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Comparative Analysis of Sexual Harassment Policy and Implementation

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DISSERTATION

Submitted in Partial Fulfillment of the
Requirements for the Degree of
Doctor of Philosophy
Political Science

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Dedicated to Remi

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Comparative Analysis of Sexual Harassment Policy and Implementation

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Abstract

Over the past three decades, as an increasing number of states have adopted sexual harassment legislation, many studies have examined the choices countries make to address and combat this issue. However, questions remain about what causes states to act while others resist change, why some countries choose to only introduce weak legislation rather than aggressively tackling the issue, and how people on the ground receive these policies. This dissertation uses a macro, meso, and micro approach to answer these questions on sexual harassment policy and implementation. First, using large-n data, I find that strong, feminist movements are correlated with the adoption of legislation. Second, studying the case of Japan, I find that the Liberal Democratic Party's refusal to advance more aggressive policy influenced the adoption of weak policy. Finally, studying university students, I find that training perceptions differ based on gender, time lapsed, and prior perceptions.

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Chapter 1

Introduction

Sexual harassment is a prevalent problem across the globe that inhibits women's success in attaining and advancing in education and their careers. Although sexual harassment has been an issue for as long as women have worked, legal protections did not emerge until the 1970s. Second-wave feminists such as Catharine MacKinnon (MacKinnon, 1979) and Lin Farley (Farley, 2017) in the United States introduced the term "sexual harassment" and advanced ideas of how legally, sexual harassment is a form of sex discrimination and thus illegal under The Civil Rights Act of 1964. Since these legal advances, both the term sexual harassment and sexual harassment laws have spread across the globe, evolved, and been adapted to their specific local contexts (Saguy, 2003), with as of 2020, 74.18% of countries having adopted some type of legislation to address this issue. Many studies have since contributed to our understanding of sexual harassment laws and their implementation and enforcement (see for example Cahill (2018); Htun et al. (2022); MacKinnon and Siegel (2004); Marshall (2017); Saguy (2003); Zippel (2006)). Furthermore, in the last five years, with the emergence and spread of the #MeToo movement, there has been an increase interest in sexual harassment and misconduct.

Although the number of states adopting sexual harassment policy has increased

drastically over the past three decades, questions continue to remain on what prompts some states into action while others resist change. Furthermore, it remains unclear why certain policy choices are made over others on how sexual harassment is addressed. Finally, it continues to be important to understand how the people react to these implemented policies and what can be done to do this more efficiently.

In this dissertation, I aim to answer these questions using a macro, meso, and micro-level approach of sexual harassment policy and implementation. I first look at large-n data to make broad inferences on when and why states adopt sexual harassment legislation. I then take a closer look at an outlier case to understand the choices a single state makes in the type of sexual harassment legislation they pass by examining the case of Japan. This is concluded with a chapter that looks at one form of sexual harassment law implementation: sexual misconduct training.

Why focus on sexual harassment by itself? Sexual harassment is an interesting women’s rights concern as it falls within two distinct categories of issues: violence against women and female workers’ rights (MacKinnon, 1979; Zippel, 2006). While considering sexual harassment as a form of violence against women is not uncontested,¹ it is a good predictor of experiencing more severe forms of abuse (Mumford et al., 2020) and its root cause is similar to other forms of sexual and gender violence. Specifically, sexual harassment is rarely about sex – rather, it is intended to humiliate and exclude women in the workplace (Siegel, 2004) and is a “gendered expression of power” (Uggen and Blackstone, 2004). The fact that sexual harassment is an issue of workers’ rights and equal employment is perhaps a little more straightforward. As MacKinnon (1979) explains, sexual harassment prevents primarily women from participating equally in the workplace. Another reason sexual harassment is a worthy pursuit of study is to develop solutions to prevent it, because it is so costly on multiple levels.

¹See Weldon (2002b) who does not consider sexual harassment to be a violence against women policy.

1.1 What is sexual harassment

1.1.1 Defining sexual harassment

Although this dissertation primarily focuses on sexual harassment in the context of the law, it is useful to consider both legal and psychological perspectives when studying sexual harassment. This is because legal conceptualizations of sexual harassment are context and time specific, meaning that they evolve and change. Furthermore, by considering both psychological and legal approaches when defining the concept, we establish a baseline of what sexual harassment is as it is experienced by people rather than limiting it to what falls under sexual harassment within the scope of the law which is often rather limited as will be discussed below. This in turn is helpful when writing about harassment – even if it is only or primarily in the legal context – to establish how it affects people and what it means.

The proposition of looking at sexual harassment from both a legal and psychological perspective was advanced by Fitzgerald, Gelfand and Drasgow (1995), who argued that this is important because psychological and legal definitions of sexual harassment may or may not be the same. They support this argument by explaining that before *Meritor Savings Bank v. Vinson* (1986), which was the first Supreme Court case in the United States to recognize sexual harassment as sex discrimination and consider hostile work environment as a form of sexual harassment as well, it was not clear whether hostile work environment would be covered as part of Title VII of the Civil Rights Act of 1964. In other words, before the 1986 decision, it was unclear whether a very common and frequent type of sexual harassment in the workplace that creates a hostile environment for those who experience it would even fall within the scope of what is legally considered sexual harassment. I will go into depth of legal developments and definitions in different contexts below, but for the dissertation, it is useful to rely on the psychological definitions of sexual harassment as a general guide

to understanding what it is broadly speaking.

Developed almost three decades ago is the above mentioned model by Fitzgerald, Gelfand and Drasgow (1995). Fitzgerald, Gelfand and Drasgow (1995) identify three conceptually distinct but related dimensions that make up sexual harassment as a behavioral construct which are (1) sexual coercion, (2) unwanted sexual attention, and (3) gender harassment.

Sexual coercion, which corresponds to the idea of quid pro quo² sexual harassment as defined in many laws, is forcing sexual favors for some type of job consideration (Fitzgerald, Gelfand and Drasgow, 1995, p.431). Examples of this include a supervisor promising a promotion to an employee in exchange for sex or punishing said employee for not cooperating. Unwanted sexual attention, on the other hand, includes “offensive, unwanted, and unreciprocated” verbal and non-verbal conduct (Fitzgerald, Gelfand and Drasgow, 1995, p.431). In legal terms, this would be what is considered hostile work environment as there are no specific sexual asks during the conduct. Similarly, gender harassment, which is the most often occurring type of sexual harassment (Cortina and Areguin, 2021; National Academies of Sciences, Engineering, and Medicine, 2018), is aimed at being degrading, insulting, and hostile (Fitzgerald, Gelfand and Drasgow, 1995, p.430). Gender harassment can further be broken down as (a) sexist hostility and (b) crude harassment which include degrading comments about women as not being smart enough to succeed in certain male dominated careers for the former, and calling a woman a “slut” for the latter (National Academies of Sciences, Engineering, and Medicine, 2018, p.26).

As the above concept shows, many behaviors fall within sexual harassment. However, not all behaviors are equally known or acknowledged by the public. Sexual coercion and unwanted sexual attention are what are primarily in the public eye and most problematized, while gender harassment – despite being the most frequent type

²More on these concepts below in the discussion of U.S. legal developments.

of harassment people face – is not part of the public conscious (National Academies of Sciences, Engineering, and Medicine, 2018). Lilia Cortina developed the iceberg metaphor to illustrate this:³ while sexual coercion (which includes things such as promising promotions for sex) and unwanted sexual attention (which include unwanted groping and sexual assault) are part of the iceberg that floats above water and are thus seen and part of the public consciousness, the iceberg continues deep into the ocean with the majority of it (in this metaphor: the majority of sexual harassment constituting gender harassment which include sexist insults, showing employees pornography, etc.) being invisible to the public (Cortina and Areguin, 2021; National Academies of Sciences, Engineering, and Medicine, 2018).

In addition to illustrating the range of sexual harassment that exists and the level of public knowledge of different types of harassment, the iceberg metaphor illustrates an important point: Sexual harassment is on the spectrum of sexual violence. While many of the very well known types of “harassment” may more likely fall within the sphere of assault (and are also less common), the more commonly occurring types of harassment may be more subtler. In other words, as behaviors that would fall within what is considered sexual harassment increase in severity, they will fall within the scope of sexual assault. On top of that, even if one may argue that some types of harassment are relatively harmless, Mumford et al. (2020) have shown that having been sexually harassed is a strong predictor to experiencing sexual assault. Furthermore, given that both sexual harassment and assault are an exercise of power (Wilson and Thompson, 2001) rather than a serious attempt to have consensual sexual relations, it makes sense to analyze and understand sexual harassment as a form of sexual violence.

³In Cortina and Areguin (2021), they explain that Cortina developed the iceberg metaphor introduced in (National Academies of Sciences, Engineering, and Medicine, 2018).

1.1.2 Defining and comparing sexual harassment laws

Unlike the psychological perspective, sexual harassment as defined by the law is context and time specific. Countries use different legal justifications to address sexual harassment, covering it in anti-discrimination laws, labor laws, and/or criminal laws/penal codes. Due to the legal context of the U.S., for example, sexual harassment came to be defined as a form of sex discrimination covered in Title VII of the Civil Rights Act of 1964 for workplace sexual harassment. On the other hand, in Germany (at least until 2006), sexual harassment was covered in labor law as an issue of dignity of workers.

The areas of life covered by the law differ greatly as well, with some countries limiting protections to interactions in the workplace, while others include educational institutions, domestic arenas, public offices, and/or many other aspects of life. Even within the same country, sexual harassment is often covered under multiple different codes and laws, such as Germany, where sexual harassment is currently addressed under both the General Equal Treatment Act and in the penal code.

Furthermore, how sexual harassment is defined differs by country as well. While countries such as the U.S. use subjective terminology such as “unwelcome sexual advances,” the 1994 law in Germany uses objective language such as “recognizably rejected behavior” (Zippel, 2006, p.19).

While the role of the United States as a pioneer in sexual harassment law is undeniable and many countries adopted laws based on the U.S. model, some other countries, such as France, also purposefully tried to adopt laws that differ from the United States (Cahill, 2018). To illustrate these differences, I go into depth with some country examples below looking at the United States, Germany, Mexico, Kenya, and France.

Sexual harassment laws around the globe have been influenced by legal and social developments originating from the United States. The term sexual harassment

was coined by Lin Farley, a journalist who at the time was an instructor at Cornell University and used this term at a hearing on women in the workplace at the New York City Human Rights Commission (Farley, 2017; Nemy, 1975). During this time in the 1970s, feminists in the U.S. began pushing for the idea that sexual harassment is a form of sex discrimination. One of the most prominent voices during this time was Catharine MacKinnon, a lawyer who wrote the book *Sexual Harassment of Working Women: A Case of Sex Discrimination* (MacKinnon, 1979). In her book, she advanced the argument that sexual harassment is a form of sex discrimination in employment which is illegalized under Title VII in the Civil Rights Act of 1964 in the United States, which “prohibits employment discrimination based on race, color, religion, sex and national origin” (*Title VII of the Civil Rights Act of 1964*, 1964). She defines sexual harassment as an “unwanted imposition of sexual requirements in the context of a relationship of unequal power” (MacKinnon, 1979, p.1). The main argument advanced by her as to why sexual harassment constitutes sex discrimination is based on inequality and difference. In the inequality argument, women are sexually harassed because of the social meaning of female sexuality and womanhood (MacKinnon, 1979, p.174). She roots her inequality argument in explanations of tradition, sex roles, and sexuality.

Women’s historical position being subservient to men and at the bottom of the labor market meant that women have had to exchange “sexual services for material survival” (MacKinnon, 1979, p.174–175). This happened regardless of class but manifested differently, with more well off women being excluded from the labor market to protect their virtue, and lower class women having to endure sexual harassment by employers because they had no choice (MacKinnon, 1979). She continues explaining that while some of these arguments may be of the past, recent (or at least at the time of the writing) accounts show that not much has changed, with these “expressions of inferior sex status” continuing in form of sexual harassment in the workplace

(MacKinnon, 1979).⁴

The second reason as to why sexual harassment is a sex based discrimination is that it is a result of sex roles. Specifically, it is a result of expressions of masculinity that roots men's masculinity in sexual conquest of women and subsequently leads to women being conditioned into becoming subordinate to men defining part of their identity to dominating women sexually (MacKinnon, 1979, p.178).

Finally, sexual harassment as a form of sex discrimination can be explained as women being defined in sexual terms socially, making a violation of women's sexuality an attack on women as women (MacKinnon, 1979, p.174; 182).

For her differences argument, MacKinnon explains why sexual harassment affects the two types of differences set forth by the Supreme Court which are disparate treatment, which is where an employer treats employees differently because of their race or sex and disparate impact, where different groups are impacted differently by seemingly neutral employer practices (MacKinnon, 1979, p.192). She elaborates that for different treatment, sexual harassment singles out women, because a man would not be treated the same as a woman in the same position and it would not have even occurred if the victim was a different sex (MacKinnon, 1979, p.192–195). For differential impact, she explains that this differential treatment of sexual harassment impacts women adversely more often (MacKinnon, 1979, p.206–207).

MacKinnon further distinguishes between two types of sexual harassment that happen in the workplace, which are “quid pro quo” and conditions of work, or more commonly referred to as “hostile working environment.” Quid pro quo sexual harassment includes an exchange, where the perpetrator either explicitly or implicitly communicates that there is an expectation of something in return for an employment benefit. A clear case of this is asking for sex in exchange for a promotion. MacKinnon

⁴Meaning equal access to work is not guaranteed since it seems to be contingent on granting men sexual favors.

(1979) explains how this plays out in three scenarios in court cases,⁵ with the first being declining the advances, which results in losing the employment opportunity. In the second scenario, the person complies and still does not receive the benefit despite complying. In the final scenario, the person complies and receives the employment benefit or opportunity.

The second type of workplace sexual harassment is what is often referred to as hostile working environment. For this type of sexual harassment, the harassment is not explicitly linked to a benefit or disadvantage of a person's work situation. In other words, unlike quid pro quo, there is no explicit or implicit ask with an outcome related to work such as a promotion or demotion. Instead, the misconduct in this case negatively influences the work environment (MacKinnon, 1979). One famous example of this is Anita Hill's account of then-Supreme Court nominee Clarence Thomas. In her testimony to the Senate Judiciary Committee in 1991, she explained her experience working for Thomas, during which Thomas repeatedly turned discussions of work into unrelated conversations about sex and explicit pornographic content (Hill, 1991). To stop these, she tried to minimize extended conversations with him, which was near impossible since she was his only assistant at the time. He further commented on her appearance, telling her whether what she was wearing was making her look more or less sexually attractive. He also repeatedly asked her to go out with him, despite the fact that she repeatedly, over multiple years, turned him down. As her experience shows, Thomas' advances and behavior made her working environment incredibly difficult. Hill further explains how she was hospitalized which she attributes to the stress she experienced while working for Thomas.

These advancements made by feminists impacted court decisions and government conduct. In 1977, *Barnes v. Costle* was the first case that identified sexual harassment

⁵Technically she mentions four but the fourth, as she explains, does not warrant further examination, because in that case, a sexual advance was rejected, and there was no retaliation and they were never harassed again.

(although it did not use this term) as a form of sex discrimination under Title VII. In the case, Paulette Barnes, who was hired as an administrative assistant by the director of the Environmental Protection Agency (EPA), was promised a promotion within ninety days during her pre-employment interview. However, after she began working for Douglas Costle he began soliciting sexual favors by suggesting to her that her promotion would be contingent on her participation (*Barnes v. Costle*, 1977). She consistently resisted his advances and finally explained that she would like their relationship to remain strictly professional, after which both Costle and others at the EPA belittled and harassed her, and eventually abolished her job as a form of retaliation. Barnes won the case and argument for sex discrimination during the appeal in the United States Court of Appeals for the District of Columbia Circuit. This case was specifically recognized as sex discrimination because it was acknowledged that this quid pro quo request made to Barnes by Costle would not have happened to a male employee (Siegel, 2004).

In 1980, the U.S. Equal Employment Opportunity Commission adopted guidelines to make sexual harassment unlawful under Title VII which included both quid pro quo and hostile work environment as sexual harassment (Fitzgerald, Gelfand and Drasgow, 1995; News, 1999; U.S. Equal Employment Opportunity Commission, N.d.). In the same year, *Alexander v. Yale* found that Title IX of the U.S. Education Amendment Act of 1972 can be applied to sexual harassment (again, citing sexual harassment as a form of sex discrimination that inhibits equal access to education based on sex). At a time where sexual harassment as sex discrimination in employment was just starting to get recognized in the courts, the lawyers in *Alexander*, who had a manuscript of MacKinnon's *Sexual Harassment of Working Women* in hand, were able to formulate their arguments using the same logic MacKinnon advanced (Simon, 2004). The biggest impact of *Alexander*, more so than the subsequent *Meritor Savings Bank v. Vinson* case I will discuss shortly is that rather than developing

legal doctrine, it led universities around the U.S. to establish and institutionalize grievance procedures for sexual harassment complaints, that now have become standard practice on campuses and shows how sexual harassment law is enforced on the ground.

The biggest victory for MacKinnon and other feminists advocating for having protections against sexual harassment as a form of sex discrimination protected within the scope of the Civil Rights Act came with the U.S. Supreme Court decision in 1986 for *Meritor Savings Bank v. Vinson*. In the case, Mechelle Vinson sued the Vice President of the bank alleging that she had been subjected to sexual harassment that created a “hostile work environment” during her time at the bank until she was let go (Meritor Savings Bank, 1985). In their unanimous decision, where the court ruled in her favor, they upheld that hostile working environments fell within protections of sex discrimination as established in the Civil Rights Act, and that Title VII was not limited to ‘economic’ or ‘tangible’ discrimination, i.e., quid pro quo harassment (Meritor Savings Bank, 1985).

While advancement by feminists and feminist scholars in the United States advanced ideas about sexual harassment as a form of sex discrimination that traveled around the world, the paths to recognizing sexual harassment as a crime looks different in different contexts.

Germany shows that influences from abroad were used and adapted to fit the German specific context. In Germany, sexual harassment was first illegalized under the 1994 Federal Employee Protection Law (Beschäftigtenschutzgesetz). Under the law, sexual harassment was defined as “every intentional, sexually determinate behavior, which offends the dignity of employees in the workplace” and included sexual acts or behaviors that are illegal under criminal law and other acts including verbal and physical “if they are recognizably rejected by the person affected” (Zippel, 2006, p.19). The origins of this law can be traced back to policy diffusion of U.S. ideas about

sexual harassment leading to increased pressure from governments to address this issue (Zippel, 2006). However, unlike the U.S. solution to sexual harassment, which was addressing it context-specific as a form of sex discrimination within the scopes of both Title VII of the Civil Rights Act of 1964 for employment and Title IX of the Education Amendment Act of 1972 for education, Germany opted for a solution that made the most sense for its own context, which is addressing it as an issue of “workers’ dignity” (Zippel, 2006). However, shortly after Zippel’s book came out, there was a shift in the law, with the Federal Employee Protection Law being replaced with The General Equal Treatment Act (AGG: Allgemeine Gleichbehandlungsgesetz). It was introduced in 2006 to follow guidelines set by the 2002 Directive on Equal Treatment of the European Union and was eventually passed during a red-green (Social Democratic Party and Alliance ’90/The Greens) coalition government. At the time, it was heavily contested by politicians of the conservative Christian Democratic Union and some business leaders and legal experts, who expressed concern that it would lead to an unmanageable influx of court cases with complaints although that fear never materialized (Arlt and Fiebig, 2016). Now, sexual harassment was no longer covered under workers’ dignity but instead followed a similar logic to the U.S. by falling under discrimination.

The AGG protects against discrimination along the basis of ethnicity and race, gender and gender identity, religion and world views, disabilities, age, and sexual orientation. The AGG protects people in the workplace and in “every day business” including while shopping, at the restaurant, night club, barber, on public transit like the bus or train, and in housing (Antidiskriminierungsstelle des Bundes, 2021). As for sexual harassment, the AGG defines it to include verbal, non-verbal, and physical harassment, staring, and distribution of pornographic materials with the intent of violating one’s dignity. As part of the AGG, an employer is required to protect employees from discrimination which can be done in the form of training, and

have a designated place where employees can file complaints. Workers can also file complaints and get legal advice directly from the Federal Anti-Discrimination Agency (Antidiskriminierungsstelle). While sexual harassment is broadly defined within the AGG, it is important to note that protections against sexual harassment within the scope of the AGG are currently limited to employment only (Berghahn et al., 2016). This means that the AGG cannot be used to address sexual harassment happening in a night club, for example. This is where sexual harassment defined in the penal code comes in (Strafgesetzbuch §184i). Sexual harassment has only been illegalized in the penal code since 2016 and also is limited to harassment that includes physical contact. As the law states, in extremely serious cases, this can lead to a prison sentence ranging from three months to five years. The law further specifies that extremely serious cases usually connote the crime being committed jointly by several people (Strafgesetzbuch der Bundesrepublik Deutschland, 2020). The introduction of the law – and its specification of “jointly committed by several people” – is a response to the public outrage after the New Year’s eve mass sexual assaults that happened at the Cologne train station during the 2015–2016 celebrations and were reportedly perpetrated by migrant men from North-Africa and/or the Middle East jointly, in groups (Behrendes, 2016).⁶

While many countries such as Germany have very specific and stringent restrictions as to what constitutes sexual harassment within penal codes, other countries consider much broader forms and types of sexual harassment. In Mexico, for example, sexual harassment is codified in both the federal penal code and the labor law. In the penal code, sexual harassment falls under Title XV Chapter 1 of the federal penal code, as part of a “Crime against Liberty and Normal Psychosexual Development” (Estados Unidos Mexicanos, 2015*b*). The law is broad and applies to anyone who

⁶For context, this was during a time where there was a large influx of asylum-seekers and migrants from the Middle East and North Africa entering Germany which was also leading to political and social tension.

is in a subordinate position to the person perpetrating the harassment and covers workplace, educational institutions, domestic arena, and other areas of life. While the areas covered by the law are broad, it has been criticized to be limited in scope and only include quid pro quo harassment but not hostile work environment (Speas, 2006). With the labor law reform in 2019, however, there has been a broadening of the definition of sexual harassment and potential remedies for victims. The labor law defines sexual harassment as a form of violence where “there is an abusive exercise of power that leads to a state of defenselessness and risk for the victim, regardless of whether it takes place in one or several events” (Estados Unidos Mexicanos, 2015*a*; Start-Ops, 2023). With the reforms of the labor law, Mexico established non judicial avenues for victims by instituting state-based conciliation procedures where they can bring the case to a mediator before filing a judicial claim (Madero Suárez, 2020). Furthermore, it addresses a criticism that existed prior to the implementation of this reform which is obligating businesses to implement protocols to prevent harassment and discrimination, which may include sexual harassment or misconduct training (Madero Suárez, 2020).

Similarly to Mexico, in Kenya, sexual harassment is discussed legally within the context of “violence.” In Kenya, sexual harassment is illegalized in Section 23(1) of the Sexual Offences Act of 2006. In this act, the perpetrator is specified as someone in a position of authority or holds public office that is using their position to make sexual advances to someone against their will and is punishable with a minimum of 3 years of imprisonment and/or a 100,000 Kenyan Shilling fine. (Republic of Kenya, 2012). To prove the occurrence of sexual harassment, it must be proven that the harassment was used in employment and/or assistance decisions, that they affected conditions of employment, and/or that it was perpetrated by someone from a public office. The Sexual Offences Act was an effort to unify laws centered on sexual violence into one uniform act and to establish stronger penalties on perpetrators due to high numbers

of cases of violence (Onyango-Ouma et al., 2009; The Consortium, 2015). Efforts to establish this law can be traced back to the 1990s when human rights organizations flagged Kenya’s weak laws that they claimed contributed to high numbers of gender-based violence against women (Onyango-Ouma et al., 2009). At the time, the media covered many cases of sexual and gender-based violence against women and girls, including a gang rape case at the St. Kizito mixed secondary school where 70 girls were raped and gang raped, and another 19 were killed when 306 teenage boys broke into the girls’ dormitory (Hirsch, 1994). With the influence of the media shining light on the issue and increasing public consciousness of the severity of violence against women, civil society organizations, and a champion for the issue, Njoki Susanna Ndung’u, who was a politician and women’s rights activist at the time, the Sexual Offenses Act of 2006 was eventually passed (Onyango-Ouma et al., 2009). With this law, sexual harassment is illegalized within the scope of violence against women, which makes sense given the backdrop of how it came to be drafted.

Another example to show how sexual harassment laws can be context and time specific is the case of France. The first sexual harassment law in France was passed in 1992 and defined a perpetrator as someone abusing their authority. In 2002, the law was modified and defined sexual harassment as an “act of harassing others with the goal of obtaining sexual favors” that could be punishable by one year of imprisonment and a 15,000 euros fine (Reuters, 2012). At the time of its inception, French sexual harassment law did not include hostile working environment in its definitions and protections (Reuters, 2012; Saguy, 2000, 2003). While some of this can be attributed to the desire of trying to distinguish themselves from the “prudish” U.S. and finding a more locally appropriate solution to curbing sexual harassment, the way the French system is also required feminists to work with legislators who were not quite so open to addressing the issue of sexual harassment, necessitating some compromises with the scope of what should be considered harassment (Saguy, 2003, 2012).

