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Belittling grievances: legal consciousness and strategic non-mobilization in Chinese workplace harassment

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Abstract

This article investigates the interplay between legal consciousness and legal mobilization in Chinese workplace sexual harassment cases. Drawing on 78 in-depth interviews with victims and fieldwork observations, it argues that second-order legal consciousness – the understanding of law derived from observing others' experiences within relational networks – acts as a lens through which experiences of harassment are interpreted, inhibiting formal legal mobilization. Findings reveal that Chinese employees, facing a legal framework with limited protections and workplace hierarchies that discourage dissent, often strategically avoid formal reporting to safeguard their positions. This calculated inaction is informed by second-order legal consciousness, reinforced by the belittling of grievances, where complaints are minimized, dismissed, or normalized. Consequently, grievances are channeled away from formal, employment-based reporting toward individualized or gender-based remedies, which fail to address the systemic nature of workplace harassment. Bridging legal consciousness and mobilization literatures, this study reveals how the two concepts interact within Chinese workplaces. It further demonstrates that the belittling of employee grievances is not only a barrier to mobilization but also a crucial source of second-order legal consciousness, thus shaping victims' decisions and perpetuating a cycle of non-reporting.

Keywords: grievance belittlement; workplace sexual harassment; second-order legal consciousness; strategic non-mobilization

Introduction

Despite the enactment of Article 1010 of the Chinese *Civil Code* in 2021, which defines sexual harassment as a violation of personality rights and mandates organizational prevention measures, its gender-neutral framing, restricted basis for employer liability, and weak enforcement mechanisms have raised concerns about its effectiveness (Duan 2023). Against this backdrop, the very reinterpretation of workplace sexual harassment, long a battleground of power, gender, and agency struggles, is ongoing in the socio-legal fabric of Chinese organizations. While global discourse on sexual harassment places organizations at the heart of both the problem and the solution,

in China many organizations appear to sidestep responsibility, framing incidents as individual or societal gender problems rather than workplace issues. This context shapes the landscape of legal consciousness for victims, influencing how they perceive, engage with, and ultimately respond to harassment.

Building on this context, this study examines how victims of workplace sexual harassment in China navigate this challenging landscape. It bridges two key areas of socio-legal scholarship, legal consciousness, including its relational dimensions (Chua and Engel 2019; Liu 2023; Patricia and Silbey 1998; Young 2014; Young and Chimowitz 2022), and a broadened view of legal mobilization (Albiston 2005; McCann 1994; Zemans 1983), to analyze the interplay between how individuals understand their legal rights and how they choose to act (or not act) upon them. It posits that legal consciousness and mobilization influence and shape each other: legal consciousness shapes choices about mobilization, while experiences of (non) mobilization, in turn, reshape legal consciousness. In Chinese workplaces, however, second-order legal consciousness – an understanding of the law derived from observing others' experiences (Headworth 2020; Young and Chimowitz 2022) – often discourages formal organizational mobilization (e.g., reporting to HR or management). This tendency is driven by the interaction of employees' interpretations of organizational actions and inactions, and by *strategic non-mobilization*, a calculated response to a perceived lack of viable options, prioritizing professional security and relational harmony over formal channels.

Drawing on 78 in-depth interviews with victims of workplace harassment across various industries in China, this research finds that *belittling* – organizational practices that minimize, dismiss, or normalize employees' legitimate complaints – is a crucial source of second-order legal consciousness (Young and Chimowitz 2022). When victims, drawing on personal and shared experiences, recognize a recurring pattern of such belittling responses that frame their complaints as individual or societal failings rather than workplace issues, they often deem formal reporting futile or too costly (Marshall 2003; 2005). This perception, amplified by strategic non-mobilization within hierarchical workplaces, stifles employment-based legal agency. Consequently, workplace sexual harassment grievances are often channeled away from formal, employment-based claims toward informal, individualized, or gender-based remedies, foreshadowing an identity work where categories like “woman” are foregrounded while the identity of “employee” is diminished or erased.

This study highlights how second-order legal consciousness and strategic non-mobilization are mutually constitutive in hierarchical contexts. Strategic non-mobilization goes beyond passive inaction to encompass an active choice informed by second-order legal consciousness, which itself is shaped by observed organizational responses, particularly the belittling of grievances. It also illustrates that the reasons employees choose not to pursue formal grievances – the very barriers to mobilization identified in the legal mobilization literature – are internalized through observation and shared experiences, affecting their understanding of the law and its effectiveness. By foregrounding this interplay, this research reconceptualizes legal mobilization to include the often-invisible acts of observing, interpreting, and sharing experiences. These acts, even in the absence of overt action, shape both individual and collective legal consciousness, albeit one that may reinforce a sense of limited agency within the organization. Thus, organizational responses to grievances are not merely procedural,

but profoundly influence employees' legal consciousness, influencing their willingness to mobilize. Ultimately, this study underscores the complexities of pursuing justice in settings with limited legal protections and pronounced power imbalances, offering a refined framework for understanding how legal consciousness is formed, transformed, and interpreted through social interaction and strategic inaction.

Theoretical framework: second-order legal consciousness, belittling, and strategic non-mobilization

Workplace sexual harassment and second-order consciousness

Law and society scholars generally converge on the idea that legal consciousness captures how people perceive, experience, and interpret the law – whether engaging with, avoiding, or resisting it (Chua and Engel 2019; Engel and Munger 2003; Liu 2023; Nielsen 2000; Patricia and Silbey 1998; Young 2014). Chua and Engel (2019) identify three key elements central to legal consciousness: worldview, perception, and decision-making. *Worldview* concerns how individuals understand their social, institutional, and natural environments and their own positions within them, influencing how they interact with others and respond to experiences, including legal encounters. *Perception* is how individuals interpret specific events and make sense of the law, legal institutions, and their interactions with these entities. Perception then conditions subsequent *decisions*, such as whether to engage with the law or not.

These three elements share a common foundation: they are essentially relational, shaped by interactions with individuals, groups, and broader social contexts. Recognizing this relational dimension, Young (2014) introduced the term “relational legal consciousness” to encompass how relationships influence legal understandings. More recently, Young and Chimowitz (2022) distinguished the closely linked notion of “second-order legal consciousness” as a specific dimension within the broader relational framework. While relational legal consciousness serves as an “umbrella term” referring to how an individual's relationships with others shape their legal consciousness, second-order legal consciousness focuses on how an individual's legal consciousness is shaped by perceptions of another person or group's legal consciousness (Young and Chimowitz 2022). Second-order legal consciousness is thus a subset of relational legal consciousness (Headworth 2020; Liu 2023; Young and Chimowitz 2022). This framework is especially attuned to the study of legal consciousness in workplace sexual harassment, a phenomenon situated at the intersection of layered human relationships, where shifts in consciousness and actions are often imperceptible yet profound.

Relationships vary in their influence on our legal consciousness; those that hold the most significance in our lives often have the greatest impact (Abrego 2019; Liu 2023; Wang 2019). This study focuses on the workplace as a critical site for the formation of legal consciousness, particularly regarding sexual harassment. It seeks to answer: Why do certain forms of legal consciousness – such as blaming individual harassers or attributing the issue to broader gender norms – surface, while others – like grievances directed at employers – are silenced? As Chua and Engel (Chua and Engel 2019, p. 337) remind us, “legal consciousness and identity emerge from and shape one another.”

This research adopts the concept of second-order legal consciousness but moves beyond prior work (Headworth 2020; Young and Chimowitz 2022) to argue that it is

not merely an awareness of others' legal understandings but a dynamic, interpretive lens, especially salient where legal protections are weak or perceived as ineffective. It involves not just knowing what others think about the law but how those understandings are interpreted through one's own experiences, emotions, and social context. Prevailing social frames further modulate this interpretive process, as illustrated by Saguy's (2003) comparative analysis of sexual harassment in the United States and France. Saguy demonstrates how differing cultural understandings of gender, sexuality, and workplace interactions profoundly influence both the definition of harassment and the resulting legal and organizational responses. Building on Saguy's (2003) insights, this study examines how, within the specific context of Chinese workplaces, organizational responses to sexual harassment grievances act as a crucial element in the social construction of legal meaning, thereby shaping employees' second-order legal consciousness.

