

# SEX DIFFERENCES, GENDER IDENTITY & THE CONSTITUTION OF SEXUAL HARASSMENT IN THE WORKPLACE

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## Abstract

*The prevalence of sexual harassment is ubiquitous, however, there is room for interpretation of the events that may make up sexual harassment including the severity of the incident, gender identity of the victim, and sex of the judge. Current research practices have failed to provide an inclusive representation of trans individuals who have experienced sexual harassment in the workplace and other relevant areas. We examined how the sex of the judge (male or female) and the gender identity of the victim (transgender or cisgender) affected the perception of an ambiguous sexual harassment vignette including sexist remarks. We predicted that men will be less likely to perceive the incident as sexual harassment, assign the perpetrator less accountability and punishment, and will have more anti-trans prejudice and victim blame compared to women. We predicted that participants will perceive the transgender victim more negatively than the cisgender victim. A one-way analysis of variance was carried out for each of the hypotheses and found significant results of the sex of the judge on anti-trans prejudice  $F(1,418) = 8.31; p = .004$ , and an effect of the sex of the victim on believability  $F(1,421) = 8.76, p = .003$ .*

*Keywords: workplace sexual harassment; gender identity; sex differences; anti-transgender prejudice; accountability; punishment; victim blame; believability;*

## Introduction

The EEOC's definition of sexual harassment (SH) states the incident must be "severe and pervasive" to constitute sexual harassment action (2018). Therefore, it follows that there is room for interpretation of what sexual harassment is depending on who is judging the situation. In 1980, a report was written on sexual harassment defining five categories arranged in a hierarchical fashion based on the extremity of the incident, with the lowest order being Generalized Sexist Remarks or Behaviors and the highest order being Sexual Crimes (Till, 1980). Till's report was primarily focused on establishing a spectrum of SH scenarios that reflects victim experiences in response to a series of sexual harassment cases that were going on at his teaching university.

Indubitably, we see gender inequality in our society through the types of professions typically represented by each sex in our health care, political, and legal sectors. For example, in 2017, researchers found that 51% of our population is female yet only 30% of all state judges are female (Tracey & Yoon, 2017). This inequality is one that is smaller than in previous decades, nevertheless, it still exists. This raises a question of what effects the sex of the judge has on the determination of workplace sexual harassment cases because it was found that 86% of perpetrators are male (Rosenthal, Schmidt, & Freyd, 2016). Furthermore, in 2015, the EEOC's statistics state 56% of SH cases constituted no punishment for the perpetrators. Therefore, we hypothesize that males will be less likely

to perceive sexual harassment in a scenario where there is some ambiguity like in Till's first category of general sexist remarks. Past research has found that men perceive some situations as less sexually harassing than women (LaRocca & Kromrey, 1999).

Not only does the sex of the judge affect perceptions of SH, but it has been shown that perpetrator accountability and perpetrator punishment are also affected by the sex of the victim and perpetrator. One study found that a victim is judged as less accountable when the perpetrator is male, and the victim is female. In addition, a female perpetrator is evaluated as less accountable and punished less severely than a male perpetrator (Rye et al., 2006). When the perpetrator and victim are both males, the punishment is less severe and the perpetrator is judged as less accountable compared to a case involving a perpetrator and victim of opposite sexes (Rye et al., 2006). This indubitably illustrates the difference of perception regarding sexual harassment based on the sex of the victim and perpetrator.

It is clear that perceptions of sexual harassment vary based on sex, including sex of the judge, sex of the victim, and sex of the perpetrator. As gender influences judgements regarding sexual harassment in a variety of ways, it is important to expand research on gender and sexual harassment to include gender identity. Little research has examined the effect of gender identity, which does not always match sex, on sexual harassment. Therefore, we don't know how or whether the effects previously found would carry over to transgender individuals (individuals whose biological sex does not match their gender identity). Since a gap in the sexual harassment research exists regarding gender identity, one purpose of this study is to examine it.

