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Same-Sex Teacher-Student Sexual Power Relations in Chinese Universities: A Strict Liability Framework

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Abstract. This paper examines the judicial application of a strict liability framework to same-sex teacher-student sexual power relations in China. Strict liability is used in a differentiated sense, including relatively strict criminal and civil liability, administrative strict liability, and corresponding university disciplinary rules. The study analyzes the invalidity of sexual consent under university power imbalance by considering the micro-level operation of academic authority, the special vulnerability of sexual minority students, and the shift from subjective consent to structural exploitation. Through comparative analysis of legal rules and judicial practices in China, the United States, and Germany, it identifies the main dilemmas in Chinese practice, including gaps in the existing legal system, insufficient gender-neutral reasoning, and difficulties in evidence assessment. The paper proposes legislative, judicial, preventive, and remedial measures for introducing a strict liability framework in China. It argues that same-sex teacher-student sexual contact should be subject to a presumption of non-consent, accompanied by relatively strict criminal liability, civil liability, administrative sanctions, and university rules. These measures can help build a more coherent judicial system and provide stronger protection for students' sexual freedom, personal dignity, and rights.

Keywords: strict liability, same-sex teacher-student sexual power relations, non-consent for sexual contact, sexual freedom and personal rights, sexual minority groups

1. Introduction

Sexual power harassment in teacher-student relationships has become a significant problem in China's higher education system. It is characterized by unequal power between teachers and students, with teachers controlling students' academic evaluations, scholarship resources, career planning paths, and other important interests. This structure forms a dominant-subordinate relationship that may foster sexual misconduct.

A typical case at Renmin University of China shows that a doctoral student surnamed Wang suffered verbal and physical harassment from her supervisor for three years. The professor threatened to obstruct her graduation and forced her to remain silent, but she did not receive effective help when she sought assistance from the university. In 2024, she had to report the matter on social media using her real name to draw public attention and push the university to take action.

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According to the 2015 College Students' Sexual and Reproductive Health Report released by the China Family Planning Association, 35.1% of college students have experienced sexual violence or sexual harassment, and 3.32% of the perpetrators are college teachers. According to a survey conducted by Beijing Forestry University, 84.3% of students who encountered sexual harassment during college chose to remain silent, with very few choosing to seek formal help. The survey results are summarized in Table 1.

Table 1. Survey results from Beijing Forestry University

Survey item	Category	Percentage
Reaction after encountering sexual harassment	Remain silent	84.3%
Reaction after encountering sexual harassment	Ask for help	15.7%
Remedy after encountering sexual harassment	Online exposure	77.8%
Remedy after encountering sexual harassment	Report to court/police	7.41%
Remedy after encountering sexual harassment	Other remedies	14.79%

The data also show that universities generally have relatively high efficiency in handling such incidents, but most responses are formal and rarely address the substantive issues. Specifically, 41.8% of universities handle cases within one day after receiving victims' online responses, 41.8% handle them on the second day, and 17.64% take until the third day to process them. No university takes longer than four days to respond. The proportions of universities processing cases on the second and third days are roughly equal to the proportion handling them on the same day. At the same time, processing time in universities is gradually extending, which may be related to the lack of standardized procedures, prioritization of reputation maintenance, consideration of internal interests, and the inherent difficulty of investigating such incidents [1].

In addition, the culture of silence in the People's Republic of China, where people remain silent about injustice due to fear, power gaps, and helplessness, is a serious obstacle to protecting equal rights [2].

2. An analysis of the nihilism of sexual consent from the perspective of power imbalance

One well-known theory of strict liability from a feminist perspective, proposed by Catherine MacKinnon, Andrea Dworkin, and Carol Pateman, holds that sexual violence stems from systemic male dominance and institutional power asymmetry [3]. In teacher-student relationships, genuine consent is structurally impossible because the inherent power difference of the supervisory role fundamentally undermines any claim of a voluntary agreement. This viewpoint is completely opposed to the claims of liberal feminism, which treats individual autonomy and adult consent as valid unless coercion, fraud, or incapacity exists [4]. Although same-sex teacher-student sexual power relations are not common, they should still be acknowledged, and the argument for nihilistic sexual consent is the same as that for opposite-sex relationships.