Furthermore, emotions are integral to the formation of legal consciousness (Wang 2019; 2023). Fear, shame, anger, and hope, shaped by cultural norms and organizational power dynamics, are not merely byproducts but are central to how individuals experience and respond to legal issues, including workplace harassment. Amplified by others' observed experiences, these emotions can create a powerful barrier to formal mobilization.

Legal mobilization in the shadow of belittling

Legal mobilization, broadly defined, encompasses the various ways individuals and groups invoke legal norms, institutions, and discourse to address grievances, pursue interests, or achieve social change (McCann 1994; Zemans 1983). While traditionally associated with formal legal action, the field increasingly recognizes the diverse, often informal, ways people engage with the law (Albiston 2005; Blackstone et al. 2009; Emilio and Taylor 2020; Jeb and Burke 2012; Xin et al. 2013).

Felstiner et al.'s (1980) "naming, blaming, and claiming" model provides a valuable framework for understanding legal mobilization and its potential interruptions. This model posits that disputing unfolds in stages, beginning with "naming" an experience as injurious, "blaming" an external entity, and then "claiming" a remedy. A rejected claim becomes a dispute. This model highlights that legal mobilization is not linear, but a complex process with multiple stages of interpretation and decision-making, each offering an opportunity to either pursue or abandon formal legal action. The capacity of this dispute transformation model in capturing perceptions, blame attributions, coping strategies, and consequences of issues that have never matured into formal legal institutions makes it ideal for studying sexual harassment – an issue often unarticulated and unsurfaced under fear, a complaint often interrupted by external forces, and a claim often abandoned under pressure.

Research has explored the diverse range of strategies employees use to navigate workplace disputes and assert their rights (Albiston 2005; Fuller et al. 2000; Hirsh and Kornrich 2008; Marshall 2005). This body of work underscores the critical role of organizational context and responses in shaping employees' mobilization choices. Marshall (2003; 2005), for instance, found that formal grievance procedures at a Midwestern US university often narrowed the definition of sexual harassment, effectively protecting the organization while silencing victims.

The decision not to mobilize formally is also a critical, yet often overlooked, aspect of the legal mobilization process. Scholars have long recognized that individuals may choose not to pursue formal legal action even when they perceive a grievance, often referring to this phenomenon as “lumping it” (Felstiner 1974; Galanter 1974; Hoffmann 2003; Marshall 2005; Nader 1979; Quinn 2000; Yngvesson 1988). Prior research has also explored various reasons behind this choice (Bumiller 2007; Emerson 2008). This study builds upon, but conceptually advances, this understanding by developing the term *strategic non-mobilization*. This concept captures the proactive and calculated decision to forgo formal legal channels, not out of passivity or lack of awareness, but as a deliberate strategy for navigating specific organizational and cultural contexts. In Chinese workplaces, this strategic calculus is intimately interwoven with cultural norms, such as the emphasis on maintaining harmonious relationships (*guanxi*) (Westwood 1997), preserving the concept of “face,” encompassing social standing, reputation, and dignity (*mianzi*) (Li 2016; Liu 2021), alongside the limited and ambiguous legal protections concerning workplace harassment (Duan 2023).

Strategic non-mobilization should not be misconstrued as passivity or a lack of agency; rather, it represents a form of calculated response within a constrained environment. Where formal channels are perceived as both ineffectual and potentially damaging to one’s career and social standing, inaction becomes a strategic choice. The prevalence of strategic non-mobilization therefore underscores the limitations of focusing solely on formal legal mobilization when attempting to understand the full spectrum of responses to workplace injustice. A more comprehensive approach requires considering both the perceived inefficacy and risks of formal channels and the alternative, often informal, strategies employed within specific organizational and cultural contexts. Ultimately, strategic non-mobilization redirects our attention from individual decision-making to the systemic factors – legal, cultural, and organizational – that shape legal consciousness and constrain, or redirect, the pursuit of redress.

A reinforcing cycle of second-order legal consciousness and strategic non-mobilization in Chinese workplaces

This study bridges the literatures on legal consciousness and legal mobilization by proposing a reinforcing cycle to illustrate how the two are intertwined within the context of Chinese workplaces. Central to this cycle is the concept of *belittling*. Belittling occurs when organizational actors, such as supervisors or HR personnel, minimize, dismiss, or normalize employee grievances. Belittling sends a signal that formal complaints are unwelcome, unlikely to succeed, or potentially detrimental to the complainant’s standing. Employees observing such belittling, either directly or indirectly, through the experiences of others, develop a second-order legal consciousness that discourages formal reporting. The very framing of workplace grievances then shifts away from an “employee rights” framework and towards individualized or gendered interpretations.

Second-order legal consciousness is not a static or pre-existing condition, but an active process of interpreting others’ experiences; it involves interpreting those experiences, internalizing the perceived consequences of action, and anticipating future responses based on this accumulated, and often emotionally laden, knowledge. This consciousness shapes perceptions of available options when faced with a grievance,

such as workplace sexual harassment, influencing how individuals define their experience and choose mobilization strategies. The decision to mobilize or not then feeds back into and reshapes legal consciousness. Successful mobilization can enhance feelings of legal empowerment and alter perceptions of the law's effectiveness (Zemans 1983). Conversely, unsuccessful or costly mobilization can diminish belief in the legal system (Gallagher 2006; Gallagher and Yang 2017).

In Chinese workplaces, characterized by limited legal protections against sexual harassment and rigid hierarchies (Duan 2023), this reinforcing cycle is amplified. Second-order legal consciousness, particularly as shaped by the anticipation or observation of belittling, and compounded by cultural norms emphasizing *guanxi* (Bian 2018; Hwang 1987) and *mianzi* (Li 2016; Liu 2021), leads to a redefinition of the grievance itself, often shifting blame away from the organization and toward individual perpetrators or broader societal factors. This perception is reinforced by the prevalence of strategic inaction, a calculated response to the perceived risks and limited potential rewards of formal action.

This interplay between belittling, second-order legal consciousness, and strategic non-mobilization also has implications for the construction and deconstruction of identities within the workplace. As certain avenues for legal mobilization are deemed less viable, particular identities, such as “woman” facing a societal problem, may be foregrounded, while others, such as “employee” with enforceable rights, are diminished or erased. This identity work, influenced by the interpretive lens of second-order legal consciousness, further reinforces the barriers to formal mobilization.

A reinforcing cycle thus emerges: Belittling shapes second-order legal consciousness; this consciousness, in turn, promotes strategic non-mobilization; and the resulting lack of formal complaints reinforces the perception that the organization is not responsible for addressing harassment, potentially leading to further belittling and perpetuating a culture of silence. This model highlights the subtle, yet powerful, mechanisms through which organizational hierarchies and cultural norms interact to suppress legal agency, even in the presence of formal legal prohibitions.

Sexual harassment law in China: dignity, gender, and the workplace

Over two decades, a sexual harassment legal system has gradually taken shape in China (Duan 2023). Distinct from the American discrimination approach and the Continental employee dignity approach (Friedman and Whitman 2003; Zippel 2006), it is based on framing sexual harassment as a tortious infringement on an individual's right to personality. Article 1010 of the Civil Code (2021), the most recent and comprehensive sexual harassment law, frames the issue as a gender-neutral, individual violation of personality rights. It states, “A person who has been sexually harassed against their will by another person through oral words, written languages, images, physical acts, or the like, has the right to request the actor to bear civil liability in accordance with the law.” Enterprises, schools, agencies, and similar organizations are directed to adopt reasonable measures to implement a system for receiving, investigating, and handling complaints and to prevent sexual harassment “conducted by a person through taking advantage of their position and power or a superior-subordinate relationship, and the like.” This legal framework has two key characteristics that likely affect how individuals understand and respond to sexual harassment.

