



## ESSAY

**Beyond the Rhetoric: What It Means to Lead in a Diverse and Unequal World**

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**Introduction**

As the #MeToo movement has gained momentum, industry and company leaders have been placed in the hot seat regarding how they are addressing (or not) the incidents of sex harassment in their organizations.<sup>1</sup> Despite their stance and pronouncements against harassment and discrimination, leaders may not notice problems early on, or they may discount concerns raised. This can occur when leaders are underinvested in their organizational reputation and image when it comes to these issues, and so they do not act because they do not believe such conduct is that harmful. But I argue that this can also occur when leaders are overinvested in their organizational image in that they may not want to believe or see things that run counter to or undermine what their organizations stand for. I further argue that leaders' investment in their individual self-images as the products of, or champions for, equality also play a role.

For these reasons, gender-integrated workplaces are not necessarily immune from sex harassment taking root and being allowed to proliferate.<sup>2</sup> Gender integration in the work setting is important, but it is not enough.<sup>3</sup> The broad problem of sex harassment speaks to, in part, a problem of leadership,

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1. See, e.g., Sydney Ember, *Top NPR Editor Accused of Sexual Harassment While at the New York Times*, N.Y. TIMES (Oct. 31, 2017), <https://perma.cc/CEM8-QEAY>.
2. See, e.g., Elizabeth Jensen, *NPR Posts Independent Findings on Its Handling of Sexual Harassment Complaints*, NPR (Feb. 20, 2018, 5:35 PM ET), <https://perma.cc/7R3Z-ZA9W> (at NPR, where sex harassment allegations have been made against a prominent male leader, over half of the newsroom employees are female); Anna North, *How NPR Became a Public Case Study of Workplace Sexual Harassment*, VOX (Nov. 28, 2017), <https://perma.cc/DJD3-J9NY>.
3. See Rebecca K. Lee, *The Organization as a Gendered Entity: A Response to Professor Schultz's The Sanitized Workplace*, 15 COLUM. J. GENDER & L. 609, 652-53 (2006).

and as such harassment must be meaningfully addressed by employers and organizational leaders.<sup>4</sup> This requires moving away from a weak and complacent form of leadership on the issue and toward substantive equality and inclusivity so that harassment cannot stick. This kind of leadership move requires focused and ongoing attention—regardless of whether the organization has been viewed as a gender-equal place, and regardless of whether women or men occupy top positions. All workplace leaders must attend to creating environments that promote equal and fair treatment, including female and feminist leaders. Even well-intentioned leaders need to be aware of their blind spots in addressing these issues.

## I. Organizational Blind Spots

As part of the #MeToo movement, sex harassment allegations were brought in a number of industries and workplaces, most publicly in the film and media fields.<sup>5</sup> In these male-dominated fields and workplaces run by men at the top, it may not have been entirely surprising to hear about the old boys' club behavior that prevailed, though it still is very dismaying that such a culture commonly exists even in contemporary institutions and in present times.<sup>6</sup> Perhaps more surprising, however, were the reports of sex harassment in organizations known for their feminist values and support for women, or where women held positions of power. Even in these workplaces, there were instances involving both male and female leaders and supervisors who received complaints but did nothing to curb or stop the harassment. To illustrate, several case examples follow.

### A. NPR: Failure of a Feminist Legacy

NPR has long been known as a news network that has supported the careers of pioneering female journalists and has had many women in leadership roles.<sup>7</sup> The senior vice president of news and editorial director, Michael Oreskes, was put on indefinite leave and ultimately resigned after two women came forward with allegations that he had made unwanted sexual advances

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4. See Junghyun Lee, *Passive Leadership and Sexual Harassment: Roles of Observed Hostility and Workplace Gender Ratio*, 47 PERSONNEL REV. 594, 604 (2018).

5. See, e.g., Alexandria Neason et al., *Sexual Harassment in the Newsroom: An Oral History*, COLUM. JOURNALISM REV. (Jan. 31, 2018), <https://perma.cc/J9J5-ULZC> (publishing the written statements of largely female survey respondents who work in journalism regarding their everyday experiences with harassment).

6. See, e.g., Emily Steel, *At Vice, Cutting-Edge Media and Allegations of Old-School Sexual Harassment*, N.Y. TIMES (Dec. 23, 2017), <https://perma.cc/FZ3X-3PF4>.

