SEXUAL HARASSMENT IS A NEW CRIME that no one understands or can understand because it has no fixed definition.

The term is continually revised and expanded to ensnare ever more wrongdoers (usually after the fact) and transfer power into the hands of feminists, lawyers, government officials, and assorted hangers-on. As generally understood, it refers to men in positions of superior authority abusing their leverage to extort sexual favors from female underlings. Such misbehavior was already prohibited by both standard rules of professional conduct and by law long before the feminists used the accusations to leverage political power.

“The fact that the behaviors in question were already covered by existing criminal and civil
prohibitions, including assault, battery, blackmail, lewdness, breach of contract, and intentional infliction of emotional distress, was insufficient,” according to Diana Furchtgott-Roth and Christine Stolba in “The Feminist Dilemma: When Success is Not Enough.” The new terminology was not only politically incendiary but intentionally vague, so that what began as unethical professional conduct could be expanded to include any male behavior.

“Sexual harassment has become so loosely defined as to be incapable of serving any constructive purpose,” writes Daphne Patai, the leading academic expert on the topic and one of the few to approach it with critical detachment, more than a decade ago. “‘Sexual harassment’ seems often to be little more than a label for excoriating men.”
Like other radical political campaigns, it also created a lucrative litigation enterprise hardly distinguishable from an extortion racket.

According to the U.S. federal government, sexual harassment occurs not only “when submission [to] or cooperation [with it is] an implicit or explicit condition of employment,” but also when it has the “purpose or effect of unreasonably interfering with a person’s work performance or creating an intimidating, hostile, or offensive work environment.” In fact, it is much more expansive than even this loose definition suggests. Under feminist pressure (and much like rape), sexual harassment has now been expanded to punish any sexual or romantic interaction between men and women under any circumstances, if the woman complains to the authorities. It therefore turns ordinary personal relationships into legal offenses for which only men can be punished.

One educational resource lists “sexually harassing behaviors” (meaning legally actionable ones) as “name-calling (from ‘honey’ to ‘bitch”), “spreading sexual rumors,” “leers and stares,” “sexual or ‘dirty’ jokes,” “conversations that are too personal,” “repeatedly asking someone out when he or she isn’t interested,” and “facial expressions (winking, kissing, etc.).”

One educational resource lists “sexually harassing behaviors” (meaning legally actionable ones) as “name-calling (from ‘honey’ to ‘bitch’),” “spreading sexual rumors,” “leers and stares,” “sexual or ‘dirty’ jokes,” “conversations that are too personal,” “repeatedly asking someone out when he or she isn’t interested,” and “facial expressions (winking, kissing, etc.).” In an influential article in the Harvard Law Review, Cynthia Bowman includes “the harassment of women in public places by men who are strangers to them,” such as construction workers, because of wolf whistles, leers, winks, and remarks such as “Hello, baby.” She advocates “statutes specifically targeting street harassment, and litigation aimed at redefining the torts of assault, intentional infliction of emotional distress, and invasion of privacy.” So leers, stares, and winks would become crimes equivalent to “assault” or, in feminist parlance, “violence against women.”

“The statute proposed by Bowman would punish a man for starting a conversation with a female stranger with any sort of implicitly sexual language – including, perhaps, an ‘unwelcome’ pickup line in a singles bar.” In other words, for Initiating any conversation at all. In “Feminist Jurisprudence,” Michael Weiss and Cathy Young hope, perhaps naively, that “Unconstitutional vagueness and overbreadth would appear to stand in the way of such legislation.” Feminists also agitate to bring the full force of the law to make construction crews “cease engaging in ‘visual harassment’ of women passing their building sites.”

Here again, the criteria for establishing guilt are highly subjective, based entirely on a woman’s feelings, and words mean what the accuser decides they mean. The offense is therefore what the accuser decides it is, based on her own feelings.

“Thus, a woman’s subjective judgment of men’s actions, regardless of their intent, became the standard by which complaints could be judged,” writes Patai. “Subjective factors thus operate at every level of the sexual harassment scene.” This constitutes nothing less than “the elevation of women’s word to the level of law.” And it can include sexual feelings and hurt feelings. One study found that “As the attractiveness and availability of the man decreased, the women’s expe-

Even more than rape, therefore, sexual harassment is both subjective and vague – “an offense that even the Supreme Court cannot define,” says Patai.

