

Reading guide for “Sexual Harassment and Solidarity” (May) and “Normative Issues in Defining Sexual Harassment” (Leeser & O’Donohue).

### **preliminaries**

On p. 242, col. 2 Leeser and O’Donohue say, “A violation of such a principle, then, is a *necessary condition* of sexual harassment.” A necessary condition is one that *has to occur* to get some result (in this case sexual harassment). Thus, whenever the result occurs, the necessary condition has also occurred. But a necessary condition can happen while the result doesn’t. (The condition is necessary, but it is not, by itself, enough to bring about the result.)

In contrast to a necessary condition, a *sufficient condition* is one that, by itself, will bring about the result. So, if the sufficient condition happens, then the result will happen. (In column 2 on p. 240, Leeser and O’Donohue state a sufficient condition for sexual harassment.) However, any one particular sufficient condition doesn’t have to occur to get the result. (Different sufficient conditions can also bring about the result.)

### **examples**

Being at least 35 years old is a necessary condition for being President of the United States.

Having four sides is a necessary condition for being a square.

Being divisible by six is a sufficient condition for being an even number.

Being guillotined is a sufficient condition for death.

### **the categorical imperative**

The version of the categorical imperative that is in “What Is Ethics Anyway?” is sometimes called the *first version of the categorical imperative*. The second version of the categorical imperative is at the bottom of column 1 on p. 242. It is “act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.” (And *deontology* means, basically, *Kantian ethics*. So, a *deontologist*, which is mentioned in the next column, is someone who accepts or is committed to Kantian ethics.)

To begin thinking about the second version of the categorical imperative, we can distinguish between three ways of treating a person:

- (1) Treating someone “merely (or simply) as a means” to achieve some goal (end).
- (2) Treating someone as a means to achieve some goal (end).
- (3) Treating someone as an end (in him- or herself) and never merely as a means to an end.

The first is the one that is not morally acceptable. Treating someone merely (or simply) as a means is, essentially, using that person as a tool to accomplish what you want accomplished. You use the person and the person has no choice about being used. Treating someone as a slave is a clear example, but lying or misleading someone is also treating that person as a *mere means* because you are withholding the information that they need to make their own informed decision.

In contrast, (2) is fine (and doesn't really have any special significance here). Using someone as a means to achieve a goal when they are willingly participating and are maybe achieving their own goals at the same time is fine. For example, if you take a bus somewhere, you are using the bus driver to get you there, but he or she is willingly (we hope) participating.

Then, (3), treating someone as an end, is letting the person make their own informed decisions about what they want to do. (So, this will sometimes overlap with (2).) Further analysis of 'treating someone as an end' gets a little complex, but that analysis will yield the following.

- (a) Treating people as ends in themselves means treating them as having intrinsic value (i.e., value just because of who they are) and not as having value based *only* on what they can help you achieve.
- (b) Treating people as ends in themselves and as having intrinsic value is, in this Kantian sense, "treating them with respect" (but *respect* here has a specific meaning related to treating someone as an end in themselves).
- (c) Treating people as an end in themselves is treating them as agents with autonomy.

*Autonomy* is freedom in the sense that the person is able to make decisions that are in his or her own self-interest. That's not to say that people who have autonomy always will act in their own self-interest, but just that they are able to do so—basically, they can think freely and make their own choices. The typical example of someone who lacks autonomy is the "happy slave." Consider a slave who has been given his freedom but chooses to remain in his enslaved circumstances. That person is now free (in the sense that he is no longer a slave and is free to leave), but he lacks autonomy. His mind can't go beyond being a slave.

### **sexual harassment**

Two legal conceptions of sexual harassment are *quid pro quo sexual harassment* (the victim's working conditions are based on how she responds to sexual requests) and *hostile environment* (the victim's work performance is disrupted because of a sexualized environment). These are the two different types of scenarios that, legally, count as sexual harassment. (Although that's

not to say that there couldn't be some other type of scenario that is sexual harassment and should, legally, be recognized as such but isn't.)

*Quid pro quo* and *hostile environment* are ways of categorizing instances of sexual harassment, but the ethical issue that concerns us (and May and Leiser & O'Donohue) is what makes sexual harassment wrong. And then further, if we determine what it is about an event that makes it sexual harassment, then we will have a definition of sexual harassment that covers all cases of it.

May investigates three models of sexual harassment: the intimidation model (that's the 1 – 5 on p. 228), Justice Sandra Day O'Connor's "discriminatory abusive work environment" model, and his own, which is similar to O'Connor's but different.

Leiser & O'Donohue examine Superson's feminist conception, Wall's privacy model, and at the end of their article they offer their own model. They also, although they don't really lay it out as a complete model, examine sexual harassment as the abuse of power and as coercion.

	intimidation model	discriminatory abusive work environment	May's account	Superson's account	coercion	Wall's account	Leiser & O'Donohue's account
<b>cases</b>							
<i>Alexander v. Yale</i>							
professor's version	X	X	✓	✓*	X	✓	✓*
student's version	✓	✓	✓	✓	✓	✓	✓
<i>Harris v. Forklift Systems</i>	X	✓	✓	✓	X	X	✓
Thomas's example	X	X	✓	X*	X	✓	✓*
female professor	✓	? <sup>1</sup>	✓	X	✓	X	✓

An asterisk (\*) indicates that the *yes* or *no* is probable. All of these are, perhaps, open to debate, but those marked with an asterisk are especially so.

<sup>1</sup> O'Connor's definition (p. 230) might—like Superson's—only allow women to be sexually harassed. The bottom of column 1 and the top of column 2 on p. 230 appear to fit with the female professor case, but this whole notion of sexual harassment is based on sexual discrimination (col. 2, p. 230).

Perhaps the trickiest section in Leaser and O'Donohue's article is "The Wrongness of Sexual Harassment as Abuse of Power" (pp. 240 – 242). In the first part of the section, they "examine whether the abuse of power in general is the essential factor resulting . . . in sexual harassment" (p. 238). They provide a counterexample that demonstrates that there can be an abuse of power, which is sexual in nature, but isn't sexual harassment, and so, instead of simply *abuse of power*, they turn to *coercion*.

The example in column 2 on p. 239 and their discussion of it, illustrates two points, which the authors don't clearly separate:

- (1) the definition of coercion that is at the bottom of col. 1 on p. 239 and in col. 1 on p. 240 can be satisfied even when coercion has not occurred, and
- (2) a person can feel as though he or she is being coerced (or sexual harassed) and, although the person may have good grounds for feeling that way, he or she isn't being coerced. (Although, as we know from the short article that you read last week, "Why women don't report sexual harassment," more often than not, women do not (a) report sexual harassment or (b) even label an event as sexual harassment although it is.)

But then, although there are problems coming up with a satisfactory definition of *coercion*, Leaser and O'Donohue explain at the end of this section that it is the central feature of one type of sexual harassment.