7. David Folkenflik & Merrit Kennedy, *Chairman Steps Down as NPR Grapples with Harassment Crisis*, NPR (Nov. 16, 2017, 3:25 PM ET), <https://perma.cc/8QQW-D8Z2>.

toward them when he worked at the *New York Times* in the 1990s.<sup>8</sup> They each and independently alleged similar accounts of harassment: While meeting with Oreskes about possible job openings at the *Times*, Oreskes without warning kissed them on the lips and forced his tongue into their mouths.<sup>9</sup> After Oreskes began working at NPR in 2015, an NPR female staffer also alleged that he had harassed her.<sup>10</sup> The staffer had been covering temporary assignments for NPR, and she met with him to discuss her career.<sup>11</sup> The meeting took place over dinner, and she said the discussion took a very uncomfortable turn as he started talking about romantic relationships and sex, knowing that he had the power to decide what topics they would discuss.<sup>12</sup>

Noticeably, NPR did not break the story about the allegations against Oreskes stemming from the 1990s; instead, the story was first reported by the *Washington Post*.<sup>13</sup> According to NPR's president and CEO, Jarl Mohn, NPR was informed about these allegations before the *Post's* report and began acting on them, but he conceded that they could have taken additional steps to address the situation (although he did not say exactly what).<sup>14</sup> Mohn also had a sense of the office gossip at NPR concerning Oreskes' behavior toward women, but it appears he did not look into the accuracy of the gossip until shortly before the *Post* publicized the accusations.<sup>15</sup> At that point, Mohn emailed a memo to NPR staff to ask them to report whether they had been harassed by Oreskes or observed him harassing others.<sup>16</sup> After this memo was sent and before the *Post* story came out, no complaints were brought within NPR, but within hours after the *Post* published the accusations, a current NPR employee brought an internal complaint.<sup>17</sup> Since then, additional women at NPR have filed complaints against Oreskes.<sup>18</sup>

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8. See Paul Farhi, *NPR's Top Editor Placed on Leave After Accusations of Sexual Harassment*, WASH. POST (Oct. 31, 2017), <https://perma.cc/E95G-C32W>.

9. *Id.*

10. Bob Collins, *Disgusted by the Oreskes Story? 'Me too,'* MPR NEWS (Nov. 1, 2017, 7:05 AM), <https://perma.cc/43YC-GRCA>.

11. *Id.*

12. *Id.*

13. *Id.*; see also Farhi, *supra* note 8.

14. Sydney Ember, *Michael Oreskes Quits NPR Amid Sexual Harassment Accusations*, N.Y. TIMES (Nov. 1, 2017), <https://perma.cc/8KTB-E9T2>.

15. See *Top NPR News Executive Mike Oreskes Resigns amid Allegations of Sexual Harassment*, NPR (Nov. 1, 2017, 4:53 PM ET), <https://perma.cc/LAV8-5CYZ>. It is worth noting that Oreskes was one of Mohn's first hires when Mohn became NPR's CEO, and that this may help explain why Mohn did not take more decisive action against Oreskes until the allegations became public. See Megan Garber, *The Inevitability of NPR's Meltdown*, ATLANTIC (Nov. 2, 2017), <https://perma.cc/7CX5-B3LB>.

16. *Top NPR News Executive Mike Oreskes Resigns amid Allegations of Sexual Harassment*, *supra* note 15.

17. *Id.*

18. David Folkenflik, *Tensions Build in NPR Newsroom over Handling of Sexual Harassment Allegations*, (Nov. 3, 2017, 4:35 PM ET), <https://perma.cc/E4R9-BZUX>.

That no one at NPR came forward until the allegations against Oreskes were made public shows that despite Mohn's internal messages about the organization's stance against harassment, employees at NPR did not feel safe speaking up and sharing what they knew with management until after there was external publicity surrounding Oreskes' behavior.<sup>19</sup> In fact, an outside investigation conducted by a law firm commissioned by NPR in the wake of the allegations against Oreskes discovered that NPR staffers profoundly mistrusted the management.<sup>20</sup> This may be due to NPR's leadership not investigating earlier the rumors concerning Oreskes.<sup>21</sup> And despite the reports of inappropriate behavior by Oreskes, NPR executives only talked with Oreskes but did not discipline him.<sup>22</sup> This kind of acquiescent leadership can help create a hostile culture and open the way for more instances of bad behavior, including instances of sex harassment.<sup>23</sup> Mohn also waited for NPR employees to come to management with information, something they were not willing to readily do; sensing their reticence to come forward, he or others in leadership positions at NPR could have taken the initiative to talk with newsroom employees.

