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# *Judicial Response Paths for Sexual Minority Groups Under the Imbalance of Power in Universities*

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***Abstract.*** Against the backdrop of the inherent power imbalance between university teachers and students, sexual minority students are trapped in dual vulnerability derived from identity stigma and power oppression, making them more vulnerable to power-based sexual assault, identity blackmail and long-term rights violations. However, the current judicial response system in China is poorly adaptive to such cases, facing dilemmas such as the misidentification of sexual consent under power pressure, rigid evidence rules, unreasonable allocation of burden of proof, and insufficient institutional liability. Taking university power imbalance as the starting point, this paper focuses on the judicial remedy dilemmas of sexual minority groups, adopts literature research, comparative analysis and case analysis to clarify the mechanism of power eroding sexual consent and the amplification effect of identity vulnerability, and examines the core obstacles in judicial cognition, evidence application and liability determination. On this basis, this paper proposes to introduce the principle of fictional involuntariness under strict liability, optimize flexible and privacy-friendly evidence rules, and build a multi-party institutional liability system participated by courts, universities and professional institutions, so as to reconstruct the judicial identification logic of campus power-based sexual harassment, lower the relief threshold for sexual minority victims, and provide theoretical support and practical paths for equal rights protection, campus governance and rule of law construction in colleges and universities.

***Keywords:*** campus sexual harassment, sexual consent, power imbalance

## 1. Introduction

With the development of higher education popularization and social value diversification, the governance of campus sexual harassment has become an important part of college governance and rule of law construction. The teacher-student relationship in colleges and universities is based on academic management, resource allocation, degree granting, postgraduate training and other powers, forming a stable and asymmetric power structure. Teachers have decision-making or important influence on students' study, scientific research, evaluation, development and other key interests, while students are in a long-term dependent and vulnerable position. Under such power gap, the authenticity of sexual consent is easily eroded and distorted, and many sexual acts that seem to be agreed on the surface are essentially the result of pressure, fear and compromise [1].

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Compared with ordinary students, sexual minority students face double vulnerability. On the one hand, they are constrained by the teacher-student power gap; on the other hand, they bear identity pressure such as social stigma, group prejudice and fear of being outed. Perpetrators often take advantage of this dual vulnerability to carry out sexual coercion, blackmail and long-term exploitation, and victims are often forced to remain silent for fear of identity exposure, academic retaliation and reputation damage. In recent years, individual campus sexual harassment cases involving sexual minorities have been exposed, but most of them are difficult to enter the judicial process smoothly, and even if they enter, it is difficult to be effectively identified and protected [2, 3].

At present, China's legal system and judicial practice lack targeted response rules for campus power-based sexual harassment, especially for sexual minority groups. The traditional civil tort and criminal evidence system takes explicit objection and complete voluntariness as the core, which is difficult to adapt to the hidden, continuous and coercive characteristics of power exploitation. Courts often have cognitive biases such as equating power oppression with private emotional disputes and doubting the credibility of sexual minority victims. Evidence collection is trapped in the conflict between privacy protection and proof needs, and burden of proof allocation is seriously unfavorable to victims. Current empirical literature also confirms that sexual and gender minority students are exposed to heightened harassment, violence and academic harm risks in educational settings [4].

This study focuses on four core issues: how power imbalance undermines the authenticity of sexual consent, the dual vulnerability and rights violations faced by sexual minority students under intersecting identity and power oppression, the practical obstacles in evidence, judicial cognition, and burden of proof in current judicial practice, as well as the construction of a diversified judicial response system. Using literature research, comparative legal analysis, and case analysis, it systematically explains the mechanism of power eroding sexual consent, examines the mature judicial experience of typical countries, analyzes the dilemmas in China's judicial response to campus power-based sexual harassment involving sexual minorities, and constructs targeted and operable judicial response paths.

The objectives of this study are to clarify the erosion mechanism of power gap on sexual consent in colleges and universities, summarize the judicial experience of typical countries in dealing with power-based sexual harassment and minority protection, identify the dilemmas of evidence, cognition and burden of proof in China's judicial practice, and construct a targeted, operational and compatible diversified judicial response system for sexual minority students [5].

