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**SEXUAL HARASSMENT AND  
TRANSNATIONAL RELATIONS:  
“WHY THOSE CONCERNED  
WITH GERMAN-AMERICAN  
RELATIONS SHOULD CARE”**  
Kathrina Zippel

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**SEXUAL HARASSMENT AND TRANSNATIONAL RELATIONS:  
“WHY THOSE CONCERNED WITH GERMAN-AMERICAN RELATIONS  
SHOULD CARE”**

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**INTRODUCTION**

In 1999, an interviewee in the Human Resource Department of a U.S.-German corporation stated: “Sexual harassment is a cultural problem in the United States, but we don’t have that here... We are in Germany, and the Americans are in America.” She expressed a belief shared by many in Germany: *Germans do not have a problem with “sexual harassment”—it’s an American problem.* In what way do U.S. and German cultural understandings differ on the appropriateness of sexual jokes, remarks, and socio-sexual relations in the workplace? Can one say that Americans are more puritan and litigious, while Germans are more relaxed and sophisticated in sexual matters, as Germans would like to think? Or are Germans just ten years behind the American developments?

In both countries, “sexual harassment” stands out as the key contemporary site of gender struggles over gender norms, sexuality, power, and gender equality, as well as legal and organizational norms. Yet, while employers in the United States have embarked on changing workplace cultures by implementing policies against sexual harassment in the last twenty years, in Germany both changes in awareness and employers’ responses have been more hesitant. Despite the resistance to dealing with problems of sexual harassment in German workplaces, the European Union legal changes are putting sexual harassment on the agenda again. This, combines with an increasingly diverse workforce and activism of women, are forcing German employers to pay more attention to the problem of sexual harassment.

Since the 1970s, the numbers of women joining the workforce have been increasing. In the late 1990s, women constituted 44 percent of the German labor force and 46 percent of the labor force in the United States (BMFSJF 2002, U.S. Dept. of Labor 2000). Women have been gaining status in the workforce by slowly climbing the ladders in corporations and organizations. Women’s groups in workplaces have mobilized around the issue of sexual harassment and have demanded that employers take the issue seriously. Moreover, the European Union (EU) recognized sexual harassment as a problem of gender equality in the workplace. In 2002, the revised EU Directive on Equal Treatment (2002) has introduced a new definition of sexual harassment that is binding to its member states. Thus, in the near future employers throughout the EU will face challenges to introduce policies against sexual harassment under sex discrimination laws.

While Germany is known for its strong workers’ rights, the country has a long way to go to in the implementation of the new sexual harassment laws. In the United States, by contrast, the practices of employers have changed much more dramatically. By improving access of women to legal recourse, changes in the United States have been more radical, leading to a revolution of legal norms as well as a cultural revolution in awareness and sensitivity. Many U.S. employers have adopted complaint procedures. In contrast, individual redress in Germany remains relatively weak, and sexual harassment

in Germany is still trivialized. Thus, German employers largely ignore the 1944 German law against sexual harassment. If workplaces have adopted any policies, they tend to be broad policies focused on fairness and respectful treatment of all employees.

Instead of portraying sexual harassment as an “American” problem, transatlantic organizations need to recognize the seriousness of the problem, one that can impede their mission of cultural exchange. The question of how best to address sexual harassment in the workplace is a pressing issue on both sides of the Atlantic. In that sense, both countries can, indeed, learn from another, particularly in times of rapid legal change.

## IS SEXUAL HARASSMENT A PROBLEM?

Over the past twenty years, there have been several highly publicized cases of sexual harassment in the United States, including allegations against Senator Packwood (1993) and the Senate hearings of the Supreme Court nominee Clarence Thomas, in which law professor Anita Hill accused him of sexual harassment. Most recently, the lawsuit Paula Jones filed against then President Clinton led ultimately to his impeachment.