The allegations against Oreskes exist against a backdrop of NPR being known for having a newsroom built mostly by women and staffed mostly by women.<sup>24</sup> More than 56% of newsroom employees were female as of the end of October 2017.<sup>25</sup> The organization grew from the work of pioneering female journalists, such as Nina Totenberg and Cokie Roberts, referred to as NPR's "founding mothers,"<sup>26</sup> and has regarded itself as a workplace where female and male employees have equal opportunities.<sup>27</sup> A number of the top leadership positions at NPR have been held by women, and the organizational norms are seen as supporting the careers of women at the network.<sup>28</sup> But as the problems at NPR show, although a balanced proportion of women and men in the organization can help lessen the likelihood that women will be targeted for sex harassment, this does not necessarily hold true if the organizational leadership does little to maintain an equal and fair work environment.<sup>29</sup> Staffers perceived

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19. See Garber, *supra* note 15.

20. Daniel Victor, *NPR Executive Was Warned Repeatedly About Sexual Harassment, Report Finds*, N.Y. TIMES (Feb. 21, 2018), <https://perma.cc/5TU5-5NYA>.

21. See Garber, *supra* note 15.

22. Victor, *supra* note 20.

23. See Lee, *supra* note 4, at 606.

24. See Collins, *supra* note 10; Jensen, *supra* note 2.

25. Jensen, *supra* note 2.

26. See North, *supra* note 2.

27. See Folkenflik & Kennedy, *supra* note 7.

28. See *id.* ("Women have served as CEO, board chair, news chief, general counsel and chief operating officer, as well as the heads of all major shows and reporting desks at NPR. Often they hold a majority of positions as the network's top hosts and war correspondents.")

29. See Lee, *supra* note 4, at 604, 607 (discussing the results of an empirical study showing that "achieving and maintaining a balanced gender ratio may be beneficial for reducing sexual harassment of women" as it "serves as an indicator of an organisational climate that

that NPR's management prioritized supporting men at the network over protecting their female staffers.<sup>30</sup>

NPR's feminist image may explain why its leadership became lackadaisical about harassment issues within the organization. NPR got stuck, resting on its image of itself as a place where gender equality was known to exist, and downplayed or kept secret behavior within its walls that was inconsistent with this self-image. NPR's leadership seemed to take for granted that harassment was not really an issue within their organization and did not notice when the problem got worse. It appears there also was a divergence in viewpoints between the younger generation of staffers, who wanted quick and decisive steps taken against harassment and to hold accountable the executives who did not deal with the problem fast enough, and the older generation of employees, who pushed less vehemently for fast disciplinary action.<sup>31</sup> The divide may have to do with each group's different experiences with the issue during different eras, but may also have to do with the network's veteran female journalists' overinvestment in preserving NPR's long-held reputation and image as a place where women are supported, or at least not discriminated against.

#### B. WNYC: Failure of a Female Leader

Employees may feel that a female leader will take greater notice of any harassing conduct that happens on her clock, but simply having a woman in a position of power does not mean that sex harassment allegations will be dealt with more seriously if the leadership is inactive in responding to the problem.<sup>32</sup> At New York public radio station WNYC—one of the largest and most dominant institutions in public radio and podcasting whose programs are distributed nationwide—the female CEO ignored the abusive behavior of John Hockenberry, a prominent radio journalist who had long hosted the station's nationally-heard daily news program, *The Takeaway*.<sup>33</sup>

In addition to allegations that he made sexual advances toward junior women who worked as producers, assistants, and interns on his show,<sup>34</sup> Hockenberry was accused of mistreatment by his former *Takeaway* co-hosts, all of whom are women of color and who asserted that his bullying undercut their

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promotes equal opportunity for men and women," but also showing "the paramount role leaders may play in promoting or inhibiting sexual harassment in the organisation").