Are we talking here about a breach of ethics – or a crime? Once again, the effect is to blur the distinction between unpleasantness and criminality. “Sexual harassment ... lies on the border between a crime and a mistake,” one feminist reveals. So one man’s mistake is another man’s prison term. Does this semi-crime necessarily include physical “force”? If so, why does that not make it rape or sexual assault, and sexual harassment is something else? It is never clear. Moreover, it seems to be intentionally unclear, so that no criteria separate ethical (civil) peccadilloes from violent (criminal) assault.

“What’s the difference between an unwelcome request for a date and rape?” asks Wendy Kaminer in her Atlantic article, “No Sex Talk Allowed: What’s wrong with the Obama administration’s definition
of sexual harassment.” “Pursuant to the Obama administration’s definition of sexual harassment, this is not an easy question to answer,” she says. This ambiguity is created by feminists to “link harassment to more serious acts of violence.” Jurist Deborah Rhode insists that “the dynamics of male entitlement, dominance, and control that foster harassment also contribute to more serious forms of abuse, such as domestic violence and rape.”

This explicit equation of political power with crime is invoked by mainstream feminist groups who describe “harassment” as “a form of violence against women, used to keep women in their place.” Throughout the literature, we meet repeated “suggestions that sexual harassment is the precursor of rape (both acts being defined as essentially about ‘power,’ not sex)” and “the frequent use of the honorific ‘survivor’ to refer to those who have experienced ‘sexual harassment’... invites the reader to elide distinctions, to treat all instances of sexual harassment as ‘equally damaging as’ brutal sexual assault. Such claims violate empirical and conceptual boundaries, and they are intended to do so,” explains Patai.

Equally nebulous is the adjudication. Sexual harassment is not generally prosecuted or tried in a court. Instead, the employer is held legally liable, usually through civil suits. The employer must therefore police its employees, acting as a kind of proxy sexual constabulary. The entire matter is thus handled civilly, not criminally – though it ostensibly involves “violence” (of some kind). Here too the distinction is blurred, and the reality for the accused, as author Mane Hajdin writes, is that ...

being found guilty of sexual harassment is, in its consequences, far closer to being found guilty of a crime than to losing a civil suit. Admittedly, sexual harassers do not go to jail, but in all other respects, one’s life can be just as ruined by being found guilty of sexual harassment as by a criminal conviction. Those found guilty of sexual harassment are typically treated as outcasts, just as criminals are. If one is accused of sexual harassment, one stands to lose one’s job ... and one’s respectability in one's community.

Here too, constitutional protections are quietly discarded. “Despite these severe consequences, those accused of sexual harassment do not enjoy anything close to the procedural protection given in our legal system to defendants in criminal trials,” Patai points out. “Guilt need not be proven beyond a reasonable doubt; and culpable actions need not be demonstrated as either intentional or reckless.” In fact, the system is marked “with a complete absence of due process.”

In what Patai describes as a “vigilante mentality,” the accuser is routinely even given “the right to declare ...what is to be a satisfactory punishment for the accused.”

At one time, of course, it was men, especially family members, who protected women from such unpleasantness. But the feminist insistence that women do not need men for protection necessitates the substitution of gendarmes and the penal apparatus for the same purpose. So what was once a matter of enforcing manners is now a matter of enforcing the law, giving penal officials a vested interest in adjudication and punishment.

“The risk of occasionally being offended is the price we pay for living in a free society,” write Weiss and Young. “The Supreme Court cautions us against ‘the facile assumption that one can forbid particular words without also running a substantial risk of suppressing ideas in the process. Indeed, governments might soon seize upon the censorship of particular words as a convenient guise for banning the expression of unpopular views.’” Feminists seem to have no hesitation about this.

“Most feminist legal theorists do not even deny that their intent is to censor particular words because they serve as conduits for evil ideas,” Weiss and Young found. “Even if one agrees with their view that such ‘sexual objectification’ is detrimental to women’s status, that hardly warrants eviscerating First Amendment freedoms.” Philosopher Ferrel Christensen has warned that the concept of “sexual harassment” has become “the greatest violation of freedom of speech to emerge in decades.”