What we do know is that workplace SH is ubiquitous in nature as 63% of the population is affected by SH and/or sexual assault (Kearl, 2018). Approximately, 83% of women and 43% of men reported that they have experienced sexual harassment and/or assault in their lifetime, with 57% of those women and 42% of those men reporting the first occurrence by 17 years of age (Kearl, 2018). Unfortunately, there has been sparse investigation into how transgender individuals experience sexual harassment. Part of the reason is that cis-gendered individuals (individuals whose biological sex matches their gender identity) are the majority of our population and research measures fail to capture the complexity of gender identity outside of sex. Another reason is that there may be a gap of reporting these incidents for trans victims in fear of not being believed, of being blamed, and suffering further repercussions (James et al., 2016). After all, action can only be taken if the incident is reported and trans individuals have many just reasons to prevent them from making reports. We see in past research that the sex of the victim can affect responses to them. The question arises—would this be the same for trans victims? In extreme forms of sexual misconduct, research has shown higher victim blaming of transgender individuals in heterosexual males (Davies & Hudson, 2011), but would this effect still hold true for less extreme cases of sexual misconduct such as using “pet” names like sweetheart or cutie-pie (Till's Category 1—Generalized Sexist Remarks), regardless of indication of sexual orientation?

We think trans victims would be blamed more than cis victims because of the way trans victims are marginalized by our society. From the research that was conducted on trans individuals we know that

they are more subject to sexual harassment across the categories of sexual harassment, including violence, than cis individuals. Transgender individuals face high rates of interpersonal violence in the U.S., with 1 in 12 being subject to murder. This rate is increased if they are also members of other minority groups, such as race and sexual orientation, bringing the statistic to a 1 out of 8 chance (Trans Student Educational Resources, 2015).

There has been an increase of awareness and testimonials of SH experiences in recent years (Shaw & Hegeswisch, 2018), which partly can be attributed to the #MeToo Movement's debut on social media in 2017, highlighting the prevalence and tolerance of SH in our society. Unfortunately, many agree the main aim of the movement has been overshadowed (maybe even backfired) by the participation of the mainstream in highlighting experiences of privileged victims (Kearl, 2018) and side-lining the experiences of minority SH experiences such as transgender and gender non-conforming individuals. In 2011, The National Transgender Discrimination Survey reported transgender individuals are victims of discrimination in almost every domain of life including home, school, work, public, health care and law with more discrimination of minority status (James et al., 2016) providing evidence that transgender workplace SH has not been given the attention it deserves. As 41% of the population report attempted suicide (Grant et al., 2011), this signifies transgender individuals as a particularly vulnerable population.

Public attitudes towards transgender issues may be influenced by the context in which they are presented and the attitudes of the perceiver (Harrison & Michelson, 2017). One measure that may prove useful here in

deciphering the interworking's of this complex predicament is measuring anti-transgender prejudice levels. By incorporating this measure, we can determine if anti-transgender prejudice is a contributing factor of the SH case judgement along with the beforementioned constructs. In 2008, researchers established a measure on transphobia and found that females are generally less transphobic ( $M = 4.25$  compared to men  $M = 5.05$ ) (Nagoshi, 2008). Therefore, we predict female judges will have less anti-transgender prejudice than male judges, which ultimately contributes to their decision to hold perpetrators accountable, giving due punishment, believing the victim, not blaming the victim, and being more likely to perceive an event as sexual harassment.

For this study, we are most interested in how the attitudes towards gender identity and the sex of the judge will change the interpretation of what constitutes sexual harassment in an ambiguous scenario with general sexist remarks. We have not come across any literature which investigates this specific question in the context of cis or transgender identity of a victim and we aim to fill the gap. However, past research about these constructs in similar contexts has given us insight into what we expect to happen. Therefore, a summary of our hypotheses are as follows:

**H1)** Male judges will assign greater victim blame and anti-transgender prejudice than female judges;

**H2)** Male judges will assign less accountability and choose a less severe punishment for the perpetrator, assign less believability for the victim, and a perceive a lower rate of sexual harassment constitution than female judges;

**H3)** Trans victims will be blamed more than cis victims;

**H4)** Trans victims will have lower believability, constitution of sexual harassment, and less severe punishment and accountability for the perpetrator compared to cis victims. Ultimately, this study will attempt to understand a part of trans reality in the context of workplace sexual harassment and how these constructs contribute to the discrimination prevalent in our society. This study will also contribute to the growing body of recent literature on transgender individuals while also serving other bodies of literature concerning workplace sexual harassment.

