

# Sexual Harassment: A Social Issue in Japan

Fathima Azmiah MARIKKAR

---

## Keywords

sexual harassment, discrimination, problem, survey, cases, prevention, violation, victim, society

## Introduction

In Japan, it was only in 1989, that the popular media used the term *sekuhara* from the English phrase “sexual harassment.” Public consciousness of *sekuhara* in Japan started after the first Equal Employment Opportunity legal reform and landmark legal cases were reported. The word became widely known after the Fukuoka sexual harassment case (1989-1992), the first successful hostile work sexual harassment case in Japan. Since then the word “sexual harassment” (*sekuhara* for short) has become part of the Japanese vocabulary. However, until recently, *sekuhara* was not treated seriously, but referred to describe troubles between men and women in the workplace.

Once Raicho Hiratsuka (1886–1971), political activist and pioneering Japanese feminist wrote in the first issue of her magazine, *Seito* “In the beginning, woman was the sun (reference to the Shinto myth of creation) Now, woman is the moon that shines only with the light of another.” She was best known for her daring challenges to male-defined social norms in Japan especially in the 1910s and 1920s. She began to call for women’s spiritual revolution, and within its first few years the journal’s focus shifted from literature to women’s issues. She continued to champion for women’s rights in the postwar era founding the New Japan Women’s Association in 1963 as Japanese women did not have power and independence they had once before.

In the early twentieth century there had been gradual changes, and in a vast majority of the countries women now have the right to vote and even hold the same jobs as men. But many people feel that there is still a lot of discrimination against women in the workplace and it is difficult for women to climb the ladder of success to get higher positions in the workplace because these jobs generally go to men. There is a lot of sexual harassment in the workplace and this must stop and a few countries have already taken steps to remedy this situation.

Sexual harassment is distinguished from other forms of violence against women by the fact that it takes place at work and therefore directly discriminates against equal treatment of women.. The law in most advanced industrialized nations does not specifically cover sexual harassment as a legally distinct prohibited activity. But defines it only by implication, that is a violation of statute which addresses a subject other than sexual harassment, such as labor

law (unfair dismissal), tort law or criminal law.

In Japan, the Equal Employment Opportunity Law (EEO) came into effect on April 1 1986 and in 1997 the revised EEO went into effect to make employers responsible to create a sexual free environment.. The EEO defines sexual harassment as “circumstances under which a female employee is put at a disadvantage in the workplace.” Japan recognizes sexual harassment as a national problem, and it has become a serious issue for companies and organizations. In other words, the law creates conditions ripe for the development of sexual consciousness. The revised EEO referred to sexual harassment for the first time in Japan’s legal history, and sexual harassment against a woman is not considered as a personal problem between two individuals, but employers are also now held responsible for sexual harassment in the workplace. Article 21 of the EEO stipulates that company management should take measures against sexual harassment and the Minister of Health and Labor has drawn up guidelines (Sexual Harassment Prevention Guidelines) on the items considered necessary to prevent sexual harassment from occurring in the workplace.

In recent years, a large number of public court cases involving prominent political figures placed the issue of sexual harassment in the media spotlight. This paper will discuss the problem of sexual harassment in Japan as a social issue by highlighting some of the decided cases on the subject and also explore ways in which the problem of sexual harassment could be dealt with in Japanese society..

### **The Actual Conditions of Sexual Harassment**

Sexual harassment is where by words or action one person uses against the opposite sex to feel dislike or disgrace and in many cases becomes a problem in the place of employment or in a business relation. In most cases, this involves words or actions by a male against a female. Despite common assumptions, research suggests that women are more likely to be sexually harassed when they are in the minority or majority in a work group. Instead researchers found that in most cases, women were sexually harassed at work when their work group had a similar proportion of males and females.<sup>1</sup>

According to the Ministry of Health, Labour and Welfare, the number of people coming for consultation on sexual harassment is on the rise.. Typical problems are as follows:

1. Male employees show nude pictures on computers to female employees they do not like
2. Re-employed female workers are pressured for sexual relations from the company presidents and if they refuse, they are fired
3. Male managers during working hours feel out female employee body parts
4. Female employees are invited out on dates by superiors, forcing the female to take long leave from the company

Thus sexual harassment can take a variety of forms. These can be divided into two major types: the first involves an offer of a pay raise or promotion in return for sexual favors, or the threat of demotion if sexual advances are refused. Since refusal produces clear results, it is easy to determine whether the advances constituted sexual harassment. The second depends on the individual woman’s tolerance, it is hard to determine whether the words or behavior amount to sexual harassment. If a man continues to use sexual words or behavior even after a woman has shown through her words or action that what he is doing

is unacceptable, the situation falls into the second category.

