

Collision of Social Norms: Consideration from a Sexual Harassment Case in Japan

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ABSTRACT: Since the introduction of the Equal Employment Opportunity Law in 1985, the term *seku-hara*, or “sexual harassment,” has been widely used in everyday life in Japan. However, accusing someone of sexual harassment is still difficult, and women often do not speak out for fear of secondary harm (Ito 2017; McNeil 2018). Against this backdrop, a sexual harassment accusation was levied by a female journalist against a top governmental bureaucrat in the Ministry of Finance in 2018. After a weekly news magazine reported this case based on an audio file secretly recorded by the journalist at a meeting, public debates arose over the “appropriateness” of the accuser’s actions, potentially leading to victim bashing. In this research, three main controversies are focused on: (1) the appropriateness of unauthorized recordings obtained by the journalist at the meeting, (2) leaking the audio to a media company that the journalist is not employed by, and (3) the “woman’s way of working”. Drawing on the Framing Theory (Entman 1993), this paper analyzes these issues, focusing on social and cultural norms that underlie differing opinions. We argue that the usual social norms and those social norms in the crisis must be distinguished with regard to (1). Regarding (2), some interpret her action as violating professional ethics, while others view it as a form of social resistance akin to whistleblowing. The third debate shows that conventional social values in Japan conflict with new labor ethics that seek gender equality in the workplace.

KEYWORDS: sexual harassment, secondary harm, victim bashing, norms, frame, framing analysis

1. Introduction

Since the Equal Employment Opportunity Law (EEO) was introduced in 1985, the term *seku-hara*, or “sexual harassment,” has been widely used in the media and in everyday life in Japan. However, making accusations of actual harm or contesting the issue in court is generally still difficult, and women often do not speak out for fear of secondary harm or bashing (Ito 2017; McNeil 2017; McNeil 2018).

Against this backdrop, a weekly news magazine that went on sale on April 12, 2018 accused a top bureaucrat in the Ministry of Finance (MOF) of committing sexual harassment at a meeting with a journalist to gather information. The Weekly Shincho April 19 issue, which was released a week before the official title, reported that Mr. Junichi Fukuda, the then MOF Administrative Vice-Minister (AVM), had previously made sexually harassing statements to several female journalists. The main event occurred at a restaurant near his home on the evening of April 4 and was recorded by a female journalist. Sexual harassment had frequently occurred at dinners for newsgathering purposes, and a journalist who felt anxious about these incidents had consulted her superior several times. Nevertheless, it was subsequently reported that the incidents did not become public because the superior considered that the female journalist would suffer secondary damage given the company’s internal and social conditions. Therefore, she avoided having evening meetings with Mr. Fukuda for approximately one and a half years. However, on April 4, NHK reported on the educational foundation Moritomo Gakuen, noting that the Finance Ministry had arranged with Gakuen beforehand to tell the same story about the land deal and to confirm the facts. Using all supporting information for this report, TV Asahi asked the journalist to meet face-to-face with Mr. Fukuda that same evening (TV Asahi 2018, April 24).

Mr. Fukuda and the journalist did not work in the same workplace. However, as described in Section 3, meetings can be considered extensions of the workplace. As a public domain event, not only the AVM designated as the perpetrator but also the MOF—to which

Mr. Fukuda belonged—and the Finance Minister Mr. Taro Aso were involved, given the obligation to prevent sexual harassment, as outlined in NPAR 10-10. Mr. Fukuda, as the MOF’s administrative head, was actually in a position to lead preventive actions.

The MOF’s first response was to reprimand the suspected individuals. On the same day, at the House of Councilors’ Fiscal and Finance Committee, Minister Aso announced that the MOF would not investigate further details and would only issue a warning to Mr. Fukuda regarding this issue (Yomiuri Shimbun, 2018, April 12). However, voices from various quarters, including the ruling Liberal Democratic Party, demanded clarification of the facts (Asahi Shimbun, 2018, April 13). On April 13, when the audio data were released on the Daily Shincho website, the MOF opened a formal investigation. The audio file was considered to have been recorded at a dinner on April 4.

On April 16, under the direction of Minister Aso, the MOF released the results of the interview conducted by the Director-General of the Minister’s Secretariat Mr. Yano and other officials and announced a policy to start investigations to verify the facts (Ministry of Finance 2018, April 16). In this document, the AVM Mr. Fukuda denied having engaged in harassment, stating: “I have no recognition that any statements that made the other party uncomfortable and correspond to sexual harassment.” He also indicated that he was preparing to sue Shinchosha (Ministry of Finance 2018, April 16). After Mr. Fukuda denied committing sexual harassment, Minister Aso referred to the right of the accused: “We have to think of (Mr. Fukuda’s) human rights” (Asahi Shimbun on April 17, 2018, Sankei News on May 5, 2018). As the scandal spread and was amplified, TV Asahi held an emergency press conference at midnight on April 19 to clarify its organizational response. The Director of the Press Bureau, Mr. Shinozuka, stated that an internal investigation indicated the accuser was a female journalist of the company. In addition to explaining the background, he expressed his remorse for the company’s inadequate internal response. He also stated that for women journalists to provide information obtained through newsgathering activities to a third party, Weekly Shincho, was inappropriate (Yomiuri Shimbun 2018, April 19). This point is related to one of the main points and will be discussed in greater detail in Section 4.

