

# SEXUAL HARASSMENT COMES OF AGE: A Comparative Analysis of the United States and Japan

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Public consciousness of sexual harassment, or *sekuhara*, emerged much later in Japan than in the United States. This article, the first comparative study of sexual harassment in the two nations, explores how consciousness of a new legal category diffuses across nations and begins to take root in younger cohorts. Analyses of the U.S. General Social Survey and the Japanese Survey on Working Women's Consciousness show how age cohorts entering the labor force following major equal opportunity legislation report more sexual harassment than do older cohorts. We first conduct a separate nation-specific analysis and then pool the data sets to test for national differences with cross-product interaction terms. The effects of age, income, and job satisfaction all differ significantly between the United States and Japan. Family and life course factors are also important predictors, particularly in Japan. We interpret these results based on the extant literature on sexual harassment, legal consciousness over the life course, and comparative research on workplace behaviors.

## INTRODUCTION

The vast majority of research on sexual harassment has focused on either the United States or Canada (Dawson 2005), and comparative studies are typically limited to European nations such as Germany (Zippel 2003, 2006), Austria (Cahill 2001), or France (Saguy 2000, 2003; Benson and Saguy 2005). This article compares sexual harassment in the United States and in Japan, where the national context delineates more rigid gender stratification and work–family expectations than in previously studied Western societies. Widespread public consciousness of sexual harassment, or *sekuhara*, did not emerge in Japan until the media explosion surrounding a landmark case in 1989.<sup>1</sup> Given national differences in the history and meaning of sexual harassment, we explore whether its distribution across industries, occupations, and individuals is similar in the two nations. Moreover, given national differences in the timing of its emergence as a social problem, are there cohort differences in consciousness of sexual harassment between the two nations? In examining these questions, we hope to contribute to both the substantive comparative literature on sexual harassment and to broader theory on the global diffusion of legal consciousness.

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## THE DIFFUSION OF LEGAL CONSCIOUSNESS ACROSS NATIONS AND COHORTS

Previous studies have identified an apparent paradox regarding sexual harassment in Japan: younger workers report greater *lifetime* harassment than older workers, despite their shorter work histories (e.g., National Personnel Authority of Japan 1997). One explanation for this finding is that changes in consciousness of sexual harassment are cohort-specific rather than age-specific. That is, understanding of sexual harassment has been a salient aspect of workplace socialization for younger cohorts, but was a relatively unknown phenomenon when older cohorts began working. Prior to the consciousness-raising engendered by MacKinnon (1979) and others, “sexual harassment” did not yet exist as a legal or cultural category. Ideas about cohort change are often difficult to test because multiple cohorts are needed to disentangle age from cohort effects. Moreover, each cohort is generally subject to period effects, such as consciousness-raising, on the same timetable. Because major legal and workplace changes occurred on different timetables in the United States and Japan, however, a cross-national comparison of multiple cohorts is well suited to detecting cohort differences both within and between nations.

Real and symbolic statements marking sex discrimination as illegal, including the U.S. Civil Rights Act of 1964 and the Japanese Equal Employment Opportunity Law (EEO) of 1985, created conditions ripe for the development of sexual harassment consciousness.<sup>2</sup> Harassment complaints appear to be more common when regulatory policies exist (Gruber and Smith 1995; Gruber 1998; Marshall 2005b), in part because workers often make sense of their experiences by referring to legal concepts and categories (Sarat and Kearns 1995; Ewick and Silbey 1998; Marshall 2003, 2005a,b; Silbey 2005). Therefore, the presence and diffusion of civil rights laws more generally affect whether workers interpret words and actions as sexual harassment. This is especially the case for younger Japanese women, who have become increasingly cognizant of women’s employment rights since the passage of the EEO in 1985 (Tsunoda 1993; Molony 1995; Gelb 2003; Charles, Chang, and Han 2004).

This national comparative study on sexual harassment thus examines how legal consciousness emerged across age cohorts in response to broader legal and social changes. Japan is an ideal case to compare with the United States, as it has a similar EEO-based sexual harassment law, but one that was implemented at a later period (Markert 2005). We next consider the development and public recognition of sexual harassment as a workplace problem in the United States and Japan.

## FROM SEXUAL HARASSMENT TO SEKUHARA

### The Diffusion of Sexual Harassment Law

In the United States, sexual harassment is considered a form of sex discrimination in violation of Title VII of the Civil Rights Act of 1964, which states that discrimination on the basis of race, sex, religion, and national origin infringes upon the civil rights of citizens. Following the definitions established in the U.S. Equal Employment

Opportunity Commission (EEOC) guidelines (1980), scholars distinguish between quid pro quo and hostile work environment sexual harassment. Quid pro quo harassment occurs when employers make employment decisions on the basis of sexual demands, whereas hostile work environment harassment occurs when unwelcome sexual conduct unreasonably interferes with job performance or work conditions (U.S. EEOC 1980; Welsh 1999). The U.S. Supreme Court first recognized hostile work environment sexual harassment in the 1986 case *Meritor v. Vinson*. Even before this time, however, the academic, legal, and popular use of the term “sexual harassment” was spreading outward to many nations and international organizations, such as the International Labour Organization (ILO). Although legal definitions of sexual harassment differ by country, at least 36 nations had passed legislation prohibiting some form of sexual harassment when Japan passed its first law in 1997 (ILO 1997). The development of U.S. sexual harassment law and policy has been extensively reviewed elsewhere (see, e.g., Welsh 1999). We therefore focus our review on Japanese developments and contrast these with the U.S. case where appropriate.

### *Sekuhara* in Japan

Sexual harassment received little attention in Japan prior to Catharine MacKinnon's (1979) foundational book, *Sexual Harassment of Working Women*. Japanese feminists and legal scholars followed developments in the United States closely (Hirakawa [1998] 2000a,b), but it was not until 1989 that the popular media coined the term “*sekuhara*” (from the English phrase, *sexual harassment*).<sup>3</sup> Throughout this year, the media repeatedly invoked the term *sekuhara* in their coverage of Japan's first hostile work environment sexual harassment case (607 *Ro-do-Hanrei* 6, Fukuoka District Court, April 16, 1992; see Muta 2004), which accelerated general societal recognition of sexual harassment and women's employment rights more broadly. The case involved a small publishing company in Fukuoka, where a male editor was accused of spreading rumors about the sexual promiscuity of Mayumi Haruno, a female writer (Haruno 2001). Ms. Haruno's lawyers successfully brought a hostile environment sexual harassment claim under the equality and human dignity provisions of Japan's constitution and Articles 709 and 715 of the Civil Code (Shinotsuka 1995).<sup>4</sup> An amicus brief for the *Fukuoka case*, written by Hiroko Hayashi, included information from U.S. experts such as Judith Vladeck, an employment law specialist from Cornell's School of Industrial and Labor Relations (Hayashi [2000], personal interview February 20, 2006). The Fukuoka District Court recognized the claim and fined the harasser and the employer ¥1,650,000 (approximately \$15,700).

Another early case, the *New Fujiya Hotel case* (580 *Ro-do-Hanrei* 17, Shizuoka District Court-Numazu Branch, December 20, 1990), also involved a suit for violation of human dignity. In this case, a female hotel accountant alleged that a male supervisor kissed her against her will after she had rejected his sexual advances. The court ruled that the supervisor's verbal and physical sexual advances were illegal and ordered compensatory damages for the plaintiff's psychological distress.

By 2000, targets of sexual harassment had filed more than 100 cases, 10 of which were heard by Japan’s highest court (Yamazaki 2000:9). Reacting to the increasing number of *sekuhara* claims, the Japanese Ministry of Health, Labor and Welfare released a 2005 statement reaffirming sexual harassment as a recognizable labor incident. Among younger generations of Japanese workers, legal changes led to further litigation as well as “increased consciousness and activism” (Gelb 2000:385).<sup>5</sup> Of course, it is difficult to determine whether the prevalence of reports of harassment reflect an increase in the actual *experience* of harassment or rather an increase in awareness and sensitivity to the issue. We will bring some evidence to bear on this issue in the analysis that follows.