A survey in August 1991 showed that 90% of women were sexually harassed on the way to and from work. The same survey showed that 70% of women experienced sexual harassment at work. Anger over sexual harassment has been rising in recent years, where women travelling on trains and subways are frequently groped by male passengers. This is the main reasons why some of the railway companies have separate cars for ladies during the rush hour in the mornings and in the evenings. But the idea that such harassment is no longer being tolerated and more women are reporting the cases and taking action. This can be clearly illustrated by the recent case reported by the media where a celebrated economist and former professor at a graduate school who had a string of arrests for sex related offences. The most recent when he was arrested for molesting a schoolgirl on a train in September 2006.

More than two-thirds of female public servants in Japan suffer from some form of sexual harassment although serious acts have become rare, a new government survey shows. More than half of Japanese bureaucrats of both sexes have experienced some form of sexual harassment and the figure rises to 69.2 percent for women according to a poll conducted in 2000 by the National Personnel Authority between July and September.<sup>2</sup> But the introduction of the Equal Employment Opportunity Law has helped to drastically reduce the serious cases such as touching the body and stalking.

. In Japanese companies, by allotting duties according to gender, females are at a risk of experiencing harassment more often as they are assigned domestic duties such as serving tea or cleaning up duties which are regarded as beneath men. Women are usually not eligible for promotions and are expected to retire after getting married. Women being considered “workplace flowers” perhaps it is not surprising that one bank a few years ago told women coming to its welcoming party for new employees to wear swimsuits.<sup>3</sup> Similarly, Kyoko Oda, a secretary at a law firm said her boss at a previous company had drawn pictures of an outfit he wanted her to wear — one containing transparent parts.<sup>4</sup>

### **Cases of Sexual Harassment in Japan**

Sexual harassment or *sekuhara* is the largest discrimination case reported to the equal employment offices (EEO) among employed women in Japan. These numbers do not simply reflect difficult employment conditions workers face, but also provides evidence of growing legal consciousness among working women in response to broader legal and social change.

Starting with the landmark Fukuoka case in 1989 that marked the first successful legal action against sexual harassment in Japan, a district court ruled that a company and one of its male employees had violated a woman's right because of crude remarks that drove her to quit her job. The suit involved an unmarried woman employed by a small publishing company in the city of Fukuoka, who said that one of her supervisors had spread rumors about her, saying she had a reputation for promiscuity. She tried to get him to stop, but was advised instead to quit. The Fukuoka District Court held that both the superior and the employer were liable to the plaintiff in a amount of 1.65 million yen for damages.. In the decision of the Fukuoka case, it was recognized that sexual harassment violated the dignity and sexual equality that constitute the personal right of the plaintiff. It also recognized the responsibility of the employer to create a working environment based on the equality of the

sexes and made the company pay compensation. "This is the first case in which verbal comments by a man has been found to constitute sexual harassment," said Yukiko Tsunoda, a lawyer in the case. "Sexual harassment is a big problem in Japan and we hope this will send a signal to men that they have to be more careful."<sup>5</sup> The lawsuit was the first ever filed in Japan charging sexual harassment. Since this was the first lawsuit filed in Japan, awareness of the problem especially among young men and women has grown, but it is difficult to raise social consciousness as still many men and even some women think it is not much of a problem. But it certainly set off commentary across the country about sexual harassment, stirring debates among men and women in the press and in offices. Women's groups and indeed women generally say that sexual approaches by men from suggestive remarks to touching are the norm in Japanese workplaces.