The public debates that arose over the “appropriateness” of the accuser’s actions could lead to victim bashing. This research focuses on three main controversies: (1) the appropriateness of the unauthorized recordings obtained by the journalist at the meeting, (2) leaking the audio file to a media company that the journalist is not employed by, and (3) the “woman’s way of working”. Our argument is developed in this paper as follows. Section 2 discusses a framing analysis to establish the theoretical basis for the case study. Section 3 briefly outlines the introduction of “sexual harassment” in Japan in the late 1980s and the related rules and recommended practices. Section 4 analyzes three public debates, as indicated in (1) to (3) above, constructed during the management of this crisis. We begin with the theory used to analyze this case.

2. Theory

Framing is one of the most essential concepts in discourse analysis, although the exact definition of framing varies among researchers (Van Dijk 1977, Tannen 1985). One of the first definitions of the “frame” is given by Goffman (1974): frames are “principles of organization which govern events—at least social ones—and our subjective involvement in them” (Goffman 1974, 10-11). The use of framing as an analytical concept rapidly spread through the social sciences to areas such as cognitive psychology and economics (Kahneman and Tversky 1979), sociology (Snow and Benford 1988), and communication and media studies (Entman, 1993, Pan and Kosicki, 1993, Scheufele, 1999). I follow Entman’s formulation, who characterizes “frame” as follows (Entman 1993, 52):

To frame is to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described.

This conceptualization of the frame is useful and appropriate for an analysis that considers the underlying subjectivity, values, internalized norms, and moral judgments. Thus, the study adopts Entman’s (1993) four factors to interpret the various opinions involved in public debates. Table 1 summarizes the four factors and their explanations.

Table 1. Four analytical factors of framing

	Factors	Explanations
1	Define problems	determining what a causal agent is doing with what costs and benefits
2	Diagnose causes	identify the forces creating the problem
3	Make moral judgments	evaluate causal agents and their effects
4	Suggest remedies	offer and justify treatments for the problems and predict their likely effects

Summary based on Entman 1993, 52

As is well recognized, studying some discourses may involve all four factors, while other discourses may lack some. Since the last item of “suggest remedies” would not appear in the opinions in the case at hand, I will try to categorize various messages with respect to the female journalist’s acts in the public debate by using the remaining three factors, mainly factors 1 and 3, that is, ‘define problems’ and ‘make moral judgments’.

Before examining the case at hand in Sections 4, the general provisions and practices related to sexual harassment in Japan are discussed.

3. Empirical background

3.1. Introduction of “sexual harassment” in Japan

The concept of sexual harassment was introduced in Japan in 1989, when the women’s magazine “More” featured articles on this concept. In the same year, the term sexual harassment won the “Fashionable Language Grand Prize,” and the first sexual harassment lawsuit was filed. The first sexual harassment lawsuit in Japan was the Fukuoka Sexual Harassment Case, in which a female employee of a former publishing company sued a former boss and the company (Kojima 2008, 24–25). Sexual harassment has become widely used as a normal term, and related legal rules have been established, although different rules cover the private and public sectors. For the private sector, the EEOL was amended in 1997 to prohibit discrimination against women in recruitment, hiring, and promotion, and imposed a duty of consideration by employers to prevent sexual harassment. For the public sector, the National Personnel Authority Rule 10-10 (NPAR 10-10) came into effect in 1999, requiring public service employees to prohibit sexual harassment and government agency heads and supervisors to take preventive measures to prevent such harassment. These provisions of the organization’s obligation to prevent sexual harassment are essential in interpreting sexual harassment as a right to work and not as an individual issue.

3.2. Related rules and recommended practices

As previously mentioned, the revised EEOL for the private sector and the NPAR 10-10 for the public sector are central laws on sexual harassment. Various documents have been issued to supplement these laws and rules, leading to concrete actions to disseminate the spirit of the legislation. This section focuses on three issues closely related to the case in hand: implications and results of sexual harassment in business contexts, cautions for secondary

harassment, and interpretations of the workplace that should be adopted when thinking of sexual harassment.

