinctions between the two forms of harassment, it is common for both forms to occur simultaneously.¹⁸⁹

*B. The Link Between the Patriarchy and Sexual Harassment
Against Women in Blue-Collar Workplaces*

As stated previously, traditionally male-dominated blue-collar fields have higher rates of sexual harassment against women.¹⁹⁰ There are several factors that can explain the prevalence of sexual harassment in such occupations, many of which have to do with the notion that, historically, male-dominated blue-collar occupations were the epitome of masculinity, and offensive conduct in such workplaces was typical and tolerated.¹⁹¹ Some factors relevant to the manifestation of patriarchal ideologies in blue-collar workplaces include: masculine-identity threat, normalized harassment cultures, vertical sex segregation and power imbalance, and the gender pay gap.¹⁹²

First, masculine-identity threat refers to the “attempt to insult and drive women out of workplaces traditionally seen as belonging to men only”¹⁹³ Here, sexual harassment is used as a tool to discipline women who dared to step out of their traditional feminine roles and “do a man’s

¹⁸⁵ U.S. EQUAL EMP. OPPORTUNITY COMM’N, EEOC-CVG-1990-8, POLICY GUIDANCE ON CURRENT ISSUES OF SEXUAL HARASSMENT (1990) [hereinafter EEOC], <https://www.eeoc.gov/laws/guidance/policy-guidance-current-issues-sexual-harassment>.

¹⁸⁶ 29 C.F.R. § 1604.11(a)(2) (2021).

¹⁸⁷ Lee, *supra* note 23, at 681.

¹⁸⁸ 29 C.F.R. § 1604.11(a)(3) (1999).

¹⁸⁹ EEOC, *supra* note 185.

¹⁹⁰ See, e.g., Chira, *supra* note 175; see also Durana et al., *supra* note 15, at 17.

¹⁹¹ See Durana et al., *supra* note 15, at 26.

¹⁹² *Id.* at 28–32.

¹⁹³ *Id.* at 28.

job”¹⁹⁴ Under the theory of masculine-identity threat, women are scrutinized, judged more harshly for mistakes, and their competence is frequently questioned.¹⁹⁵ This is because women entering occupations that are viewed as reserved to men pose a threat to the inherent masculinity of the occupations and, in turn, the male employee’s sense of masculinity. Essentially, masculine-identity theory is but one way to explain the prevalence of sexual harassment in male-dominated blue-collar workplaces because patriarchal societies value masculinity over femininity, and patriarchal ideologies place men and women into stereotypical gender roles based on those masculine and feminine traits.¹⁹⁶ When women enter male-dominated fields, they not only pose a threat to masculinity because they are a woman doing a “man’s job,” but they also pose a threat to the patriarchy as a whole by working against gender norms that patriarchal societies seek to perpetuate.¹⁹⁷

Second, harassment culture is normalized in many male-dominated blue-collar settings by women failing to report harassment out of fear of the “often severe” retaliation that would likely follow, among other concerns.¹⁹⁸ Very often, women employed in male-dominated fields are concerned with fitting in and proving that they are capable of performing the job well, which is another reason why workplace harassment in male-dominated fields is widely underreported by women.¹⁹⁹ The pressure that is put on women to not report sexual harassment works to normalize sexual harassment in the workplace because the perpetrators go virtually unchecked, so harassing behavior becomes typical among male blue-collar workers.²⁰⁰ Further, in the event that women do report workplace harassment, as one could imagine, male-dominated jobs are typically male from the bottom to the top of the workplace hierarchy,²⁰¹ so complaints often fall on deaf ears.²⁰² For example, a female machine operator complained to her male supervisor of workplace conditions, which

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* When occupations are traditionally viewed as exclusively male, women who enter such occupations are seen as a threat to the inherent masculinity of such occupation; thus, in an effort to preserve masculinity, men punish the women who attempt to disrupt it. *Id.*

¹⁹⁶ See, e.g., *id.* at 28–29; see also Dolkart, *supra* note 28, at 184; Chira, *supra* note 175.

¹⁹⁷ See Dolkart, *supra* note 28, at 184.

¹⁹⁸ Durana et al., *supra* note 15, at 30.

¹⁹⁹ *Id.*

²⁰⁰ *Id.* at 7–8, 32.

²⁰¹ See *id.* at 32.

²⁰² *Id.* at 31.

involved “sexually explicit images, degrading signs, co-workers who would leer at her, make lewd, sexist comments, and call her a bitch” frequently.²⁰³ Her supervisor responded by explaining “that such behavior was typical in blue-collar environments.”²⁰⁴ When sexual harassment in male-dominated occupations is normalized, the dismissiveness of the complaints of the few women who do complain only perpetuates the normalization of sexual harassment in such environments.²⁰⁵ Normalized harassment in the workplace works to further overall patriarchal ideologies by forcing women to be submissive to male beliefs and behavior. Because men have monopolized much of the working world, they set the tone for the workplace environment; thus, masculine norms “mold the work atmosphere” and create workplace cultures that are “derived from masculine expectations and male entitlement.”²⁰⁶ Normalized workplace harassment also perpetuates male dominance over women because women may only challenge sexual harassment to the extent that men will let her.