First, the law treats sexual harassment as gender-neutral and does not address directly power imbalances affecting marginalized groups. By framing harassment purely as a violation of personal dignity, the legislation aims to extend equal protection to all individuals, yet it overlooks the structural vulnerabilities of women and other marginalized groups, such as gendered power dynamics and socio-economic disadvantage in the workplace (Duan 2023). In a society where public discourse on gender discrimination and feminist consciousness is emerging, this de-gendering of a clearly gendered harm risks undermining these movements. Furthermore, the disconnect between the law's framing and victims' experiences can contribute to a sense of legal alienation and discourage certain forms of mobilization.

Second, the basis for establishing employer liability under current Chinese sexual harassment law is unduly narrow, with two key limitations. First, Article 1010 restricts employer responsibility to cases of sexual harassment that are “directed at a specific person” and occur within a vertical power structure – such as harassment committed by a superior leveraging their authority over a subordinate (*Civil Code* 2021). This potentially absolves employers from responsibility for more diffuse forms of harassment, such as those creating a hostile work environment, and harassment between colleagues. This leaves critical gaps in legal protections, introducing a substantial vacuum in clarifying the employer's role in addressing sexual harassment.

Additionally, while Article 1010 obliges employers to take steps to prevent and address harassment in power-based relationships, it imposes no penalties for noncompliance. Thus, it sets out liability for individuals but does not definitively establish employer liability. A victim of harassment may file a tort claim against the perpetrator, seeking civil liability for the violation of their dignity. In the rare case where the victim prevails in court, the People's Court may order the tortfeasor to cease the infringement, restore the victim's reputation, eliminate adverse effects, issue a formal apology, or pay compensation for mental anguish.¹ But there is no clarity as to whether victims can sue their employers. Wang, a legal scholar involved in drafting the Civil Code, explained that establishing employer liability in sexual harassment cases requires the court to prove a “cause and effect relationship” between the company's failure to implement preventive measures and the harassment incident itself (Yang and Liu 2020). This standard is both overly burdensome and logically ambiguous, and no reported cases involving successful sexual harassment claims against companies have been identified at the time of writing.

The limited scope of employers' accountability under the law shapes how sexual harassment is processed within the workplace and how individuals perceive and react to their experiences. When employers' legal liability is diminished, and when broad discretion exists in defining actionable harassment, clear internal anti-harassment policies become unlikely. This absence obscures the boundary between acceptable and unacceptable behavior, potentially fostering environments that tolerate or even normalize certain types of sexual misconduct and discouraging victims from reporting incidents or pursuing legal recourse. Moreover, the law's structure tends to direct grievances toward individual perpetrators rather than employers. By providing a clearer path for individual tort claims while offering little recourse for holding employers accountable, the legal framework inadvertently contributes to the belittling of sexual harassment grievances, shaping how individuals perceive their options and ultimately affecting their mobilization choices. The lack of clear legal recourse

through employers can lead to the perception that formal complaints are futile, reinforcing a culture of silence and encouraging calculated inaction. The very structure of the law, therefore, can contribute to the shaping influence of second-order legal consciousness, as discussed in the theoretical framework.

Data and method

The primary dataset comprises 78 in-depth interviews with Chinese victims of workplace sexual harassment, supplemented by observational fieldwork.² Despite being a native Chinese speaker and a woman, recruiting participants proved challenging due to the sensitive nature of the research and my affiliation with a foreign academic institution. I therefore collaborated with a prominent women's rights legal aid center in Beijing, Qianqian, who endorsed my research and integrated me as a legal assistant in September 2020. This affiliation afforded me privileged access to their database and social influence, facilitating connections with domestic activists and institutions and ultimately aiding recruitment.

Between October 2020 and August 2022, I implemented a three-stage fieldwork methodology to investigate sexual harassment within Chinese organizations. I disseminated interview recruitment posters across social media platforms (Weibo, Zhihu, Douban, and WeChat Moment) with the help of Qianqian, other public interest institutions, and influential activists. I also staffed Qianqian's hotline for sexual harassment victims, describing my research during intake and inviting callers to participate. Social media, Qianqian's hotline, and snowball sampling reached only white-collar and pink-collar employees. Thus, to diversify the sample, I became an assembly worker in a television manufacturing factory in Da Shuikeng (大水坑), a migrant neighborhood in Longhua District, Shenzhen, for two weeks in June 2021 with the help of the local grassroots organization, Dili Social Work Center. This provided firsthand observations of sexual harassment incidents and fostered trust among coworkers, enabling candid discussions about their experiences. My coworkers gave consent retroactively.³ I then repeated the social media effort in April 2022, which attracted additional office workers for interviews.

The 78 interviewees were diverse with respect to age, occupation, educational background, marital status, and geographical residence, but not gender, as 74 were women and four were men. Twenty-four reported their experiences to organizational actors; 54 did not. This article identifies all respondents by pseudonyms.

The interviews usually lasted 1–1.5 h. I took notes during the interviews and audio-recorded them with permission, and the recordings were transcribed. The interview guide drew upon the “naming, blaming, and claiming” framework (Felstiner et al. 1980), and was adapted to explore second-order legal consciousness and mobilization in the context of Chinese workplaces.

The interview guide elicited detailed narratives about participants' experiences. Key questions explored how victims perceived their experiences, whom they blamed (e.g., the harasser, the organization, societal norms), and what actions they took (or did not take) in response to the harassment. Participants were encouraged to define “sexual harassment” in their own terms, allowing for an examination of the potential gaps between legal definitions, organizational policies, and lived experiences. I also inquired about their awareness of Article 1010 of the *Civil Code* (2021)

and its provisions. Furthermore, I explored how interactions with others shaped their understanding of rights and redress-seeking decisions. As the interviews progressed, I adapted my approach, usually beginning with questions about blaming and coping strategies before moving to abstract questions about perception. This allowed me to elicit concrete narratives naturally.

In analyzing the interviews, I employed a narrative analysis approach (Riessman 1993), focusing on the stories that individuals told about their experiences, paying attention to the structure, content, and themes. This method examines how people use stories to make sense of their experiences. This facilitated an in-depth examination of the processes through which legal consciousness is formed and transformed, and how mobilization decisions are made. During the coding process, I paid particular attention to instances of naming, blaming, and claiming (or the decision not to claim), while also noting descriptions of observed experiences of others (second-order legal consciousness), instances of belittling, and evidence of strategic non-mobilization.

After multiple readings of all transcripts to identify initial themes, I developed a coding scheme informed by the theoretical framework and themes that emerged inductively from the data. I used NVivo to assist with the coding process.

The findings presented below are representative of broader patterns in the data. In presenting the findings, I focused on two main groups: those who did not report their harassment within their organization (non-reporters) and those who did (reporters). For the reporters' interviews, I focused on interactions between organizations and victims and interpretations of fault. For the non-reporters' interviews, I focused on factors influencing their coping strategies and decisions. This distinction allows for an examination of how different experiences with organizational responses (or anticipated responses) shape legal consciousness and subsequent mobilization choices.

Pattern one: victims' strategic blaming of the evil man (men) and "innocent" employer

This study's findings reveal a dominant pattern of strategic non-mobilization among victims of workplace sexual harassment. Fifty-four of the 78 interviewees chose not to report their experiences to organizational actors. This pattern is not attributable to simple resignation, or "lumping it," but rather a calculated response informed by a complex interaction of legal consciousness, perceptions of organizational (in)actions, and the anticipated consequences of challenging established power dynamics. This section first examines the factors contributing to this strategic non-mobilization, highlighting how the expectation of an unfavorable outcome, even without direct personal experience of reporting, influences these decisions. It then explores how, in the absence of formal reporting, victims directed their blame toward individual harassers and broader societal gender norms and sought alternative forms of coping.

The unspoken grievance against employers: strategic non-mobilization in the Chinese workplace

Interviewees indicated that fragile working conditions rendered them unable to assert their employee rights. Asserting employee rights, they predicted, would make an

enemy of their employers and organizations. In the absence of a clear legal obligation requiring employers to maintain a harassment-free environment, interviewees expressed a reluctance to file complaints. This reluctance often stemmed from a second-order legal consciousness shaped by the perception that such complaints would be minimized, dismissed, or even met with retaliation.