However, there was a notable shift with the 2011 scandal of former International Monetary Fund (IMF) head Dominique Strauss-Kahn. Strauss-Kahn was accused of sexually assaulting a hotel maid in New York, and while his criminal case was dismissed, a subsequent civil case was settled in 2012. This incident brought the discussion of sexual harassment and misconduct laws back to the forefront (Williams, 2012). In 2012, a former French deputy mayor, who had been sentenced to prison and a fine after harassment allegations came forward, contested the existing sexual harassment laws as being too vague which led to a court agreeing with him and striking down the sexual harassment law (France24, 2012). Because of this, there was a three month period in 2012 where there was no sexual harassment law, and all pending cases were dismissed (Avocats, 2012; France24, 2012). However, after that three month period, new sexual harassment provisions were passed in 2012 in both the criminal and labor codes. In the new criminal code, sexual harassment is defined as both hostile working environment: “[...] actions that have a sexual connotation and that either undermine his/her dignity by reason of their degrading or humiliating nature, or create an intimidating, hostile or offensive situation,” and quid pro quo: “[...] using any form of serious pressure with the real or apparent aim of obtaining an act of a sexual nature [...]” (Avocats, 2012).

Changes did not stop there. In 2018, the law was expanded to include what was called the “Schiappa” law, named after Marlene Schiappa who was the former gender equality minister. The 2018 law improved the definition of sexual harassment by adding sexist comments and changed so that it is no longer required that a single perpetrator is committing the harassment. Similar to Germany, there is a necessity for intent, meaning that perpetrators must have an intention to commit harassment. The new law also includes street harassment, which differs from sexual harassment in that even only a single gesture, done to undermine the dignity of the victim or it simply being offensive is a crime (Lacroix et al., 2020, p.104).

The short histories of sexual harassment laws within the contexts of the United States, Germany, Mexico, Kenya, and France showed that defining sexual harassment simply using legal definitions is not straight forward. Legal definitions of sexual harassment continue to evolve within countries across time, and are different depending on the country as well.

1.2 The state of the literature

Relying on both the psychological and legal definitions, a large number of academic works have addressed questions on sexual harassment.

Before delving into the state of the literature, however, it is also important to note the severity and impact of sexual harassment which has led many scholars to pursue this area of study. There is a multitude of survey data that illuminates this, but it is also noteworthy that the problem is likely much more widespread than the surveys across the globe capture with a lot of regional variation as to how willing victims are to report an incident or claim that they have experienced it in a survey. A recent survey from the United States, for example, has found that as many as 81% of women and 43% of men will experience sexual harassment in their life time (Kearl, 2018). Similarly, a smaller survey in Japan found that 84% of women and 50% of men had experienced sexual harassment as well (Kakekomu, 2020).⁷ An older survey of Mexican women workers found only 47% had experienced harassment (Speas, 2006), although Htun and Jensenius (2020a) show, using other survey data, that as few as 15% of women reported incidents of violence against women with as many as 19% of those women stating that they did not think it was important. Considering that in their study, they looked at more severe forms of violence against women, it is not a

⁷Interestingly, a survey from the Ministry of Health, Labor, and Welfare in Japan found that only 10.2% had experienced sexual harassment. Japan has a huge problem with underreporting partially attributable to ineffective and inadequate protections for people that come forward. There is a deeper discussion on this issue in the Japan chapter.

leap to infer that many women in Mexico may not report sexual harassment due to thinking it was not important or a severe enough issue to warrant reporting.⁸.

The comparative scale of harassment is noteworthy, considering the financial impact harassment has on those who experience it. For example, one mixed-methods study found that commonly, after experiencing sexual harassment, many women change jobs or industry, reduce working hours (McLaughlin, Uggen and Blackstone, 2017*a*), and want to quit (Merkin, 2008; Tsai, Nam and Wen, 2023). Furthermore, considering that women in supervisory position tend to experience more sexual harassment (Folke et al., 2020; McLaughlin, Uggen and Blackstone, 2012), this presents a major barrier for career advancement and staying in positions of power.

Others have also found that experiencing sexual harassment decreases job satisfaction (Lim and Cortina, 2005; Lonsway, Paynich and Hall, 2013), which may be especially pronounced in male-dominated and hostile workplaces such as STEM fields (National Academies of Sciences, Engineering, and Medicine, 2018).

Finally, sexual harassment has also been found to affect mental health, with multiple studies showing the correlation between sexual harassment experience and adverse mental health outcomes, including depression, anxiety, and stress (Bastiani, Romito and Saurel-Cubizolles, 2019; Charney and Russell, 1994; Eom et al., 2015; Mushtaq, Sultana and Imtiaz, 2015; Reed et al., 2019).

Aside from more personal-level repercussions of sexual harassment, the consequences also have ramifications on the state-level. A Deloitte study into Australian workplaces found that in 2018, the economic toll of sexual harassment led to a \$2.6 billion loss in productivity and almost an additional billion dollar loss in other financial costs (Deloitte, 2020). A study from the Institute for Women’s Policy Research also found that lifetime costs of workplace sexual harassment can reach as high as \$1.3 million for some occupations (Hegewisch et al., 2021), which has severe impacts

⁸Which is not a Mexico-unique phenomenon.

on the economy when considering the widespread scale of harassment.

Due to its scale and costly repercussions mentioned above, sexual harassment continues to be a relevant and much researched area of study. In recent years, as a result of the #MeToo movement that took off with news coverage on sexual misconduct allegations against producer Harvey Weinstein, much work around the globe has centered on this movement. As MacKinnon (2020) said, #MeToo did what the law could not, “shifting gender hierarchy’s tectonic plates” (p.175). Laws have limitations in ending bad behavior, especially ones that are “built into structural social hierarchies” as sexual misconduct is (ibid.), but #MeToo has changed the landscape with women being believed. In other words, victims did not change but the way society responds to accusations did with the movement.

Many recent political science works have analyzed the #MeToo movement globally (Noel and Oppenheimer, 2020), looking at the movement (or lack thereof) in specific regions or countries such as East Asia and Asia broadly (Chen, 2021; Hasunuma and Shin, 2019; Huang, 2021; Lai, 2021; Miura, 2021; Shin, 2021; Xiong and Ristivojević, 2021), Latin America (Carlson, 2020; Domínguez, 2020; Paiva, 2019), Europe (Erlingsdóttir, 2020; Grabowska and Rawłuszko, 2020), and Africa (Mwikya, Gitau and Waweru, 2020; Shefer and Hussen, 2020) and different workplaces (Brown, 2019; Choo et al., 2019; Tally, 2021). The evidence here is context specific and mixed, with #MeToo really taking off in some contexts, such as South Korea and leading to the downfall of prominent figures (Shin, 2021), being more lackluster in other countries such as Japan or Taiwan (Chen, 2021; Hasunuma and Shin, 2019; Miura, 2021), or having difficulty being inclusive with marginalized women as in Iceland (Erlingsdóttir, 2020). Many local movements adapted #MeToo to their own languages creating hashtags that make sense within their context such as #NiUnaMenos in Mexico (Domínguez, 2020), #Anakaman in the Arab world (Ghazal, 2020), #MeTooMedicine, and #MeTooSTEM for people in medicine and STEM fields (Choo

et al., 2019). Other work focused on #MeToo has used this movement to reflect, working on understanding what factors contributed to #MeToo happening such as “network silence” (Hershcovis et al., 2021), support for the movement among certain groups (Herrera Hernandez and Oswald, 2022), and evaluating what needs to happen to keep the progress that the movement made (Monroe, 2019).

In light of #MeToo, there has been renewed interest in understanding what types of countries adopt sexual harassment legislation and when. Heymann et al. (2023) for example find that 13 additional countries have adopted sexual harassment legislation since the onset of the movement. They further find that there is variation between high and low income countries: A larger share of high income countries have legislation and they also have had a larger increase of new countries adopting legislation since the onset of the movement. While in 2016, 69% of high income countries had sexual harassment legislation, this percentage was at 78% by 2021. Low-income countries, on the other hand, increased from 62% in 2016 to 66% in 2021. They also analyze the laws substantively, finding variation for low and high income countries in the types of laws they adopted, such as whether they had quid pro quo and hostile work environment (here, high income countries have a larger share of countries that cover both compared to both middle and low income countries), and whether laws protect against both sex-based and sexual behavior based harassment (again, a larger share of high income countries have both compared to both middle and low income countries). Heymann et al. (2023) make an important contribution to our understanding of where which types of sexual harassment laws are adopted, but it is still unclear – from a comparative perspective – what explains law adoption. This is where the chapter “Global variation in adoption of sexual harassment legislation” fills the gap in the literature.

When we take a deeper dive into the case of Japan, sexual harassment has continued to be an important area of research especially in the era of #MeToo (Dalton,

2019, 2021; Hasunuma and Shin, 2019; Huang, 2021; Ito, 2020; Lilja, 2022; Miura, 2021). The #MeToo movement in Japan has never really taken off or had the effect it did in other contexts with lacking legislation continuously posing a problem (Hasunuma and Shin, 2019; Miura, 2021). To better understand the nature of sexual harassment legislation and provide some nuance, the chapter “Why states adopt weak sexual harassment legislation: The Case of Japan” adds to this literature on sexual harassment in Japan.

In addition to movements centered on sexual misconduct, many works study college campuses, young adults around the ages of 18–24, and higher education broadly (Anihia et al., 2023; Bondestam and Lundqvist, 2020; Druckman and Sharrow, 2020; Htun et al., 2022; Morean et al., 2021; Mumford et al., 2020; Potter, Moschella-Smith and Lynch, 2022; Tinkler, Clay-Warner and Alinor, 2022), because this continues to be the prime age group for women to experience sexual assault. Of these works, many analyze sexual misconduct training and their effects and efficacy, which have increased in numbers across the United States (Rix, 2023). While the findings are also somewhat mixed and dependent on the type of training that is administered, works have found that the effects of one-off training is limited (Dobbin and Kaley, 2019; Htun et al., 2022; National Academies of Sciences, Engineering, and Medicine, 2018). Furthermore, while many works have used both qualitative and quantitative approaches to understand attitudes and effects of misconduct training, many have had to rely on training participants for *voluntary* training which means the participants were possibly biased. As mandatory training increasingly becomes a reality for many work and educational spaces, it has become more and more important to understand how mandatory training affects people and their attitudes. This is where the chapter “Assessing the perceptions of sexual misconduct training” contributes to this growing literature.

Aside from the sexual harassment works I contribute to in this dissertation, there

are many other recent works that have sought to understand sexual harassment in different areas. For example, a number of recent works have started exploring previously understudied areas in sexual harassment such as federal employees (Tinkler and Zhao, 2020), academia such as political science or STEM fields (Brown, 2019; Choo et al., 2019), politics and politicians in comparative contexts (Dalton, 2021; Julios, 2022), or online spaces (Burnay, Bushman and Larøi, 2019; Poland, 2020; Tang, Reer and Quandt, 2020).

In light of the COVID-19 pandemic starting in 2020, of course some recent work has also explored the impact of the pandemic on sexual harassment (Casanovas et al., 2022; Druckman and Sharrow, 2020; Holland et al., 2020; Potter, Moschella-Smith and Lynch, 2022). With public restrictions especially, sexual harassment dynamics shifted during the pandemic as well. For example, on their work in Spain, Casanovas et al. (2022) find that while before the pandemic, harassment happened outside of the home (in work, academic environments, or the streets), after lockdown, much of this behavior continued and shifted online meaning that people continued to experience harassment in a digital environment.

1.3 Empirical Approach

In this dissertation, I examine factors affecting sexual harassment by approaching sexual harassment laws from a macro, meso, and micro perspective. This means that I take a global perspective by looking at whether legislation exists or not, followed by a closer look at the type of legislation that exists, and close out by examining what implementation of laws look like for people affected by it. Other works on sexual harassment policy have taken a similar approach although there is some variation to the layers or levels.

In her book on sexual harassment laws in Germany and the United States, Zippel

(2006) identifies two layers to studying sexual harassment laws: government regulation, meaning the actual laws, and implementation, meaning how laws are enforced for which she identifies the three dimensions discussed in the section above. For her study on sexual harassment, Cahill (2018) identifies three levels: the national context, the organizational context, and the individual or socio-demographic context. She explains that these layers are necessary because limiting a study to the examination often leads to a “leap” from formal law and how it is understood and used in practice.

While different authors have used different aspects of laws as their layers, one thing is clear with this approach: it gives a more complete picture of laws that are in place, how they look in practice, and how people are affected by them. In the following, I will give more detail on what I named the macro, meso, and micro layers of sexual harassment, explain the benefit and justification of using the respective approaches for each chapter, and include the data and/or case selection choices I made.

1.3.1 Why look at comparative sexual harassment law

Given the large variation of sexual harassment laws, it makes sense to conduct case studies to really understand the mechanisms of legal adoption, legal choices that were made, and histories within each country. However, it also opens the question for why one would look at laws comparatively if they differ so much substantively. For this analysis to make sense, I am looking at broad patterns between countries. While these differences are fascinating and worthy of deeper exploration – and I do take a deeper dive into a case in the Japan chapter – it is also important to understand why countries adopt sexual harassment legislation in employment in the first place. Therefore, for the large-n analysis, it is not crucially important how different countries have gone about addressing sexual harassment legislation – whether it is covered as a form of violence against women, sex discrimination, or worker dignity. What is important

for that analysis is understanding whether laws exist and what the broader patterns are that explain the existence of laws. The large-n analysis allows for understanding whether legislation exists and the small-n case studies allows for exploration of the type of legislation that exists.

In what I call the macro level of sexual harassment policy, I look at broad patterns between countries across the globe. Using this approach, it is not important what kind of sexual harassment policy is in place in each country, but rather, whether countries have adopted sexual harassment policy at all or not. While the substantive nature of the laws are of course important and have been studied in depth by many others (as will be done by me as well in the meso level), it is easier to go into depth of the laws and mechanisms using case or small-n studies. Furthermore, what is important here is not the nature of the laws but rather whether laws have been adopted at all or not. This is because laws shape societal understandings of what is considered just and what is not (Marshall, 2017). While rightfully, there is a lot of debate about the limits and efficacy of laws changing social inequities, that is a discussion that presumes the existence of laws. Although the majority of countries around the globe – about three-quarters now – do have some type of sexual harassment legislation on the books, these development and changes are new, and a quarter of countries still do not have laws in place. With this in mind, it is important to understand under what conditions states adopt sexual harassment legislation.

There has been extensive literature covering various aspects of why and when women’s rights laws (such as sexual harassment) have been introduced. My contribution to this literature is merging two separate literatures (one on the presence of strong, autonomous feminist movements and one on legal traditions) and arguing that only strong, autonomous feminist movements matter. There is some scholarly work that has argued – and found empirical evidence – that legal traditions matter in the adoption of women’s rights, but that has not taken into account feminist movements.

Related works on human rights have also found that legal traditions matter. What has been less clear in the literature is whether, once accounting for both feminist movements and legal traditions, one or both still matter.

To take a bird's eye view of legislation and test my theory that feminist movements matter and not legal systems once appropriate controls are accounted for, I use data from 1985–2020. I use the Feminist Mobilization Index used in Htun and Weldon (2018) but updated to include more recent years (Weldon, N.d.). In addition, data on sexual harassment legislation adoption is taken from the Women, Business, and the Law data. Data on legal systems data is taken from Powell and Mitchell (2007) and other U.S. government sources on legal system types around the globe. Due to the panel structure of the data and after providing a variety of descriptive statistics, I use a random-effects regression model.

1.3.2 Closer Examination of a specific sexual harassment law

While it is interesting to understand broad patterns across countries, the meso-level perspective allows for an in-depth look to assess how specific types of sexual harassment laws come about and what they look like especially for cases that were overlooked in the macro chapter. Some countries in the macro chapter, for example, were coded as not having any legislation because while there may be a legal definition of what constitutes sexual harassment, the act is neither criminalized nor appropriately punished, making these laws completely ineffective. To explore one such case, I conduct a case study to look at an outlier case of the only OECD country to have not adopted strong⁹ sexual harassment legislation: Japan. Taking a closer look at Japan for sexual harassment legislation shows that the issue is not as simple as there are

⁹I differentiate between strong and weak or no sexual harassment legislation here. Strong sexual harassment legislation is in place when countries have explicitly illegalized sexual harassment and have specific paths for remedying harassment in the case it occurs. Japan has weak legislation because while there are legal definitions of sexual harassment, addressing it falls solely on the employer without any other recourse for victims, aside from resorting to tort law for damages, which previous court cases have shown do not lead to a meaningful amount of money.

no laws on sexual harassment in Japan, but rather that legislators and bureaucrats have addressed sexual harassment in Japan but have done so very inefficiently and insufficiently. The benefits of a case study are that we can identify context-specific institutions and structures that led to outcomes that cannot be explored in large-n studies.

To test the theory that the Liberal Democratic Party has been unwilling to advance more aggressive legislation and consequently produced weak legislation, I analyze utterances made on sexual harassment in the National Diet from 1989–2020 that contained variations of the term “sexual harassment.” Additionally, I collected article counts from a Japanese newspaper to see how often sexual harassment was covered in the news during this time span. Finally, I use statistics, examine institutional dynamics, and rely on previous literature to highlight barriers to advancing sexual harassment legislation that exist within the LDP.

1.3.3 Sexual Harassment on the Ground

Looking at sexual harassment on the ground, meaning assessing how sexual harassment laws are or are not implemented and enforced is difficult on a large-n scale, depending on how one chooses to define “implementation.” One way to assess implementation is to study the numbers of sexual harassment incidents and analyze the relationship between those numbers and the introduction of laws. However, when it comes to issues around violence against women and/or sexual harassment, data on the number of people affected is not necessarily reliable, as some surveys from Folke et al. (2020) have shown.¹⁰ Furthermore, because of this unreliability, analyzing effectiveness data on a larger scale is difficult because the scale of unreliability may be inconsistent across contexts as well (meaning that some contexts may be more or less

¹⁰In their study, they find inconsistencies in survey responses depending on how questions on sexual harassment are asked. In addition to possible inconsistencies with rates of sexual harassment or misconduct experiences due to wording in surveys, many studies have addressed the issue of under-reporting of sexual misconduct broadly.

unreliable). Finally, as Htun and Jensenius (2020*c*) argued in their piece about pandemic related sexual violence statistics, the relationship between reported numbers of misconduct and actual numbers are tricky, with an increase in reported numbers possibly being an indicator of legal and cultural changes that make it easier for victims to come forward. In other words, a rise in reported incidents of sexual or gender violence is not necessarily indicative of an increase in actual incidents. Instead, the reverse can be true that an increase in reported numbers shows a cultural shift that allows for more reporting. Statistics therefore are not a helpful way to assess the success of implementation of sexual harassment or violence against women laws.

Aside from reported numbers, there are multiple ways to look at how sexual harassment is actually implemented (Zippel, 2006) and how it looks “on the ground” outside of relying on data on reporting. Zippel (2006) identifies three dimensions of implementation that can be used to study on the ground implementation, which are “(1) internal workplace policies and procedures; (2) prevention efforts such as training and awareness programs; and (3) agencies and services outside the workplace that implement, monitor, and enforce laws” (p. 38). Looking at and evaluating enforcement mechanisms allows for a closer examination of the efficacy of laws. By looking at this layer of sexual harassment laws, we can address the criticisms of the limits of laws such as addressed in Banda (2006) – meaning that just looking at whether laws are adopted and the type of laws that are adopted is insufficient in assessing what is actually being done in practice and what kind of actual protections laws are offering. Looking at implementations gives us a better understanding of whether the laws that are on the books are actually doing what they are promising to do.

Returning to Zippel (2006)’s dimensions of implementation, however, also illustrates the difficulty of doing large-n analyses to understand the efficacy of implementation. It is difficult to quantify internal workplace policies and procedures and

agencies that enforce or monitor these laws and compare these across contexts, considering that these will look different in different countries and will likely also have different effects in their success of implementing the law. Similarly, prevention efforts are difficult to study in a large-n as well as exemplified by a large literature that has worked on assessing the effects of such training that usually look only at one organizational context (see for example Htun et al. (2022); Tinkler, Clay-Warner and Alinor (2018); Tinkler, Gremillion and Arthurs (2015); Worthen and Wallace (2017)). Therefore, in this dissertation, to assess implementation, I will use a single case study of an organization.

It is important to note here as well, that these single case studies do have some external validity as well, meaning that they can inform patterns for different contexts as well. This is well demonstrated by the large literature on the effects of misconduct and bystander training, that finds similar patterns across trainings and/or depending on training, such as reduction in rape myth adherence (Banyard, Moynihan and Plante, 2007; Banyard, Moynihan and Crossman, 2009; Cares et al., 2015; Coker et al., 2011; Elias-Lambert, 2017; Elias-Lambert and Black, 2016; Gidycz et al., 2001; Htun et al., 2022; Inman et al., 2018; Lonsway et al., 1998; Senn et al., 2017).

The micro-level perspective looks at sexual harassment legislation in practice or on the ground. It examines how laws are implemented and consequently how people experience law. The macro and meso-level perspectives are helpful in ascertaining when sexual harassment legislation gets adopted and the type of legislation that is chosen in specific contexts, but it does not give us a better understanding of what laws look like once they are adopted and experienced by people. Although laws have been found to be effective in changing social norms (Htun and Jensenius, 2022), by themselves they cannot prevent crimes from occurring. Places of work and study are the sites where laws are truly put under the test, meaning that they are the place where crimes happen and where they can also be prevented. One measure that has

gained traction over the years is to introduce sexual misconduct training. Training can be mandatory or voluntary and take on a variety of approaches, including primary or secondary prevention, culture change, bystander intervention, and risk prevention.

To get a better sense of how sexual harassment legislation is experienced, I study the participants of a mandatory sexual harassment misconduct training at a large public university located in the Southwest in the United States. The choice of this particular case is multi-fold: first, universities in the U.S. are increasingly adopting sexual misconduct training to respond to and comply with laws (Edelman, 1992). The university where the study was conducted was one of the few that had an in-person, mandatory training. Although many other universities – at least at the time of the study – did have training, few had mandatory training and even fewer had an in-person training that was mandated. As training increasingly become a reality for more and more employees and students, it becomes more important to understand how training affects people, especially ones that had no intention of taking the training but had to regardless. Since the U.S. and the university training studied here are somewhat of a forerunner when it comes to using training to be in compliance, this country – and an organization within this context – are the best case to study this type of implementation in.

For the micro-level perspective, I study how students who took a mandatory sexual misconduct training perceived the training. To do this, I use interview data from semi-structured interviews conducted by the research team from Htun et al. (2022). Interviews were conducted between 2018–2021, usually lasted around 30–60 minutes, and only included students (undergraduate, graduate, and professional) that had taken a specific mandatory sexual misconduct training. Participants were recruited using quota and snowball sampling. Interviews were later transcribed and analyzed using thematic analysis.

1.4 Overall Findings

To summarize, this dissertation contributes to the continuously important work of sexual harassment legislation and implementation. The chapter “Global variation in adoption of sexual harassment legislation” uses large-n quantitative panel data to find that strong, autonomous feminist movements are correlated with the adoption of sexual harassment legislation.

While many works on the #MeToo movement have focused more on the movement itself, which is a result of the failings of the legal system in providing adequate protections, understanding when and why laws are adopted continues to be important. This is because “[w]hen law recognizes the harms inflicted by social practices, it is intervening in the social world it is describing, both enabling and constraining challenges to the social order of which the practices are a part” (Siegel, 2004, p.2). Although it is important to acknowledge the failings and limitations of the law, not having any legal protection at all is worse. Because of this, and because not all countries around the globe have yet adopted sexual harassment legislation, it is important to understand when certain actors choose to act while others refuse change.

However, what is also clear is that not all laws are created equal. The Japan chapter contributes to our understanding of this by adding more nuance to the claim that Japan does not have any legislation and offers an explanation as to why the country has such weak laws in place. In this chapter, I find that the Liberal Democratic Party (LDP) was a major contributor to the adoption of weak legislation. As sexual harassment became an increasingly salient issue that needed to be addressed, LDP party members responded by crafting weak legislation. This is shown using newspaper article mentions, utterances of Diet members on the topic, statistics, and previous literature.

Laws and discussions on their content can feel abstract and far from everyday reality for most average people, which is why it is also important to understand how

laws are implemented or enforced and subsequently, how people experience them. This is where the final substantive chapter contributes to a large literature on assessing misconduct training by studying the perceptions participants of a mandatory training which – as these trainings become the norm – will become increasingly important in the future. In this chapter, using qualitative semi-structured interview data, I find that sexual misconduct training is perceived differently by men and women, that people’s perception of how much they think they know influences their general receptivity toward training, and that the time that has lapsed since the training also affects how well they retain the content.

Chapter 2

Global variation in adoption of sexual harassment legislation

Abstract

When and why do countries adopt sexual harassment policy? Studies have attributed a myriad of factors that contribute to the adoption of women's rights – of which sexual harassment is a part – including descriptive representation, regional agreements, feminist movements, and legal systems. While descriptive representation and regional agreements are often included in analyses as controls, works that argue that legal systems and traditions matter do not consider feminist movements. In this chapter, I address this gap using data from the World Bank and Htun and Weldon (2018)'s replication data. I find that there is an association between strong, autonomous feminist movements and the adoption of sexual harassment legislation. However, the data does not support an argument of an association between legal traditions and sexual harassment policy adoption. This is a promising finding that shows that static and difficult to change institutions such as legal systems may not be inhibitors to advancing women's rights and instead, dynamic factors such as feminist movements can cause change.