Prominent figures in Germany also have been at the center of scandal. In 1982, the mayor of Marburg was accused of sexual harassment. Two male gynecologists were put on trial in the 1980s for the rape of a colleague, and while they were not found guilty, the trial attracted much media attention in Berlin. In 1992, a Green politician and member of parliament, Klaus Hecker, was accused by a group of women for having grabbed their breasts (Plogstedt and Bode 1984). Finally, universities have also had to deal with several incidents of sexual harassment by professors. In Berlin, Konstanz, and Stuttgart Hohenheim, professors were charged in (criminal) courts with sexual harassment during the 1990s (Bussmann and Lange 1996).

On both sides of the Atlantic, changes in cultural and legal norms are taking place before our eyes. While sexual harassment used to be subject of jokes and ridicule, many behaviors are seen today not only as inappropriate but also illegal. In addition, while most cases in the past did not attract public attention, more women (and some men) are willing to report incidents today with the expectation that employers will take action (EEOC 2002, Zippel 2003). At the same time, women in Germany worry that sexual harassment is being trivialized: in a recent survey, 74 percent of women in Germany expressed their wish that sexual harassment of women should be taken seriously and not be played down.<sup>1</sup>

What constitutes “sexual harassment?” The very definition of sexual harassment provides a challenge, because interpersonal communication is deeply contextual and culturally specific. There are three forms of sexual harassment (Fitzgerald 199): gender harassment, including derogatory remarks about one’s gender, sexist stereotyping etc.; unwanted sexual attention which includes sexual remarks, innuendo, joking, “accidental” touching, but also asking repeatedly and uninvited for dates; and sexual coercion, including physical assault. Furthermore, U.S. law introduced a distinction between *quid pro quo* and hostile environment: following Catherine MacKinnon’s suggestion, the U.S. Supreme Court in *Meritor Savings Bank v. Vinson* (1986) defined sexual harassment both

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<sup>1</sup> Bundesministerium für Familie, Senioren, Frauen und Jugend (BMFSFJ). 2000. “Vor allem Junge Frauen Streben Nach Chancengleichheit.” Press Release June 27, 2000. [http://www.bmfsfj.de/dokumente/Pressemitteilung/ix\\_27033.htm](http://www.bmfsfj.de/dokumente/Pressemitteilung/ix_27033.htm).

as coercion and the abuse of power by a supervisor (generally known as *quid pro quo* harassment), and as conduct that creates a hostile working environment (condition of work). Hostile environment claims require harassment that is severe or pervasive.

Studies have shown the pervasiveness of harassment in workplaces, higher education, and schools on both sides of the Atlantic. Almost three-quarters of employed women in a nation-wide study in Germany reported experiences of sexual harassment (Holzbecher et al. 1990). In the United States, between 42-44 percent of women in the federal workforce reported experiencing some form of sexual harassment during a two-year study period (U.S.M.S.P.B. 1980, 1987, and 1995). Thus, in the United States and in Germany, sexual harassment in the workplace is widespread. If anything, German women experience more harassment than women in the United States, especially physical harassment (see table 1). Similarly, throughout European Union countries, sexual harassment is a serious problem: 30-50 percent of employed women report experiences of sexual harassment in the workplace (European Commission 1999). While women constitute the overwhelming majority of victims of sexual harassment, between 10-15 percent of men report harassment in the United States and the EU (U.S.M.S.P.B. 1980, 1987, and 1995, Holzbecher et al. 1990, and European Commission 1999).

Sexual harassment can be both emotionally devastating and can produce severe economic effects, including losing one's job. In addition, "hostile environments" in male-dominated jobs have serious implications for women's equal access to better paying jobs. While discrimination and sexual harassment in the United States military has been of concern for twenty years, the European Union Court of Justice (2000) has only recently—in the *Kreil* case in 2000—pressured the German military to admit women into all ranks. The integration of women into the military will be very difficult because of the pervasive culture of hostility to women and to some men and institutional resistance to women's integration: women entering into male-dominated environments take high risks, as in the case of one of the first woman recruits who was raped by an *Unteroffizier* (non-commissioned officer) in July 2002. The man was convicted and sentenced to five years in prison.