Interviewees felt a general insecurity, where relational survival took precedence over claims against employers. By the time of our interview, Wu Nana had been employed by a catering company in Nanjing City for over 10 years (Interview 1, October 10, 2020). The director of the adjacent department had been physically and verbally harassing her for more than 2 years. She told her husband, and he confronted her harasser in person and warned him to stop, but she never considered complaining to her employer. She explained that while her husband's intervention had helped, she feared future harassment and felt that making the matter public would only bring negative attention. She was also acutely aware, through informal conversations with colleagues, that reporting such incidents rarely resulted in positive outcomes. Nana felt that the problem went beyond what the law said:

I'm not sure what the laws say about employer-employee relationships. But I know the simple truth is that we sell our time to work for them, and they pay us for that.... They want to squeeze all of our time, but we have to appreciate that they gave us a job.... There is no space for you to ask for more. To them, sexual harassment is an innocuous thing. I don't think a company will care about it, at least not mine. Sincerely, keeping the job is all I can hope for; who am I to complain? No matter how angry you feel, that's the truth. [My employer] never played the role of a protector, how could I expect them to do so now? (Interview 1, October 10, 2020)

Nana's reluctance to report, while not based on direct personal experience with belittling, reflects a broader awareness, cultivated through informal workplace communication, that such complaints are rarely addressed effectively and often result in negative repercussions for the complainant. This anticipated lack of organizational support, coupled with her precarious employment situation, fueled her strategic decision to remain silent.

Entrenched hierarchical structures further suppress victims' legal agency. Abuse of power is a taboo topic in the Chinese workplace. Employees generally obey institutional authority unquestioningly.

Hesitation to report was especially strong where harassers were at the managerial level; complaining about managers to managers seemed impossible. Wang Xi expressed this (Interview 12, July 23, 2021). A receptionist in a design company in Suzhou City, she had been harassed by several men in managerial positions in her company. She said she had "thought about" reporting to a manager, but decided against it. "[H]ow could I expect [the men at the managerial level] to regulate themselves?" Her understanding of her legal rights is inextricably linked to her relational positioning within the organization. She perceives reporting as futile, not simply because of her individual status, but because of her relational embeddedness in a power hierarchy that protects those above her. In this context, sexual harassment is not merely

a rights violation; it is a relational problem entangled with the victim's social standing and future career prospects. Like Nana's, Wang Xi's silence is not passive; it is a strategic response to the power imbalances that define her workplace, born of the organizational realities she perceived, and informed by the subtle cues and narratives circulating through the workplace grapevine.

Adding to the complexity of such power dynamics is the perceived risk of being labeled ungrateful or disloyal. In many organizations, raising a grievance against an employer is seen not as a legitimate exercise of one's employment rights but as an act of betrayal against the company – tantamount to challenging the very foundation of the organizational hierarchy. A female accountant, Jin Lanxi, said the culture at the accounting firm in Beijing where she worked was toxic. She explained that she would never report the harassment she experienced as a result:

If you accuse the man who harassed you, then you are just unhappy with him. It remains personal, so it's still possible that HR [human resources] will deal with your complaint or even punish that guy. But once you raise it to a corporate level and charge your company with failing to do something, you will be in trouble. They would think of you as an ungrateful employee speaking ill of the company. By doing so, you are basically making yourself the enemy of your company, and they won't hesitate to get rid of you. (Interview 34, January 5, 2022)

Lanxi recognized that her company played a role in facilitating the harassment she experienced, but she was sure she would lose her job if she sought to hold the company responsible. She was aware of the institutionalized norms of loyalty and obedience and therefore determined to remain silent. Implicating the company, she knew, would position her as an outsider, a threat to the system she relied on for her livelihood. This internalized fear of punishment reveals how legal consciousness can be shaped within a framework where the unspoken rules of loyalty and obedience are privileged over individual rights, and where the anticipated response to a formal complaint, informed by the organizational culture, is one of dismissal or, worse, retribution.

Even those engaged in feminist advocacy within their workplaces face the constraints of organizational power structures. Fu Meng, who actively promotes women's rights in her company, said that while advocating for women's rights made some men uncomfortable, her boss wouldn't fire her for it. However, she drew a clear line:

But if I point my fingers at my boss, the company, and accuse them of violating our employees' rights, that's going to be a whole different story. They will not tolerate it since it would be considered a challenge to their authority. This would make me seem like I'm challenging [those in power's] more tangible benefits that they enjoy every day.... It's a big no-no at work. Definitely, people will get irritated and I'll face severe consequences, real ones. (Interview 70, July 14, 2022)

Fu Meng's narrative reflects the limits of feminist advocacy in hierarchical workplaces. While she is willing to challenge gender norms and call out individual perpetrators, she avoids blaming the company for fear of disrupting the power structure, revealing a critical tension within legal consciousness: even victims who know their

rights and are committed to advocating for others must navigate the hierarchies that govern organizational life.

Victims like Pei Xiaoxi internalize the belief that any legal action against their company would be doomed to fail and therefore stay silent. She believed her company was partly responsible for the harassment she and her colleagues experienced but felt powerless to effect change:

Surely I can't sue them [my company], right? My company is so big and I'm such a tiny employee, how will I ever win?... I can't possibly expect my company to apologize to me.... I just want my company to act neutral if I reported him [harasser] or if I decided to sue him.... In any case, I'm sure it will be a disaster if I say that the company itself is at fault. They will stand together and deny everything I said. (Interview 21, October 23, 2021)

Lu Jingyan had experienced verbal sexual harassment and minor physical harassment, such as touching shoulders and hands, from senior male colleagues for 3 years, since she got her job in administration at a small investment company in Beijing. She had tried telling colleagues to cease harassing her and avoided being alone with them, but the effects were minimal. She felt powerless. She described witnessing many abuses of power throughout her career and saw her current situation as no exception. She believed that speaking up would be futile and that tolerating such behavior was simply part of the workplace hierarchy:

It's like a ladder where the people at the top can act however they want.... People like me can only obey their orders and tolerate their actions.... It's like a system everyone must follow. For now, I am tolerating, but probably in 10 years, when I am among the superiors, I will be freer... I suppose that's how work is. I also think it is sick, wrong.... But that's not something I can change. (Interview 5, April 23, 2021)

Jingyan's perspective highlights how legal consciousness is formed not only through direct experience, but also through a shared, often unspoken, understanding of how power operates within an organization. Beyond her individual fear of losing her job, she understands that hierarchical power is both pervasive and untouchable, a perception likely reinforced by the anticipated futility of challenging that power through formal channels. Jingyan, like many others, understands workplace sexual harassment as one of many hardships of their early careers. They see it as inextricably woven into the world of work, and most people follow a similar path, experiencing them on an ongoing basis.

All four male interviewees felt much as Jingyan did. For example, Lin Zheng had experienced unwanted touching and sexually explicit comments on his body from a partner in the venture capital firm in Shanghai where he worked. He explained,

I am not certain what he wanted from me, but I know that he relied on his position as a partner in the firm to treat me like this.... As I swallow this grievance, I remind myself that this is the cost of moving up the career ladder. Sometimes, however, I question whether or not I am correct. My fear is that if I were to

reach the position of management, I would do the same thing as [the partner].
(Interview 48, April 11, 2022)

This grim reflection underscores how deeply ingrained organizational norms, and the perceived absence of effective alternatives, can shape not only individual behavior but also the very understanding of what is acceptable or inevitable within the workplace, creating a cycle where strategic non-mobilization becomes the default response.

The spoken anger against individual harassers: power, gender, and legal consciousness

Faced with the perceived futility and potential risks of formal reporting within the organization, and informed by a second-order legal consciousness that anticipated belittling or other negative consequences, many non-reporters directed their anger and blame toward individual harassers. This reframing of the grievance, while understandable, served to distance the organization from responsibility.