30. See David Folkenflik, *Report Detailing Harassment at NPR Cites 'High Level of Distrust' of Management*, NPR (Feb. 20, 2018, 5:00 PM ET), <https://perma.cc/4MHK-C5MW> (referring to an independent report which found a "perception of a culture at NPR that favors men," in a way that it said many employees believe "can foster harassment and bullying").

31. See Folkenflik & Kennedy, *supra* note 7.

32. *Cf.* Lee, *supra* note 4, at 606.

33. See Bob Hennelly, *Public Radio's #MeToo Problem: Harassment Claims Cloud NYC's Flagship Station*, SALON (Dec. 19, 2017, 9:58 AM UTC), <https://perma.cc/7H8F-S9BX>.

34. Suki Kim, *Public-Radio Icon John Hockenberry Accused of Harassing Female Colleagues*, CUT (Dec. 1, 2017, 11:22 PM), <https://perma.cc/P4YQ-QLVQ>.

ability to succeed on the job.<sup>35</sup> The allegations paint a paradoxical picture in light of the original vision for *The Takeaway*, which was to help bring new and diverse voices to news and talk radio.<sup>36</sup> Hockenberry's first co-host was Adaora Udoji, a Nigerian-American journalist with a television news background, who stayed in the role for only eight months.<sup>37</sup> She recounted how Hockenberry would shout at her in the workplace, including in front of senior staff, interrupt or not acknowledge her, and have her work on stories that involved race in a way she found offensive.<sup>38</sup> She repeatedly reported these episodes to Laura Walker, the CEO and president of New York Public Radio, as well as to senior management, but they turned their attention instead to her inexperience in radio and why she was not cut out for the job.<sup>39</sup> Udoji left the station in short order after consenting to a buyout, for which she had to sign a nondisclosure agreement.<sup>40</sup> Because she now sees such agreements as "great weapons of silence," she decided to publicly share her story.<sup>41</sup>

After Udoji's departure, the co-host position was temporarily occupied by African-American journalist Farai Chideya, who at first found Hockenberry welcoming; but once it appeared she might stay on as co-host, she claims that he told her that "[she] shouldn't stay [on the show] just as a 'diversity hire,'" and that "[she] should go lose weight."<sup>42</sup> She reported Hockenberry's behavior directly to CEO Walker, but according to Chideya, Walker did not suggest taking any steps to address his abusive treatment.<sup>43</sup> Chideya chose to leave the show soon after, and Celeste Headlee, also an African-American, took over as the third female co-host of *The Takeaway*.<sup>44</sup> She, too, had a difficult relationship

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35. *Id.*

36. See Ilya Marritz, *Harassment and Bullying Allegations Rock WNYC After Departure of Celebrated Host*, WNYC (Dec. 4, 2017), <https://perma.cc/V9EE-MSYH>. In addition, a black editor at WNYC stated that Hockenberry made racially offensive comments to her during a meeting at the station, stating to her in front of other staff, "[i]f it feels like a slave plantation mentality here, that's because it is." After making this remark, he then proceeded to share his work in celebrating black voices. Niraj Chokshi, *John Hockenberry, Former WNYC Radio Host, Is Accused of Sexual Harassment*, N.Y. TIMES (Dec. 4, 2017), <https://perma.cc/H2WZ-58UH>.

37. Kim, *supra* note 34; Adaora Udoji, *I Was a Co-Host with John Hockenberry on WNYC. The Experience Was Scarring*, GUARDIAN (Dec. 6, 2017, 11:56 EST), <https://perma.cc/K4YL-LH63>.

38. Udoji, *supra* note 37.

39. *Id.*; CEO Laura Walker Responds to Allegations Against John Hockenberry, WNYC (Dec. 4, 2017), <https://perma.cc/6PQJ-94RM> [hereinafter *CEO Laura Walker Responds*].

40. Udoji, *supra* note 37.

41. *Id.*

42. Kim, *supra* note 34.

43. *Id.* Contrary to Chideya's statement about the lack of action by WNYC management after this incident, Laura Walker later stated in an interview that some action was taken, though she could not comment specifically because of confidentiality concerns. See *CEO Laura Walker Responds*, *supra* note 39.