2.1 Introduction

Preventing sexual harassment is crucial in moving along gender equity. As a myriad of survey and government data have demonstrated (Kakekomu, 2020; Kearl, 2018; Pandey, 2017), women and men experience harassment in the workplace and in public, with detrimental impact (Centers for Disease Control, 2022). While laws addressing violence against women by themselves cannot prevent misconduct from occurring, they do have a positive impact. For example, violence against women legislation is an effective tool to advance gender equity and improve the lives of women (Richards and Haglund, 2015). Furthermore, their aspirational impact may actually lead to the elimination of violence against women in the long run (Htun and Jensenius, 2020a). With gender equality having been on the agenda with the United Nation’s Millennium Development and Sustainable Development Goals, this chapter explores what actual steps nations have taken to address this issue. Specifically, looking at sexual harassment legislation, which is critical in helping women advance in the workforce and reach financial independence, which nations have decided to address harassment and what factors matter? In this chapter, I explore this question by looking at large-n longitudinal data from 1975–2020 to assess when and which nations adopted sexual harassment legislation. Multiple literatures have made separate arguments about what explains when states adopt more rights for women and/or human rights, with some arguing that the strength of feminist movements matter (Htun and Weldon, 2012; Htun and Weldon, 2018), while some others have made arguments about the impact of legal traditions and system (Asal, Sommer and Harwood, 2013; Mitchell, Ring and Spellman, 2013; Sommer and Asal, 2020). While small-n studies such as Saguy (2003); Zippel (2006) have included both feminist movements and legal systems in their analyses of understanding sexual harassment legislation in different contexts, to my knowledge, there is no large-n analysis that incorporates both legal systems and feminist movements to understand how these affect whether a state adopts sexual ha-

harassment legislation. In this chapter, I address this gap by using data from Htun and Weldon (2018), the World Bank, and Powell and Mitchell (2007) and find that while by itself, there are some distinct patterns of when certain legal systems adopt sexual harassment legislation, when including strong, autonomous feminist movements in the analysis, legal systems become insignificant. In other words, while there seems to be a relationship between legal systems and sexual harassment legislation when looking at descriptive results, when I account for other contextually relevant control variables and feminist movements, this association falls away.

2.2 Context

2.2.1 When states adopt women’s rights

Many works have advanced our understanding of when and why states adopt women’s rights.

One argument is that descriptive representation matters in leading to more favorable outcomes to the group that is represented (i.e., descriptive representation leads to substantive representation) (Mansbridge, 1999; Pitkin, 1967). Works on the United States (Dolan, 1998; Swers, 2001, 1998, 2005) and in other comparative contexts (Bratton and Ray, 2002; Eto, 2023; Kittilson, 2008; Lovenduski and Norris, 2003; Schwindt-Bayer, 2006) have shown that female legislators and leaders have more favorable attitudes toward women’s rights and “women’s issues,” such as reproductive rights and family policies. While attitudes towards women’s issues may be more favorable among female legislators, this does not necessarily translate into outcomes. Using Argentina as an example, Htun, Lacalle and Micozzi (2013) find that although more women’s rights bills were introduced as more female legislators held seats, these bills did not actually pass and the approval rate of these bills actually went down. Therefore, an increase in numbers may not automatically translate into

improved outcomes in terms of passing more gender egalitarian legislation.

Additionally, some have urged caution of overemphasizing descriptive representation as a necessary prerequisite for substantive representation and explained that this is a type of essentialism (Mansbridge, 2005). Arguing that descriptive representation is necessary to produce substantive outcomes for a group may inadvertently lead to the false perception that representatives are only able to represent the interests of the groups they are a member of (Mansbridge, 2005). Furthermore, it is also important to keep in mind that women are not a homogeneous group but diverse with multiple intersecting identities (Crenshaw, 1989, 1991; hooks, 2000) and interests. Therefore, exaggerating the effects of descriptive representation without proper examination of who is representing who may lead to excluding the voices and interests of those at the margins. Finally, focusing on the importance of female representatives producing positive outcomes for women (such as women's rights), rests on the erroneous assumption that an individual can stand for an entire group, when in fact collective interaction between group members is necessary (Weldon, 2002*a*). In other words, the presence of female representatives alone may not be enough to lead to proposing and passing strong and robust sexual harassment legislation. Instead, a collective of women, in the form of a social movement, may be better at advocating for women's rights.

Social movements, and especially feminist movements and activists, are crucial players in advancing certain women's rights, specifically gender status policies (Htun and Weldon, 2012; Htun and Weldon, 2018; Weldon, 2002*b*, 2004, 2006). Htun and Weldon (2018) describe their argument of why strong autonomous movements matter in addressing violence against women. First, it is because these movements generate and articulate knowledge of their group's distinct social experiences and diffuse these ideas. Women's movements have been critical in reestablishing the status of women, which led to framing women's rights as human rights, for example (Htun and Weldon,

2018, p.17). Second, women’s movements are critical in combating violence against women because they challenge social norms and heteronormative structures. When addressing sexual violence, such as rape, as violence against women, this challenges “male privilege in sexual matters” that led to widespread silencing of victims of this type of abuse (Htun and Weldon, 2018, p.54). Finally, strong, autonomous feminist movements matter in efforts to address violence against women because unlike when they are constrained and struggle in having women’s issues prioritized, when strong movements are present, women’s issues get recognized as important in their own right (ibid.). In more recent work, and specifically in terms of sexual harassment, the impact of feminist movements has been documented as well. In their article on the #MeToo movement and subsequent adoption of legislation on sexual harassment, Heymann et al. (2023) find that indeed, 13 additional countries had adopted legislation.

Another factor that may matter in government responsiveness to violence against women (defined as sexual assault of women by men and battery of intimate partners) is the relationship between the strong, autonomous feminist movements with what have been called “women’s policy agencies” (Weldon, 2002*b*). These are one or multiple governmental institutions “to promote the status of women” (Weldon, 2002*a*, p.5; 119). This matters because women’s concerns often do not fit neatly into specific governmental departments or agencies, and subsequently do not get the attention or care they need. If an agenda item does not “fit into traditional areas of bureaucratic responsibility, they fall through the cracks” given that these agencies need to consider both sex’s concerns (Weldon, 2002*b*, p.121). If there is an effective women’s policy machinery, however, these women’s concerns, such as violence against women that otherwise would fall into the realm of health or criminal justice and may be addressed in different departments consequently, can be addressed within one agency and therefore be more holistically and efficiently addressed (Weldon, 2002*b*, p.125). Given that

this is the exact issue with sexual harassment – that it falls within a multitude of different subject areas including employment, health, criminal justice, and others – theoretically one may expect that an effective women’s policy machinery matters. It is important to reiterate here that Weldon (2002*b*) explains that the mere presence of a women’s policy machinery or agency is insufficient in state responses to violence against women. The machinery needs to be effective and have strong support and interaction with feminist movements to actually lead to the implementation of policy.

In addition to social movements and descriptive representation, research has also found that international treaties and agreements positively influence women’s rights at least to some extent. This is because treaties hold government accountable and are used as signals for intent (Simmons, 2009). Most prominently for assessing the impact of treaties on women’s rights, scholars have conducted studies to assess the impact of ratifying the Convention on the Elimination of Discrimination against Women (CEDAW) which is an international treaty that requires the elimination of discrimination against women and girls. Here, multiple authors have found that CEDAW ratification had a positive impact on a variety of women’s rights, including political rights and reproductive rights (Asal, Brown and Figueroa, 2008; Cole, 2013; Comstock, 2023; Englehart and Miller, 2014; Hathaway, 2001; Hunt and Gruszczyński, 2019; Simmons, 2009). While Cole (2013) found that CEDAW had a positive impact on political rights, he found that in terms of economic rights, which includes sexual harassment, ratification of this treaty had not effect. Similarly, Cole (2013) also found that CEDAW had in fact a negative effect on women’s social rights which include both “negative” freedoms such as protections against forced sterilization or genital mutilation and “positive” rights such as conferring citizenship, receiving an education, marriage equality between men and women, and other factors.

Another factor that may influence the adoption of women’s rights is the presence and strength of left leaning parties. The assumption here is that since left lean-

ing parties espouse more egalitarian views, they may be more inclined to advance women's rights and positions. However, evidence suggests that the effects of left parties are not uniform across regions, with left governments in Europe being much more successful in advancing women's interests compared to Latin America (Ewig, 2012). The advancement of left governments in women's rights in Europe is exemplified in Germany where the Directive on Equal Treatment of the European Union was passed in 2002 during a red-green coalition (of the Social Democratic Party and Alliance '90/The Greens which are both left leaning parties) and was met with resistance from the conservative parties (Arlt and Fiebig, 2016). Scholarly work on Latin America during the pink tide does indeed find the mixed advances in gender equality the left-governments in the region accomplished. Funk, Hinojosa and Piscopo (2017) find for example that gains from left leaning parties did not translate into increased women's political representation (instead, quotas mattered more). In regard to advancing policy, Blofield, Ewig and Piscopo (2017) found that left parties by themselves did not advance gender equality in Latin America. Instead, feminist mobilization was more critical in pushing left parties to advancing women's rights.

2.2.2 Why would we expect (or not expect) legal traditions to impact women's rights?

As described above, there is an extensive literature addressing factors that influence the adoption of women's rights. One that has received less attention, but has been discussed in more depth in the human rights literature, is the impact of legal traditions. Although the literature on women's rights and legal traditions specifically is not that extensive, based on some related theoretical work and empirical evidence, there is a reasonable expectation that a country's legal tradition, meaning whether it is a civil, common, mixed, or Islamic law country, may impact if, when, and why states adopt sexual harassment.

Legal systems are institutions that determine how laws are interpreted and enforced. Broadly, these can be categorized into civil law, common law, Islamic law, mixed law, and customary law systems¹.

The common law system has its origin in Great Britain. One of the most distinctive feature of this system is its reliance on the judiciary for law-making (Glenn, 2014). With *stare decisis*, judges need to consider and rule in alignment with previous rulings on the same issues making them more constraint than judges in civil law systems. Furthermore, common law systems are adversarial, where two opposing sides present evidence to a neutral party (a judge or a jury) to determine which side is “right.” With judge-made laws in common law systems, many existing rights are not codified in new laws but rather fit into existing laws. In the case of sexual harassment, for example, rather than the legislature crafting a law explicitly outlawing it, the decisions in *Williams v. Saxbe* in 1976, *Barnes v. Costle* in 1977, *Bundy v. Jackson* in 1981, and *Vinson v. Taylor* in 1985 all found that workplace sexual harassment (quid pro quo and hostile work environments, depending on the case), is a form of a sex discrimination in employment protected under the Civil Rights Act of 1964 in the United States (MacKinnon, 2002). As this shows, in common law systems, those seeking change turn need to turn to the courts to challenge existing laws and precedents.

The civil law system, which is the most common legal system with over half of countries following this tradition, can trace their origins to the Roman empire. Defining features of this system are codes of law (that exhaustively cover civil, criminal, and other laws), procedure that is controlled by a judge where the judge will also be

¹For the purposes of this analysis, I focus on the differences in law adoption of civil and common law countries. While there is a large share of mixed legal systems, because these have such a large variation (such as having a combination of common law and civil law, civil law and customary law, etc.) in combinations and those combinations mean completely different things structurally and institutionally, they are not analyzed in depth. Instead for these countries – because they are different – it is worthwhile analyzing them separately and by themselves. The next chapter of this dissertation does just that by examining the case of Japan, which has a mixed legal system composed of civil, common, and customary law elements.

the one who investigates, no judicial law-making (as compared to common law systems, where legal precedent and court decisions have important implications to the application of a certain law), large resident judiciaries, and the prestige of law professors (Glenn, 2014, p.144). Unlike common law systems, where legal change primarily takes place in the court and case law matters, in civil law systems, the legislature and legal codes are more important in establishing rights. While judges' decisions in common law systems are binding to subsequent cases brought to the courts, court cases in civil law countries do not have that kind of power.

A critical difference in the impact of laws in different legal systems is explained well in Htun (2003), where she elaborates on the distinguishing feature of civil law countries in Latin America compared to Anglo-American common law systems. As she explains, in civil law systems, law is viewed more as enforcing moral order. Laws evolve and shift through deliberation and persuasion, meaning that they both shape behavior and culture but are also shaped by it. In civil law countries, therefore, “[w]hen gender rights change, so do definitions and understandings of gender roles and relationships” (Htun, 2003, p.11). Since “[g]ender-related legal reform is not usually imposed through executive decree or party discipline, but evolves through prolonged deliberation,” (Htun, 2003, p.11) in civil law systems at least, feminist movements matter in moving forward women’s rights by exerting influence in this deliberative process.

Given that legal traditions determine how laws and rights are drafted, applied, and understood, they produce different outcomes on human rights. For example, sexual harassment laws in the United States define sexual harassment differently – while in the United States, sexual harassment includes both quid pro quo and hostile work environments and is framed as a form of sex discrimination based on Title VII of the Civil Rights Act, in France, at least in the initial stages of sexual harassment legislation, only included quid pro quo harassment and is framed as an

interpersonal violence issue (Saguy, 2003). In her book, Saguy (2003) argues that this is because of the very nature of the legal system – because the United States has a common law system and requires legal arguments to be made based on existing statutes and legal precedent, it made sense to frame this within the existing Civil Rights Act that prohibits sex discrimination in employment. On the other hand, because of France’s civil law system, there was much more of a deliberative process. Feminists and supporters of sexual harassment legislation wrote the bill and had to make compromises in order to get legislation passed. While this deliberation led to compromises – such as limiting sexual harassment to only quid pro quo harassment – it also achieved what (Htun, 2003, p.11) described as an opportunity for “reformers and their opponents to persuade, not just impose.” (Htun, 2003, p.11). Later iterations of sexual harassment legislation did lead to an expansion that included hostile work environment as a form of sexual harassment. Furthermore, in more recent years, and perhaps through persuasion via the law, France has increasingly adopted more aggressive legislation addressing sexual harassment that may in the past have been dismissed as being a part of the culture, such as catcalling and street harassment.

As this shows, the process of introducing rights and laws is different in civil and common law systems. However, how – or do – the different legal traditions impact if and when states adopt women’s rights laws such as sexual harassment?

Work on human and women rights have had mixed findings about which legal tradition fairs better in terms of outcomes. One line of argument has been that common law countries fair better than others because the judiciary tends to be stronger and more independent than in civil law systems (Keith and Ogundele, 2007; Mitchell, Ring and Spellman, 2013). Indeed, multiple works in judicial independence and human rights (see (Abouharb, Moyer and Schmidt, 2013; Crabtree and Fariss, 2015; Crabtree and Nelson, 2017)) have found that the more *de facto* independence a judiciary has, the better human rights protections are in a country. In essence, the

improved checks and balances via a stronger and more independent judiciary in these systems lead to more constraints on government. Legal traditions may also impact when states adopt women's rights. In her small-n case studies on sexual harassment law adoption, for example, Saguy (2003) finds that common law countries are in fact faster at adopting legislation on sexual harassment. This is because common people can take cases to courts and consequently produce legal precedent. In civil law countries on the other hand, because of the deliberative process, it takes more time. Therefore, she argues, civil law countries are slower at adopting sexual harassment legislation than common law countries.

Asal, Sommer and Harwood (2013); Sommer and Asal (2020) counter the above mentioned argument by finding evidence that civil law countries are more likely to adopt human and women rights. On their work on the abolition of sodomy laws around the globe, Asal, Sommer and Harwood (2013) explain that the very nature of common law traditions where legal change is focused on the judiciary, means that laws change gradually. They elaborate explaining that this process makes it harder to change laws, meaning that change comes about slower. Therefore, civil law countries were faster and more likely to adopt laws. Similarly, in their work on women's political rights Sommer and Asal (2020) argue that civil law countries were "punctuated by periods of political discontinuity where the legal status quo was fundamentally shaken, even if eventually reinstated, which became a part of the legal memory of the nation" (p.423). While they may find empirical evidence to support their argument, they do not further elaborate what they mean by periods of political discontinuity. Depending on these periods of political discontinuity, as well, it is unclear how and why they would be confined to specific legal traditions. What is more, a critical variable that was left out of Sommer and Asal (2020) in assessing the adoption of women's rights is the impact of feminist movements. Therefore, to test whether legal traditions do in fact matter when accounting for feminist movements, is critical.

Although I have explained the differences in legal traditions, and how we therefore may have good reason to believe that these may impact why states adopt sexual harassment policy, I argue that they do not matter in the why but the when. As mentioned, the process of legal change is different in the different legal systems. Courts and legal precedent matter in common law countries, while legal codes are critical in civil law systems. Therefore, while common law may have an easier time adopting sexual harassment laws because as Saguy (2003) mentioned, common people can bring cases to the court system, in civil law countries it may take longer through the deliberative process in the legislature. We can therefore expect that common law systems may adopt sexual harassment legislation faster. However, this may only go so far and should not lead to common law countries automatically being more likely to adopt legislation. Strong autonomous feminist movements should still matter. This is because while the institutions may be in place to expedite the process of adopting legislation, the shift in social norms introduced by feminist movements that reframe sexual misconduct including sexual harassment as a violence against women rather than a social reality women must endure may entice women to actually take their cases to the court in the first place. Although MacKinnon (2002) argues that sexual harassment laws – unlike abortion access – in the United States did precede social awareness of the issue created by feminist movements (meaning that the court cases were decided before feminists established sexual harassment as a problem that needed to be addressed), the impact of the second wave of the feminist movement and its impact in adding sex as a protected class in employment discrimination should not be understated. In essence, the presence of feminist movements therefore create an environment, in both civil and common law countries, that prompt different actors (common people, activists working with legislators, etc.) to push for action.

Therefore, I hypothesize the following:

There is a positive relationship between the presence of a strong, autonomous

feminist movement and the adoption of sexual harassment legislation. Common law countries, given their institutional design, are initially faster at adopting sexual harassment legislation than civil law countries.

2.2.3 The Impact and Limits of Legal Change

Before diving into the analysis, it is important to note the limits of laws when trying to assess gender equity and the advancement of women's rights. This is because the establishment of laws and rights do not ensure compliance or changed behavior of perpetrators (Banda, 2006). There may also be variation in the enforcement of laws and rules between countries and along demographic lines. This is certainly the case for sexual harassment as well. In the United States, for example, despite multiple court cases establishing protections against sexual harassment since the late 1970s and 1980s, sexual harassment continues to be a prevalent and often occurring problem. This has been shown by multiple high profile political cases, including allegations against then-President Clinton in the 1990s, and more recently multiple allegations (and convictions in some cases) against prominent elite men in politics, business, and the entertainment industry in the height of the #MeToo movement.

While laws do not automatically stop the violation of a right, they do have the power to leave a positive impact. For example, Gornick and Meyers (2003) show that laws aimed at gender equality (such as family policies) do have a positive impact on women's well-being and gender equity. Similarly, Richards and Haglund (2015) show that violence against women laws have a positive impact on gender equality and health outcomes, even when controlling for other variables. This shows that the utility of laws addressing violence against women is better understood when they are framed as being aspirational rights that aim to create a more equitable society by dismantling existing gender hierarchies (Htun and Jensenius, 2020a; Htun and Weldon, 2012). Therefore, while in the short-term, their effects may be limited, they

should be understood as long-term processes that change deeply entrenched social norms (Htun and Jensenius, 2020a).

Understanding when and why laws are therefore passed is helpful in understanding what steps to gender equity and equality a society is taking.

2.3 Data and Methods

To contribute to our understanding of the relationship between legal systems and feminist movements with the adoption of sexual harassment legislation, I created a data set using data from various sources. The data on whether countries adopted sexual harassment laws between 1970-2020 is from the *Women, Business, and the Law* from the World Bank. The data measures the differences of laws in women and men’s economic opportunities in 190 economies.² The data is collected using local experts within each of the 190 economies, which includes lawyers, judges, civil society representatives, and public officials.

The data on legal systems was taken from the supplementary material provided from Powell and Mitchell (2007). In this data set, the authors identify four types of legal systems: Civil Law, Common Law, Islamic Law, and Mixed Legal systems. Of 188 countries³, 97 countries are civil law, 45 are common law, 25 countries are Islamic law, and 21 are mixed.

Table 2.1: Number of economies within each legal system

Legal system	Frequency	Percent
Civil law	97	51.60
Common law	45	23.94
Islamic law	25	13.30
Mixed law	21	11.17

²<https://wbl.worldbank.org/en/methodology> [accessed August 8, 2022]

³There were a number of missing countries and/or double coded countries in the data set, that were changed using data from either the U.S. State Department (South Sudan) or the CIA World Fact Book (Myanmar, Mauritania, Montenegro, North Macedonia, Myanmar, Hong Kong, and Kosovo).

To assess feminist movements, I included the feminist movement index from the Feminist Mobilization and Economic Empowerment project at Simon Fraser University. The variable measures strong, autonomous feminist movements from 0 (no movement) to 3 (strong, autonomous movements). This data has measures for 1975, 1985, 1995, 2005, and 2015. I also included a variety of control measures that Htun and Weldon (2018) collected including CEDAW ratification, regional agreements, lagged GDP, effective women’s policy machinery, the strength of left parties, female labor force participation, and percentage of women in parliament.

Since this data is a panel data set, I ran a regression with a random effects regression model with clustered standard errors by country. This is done because we assume that the independent variables included in the model are uncorrelated (Allison, 2009). Furthermore, this model also includes time-invariant variables (i.e., the variables on the legal system), and time-invariant variables cannot be estimated using fixed effects.

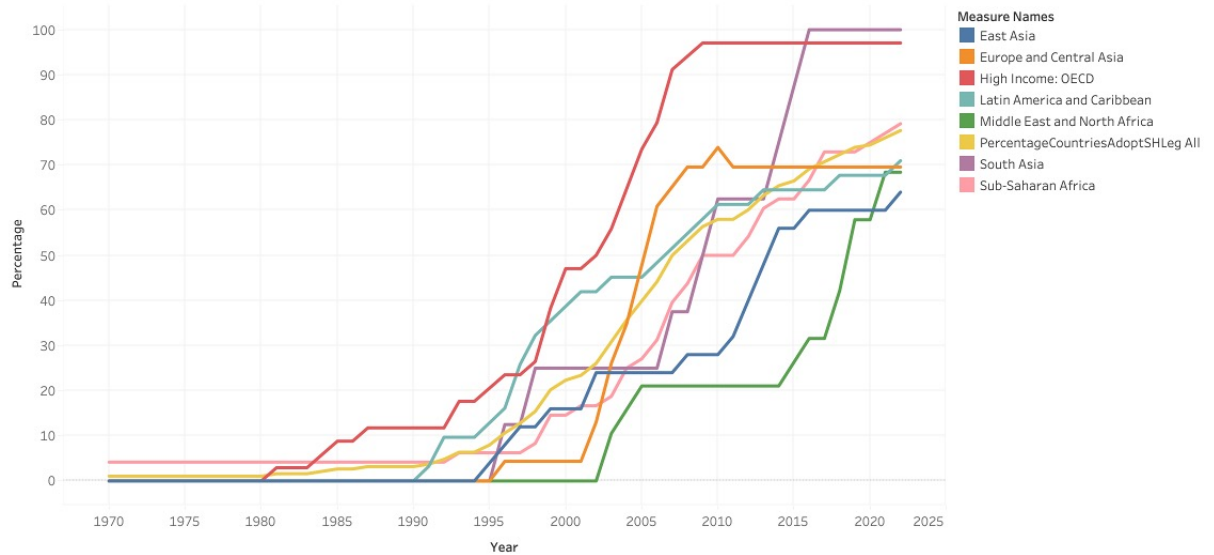
2.3.1 Descriptive Data

The number of countries that adopted sexual harassment legislation between 1970 and 2020 increased from 1.1% to 74.18%. As figure 2.1 shows, the majority of countries had adopted legislation with some regional variation by 2020. 57.89% of Middle Eastern and North African countries, 56.52% of East Asian and Pacific countries, 66.67% of Europe and Central Asian countries, 70% of Latin American and Caribbean countries, 74.47% of Sub-Saharan African countries, 97.06% of OECD countries⁴, and 100% of South Asian countries had adopted laws on sexual harassment.

The figure also shows that 1995 marks a turning point with the number of countries adopting laws increasing starkly, which coincides with the World Conference on Women in Beijing.