Similarly, sexual harassment in working and educational environments contributes to unfair barriers to women's equal access to education and work. The problem is intensified if women shy away from taking part in educational or professional opportunities abroad because they fear hostile environments towards women.

In sum, sexual harassment by no means is just an "American" problem. It is a pervasive problem that affects predominantly women in education and in the workplace in both Germany and in the United States. However, because people in each country perceive the issue differently, a number of episodes of cross-cultural tensions have resulted from incidents of sexual harassment.

## **SEXUAL HARASSMENT AS A GERMAN-AMERICAN PROBLEM**

The global exchange of people has also increased the transatlantic exchange of larger number of Germans studying and working in the United States, and vice versa. In times of changing norms (cultural and legal) on both sides of the Atlantic, these cross-cultural encounters are prone to lead to incidents of sexual harassment. Several cases of German men accused of sexual harassment in the United States hit the news during the 1990s and

led not only to scandals but also to lawsuits. Even the German Parliament had to consider this issue. In 1993, an employee of the German Central Office for Tourism accused the director of sexual harassment and race-discrimination.<sup>2</sup> U.S. and German newspapers reported on the lawsuit, and the embarrassment and loss of reputation was serious. Ostensibly working toward a positive image of Germany in the United States, this office receives 80 percent of its funding from the German federal government.

A few years later, in 1996, the director of the German Konrad Adenauer Foundation in Washington D.C., a political foundation affiliated with the Christian Democratic Party (CDU) funded by public monies, was accused of sexual harassment and anti-Semitism by a group of employees. The lawsuit ended in a mistrial, and the women who had accused him later dropped the charges. However, the accusations, including the sexual harassment charges, tarnished the image of the foundation.<sup>3</sup>

Since the early 1980s U.S. employers as well as colleges and universities in the United States have adopted policies against sexual harassment. German academics are startled when they arrive in the United States and find “open door policies” in place and are told that dating students is discouraged or even prohibited by university policies.

On the other side of the Atlantic, Americans arrive to study and work in Germany and face a cultural environment that is less sensitized and less aware of problems of sexual harassment. Yet, Germans seem to be less willing to accept sexual harassment as a “cultural difference.” For example, in 1996 the Secretary General of the German Institute for Foreign Relations (Institut für Auslandsbeziehungen) in Stuttgart lost his job over accusations of sexual harassment and financial mismanagement. Among a group of complainants, it was only the young American man who was willing to give a deposition.<sup>4</sup>

Another example reveals the confusion about what constitutes sexual harassment in different cultural and legal contexts. Two months after arriving at her new German job in 2002, an American MIT woman graduate questioned her own (American) standards.

While at work several things have happened that I have been offended by, and I am unsure how to react. I want to know if my feelings are warranted, or if I am overreacting—as my boss thinks. First, a “which condom feels best” conversation has occurred. Then a “who will cum first in the office” conversation occurred. Today, many of the men, including one of the bosses, were looking at a web-site of prostitutes having sex. It was actually a web-site about a possible vacation that anyone can take where you are on a boat with a bunch of naked prostitutes. The guys turned red while showing me, and said, “well, you asked” without a prompt from me. This behavior offends me. *According to German standards*, are my feelings warranted?

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<sup>2</sup> German Accuses Tourist Office of Prejudice. *New York Times*. May 26, 1995

<sup>3</sup> Mistrial for U.S. director of Konrad Adenauer Foundation. *Deutsche Presse-Agentur*, February 14, 1996,

<sup>4</sup> Despite offering various cross-cultural sensitivity training programs, the materials on the Institute’s web-site lack explicit attention to gender and sexual harassment awareness.

According to both U.S. and German legal standards, these behaviors constitute sexual harassment, but her supervisor was obviously unaware of the German law that prohibits sexual harassment in the workplace.