44. Kim, *supra* note 34.

with Hockenberry on the show and alleged that he engaged in “sabotaging” her performance by constantly cutting her off, running over her lead-ins on the show, and not letting guests on the program fully respond to her questions.<sup>45</sup> When she attempted to address this with Hockenberry, he would get angry and “blow up,” as well as humiliate her in front of others.<sup>46</sup> Headlee alerted her bosses to these incidents, and their way of dealing with the problem was to arrange for Headlee to receive coaching lessons on how to work with a “difficult [radio] personality.”<sup>47</sup> The station ended up changing the format for the show from a four-hour program with two hosts to a one-hour show with one host, and Headlee’s contract was not renewed.<sup>48</sup>

Even though Hockenberry’s co-hosts reported his behavior to supervisors at the station, each of these women was quickly cycled out of their positions, while Hockenberry remained as the sole host of the show.<sup>49</sup> WNYC’s female head, Walker, knew about at least some of Hockenberry’s behavior, but allowed it to continue for a long time, and those at the station who complained about Hockenberry were instead the ones to go. It was only recently that New York Public Radio and Public Radio International decided not to renew Hockenberry’s contract, which expired in June 2017.<sup>50</sup> In responding to a question about this, Walker referred to confidentiality issues but stated that various reasons led to his contract not being renewed, and that “he was not fired for sexual misconduct.”<sup>51</sup>

As seen at WNYC, sex harassment can take both sexual and nonsexual forms to undermine a woman’s performance at work, and often takes place within a broader culture of hostility and lack of respect for others within an organization.<sup>52</sup> Like at NPR, there was a large conflict between what WNYC stood for publicly and how it conducted itself internally.<sup>53</sup> As one employee put it in a message to human resources: “We are so compassionate and thoughtful in our coverage of these issues about every other institution, but we don’t

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45. *Id.*

46. *Id.*; see also Marritz, *supra* note 36.

47. Kim, *supra* note 34.

48. Marritz, *supra* note 36; *CEO Laura Walker Responds*, *supra* note 39.

49. In the wake of the allegations against Hockenberry, he released the following statement, saying in part, “I’ve always had a reputation for being tough, and certainly I’ve been rude, aggressive and impolite. Looking back, my behavior was not always appropriate and I’m sorry.” Marritz, *supra* note 36.

50. *Id.*

51. *CEO Laura Walker Responds*, *supra* note 39.

52. See Lee, *supra* note 4, at 606; see generally Vicki Schultz, *Reconceptualizing Sexual Harassment*, 107 *YALE L.J.* 1683 (1998) (arguing that the prevailing sexual desire-dominance paradigm, which sees sexual advances as the core of sex-based or gender-based harassment, fails to include gender-based hostility and abuse that is nonsexual in content or design as another form of hostile work environment sex harassment that should be actionable under the law).

53. See Boris Kachka, *Do as I Say, Not as I Do*, *CUT* (Feb. 5, 2018, 6:39 PM), <https://perma.cc/XE5J-4S5H>.

express that compassion internally.”<sup>54</sup> The WNYC organization presents itself and sees itself as giving voice to the perspectives of women and people of color,<sup>55</sup> but how the organization and its leaders treated its female and minority staffers shows a very different portrait of what these leaders say and do. WNYC’s public image may have made it easier for Walker and the institution’s leadership to disregard the problems within their own walls<sup>56</sup>—even despite Walker’s own admiration for the “fierce . . . founding mothers” of public radio and her personal investment in supporting women’s careers in journalism.<sup>57</sup>

The inconsistency of values expressed and practiced makes for institutional volatility, and WNYC’s leadership is now faced with a turning point for the organization as it tries to move past its crisis.<sup>58</sup> New York Public Radio’s Board of Trustees has not removed Walker from her position; she continues to serve as the CEO with strong backing from the Board.<sup>59</sup> She has publicly made statements regarding the allegations, saying that she is accountable for what happened, giving her “deep apology to those affected,” and promising that she is “commit[ted] to doing everything in [her] power not to let it happen again.”<sup>60</sup> But it remains to be seen whether her inactive leadership on the issue of sex harassment can be rectified in the eyes of her employees, and whether she, as a female leader who says she supports women, can gain their trust and confidence.<sup>61</sup>