In Nagano Prefecture, a village assembly demanded the resignation of its deputy mayor in April 1993 in response to allegation that he sexually harassed a 23 year old female English teacher from the United States. In this case, the deputy mayor had touched the woman on her shoulder and back while offering her *sake* at a village sponsored party despite her protests. Embarrassed by his behavior the woman avoided him at the party, but the deputy mayor had reportedly pulled her by the arm and struggled with her demanding that she join him and a group of people going out for more drinks.<sup>6</sup> Village officials who were present at the party complained to the mayor about the incident, and the mayor issued an admonition which in effect, asked the deputy mayor to resign. Meanwhile, the Nagano prefectural government questioned the deputy mayor about the incident. He told the village assembly he did not remember the event clearly, as he had been intoxicated during the party.

In this instance, most people would not condemn the deputy mayor's behavior at the party saying that it was part of Japanese culture for both men and women to drink together at a party and enjoy themselves. At get-togethers, it is a common custom for women to pour *sake* or alcoholic drinks to men. On the other hand, it would seem to be strange to a foreigner who is not accustomed to Japanese culture as similar cultures may not exist in her home country. Therefore, it is important to take into account differences in thinking among individuals, as well as how cultural and social backgrounds affect individual behavior. However, this case may have taken a more serious turn, had the amended Equal Employment Opportunity Law been in operation.

Despite the developments in the law, Japanese lawmakers have come under attack recently for failing to adequately promote awareness of equal rights. This fact can be supported by the case of former Osaka Governor, late Knock Yokoyama who resigned in December 1999 was ordered on December 13 to pay 11 million yen in compensation to a university student who claimed that Yokoyama had touched her body when she was working as a member of his election campaign team.

A professor of a state run university in western Tokyo has been suspended for three months for sexually harassing two of his female students in 1998. The professor, 55, had committed repeated acts of sexual harassment against the two women including coercing them to go with him to a bar, forcing them to dance and touching them.<sup>7</sup>

In 1999, the Tokyo city government conducted a survey and reported that 26.5% of women workers have reported having had some unpleasant experience on the job mainly being told lewd jokes or being touched. More than two-thirds of female public servants in Japan suffer from some form of sexual harassment. More than half of Japanese bureaucrats

have experienced some form of sexual harassment and the figure rises to 69.2% according to the poll conducted by the National Personnel Authority between July and September 2000. But many women working for government ministries still suffer from questions about their age and appearance and also sex jokes in office, the survey showed.<sup>8</sup>

Complaints of sexual harassment in Japan rose by 35% in 1999 according to government figures. In the traditionally male-dominated society, the Ministry of Labor received 9,500 reports of sexual harassment.<sup>7</sup> lawyer Hisaaki Shirai said “We’re seeing more and more cases that had not surfaced previously. I think the idea that it is no longer something that should be tolerated is spreading among women.”<sup>9</sup> Half the complaints were filed by the women themselves, while the rest were reported by companies asked to handle the cases. The sharp increase may be due to the change in the labor laws in 1999 making companies responsible for banning sexual discrimination and harassment at work.

This can be supported by the government survey conducted in May 2000, which showed that complaints about sexual harassment had jumped to 35% in 1999, about half of which were filed by women workers. The report showed that in about 10% of cases, women workers said they had been treated unfairly in their jobs by male superiors after refusing to have sex with them.

In another case, a top official in the Japanese Communist Party who frequently appeared on TV panel discussions to represent his party resigned as a member of the House of Councillors and policy chief after admitting to sexually harassing a woman. The woman had filed a complaint with the JCP headquarters saying that she was sexually harassed at a party in late May 2003. The Diet member admitted to harassing the woman and offered to resign his upper house seat and the party at its general meeting decided to sack him as a senior member of the party over the scandal.<sup>10</sup>

It is not uncommon for politician and Diet members, but also local government heads and local assembly members to resign from posts and from their parties because of sexual harassment scandals and extramarital affairs.