### **Methods**

Subjects (N = 423) were recruited nationwide using Amazon's Mechanical Turk (mTurk), an interface which allows researchers to offer a small monetary payment of fifty cents to complete human intelligence tasks (HITs) to collect data. No other compensation was offered. Individuals were recruited in the mid-summer of 2019. Participants that spent less than four minutes on the test and participants that did not pass all three of the attention checks were excluded from analysis. All persons electronically signed an informed consent form to be included in the study, which included a Trigger Warning Disclaimer stating this study pertains to sexual harassment in the workplace.

All participants completed a measure comprising views on anti-trans prejudice using Nagoshi's (2008) transphobia scale. Next, subjects were presented with a vignette portraying an ambiguous scenario of sexual harassment and asked to complete a series of questions about the victim, the perpetrator, and their thoughts on the incident.

The frame of the scenario is based upon the participant enacting the role of a Human Resources employee tasked to decipher if a given scenario constitutes sexual harassment based on the victim and perpetrators' reports. They were asked if the incident could have been avoided and if the victim could have brushed it off (victim blame), if the perpetrator meant any harm so no harm was done (perpetrator accountability), if this scenario constitutes sexual harassment, and if they believe the victim (believability). Next, they viewed a report from the accused denying the sexual harassment claim. They were then asked again if they believe the victim after reading both reports. Additionally, we asked if the perpetrator deserved punishment and if so, to what degree (i.e. verbal or written punishment, suspension, termination).

The perpetrator was a cis male in all cases and was of equal power to the victim to diminish hierarchical dynamics. To manipulate the perception of SH, we made four scenarios each comprising one victim who had one of four gender identities; cis-gender male or female, and transgendered male or female. Demographics were collected at the end of the session before debriefing was executed explaining the purpose of the study and contact information to resources on sexual harassment in the workplace.

### **Results**

#### *Descriptive Statistics*

The median age of our sample was 39 years old and a fair split between female (N = 216) and male (N = 204) participants, with a majority being Caucasian individuals (N = 315). Out of 423 participants, 41 have not had some college with the remaining ranging from community college to graduate school experience. We also asked about

political affiliation ranging from socialist to anarchist, however, we will only report the dominant parties of Democrats (N = 212) and Republicans (N = 98) here.

Furthermore, most of the individuals constituted this scenario as sexual harassment (N = 331).

**H1)** Testing the hypothesis that males (N = 204) will have a higher score on the anti-trans prejudice than females (N = 216), a one-way ANOVA was conducted to examine the effect of the sex of the judge on anti-transgender prejudice. It was revealed that female participants scored lower ( $M = 2.32$ ) than male participants ( $M = 2.15$ ) with significance,  $F(1,418) = 8.31$ ;  $p = .004$ ; (on a scale of one being high and three being low) on anti-transgender prejudice, therefore, we reject the null hypothesis. To test the same hypothesis but on victim blame, a one-way ANOVA was also conducted and revealed that females ( $M = 1.72$ ) were lower on victim blame than males ( $M = 1.65$ ), but this effect was not significant,  $F(1,418) = 2.41$ ;  $p = .121$ , therefore, we accept the null hypothesis.