## 2. Legal logic: strict liability and the reconstruction of sexual consent

The teacher-student relationship in colleges and universities is not an equal civil subject relationship in the general sense, but a dependency relationship based on management and control of key interests. Teachers, especially supervisors, course graders, thesis reviewers and internship instructors, hold important resources such as scholarship evaluation, paper publication, project quota, thesis defense, graduation certification and job recommendation. Students' academic development and even career prospects are highly dependent on teachers' subjective evaluation and decision-making. This asymmetry of resources, status and information forms a stable power gap structure [6].

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### 2.1. The mechanism of power eroding consent

In this structure, students are in a long-term vulnerable position. They are difficult to freely refuse teachers' requirements, and even if they are dissatisfied, they dare not easily resist. This structural inequality determines that any sexual behavior involving teachers and students is born with the risk of power pollution. True sexual autonomy requires equal status, free will and no external pressure. However, the teacher-student power gap fundamentally destroys the premise of equality, making consent easy to be distorted, coerced and fictionalized.

Feminist jurisprudence has subverted the traditional consent-centered judgment logic. Traditional legal thinking often takes explicit expression of will as the basis for judging voluntariness, but ignores the power background behind the will. Feminist jurisprudence emphasizes that in a hierarchical relationship, the subordinate's agreement is often a defensive choice to avoid greater damage, not a real sexual willingness [7]. When the superior has the power to decide the core interests of the subordinate, the so-called consent is fictional and invalid in essence.

Under the absolute power difference between university teachers and students, students' compliance behavior has strong compulsion. Even if there is no explicit violence or threat, the invisible pressure from academic evaluation, development prospects and identity security is enough to deprive students of free choice. For sexual minority students, this fictionality is further strengthened. Perpetrators can use identity exposure as a hidden threat, making victims fall into a double bind: compromising to endure exploitation, or refusing to face the risk of being outed and academic retaliation. Therefore, judicial judgment should no longer rely on the surface consent performance, but should take the power structure as the core to deny the legal effect of fictional consent.

### 2.2. The connotation and application scope of strict liability in campus

Strict liability in this paper refers to a liability-identifying mechanism oriented to power vulnerability. In the campus scenario with obvious power gap, once a teacher in a dominant position has sexual contact with a student in a subordinate position, it is presumed that the sexual behavior violates the real will of the student, and the actor should bear corresponding legal liability regardless of whether the student explicitly refuses. Its core is to take the power inequality as the basis of liability, not to take explicit coercion as a necessary condition [7].

The application scope of strict liability covers typical power disparity relationships: supervisor-postgraduate relationship, instructor-undergraduate management relationship, teacher-student relationship involving course scores, scholarship, thesis and employment recommendation, and other relationships with management, evaluation and control power. This mechanism is essentially a tilt protection for the vulnerable, aiming to correct the structural inequality between the two parties.

### 2.3. The institutional value of strict liability in protecting sexual minority students

Strict liability has unique value for the protection of sexual minority students. First, it lowers the threshold of liability identification, avoiding the need for victims to provide direct evidence of explicit coercion, and reducing the difficulty of proof. Second, it avoids secondary harm: sexual minority students do not need to publicly expose their identity details and privacy experiences to prove involuntariness, reducing identity pressure and psychological trauma. Third, it strengthens deterrence: taking the power structure as the core basis for liability can effectively restrain teachers from using identity vulnerability to carry out hidden exploitation. Fourth, it reflects equal protection:

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regardless of gender and sexual orientation, as long as students are in a subordinate position, they can be equally covered, reflecting judicial neutrality and inclusiveness.

### 2.4. Rights imbalance from an intersectional perspective

Intersectionality theory holds that multiple vulnerable identities will produce overlapping oppression effects [8]. Sexual minority students are in the intersection of student identity and sexual minority identity. On the one hand, as students, they are constrained by teacher power; on the other hand, as sexual minorities, they bear social stigma, identity discrimination and fear of exposure. This dual vulnerability makes them more likely to become targets of power exploitation. Perpetrators often choose sexual minority students with weaker resistance and stronger silence tendency as targets, making the violation more concealed and longer-lasting.