**Public Consciousness of *Sekuhara***

Legal consciousness appears to develop alongside legal reforms, with some cohorts or generations subject to particularly strong influences (Schnittker, Freese, and Powell 2003). Public consciousness of sexual harassment in Japan grew with increased international attention to the issue. Figure 1 shows a count of national newspaper articles that contained the word “*sekuhara*” in Japan’s *Asahi Shimbun* since 1985 and “sexual harassment” in the *New York Times* since 1975, when the term first appeared in print. The 1991 to 1992 peak in the United States reflects reaction to Anita Hill’s testimony at Clarence Thomas’ Supreme Court confirmation hearings in October 1991, while the spike in 1998 corresponds to the Bill Clinton/Monica Lewinsky scandal. We found no mention of either “*sekushuaru harasumento* (sexual harassment)” or “*sekuhara*” in the

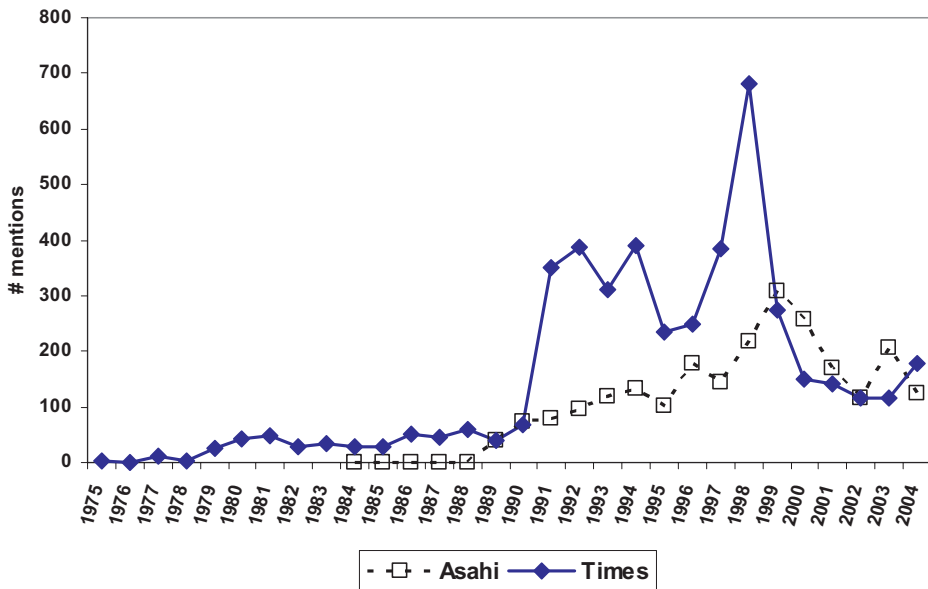


FIGURE 1. Counts of Terms “Sexual Harassment” 1975–2004 in the *New York Times* and “*Sekushuaru Harasumento*” or “*Sekuhara*” in Japan’s *Asahi Shimbun* 1985–2004.

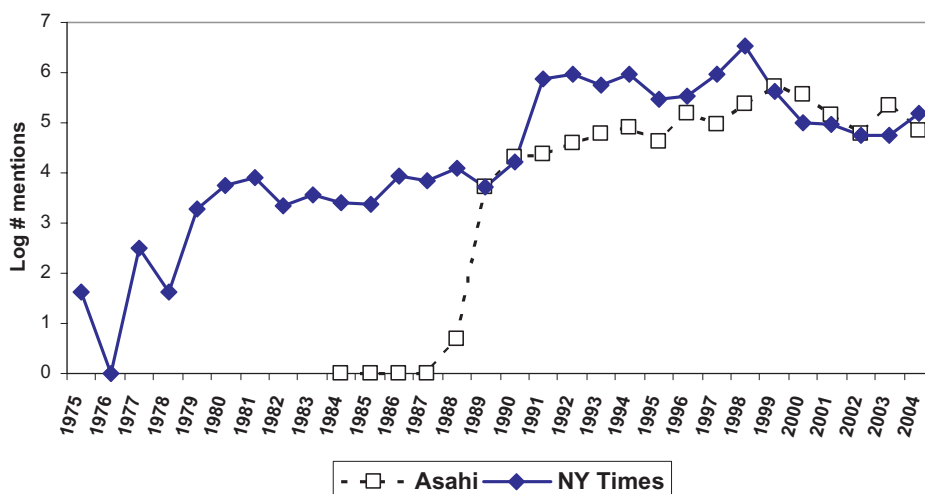


FIGURE 2. Natural Logarithm of Counts of Terms “Sexual Harassment” 1975–2004 in the *New York Times* and “*Sekushuaru Harasumento*” or “*Sekuhara*” in Japan’s *Asahi Shimbun* 1985–2004.

*Asahi Shimbun* newspaper until 1988. Similar to the *Times*, the number of *Asahi Shimbun* articles that mentioned either of these terms also spiked in the late 1990s, reflecting the implementation of a sexual harassment provision in Japan’s EEOC, as well as widely publicized lawsuits involving Japanese auto companies operating in the United States (e.g., *EEOC v. Mitsubishi Motor Manufacturing of America*, No. 96-1192 [IL June 23, 1998]; *Arango v. Mazda N.A., Inc.*, No. 96-2750 [S.D. Fla. Feb. 17, 1999]).

Because the simple counts in Figure 1 are skewed by influential events, they may not provide a complete picture of public consciousness of sexual harassment. We therefore applied a logarithmic transformation to these counts to better reflect broad trends in the level and rate of change in public consciousness. The logarithmic transformation also better reflects the greater magnitude of a change from 1 to 10 in comparison to a change from 500 to 510 mentions. Figure 2 shows the emergence of sexual harassment in public discourse in the late 1970s in the United States, followed by a stabilization at higher rates after the Clarence Thomas hearings. The Japanese data show a very steep rise in the late 1980s and early 1990s as the *Fukuoka case* captured public attention. Figure 2 identifies three distinct periods: (1) a stage from 1975 to 1987 when consciousness of sexual harassment emerged in the United States, but not in Japan; (2) a stage from 1988 to 1998 when *sekuhara* entered Japanese discourse, but consciousness remained higher in the United States than in Japan; and (3) a stage from 1999 to the present when consciousness of sexual harassment is roughly comparable in the two nations.

Norman Ryder’s classic (1965) distinction between age, period, and cohort effects helps to explain these patterns in the consciousness of sexual harassment. Ryder defines a cohort as an aggregation of individuals, within some population definition, who simultaneously experience events. In the case of sexual harassment, such events include

the 1964 Civil Rights Act or the 1991 Clarence Thomas hearings. For Ryder, a *cohort effect* has specific consequences for this population, but lesser effects for individuals outside of the population definition. A *period effect* extends beyond particular birth cohorts, to affect most of the population at a given time. *Age effects* speak to the differential malleability of young people, such that youth may be especially responsive to social changes. Consciousness of sexual harassment is likely a product of all three effects, with consciousness emerging most strongly among workers who experience significant historical events or legal changes in their youth.

### Prevalence of Sexual Harassment in Japanese Surveys

Estimates of the prevalence of sexual harassment are closely tied to consciousness of the phenomenon. As sexual harassment emerged in Japanese public discourse, academics, activists, labor unions, local government agencies, and women's organizations began surveying women about their experiences (see Tsunoda 1993). As in the United States, women's movements played an especially important role in raising consciousness around gender and workplace rights in Japan (Lenz 2004). A 1991 survey (Kanegae and Hirose 1994) of 700 women sampled from historical school records, found high rates of verbal harassment (experienced by 43 percent), physical touching (39 percent), visual (e.g., posters) harassment (24 percent), and leering or sexual looks (22 percent), and lower but nontrivial rates of pressure for unwanted sexual relationships (11 percent) and attempted or actual sexual assaults (4 percent). Women in their 20s were the most likely targets of harassment in this study. In contrast to U.S. surveys, Japanese harassment studies often include measures of sexist behavior or sex discrimination that extend beyond workplace sexual harassment, such as being required to serve tea at work or serve drinks at social functions outside the workplace. Notably, almost none of the women surveyed consulted with either public officials or unions in response to the harassment they reported.

A national survey of 6,500 working women, fielded in 1989, also found high rates of reported sexual harassment, with a clear majority reporting some kind of workplace sexual harassment.<sup>6</sup> About half of the respondents experienced verbal harassment, and most targets first experienced harassment as young workers, often within three years of entering the labor force. In contrast to U.S. patterns, where reported harassers are often coworkers (e.g., Gutek 1985) or subordinates (McKinney 1994; Grauerholz 1996; Rospenda, Richman, and Nawyn 1998; see Welsh 1999:177), Japanese harassers tended to be supervisors (*Hatarakukoto to seisabetsu wo kangaeru Santamano Kai* 1991).

There is some evidence that the prevalence of sexual harassment has risen in Japan in recent years, or at least that consciousness and reports of sexual harassment have increased since these early investigations. A repeated cross-sectional survey of female government workers by the National Personnel Authority of Japan (1997) shows higher levels of sexual harassment in 1997 than during the late 1980s and early 1990s. Approximately two-thirds of the surveyed women reported experiences with verbal sexual harassment, physical touching, and forced serving of tea or other drinks. A majority also reported culturally specific items, such as being forced to sing *karaoke* with supervisors.

The “karaoke duet” is a gendered activity in which younger female workers sing romantic songs with older male supervisors. Scholars have written extensively about the gendered ideologies constructed around these “office ladies,” who are expected to conform to a young and attractive “feminine” aesthetic (see Fujimoto 2004). It is important to note that this behavior, which might not be considered sexual harassment in the United States, can be interpreted as such in Japan. Notably, more than 40 percent of males surveyed reported that they had felt uncomfortable because they encountered others being sexually harassed. In contrast to the United States (see, e.g., Uggen and Blackstone 2004), male workers in Japan were not protected from sexual harassment by the EEOL until April 2007. The higher rates of sexual harassment reported in the National Personnel Authority survey could reflect rising consciousness of sexual harassment by the late 1990s or government sector workers’ greater consciousness relative to the general population (Edelman 1990).