All interviewees agreed that harassers were responsible for doing them a wrong. Most called the harassers “that man” (Interview 3, March 12, 2021; Interview 15, August 5, 2021). However, while interviewees’ perception of harassers’ wrongdoing was consistent, their responses varied widely.

Some took matters into their own hands, enacting private revenge, such as exposing harassers on social media or confronting them directly. This suggests an attempt to shame them and engage in moral community-building through communal catharsis, symbolically restoring the moral order that the harassment disrupted.

More passive responses included tolerating the behavior, resigning, or avoiding future encounters. Victims lower in the organizational hierarchy, with precarious employment, or lacking social support, were more likely to adopt such survival strategies. This typically reflected a calculation and internalization of risk: fear of retaliation, professional repercussions, or further isolation.

Victims who held relatively higher positions or had more secure employment often felt more empowered to confront their harassers directly. For instance, Gong Fan, a pharmaceutical saleswoman in Taiyuan City, described multiple instances of verbal and physical harassment throughout her career, stating, “There are just so many [instances] every day” (Interview 3, March 12, 2021). When I asked how she dealt with the harassers, she smiled wryly, saying, “Time and tears have made me a master of handling them.” She shared the evolution of her strategies as she ascended to her current role as a middle manager, from suffering in silence initially, to leaving jobs, to more confrontational tactics. She recounted an incident where a client kept sending her sexually explicit texts and photos. She screenshotted their chat and threatened to post it publicly on her WeChat if he didn’t stop. This evolution reflects a growing sense of autonomy in confronting harassment.

More distant relationships with harassers – such as those across different departments – also facilitated direct action, as distance lowered the relational and reputational risks of confrontation. For example, Ren Lu, in-house counsel at a fund management company in Beijing, said that she had encountered multiple instances of harassment. In one case, a manager from the overseas investment department repeatedly solicited her for sexual favors. Ren Lu ultimately threatened to expose him to his

wife and family if he did not stop: “Even though he held a senior position, I wasn’t particularly afraid of him because it felt like he wasn’t really a part of my life” (Interview 15, August 5, 2021).

In contrast, a co-worker from Ren Lu’s own department harassed her on several occasions, both in the workplace and during after-work karaoke gatherings. She recounted feeling deeply uncomfortable when he touched her inappropriately but found herself unable to react. “I felt frozen. So many thoughts raced through my mind. I wasn’t afraid of him, but I was afraid of making things awkward between us. I guess I was also worried about my colleagues finding out,” she said (Interview 15, August 5, 2021). This highlights the complex interplay of power, relationships, and the perceived costs of confrontation within the workplace, demonstrating how proximity and relational embeddedness can constrain mobilization choices.

The spoken anger against evil men: informal networks and feminist consciousness as alternative mobilization

Beyond individual harassers, many non-reporters also recognized the harm they had experienced as part of systemic gender discrimination and therefore blamed men generally, a reframing that further diminishes the organization’s perceived responsibility. Some compared their experiences to rape and sexual assault. They stressed that gender and associated societal disparities, rather than just desires, were the underlying causes of their injurious sexual harassment experiences. Based on this framing of workplace sexual harassment as a gendered issue, many mobilized collective strength and action, typically with other women.

Gong Fan expressed solidarity with other victims of sexual violence and abuse by men. While she believed in holding individual perpetrators accountable and tried to do so herself, she also said, “Something bigger is wrong in our society” (Interview 3, March 12, 2021). Elaborating on this sense of pervasive danger, she stated:

Nowhere feels safe. That’s not a joke. Your boss and colleagues might harass and even assault you, like what happened to me; your husbands might beat you, like the domestic violence stories we hear so often; and even when walking in the dark, you’d have to keep an eye out for passersby and followers, worried they’d be rapists. That’s not being a worrywart, those dangers are so real.... I’m really tired of it. Men can be evil.... I’m sure there are still good guys, but I couldn’t help but get mad at them for making me live in fear and worry. (Interview 3, March 12, 2021)

When I asked Gong Fan where she had encountered gendered violence, she said, “Everywhere”: in her family and professional life, in the stories her friends confided, and in the endless stream of posts and reports on social media. This shared, ever-growing memory could be summoned at any moment, reminding her of deep-seated gendered wrongs and the accountability of men.

Many interviewees incorporated sexual harassment into a broader feminist discourse, suggesting they recognized the social and collective nature of the wrong. Tian Siran, a surgical assistant at a private hospital in Shenzhen City, had experienced constant sexual harassment from the surgeon she assisted since she joined the hospital in

2019. She described feeling fed up with the surgeon's humiliating remarks and recognizing that the problem extended beyond him to society at large. She stated: "I know many of my girlfriends experienced similar things as me – some were worse.... This feels so wrong to me. Are we supposed to suffer these just because we're women? Who made such rules? It's so unfriendly to us women, so unfair" (Interview 56, May 18, 2022).

Siran recognized the harassment faced by both herself and her friends as symptomatic of a broader gender inequality. In response, Siran and a dozen female colleagues set up a WeChat group nicknamed "Avengers," which condemned harassers and exchanged information about people to avoid because of a history of harassment. Sometimes members would distract harassers or interrupt them in in-person workplace interactions. Siran did not see the group as the basis for a more organized collective resistance. Indeed, she indicated that joining it had been a casual decision: "I didn't know whether the group would work at all. It's just that I think we girls need to stand together against these awful things and take care of each other."

However, even within this supportive space, a reluctance to directly challenge the organizational power structures that allowed harassment to persist was evident. This reluctance stemmed from a shared, often unspoken, understanding of the potential risks associated with confronting the organization directly. As Siran noted, they would have shrunk from uniting around employees' rights, as framing harassment as a violation of their rights as employees instead of as women would make rallying support from peers difficult (Interview 56, May 18, 2022). Siran felt that some members, especially those who had climbed the ladder, were invested in the hierarchy.

Siran's insight reveals the limitations of the group's response: while members collectively expressed their dissatisfaction with gendered oppression, they did not challenge their employers or hold their organizations accountable, reflecting a deeply internalized belief that the hierarchy was inviolate. Their understanding that formal action against the organization would be futile and risky constrained the collective. This suggests that their collective legal consciousness, while empowering in some ways, was also shaped by a shared understanding of organizational power dynamics and the anticipated consequences of challenging that power directly.

Experiences of workplace sexual harassment led some interviewees to join broader feminist conversations about women's social status. Luo Bing, for example, found solidarity and sisterhood with other anonymous victims of sexual harassment online. She had resigned from a job at a government-affiliated vocational education center in Xuzhou City where she was working as a trial staff member after the director told her she could have permanent employment in exchange for sex. She described finding solace in online communities, realizing she was not alone and commenting under posts to support other victims (Interview 22, October 26, 2021). Interviewees such as Luo Bing did not call themselves feminists. But their spontaneous, mutually supportive behaviors reflected an embryonic idea of mobilizing collective power.

Others identified as feminists and resorted to feminist discursive power following harassment. Fu Meng connected with online feminists and came to see sexual harassment as a systemic problem, which gave her the courage to confront her harasser:

I know some people in our society think feminists are all excessive and insane.... Whatever they think, I don't care.... I think being a feminist makes me feel stronger, and like we could fight together.... It probably gave me a boost of courage, so finally I snapped at [the man who harassed her] and yelled at him to stop touching me. (Interview 70, July 14, 2022)

Still others, like Sun Ying, who worked in an advertisement company in Shanghai, also found emotional support in online feminist discussions. She described another benefit:

I intentionally make it clear that I am a feminist when I deal with people at work. On my social media accounts, I would post feminist-related content with regular frequency. I am aware some [of this content is] very radical and crazy. I do this as a warning to those men who have bad thoughts that I am not someone to be trifled with. When they see my posts, they will know that I'm a feminist and I'll fight.... Occasionally, I feel sad that I need such an identity to keep myself safe. But I guess it works....it helps scare off some potential harassers. (Interview 46, April 3, 2022)

Feminist discourse enabled Sun Ying to see herself as an active agent capable of asserting herself through the projection of her identity. By publicly aligning with feminist principles on social media and projecting this identity in the workplace, she consciously reshaped both her self-perception and how others perceived her. However, her recognition of the emotional toll that comes with relying on this identity for safety highlights the inherent limitations of individual action in a system that continues to impose the burden of self-protection on women. This underscores the complex interplay between individual agency and systemic constraints within the context of strategic non-mobilization.