Sexual orientation vulnerability has an amplification effect on power exploitation. On the one hand, perpetrators can use outing as a hidden threat, forming a dual pressure of academic retaliation + identity exposure, making victims completely lose their ability to resist. On the other hand, due to identity privacy considerations, victims are more reluctant to report, complain and testify, resulting in difficulty in evidence preservation and low exposure rate of violations. In judicial practice, this amplification effect further leads to problems such as difficulty in proving facts, high subjectivity of judgment and insufficient liability investigation, forming a vicious circle of difficult to find, difficult to sue, difficult to win.

## 3. Comparative law observation: judicial recognition standards of hostile environment

### 3.1. France: the reconstruction of sexual consent principle and its enlightenment

France has carried out systematic reconstruction of the sexual consent principle in criminal law revision. In view of the sexual exploitation in subordinate relationships, France clearly stipulates that when the actor has authority, management or evaluation power over the victim, the sexual behavior between the two parties shall be presumed to be non-consensual, and the actor shall be investigated for criminal responsibility. This rule completely breaks the traditional surface consent logic, takes the power structure as the core judgment basis, and adopts a strict liability model similar to statutory rape.

This system is highly compatible with campus scenarios. It directly denies the legal effect of fictional consent under academic authority, reduces the burden of victims, and strongly deters power abuse. For sexual minority cases, this rule does not set identity differences, applies equally to heterosexual and same-sex relationships, and provides strong reference for China to deal with same-sex power exploitation.

### 3.2. The United States: identification standards of quid pro quo and hostile environment harassment

The United States has formed a mature judicial identification system for campus sexual harassment through Title IX and judicial precedents [8]. Courts divide sexual harassment into two types: quid pro quo harassment and hostile environment harassment. Quid pro quo harassment refers to taking academic benefits as exchange conditions for sexual benefits; hostile environment harassment refers to creating an offensive, intimidating and hostile learning environment through continuous inappropriate words, deeds and contacts.

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For sexual minority cases, United States courts apply the same power judgment logic, focusing on whether there is a power gap and whether it causes a hostile environment, rather than gender and sexual orientation. Courts will comprehensively consider the frequency of conduct, severity, objective harmfulness and institutional management negligence to judge. This flexible identification standard helps to deal with hidden and continuous power exploitation.

### 3.3. Institutional liability: employer liability and vicarious liability

United States judicial practice clearly stipulates the employer liability of colleges and universities. When teachers use their power to sexually harass students, if the college knows or should know but fails to take effective measures, it shall bear vicarious liability. The liability is not limited to direct management negligence, but includes failure to establish a sound complaint mechanism, inadequate investigation and lax supervision. This mechanism forces colleges and universities to carry out forward-looking prevention and governance.

Colleges and universities can obtain exemption by proving that they have established complete prevention, complaint, investigation and rectification systems, and have taken timely and reasonable measures after receiving reports. This rule balances institutional responsibility and management space, promotes colleges and universities to improve internal governance, and reduces judicial pressure and victim relief costs.

## 4. Obstacles to current judicial response: evidence rules and cognitive threshold

### 4.1. Dilemmas in evidence disclosure

Sexual minority students have extremely high privacy demand for their identity. In the process of evidence provision, they face the risk of identity exposure, secondary discrimination and social evaluation damage. Therefore, they are reluctant to provide chat records, audio recordings, witness testimony and other key evidence, resulting in serious evidence insufficiency. At the same time, the current judicial system lacks perfect privacy protection and closed proof mechanisms, further intensifying victims' silence.

Campus power-based sexual harassment mostly occurs in closed spaces such as offices and laboratories, showing one-to-one characteristics. There is a lack of physical evidence and witnesses, electronic evidence is easily deleted, and implicit threats are difficult to solidify. Victims often fail to preserve evidence in time due to fear and confusion, leading to difficulty in meeting the proof standard.

### 4.2. Threshold bias in judicial cognition

Many judges lack understanding of the power structure of colleges and universities, and easily equate implicit compliance and compromise under power pressure with voluntary emotional interactions. They ignore the invisibility and coercion of academic power, and mistakenly regard long-term exploitation as private emotional disputes, resulting in deviation in fact identification.