Third, similar to the previous factor, vertical sex segregation and workplace power imbalance perpetuate patriarchal ideologies of male dominance and masculine superiority in male-dominated workplaces because men are placed in tangible positions of authority over female employees.²⁰⁷ It is rare that women are placed in positions of authority in such fields.²⁰⁸

Finally, the gender pay gap allows patriarchal ideologies to thrive in modern societies, but especially in male-dominated blue-collar occupations, which happen to have smaller gender pay gaps than other types of occupations.²⁰⁹ Traditionally, men were viewed as breadwinners and women were viewed as caregivers, so gender pay gaps, which are common in patriarchal societies, work to keep women in those traditional roles.²¹⁰ While blue-collar women still make less than men, such jobs

²⁰³ *Id.* at 30 (discussing the experiences of Judith Vollmar, who filed a lawsuit against her employer under Title VII in *Vollmar v. SPS Tech., LLC*, No. 15-2087, 2016 WL 7034696, at *1–2 (D. Pa. Dec. 2, 2016)).

²⁰⁴ *Id.*

²⁰⁵ *See id.* at 31.

²⁰⁶ *Lee, supra* note 23, at 710–11.

²⁰⁷ *See Durana et al., supra* note 15, at 31–32.

²⁰⁸ *Id.* at 32; Heather McLaughlin et al., *Sexual Harassment, Workplace Authority, and the Paradox of Power*, 77 AM. SOCIO. REV. 625, 627 (2012).

²⁰⁹ *Durana et al., supra* note 15, at 32.

²¹⁰ *See, e.g., id.*

present opportunities for women to make more money and achieve financial stability than they would in other industries.²¹¹ However, the gender pay gap and sexual harassment in blue-collar jobs go hand-in-hand, as blue-collar women tolerate sexual harassment in exchange for jobs.²¹²

Overall, the patriarchy is the reason that sexual harassment against women in male-dominated blue-collar workplaces is so prevalent. The reasons underlying sexual harassment against women in blue-collar workplaces speak to the goal of patriarchal societies, which is for men to continually assert dominance over women.²¹³ Any perceived threat to masculinity is a threat to the patriarchy, and women entering male-dominated (and sometimes exclusively male) realms are perceived as a threat to men because their masculinity is diminished if a woman can do what is seen as traditionally masculine. Thus, sexual harassment is the tool used by men to ensure that the patriarchy and male dominance over women are maintained.

V. SECONDARY CONSEQUENCES OF WORKPLACE SEXUAL HARASSMENT

Sexual harassment against women in male-dominated blue-collar workplaces contributes to “women’s unequal capital status”²¹⁴ because it is used as a tool to drive women out of such jobs, which generally pay more than jobs in female-dominated industries.²¹⁵ Roughly 7% of women work in male-dominated industries.²¹⁶ As of 2019, working women earn, on average, approximately 82% of what working men earn.²¹⁷ With respect to blue-collar industries in particular, as of 2019, women make up 3.3% of construction laborers, 1.9% of carpenters, 5.5% of truck drivers, 1.8% of

²¹¹ *See id.*

²¹² *Id.*

²¹³ *See e.g., Lee, supra* note 23, at 710–11; *see also* Dolkart, *supra* note 28, at 184 (“Male co-workers feel their masculinity threatened by a woman working in a man’s job and frequently use sexual harassment to reassert male dominance and remind the woman that she is a sex object first and a worker a distant second.”).

²¹⁴ Lee, *supra* note 23, at 712.

²¹⁵ Durana et al., *supra* note 15, at 7, 28.

²¹⁶ Ariane Hegewisch & Adiam Testaselassie, *The Gender Wage Gap by Occupation 2018*, INST. WOMEN’S POL’Y RSCH. (Apr. 2, 2019), <https://iwpr.org/iwpr-issues/employment-and-earnings/the-gender-wage-gap-by-occupation-2018/>.