In sum, the strategic non-mobilization observed among these non-reporters is not passive resignation, but a calculated response to perceived organizational constraints. This inaction reveals the potent influence of second-order legal consciousness in shaping responses to workplace harassment: anticipating a dismissive or even detrimental response, even without direct experience, these individuals strategically avoid formal channels, redirecting their grievances in ways that reflect a pragmatic understanding of power within the specific context of the Chinese workplace.

Pattern two: employees' and employers' co-construction of sexual harassment legal consciousness

None of the interviewees worked in an organization with a formalized system for reporting sexual harassment, though provisions concerning women's protection in workplace policies – absent any practical measures or mechanisms for such protection – were not unheard of. Nevertheless 24 interviewees sought informal redress by discussing their concerns with managers or HR departments. In general their concerns were minimized and dismissed. In the absence of a formal reporting or investigation procedure, their experiences reveal a consistent pattern of organizational responses that belittled their experiences and reinforced a sense of futility regarding formal

action. Many of these interactions contributed to the shaping of their legal consciousness, resulting in a focus on individual or gendered framings of their experiences, rather than pursuing formal, employment-based claims.

Undermining the labeling effort: “it’s not harassment”

Organizational actors often minimized the experiences of those who reported by undermining their attempts to label them as sexual harassment. This occurred when they were told that the behavior they experienced was not harassment. This undermining took three primary forms: normalization, narrowing the definition, and threatening victims to compel them to stop using the term. This belittling eroded the labeling that had been empowering for some.

Normalization involved framing the harassing behavior as commonplace or harmless. Liang Shuang, a sound effects editor at a movie studio in Hangzhou City, experienced this normalization firsthand when her complaint of harassment was met with a dismissive response. She recalled,

I was working on my first project with this production company. The associate director of the project, a middle-aged man, often made offensive comments about my appearance. He commented that my breasts looked “juicy,” making him want to grab them.... His words disgusted me and seemed like harassment, you know, like those creepy stories you read online. When I complained to the director, he laughed, saying, “Relax, he [the associate director] does that to every pretty girl. He’s just like that, but harmless.” (Interview 43, March 20, 2022)

The director’s response trivialized her experience, suggesting that such behavior was normal and expected within the workplace, thus contributing to the belittling process. Liang Shuang felt uncertain about whether the associate director’s comments constituted sexual harassment, and her company had no written policy she could consult for a definition. She also recognized that her boss was indifferent to her discomfort. Consequently, she pursued no further action.

Narrowing the definition of harassment to prevent complaints from gaining traction occurred when Yu Pei, a female worker from the TV factory I researched in Shenzhen, reported to her superior that a male coworker was subjecting her to constant verbal sexual harassment. He dismissed her concerns, saying she was “making too big a deal out of a too trivial matter” and that she should stop “bothering him with such a small thing” (Interview 67, June 28, 2022). Yang Fuyu, a female employee at a clothing firm in Qingdao City, told her boss that a more senior male colleague was frequently touching her groin and sending her sexually explicit messages. Her boss responded by questioning whether it was truly sexual harassment, saying, “Even if what you said is true, calling it workplace sexual harassment seems exaggerated. You weren’t hurt. Let alone you have no proof.... Do you think you’re maybe overthinking this?” (Interview 39, February 26, 2022)

These responses constricted the definition of harassment, making it more difficult for victims to successfully label their experiences as such within the organizational context, reinforcing the perception that formal complaints were unlikely to succeed.

Some organizational actors were less subtle, resorting to threats. Qi Min experienced *explicit threats*, which research conducted in Western contexts has not typically identified. When she reported to her boss that a client had sexually harassed her during a business meeting, her boss threatened her job security. According to Qi Min,

At first, there was another colleague seated between me and the client.... When the colleague went to the bathroom, he switched seats with that colleague.... I started feeling that this was sexual harassment, when he placed his hands on my knees and started rubbing my groin... My boss saw everything but simply pretended nothing was happening there and continued talking with the client about the next project instead. I felt so helpless.... After dinner, I stopped my boss.... and asked him if he would tell the client privately to stop such behavior.... But I never would've expected, he was pissed off by my request, [questioning my suggestion that he should risk up setting the client] "Over this grain of sand? Seriously? I warn you, don't bring this up again. You can go home if you wreck this deal." (Interview 41, March 14, 2022)

Much like the others who experienced such undermining, Qi Min was discouraged from taking any action. She had no option but to remain silent, and the threat reinforced the understanding that legal claims could damage her personally and professionally. By undermining the naming process, these interactions shaped victims' legal consciousness, contributing to a shared understanding that formal channels were not a viable site for redress. This belittling, witnessed and experienced throughout the workplace, likely discouraged formal mobilization and strengthened a collective sense of futility regarding reporting.

Shifting the blame to individual harasser and gender culture: "it's not our problem"

The 24 participants who reported harassment felt that their organizations had responsibility for the harassment they had suffered. While they did not generally say so when making their complaints, reporting implied that the organization should address the behavior. However, those they reported it to often resisted this implication of responsibility. They emphasized that individual harassers or societal culture were responsible for the abuse participants faced. This deflection reinforced the idea that the problem was external to the organization, thereby absolving it of responsibility and shaping victims' expectations for what could or should be done. This reproduced the minimizing tendencies common among the 54 interviewees who did not report.

Zhang Yuying, an analyst in a finance company in Shanghai, reported feeling naive when she initially emailed HR, expressing hope for change and that she would be the last victim of workplace sexual harassment at the company. A month later, an HR representative asked to meet with her. She described how the HR representative framed the issue as beyond organizational control:

She [the HR representative] told me that she was sorry for what happened, and, as a woman, she understood me. She said, "It must be awful to experience this, but is raising this as a workplace problem a bit excessive? Anyway, he [the harasser] wasn't directed to do such things to you by the company, and we

certainly hope no one will do so.... With so many employees, how can our company accommodate all their needs?... Nevertheless, we want you to know that we take your complaint seriously. You can rest assured that we will investigate and if what you said is true, he will be punished.” (Interview 45, April 2, 2022)

The HR representative subtly shifted the narrative, emphasizing that the harasser had acted independently and that the size of the company made preventing sexual harassment impossible. She then convened a meeting between Yuying and the harasser, instructing them to confront each other. The harasser apologized but faced no further punishment. In addition to making Yuying vulnerable to reprisal, this process strongly suggested that the incident was a personal dispute. It treated them as if they had equal power, rather than protecting Yuying’s disadvantage. Yuying realized that the company had no intention of addressing her concerns and did not pursue further action.

Similarly, other organizational actors deflected organizational responsibility through emphasizing broader societal gender norms. Gu Shan, a cartographer at a publishing firm in Guangzhou, said that, after experiencing uncomfortable touching and sexually offensive texting from a more senior editor for months, she finally reported it to the chief editor. She described his response:

[H]e asked me what kind of results I was hoping for. When I told him the truth, I hoped [the harasser] would be punished, and I didn’t think I could work in the same office with him anymore.... He laughed at me, saying that I was too young and too naive to comprehend the cruelty of society.... He then talked about sexual harassment, saying that it is a problem everywhere and couldn’t be wiped out. I remember him saying, “It’s just a simple fact, you cannot change it, but you can adapt to it. Be smart, rather than complaining around; learn how to protect yourself from being caught by such guys.” (Interview 6, June 14, 2021)

By shifting blame to the gender status quo, the editor’s advice suggested the problem was too big for an organization to address, so Gu Shan must “adapt.” The onus to protect herself from future incidents was on Gu Shan, rather than the organization.