Arriving in an unfamiliar, new cultural environment and learning what is acceptable and what is not is especially confusing in a time of such rapid cultural transformation. In cross-cultural encounters, several factors complicate sexual harassment. On the one hand, “cultural outsiders” need to establish new personal and professional relationships, yet any “newcomer” is more vulnerable to harassment. The willingness and openness to meet new people is also combined with the lack of security due to one’s own status. Social and cultural status in the workplace depends on networks and an understanding of formal and informal rules.

On the other hand, “cultural outsiders” who are unaware of local cultural norms and rules are more likely to breach them. For this reason, university campuses in the United States are specifically targeting international teaching assistants to take awareness programs on sexual harassment. As students of cross-cultural encounters are certainly aware of, there are cultural differences in everyday life: what is considered politeness or what constitutes professional behavior varies and depends on the cultural context. Socio-sexual relations, constituted by formal and informal rules of interactions between women and men, are also deeply cultural and gendered.

These episodes reflect cultural differences regarding non-verbal communication: how much eye contact and how much physical distance is appropriate; what kind of touching is appropriate among whom varies not only between Germans and Americans, but also along gender lines: for instance, in the United States white middle-class men rarely touch each other. Finally, what “flirtation” and “intimacy” means is also shaped by culture. Thus, cultural outsiders need to acquire an understanding of these mostly informal rules about “private” and “intimate” boundaries.

In general, leaving one’s normative cultural environment behind might also impair one’s own judgment, as a study-abroad administrator reasons: “Some people may abandon their normal inhibitions when they leave campus.”<sup>5</sup> Furthermore, interpretations of what constitutes sexual harassment are highly contextual, rooted as they are in the relationship between those involved, including power differentials. When Germans arrive in the United States, they encounter a cultural environment more sensitized to sexual harassment and, as “cultural outsiders” their own status is less secure. Given the attention that organizations in the United States pay to avoid lawsuits, Germans are also less likely to encounter the same leniency as they might be used to in Germany. In addition, they do encounter U.S. students and employees who have been encouraged to file complaints about sexual harassment.

Though very few incidents of sexual harassment in fact get reported in the United States, nonetheless, cross-cultural sexual harassment is more visible. Women who feel harassed by a cultural outsider might also expect that employers and university administrations will be more willing to believe them and take action against the harasser, because “cultural outsiders” or “foreigners” are perceived to have less power within the organization.

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<sup>5</sup> “When Trips Abroad Go Bad: A Recent Ruling Extends Sex-Discrimination Protections Beyond U.S. Borders.” *Chronicle of Higher Education*. Oct. 4, 2002, p. 49.

In sum, crossing the Atlantic increases the risk for sexual harassment to emerge as an issue in the workplace. Negotiations around physical and psychological space and intimate boundaries are highly cultural and contextual. In a time of normative changes of gender and legal cultures on both sides of the Atlantic, cross-cultural encounters are characterized by raising insecurities about norms and cultural standards. Combined with increased vulnerabilities and impaired lack of understanding of cultural and legal norms this mixture can be explosive and lead to incidents of sexual harassment.

However, there also differences in the legal and policy treatment of sexual harassment in the two countries, which have not only shaped the responsiveness of employers to the issue but have propelled broader cultural shifts in awareness of the issue.

## SEX DISCRIMINATION IN THE UNITED STATES

In the United States, legal changes preceded cultural awareness and have helped produce shifts in awareness of the issue. The United States was the first country to legally define sexual harassment in the workplace (see Table 2). The Equal Employment Opportunity Commission (EEOC) issued a guideline in 1980 that has been affirmed in the 1986 Supreme Court decision of *Meritor Savings Bank v. Vinson*. It defines sexual harassment as sex discrimination and privileges the subjective perception of victims of harassment by stating that it is “unwelcome sexual advances.” (see Appendix A)

Because sexual harassment is therefore a Civil Rights violation, individual legal rights of those harassed vis-à-vis their employer are comparably stronger in the United States than in most European countries. It is important for European observers to know that much sexual harassment litigation addresses employers’ responsibilities around sexual harassment—and not individuals accused of harassment. Courts have ruled in favor of women who felt harassed when their employers failed to take action after women had complained. Thus, a wave of litigation established the norm that employers should have policies and procedures in place—and be responsible to make individuals aware of the legal issues involved.