²¹⁷ JESSICA SEMEGA ET AL., U.S. CENSUS BUREAU, REPORT NO. P60-270, INCOME AND POVERTY IN THE UNITED STATES: 2019, at 10 (2020), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-270.pdf>.

electricians, 4.8% of machinists, 7.4% of painters, and 5.9% of welders, yet women earn anywhere between 89.4% and 68% less than male workers earn in these industries.²¹⁸ However, in the United States, occupations in male-dominated blue-collar industries pay better than those in female-dominated industries,²¹⁹ with “26 out of the 30 highest-paying jobs” in the country being male-dominated, and “23 out of the 30 lowest-paying jobs” being female-dominated.²²⁰ Furthermore, male-dominated occupations tend to offer better fringe benefits than female-dominated occupations.²²¹ Because of this, it is common for women working in male-dominated fields to tolerate the sexual harassment that they are subjected to in order to keep a decent-paying job in a society that pays women less than men overall.²²² Additionally, blue-collar workers generally tend to have specific skill sets and limited education, which makes it more difficult for blue-collar women to find comparable employment outside of the blue-collar realm.²²³ Further, because of the overall gender pay gap in the United States, women have a higher chance of “obtain[ing] economic self-sufficiency” in male-dominated fields, since occupations in male-dominated fields tend to offer “higher wages and better fringe benefits” than those in female-dominated fields.²²⁴ Thus, women’s economic vulnerability and economic inferiority to men make them less likely to report or resist sexual harassment that they experience in the workplace out of fear of losing their job.²²⁵

While sexual harassment can have a financial impact on women working in male-dominated fields, it can also have a significant impact on women’s careers generally.²²⁶ Things such as “a disrupted work history, problems with obtaining references for future jobs, loss of confidence in seeking a new job, and loss of career advancement” are just a few of the negative secondary consequences women may experience as a result of leaving their job due to sexual harassment.²²⁷ Additionally, women who

²¹⁸ See WOMEN’S BUREAU, U.S. DEP’T OF LABOR, EMPLOYMENT AND EARNINGS BY OCCUPATION (2019), <https://www.dol.gov/agencies/wb/data/occupations>.

²¹⁹ Durana et al., *supra* note 15, at 7.

²²⁰ *Women in Male-Dominated Industries and Occupations (Quick Take)*, *supra* note 12.

²²¹ Maxwell, *supra* note 21, at 683.

²²² See, e.g., Durana et al., *supra* note 15, at 7–8.

²²³ Maxwell, *supra* note 21, at 691.

²²⁴ *Id.*

²²⁵ See Dolkart, *supra* note 28, at 183.

²²⁶ See *id.* at 187.

²²⁷ *Id.*

do not leave their jobs may experience “adverse working conditions and diminished opportunities for advancement[,]”²²⁸ which can negatively impact their career as a result of reporting or otherwise rejecting sexual harassment in the workplace.²²⁹ These women may also feel excluded by their coworkers and lose confidence in their working abilities.²³⁰ Furthermore, women working in blue-collar occupations that tend to be temporary, such as construction jobs, may be less likely to report or reject sexual harassment because of the lack of job security.²³¹ Finally, reporting sexual harassment could result in retaliation in the form of being “blacklisted in construction or similar fields where tight knit networks and referrals are crucial to win the next job.”²³² Women holding temporary blue-collar positions want to be selected for future temporary or permanent jobs, so they tolerate sexual harassment in exchange for job security.²³³

Additionally, sexual harassment in male-dominated workplaces perpetuates patriarchal ideologies and gender-based stereotypes, as sexual harassment “directly demeans and devalues the role of women as workers.”²³⁴ In traditionally male-dominated blue-collar fields specifically, sexual harassment is used as a way to let women know that they do not belong, “and to harass them out the door.”²³⁵ Sexual harassment in the workplace “sends a message of inferiority and objectifications directed against individual women and women as a class.”²³⁶ This devaluation and objectification of women transcends the workplace context and is the result of patriarchal ideologies that seek to subordinate women in all aspects of life.²³⁷ It has caused “self-devaluation, low self-esteem, self-doubt, and reliance on the opinions of others” to become normalized as facets of female psychological development.²³⁸

²²⁸ *Id.* at 188.

²²⁹ *See id.*

²³⁰ *Id.*

²³¹ *See Durana et al., supra* note 15, at 32.

²³² Susan Chira, *We Asked Women in Blue-Collar Workplaces About Harassment. Here Are Their Stories.*, N.Y. TIMES (Dec. 29, 2017), <https://www.nytimes.com/2017/12/29/us/blue-collar-women-harassment.html>.

²³³ Durana et al., *supra* note 15, at 32.

²³⁴ Dolkart, *supra* note 28, at 187.

²³⁵ Durana et al., *supra* note 15, at 15.

²³⁶ Dolkart, *supra* note 28, at 187.

²³⁷ *See generally id.* at 224–25 (explaining the sexualized victimization of women and how “threats of sexual and physical abuse . . . are so prevalent as to constitute a normative aspect of female development.”).