Despite the major differences between U.S. and Japanese legal systems, sexual harassment law has developed in similar ways, albeit on different timetables. The Japanese Diet passed its first EEOL in 1985, largely in response to international pressure (Akamatsu, Fraser, and Fujiwara 1990; Lam 1992; Brinton 1993; Liu and Boyle 2001; Osawa [2000] 2002; Akamatsu 2003). A specific prohibition of sexual harassment was later added to Article 21 of the Japanese EEOL in 1999.<sup>7</sup> As in the United States, lawsuits in Japan appeared to spur the development of sexual harassment law and its inclusion under the broader rubric of civil rights law.

## A CONCEPTUAL MODEL OF SEXUAL HARASSMENT AND LEGAL CONSCIOUSNESS

### Consciousness and Cohorts

Conceptual models of legal diffusion must attend to how the timing of legal change affects successive cohorts. Relative to Japan, legal change arrived far earlier in the United States. We therefore expect significant between-nation differences when comparing older cohorts—with greater consciousness among American women—but general similarity between the two nations when comparing the youngest Japanese cohort with the youngest American cohort. Apart from these cohort effects, we also anticipate age effects, such that consciousness of sexual harassment is most likely to take root in those who experience legal changes as younger workers. Both age and cohort should therefore affect reports of harassment, as should important period effects such as the Clarence Thomas hearings—which are expected to have a general impact across age and cohort.

Overall, we expect younger cohorts to report higher rates of harassment than older cohorts, but these differences should be keyed to legal changes and the diffusion of sexual harassment law in each nation. For example, U.S. workers entering the labor force after the Civil Rights Act of 1964 should report higher rates of sexual harassment than those entering prior to the legal reform. Although the landmark *Meritor v. Vinson* (1986) case followed long after the 1964 legal reform, both events raised consciousness of workplace rights. By the same logic, Japanese workers entering the labor force after the

EEOL of 1985 should report higher rates of sexual harassment than those entering prior to the legal reform. We therefore suggest two related hypotheses:

Hypothesis 1A: U.S. workers entering the labor force after the Civil Rights Act of 1964 will report higher rates of sexual harassment than those entering prior to the legal reform.

Hypothesis 1B: Japanese workers entering the labor force after the EEOL of 1985 will report higher rates of sexual harassment than those entering prior to the legal reform.

As in the United States, a landmark case emerged in Japan several years after passage of the EEOL. Younger cohorts of Japanese women—those in their late 20s and early 30s in 1992—should therefore be especially conscious of *sekuhara* as a workplace problem. In contrast to Japan, Figures 1 and 2 show that public consciousness of harassment had emerged by the late 1970s in the United States. Somewhat older cohorts of U.S. women—those in their mid-to-late 30s in the mid-1990s—should thus be increasingly aware of sexual harassment as a workplace problem.

Hypothesis 1C: Age will have a negative effect on sexual harassment reports among Japanese workers, with relatively younger workers more likely to report harassment.

Hypothesis 1D: Age will have a positive effect on sexual harassment reports among U.S. workers, with older workers more likely to report harassment.

Hypothesis 1E: The youngest or most recent entrants into the labor force in each nation will report low lifetime rates of harassment in both the United States and Japan.

### Industry and Occupational Structure

Apart from age and cohort, the types of jobs that women hold in the two nations are likely to impact rates of sexual harassment. Few studies have examined the distribution of sexual harassment across the full employment spectrum. Yet, occupations and industries are clearly linked to workplace gender ratios, which have been shown to affect rates of reported sexual harassment in the United States (Antecol and Cobb-Clark 2004). A U.S. Merit Systems Protection Board survey (1995) found that women in the armed forces, for example, reported greater sexual harassment than women in the Department of Health and Human Services. Although there are no comparable survey data in Japan, the Women's Employment Management Basic Study (*Josei koyou kanri kihon chousa*) by the Japanese Ministry of Health, Labor and Welfare (2001) asked workers whether they thought sexual harassment could occur in their workplace. High rates of perceived vulnerability to sexual harassment were found in mining, energy, and financial and insurance industries. The first two industries are strongly male-dominated fields, whereas the latter two include large numbers of young female clerical workers in Japan. Each represents a gendered work environment, potentially conducive to sexual harassment.

A simple statistical comparison of occupational sex segregation in the United States and Japan shows few stark differences (Brinton and Ngo 1993; Charles and Grusky 1995; Charles and David 2004), despite gendered differences in work-family



relationships. Work in Japan is characterized by “lifelong” seniority employment for men (Cheng and Kalleberg 1996; Yamaguchi 2004b) and “family event–dependent” employment for women (Brinton 1993; Brinton and Ngo 1993; Chang 2000, 2004; Gottfried 2000; Charles et al. 2004). To an even greater extent than in the United States, age-graded institutional forces structure the individual life course in Japan (Brinton and Kariya 1998; Kariya and Rosenbaum 2003). In part because of family considerations, Japanese women have been less likely than U.S. women to participate in the labor force. In 2005, approximately 63 percent of Japanese women aged 30 to 34 worked outside the home, relative to about 74 percent of U.S. women in this age group (Cabinet Office of Japan 2007a).

Despite these differences, we expect harassment reports in the United States and Japan to share many common predictors. In both societies, more educated workers should have greater knowledge about sexual harassment and their legal rights as workers (Tangri, Burt, and Johnson 1982; Tsunoda 1993; Molony 1995; Strober and Chan 1999; Gelb 2000, 2003; Charles et al. 2004), which affects reports of sexual harassment (e.g., Gutek 1985; Fain and Anderton 1987; De Coster, Estes, and Mueller 1999). The U.S. Merit Systems Protection Board (1995) and National Personnel Authority of Japan (1997) both found a negative relationship between job satisfaction and harassment. Therefore, education is expected to have a positive association and job satisfaction a negative association with perceived sexual harassment in both nations. We characterize the satisfaction coefficient as an “association” because we cannot establish the temporal ordering of harassment and low job satisfaction.

Hypothesis 2A: More educated respondents will be more likely to report experiences with sexual harassment than less educated respondents in both countries.

Hypothesis 2B: More satisfied workers will be less likely to report sexual harassment than less satisfied workers in both countries.

Hypothesis 2C: There will be no significant national differences in the distribution of sexual harassment by occupation and industry.

Although the national distribution of sexual harassment by occupation and industry is expected to be similar, we anticipate one key difference based on the relationship between family status and employment status. Observed family effects could be because of differences in occupational sex segregation (Brinton 1993; Chang 2000) and work–family policy designs (Gottfried 2000; Kimoto 2000; Peng 2002a,b). Because women’s family status is so closely linked to occupational sex segregation, particularly in Japan, the effects of family factors are likely to be mediated by employment and work positions.

### Family and Life Course

There is some evidence that individual life course transitions affect sexual harassment experiences. In the United States, young, unmarried women appear most likely to report sexual harassment (e.g., Gutek 1985; Fain and Anderton 1987; De Coster et al. 1999), and family relationships affect the litigation choices of sexually harassed women (Morgan 1999). Moreover, we expect national differences in the effects of family measures because marriage and children have structured the work lives of Japanese women to a much greater extent than for U.S. women (Weeden 2002; Cohen and Huffman

2003). In Japan, most working women quit their jobs upon their first pregnancy and those who return to work after having children are mostly relegated to low-level part-time positions (see Brinton and Ngo 1993; Convention for Elimination of Discrimination against Women [CEDAW] 2003; Organisation for Economic Co-operation and Development 2005; Shirahase 2005).

Japanese family structures also differ markedly from American patterns, with later timing of marriage (25.9 years old for U.S. women versus 28.2 years old for women in Japan), lower annual rates of marriage (8.2 in the United States versus 6.1 per 1,000 in Japan) and divorce (3.9 in the United States versus 2.3 per 1,000 in Japan), and fewer children per household (2.0 in the United States versus 1.3 per woman in Japan) (U.S. Census 2005, 2006; Statistical Research and Training Institute 2005; Cabinet Office of Japan 2007b). Relative to other industrialized nations, the United States has a rather high women's labor force participation rate and a high birthrate, whereas Japan has very low labor force participation and birthrates among women of childbearing age (Cabinet Office of Japan 2005).

Importantly, for our purposes, the nexus between work and family life clearly differs between the nations (see, e.g., Brinton 1993; Inoue and Ehara 2005; Strober and Chan 1999; Chang 2000, 2004; Hisatake et al. 2000; Charles and Bradley 2002; Gelb 2003; Fujimoto 2004; Raymo and Iwasawa 2005). Although most Japanese women now return to work after their intensive childbearing years (Yamaguchi 1998, 2004a), they remain far more likely than U.S. women to leave the labor force after having children (Women's Bureau 1997; Japanese Ministry of Health, Labor and Welfare 2003). We therefore expect national differences in the effects of marriage and childbearing on sexual harassment, due in part to their differential impact on employment statuses in the United States and Japan.