First, both the revised EEOL and the NPAR 10-10 explain that sexual harassment is a socially unacceptable act that hurts the dignity of workers and hinders them from exercising their abilities. They also explain that sexual harassment is a problem that may hinder business operations and adversely affect social reputation; accordingly, systematic measures against sexual harassment should be in place. The employer is primarily responsible for preventing sexual harassment in the private sector, and the heads of each ministry are responsible in the public sector. Additionally, the education of individual employees is emphasized in the public sector. Thus, it follows that Mr. Junichi Fukuda, the accused, played an important role in preventing sexual harassment at work as the then AVM of the MOF, the head of the administrative side of the ministry.

Second, both sectors emphasize preventive measures to be taken to avoid “secondary sexual harassment.” The revised EEOL notes that when employers receive consultations about sexual harassment, they should pay attention to secondary sexual harassment, that is, when the consulter is further harmed by the words and actions of the person in charge at the consultation desk or at other moments during the investigation of the harassment claims.

Third, an important issue regarding the case is that both NPAR 10-10 and the EEOL stipulate that sexual harassment is not limited to employees or workplaces in a narrow sense, meaning those in the same workplace. Its scope also extends to business relations with different companies when working. Thus, the case in hand is a serious sexual harassment case that could hinder working conditions. The following section examines the specific characteristics of the case in question.

4. Analysis: Conflicting norms in the social arena

As the news spread, controversy developed over the appropriateness of the accuser’s actions from various perspectives. These factors have the potential to lead to secondary sexual harassment and, hence, to victim bashing, as mentioned in Section 3.

The following three topics explore the collisions of social norms and the way they shaped the public debate. The first topic concerns the appropriateness of unauthorized recordings of conversations by female journalists at newsgathering meetings. The second concerns sharing the recorded data with a media company (Shincyo Co.) other than the company where the journalist is employed (TV Asahi). The third concern is the “woman’s way of working.”

The first controversy revolved around whether the conversation could be recorded without permission. One opinion is that recording the conversation without consent is inappropriate; we call this perspective View 1. In contrast, lawyers and academics responded that an audio recording is indispensable and making one is common sense when victims suffer from personal sexual harassment (TV Asahi 2018, April 25; Sankei News 2018, April 24; Asahi Shimbun 2018, April 25). Lawyers and others generally familiar with sexual harassment provide similar views (Sonoda 2015:156) on recommended actions to take when suffering from any kind of harassment. At a press conference on April 24, TV Asahi President Gengo Sunami also articulated that he “does not think it was inappropriate because it was done to protect herself” (TV Asahi 2018, April 25; Sankei News 2018, April 24; Asahi Shimbun 2018, April 25). Let us call this perspective View 2.

We will analyze these opposing opinions, Views 1 and 2, according to the three framing factors (cf. Table 1): define problems, diagnose causes, and make moral judgments. View 1 defines the secret recording as the problem, where a conversation should not be recorded without participants being informed that their conversation is being recorded. In a normal social setting, secretly recording conversations can be considered problematic and inappropriate, in apparent violation of social norms. In this framing, the act of recording is

considered inappropriate, and even more so, immoral, from an ethical perspective. However, in View 2, the problem is defined as sexual harassment. Thus, the journalist must have clear evidence of harassment, which can be taken as a cause and motivation for the recording. Accordingly, the recording does not have a negative moral value but rather is considered a due right or tactic in the case of harassment. Therefore, this debate can be interpreted as a discrepancy between usual and social norms in times of crisis that require defensive actions. When society prioritizes the prevention of sexual harassment, the recording of the conversation would be admitted as a means to prove the incident.

Let us now turn to the second issue: the audio leakage to a media company the journalist is not employed by. At the aforementioned TV Asahi press conference, the Director of the Press Bureau, Mr. Shinozuka, stated that it was “inappropriate and regrettable” that audio data was passed to the other company. Furthermore, the former Minister of the Ministry of Education, Culture, Sports, Science and Technology, Mr. Hakubun Shimomura, at a closed lecture meeting held in Tokyo on April 22, stated, “I believe that selling data to a weekly magazine is something that I think is a crime” (Yomiuri Shinbun 2018, April 24). Let us call this position View 1. In contrast to these views that blame the accuser’s actions, some journalists commented that this method is the same as that of whistleblowing and, thus, is not problematic (Sankei News 2018 April 22). Let us call this View 2. The whistleblower system protects whistleblowers from being subjected to disadvantageous treatment, such as dismissal or demotion, when employees of companies or government officials accuse others of internal improprieties or criminal acts in their institutions (Consumer Affairs Agency n.d.).

Let us again characterize these opposing views with framing factors: define problems, diagnose causes, and make moral judgments. View 1 defines the problem as selling data; she sold the supposedly corrected data from her own company to a different company. Thus, View 1 regards this act as morally problematic. In contrast, View 2 defines the problem as whistleblowing. So, this act was needed to make it appear something problematic, sexual harassment, is taking place and that nothing is wrong with transferring data.