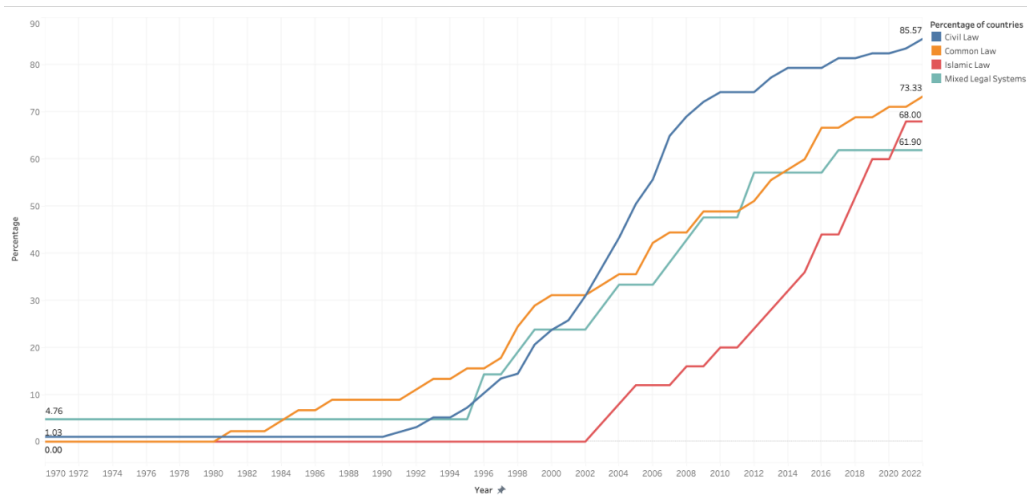
⁴Japan is the only OECD country that has not adopted sexual harassment legislation. Chapter 2 goes into depth why Japan has not adopted strong legislation.

Figure 2.1: Percentage of Countries by Region that adopted Sexual Harassment Legislation between 1970-2020



A comparison between legal systems in different years does show that certain legal systems were faster at adopting legislation than others. Figure 2.2 shows the percentages of countries that have a civil law, common law, Islamic law, and mixed legal tradition, and how many within each category adopted sexual harassment legislation in each year.

Figure 2.2: Percentage of Countries by Legal System that adopted Sexual Harassment Legislation between 1970-2020



What the figure shows is that while all countries similarly started off slow, civil, common, and mixed legal systems began seeing an increase in legislation, with around 2002 bringing larger increases. Most notably, civil law countries saw the largest increase and have the largest share proportionally of countries that have adopted sexual harassment legislation. These differences are better shown in table 2.2 that shows the percentage of how many countries within a certain legal system had adopted sexual harassment legislation during a certain year.

During the earlier years and up until 2000, common law countries were faster at adopting sexual harassment legislation than other countries. While in 1980 no common law country had adopted laws, by 1985 6.67% had, followed by 8.89% five years later in 1990. In 1995, 15.56% adopted legislation and five years later this number doubled with 31.11% adopting legislation in 2000. On the other hand, civil law countries steadily only had one country (or 1.03% of all civil law countries) that had sexual harassment legislation. By 1995, that increased to 7.22% of civil law countries. In 2000, that number increased drastically to 23.71%, although proportionally, a smaller share of civil law countries compared to common law had legislation at this point. By 2005, civil law countries overtook common law countries proportionally and have steadily had a larger share of countries with legislation compared to common law countries. By 2020, 71.11% of common law countries had adopted legislation compared to 82.47% of civil law countries. While mixed legal systems saw an initial increase similar to civil and common law systems, they now have the smallest share proportionally of countries that have adopted sexual harassment legislation. Islamic law countries, while initially lagging behind, saw a jump in the mid 2010s. Now, 68% of Islamic law countries adopted sexual harassment legislation.

Table 2.2: Countries within each legal system have adopted legislation to address sexual harassment

Year	Stat. diff.	Civil law	Common law	Islamic Law	Mixed
1970	p=0.32	1.03% (1)	0% (0)	0% (0)	4.76% (1)
1975	p=0.32	1.03% (1)	0% (0)	0% (0)	4.76% (1)
1980	p=0.32	1.03% (1)	0% (0)	0% (0)	4.76% (1)
1985	p=0.19	1.03% (1)	6.67% (3)	0% (0)	4.76% (1)
1990	p=0.07	1.03% (1)	8.89% (4)	0% (0)	4.76% (1)
1995	p=0.11	7.22% (7)	15.56% (7)	0% (0)	4.76% (1)
2000	p=0.03*	23.71% (23)	31.11% (14)	0% (0)	23.81% (5)
2005	p=0.00*	50.52% (49)	35.56% (16)	12% (3)	33.33% (7)
2010	p=0.00*	74.23% (72)	48.89% (22)	20% (5)	47.62% (10)
2015	p=0.00*	79.38% (77)	60% (27)	36% (9)	57.14% (12)
2020	p=0.05*	82.47% (80)	71.11% (32)	60% (15)	61.90% (13)

Note: The percentages in each column show the percentage of countries in each respective legal system that has adopted sexual harassment legislation. For reference, the number in the brackets is the actual number of countries that have adopted legislation. Stars next to the p-values in the statistical difference (stat. diff.) column indicate that the p-value is statistically significant.

While the difference between legal systems is statistically insignificant between 1970 and 2000 – mostly due to the small number of countries that had adopted legislation – between 2000 and 2020, the difference between legal systems is consistently significant. As figure 2.1 already showed, there is an increase in countries adopting legislation after 1995, with the percentage of countries with legislation doubling and tripling for common and civil law countries, respectively.

Finally, table 2.3 shows the descriptive statistics of how many countries with a certain strength of feminist movement actually adopted sexual harassment legislation in a given year. In 1975, for example, there was only country that had adopted sexual harassment legislation and this country happened to have no feminist movement. However, the relationship between feminist movement starts to be more pronounced by 1985 and from then onward. By then, a third (33.3%) of countries with the strongest feminist movement had adopted sexual harassment legislation. While in 1995, this dropped slightly (possibly because more countries started having stronger feminist movements but lagged behind in legislation) to 31.58%, by 2005, 66.67%

of countries with the strongest feminist movement, and by 2015 87.5% of countries with the strongest feminist movement had adopted sexual harassment legislation. By contrast, the share of countries with no feminist movement and sexual harassment legislation dropped to zero from 1995 onward. The association between increasing strength of movement and rate of adopting legislation is further shown when looking at countries labeled with 1 or 2 in terms of the feminist movement index (meaning they have weaker and/or non-autonomous feminist movements). For countries with a 1 in terms of feminist movement, 6.78% in 1995, 35.85% in 2005, and 67.31% in 2015 adopted sexual harassment legislation. For countries with slightly stronger and more autonomous feminist movements (coded as 2), 11.76% in 1995, 44.19% in 2005, and 75% in 2015 had adopted sexual harassment legislation.

Table 2.3: Percentage of countries with varying levels of feminist movements by year and whether they adopted sexual harassment legislation

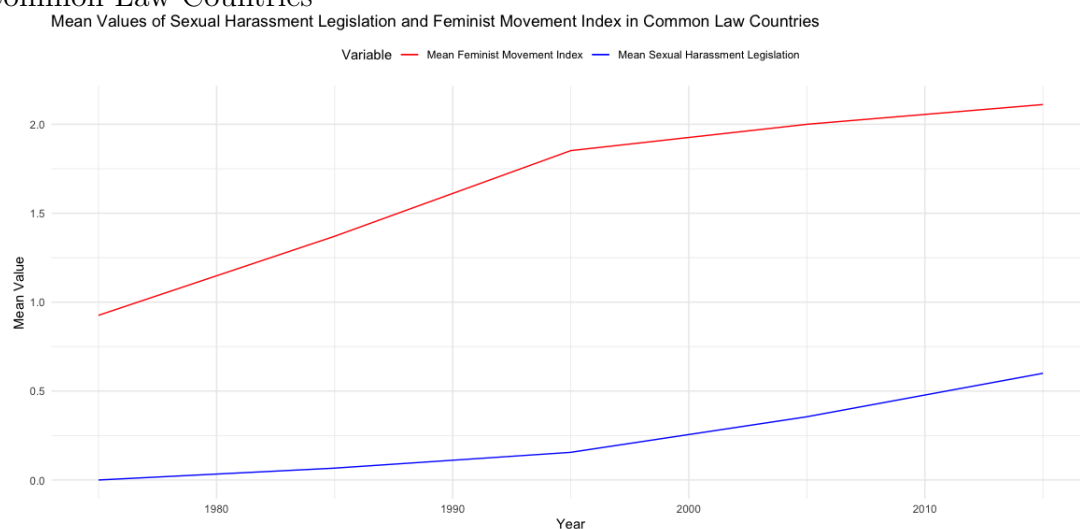
	No movement	1	2	Strongest mov.
1975 (insig.=0.878)	1.35% (1)	0% (0)	0% (0)	0% (0)
1985 (sig.=0.000)	2.22% (1)	0% (0)	0% (0)	33.33% (3)
1995 (sig.=0.014)	0% (0)	6.78% (4)	11.76% (4)	31.58% (6)
2005 (sig.=0.022)	0% (0)	35.85% (19)	44.19% (19)	66.67% (16)
2015 (insig.=0.116)	–	67.31% (35)	75.00% (30)	87.50% (28)

Looking at the descriptive patterns, there is a clear link between feminist movement strength and adopting sexual harassment laws. Based on the data on legal traditions and sexual harassment, there also seem to be somewhat distinct patterns going on, with common law countries initially adopting sexual harassment legislation at a faster pace, and civil law countries catching up quickly from the 2000s onwards. While this may allude to a potential relationship between legal systems and the adoption of sexual harassment legislation, as the analysis below shows, once control

variables are accounted for, this relationship disappears, even when not accounting for feminist movements.

Before delving into the multivariate analysis, however, I graph the means of feminist movement strength and the mean of adoption of sexual harassment legislation in common law countries in figure 2.3. This is to further show that there is not a clear relationship between legal traditions and the adoption of sexual harassment legislation, since on average, the adoption of sexual harassment legislation and the mean strength or presence of feminist movements move similarly between 1975 for both common and civil law countries.

Figure 2.3: Mean Sexual Harassment Legislation and Feminist Movement Value for Common Law Countries

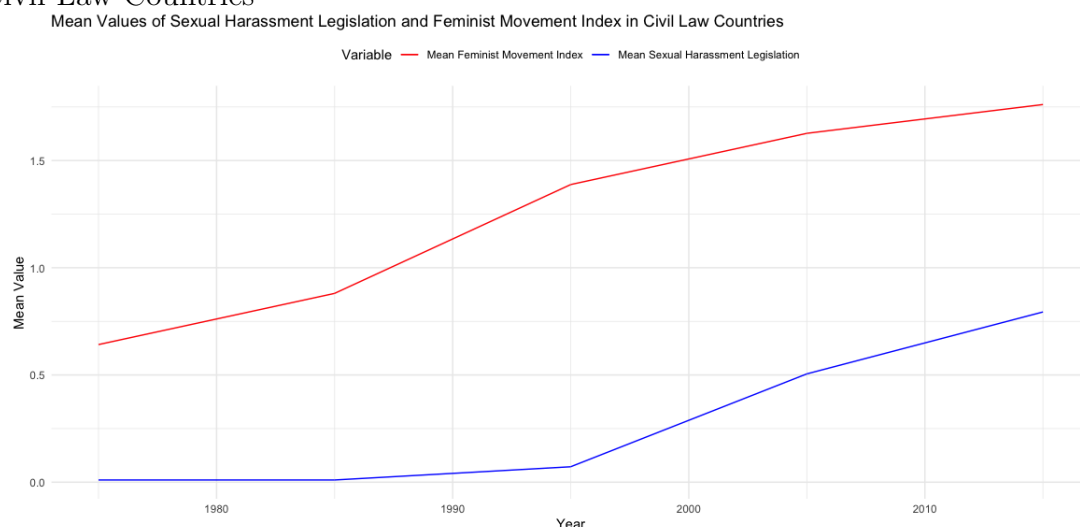


The x-axis shows the years under analysis (note that the years included are 1975, 1985, 1995, 2005, and 2015). The y-axis shows the mean values across all countries, with the red line reflecting the mean feminist movement index for each year, and the blue line showing the mean of sexual harassment legislation adoption. For example, as figure 2.3 shows, in 1975, the feminist movement index across common law countries was 0.9259 meaning on average. On the other hand, for the same year, the mean of sexual harassment legislation is 0 meaning that the average common law country had not adopted sexual harassment legislation. As shown in the analysis above, the

feminist movement index and having sexual harassment legislation moves proportionally. This means that on average, as common law countries moved toward stronger and more autonomous feminist movements, they were also on average more likely to adopt sexual harassment legislation.

If legal tradition mattered in the adoption of sexual harassment legislation, one would expect that this same graph would look drastically different for civil law countries. However, as figure 2.4, it is not. Similarly to common law countries, between 1990 and 2000, there is an increase in feminist movement strength and adoption of sexual harassment legislation.

Figure 2.4: Mean Sexual Harassment Legislation and Feminist Movement Value for Civil Law Countries



2.4 Analysis

Table 2.4 shows three multivariate models. The first model includes dichotomized variables of countries' legal systems. This includes civil law systems, mixed legal systems, Islamic law systems. I also include control variables that Htun and Weldon (2018) and other works have found to be at least theoretically relevant to either violence against women legislation or women's economic empowerment. This includes

the adoption of regional agreements on women's rights, an effective women's policy machinery, left party strength, logged GDP, Ratification of CEDAW, the percentage of women in parliament, and female labor force participation.

Although we may expect some relationships to be similar to the findings Htun and Weldon (2018) made, since sexual harassment legislation is just one women's right (rather than a battery of rights as they used), certain variables that may be relevant to increased adoption of violence against women's rights, for example, may not be relevant for sexual harassment legislation alone.

For Model 1, there is a negative relationship with mixed legal systems (compared to the base line of common law systems), meaning that these are less likely to adopt sexual harassment legislation. However, given that mixed legal systems encompass a broad range of very different types of systems, it is hard to assess why theoretically at least, one would expect this relationship. There is a weak relationship between cumulative left party strength meaning that states with a stronger left party are slightly more likely to adopt sexual harassment legislation. Lagged GDP also shows a positive relationship, where states with a higher lagged GDP are more likely to adopt sexual harassment legislation. Neither the percent of women in parliament, nor female labor force participation have any statistically significant relationship with the adoption of sexual harassment legislation.

Model 2 includes all the variables. Once strong, autonomous feminist movements are accounted for, the effect of mixed legal systems falls away. The same controls that were significant in the model before continue to be significant. Model 3, which only includes the feminist movement index and not the legal systems variables also show that feminist movements matter along with the expected control variables.

The coefficient plots of each model (not graphed here) show that in both model 2 and 3, feminist movements continue to be significant.

The statistical analysis supports the theory that there is a relationship between

Table 2.4: Random effects Regression model with Clustered Errors

	(1) Model 1	(2) Model 2	(3) Model 3
Feminist Movement Index		0.0817* (0.0372)	0.0904** (0.0348)
Civil	-0.115 (0.0918)	-0.0307 (0.0935)	
Mixed	-0.188* (0.0832)	-0.0916 (0.0820)	
Islamic	0.00352 (0.0979)	0.0871 (0.0870)	
Regional Agreement	-0.0409 (0.0718)	-0.0519 (0.0733)	-0.0577 (0.0711)
Effective Women's Policy Machinery	0.108 (0.0811)	0.0815 (0.0781)	0.0831 (0.0735)
Left Party Strength (Cumulative)	0.00203** (0.000719)	0.00208** (0.000691)	0.00210** (0.000673)
Ln(GDP)	0.177** (0.0631)	0.137* (0.0618)	0.126* (0.0518)
CEDAW Ratification	0.00636 (0.0426)	0.0154 (0.0414)	0.0177 (0.0404)
Women in Parliament (%)	0.00342 (0.00404)	0.00369 (0.00395)	0.00419 (0.00391)
Female Labor Force Participation Rate	0.00163 (0.00180)	0.00151 (0.00172)	-0.000237 (0.00108)
Constant	-0.647** (0.219)	-0.618** (0.209)	-0.513** (0.193)
Observations	250	250	250

Standard errors in parentheses

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

strong, feminist movements and the adoption of sexual harassment legislation. On the other hand, there is not a statistically significant relationship between the adoption of sexual harassment legislation and legal traditions. Feminist movements, and the strength of the movement continue to be an important indicator of whether a state adopts sexual harassment legislation or not.

As the analysis then shows, legal tradition is minimally important in understanding why states adopt sexual harassment legislation. While there are some interesting patterns when just looking at the share of civil, common, mixed, or Islamic law countries that adopt sexual harassment legislation and when (with a larger share of common law countries adopting earlier, but then taking their time while the number of civil law countries jumped between 2000 and 2005), these differences likely capture different things that the literature has already established as relevant. Many European countries for example are civil law countries and with the impact of agreements in the European Union adopted legislation during this time.

2.5 Conclusion

This chapter discussed when and why states adopt sexual harassment policy by analyzing various variables that have been found to be associated with states' implementation of women's rights but that have not been analyzed in conjunction. Specifically, I look at legal systems and feminist movements and if and when states adopt sexual harassment legislation. Although some research has advanced theories about the association of legal systems with women's rights adoption, these works have not considered the influence of feminist movements. Looking at both of these variables along with other appropriate control variables, I find that feminist movements continue to be an important variable while the influence of legal traditions are less pronounced and obvious.

This finding is promising, since it shows that legal systems, which are static and difficult to change, may not be inhibitors to advancing women's rights. Instead, dynamic factors such as feminist movements can cause change.

There are multiple ways this research that can be expanded on. One interesting pattern that is visible with the descriptive data is that time does seem to be a factor with legal systems. While I hypothesize that this may be because legal systems are capturing something else (for example, regional agreement in the EU that led to widespread adoption of sexual harassment legislation in the region), I do not test if that is in fact the case. Future studies may want to collect data on the control variables and feminist movement activity for each of the years (between 1970 and 2020) and run a survival analysis to really flesh out the impact of time. A second avenue of research that may be worth exploring to test the limited influence of legal systems on women's rights movements is to expand the area of interest beyond just one women's right concern as I do in this analysis. While sexual harassment specifically is an interesting women's rights concern to study in isolation since it is on the crux of two distinct women's issues (violence against women and women's economic empowerment), future research may want to look at either an index of specific areas of concern (like violence against women) or other specific issues to assess whether this theory holds beyond sexual harassment.

Chapter 3

Why states adopt weak sexual harassment legislation: The Case of Japan

Abstract

As an increasing number of states around the globe adopt sexual harassment legislation to curb this harmful workplace behavior that takes a mental, physical, and financial toll on its victims, Japan stands out as the only OECD country to have not put forth legislation to impose criminal or civil penalties onto perpetrators. Why? In this chapter, I explain why Japan has weakly legislated against this issue, meaning that while there is a legal definition that explains what constitutes harassment, there are no repercussions on perpetrators and the responsibility to manage sexual harassment falls onto employers. Using qualitative and quantitative data, I argue that the Liberal Democratic Party's refusal to generate policy that introduces meaningful change and improves the status of women led to the implementation of weak legislation instead. I use newspaper and media data, Diet transcripts, describe organizational features of the LDP, and rely on existing literature to support this theory.

3.1 Introduction

Increasing the number of women in the workforce has been on the agenda of many governments around the world for decades. Japan, a country that has continued to struggle to achieve gender equality in the workforce, is no exception. Since the 1980s, the government has passed and launched a number of laws and initiatives to promote gender equity, including the Equal Employment Opportunity Law (EEOL) in 1985, The Basic Act for Gender Equal Society in 1999, The Ikumen project, and many more. Despite these efforts, Japan has yet to become a gender equal society, ranking at 116 in the Global Gender Gap Index of the World Economic Forum.¹ One common criticism of these government initiatives that address gender concerns in Japan is that they lack teeth. This is certainly the case for sexual harassment legislation. Japan addressed sexual harassment for the first time in its amended EEOL in 1997 and expanded it to include sexual harassment of male victims in 2006. However, unlike many other states where sexual harassment is unlawful, in Japan, there are no “criminal penalties or civil remedies”² for workplace sexual harassment and addressing the issue falls solely on the employer (World Bank, 2023).

It is striking that sexual harassment legislation is weak in light of the fact that the government has worked for decades to increase women’s labor force participation. As is well established (Barling, Rogers and Kelloway, 2001; Cortina, Fitzgerald and Drasgow, 2002; Holland and Cortina, 2013; Sims, Drasgow and Fitzgerald, 2005; Willness, Steel and Lee, 2007), sexual harassment impedes women’s retention and advancement in the workplace. Why then has the Japanese government chosen to weakly legislate against sexual harassment?

¹In the subindices, there is large variation, with Japan ranking at 121 for economic participation and opportunity, at 1 in educational attainment (this top spot is shared by over 20 countries), 63 in health and survival, and 139 in political empowerment.

²As will be addressed later, in the past, victims of sexual harassment have pursued court cases using tort law. However, one important complaint here as well was that the damages paid out were minuscule which does not create much of a deterrent to perpetrate harassment.

In this chapter, I argue that the Liberal Democratic Party (LDP) is a major factor blocking the adoption of more comprehensive and aggressive sexual harassment legislation. First, I establish that over the years, the issue of sexual harassment has gained more salience. I do this by looking at newspaper data and showing that the issue saw a spike in reporting until the amended EEOL in the late 1990s (and another during #MeToo). Then, by looking at minutes from Diet sessions of legislators, I show that proportionally, members of the LDP discuss the issue of sexual harassment much less frequently than members of other political parties. Then, looking at the content of the comments, I show that sexual harassment gets trivialized, and discussions of illegalizing sexual harassment get dismissed. Finally, I look at organizational features, female representation, and the women’s bureau of the LDP to demonstrate that the party does not have much commitment to advancing strong protections for women.

3.2 Background

3.2.1 Sexual harassment in Japan as a problem

Sexual harassment in Japan, as in many other countries, is a very big problem. It³ affects those who experience it negatively, leading to adverse mental health (Cortina and Berdahl, 2008; Nomura et al., 2021; Richman et al., 1999) and employment outcomes (Barling, Rogers and Kelloway, 2001; Cortina, Fitzgerald and Drasgow, 2002; Holland and Cortina, 2013; Sims, Drasgow and Fitzgerald, 2005; Willness, Steel and Lee, 2007). Research has shown that women in different facets of life endure discriminatory treatment irrespective of the type of jobs they have or their superiority level (Dalton, 2017, 2021; Folke et al., 2020; Nemoto, 2010). Women often have to endure

³Sexual harassment happens to both women and men, with people at the margins (especially people of color and members of the LGBTQ community) being the most adversely affected. This issue is often framed as a form of VAW because it happens within patriarchal societies where women are most often affected due to their status.

this type of harassment with little recourse. As Eto (2023) finds in interviews with male and female Members of Parliament (MPs) in Japan, MPs and even family members or affiliated workers of MPs or people running for office (such as wives, daughters, and assistants) have to endure harassment by potential voters and/or other politicians. Comparatively speaking, sexual harassment in Japan seems to be a bigger problem than in other countries, partially due to cultural factors, societal acceptance and trivialization of the issue, weak legislation, and lack of awareness (Dalton, 2017; Hasunuma and Shin, 2019; Tsunoda, 2008; Xilun Pang and Tomlinson, 2022).

Although statistics of incidents are low, with a recent survey⁴ from the Ministry of Health, Labour and Welfare of Japan finding that only 10.2% of workers had experienced sexual harassment (varying from happened once to happening frequently), we know that low numbers of reported cases of misconduct is not indicative of actual rates of misconduct (Htun and Jensenius, 2020*a,c*). Furthermore, as Folke et al. (2020) find, there is a disconnect between workers experiencing harassment by answering affirmatively to having experienced harassing behaviors and them answering affirmatively to having experienced “sexual harassment.” Specifically, workers are less likely to claim they have been sexually harassed compared to claiming they have experienced certain behaviors that constitute harassment.

Misinterpreting certain behaviors as consent may also be a large contributing factor to incidents of sexual harassment. Survey evidence from 2017 collected by the Japan Broadcasting Corporation (NHK) found that 11% of participants believed eating dinner alone as a couple equals consent. Almost a quarter (23%) believed that getting into a car together counts as consent. More than a third (35%) of male participants believed that getting drunk counts as consent. Since many of these above incidents could very well happen in a workplace setting – for example, going out for dinner and drinks with your co-workers and/or supervisors is customary in Japan

⁴The survey can be found on the “No-Harassment” MHLW website here: <https://www.no-harassment.mhlw.go.jp/foundation/statistics/>

– these findings hint towards the potential of widespread sexual harassment in the workplace.

Sexual harassment has political implications as well. Since Prime Minister Koizumi, the Japanese government has set multiple 30% targets to increase the number of women in the workforce. Similarly, Prime Minister Abe introduced womenomics, which pushed toward increasing women in the workforce to revitalize Japan’s economy and appease domestic and international pressures (Hasunuma, 2015). However, sexual harassment presents a barrier to achieving this goal. Aside from the personal cost of sexual harassment mentioned above, companies will have to manage higher levels of turnover for those experiencing sexual harassment which is costly (McLaughlin, Uggen and Blackstone, 2017*b*). Furthermore, with higher levels of turnover and potential complete exits of the workforce, it is difficult to reach a more gender-equal target in employment. Considering the disproportionate rate of women in part-time and irregular employment and structural barriers that exist in moving more women to regular, managerial-track work, it is further a puzzle why Japanese leadership has not sought to more aggressively crack down on an issue that presents yet another barrier to equal participation.

3.2.2 Sexual Harassment Law in Japan

While cross-country studies are helpful in illuminating general trends of what contributes to the advancement of women’s rights around the world (see (Htun and Jensenius, 2020*b*; Htun and Weldon, 2018), for example), the cost of generalizations may lead to aggregating concepts that have different meanings in different contexts. This is true for sexual harassment and sexual harassment policy, which entails different forms of violence in different countries and may be prosecuted differently (Saguy, 2003; Suchland, 2008; Zippel, 2006). For example, while sexual harassment in the United States includes both hostile work environment and quid pro quo sexual ha-

rassment, in France, only the latter is considered sexual harassment.