**H2)** Testing the hypothesis that the female judges will have higher scores on perpetrator accountability, perpetrator punishment, sexual harassment constitution, and victim believability than the male judges. A one-way ANOVA was utilized and found that there was no significant difference for perpetrator accountability,  $F(1,418) = 3.14$ ;  $p = .077$  and perpetrator punishment,  $F(1,418) = 1.48$ ;  $p = .225$ , or sexual harassment constitution  $F(1,418) = .809$ ;  $p = .369$ , therefore, we accept the null hypothesis. However, there was a significant finding for the believability of the victim,  $F(1,418) = 12.99$ ;  $p = .000$ , such that female judges ( $M = 87.71$ ) believed the victim more than male judges ( $M = 81.88$ ) therefore, we reject the null hypothesis.

**H3)** Trans victims were predicted to have a lower score of sexual harassment constitution, perpetrator accountability, perpetrator punishment, and believability regardless of the sex of the judge. A one-way ANOVA was conducted on each of the former dependent variables and it was found that there was no significant difference between cis ( $M = 214$ ) and trans ( $M = 209$ ) victims on what constitutes harassment  $F(1,423) = .663$ ;  $p = .446$ , perpetrator accountability  $F(1,423) = .992$ ;  $p = .320$ , perpetrator punishment  $F(1,423) = 1.17$ ;  $p = .281$ , or victim believability  $F(1,423) = .029$ ;  $p = .864$ , therefore, we accept the null hypothesis.

**H4)** Our fourth hypothesis predicted trans victims will be blamed more than cis victims. A one-way ANOVA was conducted and revealed no significant difference between the two groups  $F(1,423) = .027$ ;  $p = .869$ , therefore, we accept the null hypothesis. We used an alpha level of .05 for all statistical tests.

#### *Follow-Up Analysis*

Since there were significant findings on the sex of the judge and believability of victim and no significant findings on cis or transgender and the believability of the victim, we ran a follow-up analysis to develop the understanding of the effect of the gender of the victim without the construct of sex. A one-way ANOVA was conducted and revealed a significant difference in gender of the victim  $F(1,421) = 8.76$ ;  $p = .003$ , such that victims that identify as female ( $M = 87.14$ ) were believed more than male victims ( $M = 82.34$ ). On the contrary, there were no significant findings on the sex of the judge and believability  $F(1,421) = 2.75$ ;  $p = .098$ . The original hypotheses tested victim believability on the sex of the judge and if

trans were subject to less believability, however, we gathered a believability measure before and after the perpetrator denied the accusations. To examine if there was a difference between the means in the presence of a denial we ran a Repeated-Measures ANOVA and found a difference between the mean scores on victim believability and found that before the denial the mean score was 3.35 points higher than after the denial,  $F(1,422) = 20.44; p = .000$ .

### **Discussion**

In general, we found mixed support for our hypotheses regarding how sex of the judge, sex of the victim, and gender identity of the victim would affect judgements regarding a sexual harassment scenario. Our results corroborated the findings of Nagoshi (2008) in that females had a lower score of anti-transgender prejudice than males, although this difference was small. There were no differences in the amount of victim blaming based on the sex of the judge. We see in Rye et al.'s (2006) study that victim blame is mostly dependent on the combination of sex between the victim and the perpetrator. As we see in our results of victim blame based on cis or trans victims, the gender or sex made no difference and does not support their findings of sex differences of the victim. Our research also found that the amount of accountability assigned to the perpetrator and severity of punishment assigned to the perpetrator, was not different based on either sex of the judge or on the sex and gender identity of the victim. An explanation may be that in their study, However, we did not vary the gender of the perpetrator and it may be the interaction between perpetrator and victim sex that affects victim blame. In addition, judgment of whether the scenario qualified as sexual harassment was not affected by the sex of the victim, sex of the judge, or by the gender identity of the victim. We found that the

majority of the participants believed that the scenario was sexual harassment, meaning that it may not have been as ambiguous as we intended. However, this leaves us with a question of what influenced some individuals to disqualify this scenario as harassment if it was not their sex, or the gender identity and sex of the victim. It may be that features of the judges that were not measured, such as their level of sexism, could have affected perceptions of the scenario (Russell & Trigg, 2004).