Hypothesis 3A: Marriage will be a stronger negative predictor of sexual harassment in Japan than in the United States.

Hypothesis 3B: Children will be a stronger negative predictor of sexual harassment in Japan than in the United States.

## DATA, MEASURES, AND METHODOLOGY

### Data and Measures

This investigation requires comparable data sources in the United States and Japan. The 1992 recruit Japanese Survey on Working Women's Consciousness (JSWWC) is the only large-scale data set on sexual harassment that sampled from a general population of Japanese working women. Because of their comparability and representativeness, we compare the JSWWC with the 1994 and 1996 U.S. National Opinion Research Center (NORC) General Social Survey (USGSS). Because the JSWWC is limited to women aged 20 to 39, our analysis includes only USGSS respondents within this age range.

Although the independent variables in the two data sources are quite comparable, the dependent variable is operationalized somewhat differently. The single USGSS sexual harassment item asks respondents whether they have ever experienced "sexual

advances, propositions, or unwanted sexual discussions from co-workers or supervisors . . . sometimes involving physical contact and sometimes just sexual conversations.” The JSWWC indicator is a dichotomized indicator computed from separate survey responses to items such as “Has any man at work ever made you feel uncomfortable or hurt your self-esteem” by giving you “suggestive looks,” “touching,” or requesting an “unwelcome sexual favor.”

Independent variables include age, life course characteristics (marital status, number of children, and years of education), employment characteristics (income and supervisor status) and attitudes (job satisfaction), occupation (clerical, sales, service, managerial/professional/technical, and production/other), and industry sector (manufacturing, government, retail, finance/insurance/real estate, and other service). We reorganized Japanese occupational and industry categories for comparability with U.S. sources.<sup>8</sup> Descriptive statistics and *t*-tests comparing USGSS and JSWWC variables are presented in Table 1.

### Descriptive Statistics and Analytical Strategy

Table 1 shows similar rates of reported sexual harassment in the United States and Japan. In both countries, about 50 percent of women in their 20s and 30s report experiencing sexual harassment. Although overall harassment levels are similar, some respondent characteristics differ between the American and Japanese samples. For example, the Japanese sample is slightly younger (30.7 in the United States versus 28.2 in Japan) and U.S. respondents are more likely to be married (48 percent versus 42 percent) and have more children. U.S. women are also more likely to work in sales or management positions, whereas their Japanese counterparts are most likely to work in clerical or administrative support occupations. Although the urban sample of Japanese women reports higher income levels than their U.S. counterparts (\$14,700 in the United States versus \$16,600 in Japan), they are much less likely to work in supervisory or full-time positions, and they report lower job satisfaction. Japanese respondents are also more likely to work in manufacturing positions, whereas more American respondents work in the retail industry.<sup>9</sup> In both countries, the modal industry is the service sector.

After presenting simple *t*-tests for national differences by industry and occupation, we estimate logistic regression equations to show the effects of age, life course status, employment characteristics, and job satisfaction. We first consider each country separately before pooling the data to test for national differences using cross-product interaction terms. In addition to our quantitative analysis, the second author also conducted a series of personal interviews with sexual harassment experts in Japan. These include lawyers Hiroko Hayashi and Ikuko Tsujimoto (interviewed on February 20, 2006), who participated in the early *Fukuoka case* in Japan, Professors Yumiko Ehara (interviewed on February 12, 2006), Hiroko Hashimoto (interviewed on March 18, 2006), Hiroko Hirose (interviewed on February 14, 2006), Haruhiko Kanegae (interviewed on February 21, 2006), Kazue Muta (interviewed on March 14, 2006), and Chizuko Ueno (interviewed on February 22, 2006). We use these interviews to help clarify details about legal changes and the social context surrounding influential cases.

TABLE 1. Descriptive Statistics of the Japanese and U.S. Data Sets, Women Aged 20 to 39

Variables	t-tests	GSS 1994 and 1996	JSWWC	Coding
<b>Dependent variables</b>				
Any reported sexual harassment	0.74	48.91 percent	50.64 percent	1 = Yes, 0 = No
<b>Independent variables</b>				
Age	-8.93***	30.69 (5.44)	28.23 (6.05)	In years
Life course				
Education	-2.77***	13.41 (2.06)	13.20 (1.42)	In years, top coded at 16
Marital status	-2.71***	48.29 percent	42.00 percent	1 = Yes, 0 = No
Number of children	-13.62***	1.37 (1.33)	0.67 (0.99)	1-6 in number of children
<b>Employment</b>				
Individual income	5.79***	14.65 (6.84)	16.59 (7.31)	In 1,000 s (U.S. \$)
Supervisor	-11.25***	22.90 percent	6.61 percent	1 = Yes, 0 = No
Part time	5.34***	13.71 percent	23.82 percent	1 = Yes, 0 = No
Occupation				
Clerical	9.27***	24.14 percent	44.94 percent	1 = Yes, 0 = No
Sales	-6.52***	13.86 percent	5.63 percent	1 = Yes, 0 = No
Service	0.76	20.25 percent	21.70 percent	1 = Yes, 0 = No
Managerial/professional/technical	-7.10***	32.24 percent	18.50 percent	1 = Yes, 0 = No
Production/other	0.02	9.19 percent	9.22 percent	1 = Yes, 0 = No
<b>Industry</b>				
Manufacturing	7.66***	12.77 percent	27.78 percent	1 = Yes, 0 = No
Government	-1.53	5.14 percent	3.71 percent	1 = Yes, 0 = No
Retail	-11.27***	22.90 percent	6.59 percent	1 = Yes, 0 = No
FIRE	2.42**	18.85 percent	23.56 percent	1 = Yes, 0 = No
Other services	1.39	34.89 percent	38.03 percent	1 = Yes, 0 = No
<b>Attitudes</b>				
Job satisfaction	-10.14***	3.17 (0.85)	2.78 (0.85)	1 = Less satisfied 4 = Most satisfied
		N = 642	N = 1,557-1,562	

\*\*p < 0.05, \*\*\*p < 0.01.

Note: Standard deviations in parentheses.

FIRE, finance-insurance-real estate; GSS, General Social Survey; JSWWC, Japanese Survey on Working Women's Consciousness.

## RESULTS

### Distribution by Occupation and Industry

Figure 3 shows the occupational distribution of harassment experiences in the United States and Japan. On the whole, we find greater variation across occupations than across nations and greater occupational variation in sexual harassment in Japan ( $p < 0.001$ ) than in the United States ( $p = 0.28$ ).<sup>10</sup> Clerical workers in both nations report high rates of sexual harassment (52 percent for the United States, 58 percent for Japan). This is noteworthy because of the concentration of clerical workers in our Japanese sample and the sex-typed nature of the work. The only significant occupational difference between nations is found in service work. U.S. service workers report a higher prevalence of harassment than their Japanese counterparts (51 percent versus 43 percent,  $p < 0.01$ ). A somewhat higher proportion of Japanese saleswomen report sexual harassment in these data, although there is insufficient statistical power to detect a significant difference. In sum, we see only moderate differences across occupations, with U.S. production workers and Japanese clerical workers reporting high rates of sexual harassment.

Figure 4 compares the distribution of harassment experiences by industry. We find significant industry differences within each nation ( $p < 0.01$  in the United States,  $p < 0.001$  in Japan), but again, observe little difference between nations. Sexual harassment is clearly most prevalent in the manufacturing sector (59 percent for the United States, 60 percent for Japan). In contrast, women in government work report

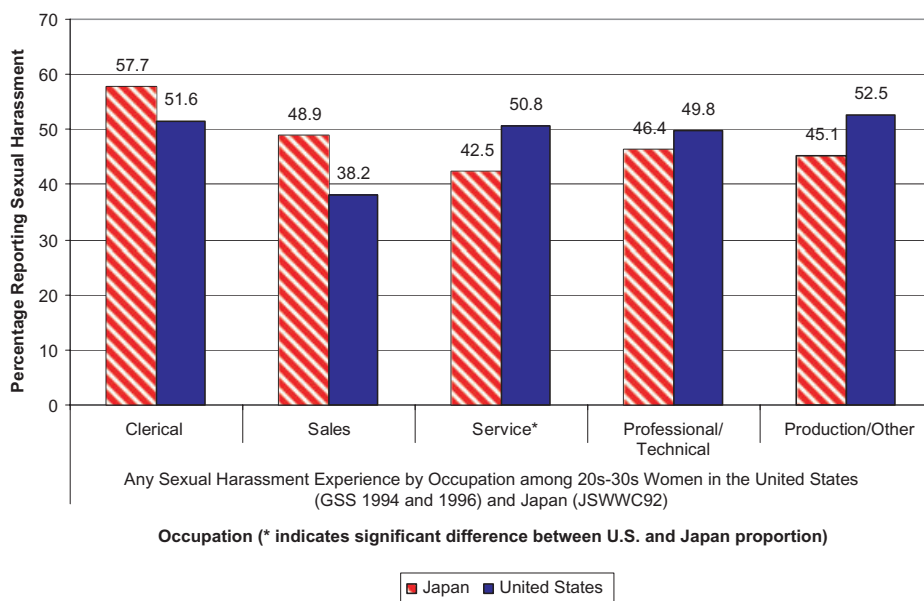


FIGURE 3. Sexual Harassment by Occupation ( $p < 0.001$  in Japan;  $p = 0.28$  in United States). GSS, General Social Survey; JSWWC, Japanese Survey on Working Women's Consciousness.