What does sexual harassment legislation look like in Japan? For one, it is important to note that despite how Japan gets categorized in some comparative data sets, it does in fact have legislation on sexual harassment in employment that defines sexual harassment. However, this legislation leaves the enforcement and implementation of policy to companies and further does not penalize companies for non-compliance (Huen, 2007). This weak legislation is problematic, especially in light of sexual harassment continuing to be a problem (Dalton, 2017; Folke et al., 2020; Hasunuma and Shin, 2019).

Sexual harassment was not legally defined until the Equal Employment Opportunity Law (男女雇用機会均等法) amendment in 1997. To prevent such harassment, the law stipulates that it is the employer's *obligation to consider* (in Japanese: 事業主の配慮義務) sexual harassment prevention. This only applied to female workers. With the 2006 amendment, the wording was changed to it being the employer's *obligation to have measures* (in Japanese: 事業主の措置義務) to prevent sexual harassment and included both female and male workers.

The Equal Employment Opportunity Law, as it stands as of 2022, defines two types of workplace sexual harassment: quid pro quo and hostile work environment (MHLW, 2022). Quid pro quo harassment signifies a work benefit for a sexual favor. This could be, for example (as written in the EEOL), a supervisor demanding sexual relations, being denied, and consequently firing the worker. Hostile work environment describes a work environment that is negatively impacted by offensive and/or abusive behavior. An example given in the EEOL for hostile work environment is the boss often touching the waist and chest etc. of the worker, causing the worker suffering and decreasing their willingness to work.

However, while sexual harassment was not legally defined until 1997, as was the case for many other countries, Japan saw an increased attention on the issue in the late

1980s and early 1990s, with the publishing of a translation of an American handbook titled “Stopping Sexual Harassment” that familiarized Japanese women with the terminology and the first sexual harassment case (1989 Fukuoka case) that sided with the plaintiff and acknowledged that harassment had occurred (Tsunoda and Yokokawa Muro, 1993). Therefore, despite lacking legal protections, sexual harassment survivors have sought other legal avenues (specifically tort law) to take perpetrators to court. As the many cases, including the Fukuoka case that was successful, proved, however, without the proper laws in place, received damages were very small which did not sufficiently cover the costs suffered by harassment victims and did not deter harmful behavior.

More recently, the fact that sexual harassment is in fact not illegal has caused some controversy. In 2018, the Vice Minister of Finance was accused by female reporters of making sexually harassing comments. He ended up stepping down, although he did not admit fault. Former Prime Minister, and at the time of the incident Deputy Prime Minister, Aso Taro defended the Vice Minister of Finance, saying that there is no such thing as a sexual harassment crime.⁵ He doubled down after receiving backlash from his commentary saying that this would not have happened had male reporters been working (Miura, 2021). The public outrage following Aso’s commentary – which did not lead to him stepping down, but simply apologizing for the incident – led to the creation of Women in Media Network (WiMN) to connect women working in media and to increase article coverage on sexual assault (Ito, 2020; Miura, 2021). It did not, however, lead to the illegalization of sexual harassment.

3.2.3 Other Social Change

Since the late 1980s and early 1990s, the government has introduced numerous policies and action plans to address child care, strengthen maternity and paternity leave, and

⁵Although this is true, the outrage was more focused on him excusing this behavior and justifying it, saying it is not illegal to say things like this.

to restrict discrimination in the workplace. However, as many critics have pointed out, despite policies and legal changes, few structural changes have come about, which has led women to seek individual solutions to these structural problems (Steel, 2019).

To address societal-level issues, the government has launched the so-called *Ikumen* campaign, which seeks to redefine the roles of fathers (Ishii-Kuntz, 2013). While this campaign has been somewhat successful in increasing awareness and may have made an involved father less of a fringe idea, similarly to state efforts to address women in the workforce, it has fallen short in addressing structural barriers that make it difficult for men to be more involved fathers. These include the difficulty of taking paternity leave for many men that want to because of the unchanged work environment and culture (Ishii-Kuntz, 2019).

Japan has also adjusted some of its foreign worker programs to supplement the lacking workforce with foreign labor. However, similarly to the former two points of increasing women in the workforce and transforming men's roles, the government has made very little structural changes in immigration reforms, making it still difficult for foreign labor to come to Japan and integrate into the workforce and society (Strausz, 2019).

What all these governmental efforts to address the demographic crisis that Japan is experiencing shows is that in general, despite the very immediate need to address the problems that the country is facing, there is reluctance to introduce structural and big changes. Especially when it comes to issues that seemingly attack the traditional way of life and the traditional way of "being Japanese," it seems that the Liberal Democratic Party has been unwilling to bring about change that may alter and shift society and the way of life.

But then why would the government and the LDP specifically choose to address sexual harassment at all if it had no intention of implementing any necessary structural change? Using existing theories of the policymaking process, I argue that in-

creased issue salience (in the form of problem recognition, generation of policy proposals, and political events) led to agenda setting. Since the issue became important enough to address, a number of alternatives of how to address this issue were crafted, followed by a subsequent choice of how to address this issue. In these two processes, individual and structural issues within the LDP heavily influenced the path of weak legislation.

3.3 Theory and Method

3.3.1 Policymaking Process in Japan

Post-war policymaking in Japan evolved over the years with institutional and political changes. While the earlier post-war period was dominated by a strong bureaucracy Johnson (1982); Pempel (1974),⁶ with Diet members having relatively little control, due to political changes in the 1990s, political leaders and the executive became more dominant and powerful. Specifically, changes within the LDP and electoral rules in 1994, and administrative reform during the Hashimoto government from 1996–1998, shifted the process from bottom-up to top-down (Shinoda, 2020).

An important institutional component that influenced policymaking was the Single Non-Transferable Vote (SNTV) in Multi-Member Districts (MMD) electoral system. In this system, because multiple candidates of the same party competed in the same district, it encouraged candidates to become policy experts to distinguish themselves from each other. Policy areas in the LDP were determined by the Policy Affairs Research Council (PARC), which structured “the policymaking process and the roles of LDP Diet members within that process” and had immense power over the shape and approval of legislation (Krauss and Pekkanen, 2019, p.154). PARC

⁶Although there has been some debate within the Japanese politics literature about this, with Muramatsu and Krauss (1984) for example arguing that the power of bureaucrats may have been overstated in relation to the power of Diet members.

also determined which policy area candidates would focus on. The need to focus on policy areas and become policy experts and approach elections through the personal vote rather than being able to rely on the party also encouraged the development of personal support networks or *koenkai*. The relationship between the *koenkai* and candidates was maintained with politicians bringing pork barrel projects to districts in exchange for mobilization efforts and voting by the *koenkai* (Kabashima and Steel, 2010; Reed and Thies, 2001; Scheiner, 2007). This clientelism therefore encouraged policy catered to narrow or specific interests – since candidates also only needed a small percentage of the vote to win a seat – such as construction, that helped bring in projects and mobilized voters (Scheiner, 2007).

Due to a number of money in politics and corruption scandals in the late 1980s and early 1990s, a number of institutional and administrative changes were implemented to appease national outcry. In 1994, SNTV in MMDs was changed to Single-Member Districts and Proportional Representation. This required the LDP to rely on coalition governments to maintain power (Shinoda, 2020). In addition to this, the administrative reforms undertaken during the Hashimoto administration strengthened the role of the prime minister with revisions of the Cabinet Law, that gave the prime minister and the Cabinet Secretariat (which can be considered the Japanese equivalent to the White House in the United States) the roles of initiating policies (Shinoda, 2020, pp.250–251). Since then, additional decisions have further strengthened the power of the Secretariat by assigning it with the task of presenting the policy direction of the government, allowing it to create offices for specific policy areas, and making it the “final organ for policy coordination under the Cabinet” (Shinoda, 2020, p.251). Although Shinoda (2020) notes that there has been some variation in the policy-making process between prime ministers and the extent that each had been willing to be adversarial to other party members, especially during the Koizumi and second Abe governments, decision-making has shifted to be much more cabinet-led with

the cabinet, composed of the prime minister and ministers controlling the process but working together with other LDP members and the bureaucracy. With changes in the system, policymaking has shifted from the “iron triangle,” composed of the bureaucracy, politicians, and business to be more pluralistic and affected by other interests as well, such as the media (Sato, 1999). Therefore, policymaking has – or should have – subsequently shifted to be more sensitive to external pressures as well.

Above I outlined the key actors and their evolving role in the policymaking process in Japan. While the process is clear, however, it is less clear how policies are introduced and subsequently implemented. To assess the process of weak implementation of sexual harassment policy via the Equal Employment Opportunity Law in Japan, I apply the policymaking process outlined in the work of Kingdon (1984). Kingdon (1984) identifies four parts of the policy making process, with the first being agenda setting. He defines an agenda as a “list of subjects or problems to which governmental officials, and people outside of government closely associated with those officials, are paying some serious attention at any given time” (Kingdon, 1984, p.3).

Agendas, according to Kingdon (1984) are influenced by (1) problem recognition, (2) generation of policy proposals, and (3) political events. The first stream, problem recognition may emerge due to a “crisis or prominent event” (Kingdon, 1984, p.17), such as the Anita Hill testimony against Clarence Thomas or the President Clinton sexual harassment allegations in the United States. The impact of media on issue salience – meaning political issues defined by the media and important issues that voters identified – has been documented in Japan as well (Takeshita, 1993; Takeshita and Takeuchi, 1996).

The second stream, generation of policy proposals, is created due to increased knowledge accumulation by specialists, such as academics who conduct studies whose findings eventually may reach policy makers and make them more receptive to addressing certain concerns. With the final stream, political events, Kingdon (1984)

clarifies that national sentiment, election results, and political changes may shift and influence agendas as well. As agendas are set, there is a specification of what options are in addressing this agenda by specifying alternatives, which is followed by a choice made between those options. Finally, whichever conclusion option is chosen gets implemented.

Applying Kingdon's approach, figure 3.1 shows what this looks like in the case of Japan and the adoption of weak sexual harassment legislation within the EEOL. To explain each of the streams that affect agenda setting and/or making the issue salient enough to be addressed, I show that the issue has been increasingly addressed in the media. As mentioned above, this should make a political issue, such as sexual harassment, increasingly important and nudge policymakers to addressing this. The generation of policy proposal stream can be shown by how sexual harassment was increasingly addressed globally. Especially in the case of Japan, with what Linda Hasunuma dubbed gender "gaiatsu" or external pressure to address gender inequalities (Hasunuma, 2015), seeing how other countries drafted legislation on this increasingly prominent issue contributed to putting sexual harassment on the agenda in Japan as well. Finally, related to the two points above, political and social events, including sexual harassment scandals in the United States but also sexual harassment court cases in Japan, showed the increasing need to address the issue.

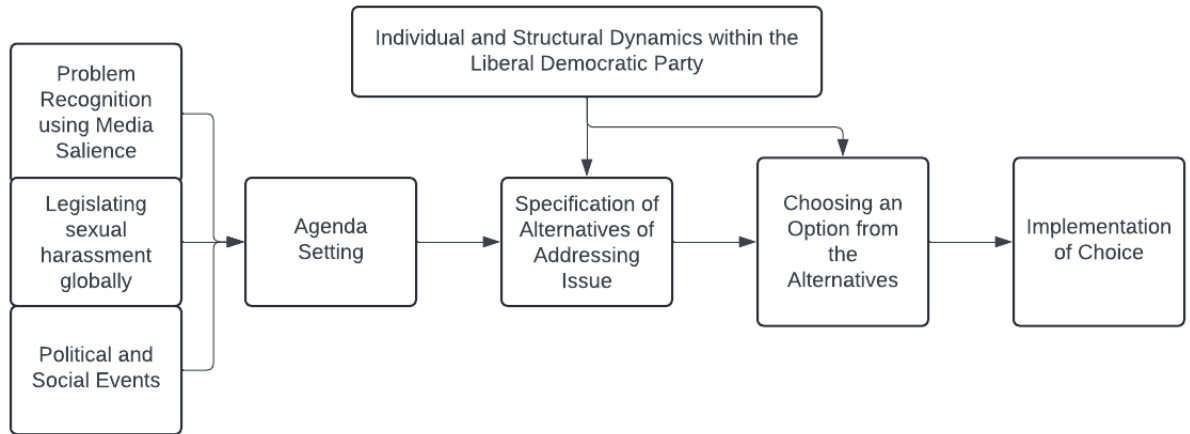


Figure 3.1: Policymaking Process for Sexual Harassment Legislation

Once agenda setting occurred, it became important to specify alternatives of addressing the issue. In this process, and the subsequent choosing of an option from these alternatives, the Liberal Democratic Party became a major barrier to introducing strong legislation. This is because of multiple issues within the LDP: First, individual politicians within the party – and especially powerful ones that are heads of ministries or hold important Cabinet positions – strongly resist aggressive legislation that may disrupt the status quo. Second, the way that the LDP is structured does not promote female representation or the push toward gender equality. Finally, the LDP’s business-friendly approach causes reluctance from members to introduce change that shifts power away from employers. The persistent influence of the LDP, therefore, led to the introduction and implementation of weak legislation on sexual harassment.

3.3.2 Analytical Approach

I use newspaper articles, utterances made by legislators in the Diet, and other secondary evidence to test the theory of the above mentioned policy process that led to the adoption of weak sexual harassment legislation.

Although, as shown in the section above, there has been some debate about the influence of Diet members in the policymaking process relative to bureaucrats, regardless of what administration or period of time is being examined, legislators and their positions on legislation do matter in the policymaking process. Therefore, in this chapter, I take a closer look at patterns and the content of legislator utterances to assess their position on the topic of sexual harassment. Prior political science work has used what legislators say in a variety of formats to assess a number of outcomes. Grimmer (2013) has used press releases to understand how politicians in the United States frame and present their activity to their constituents. Studying Japan, Catalinac (2018) has used political manifestos to ascertain ideological positions of candidates in different electoral systems. Therefore, what legislators say or how they present their work is helpful in assessing where they – and sometimes where their party – stand. Interactions in parliament, which are less polished than the aforementioned press releases or manifestos, may be particularly illuminating. As Ilie (2015) explains: “Parliamentary interaction patterns display the various ideological visions, party political affiliations, institutional positions, and political agendas of members of parliament (MPs), whose mission is to speak and act on behalf of the citizens they represent” (p.1). Using parliamentary discussions to assess agenda setting for smoking control in Japan, Sato (2003) finds that the media was important in setting the agenda at the beginning for the Diet in the beginning. Similarly to my plan, Sato (2003) uses newspaper counts of the smoking control topic, and debate counts in the Diet (coupled with administrative actions by agencies).

I find evidence of problem recognition, which is a crucial contributor to agenda setting, by looking at newspaper articles on sexual harassment and how often the issue was mentioned. Using the media to assess salience in voter behavior has been done extensively in the political communications literature since the University of North Carolina at Chapel Hill study. In that study, McCombs and Shaw (1972) found a

strong correlation between media coverage of topics and what voters deemed to be the most important or salient topics. Recent articles have continued to find that the media plays an impact and relevant role in setting the agenda (see for example: (Feezell, 2018)). While many of these studies focus on the United States, the impact of the media on issue salience – meaning political issues defined by the media and important issues that voters identified – has been documented in Japan as well Takeshita (1993); Takeshita and Takeuchi (1996). Specifically to do this in this chapter, I use newspaper article counts to measure salience. Epstein and Segal (2000) introduced the measure of using counts of newspaper front page stories to ascertain issue salience for elite actors. I expand on this and use general counts of stories in newspapers, since the scope of my topic is much narrower than the aforementioned article.⁷ The fact that globally, sexual harassment was increasingly legislated in the 1990s and 2000s serves as generation of policy proposals. Since this is substantively more covered in Chapter 1 of this dissertation, I only make cursory mention of this here. Finally, as laid out in the background section of this chapter, political and social events, including sexual harassment court cases that gained prominence in the 1980s also served as a catalyst of setting the agenda of sexual harassment.

As I show below, the amount and content of discussions on sexual harassment by members of the LDP elucidate the low priority this issue has for the party. Furthermore, the way that the LDP is built – relying on personal support networks for votes and the key policy making body within the party that skirts this issue – contribute to the low commitment to addressing this issue in a more aggressive way.

⁷In their research, Epstein and Segal (2000) test their measure by using coverage on Supreme Court cases in the New York Times.

3.4 Analysis

3.4.1 Issue salience of sexual harassment in Japan

Sexual harassment has only gained attention over the past three to four decades despite being a reality for women ever since they joined the work force. I argue that legislation is introduced as the issue gains more salience. To determine salience, I look whether and to what extent the issue gets covered by the media. To do this, I use newspaper data in Japan. Specifically, I use data from Asahi Shimbun, which is one of the most widely circulated newspapers. Looking at the count of articles and headlines on sexual harassment illuminates the exposure that the public has on sexual harassment and also illustrates the increasing or decreasing importance of the issue.

To collect the data from Asahi Shimbun, I searched the Asahi News Database for coverage on sexual harassment.⁸ The set time range was January 1, 1984 to December 31, 2020, and only Asahi Shimbun and Asahi Shimbun Digital were searched. In total, between 1987⁹–2020, 9701 articles mentioned sexual harassment.

Figure 3.2 shows the count of articles and headlines discussing or mentioning sexual harassment. The x-axis shows the years and the y-axis shows the numbers of articles or headlines that mention sexual harassment. Between the late 1980s through the 1990s, there is a steady increase in mentions of sexual harassment.¹⁰ There is a peak in 1999 with 585 mentions of sexual harassment and a subsequent decline of mentions on the issue. However, there is a large spike in 2018 concurrent

⁸Since there are many ways to say and write sexual harassment in Japanese, I used all of the following terms: セクシュアルハラスメント (sexual harassment), セクハラ (seku hara), セクシャルハラスメント (sexual harassment - slightly different variant of spelling the word), or 性的いやがらせ (seiteki iyagarase).

⁹Although, as mentioned, the time range was from 1984, the first mention in the publication was not until 1987.

¹⁰One notable drop is 1995, which is likely due to the many politically significant events that occurred in that year, including the Great Hanshin earthquake in January, the Tokyo subway sarin attack in March, and the Okinawa rape in September.

with #MeToo and #WithYou with 1019 mentions that tapers off again in the two subsequent years.

Overall, despite the decrease after an initial peak of coverage, there is a decent amount of coverage on the issue with a mean over the years of 285.32 and a median of 286.5 mentions.¹¹ This indicates that domestically and internally, sexual harassment became an increasingly important issue.

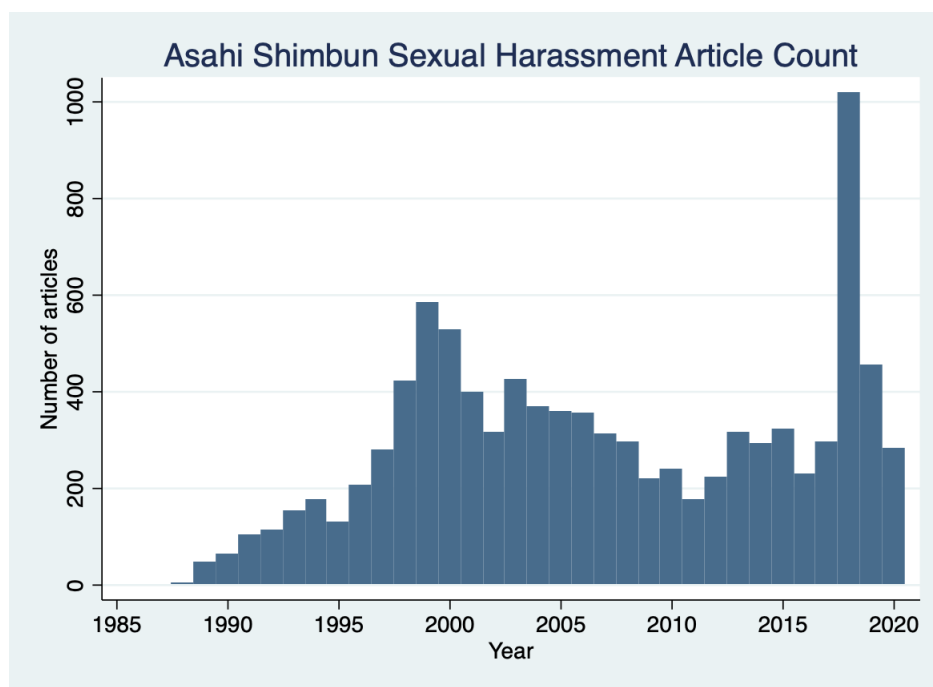


Figure 3.2: Count of Articles Discussing or Mentioning Sexual Harassment in Asahi Shimbun

3.4.2 External Attention to Sexual Harassment and Women's Issues in the 1990s

As shown above sexual harassment became a more salient issue domestically in Japan, which led to an increase in internal pressure to address it. Additionally, sexual harassment, and women's issues more broadly, also experienced international prominence which presented increased external pressure to address it.

¹¹This includes a low of 1 in 1987 and a high of 1019 in 2018.

One case that garnered much international attention in the early 1990s was Anita Hill’s sexual harassment allegations against then-Supreme Court Justice nominee Clarence Thomas. Furthermore, the Fourth World Conference on Women in 1995 also signified an important advancement on the salience of gender equality issues globally. Some of this global change is captured in figure 1 in Chapter 1, where global trends show that the late 1990s and early 2000s saw a dramatic increase internationally in countries that adopted sexual harassment legislation. With internal and external pressures mounting on women’s issues (and sexual harassment), it became increasingly important for the Japanese government to act as well.¹²

3.4.3 Count Discussing sexual harassment by party and gender

As mentioned above, sexual harassment increasingly became publicized which led to internal and external pressures that forced policymakers to address this issue. To understand how this consequently led to weak legislation, I now turn to looking at Diet transcripts to understand when legislators discussed the issue.

To do this, I collected data from Diet minutes between 1989–2020¹³, where legislators and expert witnesses discussed or mentioned sexual harassment. To get any mention of “sexual harassment,” I used five different ways that the term can be written or said, including セクハラ (sekuhara), and four other ways of spelling sexual harassment: セクシュアルハラスメント, セクシャルハラスメント, セクシュアル・ハラスメント, セクシャル・ハラスメント. Every utterance was counted as a data point, meaning that if a person mentioned any of the above mentioned

¹²It is important to note #MeToo and #WithYou at this point as well. The #MeToo movement, which followed with exposure of the numerous high profile abuses of Harvey Weinstein, began in 2017. #WithYou, a Japanese interpretation of MeToo, never had the impact it had in other contexts (Hasunuma and Shin, 2019)

¹³Although I searched for utterances between 1980-2020, the first mention of sexual harassment was in 1989.

terms, the entire section of what they said was included. Therefore, there is some variation, where with some, Diet members, bureaucrats, experts, or witnesses had entire speeches prepared to discuss different policy matters, or just short responses or interactions with other Diet members where they discussed sexual harassment. The total resulted in N=2265.

Figure 3.3 shows the frequency of mentions of sexual harassment in the Diet between 1989–2020. Despite the steadily increasing coverage of sexual harassment in Asahi Shimbun during the 1990s, the discussion in the Diet remains rather moderate, hovering between 1 in 1989 and peaking at 62 in 1997. Similarly to the newspaper, there was a large increase in discussion in 2018 and in 2019, which sharply dropped off in 2020, likely attributable to the onset of the COVID-19 pandemic.

What this shows is that while the issue of sexual harassment became worthwhile to be mentioned there was likely not much contention or discussion on how it should be addressed in policy.

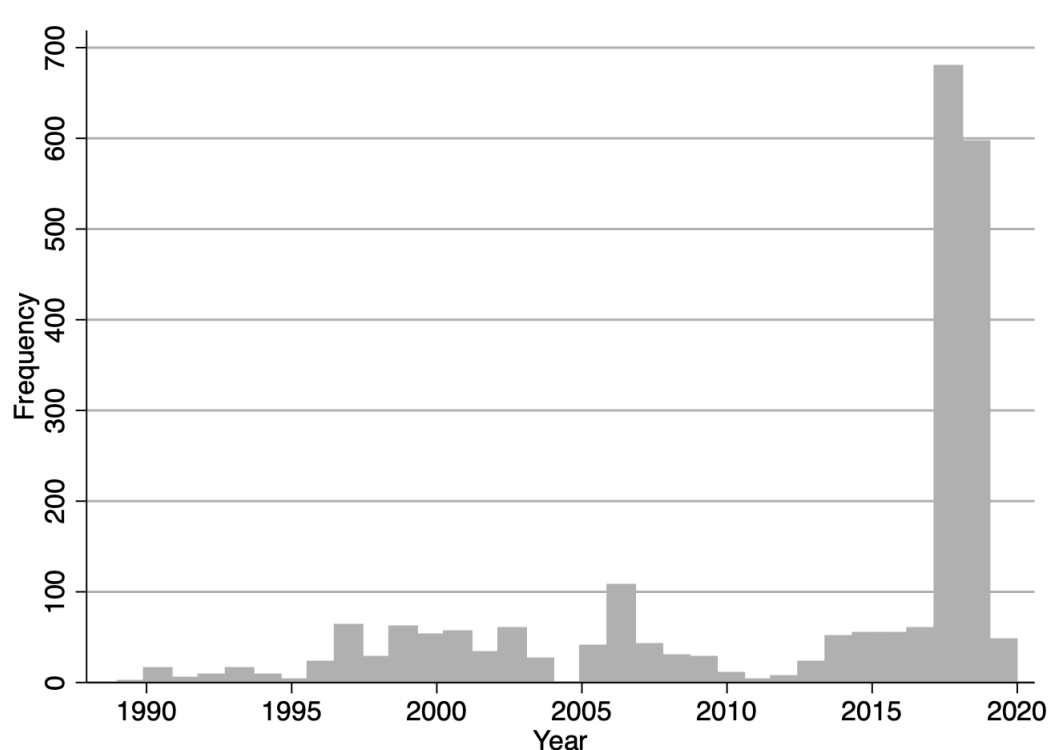


Figure 3.3: Frequency of mentions of sexual harassment in the Diet between 1989–2020

To further show that there are clear differences in who talks about sexual harassment, I further broke this data down by party and gender.