Political opinions already qualify as “harassment” on university campuses when contrary to feminist orthodoxy.

When a University of Michigan student suggested that date rape accusations could possibly be false, he was informed by his dean that his opinion constituted “discriminatory harassment.”

A statistics professor was accused of “racial and sexual harassment” for “using statistical analysis to challenge some claims of race and
sex discrimination – such as the assertion that blacks were disproportionately denied mortgage approval because of race, or that women earned 59 cents to a man’s dollar because of discrimination.”

At California State University, a student can be found guilty of sexual harassment for "reinforcement of sexist stereotypes through subtle, often unintentional means" and "stereotypic generalizations," and Marshall University punishes words that cause "embarrassment" or are "demeaning" or "stigmatizing." Thus men are punished not for harassing women themselves, but for questioning harassment policies and punishments and the goodness of the gendarmes who administer them.

An eminent University of California biologist was suspended for refusing harassment training. He called the mandatory training a "sham": "The requirement was a naked political act by the state that offended my sensibilities, violated my rights as a tenured professor, impugned my character, and cast a shadow of suspicion on my reputation and career."

Alan Dershowitz recounts how – again, reminiscent of Mao’s Cultural Revolution – a group of feminists in his criminal law class at Harvard, objecting to his discussion of false allegations of rape, threatened to file hostile-environment charges against him. "Despite the fact that the vast majority of students wanted to hear all sides of the important issues surrounding the law of rape," Dershowitz states, "a small minority tried to use the law of sexual harassment as a tool of censorship."

The significance of this does not escape him: "(T)he fact that it is even thinkable at a major university that controversial teaching techniques might constitute hostile-environment sexual harassment demonstrates the dangers of this expandable concept."

The ideological and authoritarian logic reaches its starkest in "anti-feminist intellectual harassment." Under this concept, writes feminist Annette Kolodny, dissent from or criticism of feminist doctrine constitutes an actionable offense and proceedings used to silence the "harasser": "Anti-feminist intellectual harassment ... occurs ... when any policy, action, statement, and/or behavior creates an environment in which the appropriate application of feminist theories or methodologies to research, scholarship, and teaching is devalued, discouraged, or altogether thwarted."

Patai calls this "perilously close to an open declaration to the effect that no criticism of feminism and feminists shall be tolerated." But it is difficult to see how it is anything less than precisely such a declaration. According to attorney Hans Bader, "Perfectly civil, non–vulgar students have been subjected to disciplinary proceedings for sexual and racial harassment, in violation of the First Amendment, merely for expressing commonplace opinions about sexual and racial issues, like criticizing feminism."

The accused, writes Bader, are then indeed treated like a disgraced party member in Maoist China, subject to ordeals of self–denunciation and re–education: ... [T]he offending party is brought to the point where he agrees to spend time learning about, and even leading, activities related to women at the college. He also undertakes ... to write a letter of apology to the student, expressing his esteem for her abilities and detailing what he has learned from his training. The trainer suggests that this letter (to be submitted first to the trainer for "review") also be approved by the department chair and the university's EEO [Equal Employment Opportunity, a federally funded entity] office.

Even children are now punished for sexual harassment, as the U.S. saw when six-year-old Johnathan Prevette was suspended from school for kissing a girl on the cheek. Such sensational cases are, again, only the tip of the iceberg, and many have followed since.

Similar indoctrination is used to punish domestic "violence."

Even children are now punished for sexual harassment, as the U.S. saw when six–year–old Johnathan Prevette was suspended from school for kissing a girl on the cheek. Such sensational cases are, again, only the tip of the iceberg, and many have followed since. Minnesota’s harassment law includes kindergartners, and in one school year alone, over 1,000 children “were suspended or expelled on charges related to sexual harassment.”

In 1993, Cheltzie Hentz, 7, became the youngest complainant at that point to win a federal sexual–harassment suit for "abusive" language by boys on a school bus. “This
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particularly absurd case also provided a telling example of the anti-heterosexual bias that pervades the sexual harassment industry. “A six-year-old girl kissing another little girl would not have been the target of such vigilance,” writes Patai in “Heterophobia.”