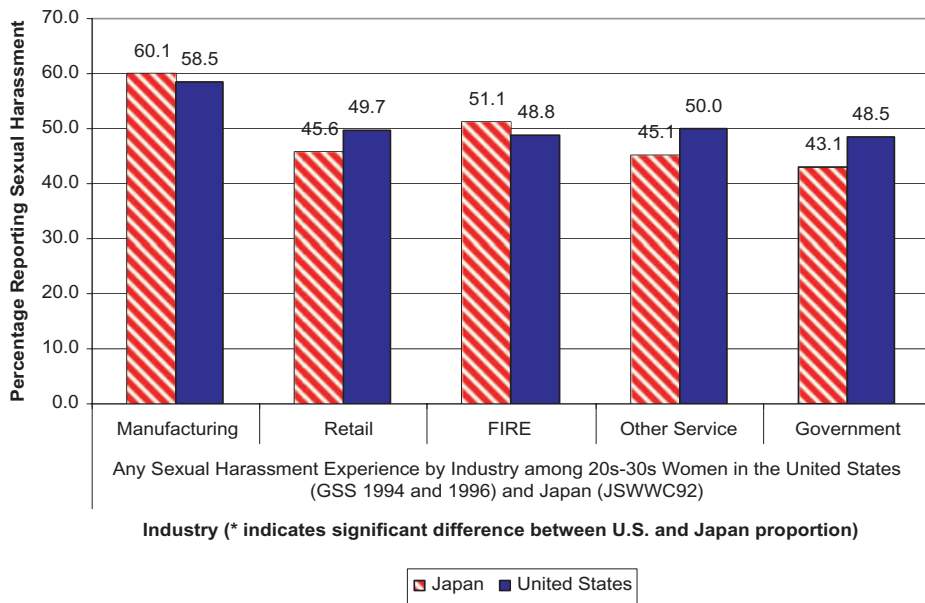


FIGURE 4. Sexual Harassment by Industry ( $p < 0.001$  in Japan;  $p < 0.01$  in United States). GSS, General Social Survey; JSWWC, Japanese Survey on Working Women's Consciousness.

significantly lower rates (49 percent for the United States, 43 percent for Japan). While it is plausible that industry differences in unionization affect harassment reports, we find little direct evidence in these data to suggest that this is the case. For example, both manufacturing and government workers are highly unionized in both nations (Japanese Ministry of Health, Labor and Welfare 2005; U.S. Department of Labor 2005), yet harassment rates are high in manufacturing but low in the government sector.

### Predictors of Harassment by Nation

Table 2 shows logistic regression estimates for models predicting self-reported sexual harassment among American and Japanese women in their 20s and 30s. As hypothesized in Hypothesis 1C and Hypothesis 1D, model 1 shows that relatively younger women in Japan and relatively older women in the United States are more likely to report sexual harassment. Models treating age as a categorical rather than a continuous variable show the same pattern of results (not shown, available from authors). Since our dependent variable records whether respondents have *ever* been the target of sexual harassment, the negative coefficient for Japan is striking. Although the youngest workers in each country have generally had the least exposure time in the workplace, they report the *highest* lifetime rates of harassment in Japan.

When we add the life course variables of education, marriage, and children into model 2, women with more children reported less harassment in both countries. The age

TABLE 2. Logistic Regression Estimates Predicting Reported Sexual Harassment Experience among U.S. and Japanese Women Aged 20 to 39

	Model 1		Model 2		Model 3	
	United States	Japan	United States	Japan	United States	Japan
	<i>B (SE)</i>					
Age	0.055*** (0.015)	-0.046*** (0.009)	0.071*** (0.017)	0.003 (0.013)	0.066*** (0.018)	-0.013 (0.013)
Life course						
Education			0.039 (0.042)	-0.017 (0.037)	0.048 (0.049)	-0.023 (0.041)
Married			-0.103 (0.167)	-0.342** (0.163)	-0.102 (0.176)	-0.117 (0.171)
Number of children			-0.154** (0.071)	-0.266*** (0.087)	-0.098 (0.075)	-0.083 (0.092)
Employment						
Income					0.019 (0.014)	0.058*** (0.009)
Supervisor					0.312 (0.221)	0.202 (0.222)
Occupation (v. clerical)						
Sales					-0.833*** (0.315)	-0.167 (0.242)
Service					0.114 (0.259)	-0.081 (0.162)

TABLE 2. Continued

	Model 1		Model 2		Model 3	
	United States	Japan	United States	Japan	United States	Japan
	B (SE)					
Managerial/professional/technical					0.103 (0.235)	-0.208 (0.164)
Production/other					-0.265 (0.383)	-0.099 (0.205)
Industry (vs. government)					1.029** (0.412)	0.778*** (0.288)
Manufacturing					1.044*** (0.363)	0.536 (0.357)
Retail					0.544 (0.346)	0.333 (0.294)
FIRE					0.480 (0.315)	0.286 (0.286)
Other services						
Attitudes						
Job satisfaction					-0.059 (0.104)	-0.254*** (0.069)
Constant	-1.744*** (.463)	1.311*** (0.245)	-2.490*** (.694)	0.474 (0.551)	-3.133*** (0.871)	-0.141 (0.650)
Observations	642	1,562	641	1,556	591	1,551
-2 log-likelihood	875.4	2,136.0	864.5	2,100.7	837.3	2,006.5
Chi-square	14.2***	29.2***	23.8***	56.2***	50.9***	146.3***

\*\**p* < 0.05, \*\*\**p* < 0.01.

FIRE, finance-insurance-real estate; SE, standard error.



effect remains in the U.S. model, but is largely mediated by family factors in Japan. Model 3, which includes employment-related variables, shows that Japanese and U.S. women working in the manufacturing industry and U.S. women in the retail industry reported higher rates of sexual harassment relative to government workers. The industry variables significantly improve the overall fit of models in both nations ( $p < 0.05$ ), but the occupation variables do not ( $p > 0.10$ ).

In the United States, we observe little effect of other employment conditions, such as income, occupational status, and job satisfaction. Contrary to the U.S. findings and our Hypothesis 2A and Hypothesis 2B, employment conditions are more strongly predictive in Japan. In model 3, age and life course events are no longer statistically significant, but income and job satisfaction are strongly predictive. Age and family effects are reduced, in part, because they are closely associated with occupation. For example, the youngest Japanese workers tend to be concentrated in clerical work, which has the highest rate of sexual harassment. The effects of some employment conditions thus appear stronger in magnitude in Japan than in the United States.<sup>11</sup>

Although Table 2 suggests some intriguing differences between the nations, it does not provide a statistical test for these differences. The results in Table 3 pool data from the two nations and fit interaction models to provide such tests. We estimated a series of logistic regression equations, modeling the effect of Japan and the interactions between Japan and each of the individually significant age, income, and job satisfaction variables. Model 1 is an additive model, showing significant positive age effects and negative effects of marital status and number of children. Net of these factors, the likelihood of sexual harassment does not differ significantly in the United States and Japan, as shown by the nonsignificant Japan effect in model 1.

Model 2 presents the full additive model, showing that income ( $p < 0.05$ ) and supervisory status ( $p < 0.10$ ) both increase the likelihood of experiencing sexual harassment, whereas sales and government work reduce this likelihood. In contrast to model 1, however, this model also shows that Japanese women are significantly *less* likely than American women to experience sexual harassment once work and family factors are statistically controlled. The concentration of Japanese women in high-harassment settings such as clerical occupations and the manufacturing industry is partially responsible for the changes in the Japan coefficient between models 1 and 2. Model 2 suggests that if Japanese women worked in the same occupations and industries as American women, their probability of harassment would be significantly lower than that observed for similarly situated American workers. We also conducted a shift-share analysis (Perloff et al. 1960; Krumme 1969, 2005), reallocating Japanese workers to reflect the U.S. occupational distribution. These models suggest that the overall sexual harassment rate would have been only 48 percent in Japan rather than the observed 51 percent if Japanese women had been distributed across occupations in the same way as U.S. women.