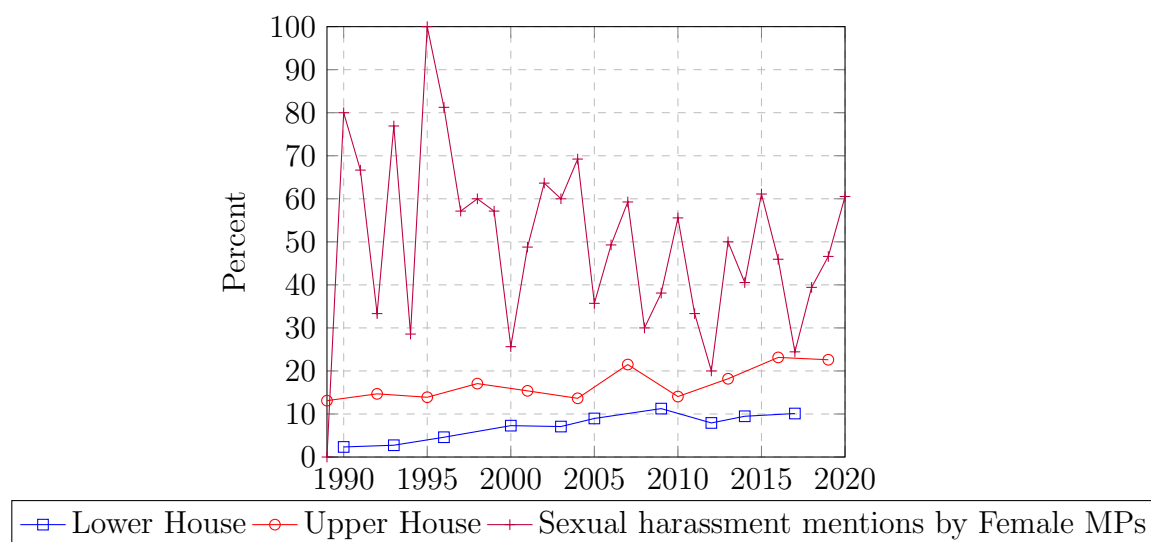
First, there are differences in the number of statements on sexual harassment by gender. Figure 3.4 shows the percentage of female Members of Parliament (MPs) in the Lower House (Shūgiin) and in the Upper House (Sangiin) with the blue and red lines, respectively, between 1989–2020. The purple line shows the percentage of mentions about sexual harassment that were made by female MPs.¹⁴ Because the purple line is consistently higher than the blue and red lines,¹⁵ this means that proportionately, female MPs make up a higher share of legislators discussing sexual harassment relative to their share in the Diet. For example, in 2019, of the MPs

¹⁴This means, for example, if there were 10 statements made about sexual harassment in a given year, and 6 of those were made by women and 4 by men, the purple line would be show at 60%

¹⁵Note that in 2017, the red and purple line almost meet. The percentages were taken from election data.

discussing sexual harassment, 46.61% were women, even though female MPs only made up 22.6% of Upper House members and 10.11% of Lower House members at the time.

Figure 3.4: Share of female MPs in Diet and the share of mentions of “sexual harassment” by female MPs



Overall, this trend is evident when aggregating the data as well. Throughout the entire time frame, of the 1766¹⁶ statements made by MPs, 804, which is 45.53% were made by women, compared to 962 (or 54.47%) by men.

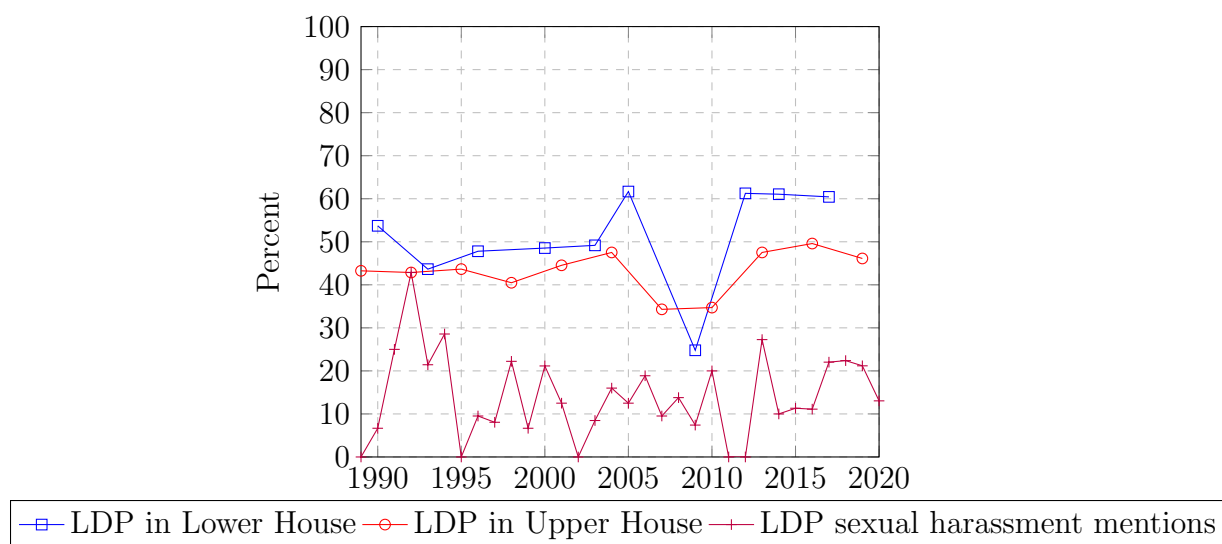
However, despite women making up a larger share of legislators that discuss sexual harassment, the figure also shows a lack of relationship between the share of female legislators in the Diet and sexual harassment mentions. In other words, despite the fact that the number of women has increased over the years, the share of sexual harassment mentions does not increase but continues to fluctuate.

There are also differences in political party membership and statements. Figure 3.5 shows the share of MPs that are members of the Liberal Democratic Party (LDP) in the Upper (red line) and Lower House (blue line), and the share of statements

¹⁶Note that the remainder of the statements were made by bureaucrats, experts, etc.

made by members of the LDP (purple line). Similarly to the graph before, the blue and red lines show the share of Diet members that are of a specific group, in this case, members of the LDP. The purple line shows the share of statements on sexual harassment that were made by members of the LDP. What this figure shows is that fairly consistently, LDP members make up a larger share in the Diet than they do in MPs that discuss sexual harassment.

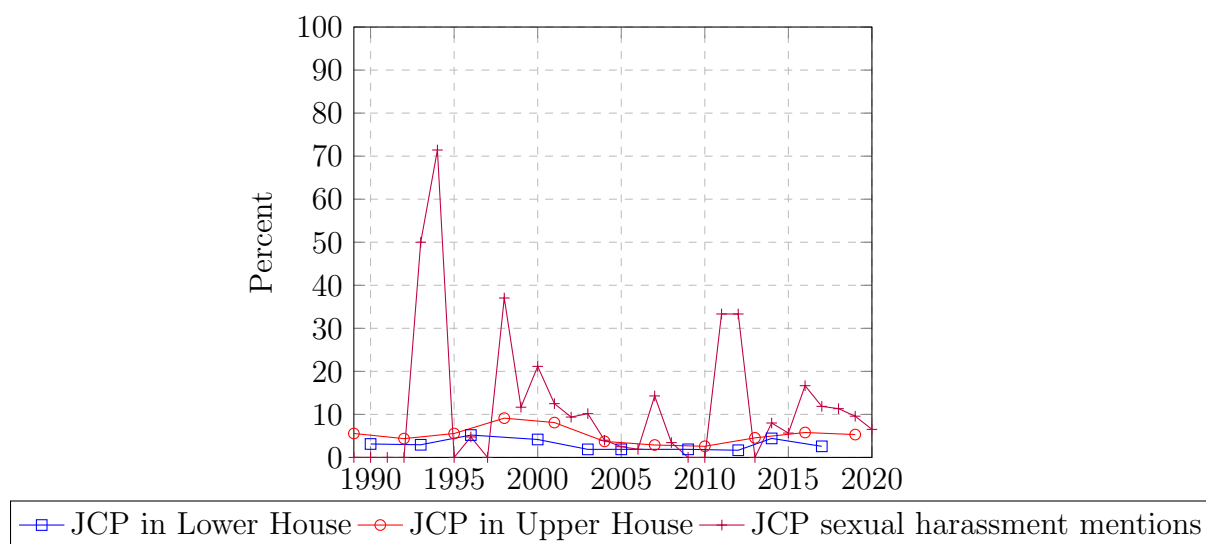
Figure 3.5: LDP Members and share of mentions of “sexual harassment” by LDP MPs



To further illustrate that members of the LDP in general do not discuss much sexual harassment, I also pulled data from the Japanese Communist Party (JCP). However, this data is harder to analyze given the small number of MPs that are JCP members. Despite this, figure 3.6 shows that MPs of the JCP treat sexual harassment differently. As with the graphs before, the blue line shows the percentage of JCP members in the Lower House and the red line shows the percentage of JCP in the Upper House. The purple line shows the percentage of sexual harassment mentions made by JCP members. What the graph shows is that despite the low share of JCP

members represented in the Diet, they make up a disproportionately larger amount of MPs that bring up sexual harassment.

Figure 3.6: JCP Members and share of mentions of “sexual harassment” by JCP MPs



As these figures show, gender and political party affect how much sexual harassment is discussed. Female MPs discuss sexual harassment much more than male MPs, and members of the LDP discuss sexual harassment much less to the proportion that they make up in the Diet. However, there is no clear correlation with more women leading to more discussion of sexual harassment. When looking at the gender breakdown within the LDP, overall, female LDP MPs have made up 21.65% of all sexual harassment mentions. While this is a larger share than actual female MPs within the party (meaning that female LDP MPs tend to talk more about sexual harassment than male LDP MPs), the difference is not that strongly pronounced which casts doubt to the effectiveness of increasing female MPs (regardless of party) in making sexual harassment an important agenda item.

When looking at cumulative statements made over the analyzed time frame, it is further clear that sexual harassment is not an important agenda item for the LDP. In

total, LDP members made 411 statements. Although this was the largest number by party, this is unsurprising given that for the majority of the studied time frame, the party was ruling. In contrast, the second highest number of sexual harassment mentions was the primary opposition party, the Constitutional Democratic Party of Japan with 298. It is important to note here though that the party has only existed since 2017, meaning that the number above has been amassed only between 2017–2020. The third highest mention of sexual harassment was by the Japanese Communist Party with 231, which considering its small representation in the Diet (most recently 10/465 in the Lower House and 11/248 in the Upper House), demonstrates a larger commitment of the issue by the party. Considering its size and dominance over the studied time period, the numbers above demonstrate that sexual harassment does not seem to be an important issue to the LDP.

What this shows is that individual party members of the LDP seem to lack commitment to addressing sexual harassment. Issues with LDP members' unwillingness to address sexual harassment is further exemplified in the work of Dalton (2021), who in her book on sexual harassment in Japanese politics empirically analyzes who is sexually harassed by whom, how politicians think of the issue, and how they address it. While in the field and trying to find politicians to interview, she consistently had difficulty finding LDP politicians to interview and recalled one potential interviewee as reacting bewildered when her work was described as being centered on “gender.”

Furthermore, in her article on substantive representation in Japan, Eto (2023) makes similar observations in interviews with MPs and finds that there are stark differences of the treatment of women and gender issues between parties. While in the small Democratic Party for the People (DPP), women make up about a quarter of members and are actively included in the policy-making process, the LDP has an “inner club” of high ranking decision makers that actively exclude women with the excuse of political and policy inexperience. This demonstrates that while individual-

level attitudes cause problems in policy decisions, there are also deeper structural-level problems that contribute to political inaction.

3.4.4 Content of Sexual Harassment Discussions by LDP members

Before delving into larger structural problems within the LDP that elucidate the party's unwillingness to implement more drastic change, the content of the sexual harassment discussion further shows how LDP members think about this issue presents a barrier in introducing stronger legislation. A closer read into how LDP members talk about this issue shows that there is hesitance in being more aggressive with change.

One statement, made by then-Prime Minister Abe Shinzo in 2019 during a plenary session, shows how the prime minister is making excuses about illegalizing sexual harassment by saying that it is difficult to make clear what should clarify as an illegal act. This rhetoric was used by multiple other LDP men as well whenever there was a push toward illegalizing sexual harassment.

“[...] There is careful consideration necessary when establishing prohibitions against harassment and it poses challenges that include clarifying what constitutes an illegal act [...]”¹⁷

Another reason for making illegalization difficult, according to the Minister of Health, Labour, and Welfare (MHLW) Kato Katsunobu who is also a member of the LDP, is that as sexual harassment is covered in the EEOL, which is a labor law. He goes on to explain that labor legislation lays out responsibilities of employers, making criminal penalties challenging and inappropriate.¹⁸

¹⁷January 29, 2019 – Statement made by Prime Minister Abe Shinzo during a Plenary Session. Translated by the author.

¹⁸Paraphrased by author from the Japanese. Statement by MHLW minister Kato Katsunobu on May 11, 2018 during a Health, Labour, and Welfare Committee.

The reason why members of the LDP may be reluctant to legalize sexual harassment is shown by how they talk about it. Prime Minister Abe, in response to a question on gender equality, starts by emphasizing that gender-based discrimination and harassment should not occur since they constitute a human rights violation, but then dismisses sexually harassing and/or gender discriminatory statements as misunderstandings.

“Gender-based discrimination and sexual harassment are serious human rights violations and should not be tolerated. It goes without saying that diversity should be respected in society. When making statements [in reference to making sexually harassing and/or discriminatory statements], great care needs to be exercised keeping these principles in mind to *avoid misunderstandings* and not harm the people involved.”¹⁹

Instead of illegalizing sexual harassment, Prime Minister Abe reiterates that the government’s approach to addressing sexual and power harassment is forcing companies to address this issue.

“As the government, through legislation, we are obliging employers to implement measures to prevent power harassment and prohibit retaliation against people reporting/discussing sexual harassment. We aim to achieve a harassment free workplace using these measures.”²⁰

There is some difference between how LDP women and men talk about the issue of sexual harassment. LDP women that talked about sexual harassment were urging for better policies and enhancement to improve the situation. Unlike the comments by LDP men, that either sound like cookie-cutter statements to give the impression

¹⁹January 23, 2020 – Statement made by Prime Minister Abe Shinzo during a Plenary Session. Translated by the author. Emphasis added by the author.

²⁰January 29, 2019 – Statement made by Prime Minister Abe Shinzo during a Plenary Session. Translated by the author.

that this issue is being taken seriously (for example, starting any comments about sexual harassment by highlighting how it is a human rights violation or a violation of workers' rights) followed by commentary that either shows unwillingness to address sexual harassment more aggressively or iteration of existing policies that are already in place, the LDP women have more explicit suggestions of how to improve existing policies. For example, female LDP member Sakamoto Yukiko explained issues with current policies in the following way:

“In regard to sexual harassment, it often happens that there are discrepancies in the accounts of the involved parties which makes it difficult for companies to figure out the truth. [...] As mentioned by the director earlier, even in instances like this, the EEOL is limited to guidance [...]. Therefore, there is a need to improve policies to support employers in resolving this issue [...]”²¹

Although the female LDP member's statement on sexual harassment focuses on improving policies, it also continues to leave the responsibility of addressing sexual harassment to employers. As a business-friendly party, policy suggestions on sexual harassment continue to focus on the responsibilities of employers and having them handle the issue internally and supporting them, rather than punishing them for non-compliance.

However, perhaps through their own experiences with sexual harassment, some LDP women were also much more critical in urging for stronger responses. The below quote by MP Arimura Haruko urged for deeper changes that was not similarly expressed by any male LDP MP.

“Sexual harassment, maternity harassment, power harassment, and others are highly complex issues. As we pursue diverse ways of working, eradi-

²¹April 20, 2006 – Statement made by Sakamoto Yukiko during a Health, Labour, and Welfare Committee meeting. Translated by the author.

cating harassment is essential. To do this, we have to have zero tolerance, not allowing any consideration or compromise under any circumstance, elevate the public's consciousness that this kind of harassment has no benefits to society. I agree with Committee Member Hayashi's points and will give it my best effort to contribute to this effort.”²²

3.4.5 Structural problems within the LDP

Although there are individual-level issues within the LDP, some structural barriers within the LDP further demonstrate the party's unwillingness to implement meaningful change. Low female representation is one structural example that shows a lack of commitment to female and gender issues. There are a number of theories as to why there is low female representation in Japan overall, from supply and demand issues (Kage, Rosenbluth and Tanaka, 2019), to electoral institutions and how politics are conducted (meaning candidate selection, determinants of PR rank, etc.) (Ogai, 2001). As the data shows, this gap in low female representation is most pronounced for the LDP, where data between 1996 to 2017²³ shows that female LDP MPs never make up more than 10% of party members. Gaunder and Wiliarty (2020) attribute this to the internal mechanisms of how politics in the LDP are conducted, where *koenkai*, a personal support network that cultivates the personal vote, has presented a barrier to women's success.²⁴ Additionally, factions and the PARC, which are the key organizational features of the LDP have not been used to push for more female representation. With the clientelistic nature of LDP politics, and comparative literature that demonstrates the negative effect that clientelism has on equitable representation along gender lines (Barnett and Shalaby, 2021; Daby, 2021; Mufti and Jalalzai,

²²August 4, 2015 – Arimura Haruko during a Cabinet Committee Meeting

²³The Ministry of Internal Affairs and Communication has the data http://www.soumu.go.jp/senkyo/senkyo_s/datahere, but the data is also referenced in Gaunder and Wiliarty (2020).

²⁴They explain that *koenkai* require financial and organizational resources than many female (and especially junior) MPs or candidates lack.

2021), it is further apparent why the party has had such issues with representing female interests.

Further looking into women in the LDP, neither the party's women's bureau 女性局 website nor their Twitter account²⁵ make any mention of the issue of sexual harassment. Reflecting back to the Diet transcript data discussed above, of the 411 statements made by members of the LDP, 89 were of women and 322 were of men which comes out to about 28%. While this shows that in proportion to their membership (as mentioned, LDP women make up less than 10% of the party), women speak more on this issue, the numbers are still fairly small when compared to other parties²⁶. Based on the evidence presented, however, it is unclear whether the issue in this regard is structural – i.e., female LDP members are silenced on issues around sexual harassment and do not feel like they can advocate on it – or personal – elected female LDP members are not interested in advocating on this issue. Regardless of the cause of this “disinterest,” what is clear is that the LDP and its members en large, regardless of gender, are not advocating for and/or supporting sexual harassment legislation and are hence presenting a barrier.

3.5 Alternative Explanations

This chapter illustrates one theory on what influenced weak sexual harassment legislation in Japan. Based on past literature, there are some alternative explanations on what may be the cause of weak legislation. However, below I show why these explanations do not necessarily present a counterargument to the argument I present in this chapter.

²⁵Their Twitter account was made in October 2019, which was after #MeToo, but also right at the height of discussions on sexual harassment in the Diet.

²⁶For reference, 59% of JCP statements were made by women and 79% of Komei statements were made by women.

3.5.1 Low number of female legislators

One alternative explanation to weak sexual harassment legislation is the low number of female legislators alone. As of 2022, of the 261 elected LDP members, only 20 are women, which makes female elected LDP members less than 8%. Because of the dominance of the LDP, the entire share of women in the Diet is very low at 9.7 as of 2022²⁷, and as figure 3.4 will show, female legislators are more likely to discuss sexual harassment than male legislators. Coupled with the fact that the number of female legislators is much higher for other parties such as the JCP, one could argue then that the low number of female legislators may explain why only weak sexual harassment was passed.

However, figure 3.4 disputes this argument. Specifically, if the low number of female legislators were to blame, an increase in female legislators should reflect a spike in sexual harassment discussions as well. What the figure shows instead is that discussions on sexual harassment fluctuate, meaning despite the fact that female representation has gradually increased over time, discussions on sexual harassment seem completely unrelated to this.

Furthermore, when the discussion of male versus female LDP members is broken down, the data also does not show an indication of female LDP members discussing sexual harassment more than their male counterparts. While some LDP women talk about the issue of sexual harassment more aggressively, the continued commitment to having employers take responsibility for sexual harassment and protecting employers in the process will continuously lead to weaker legislation.

²⁷More info on here: https://www.gender.go.jp/about_danjo/whitepaper/r04/zentai/html/zuhyo/zuhyo01-03.html Gender Equality Bureau Cabinet Office.

3.5.2 Weak feminist movement

Another compelling argument, as presented by Htun and Weldon (2018) is that strong autonomous feminist movements lead to passing of some women's rights. Specifically, Violence Against Women (VAW) legislation is a progressive social policy that challenges existing hierarchical structures and aims to create a more equitable society (Htun and Weldon, 2012). Autonomous feminist movements are crucial in moving this type of legislation forward by generating knowledge of women's societal position, by challenging existing inequitable gender hierarchies that allowed VAW, and by not having to justify the importance of women's issues in autonomous movements (Htun and Weldon, 2012). Therefore, the absence of strong, autonomous feminist movements will make the absence of strong legislation likely. Consistent with Htun and Weldon (2012); Htun and Weldon (2018), feminist movements in Japan have consistently been relatively weak. As data from the Feminist Mobilization and Economic Empowerment project shows, between 1975 and 2015, Japan continuously scores a 1 on the Feminist Mobilization Index which is defined as "A feminist movement exists. It might be weak or nonautonomous" (Simon Fraser University, N.d.). The weakness of the movement and its impact on legislation is further exemplified by Japanese feminists' inability to stop the passage of the first iteration of the Equal Employment Opportunity Law back in 1985, which they vehemently rejected due to its weakness, lacking crucial components they pushed for, and general lack of enforceability (Matsui, 1990). All this evidence points to the fact that strong autonomous feminist movements are important in forcing governments to pass stronger protections.

What feminist movements however do not explain is why governments choose to pass weak legislation in the first place. In the case of Japan, as discussed, the problem is not the absence of law *per se*. Rather, Japan lacks strong legislation with good protective measures. While the strength of feminist movements is important, it does not explain weak laws or why states would choose to address the issue in the first

place.

3.5.3 Switch in power did not lead to legislative change

Finally, another compelling alternative argument is that the LDP has lost power to the Democratic Party of Japan from 2009 to 2012, meaning that if the LDP alone were to blame for weak legislation on sexual harassment, one may assume that during a shift in power, stronger legislation would be passed. However, while the LDP influenced the passing of weak legislation for sexual harassment policy, this does not mean that in the absence of a strong conservative party like the LDP, there will be strong legislation. In other words, without an effective party in power, there will not be policy change. This was certainly the case of the DPJ that was ineffectual during its tenure and failed to deliver on the policy promises it made despite controlling both Houses (Kushida and Lipsy, 2013).

3.6 Conclusion and Future Avenues of Research

Sexual harassment is and has been a pressing issue that has prevented many Japanese female workers from thriving in the workplace. Although this issue is pressing especially for a government that is aiming to increase the female labor force, it has only introduced weak laws meaning that while there is a definition there are no binding measures that protect victims. In this chapter, I presented an argument that as there was agenda setting that required the government to respond, the LDP's refusal to introduce more aggressive legislation to addressing this issue – as shown using utterances, news article counts, and existing literature on the topic – led to the introduction of weak legislation instead.

There are a number of ways that this argument can be expanded with further evidence. Field work that includes interviews and surveys with bureaucrats, reporters,

LDP party members, and other parties may help further highlight and elucidate existing barriers that prevented the passage of more comprehensive sexual harassment legislation.

Chapter 4

Assessing the perceptions of a sexual misconduct training

Abstract

More and more corporations, government entities, and educational institutions have adopted sexual harassment training. While the primary goal of these trainings is to avoid employer liability in case of an alleged misconduct case, many of those designing and implementing the training also do so in the hope of changing the culture that normalizes misconduct. Although there is a rich literature that quantitatively and qualitatively examines the effects of sexual misconduct training, we know less about how participant's perceptions of the training differ. In this chapter, I explore this gap using semi-structured interviews (N=37) at a large, Southwestern public university in the United States where sexual misconduct training is in-person and mandatory for all students enrolled. A number of interesting observations can be made: First, there are gendered differences in training perceptions, with men perceiving the training more negatively than women. Second, perceived prior knowledge of the subject also leads to negative assessment of the training. Finally, time affects the content retention of the training. For students who had taken the training a longer time ago, some do not remember taking the training or conflate it with other training they were required to take. Implications and suggestions for improvement are discussed.