### C. Charlie Rose: Harassment by a Gender Equality Advocate

Even those leaders who present themselves as gender equality advocates, both women and men, may ignore or even engage in harassing conduct, and hide behind the cover of their gender-equality work. For instance, Charlie Rose, the host of the *Charlie Rose* show on PBS and Bloomberg TV, co-host of *CBS This Morning*, and contributing correspondent for *60 Minutes*, viewed

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54. *Id.*

55. See *CEO Laura Walker Responds*, *supra* note 39. Laura Walker stated in an interview that WNYC is “an organization that not only values diversity but has championed the importance of respecting people of color at this difficult time in our country’s history.” *Id.*

56. See Kachka, *supra* note 53 (“[A]t WNYC the gap between the public mission and the private culture seemed particularly vast. . . . Now that disconnect has become an institutional crisis . . . .”); Marritz, *supra* note 36 (“In recent years, WNYC has publicly pushed for greater participation by women and people of color in public media.”).

57. See Marritz, *supra* note 36.

58. See Kachka, *supra* note 53.

59. Jessica Gould & Ilya Marritz, *Investigation Finds Harassment Happened at NYPR, But Was Not Systemic*, WNYC (Apr. 24, 2018), <https://perma.cc/QT6A-ATSF>; Kachka, *supra* note 53 (discussing an interview with Walker, during which she was asked whether she had considered resigning and her “No” response).

60. Gould & Marritz, *supra* note 59.

61. See Kachka, *supra* note 53 (“[O]thers [are] . . . frustrated that . . . Walker [is] still in the building. But one thing is true, everyone agrees: Walker is *trying*.”); Udoji, *supra* note 37 (“If we are to prevent this in the future, senior leadership must be held accountable.”).



himself as a longtime supporter of women in television journalism.<sup>62</sup> But eight women have accused him of sex harassment, behavior which included sexually offensive phone calls, being naked in their presence, and sexual touching.<sup>63</sup> In response to these allegations, Rose made the following statement:

In my 45 years in journalism, I have prided myself on being an advocate for the careers of the women with whom I have worked . . . . Nevertheless, in the past few days, claims have been made about my behavior toward some former female colleagues. . . . I have behaved insensitively at times, and I accept responsibility for that, though I do not believe that all of these allegations are accurate. I always felt that I was pursuing shared feelings, even though I now realize I was mistaken.<sup>64</sup>

Rose stated that he believed the women he pursued shared his feelings, but the allegations involve overtly offensive and unambiguous behavior that was not reciprocated.<sup>65</sup> For instance, Rose made sure to repeatedly tell at least one former intern-turned-associate producer that “[he] never forced [her] to do something [she] didn’t want to do” and had her confirm this statement back to him, behavior that suggests Rose was aware his conduct was problematic.<sup>66</sup>

In addition to these allegations, Rose also engaged in racially offensive behavior, according to a black female journalist who was a writer and then a producer on his show.<sup>67</sup> As she reports, Rose would insist that she try to book certain black guests he favored instead of the black guests she suggested, and would charge her with having her “own agenda” when she pitched certain ideas for the show, but would not make the same claim when white staffers pitched their proposals.<sup>68</sup> And as a black woman working on a predominately white show with mostly white guests, where the boss (Rose) noticed white women, she said she felt “erased.”<sup>69</sup> She makes clear that she would not have wanted Rose to demean her in a sexual way, but she points out that “his sexualization of white women was a manifestation of gendered power dynamics in the same way that his not sexualizing [her] was an expression of racialized power dynamics.”<sup>70</sup> As with the previous examples, Rose was viewed by others and talked about himself as a progressive journalist who cared about gender and race, but this image did not prevent him from having blind spots concerning how he treated women, including women of color.

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62. See Irin Carmon & Amy Brittain, *Eight Women Say Charlie Rose Sexually Harassed Them – with Nudity, Groping and Lewd Calls*, WASH. POST (Nov. 20, 2017), <https://perma.cc/2MKP-XBUX>.

63. *Id.*

64. *Id.*

65. See Jen Kirby, *Charlie Rose Fired from CBS After 8 Women Accuse Him of Sexual Harassment*, VOX (Nov. 21, 2017), <https://perma.cc/2K2P-J56B>.

66. See Carmon & Brittain, *supra* note 62.

67. Rebecca Carroll, *My Experience at Charlie Rose Went Beyond Sexism*, ESQUIRE (Dec. 4, 2017), <https://perma.cc/TN86-7GGQ>.