The final model is similar to model 2, but also includes statistically significant interaction terms. Model 3 indicates that age has a positive effect on sexual harassment in the United States and a negative effect in Japan, consistent with Hypothesis 1C and

TABLE 3. Logistic Regression Estimates from Pooled Models of Sexual Harassment for Women Aged 20 to 39

	Pooled model 1 with Japan dummy		Pooled model 2 with Japan dummy		Pooled model 3 with interactions	
	B (SE)	Odds	B (SE)	Odds	B (SE)	Odds
Age	0.019** (0.010)	1.020	0.007 (0.010)	1.007	0.063*** (0.017)	1.065
Life course						
Education	0.011 (0.028)	1.011	0.005 (0.031)	1.005	0.011 (0.031)	1.011
Married	-0.364** (0.111)	0.695	-0.221* (.116)	0.802	-0.104 (0.120)	0.902
Number of children	-0.213** (0.054)	0.808	-0.079 (0.057)	0.924	-0.093 (0.057)	0.911
Employment						
Income			0.051*** (0.007)	1.052	0.019 (0.013)	1.019
Supervisor			0.275* (0.156)	1.317	0.261* (0.156)	1.298
Occupation (vs. clerical)						
Sales			-0.456** (0.183)	0.634	-0.4458 (0.184)	0.641
Service			-0.063 (0.133)	0.939	-0.027 (0.135)	0.973
Managerial/professional/technical			-0.193 (0.131)	0.824	-0.165 (0.133)	0.848
Production/other			-0.189 (0.172)	0.828	-0.152 (0.174)	0.859

Industry (vs. government)						
Manufacturing		0.951*** (0.217)	2.588	0.880*** (0.219)	2.410	
Retail		0.738*** (0.245)	2.091	0.705*** (0.247)	2.025	
FIRE		0.522** (0.218)	1.685	0.446** (0.220)	1.563	
Other services		0.465** (0.207)	1.591	0.388* (0.209)	1.474	
Attitudes						
Job satisfaction		-0.204*** (0.057)	0.816	-0.059 (0.102)	0.943	
Japan						
Japan		-0.054 (0.101)	0.948	2.037*** (0.663)	7.671	
Age × Japan				-0.075*** (0.019)	0.928	
Income × Japan				0.038** (0.015)	1.038	
Job satisfaction × Japan				-0.210* (0.121)	0.811	
Constant		-0.324 (0.432)	0.723	-2.391*** (0.697)	0.091	
Observations		2,197		2,142		
-2 log-likelihood		2,993.9		2,851.4		
Chi-square		51.8***		190.2***		

\* $p < 0.10$ , \*\* $p < 0.05$ , \*\*\* $p < 0.01$ .

FIRE, finance-insurance-real estate; SE, standard error.

Hypothesis 1D, net of the other variables. Moreover, the final interaction model also shows significant national differences in the effects of income and job satisfaction. Income has a significantly stronger positive effect on harassment in Japan than in the United States, and job satisfaction has a much stronger negative association in Japan. We also estimated interactions between age, life course status, and nation. Here, too, we find that Japanese women in their 20s are most likely to report harassment, regardless of their marital or parental status (results available upon request). Overall, immediate job conditions appear to be more salient in predicting sexual harassment in Japan than in the United States. We should caution that although we took care to make the USGSS and JSWWC data comparable, the measures and samples differ in important ways, as noted above. Nevertheless, we have little reason to believe that our results are biased by these sources of noncomparability.<sup>12</sup>

### Cohorts and Consciousness

The logistic regression models show the effects of age on reports of harassment, before and after statistically controlling for life course and employment characteristics. To further investigate Hypothesis 1A, Hypothesis 1B, and Hypothesis 1E about legal change, Figure 5 shows how sexual harassment experiences vary across age cohorts in the United States and Japan. We divided each sample into three groups: prelaw, postlaw, and new workers. The “postlaw” cohort, who entered the labor force in the midst of

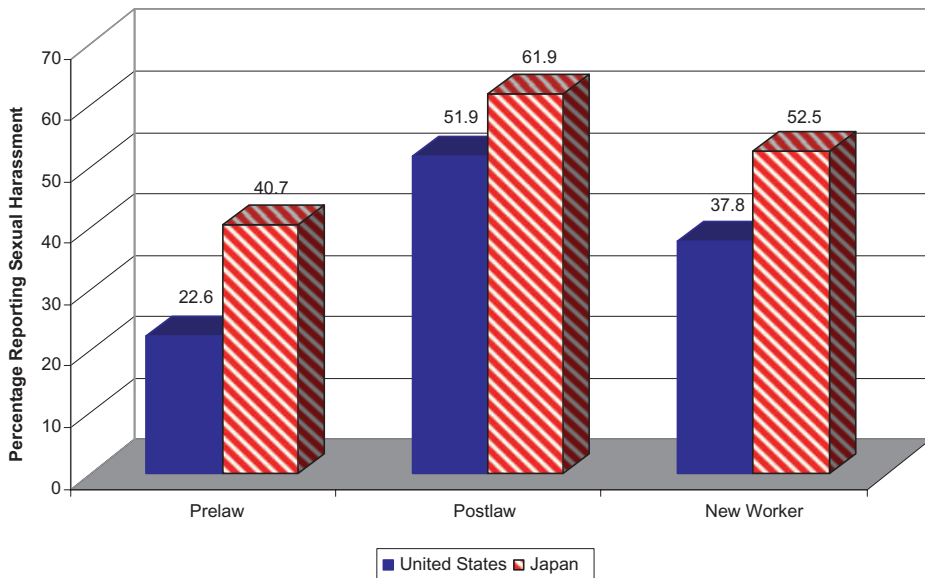


FIGURE 5. Sexual Harassment by Cohort. Note: For the United States, the prelaw cohort was born prior to 1938, the postlaw cohort was born between 1938 and 1969, and new workers were born since 1970. For Japan, the prelaw cohort was born prior to 1963, the postlaw cohort was born between 1963 and 1967, and new workers were born since 1968.

important legal changes, reported the highest rate of sexual harassment in both countries (about 52 percent for the United States versus 62 percent for Japan). In the United States, 23 percent of the “prelaw” cohort, born between 1905 and 1937, reported experiencing sexual harassment. The figure rises to 52 percent among the postlaw cohort, born between 1938 and 1969. We categorized U.S. women born after 1969 as “new workers” because they had only been in the labor force for a short time when surveyed in the mid-1990s and had little opportunity to experience harassment. Nevertheless, their overall rate of harassment actually exceeded that of their prelaw counterparts, signaling differences in consciousness across cohorts.

In Japan, only 41 percent of the women in the “prelaw” cohort, born between 1953 and 1962, reported workplace sexual harassment. This rises to 62 percent among the “postlaw” cohort of women born between 1963 and 1967. Similar to the U.S. case, the rate again decreases for Japanese women born after 1968. We observe sharper contrasts in the U.S. data because of the inclusion of much older cohorts in the GSS (those born between 1905 and the 1940s) than were present in the Japanese data. In sum, although age appears to operate differently in the United States and Japan as we predicted, the cohort analysis reconciles these national differences. Consistent with our expectations, cohorts entering the workforce before sexual harassment was a widely recognized phenomenon reported the lowest rates, cohorts entering at the time of legal changes showed the highest rates, and new workers fell somewhere between the prelaw and postlaw cohorts.

It is difficult to determine from these data whether cohort differences reflect changes in legal consciousness or an increase in actual rates of harassment. If consciousness is changing over time, we would expect differences in the response to harassment as well as in reports of harassment. While responses to harassment are unavailable in the USGSS, the JSWWC includes information about respondents’ reactions to the harassment they report in the survey. We estimated a logistic regression model predicting reactions to harassment and found age cohort to be a strong predictor of the type of reaction (not shown). When asked how they responded to sexual harassment, women in their 20s were significantly more likely to “strongly protest” than those aged 35 to 39, even when gender role attitudes were statistically controlled. Figure 6 represents this pattern graphically, showing the percentage of Japanese women who “strongly protested” to their experience of sexual harassment. The differences are statistically significant ( $p < 0.004$ ) across the four age groups. Together with the age effects observed in Tables 2 and 3, these data suggest that Japanese women in their 20s had greater consciousness of sexual harassment than the cohort just a few years older when the survey was administered in 1992. These findings are consistent with research showing that women are more likely to report harassment when they perceive a mechanism for redress (Rudman, Borgida, and Robertson 1995).