In addition to these determinations for and against the journalist’s actions, there was another perspective which situates the journalist’s action into her impasse in the company where she works. Let us term this as View 3. An expert does not criticize the female journalist but claims that the company is responsible for forcing the journalist to act in such a manner (Yomiuri Shinbun 2018, April 20). He claims that TV Asahi’s failure to respond appropriately to sexual harassment accusation from the employee caused the journalist’s action. TV Asahi stated that it would like to improve the system to share information appropriately (April 25, 2018). Using the frame factors, this view defines the problem as the female journalist’s impasse and diagnoses the cause of the action as TV Asahi’s failure to handle the harassment appropriately. The moral judgment is, thus, to blame the company’s inappropriate handling of the case rather than the journalist.

The third issue concerns the pros and cons of “being summoned at nine o’clock at night and meeting one on one.” For example, the Chairperson of the Federation of Economic Organizations, Mr. Sadayuki Sakakibara, questioned the interviewing method and whether going to a place that served alcohol at night for a one-on-one meeting with someone of the opposite sex was appropriate (Yomiuri Shinbun 2018, April 24). Let us call this View 1. Reports also existed of Finance Minister Mr. Aso’s remark that “we can solve the problem by having all the journalists of the vice-minister men” (April 26 issue of Weekly Shincyo). If the locations and occasions at which women work are limited as a measure against sexual harassment, it is inconsistent with the purpose of the EEOL and the NPAR 10-10. In addition, concerns over sexual harassment were covertly substituted with a different issue in these discussions (Asahi Shinbun 2018, April 25). Mr. Seiji Ohsaka, a House of Representatives (CDP) member, submitted a memorandum on the questions to the Diet (Question No. 244, 2018), asking whether the government agrees with Mr. Aso’s remark. In a written reply, the

government stated, “we do not believe it is reasonable” (Reply No. 244, 2018; Yomiuri Shimbun 2018, April 28). Moreover, the government related this issue to its own policy, stating, “the government is promoting the formation of a gender-equal society that respects the human rights of men and women, including respect for the dignity of men and women as individuals, the nondiscriminatory treatment of men and women by gender, and the securing of opportunities for men and women to demonstrate their abilities as individuals.” Let us call this position View 2. We note that Mr. Ohsaka’s actions are unique and innovative in clarifying the government’s position. They would be effective in facilitating a social transformation.

We can now analyze the two opposing positions as follows. View 1 defines the problem as the female journalist’s inappropriate behavior of meeting a man at night at a drinking place. Thus, it follows that her behavior is the cause of the harassment and is morally wrong. However, View 2 framing defines the problem as inappropriate harassment, the cause of which is nothing to do with the female journalist’s behavior. This debate is important because conventional social values in Japan conflict with new labor ethics that seek gender equality in the workplace.

5. Conclusions

Drawing on the Framing Theory (Entman 1993), three debates revolving around the female journalist’s behavior are analyzed, as summarized in Table 2.

Table 2. Framing factors of the three debates

Debates	Views	Defining problems	Moral judgment
(1) Recording	View 1	Secret recording	Immoral
	View 2	Evidence recording	Fine
(2) Transfer of data	View 1	Selling data	Immoral
	View 2 & 3	Whistleblowing	Fine
(3) Working at night	View 1	Bad behavior by a female	Immoral
	View 2	Ordinary working behavior	Fine

Regarding the debates, View 1 blames the female journalist’s behavior and regards her as the direct or indirect cause of the sexual harassment. This perspective is victim bashing. We can dig further down to the social and cultural norms that underlie differing opinions or views. We argue that usual social norms and those in times of crisis underlie these different positions in debate (1). View 1 takes the usual polite social norm to be followed, while View 2 takes norms in the crisis; thus, it is necessary to make a recording to show evidence of the harassment. It should be noted that this position is mainly advocated by experts who are familiar with social problems, such as lawyers, academics, and professionals. Regarding debate (2), some interpret the journalist’s action as violating professional ethics, while others view it as a form of social resistance, such as whistleblowing. Again, the underlying norm represents the usual social setting for View 1 and that of the time of crisis for View 2. The debate on the journalist’s actions to pass the audio data to another company involved diverse perspectives, from whistleblowing to the company’s responsibility for workplace management. Regarding debate (3), View 1 is a typical example of blaming the victim and relies on traditional gender roles and perspectives of femininity, while View 2 takes upcoming norms for gender equality in the workplace and empowerment of women. The third debate shows that conventional social values in Japan are against new labor ethics that seek gender equality in the workplace.

We have examined the case of sexual harassment from the perspective of conflicting norms in society. These three debates are closely related to issues of human rights and social norms, such as occupational ethics, methods of accusation, and gender equity, and have

formed a public debate as an ideological struggle among diverse citizens. In each debate, when the discourse about secondary harassment appears, antagonism that avoids marginalization of the victim also appears.

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