In individual cases, judges have stereotypes and prejudices against sexual minorities, doubting the motives and credibility of victims, and even attributing the violation to the victim's identity and behavior. This cognitive bias leads to stricter proof requirements for sexual minority victims and weaker protection intensity.

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### 4.3. Inequality in the allocation of burden of proof

The current judicial practice takes explicit objection and direct coercion as the main basis for judging involuntariness. However, victims under power pressure rarely leave explicit refusal records, and most of them are silent and compromise. It is extremely difficult for victims to provide direct evidence to meet the proof standard, resulting in a large number of cases failing to be recognized.

There is no legal presumption or burden of proof reversal mechanism for campus power-based sexual harassment cases in China. Victims bear the full burden of proof, while perpetrators are in a dominant position in evidence control. This serious imbalance makes the vulnerable in a more unfavorable position in litigation, and the judicial relief function is difficult to play [9].

## 5. Judicial response paths: evidence rules and institutional coordination

### 5.1. Introducing the principle of fictional involuntariness

It is suggested to introduce the principle of fictional involuntariness in judicial interpretation and case guidance. For sexual behavior between teachers with management and evaluation power and students, it is legally presumed that the student's consent is fictional and invalid, and the actor shall bear tort liability or provide the basis for criminal punishment. The defendant can only rebut by proving that the sexual behavior is completely separated from power, has no connection with academic interests, and is based on the real free will of the student. This mechanism shifts part of the burden of proof to the superior party and corrects the structural inequality.

To prevent over-application, clear exceptions should be set: excluding relationships without actual management and evaluation power such as part-time teachers and alumni; excluding truly equal emotional relationships that have been established before the power relationship and are completely independent of academic resources; and clarifying the identification standards of power separation to balance protection and freedom.

### 5.2. Flexibility of evidence rules

A shielded testimony mechanism should be established through closed-door hearings, video testimony, identity information confidentiality and other measures to protect the privacy of sexual minority victims. Expert witnesses in sociology, psychology and education may also be introduced to explain the power dynamics, identity vulnerability and trauma performance of sexual minorities, assisting judges in accurate fact identification.

The notarization and identification procedures of electronic evidence such as chat records, audio recordings and transfer records should be simplified. The scope of circumstantial evidence recognition should be expanded, based on abnormal contact frequency, resource exchange hints, post-refusal retaliation, identity threat clues and other facts. The proof standard should also be appropriately relaxed, and the high probability standard should be adopted in civil proceedings to reduce the victim's proof pressure.

### 5.3. Linkage of institutional responsibilities

Courts should give play to judicial guidance and promote the improvement of internal complaint and investigation mechanisms in colleges and universities. Colleges and universities should establish special anti-sexual harassment institutions, strengthen early warning and supervision, and seriously

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deal with violations. Professional associations should provide legal aid, psychological counseling and ethical review. The three parties should link to form a closed-loop governance of prevention, acceptance, investigation and relief.

Full-process pro bono legal aid should be provided for sexual minority victims; litigation procedures should be simplified and the trial cycle should be shortened; mental damage compensation claims should be supported, and punitive compensation should be imposed in serious cases; protection against retaliation should be strengthened to ensure victims' academic and identity security [10].

## 6. Conclusion

The judicial protection of sexual minority students in colleges and universities must face the dual reality of power imbalance and identity vulnerability. The traditional judgment logic centered on surface consent and explicit coercion is difficult to adapt to the hidden and coercive characteristics of power-based sexual harassment, resulting in problems such as low case recognition rate, high relief cost and insufficient protection in judicial practice.

The optimized judicial response system helps to break the silence of victims, curb the abuse of teachers' power, protect the identity privacy and legitimate rights and interests of sexual minority students, and promote the construction of a safe, equal, inclusive and rule-based campus. In the future, with the improvement of relevant judicial interpretations and the accumulation of case guidance, the judicial protection level of sexual minority groups in colleges and universities will be further improved, and the value of diversity and equality will be better implemented.

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