### Consciousness and Convergence?

With the important exceptions of age and the relationship between work and family roles, our results paint a picture of national similarities rather than differences. In Japan,

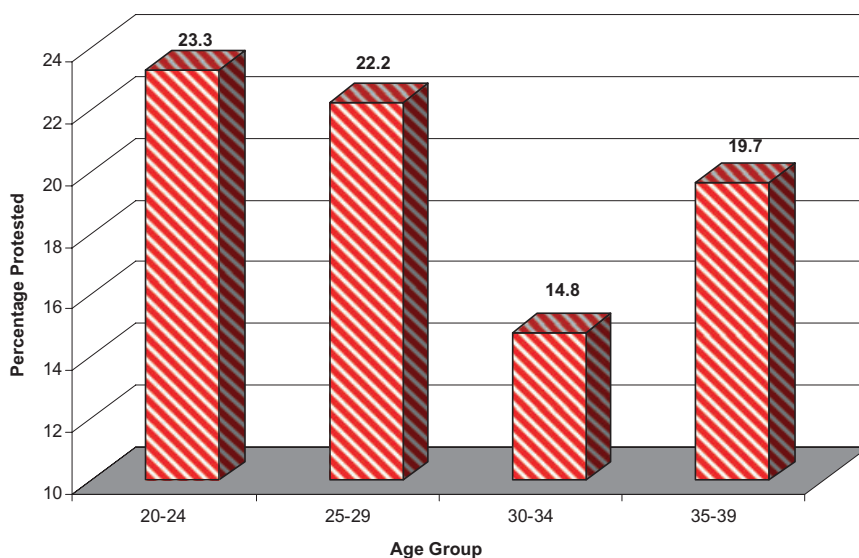


FIGURE 6. Percentage of Japanese Women Protesting or Strongly Protesting Harassment by Age.

consciousness of sexual harassment has risen as successive cohorts have entered the labor force. According to the tally of newspaper articles shown in Figures 1 and 2, public consciousness of sexual harassment in Japan has mirrored U.S. levels since 2000. If consciousness of harassment and its distribution across occupations and industries are similar in the two nations, we would expect similar rates of officially reported harassment in the United States and Japan as well.

Comparable national data are not available prior to 2000, but data on official sexual harassment claims filed by women in the two countries are available for more recent years. Figure 7 shows annual rates of sexual harassment claims per 100,000 working women filed with the U.S. EEOC and with the local offices of the Japanese Ministry of Health, Labor and Welfare. In the United States, the rate of sexual harassment claims per 100,000 ranges from 16.6 to 23.0, with an average of 20.0 claims per 100,000 between 1992 and 2004. Similarly, the rate in Japan varies from 21.4 to 23.0, with an average of 21.8 claims per 100,000 between 2000 and 2004. After reaching parity in 2000 (see Figure 2), the number of filings in Japan has surpassed that of the United States.

Similarities in the rate of reporting to government agencies are noteworthy given the absence of sexual harassment in Japanese law and public consciousness prior to 1989. Moreover, these similarities are consistent with the self-reported survey data and the patterns depicted in Figures 2 to 5. Nevertheless, comparable rates of self-reported and official harassment call attention to the distinctive differences in age, income, and job satisfaction as predictors. To what extent are these effects consistent with theories of legal consciousness and diffusion discussed above?

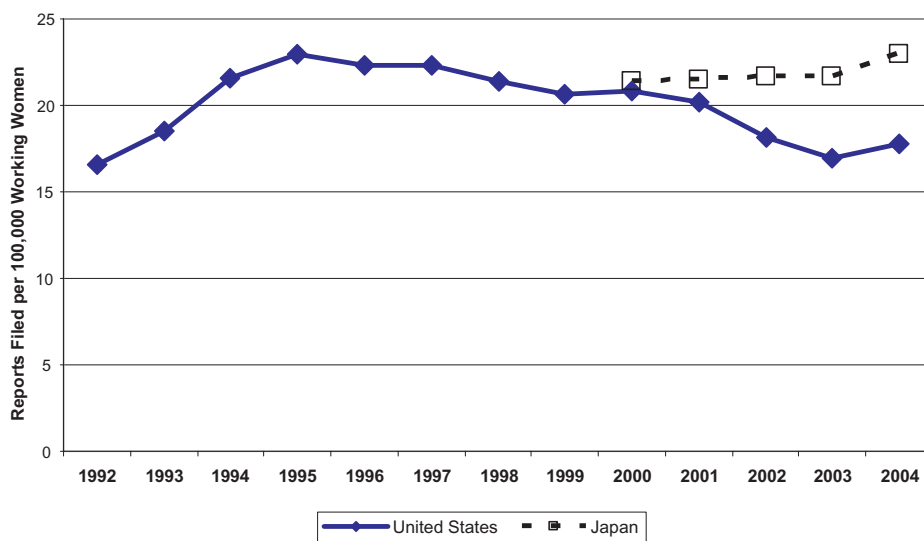


FIGURE 7. Sexual Harassment Official Claims Filed by Women per 100,000 Working Women in the United States and Japan 1992–2004. Report data: U.S. Equal Employment Opportunity Commission and Japanese Ministry of Health, Labor and Welfare. Labor statistics data: International Labour Organization.

## HARASSMENT CONSCIOUSNESS AND THE STRUCTURE OF THE LIFE COURSE

Our results show broad similarities in the predictors of sexual harassment in the United States and Japan, with some notable differences in the effects of age, income, and job satisfaction. Consistent with our “cohort” hypotheses (Hypothesis 1A–Hypothesis 1E), age has a positive effect in the United States and a negative effect in Japan when the analysis is limited to those in their 20s and 30s. We attribute these national differences to changes in consciousness of sexual harassment. In the United States, these women began their careers at a time when sexual harassment was widely discussed. In contrast, only Japanese women entering the workforce since the major legal changes of the mid-1980s would have been similarly cognizant of sexual harassment issues during their early careers. Consistent with our expectations, Japanese workers in their 30s in the JSWWC reported lower lifetime rates of sexual harassment, despite their greater “exposure time” and longer careers. Legal change appears to exert the greatest influence on younger workers who enter the labor force after the change has been implemented. Consistent with this idea, we find that U.S. employees who began working after the Civil Rights Act of 1964 and Japanese workers entering the labor force following the EEOL of 1985 report higher rates of sexual harassment than do other cohorts.

Consistent with our expectations in Hypothesis 2C, we also observed basic similarity in the occupation and industry distributions of sexual harassment in the United States and Japan, with the highest prevalence located in the manufacturing sector in both

countries. Contrary to Hypothesis 2B, however, job satisfaction and income appear to be stronger correlates in Japan than in the United States. Other effects are similar across the two samples, though fewer coefficients are statistically significant in the smaller U.S. sample.

Our “family and life course” Hypothesis 3A and Hypothesis 3B, which suggest a stronger relationship between family status and reported sexual harassment in Japan than in the United States, also received some support. The magnitude of marriage and child effects is larger in Japan in models that do not statistically control for work conditions, although we could not detect significant national differences using interaction product terms. Family status appears to affect harassment by structuring employment conditions. In Japan, changes in the size and statistical significance of the marriage and child effects between models 2 and 3 of Table 2 are especially instructive. Once the effects of occupation, industry, pay, and job satisfaction are statistically controlled, marriage and children no longer affect the likelihood of experiencing sexual harassment. Work characteristics, rather than family factors in isolation, appear to shape Japanese women’s sexual harassment experiences.

Most notably, it is the well-documented exodus of female parents from the Japanese labor force (Brinton 1989, 2001; Japanese Ministry of Internal Affairs and Communications 1996; Chang 2000; Charles et al. 2004) that reduces the risk of sexual harassment, rather than marriage or children. When women in Japan return to work after their childbearing years, they are allocated to lower-skilled part-time work, where they appear to be less subject to sexual harassment. Their shorter work hours are only one side of the story. The other side is the gendered age gap that is created when these married workers with children return to work (Brinton 1993; Brinton and Ngo 1993; Gottfried 2000; Chang 2002; Charles et al. 2004). The Japanese occupational structure is such that upon returning to work, unskilled married women with children will work alongside younger men (see Kalleberg and Lincoln 1988), who may be less likely to harass older workers. These women also work in more gender-segregated workplaces (see Figure 3 and Chang 2000) where fewer opportunities for sexual harassment may arise.

Our study also hints at one of the structural challenges that may be responsible for the relationship between sexual harassment and job satisfaction among Japanese women. Career mobility in Japan is restricted without regard to educational qualifications—highly educated Japanese women have far lower job mobility than do similarly educated women in the United States (Strober and Chan 1999). Japanese women’s restricted career mobility (Brinton and Ngo 1993; CEDAW 2003) means they will be “stuck” in workplaces with their harassers because they will have greater difficulty finding alternative employment. U.S. women, in contrast, have comparatively greater opportunity to change jobs and are less stigmatized when they choose to do so.

One possible explanation for the positive effect of income on the likelihood of experiencing sexual harassment in Japan is that better-paid Japanese women may be more likely to work in traditionally male-dominated work settings, as in the *Fukuoka case*. After the enactment of the EEOL in 1986, more women have entered predominantly male career tracks and work environments, where they earn more money but are



also subjected to more harassing work conditions. In the United States, highly paid women in the federal government also report higher rates of sexual harassment ( $p < 0.10$  for unwanted sexual attention,  $p < 0.05$  for any types of sexual harassment; see Antecol and Cobb-Clark 2004).<sup>13</sup>

## CONCLUSION

This national comparative study on sexual harassment contributes to an understanding of how legal consciousness emerges across age cohorts in response to broad legal and social changes. It also identifies national differences in sexual harassment, based in part on the relation between work and family life in the United States and Japan. To test our conceptual model of the diffusion of legal consciousness, we examined data from two countries that varied with regard to the emergence of sexual harassment in law and public discourse. In this respect, Japan is an ideal case to compare with the United States as it has a similar EEO-based sexual harassment law (e.g., one unlike the penal code-based law studied by Saguy [2003] in France), but one that was implemented at a later period. We find that legal changes affect women's perceptions and experiences in similar ways but on differing timetables.