These programs invariably include the requirement to “educate” the offending child in ideology. This includes informing girls who might enjoy the attention that they should instead be scolding the boys for their criminal culpability in transgressing federal law. “Many girls consider this behavior acceptable, and they laugh and joke about it,” laments one social worker. But they are instructed instead to respond to such flirtations by issuing a scripted government warning to the offender and threatening him with police: “Stop it! That’s sexual harassment, and sexual harassment is against the law.”

Like other political crimes, sexual harassment is also subject to manipulation for those with private grievances against the targeted male. In another sensational case, a Maryland track coach was fired when accused by two girls “unhappy about failing to make the all-county cross-country team.” His crimes included Marine-style yelling and derision to motivate the runners – “methods that, one plaintiff [apparently not adequately schooled ideologically] told a reporter, were fine for boys but not for girls, because ‘they’ll cry.”

FEMINISTS WHO SEEK ‘POWER AND CONTROL’
“For every gross male harasser, there are ten female sycophants who shamelessly use their sexual
attractions to get ahead,” writes Camille Paglia. Once again, it would appear that it is the feminists who are using the state to exercise “power and control.”

“Showing your cleavage is the embodiment of empowerment,” says a female spokesperson for Wonderbra, which commissioned a survey finding that two-thirds of British women admitted using their cleavage to advance their careers, and 14 percent admit they “wear plunging necklines in the workplace to boost their career.” “Sexual harassment” codes do not discourage this form of power-seeking; they render it far more effective.

Women’s natural sexual attraction thus constitutes what feminists characterize as their “oppression,” and this is the inescapably political logic by which, “Taken to its logical conclusion, ideological feminism really does lead to lesbianism.” It also shows why the kind of lesbianism thus driven is not simply a personal sexual preference, but a subtle political ideology whose logical conclusion can only be the criminalization of male heterosexuality, if not all heterosexuality. “Do we really want to declare that straight men are sexist for feeling physically attracted to female bodies?” asks Nathanson and Young. Indeed, criminally sexist. Patai calls this “heterophobia.”

The logical conclusion is of course emasculation, expressed in various demands that men denounce themselves and one another for being men. In one of the latest stunts, men are expected to parade about in high-heel shoes as a form of empathy with oppressed women, a peculiar form of political protest that appears to have the virtue of permitting women to exercise sexual allure, simultaneously claim to be victimized by their own indulgence and power, and then blame and emasculate men. The “Walk a Mile in Her Shoes” campaign claims to make “men better understand and appreciate women’s experiences.”

“But women choose to wear high heels because they want their legs and feet to look sexy,” Heather MacDonald observes. “Nothing forces them to be sex objects; they assume the role voluntarily.” In April 2015, Temple University ROTC cadets were both politicized and publicly humiliated by being ordered to wear high heels during a political march.

Logically the only way to end sexual inequality and “harassment” is to end sexual difference — toward that end, now re-baptized as “gender.” “Women couldn’t be oppressed if there was no such thing as ‘women,’” comments one feminist, apparently the product of a “sex-change” procedure. “Doing away with gender is key to doing away with patriarchy.”

In short, nothing indicates that the hysteria over “harassment” is a necessary but excessive response to a real problem; from the start it was another ideological power grab, using sexual dynamics and government power to emasculate and feminize. “Now I believe that obvious cases of true harassment are relatively rare,” says one professor who volunteered to participate in his university’s program, “and that most of the movement feeds off minor incidents and consensual relationships that have somehow gone sour.”

The result is a campaign to root out heterodox opinions that most people regard as common sense and label them as criminal. “Dissent ... was not regarded as a difference of political opinion, but as the unwelcome persistence of pernicious ‘attitudes’ assumed to inspire criminal behavior,” writes Brian Mitchell. He cites a U.S. congressional committee, which compares commonsense beliefs about men and women to racist bigotry:

At the root of sexual harassment is a series of cultural beliefs, attitudes, and perceptions about women. Unless we can change stereotypical thinking, sexual harassment training programs will likely prove ineffective.