²³⁸ *Id.*

Additionally, with respect to the psychological impacts of female sexual victimization, women suffer from clinical depression at rates twice as high as men, and “women are more vulnerable to post traumatic stress disorder”²³⁹ Other psychological effects of female sexual victimization include: stress, anxiety, alienation, irritability, and anger.²⁴⁰

Overall, the effects of sexual harassment can be far-reaching. Sexual harassment can have detrimental impacts on multiple aspects of women’s lives—not just their employment—which effectively keeps women subordinate to men by encouraging women to either not enter male-dominated fields in an effort to avoid sexual harassment and its vast consequences, or tolerate sexual harassment by men.²⁴¹

VI. CONCLUSION

In conclusion, the sexual harassment against women in male-dominated blue-collar workplaces is but one way in which the patriarchal ideologies that permeate American society manifest today.²⁴² Patriarchal societies are driven by gender stereotypes, which are established by traits that traditionally view men as inherently strong, dominant, and aggressive breadwinners in society.²⁴³ Conversely, the patriarchy tells us that women are traditionally submissive, emotional, and dependent; thus, devaluing femininity and permitting male dominance over women.²⁴⁴ As a result, such gender stereotypes become normalized and give men “the power to systematically subordinate women as a group or class.”²⁴⁵ When women appear to challenge gender stereotypes, like when they enter traditionally male-dominated occupations, they are viewed as a threat to masculinity—and thus, the patriarchy—so sexual harassment is used as a tool to “reassert male dominance and remind [women] that [they are] a sex object first and a worker a distant second.”²⁴⁶ Sexual harassment in the workplace also

²³⁹ *Id.* at 225–26.

²⁴⁰ *Id.* at 227.

²⁴¹ *See id.* at 183–84.

²⁴² *See, e.g.,* Becker, *supra* note 25, at 28–29; *see also* Lee, *supra* note 23, at 710 (“Sex harassment acts to keep the workplace a site of male power and traditional cultural masculinity.”); Schultz, *supra* note 36, at 27 (“Harassment is linked to broader forms of sex discrimination and inequality, because some men harass women and ‘lesser men’ to preserve their dominant workplace position and related sense of manhood.”).

²⁴³ *See, e.g.,* Becker, *supra* note 25, at 27; Dolkart, *supra* note 28, at 178.

²⁴⁴ *See, e.g.,* Becker, *supra* note 25, at 27; Dolkart, *supra* note 28, at 178.

²⁴⁵ Dolkart, *supra* note 28, at 174.

²⁴⁶ *Id.* at 184.

serves as “a message of inferiority and objectification” to women who attempt to challenge traditional masculinity.²⁴⁷

The cases of *Meritor* and *Harris* brought the issue of workplace sexual harassment against women to light and affirmed the protections that Title VII grants to women.²⁴⁸ They highlighted the treatment of women in both blue-collar and white-collar settings, but it was the Sixth Circuit in *Williams* that interpreted the Supreme Court’s holdings in *Meritor* and *Harris* as protecting blue-collar and white-collar women alike, regardless of the nature of their work environment.²⁴⁹ Thus, the “rough hewn and vulgar” nature of male-dominated blue-collar workplaces is irrelevant to the question of whether a woman is entitled to Title VII protection against sexual harassment.²⁵⁰ All of these cases are important, as all have upheld the protection of women working in male-dominated blue-collar and white-collar fields alike, as well as female-dominated or gender-balanced fields where men often hold positions of authority over women.

Finally, the consequences of sexual harassment reach far beyond the harassing incident. Sexual harassment devalues women as workers, treats women as nothing more than sexual objects, leads to job and financial insecurity, often causes mental and physical deterioration, disrupts women’s personal lives, and causes women to lose confidence and feel excluded in the workplace.²⁵¹ These consequences reinforce patriarchal ideologies that seek to keep men in positions of power over women, and the threat of such secondary consequences often causes women to tolerate sexual harassment.²⁵² Forcing women to remain silent about the sexual harassment they have been subjected to allows the patriarchy to thrive because it keeps men in dominant positions over women and reinforces gender stereotypes that tell women that they must be subordinate.

²⁴⁷ *Id.* at 187.

²⁴⁸ See, e.g., Lee, *supra* note 23, at 681–85 (explaining and comparing the Supreme Court’s analysis and holding in both *Meritor* and *Harris*); Amanda Helm Wright, Note, *From the Factory to the Firm: Clarifying Standards for Blue-Collar and White-Collar Sexual Harassment Claims Under Title VII of the Civil Rights Act of 1964*, 2001 U. ILL. L. REV. 1085, 1088–90 (2001).

²⁴⁹ See Wright, *supra* note 248, at 1097–98.

²⁵⁰ *Id.* at 1098.

²⁵¹ Dolkart, *supra* note 28, at 187–88.

²⁵² See *id.* at 183–84.