On August 9, 2005 the Ministry of Education, Culture, Sports, Science and Technology released a finding of a report on sexual harassment by school teachers in Japan. The findings revealed that 166 teachers in public elementary, junior and high schools faced disciplinary action due to sexual harassment in the 2004 school year. Of the total, 95 were fired, 30 were suspended and 9 had their salaries cut, 5 were given warning and the remaining 27 resigned voluntarily.<sup>11</sup> The number of those who faced disciplinary action decreased by 16 compared to the year before, but the figure has substantially increased in the last 10 years. There were only about 30 cases in 1995. Of the 166 cases, 46.4% of the victims were students, while 2.4% were graduates.

The Japanese Survey on Working Women’s Consciousness (Recruit Works) shows that there are a number of cases of sexual harassment among working women. These are in the form of verbal, visual, and physical sexual harassment at work, including stalking and sexual assault in extreme cases. About 50% of women in their 20s and 30s report experiencing sexual harassment in their working life. The survey revealed that younger women and women with higher income levels reported significantly more lifetime harassment experience. Working women in Japan, particularly highly educated with higher income have far lower job mobility. Such restricted career mobility indicates that they may be stuck in workplaces with

their harassers since women in Japan have greater difficulty having alternative employment.<sup>12</sup>

In September 2008, the head of an Air Self-Defense Force academy was sacked over allegations of sexual harassment against a female deputy. He has owned up to the harassment according to ministry officials. The ministry failed to make the dismissal public even though it usually announces changes in personnel involving ranking officers. The ministry started the procedure to reprimand the major general immediately after it received a report on the allegations, but has yet to decide on the punishment. “We need to consider the privacy of the harassed women, but it is questionable why the ministry did not publicly announce the dismissal.” The woman claimed she was sexually harassed by a colleague, but when she reported it to a senior officer, she was told to retire. She subsequently filed a lawsuit at the Sapporo District Court seeking about 11 million yen in damages.<sup>13</sup>

In 2008, 8,140 women working in Japan brought sexual harassment claims to prefectural equal employment opportunity (EEO) offices. This represents 64% of the 12,782 EEO related reports that women made to regional government, a large increase since 2005.

## Conclusion

Although the rights and status of women may vary according to cultures and traditions, certainly a civilized global society must insist that barbaric practice in respect of women must cease. Discrimination in any form and the curtailment of individual rights and dignity must be resisted. It is possible to achieve a good global governance throughout the world only if women are granted equal rights and respect as men. Article 1 of the Universal Declaration of Human Rights, emphasizes that “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Sexual harassment is an expression of the fact that Japanese society does not treat women and men as equal players. In the past, many female victims of sexual harassment felt that they should not complain to a higher authority because it was not serious enough to constitute a crime. Such women who avoided complaining would not make male officers understand the pain of their wrongful act. However, recent efforts after the implementation of the Equal Employment Opportunity Law which covers sexual harassment can be seen as the first step toward making the society understand and realize about women's rights to work and participate in other activities.

In Japan, it is observed that sexual harassment is present in groups with a wide range of female representation. Work groups that were predominantly female were protected from the most extreme forms of sexual harassment, but women in these groups were more likely to be targeted. But Prof. Randy Hodson of Ohio State University and co-author of a study looking at 110 work groups from around the world, says that although some people argue that women are more likely to be harassed when there are just a few women, and other people argue that women are the dominant group in an occupation, it is not the case. Most sexual harassment occurs in situations in equally mixed gender groups. According to Prof. Hodson, there is a lot more opportunity in these groups because there are a lot of men, who have contact on a regular basis with a lot of women, and that's going to create more opportunities for sexual harassment. When women are less represented or when they are mainly working with other women, there is simply not much opportunity.<sup>14</sup> While Lindsey Joyce Chamberlain, a doctoral student in sociology at Ohio State University says that women



who had more autonomy were more likely to be the victim of every type of sexual harassment. More power at some organizations led to women being taunted, but it also opened the door for sexual solicitation, threats, and forced sexual contact. She had believed that women with more power would be protected from certain types of harassment. But many had been harassed because they were in positions with power. Women who have jobs with higher autonomy may be seen as threats to men in organizations that have been traditionally male dominated.<sup>15</sup> This is clearly the case in most Japanese companies. As more and more women are demanding gender equality and holding managerial positions, the trend is for them to be sexually harassed because they are holding positions that were traditionally held by men.