Like other new gender crimes, sexual harassment “has spawned an industry” that thrives by accusing. Aside from the usual proliferation of lawyers and civil servants, private companies now offer “awareness programs” and “training services” that teach people how to accuse.

As with rape, the vanguard of all this is in our ideological incubator: higher education. “The modern college or university is, in most instances, run primarily by the lawyers,” observes Harvey Silverglate. This substitution of lawyers for educators “grows ... out of the increasing role of federal and state legislation in the daily life of our colleges” and from a consequent fear of being sued. “Today no ... decision is made without consultation with, if not outright dictation by, the [in-house law firm known as the] general counsel” — stand-in administrators to whom ‘No trouble on my watch’ is the guiding principle.” This fosters a culture not of inquiry and criticism, but of obedience and conformity. Thus, “many issues are decided not on the basis of what is conducive to instruction and learning, but rather in response to the ever-hovering question: How can the college reduce its legal liability and avoid being sued?” And the first example that comes to mind, writes Silverglate, is sexual:
So when ... a student accuses another student of a sexual assault, the disciplinary tribunal on many campuses tends to give excessive deference to the accuser, at the expense of the accused, for fear of being charged with some form of gender discrimination or a laissez-faire attitude toward harassment. The same attention to liability-reduction may be found in numerous decisions made by campus tribunals or administrators.

Behind a front of distinguished educators who have been reduced to ciphers, feminist federal officials manipulate the nation’s universities through marionette lawyers.

Here as elsewhere, the system readily degenerates into legal extortion. “Universities tend to prefer the least expensive path to resolution of sexual harassment cases, and this often means settling out of court, usually by paying off the complainant, regardless of the merits of the charges,” writes Patai. “Such settlements are frequently shrouded in secrecy; all the outside world knows about them is that charges were withdrawn in exchange for undisclosed sums of money. The alleged ‘harasser’s’ name is never explicitly cleared.” Such methods operate on the cutting edge of criminal law, where the plea bargain has similarly become a legalized shakedown racket, and parallel “civil” cases provide a lucrative profit motive for accusers, lawyers, and anyone else who can get their noses in the trough.

In May 2013, the federal government continued pushing the envelope with yet more directives dictating how universities must police and micromanage the private lives of their students, to the point of stopping the ideas that come out of their mouths. The Foundation for Individual Rights in Education (FIRE) describes the initiative as “a shocking affront to the United States Constitution” that mandates “that virtually every college and university in the United States establish unconstitutional speech codes that violate the First Amendment and decades of legal precedent.”

According to FIRE president Greg Lukianoff, the government is demanding “campus speech codes so broad that virtually every student will regularly violate them. The DOE and DOJ are ignoring decades of legal decisions, the Constitution, and common sense.” Silverglate and Juliana DeVries say that by dictating the permissible extent of sexual discussion, the federal agencies “have mandated the effective abolition of free speech on college campuses.” As they describe the measures:

Henceforth, “sexual harassment,” for which a student must be investigated according to federal regulations, will be defined on campuses throughout the nation as engaging in “any unwelcome conduct of a sexual nature.” Moreover, the “unwelcome conduct” need not be gauged by the perceptions and reactions of a “reasonable person.” Instead, a student ... must be brought up on harassment charges if his conduct is, quite simply, “any unwelcome conduct of a sexual nature,” including “verbal conduct” (more commonly known as “speech”), from the vantage point of the “victim.”

Another legal authority, Hans A. von Spakovsky, writes in the PJ Media article “Making a Request for a Date Could be a Federal Crime”: “The breadth of this new mandate, plucked from the mists occupied only by the most radical ideologues, is staggering.”

CONTINUED ON NEXT PAGE
Under DOJ/DOE’s definition of sexual harassment, a student asking another out on a date could conceivably violate the law if the person being asked out found the question “unwelcome” ... Or if a student was taking a health class where biological reproduction was discussed, the teacher might be found guilty of sexual harassment if one student found the discussion “unwelcome,” even if no one else in the class and no reasonable person found it unwelcome or offensive.