Other organizational actors, while not explicitly denying responsibility, used similar strategies to persuade victims to accept the results of unsatisfactory investigations. Tong Jiamei, a female employee of an advertising and marketing company based in Chongqing, reported that a male colleague once forced her to kiss him and attempted to follow her to her hotel room during a business trip (Interview 63, June 8, 2022). Astonished and angry, Jiamei immediately informed their supervisor, requesting that the company fire the harasser. Having made a determination that Jiamei’s accusation was true, their supervisor informed her that the harasser had been seriously reprimanded for his behavior and that he had promised not to repeat the act in the future. When Jiamei expressed her dissatisfaction with the inadequate response, she was brushed off:

I shared my real thoughts with my supervisor. She told me that, as a woman, she understood that it might seem unfair, but I should drop the matter since at least

I've had a response. "Do you know that many other companies don't even care about such matters? Women everywhere experience sexual harassment. How many complaints do you think would be handled at all?" she asked. After that, I never brought it up again. (Interview 63, June 8, 2022)

The experience of Li Yanfei, a female administrative employee at a technology company in Shenzhen, further illustrates how organizations can manipulate formal processes to downplay the severity of harassment and protect their own image. While her harasser was eventually terminated, the formal notice of his termination, following the investigation into his physical harassment of her, made no reference to workplace sexual harassment. Instead, it vaguely cited "allegations of misconduct" with "merit" and "issues with his ethical conduct and moral behavior" (Interview 29, December 16, 2021). Yanfei reflected that acknowledging the sexual harassment had required her "to show great courage...because I knew that I had to confront the issue before attempting to combat it." She felt that the notice disregarded this courage.

The organization's avoidance of the term "sexual harassment" minimized the gravity of Yanfei's experience. In the Chinese context, unethical or immoral behavior that leads to job loss typically involves sexual misconduct. Thus the language of the notice suggested that the harasser might have engaged in an improper but consensual relationship, for example, an extramarital one. Had anyone found out that she was involved in the man's dismissal, they might have accused Yanfei of sexual looseness instead of recognizing her as a victim.

By shifting blame and emphasizing individual responsibility, these responses reproduced the perception that formal organizational remedies were ineffective. By framing sexual harassment as an individual or societal problem, rather than an organizational or workplace one, these actors contributed to a collective understanding that discouraged formal legal mobilization. This, in turn, reinforced the pattern of strategic non-mobilization observed among the non-reporters, further entrenching the culture of silence surrounding workplace sexual harassment in China.

Discussion

Beyond awareness: second-order legal consciousness as an interpretive process

A central theoretical contribution of this study lies in its reconceptualization of second-order legal consciousness as a dynamic, interpretive process that shapes and inhibits formal legal mobilization in the context of workplace sexual harassment in China. This study expands the concept of second-order legal consciousness beyond a mere awareness or understanding of others' legal perceptions (Headworth 2020; Young and Chimowitz 2022). Here, second-order legal consciousness operates as an active, socially embedded, interpretive process. Individuals interpret, evaluate, and internalize the observed and anticipated experiences of others, particularly regarding the success or failure of attempts to address grievances. These interpretations are not passive; they are filtered through the lens of existing social understandings, power dynamics, and, crucially, the perception of potential belittling responses from those in authority. Just as a lens focuses and refracts light, second-order legal

consciousness focuses and refracts employees' understanding of their legal options, directing attention toward certain interpretations of events while obscuring others. These interpretations, then, shape their own perceptions of the risks, benefits, and likely outcomes of formal legal action.

This interpretive process is especially potent within hierarchical structures, and the specific characteristics of many Chinese workplaces amplify its effect. The strong emphasis on maintaining harmonious relationships (*guanxi*) (Bian 2018; Hwang 1987), intertwined with deeply ingrained power structures, creates a context where challenging authority is perceived as particularly costly, amplifying the perceived costs of voicing a grievance. The potential disruption to workplace harmony, coupled with the fear of reprisal from superiors and the risk of losing *mianzi* (Li 2016; Liu 2021), makes formal legal mobilization a daunting prospect. Moreover, the limited and vaguely defined protection offered by Article 1010 (*Civil Code* 2021), when contrasted with more explicit frameworks like Title VII of the Civil Rights Act in the U.S., further diminishes the perceived benefits of formal action. Whereas Title VII, despite some limitations in practice, provides a clearer legal basis for claiming rights, the ambiguity of employer liability under Article 1010 creates uncertainty and reinforces the perception that formal mobilization within Chinese workplaces is unlikely to yield positive results and may, in fact, backfire.

As my findings demonstrate, repeated exposure to abuses of power, understood through the lens of *guanxi* (Bian 2018; Hwang 1987) and *mianzi* (Li 2016; Liu 2021), solidifies the perception of a rigid workplace hierarchy where superiors act with impunity. This socially constructed understanding, reinforced through informal networks, discourages formal legal action. The findings highlight how interpretations arising from second-order legal consciousness are not static but are continually updated and reinforced through ongoing observations and interactions.

The avoidance of formal channels, therefore, is not merely a product of individual experiences or a lack of legal awareness. Rather, it stems from a calculated assessment shaped by second-order legal consciousness. Workplace dynamics, cultural values emphasizing social harmony (Westwood 1997), and a legal framework that offers limited and ambiguous protection combine to make formal mobilization appear costly and its potential benefits uncertain. Thus, employees often favor informal approaches to navigate workplace challenges while minimizing risks to their professional and social standing.

Socio-legal scholars have long cautioned that rights awareness does not automatically translate into mobilization (Albiston 2010; McCann 1994; Merry 1990; Patricia and Silbey 1998). This research provides further evidence that the interpretation of those rights within a specific organizational and cultural context is crucial, demonstrating how the lens of second-order legal consciousness mediates the relationship between awareness and action. This lens operates by amplifying accounts of negative reporting experiences and grievance belittlement, particularly when perpetrated by those in authority. Concurrently, it minimizes narratives of successful mobilization, especially those that challenge the organizational hierarchy. Consequently, employees are more likely to encounter and internalize experiences that reinforce the perceived futility and risk of formal action, further entrenching strategic non-mobilization.

Belittling as a mechanism shaping interpretations

Belittling legitimate grievances plays a crucial role in shaping employees' understandings of their options. This study reveals that belittling is not a peripheral phenomenon but rather a central component in the formation of second-order legal consciousness within the workplace. Belittling is a mechanism of power that operates through the strategic management of meaning and the construction of a collective narrative about the futility of formal complaints. It creates a climate of doubt and invalidation around experiences of harassment.

When supervisors, colleagues, or HR personnel minimize, dismiss, or normalize complaints of sexual harassment, they are not just influencing the individual victim's legal consciousness; they are contributing to a broader narrative about the efficacy and desirability of legal mobilization. These interactions inform second-order legal consciousness, signaling that reporting is unlikely to be taken seriously or could even lead to negative consequences. The act of belittling takes various forms, from outright denial ("It's not harassment") to more subtle tactics like normalization ("He does that to everyone") and threats ("Don't bring this up again"). Each instance of belittling contributes to the collective understanding of what is acceptable, what is possible, and what is risky within the organizational context.

The framing of sexual harassment as an individual or societal problem, rather than a systemic issue within the workplace, effectively discourages claims that could potentially hold the organization accountable. This strategic deflection, along with the selective interpretations it informs, directs grievances away from formal, employment-based claims and toward informal, individualized, or gender-based remedies. Consequently, while victims may readily identify and label their experiences as sexual harassment, thereby "naming" the problem, and they may blame individual harassers or prevailing gender inequalities, "blaming," they are often reluctant to lodge formal complaints or seek remedies that directly implicate their employers, thus limiting their "claiming" within the formal organizational context (Felstiner et al. 1980). This contributes to a cycle of non-mobilization, as the very absence of formal complaints is often misinterpreted as a lack of a problem.

Furthermore, the belittling process shapes the emotional landscape of the workplace, fostering fear, shame, and a sense of powerlessness. These emotions, in turn, further reinforce the tendency to avoid formal channels.