It is observed that in Japan certain occupations and industries show higher work harassment rates. Clerical workers report higher rates of harassment experience than other types of workers. One might expect older women in Japan to report more harassment experience because they have worked longer. But we find that in Japan, younger women report higher lifetime rates of harassment. This is because these young women are aware that sexual harassment is linked to legal options, such that women are more likely to report sexual harassment when they believe there is a mechanism for redress. It is common in Japan for working women to leave their jobs for their family at least for a few years. This no doubt reduces the risk of sexual harassment at work. When they return to work, they tend to work in lower skilled jobs on a part-time basis in gender segregated workplaces, where they are less subject to sexual harassment.

In addition, the characteristics of a woman's job also influenced the likelihood and type of sexual harassment. While increased job security was effective in combating the worst forms of sexual harassment, other factors were less effective. While women who had more autonomy and in positions with power were more likely to be the victim of every type of sexual harassment.

The very first step towards dealing with sexual harassment is to clearly define the position of females within the working or academic environment. Often sexual harassment is a result of preconceived ideas about male and female roles in society. It is necessary for companies to maintain an environment in which women can work happily and women must summon up the courage to reject unwelcome advances unequivocally even when those making the advances are their superiors.

Sexual harassment in the workplace remains a serious impediment to women's economic advancement and is especially likely to risk her job if the violator is a top manager as is often the case. Non-regular workers are especially vulnerable and in extreme cases harassment can lead to severe depression or even suicide. A victim of sexual harassment always fears to complain as she is at risk of losing her job and will not be able to maintain herself. Therefore, it is important to stress the seriousness of sexual harassment within a policy and make it very clear that "sexual harassment must be understood as an exploitation of a power relationship rather than is an exclusively social issue." The Equal Employment Opportunity Law stipulates that those in managerial posts must make every effort to ensure female employees are not treated disadvantageously for protesting or complaining about sexual harassment by male colleagues. Although most people view sexual harassment as a social issue, some officials argue that sexual harassment should be dealt with as a problem of individual morality and not well suited to legal regulation.<sup>16</sup>

Many of the recent cases regard harassment as cases that happened behind closed doors says Reiko Nakamura, a lawyer who mainly handles sexual harassment cases. "In such cases, the assaulters all deny the accusation. The judges question why the woman did not escape from the room, why she did not cry out." Rather than suing, women complain to a local labor commission, which typically arranges an apology and a payment of a few thousand dollars.<sup>17</sup> This could be supported by the sexual harassment case which took place as far back as 1991, where a 55 year old elementary school teacher in Hachioji sued her principal. She declined to make her name public because it would bring unwanted attention and shame on her family. One night in 1991, when she and the principal were returning from a late night function that involved dinner and drinking, he suddenly made improper sexual advances towards her. When she resisted that and subsequent approaches, the principal removed her from the classroom and gave her a minor job. In this case, the court ruled the principal had wronged her by exposing himself, but rejected her claim that her job change constituted harassment. The principal was ordered to pay \$ 5,000, a quarter of what she had sought. The woman had really wanted to have the principal fired.<sup>18</sup>

As preventive measures, it is important for companies and other institutions to prepare sexual harassment related regulations, and educate the employees about them and create an environment free of sexual harassment. Companies must set up counselling services for those who have been sexually harassed. On the other hand, some women may fear that by relating details of their experience, they may be subjected to harassment all over again.

In order to prevent the recurrence of sexual harassment, harsh punishments should be imposed to prevent further sexual harassment expansion. Some may think it is difficult to determine if an action constituted sexual harassment or not. Whether an action constituted sexual harassment must be judged on the basis of the relationship of two parties. The result can be completely different depending on whether the actor is a superior or a lover. Thus, the existence of sexual harassment depends on the viewpoint of the victim. This can be a difficult judgement for a third party to make. In this case, there may be cases of particularly strong dislike and a case may be made up. As the label of sexual harasser can gravely damage the party, the manager in charge of handling these kinds of problems must take particular care to give both sides the opportunity to be heard so that they can give their own explanation in order to try and make a clear and fair determination of the facts.