4.1 Introduction

On the ground, sexual harassment policy is implemented where people study and work. Depending on government regulation and legislation, employers have to adapt their own corporation-wide policies and if necessary, introduce training to their employees. Diversity and sexual harassment training have been a staple in the private sector for decades since two U.S. Supreme Court cases in 1998 determined that employers cannot be held liable if they communicate policies and training to their employees (U.S. Equal Employment Opportunity Commission, 1998). With Title IX of the Education Amendments of 1972 (Title IX)¹ that protects people in education programs from discrimination based on sex, schools that receive federal funds have become responsible to address sexual misconduct and harassment as well. To be compliant, universities have introduced sexual misconduct training to their students, staff, and faculty in recent years. Considering that in the United States, college-aged women (18–24 years) are 3 times more likely than other adult women to be victims of rape², college campuses across the country have introduced a myriad of training and policies to avoid possible liability. The increasing numbers of training have lead researchers to explore what the effects of them are. As the literature shows, while there are many positive effects of sexual misconduct training (Banyard, Moynihan and Plante, 2007; Banyard, Moynihan and Crossman, 2009; Cares et al., 2015; Coker et al., 2011; Elias-Lambert, 2017; Elias-Lambert and Black, 2016; Gidycz et al., 2001; Htun et al., 2022; Inman et al., 2018; Lonsway et al., 1998; Senn et al., 2017), there are also a number of negative and undesirable effects (Htun et al., 2022; Malamuth, Hup-

¹The federal civil rights law states “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Because this law applies to all educational institutions in the United States that receive federal funds (which includes almost all public and private colleges and universities because they receive federal funding through federal financial aid programs), Title IX is applicable to almost every educational setting. Under Title IX, discrimination on the basis of sex includes sexual harassment, misconduct, and assault.

²Statistics from RAINN, the Rape, Abuse & Incest National Network, which can be found <https://www.rainn.org/statistics/campus-sexual-violencehere>.

pin and Linz, 2018; Tinkler, 2012; Tinkler, Li and Mollborn, 2007; Tinkler, Gremillion and Arthurs, 2015).

This chapter will assess how sexual misconduct training at US universities is *perceived*, which has been less explored (Worthen and Wallace, 2017, 2021). I use semi-structured interview data (N=37) from a large public university in the Southwest to assess how students perceive the training and find the following: First, there are gendered differences with men perceiving the training more negatively than women. Second, perceived prior knowledge negatively affects training assessment. Finally, as time passes, students misremember or forget the training. Focusing on perceptions of the training will help in getting a sense of who benefits from the training and who does not. It is also useful in improving training in the future and adjusting it so that those who may need it the most will also benefit more from it.

The findings contribute to the literature on violence against women and sexual misconduct and harassment training in the following ways: First, by using qualitative data, I can identify the strength and weaknesses and general issues of and with the training in an open-ended way that is more difficult to do using survey data. Second, while there are many studies that explore student assessment of training, many of those trainings were voluntary. Specifically, it is very unlikely that students hostile to the narrative of #MeToo, feminism, or sexual misconduct voluntarily sign up to take a training on this subject matter. This creates a selection bias problem that is avoided when studying mandatory training. Third, because students were not recruited based on when they took the training, the sample offers a wide variety of lengths since the training, which, as explained in the last theoretical expectation, matters in content retention. Finally, I add to the literature by looking at the perceptions of training at a minority serving institution which are often understudied.

4.2 Background

4.2.1 The Effects of Sexual Misconduct Training

Positive Effects of Training

Since its introduction to colleges and workplaces, researchers have studied the effects of sexual misconduct training using experimental, observational, survey, and interview evidence with mixed results.

On the one hand, many studies have affirmed the positive effects of training, finding that across many different types of sexual misconduct training, participants exhibited a decrease in rape myth³ adherence (Banyard, Moynihan and Plante, 2007; Banyard, Moynihan and Crossman, 2009; Cares et al., 2015; Coker et al., 2011; Elias-Lambert, 2017; Elias-Lambert and Black, 2016; Gidycz et al., 2001; Htun et al., 2022; Inman et al., 2018; Lonsway et al., 1998; Senn et al., 2017), with this change lasting weeks, months, and sometimes years after students have taken the training (Banyard, Moynihan and Plante, 2007; Cares et al., 2015; Elias-Lambert, 2017; Senn et al., 2017).

Second, scholars have also found that training, especially training focused on bystander intervention,⁴ increases the willingness to intervene by bystanders (Alegría-Flores et al., 2016; Foubert and Masin, 2012; Jouriles et al., 2017, 2016; Moynihan et al., 2015; Potter and Moynihan, 2011a; Salazar et al., 2014). Training conducted both at university and military settings have shown to increase this effect, even after some time has passed since the training was given (Moynihan et al., 2015; Salazar et al., 2014). However, findings are mixed on whether willingness to intervene only increases for friends (Jouriles et al., 2016; Moynihan et al., 2015) or for friends, acquaintances, and strangers (Potter and Moynihan, 2011a). Additionally, training also

³Rape myths are widely held false beliefs about rape that justify the aggression of the perpetrator toward survivor (Lonsway and Fitzgerald, 1994). These include attributing blame of the assault to female victims for dressing or acting a certain way (i.e., “She was asking for it.”).

⁴Bystander intervention means that those who are not directly involved in the misconduct but observe it, intervene to try to stop the assault from happening.

increases bystander efficacy, meaning that people feel more confident in being a bystander (Alegría-Flores et al., 2016; Banyard, Moynihan and Crossman, 2009; Foubert and Masin, 2012; Inman et al., 2018; Moynihan et al., 2010).

Third, training also had an educational effect on participants with many studies finding that it led to an increased knowledge of sexual violence (Antecol and Cobb-Clark, 2003; Banyard, Moynihan and Plante, 2007; Bingham and Scherer, 2001; Borges, Banyard and Moynihan, 2008; Kearney, Rochlen and King, 2004; Rau et al., 2010) and of available resources (Holland, Rabelo and Cortina, 2014).

Finally, and perhaps most importantly, different trainings have also been found to lower levels of victimization (Coker et al., 2015, 2016; Hanson and Gidycz, 1993; Rothman and Silverman, 2007; Senn et al., 2017, 2015), decrease sexual violence perpetration (Foubert and Masin, 2012; Salazar et al., 2014), and reduce violence acceptance (Coker et al., 2011; Peterson et al., 2018).

Negative or Unintended Consequences of Training

On the negative or unintended side, consequences include the “boomerang” effect (Malamuth, Huppert and Linz, 2018), believing traditional gender stereotypes (Tinkler, 2012; Tinkler, Li and Mollborn, 2007; Tinkler, Gremillion and Arthurs, 2015), and gendered perceptions of training and sexual misconduct generally (Wamboldt et al., 2019). Perceptions of the training play an important role here, as perceiving the training negatively may lead to these unwanted effects.

First, we know that negative perceptions of the training can cause the training to backfire and cause negative reactions in its participants. In those who are most likely to benefit from training, which are men at high risk for sexual aggression may have adverse reactions to the training called the “boomerang effect”⁵ (Malamuth,

⁵Political scientists have observed a similar effect called the backfire effect, where exposure to corrective information may increase misperceptions in people who were already exposed to that incorrect information and likelier to believe those claims (Nyhan, 2021).

Huppín and Linz, 2018; Rau et al., 2010; Robb and Doverspike, 2001; Stephens and George, 2009). For example, Stephens and George (2009) find that the positive effects that training yielded were not present for high risk men. Similarly, Rau et al. (2010) find that effects such as decreased tolerance for rape myths and viewing rape as a problem are less pronounced in high risk men than other groups. Malamuth, Huppín and Linz (2018) attribute part of this to the perception of training being preachy which deprives this group of their ability to behave in ways that they see fit.

Second, another unintended consequence is that it activates gender stereotypes and that it causes a backlash effect against women under some circumstances (Dobbin and Kalev, 2019; Tinkler, 2012; Tinkler, Li and Mollborn, 2007; Tinkler, Gremillion and Arthurs, 2015). However, research here is mixed, with Htun et al. (2022) finding that while men are overall more sexist, training does not seem to shift benevolent or hostile sexist attitudes for them, but does decrease it for female participants.

Third, some have also observed that the way training is delivered has heterogeneous effects. For example, as Tinkler, Gremillion and Arthurs (2015) finds, sexual harassment policies communicated by female trainers activate implicit gender stereotypes and explicit gender egalitarian beliefs, while male trainers have little effects on beliefs comparatively. Additionally, the type of messaging that is delivered and whether it is punitive or normative and moral-based also affects beliefs (Tinkler, Clay-Warner and Alinor, 2018). Men receiving punitive training were more likely to believe traditional gender stereotypes and increased support for policy, while the messaging did not affect women's support for policy or their gender beliefs (Tinkler, Clay-Warner and Alinor, 2018). Moreover, messaging also affected compliance with policy, with normative messaging decreasing compliance for women (Tinkler, Clay-Warner and Alinor, 2018).

Finally, training may decrease efficacy, with those receiving training being less likely to confront a perpetrator (Goldberg, 2007), and few believing that the training

would lead to behavioral change or reduce sexual harassment (Magley et al., 2013).

4.3 What affects perceptions?

While positive or negative effects of training have been extensively studied, fewer works have explored what participants thought about the training. Some studies have discussed general perceptions about training, while others have explored what affects perceptions.

Research that has studied perceptions has had mixed findings. On the positive side, a study by Holcomb, Sondag and Holcomb (1993) showed that participants were in general favorable toward training. Their findings suggested that only very few students found discussions of date rape in mixed-gender groups uncomfortable and thought that training was too explicit. Almost all of the students thought that the topic of date rape warranted a workshop, and about half of the participants said that they would not add or change anything about the training.

A more recent study has found more mixed reactions in students. In their grounded theory component of their mixed method study on perceptions, Worthen and Wallace (2017) develop a spectrum of student reactions of a sexual assault education program, ranging from those who perceived the training to be “valueless” on one end – with common sense in the middle – and “value-ish” on the other. These positive and negative ends of the spectrum have heterogeneity within them, with angry, skeptical, and knowledgeable on the negative end, and critical, good step, and cheerleaders on the positive end (Worthen and Wallace, 2017, p.188).

As one would expect, participant perceptions are correlated with social group differences. Previous work has found women to be more supportive of training than men (Worthen and Wallace, 2017). There are further differences along gender lines, with men feeling more angry about training, feeling that their gender was being

blamed for date rape, and heterosexual men feeling personally attacked (Holcomb, Sondag and Holcomb, 1993; Worthen and Wallace, 2017). While homosexual men were angry at the training too, their anger was rooted in feeling that the training did not go far enough (Worthen and Wallace, 2017). There are racial and gendered differences too, with white women being the most positive or supportive of training compared to Asian or Black women, and white men being more angry about training than Native American, Asian, and Black men (Worthen and Wallace, 2017).

4.3.1 Gendered differences

As mentioned above, there is rich research on gendered differences with training effects and perceptions. This makes sense considering that sexual misconduct, even if discussed in a more gender neutral format (meaning the acknowledgement that both men and women can be victims and perpetrators) invokes a more stereotypical image in many people of male (usually strangers) perpetrators and female victims (Ryan, 1988). As the statistics in the training also show, women are much more likely to experience sexual assault than men.⁶ This shows the different relationship that men and women have with sexual misconduct which leads to them navigating the world differently. This difference is exemplified by a 2010 Gallup poll that showed there is a 28% gender gap between men and women when asked if they were afraid of walking alone at night near their home (Saad, 2010). Also, during the time of this study, the #MeToo movement was in full force, where most of the cases discussed portrayed more “typical” forms of misconduct between male perpetrators (in higher power positions) and female victims. Finally, previous work on perceptions has also found that women were more supportive of misconduct training than men, and that men were more negative toward training than women (Worthen and Wallace, 2017).

These different realities of sexual misconduct between men and women means

⁶Although it should be noted that there are gendered barriers to report for men Furthermore, LGBTQ+ folks experience sexual violence at the highest rates.

that women and men tend to have a different relationship to the topic of sexual misconduct. Women may be more worried about becoming victims of misconduct, while some men may be more worried about being accused of being a perpetrator. This leads to the following expectation: Female students will perceive the training to be less hostile or negative than male students.

4.3.2 Perceived prior knowledge leads to increased negativity

Another expectation is that perceived prior knowledge influenced perceptions of the training. Specifically, if students think that they already know the content of the training, they will be more negative toward the training. This perceived prior knowledge can vary in quality – it can range from students saying that they simply “know not to rape” but be unfamiliar with policies or many of the concepts such as affirmative consent to activist students who are deeply familiar with the landscape of campus sexual misconduct and policies. Worthen and Wallace (2017) classify students in both their positive and negative categories with this: While some students that are knowledgeable fall into the more positive category (those that perceive the training to be common sense and are ambivalent or indifferent to it), others fall into the negative (those that have prior training or because they perceived the training to be biased).

Because many people do not like being forced to sit through something that they think they already know a lot about, I expect the following: Those who think they already know about the content of the training (i.e., do not think they are learning anything new regardless of whether that is or is not the case) have more negative perceptions of the training.

4.3.3 Time since training affects accuracy of perceived retained content

Finally, I hypothesize that the time since the training influences the accuracy of the content retained. While diversity training usually only has short term positive effects (Dobbin and Kalev, 2016, p.4), research assessing bystander training has found that training can have positive long term effects. For example, participants still engage in more bystander training two months after training (Peterson et al., 2018; Potter and Moynihan, 2011b), were less likely to perpetrate sexual violence (Salazar et al., 2014), and campuses with training saw women students experiencing less sexual harassment than those that were on campuses without training (Coker et al., 2016).

However positive and longer term the *effects* of certain training is, we know less about how accurate the information retained is. The training, as mentioned in the section above, uses gender neutral language in sexual violence perpetration and victimization. It also teaches about the policies and resources that are available at the university. Given that sexual violence is unlikely to be a topic that participants will only hear about in the context of the training,⁷ I hypothesize that after some time passes, participants will misremember the training. They will likely believe it to have included gendered messaging, they may conflate it with other training they were required to take, and perhaps most tragically, they will not remember it at all.

4.4 The Context

There are many different types of sexual misconduct training that all focus on different aspects of misconduct. Some, such as Bringing in the Bystander or Green Dot focus on bystander intervention, while others focus on rape prevention (e.g. Acquaintance

⁷Participants will likely have heard about it via the news, through friends, media, and through other training they were required to take.

Rape Prevention Program) and risk reduction (e.g. Enhanced Assess).

In this study, I explore the student perceptions of a sexual misconduct training designed and implemented by university staff of an office specifically catering to addressing sexual misconduct. This office is responsible for teaching the training and responding to sexual misconduct reports. The staff that was responsible for designing the training have extensive background in the area having worked at crisis hotlines, as mental health advocates, and are passionate advocates for survivors.⁸ While corporations have tried to buy the training from the trainers, the staff has been adamant about not selling this training, because they are passionate about improving the climate and not creating something for profit.

The training has two components:⁹ A large lecture and a small group component. During the large lecture, the training addresses multiple issues, including policy (Title IX, the university's sexual misconduct policy), rape statistics in the state at large, what constitutes sexual misconduct, why people do not report, unhealthy cultures, victim blaming, healthy, unhealthy, and abusive relationships, the problem with risk reduction as prevention, primary prevention, rape culture, consent, bystander behavior, where, to whom, and how students can report misconduct, and where to find support. The large lecture portion lasts around 45 minutes.

The small group discussion lasts around 30 minutes. The small group discussion differs depending on who the training is targeted to (undergraduates versus graduate and professional students), but includes things such as discussing scenarios of misconduct and how to act or intervene during such episodes. As the creators of the training have stated, the goal of this training is to implement cultural change, which means that rather than preventing sexual misconduct by showing people tools to protect themselves (secondary prevention), the goal is to shift the culture so that misconduct does not happen in the first place (primary prevention).

⁸Staff interviews were conducted between June and July 2018.

⁹This is based on observations of multiple trainings that I attended in 2018.

The training was introduced to students in March 2017, with students who were already enrolled at the university having to take the training (many days and hours were offered to accommodate students' schedules), while new students were given the training at the New Student Orientation. Students had the option to seek exemptions for taking the training.

Sexual misconduct training that is voluntary is more likely to attract students who are interested and not hostile to the topic. This training, on the other hand, is mandatory and eliminates this issue of selection bias. This makes this training ideal to assess the effects or perceptions of a broader population.

The university is a large public university located in the Southwestern United States. It is a Minority-Serving Institution with a large population of non-traditional students as well, making it an ideal location to study often overlooked and understudied populations.

4.5 Data and Method

Data was collected at the university between 2018 and 2021.¹⁰ Although the primary focus were undergraduate students, some graduate students were interviewed as well, resulting in a total of 37 interviews. While the lecture portion of the training for undergraduate and graduate and professional students is the same, the small group discussion portion is slightly different. Specifically, since many graduate students also teach undergraduate students, the small group discussion for these students are intended to teach them tools on how to respond and their responsibilities as mandatory reporters when students come to them to report incidents of misconduct.

Interviewees were consented before each interview to participate and to be recorded. Interviews lasted between 30-60 minutes and were conducted between one researcher and one participant, two researchers and one participant, or two researchers and mul-

¹⁰Interviews conducted in 2020 and 2021 were conducted via Zoom.

tiple participants. Regardless of interview composition, interviewees were given the same incentive: For interviews conducted before the end of 2019, students were given a \$10 gift card to a local coffee shop. For interviews conducted during the pandemic (via Zoom), participants were given a \$15 Amazon gift card.¹¹

We recruited interviewees using both quota and snowball sampling. There was an active effort made to oversample LGBTQ+ and other minoritized populations. However, we added to the sample by walking around the campuses and recruited students at various campus libraries, in classes, through friends, students, and acquaintances, at coffee shops, and through student organizations. Table 4.1 lists the demographics of the students that were interviewed.

Table 4.1: Demographics of Student Interviews

Demographics		Frequency (%)
Gender	Female	19 (51%)
	Male	17 (46%)
	Other	1 (3%)
Race/Ethnicity	Hispanic/Latinx	15 (41%)
	White	13 (35%)
	Asian	9 (24%)
	Native American	3 (8%)
	Black	2 (5%)
	Refused	1 (3%)
Living on Campus	Yes	12 (32%)
	No	25 (68%)
LGBTQ+	LGBTQ+	7 (19%)
	Non-LGBTQ	30 (81%)
Age	18-24	32 (86%)
	25+	5 (14%)
Total	37	

Notes: Race/ethnicity may be double counted because five respondents (14%) identified as multiracial. Therefore, the percentage exceeds 100%.

All interviews were semi-structured, meaning that interviewers were following an

¹¹Funding for the gift cards from 2020 was provided by The American Political Science Association's #MeToo PoliSci mini grant.

interview guide, but asked other questions, including follow up and clarification questions where appropriate. The questions in the guide included what students remembered of the training, what they thought of it, what they thought could be improved, if they did anything differently because of the training, if they observed anything differently on campus after having taken the training,¹² what they thought of the university's institutional will to address the issue of misconduct, and their general observations of campus climate.

The data is analyzed using thematic analysis, because this approach allows for “identifying, analyzing, organizing, describing, and reporting themes” within the data (Nowell et al., 2017). This method is particularly useful when looking at differing thoughts of research participants to generate similarities, differences, and unexpected findings (Nowell et al., 2017, p.2).

Codes were determined by reading all of the interviews and drafting out primary, overarching codes. These codes were following the interview guide. To make analysis easier, the primary codes were then subcoded into more detailed codes. Each document and/or interviewee's demographics were included to identify patterns between and among demographic groups. Before the second round of analysis, I created a coding scheme to make coding consistent between the documents. All coding and analysis was done using atlas.ti, a qualitative data analysis software.

4.6 Analysis

4.6.1 Gendered differences

Theoretically, we expect men to be more negative or even hostile to the training compared to women. To assess this, participants were asked what they thought

¹²This question was removed down the line, as the training became part of the New Student Orientation, and most students who entered the university before the training was introduced had already graduated.

of the training.¹³ The responses of participants were coded as: positive, mixed, and negative feelings toward the training. Responses were coded as positive if respondents expressed only positive aspects of the training. This included acknowledgement that the training was beneficial, that they learned something, and/or that they enjoyed taking it. Responses that were coded as mixed feelings included both positive and negative sentiment: Respondents in this category would usually express that they saw the benefits of the training, sometimes even saying that they appreciated that the university did something, but that they did not enjoy the training. Finally, responses were coded as negative when the response overwhelmingly did not see the benefits of the training. This included respondents who believed the training was redundant and repetitive (along the lines of “I know not to rape”), hostile (respondents who believed the training yielded bad consequences such as pushing a political agenda or being dividing), and also respondents who believed the training did not go far enough in addressing and combating misconduct.

As table 4.2 shows, there are gendered differences in the responses. While those expressing purely positive responses do not make up the largest share in responses for either men or women, an equal share of women expressed mixed and negative feelings. When comparing this to male respondents, more than half of male respondents expressed primarily negative feelings toward the training. Interestingly too, we see that a larger share of male students (one third of the male sample) expressed positive feelings toward the training compared to female students (22% of the female sample).

Table 4.2: Gendered Differences in Training Perception

	Positive	Negative	Mixed
Women	22%	39%	39%
Men	31%	63%	6%
Entire Sample	26%	49%	26%

¹³Two participants did not answer this question directly and were therefore excluded from analysis.

Those who expressed positive feelings toward the training saw the benefits of the training. As one white male student¹⁴ stated, the training led to reflection on the concepts being taught:

I know that I went home reflecting on it a lot. I genuinely thought it was an interesting presentation especially the... the part about coercion. Because I never really considered coercion to be sexual harassment and then afterwards I considered my own behavior and whether or not I could... be a... [...] Well... people manipulate other people all the time, so in every aspect of life. So I never really considered that harassment. I thought of it as... people being generally selfish and egotistical wanting... wanting to benefit themselves. To serve their own interests. [...] Let me rephrase. I think that obviously when someone is goating someone to a severe extent like forcing themselves on by constantly asking about it, you know... that I would constitute as harassment, but I never thought that... That the extent to which it could fall under harassment.

Similarly, a male student of color¹⁵ expressed that the training, while not changing his behavior did in fact change his awareness of the prevalence of the issue:

It was pretty good, I mean generally it's overall positive. A lot of people are getting kind of backlash with all of these things that are going on, especially with celebrities and stuff, so I think it's good that [the university] is taking a step towards kind of preventing it, educating their students or their grad students and people who work there, so it's pretty good. [...] It's just... it didn't change my behavior as much as it changed my awareness at the

¹⁴Interview was conducted February 12, 2018 by two female interviewers. Note that quotes from students will include limited demographic information as to not make interviewees identifiable. Any student who either did not identify as white or chose white and another racial or ethnic category will be referred to as a person of color. Where appropriate, the gender of LGBTQ+ people will not be identified, as this may also make them too identifiable due to the small sample size.

¹⁵This interview was conducted on June 20, 2018 by a female interviewer.

workplace. So I have aware... more of situations, you know, where you're not supposed to send off cues or different kind of things that they talked about in the training, you know, that could kind of bleed into grey area.

With the mixed feelings, students acknowledged the benefits of the training, while also being frustrated about having to take the training because they believed it to be repetitive. As a white female student¹⁶ said:

Well, it was really long. So, it was hard to like... it was repetitive. But I think everything was important that they said. I think it's just maybe... especially I remember going to the freshman orientation. We did so much on that kind of stuff like sexual harassment and what to do. So, it was kind of the same thing.

Similarly, a female student of color¹⁷ discussed aspects of the training they liked, but felt that the training could have gone farther:

I did like the video¹⁸ because it made it easy to understand [...] I feel like they could have [...] gone a little bit more into it. [...] I feel like they could have gone a little bit more into [...] what happens on college campuses and how sexual misconduct is prevalent on college campuses, even though it's like a hard topic and I know that they try to... [...] their intention was probably to stay away from that to [...] avoid hurting any students

Finally, students expressing negative thoughts about the training were the most heterogeneous group.

¹⁶This student was interviewed on July 3, 2018 by a male interviewer.

¹⁷This interview was conducted July 21, 2021 by a female interviewer.

¹⁸The video that was shown was a video comparing the concept of consent with offering someone a cup of tea. This video was released by the Thames Valley police in 2015.

One group of students, although not adverse or rejecting of the training, just did not see the benefits of the training because of prior knowledge and exposure to the topic.

As one white female student¹⁹ said:

For me personally it was a little unnecessary, just because I work at the [redacted], I work at [redacted],²⁰ I do a lot of like... talking about sexual harassment and sexual assault and how can we combat this in campuses so I'm really familiar with all of that stuff and like, consent and everything, so I felt like it wasn't super hel... it was a bit of a refresher, it was a good refresher, not gonna lie, but I didn't like... there was no mind blowing moment where I was like "Wow, I had no idea about that" kind of... yeah, this is kind of... heard it before.

Other students similarly were not impressed by the content as exemplified by this white female student²¹

For me, [...] like I said, I know how important that stuff is but I already feel like I knew a lot about the topic, so it's... it was nothing new to me, like, not new information, I wasn't like shocked or "Oh my god, this is really, like, what they mean by like consent? Is this really what they mean?" like that kind of thing.