Strategic non-mobilization: agency with constraints

The concept of strategic non-mobilization, as demonstrated in this study, refines existing theories of legal mobilization, particularly the "lumping it" concept. It challenges the dichotomy between "lumping it" and formal legal action by highlighting the strategic choices individuals make within constrained environments. The decision not to mobilize law formally is not a passive acceptance of injustice, but rather a calculated decision to prioritize relational harmony, professional security, and personal well-being within a power-structured workplace. It is a form of agency exercised within a system that limits options.

The barriers to legal mobilization identified in the existing literature – the financial costs of litigation, fear of retaliation, and the perceived ineffectiveness of formal remedies (Abrego 2011; Albiston 2005; Gallagher 2006; Nielsen and Nelson 2005) – are not

merely external obstacles but are actively incorporated into individuals' second-order legal consciousness. Observing the experiences of others and anticipating similar responses, individuals internalize these barriers, shaping their perceptions of what actions are possible, desirable, and, ultimately, worthwhile.

Employees in Chinese workplaces are constantly engaged in a careful calculus, weighing the potential benefits of formal legal action against the potential risks to their professional standing, social relationships, and even personal safety. This involves avoiding actions perceived as disruptive or disloyal, even if those actions involve exercising one's legal rights. The fear of damaging social relations or facing retaliation creates a strong disincentive to formal reporting, particularly when second-order legal consciousness, shaped by the perception of belittling, suggests that such reporting is unlikely to be effective or may even backfire.

Strategic non-mobilization thus represents a negotiation between individual desires for justice and the perceived need to maintain social relations and professional standing within a hierarchical context. This negotiation is further influenced by emotions such as fear, shame, and the desire to maintain *mianzi* (Li 2016; Liu 2021), and can incorporate a temporal dimension, where harassment might be tolerated in hopes of future advancement. While this resonates with Nielsen's (2009) argument that reluctance to invoke legal rights does not necessarily equate to a lack of legal consciousness, this study goes further by demonstrating how the observed and anticipated experiences of others, as interpreted through the lens of second-order legal consciousness, shape not only the decision to mobilize but also the very framing of the grievance itself.

Strategic non-mobilization does not preclude alternative coping strategies. Aligning with Chua's (2016) work on micromobilization, this study argues that while strategic non-mobilization may appear to be the opposite of mobilization, it can create the conditions for micromobilization. Within restrictive environments, individuals and groups may find ways to build solidarity, challenge norms, and create alternative support spaces (Chua 2016). Similarly, Chinese employees, while strategically choosing not to file formal complaints, may engage in a range of informal strategies. The formation of informal networks, like the "Avengers" group, exemplifies this dynamic. While the group did not directly challenge the organizational hierarchy through formal channels, it provided a platform for collective sense-making, emotional support, and informal responses to harassment. Members shared information, offered advice, and developed strategies for coping with harassment. These actions, though seemingly small, represent a form of agency, operating within the constraints of strategic non-mobilization (Chua 2016). This study, therefore, expands the notion of micromobilization to encompass the seemingly passive, yet strategic, choice of non-mobilization, recognizing it as a form of negotiation and agency within restrictive power structures.

Individualized and gendered construction of workplace sexual harassment

In conjunction with the tendency to avoid formal remedies, both victims and those they interacted with have constructed workplace sexual harassment in individualized and gendered terms. This framing, while understandable given the limitations of the legal framework and the power dynamics at play, has significant implications for addressing the problem of workplace sexual harassment systemically in China.

Individualizing harassment as a personal dispute between the harasser and the victim, as seen in the responses to reported cases often did, downplays power differentials related to gender and institutional position, ignoring how these dynamics contribute to harassment. This framing conveniently removes the organization from the equation, obscuring the ways in which organizational structures and cultures can enable and perpetuate harassment. Consequently, the burden of seeking redress falls heavily on victims, who must endure the abuse, engage in risky self-help measures, or leave their jobs. Given the costs of litigation, the burden of proof, and the low awards in Chinese sexual harassment cases, legal redress is practically inaccessible. Existing laws remain idle even in their weak form.

Furthermore, while framing harassment as a “gendered victimization” committed by men against women can foster collective solidarity, as seen in the “Avengers” group and online feminist communities, it also carries limitations. Emphasizing harassment solely as a gendered harm, while downplaying the workplace context, overlooks the element of institutional power abuse and the ways organizational structures enable and perpetuate it. As the findings show, even those interviewees who identified as feminists or engaged in collective action often refrained from directly challenging their employers, reflecting the constraints imposed by their second-order understanding of the likely consequences. Moreover, focusing solely on a gendered framing risks excluding homosexual harassment, harassment of nonbinary or transgender individuals, and female-to-male harassment, despite the vulnerability of marginalized groups in hierarchical organizations.

Another factor casting doubt on the gendered approach is the limited potential for structural change due to political and social constraints on feminist movements in China. Non-governmental organizations face significant challenges, including restrictions on foreign funding and crackdowns on activism (Huang 2017; Wong 2016). Feminism is increasingly labeled as extremism or a foreign plot, leading to suppression (Huang 2017; Kuo 2022; Li and Lee 2022). The ongoing decline in women’s empowerment over the past decade (World Economic Forum 2023) suggests that a gendered approach alone is unlikely to drive the societal changes needed. For now, the narrative that harassment is an inevitable, unchangeable, and unequal gendered reality will likely persist, restricting the broader rhetorical power of the sexual harassment label to discussions of gender norms alone.

Conclusion

In conclusion, this research compels a rethinking of legal consciousness, mobilization, and the operation of power in power-structured contexts. The theoretical framework developed in this study – with its emphasis on second-order legal consciousness, belittling, and strategic non-mobilization – provides a powerful lens for understanding the persistence of workplace sexual harassment in China, despite the existence of formal legal prohibitions. It moves beyond individual-level explanations to illuminate the systemic factors that shape legal consciousness and constrain legal mobilization. This study has important implications for efforts to address workplace harassment, suggesting that legal reform alone may be insufficient without accompanying broader initiatives to challenge workplace cultures that belittle grievances and discourage reporting. Without such efforts, the burden of addressing harassment will continue to

fall disproportionately on individual victims, who are in many cases forced to choose between their safety and their right to work in a harassment-free environment.

The findings also challenge the tendency to view legal mobilization in binary terms, highlighting the need for a more nuanced understanding of the diverse ways in which individuals respond to grievances. The concept of strategic non-mobilization has implications for how we analyze situations where formal legal action is rare or absent, revealing the hidden forms of agency and resistance that may be at play.

This study also acknowledges certain limitations. The sample, while diverse in some respects, is not representative of all Chinese workplaces, potentially limiting the generalizability of the findings. Longitudinal studies could shed light on how second-order legal consciousness and strategic non-mobilization evolve over time, particularly in response to legal changes, social movements, or organizational interventions. Additionally, future research efforts should be made to examine the phenomenon of strategic non-mobilization from the perspective of employers. Such research could provide valuable insights for developing effective interventions. Given the economic costs of sexual harassment to women and to society as a whole, as well as the misery it causes, such efforts are vital to the future of the nation.

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Notes

1 Chinese courts have discretion in awarding mental distress damages in sexual harassment cases, considering factors such as the tort's severity, the tortfeasor's fault and financial standing, and social impact. Since the enactment of the Civil Code, few cases have been publicized, possibly due to underreporting or private settlements. Disclosed awards generally range from 3,000 to 5,000 yuan, with the highest being 30,000 yuan.

2 The study was approved by the Institutional Review Board (IRB) at University of California, Berkeley, with approval number [2019-11-12751].

3 "Retroactive consent" refers to a specific circumstance during this study's second data collection stage. While conducting observational research in a Shenzhen television factory, with prior permission from management and worker awareness of the author's research presence, formal written consent from all workers was initially impractical due to the large workforce and the unpredictable nature of identifying potential harassment victims. However, upon observing incidents of harassment and identifying individuals willing to share their experiences, formal interviews were arranged, and written consent was obtained, including permission to use relevant, previously collected observational data. Thus, "retroactive consent" denotes consent granted for the use of previously collected observational data.

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