68. *Id.*

69. *Id.*

70. *Id.*

## II. Sex Harassment and the Leadership Problem

Leadership matters in terms of the behavioral norms that the organization exhibits and reinforces with respect to sex harassment.<sup>71</sup> Sex harassment will more likely thrive in a setting where the leadership does not resist expressions of hostility and aggression.<sup>72</sup> As employees witness hostile actions that go unchecked, they begin to see that such behavior is acceptable and may model similar behavior.<sup>73</sup> This happens when leaders act passively—that is, when they do not look into problems and do not take steps to address them.<sup>74</sup> Thus, whether a leader actively seeks to curb hostile behavior in the organization can affect whether sex harassment will take root.<sup>75</sup> One empirical study showed a relationship between weak leadership and observing more instances of hostility in the workplace, and further showed a relationship between observing more hostility in the workplace and the occurrence of sex harassment.<sup>76</sup>

To create a harassment-free workplace where women and other marginalized groups have a chance to thrive, leaders must continually pay attention to the power dynamics and culture within their organizations. Toward this end, leaders have to clearly state and reiterate a message of equality and inclusion where harassment, bullying, and other forms of mistreatment and unethical behavior are unacceptable, and show that they care about their employees' welfare.<sup>77</sup> Clearly conveying these types of organizational values to all employees will help foster an environment where violations of these values will be discouraged. And if transgressions do occur, these will better stand out and can be more readily addressed. Of course, leaders may be viewed as not really committed to their message and as simply pursuing ends that serve to

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71. See Lee, *supra* note 4, at 595-96.

72. See *id.* at 595-96, 605-06.

73. *Id.* 595-96.

74. *Id.* at 597.

75. See *id.* at 595-96, 605-06.

76. *Id.* at 603. This empirical study involved an online survey of full-time employees (403 were invited to participate and 237 did so) in a variety of U.S. workplaces, about half of whom were male and with an average age of about thirty-six years. *Id.* at 600. The average supervisory tenure was about five-and-a-half years. *Id.* The majority of participants were white (78%) and were college graduates (76%). *Id.* The fields of work represented included manufacturing, construction, service, wholesale, retail, consulting, engineering, education, health care, and finance, insurance, and real estate. *Id.* Of the respondents, 74% had a formal human resources department or human resources personnel. *Id.*

77. See generally Aya Maher and Pakinam Yousseff, *Role of Leaders in Managing Employees' Dysfunctional Behavior at Workplace*, 10 INT'L J. ECON. & MGMT. ENGINEERING 992, 995 (2016) (noting that effective communication "plays a big role in maintaining a healthy work environment"); Kimberly T. Schneider et al., *Confronting Subtle Workplace Mistreatment: The Importance of Leaders as Allies*, FRONTIERS PSYCHOL., June 2017, at 1, 2 (stating that leaders "who signal tolerance of harassment . . . are leaders in groups where harassment prevalence is higher").

help themselves or the organization, rather than others within it.<sup>78</sup> To address such perceptions, leaders can be specific about their goals for creating an inclusive workplace where everyone has the same opportunities to succeed, and show that they care about their employees as individual people.<sup>79</sup>

Furthermore, organizations must not take for granted that equality will come about or be maintained simply because women or gender-equality advocates are in leadership posts. There is always a risk that certain individuals with less power or who are in the minority will be overlooked, and even feminists may replicate practices of subordination with respect to other women as they try to work toward equality.<sup>80</sup> For example, women (and men) who care about gender equity may nonetheless gloss over the comments of other women, or talk over other women in meetings or discussions, while being more responsive to the comments or participation of men.<sup>81</sup> To reduce discrimination and promote full equality, employers and institutional leaders should take efforts to be inclusive—to establish a culture where all members are included, recognized, and appreciated for what they contribute in reaching the collective goals of the workplace.<sup>82</sup> This may require special efforts to bring in and engage those who may be ignored or sidelined because of a non-dominant identity, including those who have more than one non-dominant identity, such as women of color.<sup>83</sup> A focus on creating an inclusive workplace environment