This is also reflected in training programs many employers have adopted, which focus predominantly on informing employees about their legal rights and the policies and procedures in place. Because the emphasis of these awareness programs is on potentially legal issues for the organization, the problem is that they perpetuate some commonly shared stereotypes: most of all, despite the widespread belief that women will immediately report sexual harassment, in reality few women do, because complaining about harassment carries still high risks: after the victimization by perpetrators, retaliation and reprisals for reporting frequently follow. Fifteen percent of civil rights cases today are complaints about retaliation (EEOC 2002). The experience of Anita Hill speaking out and for miner Lois Jenson and her colleagues, who filed the first class action suit, demonstrate the high emotional, psychological, and physical costs.<sup>6</sup> Psychologists refer to this as “secondary,” and “third” victimization caused by colleagues and employers, as well as by the legal system.

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<sup>6</sup> In literary form: Anita Hill. 1997. *Speaking Truth about Power*. University of Oklahoma Press. Clara Bingham and Laura Leedy Gansler. 2002. *Class Action: The Story of Lois Jenson and the Landmark Case That Changed Sexual Harassment Law*. Doubleday.

In sum, U.S. employers have been under pressure to adopt policies and procedures to deal with individual complaints of sexual harassment bringing about changes in people's awareness and sensibility. Yet, by emphasizing the legal dimensions the focus is on individual cases and behaviors, thus silencing organizational and gender dimensions of the problem. More systemic aspects of sexual harassment as rooted in unequal gender relations and gender workplace culture become difficult to address.<sup>7</sup>

## SEXUAL HARASSMENT AND "MOBBING" IN GERMANY AND THE EU

German laws on sexual harassment reflect the influence of the EU. Sexual harassment has been on the European Union's agenda since the mid-1980s. In 1996, the European Council of Ministers could not agree on a definition of sexual harassment, arguing that cultures were too different to apply one standard.<sup>8</sup> Six years later, in 2002, the European Union revised the Equal Treatment Directive of 1976. This new Directive recognized that sexual harassment constitutes sex discrimination. This was very important, because EU laws that apply to sex discrimination cases in general, such as easing the burden of proof, can now be applied to sexual harassment cases.<sup>9</sup> In addition, the Directive clearly postulates that intention is not required, thus conflicting with the German law that limits harassment to intentional behavior. Furthermore, the new Directive also states that no upper limits can be set concerning compensation. Consequently, Germany and other EU member states will have to revise (or adopt) laws by 2005 to comply with this new European Union Directive to improve individuals' legal redress.

Policymakers in Germany followed the European Union Recommendation of 1991 and defined sexual harassment as the "violation of dignity of women and men." The Christian-Liberal coalition government adopted the *Beschäftigtenschutzgesetz* (law for the protection of employees against sexual harassment in the workplace) in 1994 (see Table 2). Unlike the U.S. definition, which centers on the victims' subjective experience, the German definition privileges the perpetrator's perspective by defining sexual harassment as intentional behaviors (see Appendix XX).

In practice, the law has produced few changes in employer practices, since most German employers have ignored this Federal law. In part, this reflects the fact that the law provides little sanctions against employers who fail to take action. For instance, the labor court in Bonn that ruled in favor of a woman who had been grabbed on her breasts by her supervisor awarded her only 500 Euros, even though a third person witnessed the incident (Degen 1999). Thus, it is no surprise that harassed women hesitate to bring lawsuits, nor is it surprising that these legal changes have not been the driving force in German politics of sexual harassment. And while gender equality advocates throughout the public sector have provided some awareness programs and some cities have adopted policies against sexual harassment, sexual harassment in general has not been recognized as a serious concern.