The equality law still is the subject of much dissatisfaction, but it seems to have brought improvements to some workplaces. The key question, in fact, seems whether the Japanese women's revolution to bring about equality will triumph, but how soon. As we have already seen in the first part of this paper, the efforts made by the pioneering Japanese feminist Raicho Hiratsuka to bring about changes in the male-defined social norms, the question arises whether she would have been satisfied with the changes made in Japan if she had been alive? As for the goal of real equality in the workplace, however, that remains a long way off. This is because the problem of sexual harassment has not been considered and viewed as a serious social issue, because treating women in inferior manner has long been a part of Japanese culture. Although Japan has seen many advances towards gender equality over the past few decades, women who have faced sexual harassment often face a familiar old problem. It is not surprising that some top politicians who are responsible for educating the public to try to eliminate gender bias can publicly state that the world has no need for "old hags" past child bearing age and remain the country's popular politician including among women and one other prominent minister said that single women are a burden on the state yet remain a powerful political force?<sup>19</sup>



As the Japanese society is facing a period of economic and social change brought about by falling birthrate and the aging of the population, there is common awareness that gender equality and gender discrimination is essential in order to achieve historical reform and build a prosperous and stable society in the future. The causes of persistent inequality between women and men in Japan are gradually becoming clearer though only partially understood. Employment forms the economic base for people's lives and is of extremely important significance in the realization of a gender equal society. The population of those 65 or older will outnumber those of 15 or younger and the available workforce will decrease substantially to 54.6% of the population by the year 2050, down 69.5% in 1995. This would definitely mean that the Japanese society must change the work environment to enable female employees to work in an atmosphere free of unreasonable discrimination, and encouraging good morale.<sup>20</sup>

This view can be supported by what Robert C. Christopher in his book *The Japanese Mind: the Goliath Explained* where he says: "Despite all the deeply entrenched resistance to the concept of female equality, there are strong economic forces in its favor - the most important being the growing shortage of new entrants into the labor force brought about by Japan's low birthrate."

## References

1. "Women Experience More Sexual Harassment in Work Groups with Male Female Balance," *ScienceDaily*, <http://www.sciencedaily.com/release/2008/11/0811121404> retrieved on November 15, 2008.
2. Half of Japan's Public Servants Get Harassed Sexually, *People's Daily*, December 17, 2000.
3. Andrew Pollock, Sexual Harassment: Japanese style. While incidents are common, complaints are rare," Southern Electronic Publishing Co., May 6, 1996.
4. Andrew Pollock, "It's See No Evil, Have No Harassment in Japan," *The New York Times*, May 7, 1996..
5. "Landmark Sexual Harassment Case in Japan," *The New York Times*, April 17, 1992
6. "Village censures sexual harassment," *The Daily Yomiuri*, May 27, 1993.
7. *Kyodo News*, September 3, 2001.
8. "Half of Japan's Public Servants Get Harassed Sexually," *World*, December 27, 2000.
9. "Harassment claims soar in Japan," *BBC News*, May 2, 2000.
10. "JCP's Fudesaka quits over sexual harassment," *The Daily Yomiuri*, June 25, 2003.
11. "Sexual harassment by teachers increasing in Japan," *Japan Probe*, September 3, 2005
12. Chika Shinohara and Christopher Uggen, "Sexual Harassment: The Emergence of Legal Consciousness in Japan and the US." *Japan Focus*.
13. "ASDF academy head axed over sexual harassment," *Kyodo News*, November 15, 2008.
14. "Women Experience More Sexual Harassment in Work Groups With Male Female Balance," *Science Daily*, November 12, 2008.
15. *ibid*.
16. "Half of Japan's Public Servants Get Harassed Sexually," *World*, December 27, 2000.
17. Andrew Pollock, "It's See No Evil, Have No Harassment in Japan," *The New York Times*, May 7, 1996..
18. *ibid*.
19. "Japan's gender debate," *The Japan Times*, May 10, 2005.
20. "Women's rights vs. complacency," *The Japan Times*, July 4, 2003.