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78. See, e.g., Merrit Kennedy, *NPR Board Faces Tough Questions over Sexual Harassment Handling*, NPR (Feb. 22, 2018, 5:40 PM ET), <https://perma.cc/KZ5E-3LBD>. The article quotes a female senior supervising editor/producer at NPR regarding how NPR is seeking to address the problem of sex harassment at the network: “I want to believe that they are committed to fixing the problem . . . [However,] I’m not sure that the people in leadership are more committed to solving the problem than committed to ending the public and embarrassing conversation about it.” *Id.*

79. See Schneider et al., *supra* note 77, at 3.

80. See, e.g., Brenda J. Allen, *Women as Inclusive Leaders: Intersectionality Matters*, in *GENDER, COMMUNICATION, AND THE LEADERSHIP GAP* 13, 13-14 (Carolyn M. Cunningham et al. eds., 2017) (describing how some women of color did not want to take part in the January 2017 Women’s March on Washington and in sister marches around the country because they felt ignored by the white female organizers of the march and upset that they had not been included from the beginning).

81. See *id.* at 19-20 (discussing the need for leaders to be alert and receive feedback about their own biases, and recounting that “[d]uring a meeting with a group of staff who report to [her], a female employee stated that [she] had paid more attention to males than females during a previous meeting of all the offices that [she] oversee[s]” and that she thanked the employee for sharing her observations); *id.* at 17 (discussing how she “had been enacting heteronormativity, despite [her] commitment to diversity and inclusion”); see generally Sally Helgesen, *Gender, Communication, and the Leadership Gap*, in *GENDER, COMMUNICATION, AND THE LEADERSHIP GAP*, *supra* note 80, at 3-4 (“Women are more likely to be interrupted, questioned, and criticized; they are more apt to be ignored, or simply not heard.”).

82. See Allen, *supra* note 80, at 15.

83. *Id.*

will help leaders monitor for any abusive behavior and set expectations for others in the workplace so that mistreatment will not be tolerated.<sup>84</sup>

Those who express a commitment to gender and other forms of equality as well as diversity also have to be aware of their individual blind spots—their own biases that serve to undermine equality goals.<sup>85</sup> Their strong commitment to equity and diversity may in fact make them less mindful of their own biased tendencies. And in order to preserve their image of themselves as equality advocates, they may even discount aspects of their behavior that are inconsistent with this self-image. To be inclusive, then, leaders should watch for and be aware of their personal biases, take responsibility for their shortcomings and errors, and be open to receiving critical feedback.<sup>86</sup>

Finally, when institutional leaders observe instances of discriminatory behavior or mistreatment, they should speak up or in other ways signal to the offending individual and to other employees present that such actions are not acceptable and will not be condoned.<sup>87</sup> In fact, given the harm of staying silent when witnessing disparaging behavior, all bystanders, whether in leadership positions or not, ought to speak up or intervene.<sup>88</sup> But because leaders have power by virtue of their positions, they hold more sway in getting the perpetrator to heed the message and in setting an example for others by showing how the leadership views this kind of behavior.<sup>89</sup>

### Conclusion

Sex harassment is in part a leadership problem. There is a risk that even institutions that champion equal treatment of women and men may become so invested in their organizational images as feminist or progressive places that they do not pick up on early warning signals of discriminatory behavior.<sup>90</sup> But progressive leaders and progressive institutions must be willing to vigilantly monitor their behavior and be willing to see when their images are incongruous with their actions. If they do not, then their commitment to their public and organizational images can eclipse their commitment to nondiscrimination and

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84. See Schneider et al., *supra* note 77, at 2.

85. See Allen, *supra* note 80, at 17, 19.

86. *Id.* at 18-19.

87. See Schneider et al., *supra* note 77, at 2.

88. See *id.*

89. Cf. *id.*

90. See, e.g., Kennedy, *supra* note 78 (reporting on a public comment session between NPR staffers and the NPR board, at which NPR Board Chairman Paul Haaga stated “that NPR does not have a culture of sexual harassment, but individual offenders.” This was met with boos and scoffs—and Haaga “later in the meeting apologized, saying that he had chosen his words poorly.” Haaga’s comments demonstrate his reluctance to see the larger problem at NPR.); Victor, *supra* note 20 (“NPR executives frequently expressed concern about [Michael] Oreskes’s behavior, but repeatedly addressed it through conversations instead of disciplinary action.”).

equality, which can lead to the contradictory result of having workplaces where sex harassment is the norm.