Here again, the subjective perceptions of the accuser (“victim”), not the objective deeds of the accused (“harasser”) determine guilt. Lukianoff says, “If the listener takes offense to sexually related speech for any reason, no matter how irrationally or unreasonably, the speaker may be punished.” In other words, because the crime is “offending” someone, the accused is guilty by virtue of being accused.

The critics who led the outrage against the directive treat it as something unusual, isolated, and innovative and so they have trouble accounting for where it came from. But as we have seen and will see again, it is a common feature of gender crimes – already well established in, for example, divorce court and rape cases, where it is certainly very familiar to the feminist officials who devised these directives.

Here too one can see very starkly how the “hook-up” culture of easy sex that is now rife throughout the universities of the Western world – and that was started in the name of sexual liberation – has now become a massive, federally administered honeytrap that lures and then criminalizes heterosexual male university students.

“Libertarians are rightly outraged by the Obama administration’s new puritanical speech code,” Peter Lawler observes: “But others have either praised or blamed that same administration for its ‘aggressive libertarianism’ when it comes to sexual behavior – its promotion of
the right to contraception, its opposition any limitation on abortion as religious extremism, and its firm embrace of the cause of gay rights. Some might say this is the most and least puritanical administration in history.”

But what is critical is not the paradoxical contradiction; it is the dynamic behind it. Ken Masugi notes “the contradictory place the university has become.”

“Having embraced the sexual revolution and encouraged an atmosphere of promiscuity,” he writes, “much of higher education has now created a legalistic, centralized crackdown on talk about sex. ... We have become what Tocqueville implied our condition would be without the influence of mores: a bureaucratic nightmare. If we can’t rule ourselves, we will have rules, myriad of them, made for us.”

But this is not really contradictory at all, and the bureaucratic nightmare is no accident. It is yet another grab for power by sexual revolutionaries, and it places them firmly in control.

Indeed, consistent with our recurring theme, what escapes even critic is how smoothly the ever-expanding definition of “harassment” criminalizes, simultaneously, both personal behavior and heterodox political opinions. “This [directive] leaves a wide range of expressive activity ... subject to discipline,” FIRE points out, diplomatically suggesting examples of what might be prohibited: “a campus performance of ‘The Vagina Monologues,’ a presentation on safe sex practices, a debate about sexual morality, a discussion of gay marriage.”

But of course we all know that these are not the activities that will be banned. They are precisely what are being encouraged, funded, and given official sanction because they flush out heterodoxy so it can be punished.

“Inclusive enforcement of this mindlessly broad policy is impossible,” Wendy Kaminer notes, adding that it is not intended to be enforced evenhandedly. “I doubt federal officials want or expect it to be used against sex educators, advocates of reproductive choice, anti-porn feminists, or gay rights advocates, if their speech of a sexual nature is ‘unwelcome’ by religious conservatives.”

On the contrary, it will be used against religious conservatives and anyone else who challenges the federal government’s consolidation of sexual power.

If any doubt can remain about the federal government’s commitment to due process, officials suggest “taking disciplinary action against the harasser” before any investigation is even complete, and they complain that one appeal resulted in exculpation. “A Justice Department offended that a defendant might be able to go through several levels of appeal is something that should scare all of us,” comments von Spakovsky. “They appear to want the university to apply the Queen of Heart’s admonition in ‘Alice in Wonderland’ and lop off the heads of anyone accused of sexual harassment before there has even been an investigation or hearing to determine whether the accusations are true.”

One student leader at a major university complained that by demanding rules of evidence and due process protections for the accused, “You’re automatically assuming the information from the [alleged?] victim is false.”

“The Departments of Education and Justice are out of control,” declares FIRE’s Lukianoff. “Banning everyday speech on campus? Eliminating fundamental due process protections?”

But the most damning indictment of all of us may be that this level of outrage can be generated on university campuses (where the most severe penalties are expulsion), whereas no remotely comparable clamor arises against innocent men jailed for decades by trumped-up accusations in criminal courts or summary incarcerations by divorce courts without any criminal conviction or even charge at all. ■

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The preceding is excerpted with permission from Stephen Baskerville’s just-published book, “The New Politics of Sex: The Sexual Revolution, Civil Liberties, & the Growth of Governmental Power.” (See ad on inside front cover.)