Neither the first broad U.S. equal employment laws nor the first comparable Japanese laws, enacted in the mid-1960s and mid-1980s, respectively, included specific sexual harassment definitions and prohibitions. Nevertheless, these laws helped shape consciousness of employment rights more generally in both countries (Gutek 1985; Fain and Anderton 1987; Tsunoda 1993; McCann 1994; Molony 1995; De Coster et al. 1999; Strober and Chan 1999; Gelb 2000, 2003; Charles et al. 2004).

The broader theoretical implications of these findings concern the global diffusion of law, and the cohort-specific evolution of legal consciousness. Sexual harassment law is refracted through the structure and culture of individual nations (Cahill 2001; Saguy 2003; Luthar and Luthar 2007), but consciousness develops on a predictable timetable. We hypothesized that consciousness of sexual harassment is a product of age, period, and cohort effects, emerging most strongly among workers who experience significant historical events or legal changes in their youth. Our analysis of survey data generally supports this view, showing that Japanese women in their 20s and U.S. women in their 30s were most likely to report sexual harassment in the mid-1990s. In addition to showing how consciousness develops across cohorts, however, our United States–Japan comparison also shows how differently gendered occupational structures affect sexual harassment. Marriage and children initially appear to reduce the risk of harassment in Japan, but these effects diminished once work characteristics were statistically controlled. This pattern of results suggests that family structures the allocation of workers into positions at greater or lesser risk of harassment.

While this article presents clear evidence that consciousness of harassment is highest among cohorts experiencing legal change, the study is limited by the available data. Because our Japanese data are limited to those aged 20 to 39, we cannot determine how older working women were affected during this period of rising consciousness of sexual

harassment. Additional data and further investigation are needed to unlock this puzzle, though we expect consciousness to take root most firmly in those who experience legal change as younger workers.

The United States and Japan appear to be treading along a similar path, though the timing of legal change and consciousness differs. What does the future hold? If legal consciousness burns brightly but ephemerally in particular times and places, only specific cohorts would recognize sexual harassment in both countries. Our analysis of the U.S. data, however, suggests that consciousness is “stickier.” We therefore expect entering cohorts of Japanese workers to remain conscious of sexual harassment and employment rights more generally throughout their working lives. Our analysis of sexual harassment has emphasized the institutional connections between work and family life and the cohort-specific development of legal consciousness. As the global diffusion of law emerges as a central concern for scholars and activists, further comparative work will reveal much about institutional linkages, life course processes, and the emergence of altogether new legal forms.

## ACKNOWLEDGMENTS

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## NOTES

福岡セクシュアル・

<sup>1</sup>This is 607 *Ro-do-Hanrei* 6 (Fukuoka District Court, April 16, 1992) ハラスメント事件 (福岡地判平四・四・一六労判六〇七号 6 頁), commonly known as the “*Fukuoka case*.” Although the identities of parties involved in Japanese sexual harassment cases are usually concealed, the plaintiff in this case was publicly identified (Kazue Muta personal interview: January 17, 2005).

<sup>2</sup>Japan passed its Equal Employment Opportunity Law (EEOL) in 1985 (enacted in 1986) and its EEOL reform bill in 1997 (enacted 1999). This reform bill included sexual harassment definitions within its guidelines. More recently, Japan passed another reform bill in 2006 (enacted in 2007), which includes harsher punishments for sexual harassment.

<sup>3</sup>Japanese national newspapers introduced the term in the late 1980s. The *Asahi Shimbun* (1989) first used the term on November 16, 1989, noting, “Since the unheard-of word, sexual harassment, was introduced from the United States, this [*Fukuoka case*] is the first legal case. Approximately 100 people made a line for a seat at one of the 82 places in order to audit the verdict at 9 a.m.” A well-known publishing company identified *sekuhara* as “word of the year” in 1989, reflecting its emergence in Japanese discourse.

<sup>4</sup>Article 90 of the Civil Code provides that any act which is contrary to the public order is null and void. This provision has been used to set aside actions violating the equality principles in the

Constitution. Article 709 of the Civil Code, which makes actions violating the equality principles of the Constitution a tort, has also been applied by Japanese courts in employment matters. Under Article 709, a person who unlawfully infringes upon another person's rights may be liable for damages. Courts have used this provision in some sexual harassment cases as the basis for establishing a personal right to an environment conducive to working. Article 715 of the Civil Code provides that employers are liable for employees' illegal conduct if the conduct is carried out in the course of the employer's business, making employers liable for their employees' sexual harassment of coworkers (ILO 2004). Relative to U.S. employers, Japanese employers have far less freedom to terminate employees (see, e.g., Labor Standard Laws 3, 19, 20, 104-2, EEOL 8, Labor Union Law 7).

<sup>5</sup>Between the passage of the EEOL in 1985 and 2000, this law and related laws have undergone noteworthy reforms, including the EEOL amendment with the "sexual harassment" regulations and the passage of the Basic Law for a Gender-equal Society. Both came into effect in 1999.

<sup>6</sup>Results of this survey were presented at a sexual harassment summit in Fukuoka, later published as *The Testimony of 6,500 Women (Onna 6,500 nin no shogen) (Hatarakukoto to seisabetsu wo kangaeru Santamano Kai 1991)*.

<sup>7</sup>The Japanese government's support of the Convention for Elimination of Discrimination against Women led the dominant political party, *jiminto* the Liberal Democratic Party, to pass the EEOL in 1985. The law was viewed as weak by more liberal parties, because of its lack of sanctions. Under Article 21, enacted in 1999, employers were required to take strides to ensure that workers' working conditions or environments were not in jeopardy as a result of sexual speech and behavior or targets' responses to such acts (ILO 2004). Along with the legal reform in Japan, the Japanese Ministry of Labor released guidelines encouraging employees to help prevent sexual harassment in 1998: 「事業主が職場における性的な言動に起因する問題に関して雇用管理上配慮すべき事項についての指針」平成一〇年労働省告示第二〇号・平成一〇年三月、「雇用の分野における男女の均等な機会及び待遇の確保等に関する法律の施行について」(女発第一六八号・平成一〇年六月一日). Similarly, the Japanese National Personnel Authority enacted their sexual harassment regulation for public sector workers starting in 1999: セクシュアル・ハラスメントの防止に関する人事院規則 (人事院規則一〇一〇一〇).

<sup>8</sup>We recoded industry variables of both U.S. General Social Survey (USGSS) and Japanese Survey on Working Women's Consciousness (JSWWC) into five major industry categories: manufacturing, retail, finance-insurance-real estate (FIRE), other service work, and government. Similarly, we recoded occupation variables of each data set into clerical, sales, service, professional-technical, and production-other. Last, we recoded ordinary "income" variables of both USGSS and JSWWC data into continuous variables by assigning the midpoint of the range specified in each category. We then adjusted the USGSS income variables from 1994 and 1996 to be comparable with the JSWWC income variable, by taking inflation and dollar-yen exchange rates into account.

<sup>9</sup>We recoded variables from the JSWWC data set to best fit with the USGSS variables. Note that we categorized the industry codes in the JSWWC, mall/supermarket as retail and trading, other finance, business, banking, insurance/stocks, and real estate as FIRE. Because the JSWWC investigators sampled female residents of the Tokyo metropolitan area aged 20 to 39, the Japanese data represent an urban population. While this limits the comparability of the data sources, it is important to note that younger Japanese workers are significantly more likely to reside in such urban settings than their American counterparts.

<sup>10</sup>Significance levels reflect analysis of variance tests of equivalence across occupational categories.

<sup>11</sup>We also considered the effects of part-time versus full-time employment. In both the United States and Japan, fewer part-time than full-time workers report sexual harassment. We excluded a part-time indicator from our final models, however, because it is very closely correlated with income and other employment characteristics in the Japanese data and because it is not a significant predictor of harassment net of other employment variables (details available upon request).

<sup>12</sup>To make the representative USGSS and the urban JWCC data more directly comparable, we estimated a second set of USGSS models that excluded rural residents (details available by request). The results of this analysis parallel those shown in Tables 2 and 3 with one exception: When rural women are excluded from the U.S. sample, the effect of children increases. When the U.S. sample is limited to urban and suburban residents, number of children has a negative and statistically significant relationship to harassment in models 2 and 3 of Table 2.

<sup>13</sup>The U.S. Merit Systems Board comments on this point as follows. “[W]hether there is more harassment inside or outside the Federal Government is an issue on which survey respondents who have held jobs in both places have varying opinions. Twenty-two percent of survey respondents who have worked outside the Federal Government believe there is more harassment outside the Government and 7 percent said there is less. The proportion of respondents who said there is the same amount of harassment within and outside the Government is 34 percent, but the largest single group. 36 percent indicated they did not know or could not judge. Results of the 1987 survey were similar [. . .]” (U.S. Merit Systems Protection Board 1995:19).

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