


COMMENTARY

Expanding the focus: How considering gender and sexual minority experiences can improve sexual harassment training

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In what has been described as a “hidden epidemic,” a report from the Trades Union Congress (TUC) finds that nearly 7 in 10 lesbian, gay, bisexual, and transgender (LGBT) people report being sexually harassed at work (TUC, 2019). Although the focal article (Hayes et al., 2020) offers a number of avenues to invigorate sexual harassment training, the consideration of gender and sexual minority experiences relating to sexual harassment can advance this agenda even further. The focal article notes that the number of Equal Employment Opportunity Commission (EEOC) complaints based on sexual orientation or identity harassment has increased from about 808 in fiscal year 2013 to 1,811 in fiscal year 2018 (EEOC, n.d.). These estimates are indicative of a growing problem for LGBTQ+ workers and may interfere with their full participation in the workforce. This perspective is important for three key reasons: (a) new research indicates a high victimization rate of LGBTQ+ workers, (b) two court cases pending adjudication by the Supreme Court have the potential to provide federal protection for millions of LGBTQ+ workers under Title VII of the Civil Rights Act, and (c) individuals at higher risk for victimization (i.e., LGBTQ+ workers) can greatly benefit from training in the identification of harassment and in overcoming fears of reporting-associated stigma. The aforementioned areas are reviewed with a focus on advancing an agenda that improves sexual harassment training for all workers.

The prevalence of sexual harassment and special concerns for LGBTQ+ workers

Although the #MeToo movement has brought issues of sexual harassment to the forefront of national discourse, the voices of LGBTQ+ people have rarely been heard on this issue and little research has sought to properly understand their unique experiences. To address this gap, the TUC conducted a study of more than 1,000 LGBT workers to understand their experiences of sexual harassment at work and its impact on their physical and mental health. This study revealed shockingly high levels of sexual harassment and sexual assault at work across all different types of harassing behaviors for LGBT workers (TUC, 2019).

Most concerning is the finding that 68%, or nearly 7 in 10, of respondents had experienced at least one form of sexual harassment at work (TUC, 2019). In addition to this, more than two in five LGBT individuals (42%) report experiencing unwelcome comments or questions about their sex life, and 27% report unwelcome verbal sexual advances (TUC, 2019). Although this report found unacceptably high levels of sexual harassment for both LGBT men and women, research supports the notion that women are more likely than men to experience sexual harassment (TUC, 2019). In addition to this observed difference, Black and minority ethnic (BME), disabled, and LGBT women are disproportionately affected by sexual harassment (TUC, 2019). Even when

compared to GBT men, LGBT women report significantly higher levels of sexual harassment across a range of behaviors, including unwelcome sexual messages, sexual advances, and sexual assault (TUC, 2019).

LGBQ+ workers face a unique concern in that sexual orientation is largely considered an “invisible identity” that only becomes visible when these individuals communicate it via the “coming out” process (Ragins, 2004). LGBTQ+ employees must weigh the choice to disclose their sexual orientation or gender identity at work and face an ongoing and often challenging process of negotiating their identity in the workplace (Ragins, 2004). Findings from the TUC survey report that two-thirds (66%) of respondents did not report the harassment to their employers, and 25% of these respondents said it was because they feared being “outed” at work (TUC, 2019). These fears are well-founded, given research showing that individuals who choose to disclose their orientation or undergo a gender transition are more susceptible to discrimination on the job (Brewster et al., 2014; Croteau, 1996). Stereotypes surrounding LGBTQ+ identities as intrinsically focused on sexual activity appear to be linked to incidents of sexual harassment (TUC, 2019). The sexualization of LGBTQ+ individuals serves as an unwelcome invitation to make sexualized comments or ask inappropriate questions about an LGBTQ+ person’s sex life, especially if these individuals are “out” (TUC, 2019).

In line with findings indicating that gay men are often unwilling to report sexual orientation harassment (Mims & Kleiner, 1998), the TUC survey found that gay men were less likely than other groups to report their experiences of sexual harassment to their employer. In fact, 72% of gay men did not report the sexual harassment to their employer compared to 67% of lesbians/gay women and 62% of bisexuals (TUC, 2019). Given that gender, sexual orientation, ability, and race do not operate as mutually exclusive identities, it may be difficult for individuals to identify their experiences of sexual harassment as separate from other forms of discrimination. Increasing the representation of LGBTQ+ experiences within the public discourse and organizational practices surrounding sexual harassment offers one way to help break down these barriers to identifying and reporting sexual harassment.

Protecting gender and sexual minorities under Title VII

Presently, the United States lacks federal protections for gender identity and sexual orientation discrimination, and state protections are only available in 21 and 22 states, respectively (Human Rights Campaign Foundation, 2020). While at its inception, the Civil Rights Act may have only been applied to specific cases, it has been upheld in cases of discrimination based on both gender identity and sexual orientation. Title VII of the Civil Rights Act pertains specifically to employment issues and mandates that employers cannot discriminate based on color, national origin, race, religion, or sex. Under Title VII, it is unlawful to harass a person because of their sex, and sexual harassment falls under this protection.

Although there remains disagreement surrounding the groups protected under Title VII, *Price Waterhouse v. Hopkins* (1989) set an early precedent for this protection by deciding that discrimination from failure to meet sex-related stereotypes is protected by the Civil Rights Acts. Though the guidance has since been reversed, the EEOC under the Obama administration determined that discrimination based on sexual orientation is a form of sex discrimination and therefore prohibited under Title VII of the Civil Rights Act. The EEOC supported these claims in the case of *Baldwin v. Foxx* (2015). Further, *EEOC v. Scott Medical Health Center, P.C.* (2016) clarified that sexual orientation cannot be considered without regard to a person’s biological sex and is a form of sex discrimination.