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<sup>7</sup> For further discussion on the advantages and disadvantages of the U.S. individual-legal approach see Zippel 2003.

<sup>8</sup> While displays of pornographic images in Scandinavian countries triggered little resistance, representatives of Mediterranean insisted that touching and kissing were the norm (Collins 1996).

<sup>9</sup> The European level employers association vehemently opposed EU action, arguing that national level action was more appropriate and that sexual harassment should not be seen as discrimination between men and women.

Interestingly, however, concerns about sexual harassment were broadened to include discrimination and unfair treatment of employees in general. The main concept that has been employed is “mobbing”—the violation of a persons’ rights (*Persönlichkeitsrecht*) through intimidation and degradation that includes bullying and harassment. In the United States, the closest concept to mobbing is bullying or “hostile environment.” Mobbing, a term originating from Sweden, describes conflict-laden communications among colleagues or among superiors and employees in which the attacked person is treated as inferior. It is a situation in which one or more persons systematically, and, over an extended time period, attack someone directly or indirectly with the goal of marginalizing and driving him or her out (Holzbecher and Meschkutat 2000).

According to a recent survey, the *Mobbing-Report*, mobbing is a widespread problem: 11.3 percent of employees have experienced mobbing. For women, the risk of being mobbed is 75 percent higher than for men (Meschkutat, Stackelbeck and Langenhoff 2002). Some employers have responded following some innovative awareness programs that Volkswagen (VW) had spearheaded already in 1996 with a campaign for “fairness” in the workplace. From the mid-1990s on, innovative private and public employers have adopted anti-mobbing policies.

While there is no specific German law against mobbing, the Federal German Labor Court has defined mobbing as systematic hostility, harassment, and discrimination between employees or by supervisors (Decision of January 15, 1997, NZA 1997, p. 781 f). And most recently, a state-level labor court ruled that mobbing could be a violation of *allgemeine Persönlichkeitsrechte* (general personal freedoms) covered by the constitution’s Article 1 on human dignity, and/or Article 2 on personal freedoms, and/or on health (LAG Thuringia: Decision April 10, 2001). Employers need, therefore, to protect employees from mobbing. The concept of “mobbing” has also been promoted by the European Union. In fact, mobbing has become the European model to address “diversity issues” in the workplace.

## TRANSATLANTIC ORGANIZATIONS

For international and transatlantic workplace organizations, sexual harassment constitutes a particular problem: not only do they have a culturally diverse workforce, but they also navigate in different legal environments. Because the European Union directive leaves much leeway to its member states, such as in employers’ responsibilities, EU member states will continue to have different legal standards. Thus, given the future legal changes, transatlantic organizations will have to be aware of legal liabilities in EU member states. Recognizing that sexual harassment is a particular problem for cross-cultural working environments, they should also embrace the responsibility to create more equal cultures at workplaces and learning environments. Indeed, transatlantic corporations and international organizations can be vanguards for promoting culturally sensitive approaches to raise awareness of sexual harassment.

Companies like IBM, IKEA, Lufthansa, the UN, the World Bank and others have policies on issues of discrimination and, in particular, on sexual harassment that are uniformly applied across the Atlantic (Reinhart 1999). This is particularly important because U.S. employees have the same rights vis-à-vis their U.S. employers regardless whether their job is in the United States or abroad.

Not only in employment but also in education, awareness around sexual harassment is a trans-national issue: Study-abroad and student exchange programs in the United States are increasingly under pressure to act on the complaints of students, as U.S. courts hold international studies programs liable not only for the safety of the students but also for violations of their civil rights. Title IX of the Civil Rights Act protects students against sexual harassment not only in on-campus, but also off-campus activities, including study-abroad programs.<sup>10</sup> With figures of American students studying abroad doubling over the past ten years,<sup>11</sup> the *Association of International Educators* is promoting best practice models for the promotion of safety in study abroad programs.