Some insight was offered into the innerworkings of this scenario from our believability measure such that the sex of the judge did indeed influence the credibility of the victim with males finding the victim less believable (though both male and female judges had relatively high average scores in the believability of victim at approximately low to mid 80's). This is consistent with past research on how people view female victims of sexual harassment less harshly than male victims (LaRocca & Kromrey, 1999). However, after the denial of the accusations by the perpetrator, male and female judges decreased in how much they believed the victim. Moreover, we found that individuals whose gender identity reflected females were believed more than individuals whose gender identity reflected males. These findings suggest that the individuals were influenced more by internal beliefs of gender roles. Conclusively, more research is needed to elucidate the factors contributing to the assignment of severity of punishment and accountability, victim blaming, and the qualification of sexual harassment scenario that is ambiguous in nature.

## References

- Davies, M., & Hudson, J. (2011). Judgments toward male and transgendered Victims in a depicted stranger rape. *Journal of Homosexuality*, 58(2), 237-247. doi:10.1080/00918369.2011.540179
- EEOC Releases Statistics on Sexual Harassment Charges. Eeoc.Gov, (2016). [www.eeoc.gov/eeoc/statistics/enforcement/sexual\\_harassment\\_new.cfm](http://www.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment_new.cfm).
- EEOC Releases Preliminary FY 2018 Sexual Harassment Data. (2018). Retrieved from Eeoc.gov website: <https://www.eeoc.gov/eeoc/newsroom/release/10-4-18.cfm>
- Grant, J. M., Mottet, L. A., Tanis, J., Harrison, J., Herman, J. L., & Keisling, M. (2011). *Injustice at every turn: a report of the national transgender discrimination survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force
- Harrison, B. F., & Michelson, M. R. (2017). Using experiments to understand public attitudes towards transgender rights. *Politics, Groups, and Identities*, 5(1), 152-160. doi:10.1080/21565503.2016.1256823
- James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality.
- Kearl, H. (2018). The Facts Behind the #MeToo Movement: Study on Sexual Harassment and Assault Report. Retrieved from: <http://www.stopstreetharassment.org/wp-content/uploads/2018/01/Full-Report-2018-National-Study-on-Sexual-Harassment-and-Assault.pdf>
- LaRocca, M. A., & Kromrey, J. D. (1999). The perception of sexual harassment in higher education: Impact of gender and attractiveness. *Sex Roles*, 40 (11-12), 921-940.
- Nagoshi, J. L., Adams, K. A., Terrell, H. K., Hill, E. D., Brzuzy, S., & Nagoshi, C. T. (2008). Gender differences in correlates of homophobia and transphobia. *Sex Roles: A Journal of Research*, 59(7-8), 521-531. <http://dx.doi.org/10.1007/s11199-008-9458-7>
- Rosenthal, M.N., Smidt, A.M., & Freyd, J.J. (2016). Still second class: Sexual harassment of graduate students. *Psychology of Women Quarterly*, 40, 364-377.
- Russell, B.L., & Trigg, K.Y. (2004). Tolerance of sexual harassment: An examination of gender differences, ambivalent sexism, social dominance, and gender roles. *Sex Roles*, 50 (7-8), 565-573.
- Rye, B. J., Greatrix, S. A., & Enright, C. S. (2006). The case of the guilty victim: The effects of gender of victim and gender perpetrator on attributions of blame and responsibility. *Sex Roles: A Journal of Research*, 54(9-10), 639-649. <http://dx.doi.org/10.1007/s11199-006-9034-y>
- Shaw, E., Hegeswisch, A., & Hess, C. (2018). Sexual Harassment and Assault at Work: Understanding the Costs. *The Institute for Women's Policy Research (IWPR)*.
- Till, F. J. (1980). Sexual Harassment. A report on the sexual harassment of students. *The National Advisory Council on Women's Educational Programs*. Retrieved from: <https://files.eric.ed.gov/fulltext/ED197242.pdf>
- Tracey, G., & Yoon, A. (2017). Report: Who sits in judgement on state courts? Retrieved from: [GavelGap.org](http://GavelGap.org)