Two cases surrounding gender identity and sexual orientation discrimination have made their way to the Supreme Court and have the potential to affect millions of LGBTQ+ workers. The case of *EEOC v. R.G. & G.R. Harris Funeral Homes Inc.* (2019) seeks to rule on whether or not

transgender people are protected by federal sex discrimination laws, and in *Bostock v. Clayton County, Georgia* (2019) will rule on whether these protections apply to sexual orientation. If the court decides that Title VII of the Civil Rights Act applies to LGBTQ+ employees, these employees could gain basic protections to which other groups have access. Currently, these appeals are pending adjudication before the U.S. Supreme Court.

Improving training and organizational practices

The careful development of training content is paramount to creating effective training programs (Salas et al., 2012). Regarding the content of sexual harassment training, the focal article notes that both sexual harassment and unlawful racial discrimination training have overwhelmingly focused on the trainee as the source of the undesirable behavior that needs to be remedied. Alternative models of training can focus on targeting those who have been harassed, training employees to intervene in instances of harassment as bystanders, and developing interventions targeted at increasing self-advocacy, community, and self-efficacy. Although leaders often have the power to identify changes for policy or procedure implementation, individuals at higher risk for victimization (i.e., LGBTQ+ workers) may be a strategic target population for training (Eatough et al., 2019).

Given the unique challenges facing LGBTQ+ workers, such individuals can benefit from training in the identification of harassment and in overcoming the stigma associated with reporting (Eatough et al., 2019). A first step to achieving this aim is increasing the representation of LGBTQ+ experiences within the public discourse and organizational policies surrounding sexual harassment. The Society for Human Resource Management (SHRM) recommends having clear definitions of what constitutes harassment, examples of prohibited conduct, an explanation of how victims and witnesses of harassment should report harassment, and clear HR processes and disciplinary measures for handling complaints. Importantly, to reduce fear of retaliation and being “outed” in the workplace, all complaints should be treated as confidential.

Organizations should strive to ensure that all policies, especially those on harassment and sexual harassment, use LGBTQ+-inclusive language, examples, and case studies (TUC, 2019). Using LGBTQ+-inclusive language and examples can help these individuals better identify their experiences of sexual harassment as separate from other forms of discrimination. Given the role of industrial and organizational (I-O) psychologists in ensuring the legal defensibility of organizational practices, along with the moral obligation to uplift employees of all identities, I-O psychologists can aid organizations in designing training programs that recognize this “hidden epidemic” for LGBTQ+ workers.

References

- Baldwin v. Foxx*, EEOC Decision No. 0120133080, at 5-11 (July 15, 2015).
- Bostock v. Clayton Cty. Bd. of Commissioners*, 723 F. App'x 964 (11th Cir. 2018), cert. granted sub nom. *Bostock v. Clayton Cty., Ga.*, 139 S. Ct. 1599 (2019).
- Brewster, M. E., Velez, B. L., Mennicke, A., & Tebbe, E.** (2014). Voices from beyond: A thematic content analysis of transgender employees' workplace experiences. *Psychology of Sexual Orientation and Gender Diversity*, *1*(2), 159–169.
- Croteau, J. M.** (1996). Research on the work experiences of lesbian, gay and bisexual people: An integrative review of methodology and findings. *Journal of Vocational Behavior*, *48*, 195–209.
- Eatough, E. M., Waters, S. D., & Kellerman, G. R.** (2019). Evidence-based recommendations for improved design of sexual harassment training. *Industrial and Organizational Psychology*, *12*(1), 48–51.
- Equal Employment Opportunity Comm'n v. Scott Med. Health Ctr., P.C.*, 217 F. Supp. 3d 834 (W.D. Pa. 2016).
- Equal Employment Opportunity Comm'n v. R.G. & G.R. Harris Funeral Homes, Inc.*, 884 F.3d 560 (6th Cir. 2018), cert. granted in part sub nom. *R.G. & G.R. Harris Funeral Homes, Inc. v. E.E.O.C.*, 139 S. Ct. 1599 (2019).
- Hayes, T., Kaylor, H., & Oltman, K.** (2020). Coffee and controversy: How applied psychology can revitalize sexual harassment and racial discrimination training. *Industrial and Organizational Psychology: Perspectives on Science and Practice*, *13*(2), 117–136.

- Human Rights Campaign Foundation.** (2020). *Corporate equality index 2020*. Retrieved from <https://www.hrc.org/campaigns/corporate-equality-index>
- Mims, C. J., & Kleiner, B. H.** (1998). Homosexual harassment in the workplace. *Equal Opportunities International*, *17*(7), 16–20.
- Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989).
- Ragins, B. R.** (2004). Sexual orientation in the workplace: The unique work and career experiences of gay, lesbian and bisexual workers. *Research in Personnel and Human Resource Management*, *23*, 37–122.
- Salas, E., Tannenbaum, S. I., Kraiger, K., & Smith-Jentsch, K. A.** (2012). The science of training and development in organizations: What matters in practice. *Psychological Sciences in the Public Interest*, *13*, 74–101. DOI: [10.1177/1529100612436661](https://doi.org/10.1177/1529100612436661)
- Trades Union Congress.** (2019, May 17). *Sexual harassment of LGBT people in the workplace*. Retrieved from <https://www.tuc.org.uk/research-analysis/reports/sexual-harassment-lgbt-people-workplace?single=1>
- U.S. Equal Employment Opportunity Commission.** (n.d.). *Enforcement and litigation statistics*. Retrieved from <https://www.eeoc.gov/eeoc/statistics/enforcement/>

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