## THE POTENTIAL FOR TRANSATLANTIC LEARNING

Should there be uniform policies regarding sexual harassment? Would they be feasible? Regardless of the national legal contexts, employers need to assure the recognition of basic human values of respect and dignity in the workplace. Given that sexism is pervasive, sexual harassment needs to be addressed as a gendered issue in cultural contexts. Without reinforcing cultural stereotypes, increasing sensitivity and awareness on gender, ethnicity, race, and class issues is necessary in order to enable women and men from different cultures to work together on equal footing.

Exchanges of people provide learning opportunities for both sides: before sending students and employees on trips and exchanges abroad, it is essential to prepare participants for the experience of living and working in a new cultural environment through awareness, sensitivity, and assertiveness training.

These programs, however, need to be conducted with cultural sensitivity and should go beyond *Benimmregeln* (etiquette): for example, Germans learning about the United States receive little more information about the U.S. norms than that “body contact (for example, pats on the shoulder etc.) are tolerated, yet, especially in the workplace, they can be interpreted as sexual harassment against female employees.”<sup>12</sup>

On the one side, information about the legal situation is necessary; however, fear of accusation can also increase hostility, especially among men. Thus, instead of fueling stereotypes, for example about the “prudish American” and “revengeful women” ready to report any (unintentional) “political” or “sexual incorrectness,” it is essential to recognize that interpretations of sexual harassment are contentious *also* among Americans. Yet, the core of the problem of sexual harassment is abuses of power, complicated by cross-cultural differences in gender cultures.

There are opportunities for cross-national learning: the advantage of the European concept of “mobbing,” in contrast to U.S. concepts of discrimination, is that “mobbing” can happen to everybody, because it is defined as the violation of dignity and applies to everyone, not just protected groups. Thus, it provides the opportunity to encourage men to be allies in creating workplace environments free of abuses of power, harassment, and mobbing.

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<sup>10</sup> “When Trips Abroad Go Bad: A Recent Ruling Extends Sex-Discrimination Protections Beyond U.S. Borders.” *Chronicle of Higher Education*. Oct. 4, 2002, p. 49.

<sup>11</sup> 143,590 Americans studying abroad, approximately two thirds of them in Europe. (ebd.)

<sup>12</sup> Institute für Auslandsbeziehungen (IFA): <http://www.ifa.de/crossculture/index.htm>.

Nowadays we are witnessing dramatic changes in cultural expectations and legal standards in both the United States and in Europe. Cross-cultural encounters provide the opportunity not only to learn about other cultures, but also to question one's own norms and rules.

## CONCLUSION

The portray of sexual harassment as a cultural import from the United States reaffirms myths and stereotypes about sexual cultures that do little to help create inclusive workplace environments, or to adjust to changing legal standards on both sides of the Atlantic. If Germans insist that sexual harassment is an American problem, they often downplay and trivialize that sexual harassment is a common experience of working women in Germany and in the United States. It further ignores that Germans and non-Germans are increasingly sharing workplaces around the world.

Over the past twenty years, cultural and legal standards around sexual harassment have undergone rapid changes and will continue in the future. While the new EU Directive on sexual harassment will bring a uniform definition of sexual harassment as sex discrimination across EU member states, the implementation remains in the hands of EU member states—and more importantly, in employers' hands.

While the United States has been on the forefront of creating legal changes that assert individuals' civil rights, “mobbing,” the European model of promoting awareness on diversity issues in the workplace, might be a positive *addition* to U.S. concepts of discrimination. The goal to promote workplace cultures depends on the support of “bystanders.” Men need to be allies in creating workplaces free of bullying and harassment in general.

The goal of international organizations should be to promote and create a culture at work and in education that treats everyone equally—that is, with fairness, respect, and inclusiveness. The challenge of anti-sexual harassment training programs in cross-cultural context has been and will remain to create awareness without reinforcing gender and cultural stereotypes in order to create working and learning environments conducive to everyone.