Students in this category also found the training to be too obvious, with one woman of color²² saying:

It's like, they told you to not rape people and it's like, ok, obviously [...]

¹⁹This interview was conducted May 16, 2018 by a female interviewer.

²⁰Both the organizations that the student worked for deal with diversity, equity, and inclusion, and misconduct. The names of the organizations are redacted to protect this person's privacy to not make them identifiable.

²¹This interview was conducted on May 7, 2018 by a female and male interviewer.

²²Interviewed May 24, 2018 by a male and female interviewer.

Somewhat differently, some students really problematized the training because it did not sufficiently delve into the topic. As this white man²³ pointed out:

I feel like it wasn't really effective. I don't think it went far enough. I think, at least for me, how I've experienced it during my NSO, it was after... I think it was at the end of our first day and we had been already there since like 8am, 9am and it was the very last thing we had, so I just felt like a lot of students were either not paying attention, or tired and also just didn't feel like... I know they wanted to try to push it as a more serious topic, but like in the video that they showed like with tea, it really did explain what consent for people who may not understand that, but I feel like anyone is able to understand that. But it's also... the video pushed it to be where it didn't seem very serious because the video had comedic aspects to it and I feel like dealing with something like this is like... it could be awkward for some people and may just feel weird for a lot of students who... this may have not crossed their mind that this thing kinda happens, but that... the main focus should not be making students feel comfortable, it should be pushing them to be uncomfortable or to tackle these issues.

These more activist-type students were unsatisfied with the training mostly because they either wanted it to be longer, wanted more sessions, or just felt that the trainers did not sufficiently tackle the issue and seriousness of misconduct.

Finally, another small subset of students found the effects of the training to be deeply problematic. In other words, this group of students found that the training had adverse negative effects and accomplished the opposite of their intended goal.

As one woman of color explained, she found the training to polarize and highlight the difference between men and women:

²³The interview was conducted June 18, 2018 by a male interviewer.

I found the training to be isolating, because a lot of people didn't necessarily choose to learn from the training. It more made everyone feel, like the genders, feel polarized. So, when I walked in there, I was having a comfortable conversation with my neighbor who was a man and by the end of it was like we were trying to distance our seats as much as we could from each other. Um, which, I don't think that's what you want. [...] I think the statistics and I guess the reference to rape culture really focused on kind of female victimization a lot – I found a lot of it focused on – I mean not that any of it is not necessarily true, but it just kind of highlighted the gender relationships that come from sexual, um, what is it, sexual harassment? And so, that didn't necessarily make people feel safer like they knew what they shouldn't do. It kind of just made them feel more different from the opposite gender and now there are more ways that they have to look to not treat them or make them uncomfortable and it's vague and something you may do which you don't mean to may come off as sexually aggressive and I don't know, I found it important to talk about, like rape culture, I guess. But, it's really – it was really polarizing.

Others in this category found the training to be politically divisive, with the trainers pushing a left-leaning liberal agenda. As one man of color²⁴ recounted:

I remember that there were some... there was some degree of politically charged-ness into it. [...] So, I feel like it was more intended to push the agenda on one side, than it was to actually help people. It's... not only is it a poor way of executing this, but it's entirely unethical to sort of use people who have been victims of terrible things to push your political agenda.

²⁴Interviewed May 24, 2018 by a female and male interviewer.

Similarly, another man of color²⁵ remembered the training to also have a political element to it:

[...] one of the main things are... it was very sort of in that new age, social justice P.C. sort of vibe. [...]

In short, negative thoughts on the training can be roughly divided into three non-mutually exclusive groups, of first, students expressing frustration with the training being unnecessary because they either know not to assault people or because they have heard and know a lot about sexual misconduct. The second group of students are students who expressed negative feelings about the training because they believed it did not go far enough in highlighting the issue of assault and teaching people about it sufficiently. Finally, a smaller subset of students found that the training had adverse effects by either being politically charged and/or by being divisive.

As the quotes above demonstrate, overall, while there were some students who saw the positives in the training, many expressed more nuanced or outright hostile views. Although there were both men and women in each of these categories, the breakdown shows that men overall were more outright negative toward the training than women were. Some of this variation can be explained by the topic of sexual misconduct invoking – even if the training does not do so – the idea of male perpetrators and female victims. As one white male student²⁶ said:

In my personal life, have I ever... I guess, to tell you the truth, desiring to rape somebody has never been a thought to me, so that's never been a problem, for me personally.

This demonstrates the defensiveness some men felt when being taught about misconduct, even if the narrative of the training did not use accusatory language toward any demographic group. One male of color student²⁷ was even more direct with how he

²⁵Interviewed May 24, 2018 by female and male interviewers.

²⁶Interview conducted January 29 by a female and male interviewer.

²⁷Interview was conducted on January 30, 2019 by a female interviewer.

felt the training attacked men specifically:

But more so, I felt like it unfairly targeted men, particularly, just in general, when it came to things like sexual assault and crimes of that sort, like on college campuses, like... it wasn't really targeted to be like broad... I didn't feel like it necessarily brought up issues with women sexually assaulting men or mistreating men and stuff like that. And I feel like because of that it focused more on targeting men and I definitely felt a little bit of blame for it... so, yeah. It wasn't very unbiased when it came to that aspect. It wasn't very unbiased when it came to the gender, who was targeting. It was very clearly targeted towards a male demographic in saying, ok guys, this is what you need to do, you know, not so like everyone.

4.6.2 Perceived prior knowledge leading to increased negativity

The second theoretical expectation is that those participants that *think* they know about the topic are more negative toward the training. This ranges from students who are in fact deeply familiar with the topic of misconduct and activists in the area working toward eliminating it, to participants who simply understood the training as a lesson of not perpetrating misconduct and having that type of common sense.

Indeed, many students expressed that they felt that the training was unnecessary because it taught things that they already knew about. One student expressed their frustration by saying:

[...] there was no mind blowing moment where I was like "Wow, I had no idea about that."²⁸

²⁸Interview was conducted May 16, 2018 by a female interviewer.

Another similarly said:

*It was nothing new to me, like, not new information, I wasn't shocked or "Oh my god, this is really, like, what they mean by like consent? Is this really what they mean?", like that kind of thing.*²⁹

Finally, one students said:

*I don't feel like I need to be taught how to not rape people.*³⁰

This frustration was expressed similarly regardless of how much respondents knew about sexual misconduct or were involved in sexual misconduct activism. For example, one respondent was involved in organizations that help victims of misconduct. Others, on the other hand, did not seem to be extensively involved, nor were experts in the field. However, what was clear is that when students feel like they already know what is being taught (such as knowing not to hurt other people), they are not receptive or positive toward the training.

4.6.3 Time since training affects accuracy of perceived content retention

Time since the training affects whether participants even remember taking the training at all. When looking at the time that has passed since the training, participants who had taken the training about half a year or less before the interview could still recall the training. Starting from about one year to three years since the training, there were some participants who could not recall the training at all.

Many remembered the training after the interviewers jogged their memory, but some conflated it with other training they took. Especially for those who work at the university, there is another mandatory annual training (although this one is online)

²⁹Interview conducted on May 7, 2018 by a male and female interviewer.

³⁰Interview conducted on May 24, 2018 by a female and male interviewer.

that they need to take.³¹ Furthermore, at the New Student Orientation, right before the training, there is an alcohol training³² as well. Some of the students who took that training confused the training with either of those trainings. Many students, even those who did remember taking the training did not, however, remember much of the content of the training or what was talked about. For the students who had taken the training 3 years or more, they seemed to remember more about how the training made them feel rather than much of the substantive content. For example, one student recalled that they remember the training being long.³³ Similarly, another student could recall the groups but could not remember what was being talked about. As this woman of color³⁴ recalls:

And then they split us up into like these little groups and we had to talk about it, but nobody was really talking about anything... I don't know, I remember it was really weird and they decided to do it at the very end of the day, when everybody was tired, and that nobody was really talking or participating, and I don't know, I didn't really benefit much from it [...]] I didn't think it was done correctly, cause I don't remember anything from it, like, even now.

This shows that as time passes, the memory of the training and its content fade for many participants.

4.7 Limitations

There are a number of limitations of this study.

³¹That training includes sexual misconduct, as well as racial discrimination and other workplace misconduct.

³²This training teaches students about responsible alcohol consumption.

³³Interview conducted June 28, 2018 by a male and female interviewer.

³⁴Interview conducted on May 24, 2018 by a female and male interviewer.

One notable issue may be external validity. Because the study site is only one university and the respondents were college students, who are a very specific population and who took a university specific training, these findings may not travel to other populations and cultural contexts. However, the many studies conducted in other college and military contexts are consistent or in line with the findings of this chapter. One qualitative study has found, similarly to this study, that students expressed gendered expectations about who could be a victim of assault even if the training that was being studied used neutral language just like the training in this study (Wamboldt et al., 2019). Therefore, while we may find some differences when we consider another population and training, the findings of this chapter may help trainers and employers implementing training in other contexts think about potential pitfalls when conducting these initiatives. Furthermore, researchers should be able to use the interview guide, method, and approach used in this chapter in other contexts as well.

A second limitation of the data are inconsistencies with when interviews were conducted. Specifically, the interviewers did not interview those who have taken the training after a set amount of time so there is large variation. While some students had only taken the training a couple of days before the interview so the memory of the training was still fresh, other students had taken it as long as almost four years prior. While this may have led to some differences between respondents' recall of the training, this approach may reflect reality best. Since we recruited students regardless of when they had taken the training (as long as they had taken it), students were not primed and we got a more accurate representation of how everyday students actually remember the training. And the notable finding with this is that many students took a while to remember the training, after being prompted and reminded a couple of times. Additionally, because some students were student employees, they are, on top of the sexual misconduct training, required to take another employee-only internet-

based training. This led to some confusion about which training covered what. What this approach allows for, however, is to assess how the training impacted students' overall outlook into the issue of misconduct.

Finally, a limitation may be the subject matter and the demographics of the interviewers. Many of the interviews were not conducted with the demographics of interviewers and interviewees matching. This meant that female interviewers interviewed men as well and vice versa. Given that sexual misconduct and issues are traditionally viewed as more “female” issues, interview subjects may have been compelled to answer in socially desirable ways. Even without interviewees and interviewers matching, social desirability effects may be fairly strong for an issue such as sexual misconduct, where people may be unwilling to admit to engaging in sexual misconduct or adhering to rape myths. While some of that is unavoidable, the richness of the data and diversity of responses points to this having only been a minimal issue.

4.8 Suggestions for Improvement and Conclusion

How can training be improved so that respondents have more favorable views toward it? One suggestion may be to have different training for men and women. Especially looking at the gendered differences illustrated above, as well as highlighted in Htun et al. (2022) that studies the same training, men especially seem to have more negative perceptions and effects from this training than women. When the training is separated, each training can accommodate different needs and potentially lead to more positive outcomes for both.

Another suggestion is based out of one consistent theme that emerged in the interviews when students were asked about how to improve the training. This was to have a more structured and longer small group discussion section. As mentioned above, the training consisted of a large lecture followed by a small group discussion.

While students expressed some positive aspects of the large lecture (most notably perhaps a video comparing the concept of consent with offering someone a cup of tea), many disliked being talked at especially after a long day of overwhelming content being thrown at them during their New Student Orientation. Modifying training to be more interactive and encourage students to be more involved in discussion should lead to better outcomes.

A third suggestion is to increase the frequency of the training. Although a fairly unpopular suggestion, especially considering how resentful many are for having to sit through the training in the first place, the fact that after a year, some students do not even remember taking the training is problematic. Furthermore, some students, even if they remember, misremember the taught content which is also not ideal. Having to take the training more than once may be able to prevent that and may even lead to more accurate retention of the taught content. This is also in line with multiple works that have shown that these “one-off” trainings have limited effect (see Htun et al. (2022) for example).

A final suggestion that was also consistently brought up by participants was that they found the training to be too long. Shortening the training or dividing it up into segments so students do not feel like it is too long could be beneficial in minimizing decreasing interest.

As sexual misconduct has been more highlighted, problematized, and reported, it has become increasingly important to assess how efforts to reduce misconduct are affecting people who are subjected to it. This chapter, which used semi-structured interview data of college students in the Southwest finds that no matter how well-intentioned training and trainers are, this mode of delivery still has undesired effects. Although some of this may be unavoidable because any training that forces its participants to partake will include backlash and resentment, the interviews indicated that there is hope that certain modes of delivery and content may be more helpful

than others.

Chapter 5

Conclusion

In this dissertation, I approached sexual harassment from a macro, meso, and micro lens. By doing this, I focused on different aspects of the large topic area that is sexual harassment and an even larger area . In the first chapter, I used large-n data from the World Bank and the replication data from Htun and Weldon (2018) to contribute to our understanding of when and why states adopt sexual harassment legislation. What I find is, that despite some literature advancing the argument that legal systems matter – and they do to some extent – once accounting for feminist movements and other variables, they are no longer significant. What my analysis does find is that feminist movement strength matter in the adoption of sexual harassment legislation.

While the large-n chapter dichotomizes sexual harassment legislation between countries that adopted or did not adopt legislation, the analysis omits more nuanced cases. There are a large number of mixed legal system countries, for example, that could not be fully assessed given that this category contains a myriad of different legal systems with distinct legal traditions without much consistency. The Japan chapter addresses this using the case of Japan, which is a mixed law country that does not have strong sexual harassment legislation. While The Equal Employment Opportunity Law in Japan defines sexual harassment, including both quid pro quo and hostile

working environment, it does not in fact explicitly illegalize this behavior. Instead, the law stipulates that employers have the responsibility to implement measures to prevent sexual harassment. To understand why the country chooses to address sexual harassment so weakly, despite it being a widespread problem, I use quantitative and qualitative evidence and find that individual and structural-level issues within the Liberal Democratic Party may be to blame. The data includes Diet minutes, newspaper article mentions, and secondary data to make this argument.

Finally, I assess student perceptions of a mandatory sexual misconduct training that university students at the University of New Mexico are required to take. I use semi-structured interview data from interviews that I and/or members of the research team that worked on Htun et al. (2022) conducted and find that there are gendered differences in training perceptions, with men perceiving the training more negatively than women. In addition, perceived prior knowledge of the subject also leads to negative assessment of the training. Finally, as more time passes, students' content retention is affected, with many students who we interviewed that had taken the training a while ago conflating it with other training they were required to take.

5.1 Contributions

Because this dissertation focuses on three different aspects of sexual harassment, it contributes to different literatures within this vast field.

Broadly speaking, the global variations chapter advances our knowledge in when and why states adopt women's rights. Although studies have shown the link between different legal systems and women's and/or human rights (Asal, Sommer and Harwood, 2013; Mitchell, Ring and Spellman, 2013; Saguy, 2003; Sommer and Asal, 2020; Zippel, 2006), and others have shown the importance of feminist movements and women's policy machineries (Htun and Weldon, 2012; Htun and Weldon, 2018;

Weldon, 2002b), on a large-n scale, these studies have not considered these variables in conjunction. Therefore, it was unclear whether feminist movements matter in all countries regardless of the legal system that said country operates. By finding that indeed, feminist movements matter and legal traditions actually become insignificant when appropriate controls are applied, this chapter shows that dynamic processes, such as feminist movements that change over time, can contribute to change. This is a promising finding, considering that legal systems, which tend to be time invariant, do not usually change.

The Japan chapter advances our knowledge on the case of Japan and its weak sexual harassment legislation. Overall in political science, Japan is an understudied case, especially in regard to gender. Therefore, this chapter advances our understanding of political phenomena for a usually underexplored case. Furthermore, while some studies have indeed looked at sexual harassment in Japan (Dalton, 2021; Folke et al., 2020; Hasunuma and Shin, 2019; Huen, 2007), overall, there are fewer attempts in trying to understand why the country has only weakly legislated it. In fact, similar to how the global data set of the World Bank classifies it, it is often discussed merely as not having legislation. While this is effectively the case considering that there are no direct legal repercussions for sexually harassing one's coworkers or subordinates, due to this simplification, nuance is lost. This leads to lesser understanding of why the choice to only weakly legislate were made by government officials. This chapter therefore mends this gap and adds more nuance to the debate of the types of sexual harassment legislation that exists and why they do.

Finally, the training perception chapter adds to the vast literature on sexual harassment or misconduct training in university, military, or other organization settings. Many studies have examined the effects of sexual misconduct training on participants, finding that some are positive, with for example participants having reduced rape myth adherence (Banyard, Moynihan and Plante, 2007; Banyard, Moynihan

and Crossman, 2009; Cares et al., 2015; Elias-Lambert, 2017; Htun et al., 2018; Inman et al., 2018; Senn et al., 2017), increased willingness to intervene (Alegría-Flores et al., 2016; Foubert and Masin, 2012; Jouriles et al., 2017; Moynihan et al., 2015; Salazar et al., 2014), and reduced victimization (Coker et al., 2015, 2016; Senn et al., 2017). On the flip side, misconduct training may also yield unintended or negative consequences, such as a boomerang effect (Malamuth, Huppert and Linz, 2018) or activating gender stereotypes (Tinkler, 2012; Tinkler, Gremillion and Arthurs, 2015). All of these studies focus on substantive behaviors or attitudes that shifted after taking the training. Instead, I focus on perceptions, which has been less extensively studied. An existing study by (Worthen and Wallace, 2017) does study perceptions and includes minoritized students as well. However, my contribution is the context in which it was studied, which is a large Hispanic-serving institution. This chapter also adds more context to the study by Htun et al. (2022), that relies primarily on quantitative surveys, and adds more depth to the findings they made. Furthermore, because the sample also includes a large number of minoritized students, it further advances our knowledge on how these training affect and influence students who may be more or differently affected by sexual misconduct.

5.2 Limitations and Avenues for future research

There are a number of limitations in this study, which would benefit from additional research. Because I studied multiple cases (large-n, Japan, and the U.S.), some depth within each of these may have gotten lost due to space constraints. However, each chapter produced contributions to different literature, opened the avenues for future research to delve into more depth, and answered questions that I could not.

For the large-n chapter, for example, given the available data for the dependent variable – a dichotomous measure of whether or not states have sexual harassment

legislation – it would be ideal if the corresponding independent variables, especially feminist movements, was available for the entire year span. Specifically, the feminist movements variable is only available in ten year increments, despite the dependent variable being available for every year from 1975–2020. Having more observations may help refine how much exactly feminist movements impact the adoption of sexual harassment policy. Furthermore, while this is more explored in the following, there is little nuance in chapter 1 about the adoption of sexual harassment legislation. Given that I used World Bank data, which only includes whether or not a country has adopted sexual harassment legislation, an analysis may benefit from including legislation adoption on a spectrum, ranging from no legislation, to weak legislation, followed by strong legislation.

Further research on Japan using interview data with bureaucrats and other policymakers to understand the mechanisms, veto players, and logic behind why Japan introduced weak legislation may expand the findings of this chapter. While I drew inferences based on available data, understanding what the people behind these choices think and how they assess what happened may provide further context and clarity into this chapter.

Finally, the perceptions of training chapter can be expanded on in a number of ways. One is that there may be the issue of external validity. The context that is studied – a Minority Serving Institution with an in-house designed training – is very specific, meaning that the findings in this study may not travel outside of this context or beyond the training under examination. This however, is also an opportunity to conduct a similar interview study in a different context to see whether student perceptions remain the same. A second limitation are inconsistencies in interview timing and demographics. The interviews were conducted indiscriminately of when students partook in the training, meaning that for some it had only been a couple of days while for others it had been a couple of years. Furthermore, while where we could,

we aimed to match the demographics of the interviewer to the interviewee, there was some variation with this. As a female interviewer, I especially noticed that male interviewees expressed more understanding and compassion with the training that they may not have done had a male interviewer talked to them. These limitations of chapter 3 provide an excellent opportunity for additional research. For example, a survey or interviews could provide more detail on how long contents of misconduct training are retained and how accurately. This will improve our understanding into potentially how often students and employees would benefit from receiving a certain training. Additionally, more interviews could be conducted with more variation to take a deeper dive into the effects of the demographics of interviewers and interviewees.

5.3 Implications

The findings of these studies has important implications. The chapter on global variations showed that although some studies hint toward deeply ingrained institutions hindering progress on women's advancement (legal systems), it is in fact a dynamic factor (feminist movements) that strongly correlates with the adoption of sexual harassment legislation. This shows that efforts from the citizenry to push for change can indeed be successful and should be encouraged.

The Japan chapter showed that the LDP's refusal to introduce meaningful change on women's issues presented a barrier to the adoption of strong sexual harassment policy. Although the LDP is not particularly popular with voters in the country, voters consider it to be more competent than the opposition meaning that a shift in power (as had happened during the short tenure of the Democratic Party of Japan) may not be what activists hoping for change may want to wait for. Introducing sexual harassment policy that is more aggressive may therefore need to come from within.

Active efforts to persuade the LDP leadership may be something to consider.

Finally, the chapter on perceptions of training has important implications on how we successfully implement sexual misconduct training. The format of the training is crucial in improving perceptions and may improve the impact of training as well. As the findings of this chapter showed, as time passes, participants had a difficult time accurately recalling the training with some even forgetting taking it all together. One-off trainings therefore, may not be particularly helpful for organizations. Furthermore, separating men and women and giving them different training may also help with improving perceptions by making men feel less attacked and hostile, and making women feel less like they are being told things they had already heard many times. The difficulty – even with the best intentions of the training creators and facilitators – of producing uniform positive thoughts on the training may also warrant a reexamination of whether training itself is the best tool to curb and address sexual misconduct at an organizational level.

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Appendix A

Semi-structured interview guide

Below is the interview guide for the semi-structured interviews conducted at the University of New Mexico.

The Grey Area Training - Student Interview Guide Opening script: Thank you for taking the time to talk with me. I'm [name] and I work here at UNM in [Dept]. I'm working with Dr. Htun to study The Grey Area training being conducted for all students at UNM. We are asking people like you to help us to understand the effects of the training and how we might improve it. We also want to get your perspectives on the climate here at UNM and what is being done to make the campus safer. Before we start, I want to acknowledge that talking about sexual violence and sexual harassment can be difficult. If you want to stop at any time, just let me know. I also have information about resources on campus if you would like to speak with someone further. [Provide Resources for Students document.] Do you have any questions before we get started? Questions:

Q1. Every student at UNM participates in a training session called The Grey Area. The training focuses on how to reduce sexual misconduct, a continuum of behaviors ranging from inappropriate comments to sexual harassment and sexual assault, including rape. What was your experience with the training? [Probes: When

was it? Where was it? Do you remember who the trainer was? What did you think of the trainer? What was the large group session like? What about the small groups – what were they like?]

Next I'm going to ask you a series of questions about sexual harassment on campus and then about sexual assault on campus.

Q2. What perception did you have about the problem of sexual harassment on campus before the training?

Q3. How did your perceptions about sexual harassment on campus change after attending the training? [Probe: What, if any, new information did you learn? Why do you think your perspective changed?]

Q4. What changes, if any, have you noticed on the UNM campus with regard to sexual harassment? [Probe: Since when? Why do you think that is?]

Q5. Have you, or anyone you know, done anything differently because of the training with regard to sexual harassment? [Probe: since when?]

Next I'm going to ask more specifically about sexual assault on campus.

Q6. What perception did you have about the problem of sexual assault on campus before the training?

Q7. How did your perceptions about sexual assault on campus change after attending the training? [Probe: What, if any, new information did you learn? Why do you think your perspective changed?]

Q8. What changes, if any, have you noticed on the UNM campus as a whole with regard to sexual assault? [Probe: Since when? Why do you think that is?]

Q9. Have you, or anyone you know, done anything differently because of the training with regard to sexual assault? [Probe: since when? Could you talk more about that?]

Q10. What do you think are the challenges that make it difficult to address sexual assault and sexual harassment on the UNM campus?

- Q11. What do you think is needed to make the UNM campus environment safer?
- Q12. What do you think are the strengths of The Grey Area training?
- Q13. What recommendations do you have for improving The Grey Area training?
- Q14. How much political will is there in the UNM community to address and prevent sexual harassment and sexual assault? [Probes: Why do you say that? Can you give me some examples?]
- Q15. Is there anything else you would like to tell me about The Grey Area training or the climate at UNM regarding sexual assault and sexual harassment?
- Q16. Would you report an incident if it happened to you?
- Q17. Title IX changes – now with live hearing. Agree or disagree?

Now I just have a few questions to ask to make sure that we get representation from a variety of students.

Demographics:

1. Do you live on campus?

No

Yes

2. Are you an undergraduate student at UNM?

No

Yes

– If yes, how many years have you been in the undergraduate program at UNM?

3. Are you a graduate student at UNM?

No

Yes

– If yes, how many years have you been a graduate student at UNM?

4. What gender do you consider yourself?

Female

Male

Transgender/Gender non-conforming

Do not wish to answer

5. How old are you?

6. Do you consider yourself to be Hispanic, Latino, or of Spanish heritage?

Yes

No

Not sure

Do not wish to answer

7. What race(s) do you consider yourself (Choose all that apply)?

American Indian or Alaskan Native

Asian

Black or African American

Native Hawaiian or other Pacific Islander

White

Other

Not sure

Do not wish to answer

Thank you for participating in this interview. Here is a gift card to compensate you for your time.