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**Appendix:**

**Table 1 Women's Experiences of Sexual Harassment in Germany (1984, 1990 and 1991) and in the US (1980, 1987, 1995) in Percent**

	<b>German Studies</b>	<b>U.S. Merit Systems 1980, 1987, 1994</b>
Jokes with sexual innuendos	63-81	
Staring, whistling	67-84	28-29
Pornographic pictures*	35-43	
Remarks about a person's figure or sexual behavior in private life	42-56	33-37
Unwanted invitations with definite sexual intentions	17-35	13-26
Advances in writing or by telephone	14-19	9-12
Promise of professional advantage through sexual involvement	7-8	
Threatening professional disadvantage for refusing sexual involvement	3-5	
Asking for, demanding sexual intercourse	12	7-9
<b>Physical Harassment</b>		
Forced kisses or hugs	13-31	
Pinching or slapping on the behind	34-51	
"Accidental" touches	40-70	
Deliberate Touching		15-25
Touching of breasts	22-43	
Touching of genitals	17	
Sexual assault/rape	2-4	0.8-4

\*) In the Hamburg Study, pornographic pictures include slogans, comics, posters, or calendars with sexual content.

Sources: German Studies include survey by Infas (Plogstedt and Bode 1984), Hamburg Study (Schneble and Domsch 1990), and the Dortmund Study (Holzbecher et al. 1990).

**Table 2 Gender Equality and Sexual Harassment Measures and Agencies of Enforcement in Germany, the EU, and the United States**

	Year	Name	Offices for Enforcement
<b>European Union</b>			European Commission, Equality Unit in DG 05
	1957	Article 119 of Treaty of Rome	
	1976	Directive on Equal Treatment including Equal Pay	
	1990	Resolution of the Council of Ministers on the “Protection of the Dignity of Women and Men in the Workplace”	
	1991	Recommendation of the European Commission on the “Protection of the Dignity of Women and Men in the Workplace”	
	1998	Treaty of Amsterdam	Mainstreaming
<b>Germany</b>	2002	Directive on Equal Treatment	Ministry of Women, later gender equality offices in public sector
	1980	Act on the Equal Treatment of Men and Women in the Workplace. EC Adjustment Law concerning labor law	
	1994	Second Equal Rights Act	
<b>United States</b>	1964	Civil Rights Act, Title VII	Equal Employment Opportunity Commission
	1968	Executive Order 11375	Office of Federal Contract Compliance Programs
	1972	Equal Employment Opportunities Act	Equal Employment Opportunity Commission
	1991	Civil Rights Act	

## **Legal Definitions of Sexual Harassment United States (EEOC 1980):**

“a) Harassment on the basis of sex is a violation of section 703 of title VII of the Civil Rights Act of 1964, discrimination on the grounds of sex U.S.C. Sec. 2000(e)...  
Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when

### ***(Quid pro Quo)***

1) Submission to such a conduct is made either explicitly or implicitly a term or condition of an individual’s employment;

2) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or

### ***(Hostile Environment).***

3) 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...

## **European Union: Amendment to the Equal Treatment Directive (passed 2002 in force in 2005)**

Harassment on the basis of sex as well as sexual harassment constitute discrimination.  
Definition: “Sexual Harassment: where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.”

Harassment: where an unwanted conduct related to the sex of a person occurs with the purpose or effect of **violating the dignity of a person**, and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

<http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/ce047/ce04720020221en01580173.pdf>

## **German Federal Employee Protection Law 1994 (Bundesbeschäftigtenschutzgesetz)**

“Sexual harassment is every intentional, sexually motivated behavior, which offends the dignity of employees in the workplace. This includes

1. Sexual acts and behaviors that are illegal under other criminal law and,
2. Other acts or demands which include sexual physical touching, remarks with sexual content, as well as the showing or visible display of pornographic materials, if they are recognizably rejected by the person affected.