2.1. The micro-level operation of power systems in universities

In the teacher-student relationship in universities, from a micro perspective, teachers control students' grades, thesis approvals, recommendations, and academic futures. In order to obtain high scores and excellent academic results, students may have little choice but to comply with their teachers' words. From a macro operational perspective, teacher groups hold resources such as

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scholarships, academic evaluations, and guaranteed postgraduate opportunities, and students may seek to please teachers and their organizations in order to gain honors, endorsements, and other positive evaluations. These resources not only fit the educational context of universities but are also positively correlated with each student's academic and career prospects. Even slight changes can result in vastly different outcomes for students. On this basis, teachers' control over students appears to have legitimacy.

2.2. The special difficulties of sexual minority groups

Sexual minority groups, namely the LGBTQ+ community, face special difficulties in the protection of teacher-student sexual power relations. On the one hand, their freedom of orientation should be respected; on the other hand, the current legal norms in China lack definitions and accountability rules for such sexual harassment. If the victim is a member of a sexual minority, publicly revealing the facts of the case means exposing the victim's identity, and the victim may face additional threats of discrimination and prejudice from family members and campus public opinion, which further undermines the student's ability to say 'no.' Moreover, in a homophobic environment, the general public often holds stereotypes about same-sex relationships, and reports of sexual harassment are often denied, questioned, or even stigmatized as publicity stunts, which further forces victims into silence.

2.3. From subjective consent to structural exploitation

Law should presume that subjective consent regarding sexual matters in teacher-student relationships is invalid. The reason is that teachers are usually praised as noble, and students often trust teachers, so under a specific power structure, a natural and inherent power imbalance exists between teachers and students, while sexual consent is based on an equal relationship. Therefore, sexual consent within this university power system is illusory. Additionally, sexual contact between teachers and students transforms legitimate institutional authority into sexual leverage, turns the educator's role into a sphere of power, creates a hostile educational environment, and exploits structural vulnerability. Consequently, the teacher violates the duty to act in the best interests of students [5].

3. Lessons from abroad

Unlike the legal provisions and judicial practice in China, the rules in the United States and Germany reflect different legal philosophies. U.S. law constructs a multi-layered strict regulatory system through criminal law, federal civil rights law, and school regulations, excluding restrictions on the age of consent. Moreover, Title IX of the Education Amendments recognizes sexual power relationships between teachers and students as gender discrimination and, regardless of fault, imposes joint liability penalties on both teachers and schools, emphasizing Title IX and schools' responsibilities [6]. Although Germany does not have explicit legislation on this issue, it directly severs power relationships through institutional measures, requiring that the maintenance of the teacher-student relationship must be predicated on one party resigning or withdrawing from school, focusing on the separation of power relations or professional ethics. This factual separation reflects the legal logic and spirit of strict liability. These experiences support China's limited rule of law reforms through recommendations such as promoting multi-level normative coordination,

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strengthening no-fault institutional responsibility, and cutting off power dependency relationships in advance.

Relevant foreign regulations suggest that, in terms of principles of attribution, the United States has established strict liability as the basis of attribution. The processing outcome of Ogden v. Northern Marianas College also confirms the application of strict liability in such cases in the United States, and Germany's institutional barriers have achieved the substantive effect of strict liability. Therefore, the application of strict liability in judicial cases involving teacher-student sexual power relationships in China has become an inevitable trend. China should promptly fill existing legal gaps by referring to foreign approaches that do not distinguish based on gender or sexual orientation. For example, the scope of responsibility for sexual crimes committed by caregivers should be expanded to include all genders and to cover the protection of sexual rights of adult students under power relationships, thus providing a legal basis for the judicial application of same-sex teacher-student sexual power relationships.

4. Investigation of the current situation and analysis of the dilemmas in China's judicial practice

Chinese law regulates sexual power harassment between same-sex teachers and students mainly through the Civil Code and the Criminal Law, with the Teachers Law of the People's Republic of China, the Law on the Protection of Women's Rights and Interests of the People's Republic of China, and the Public Security Administration Punishments Law of the People's Republic of China as supplements. However, shortcomings such as loopholes and overlaps remain. In judicial practice, substantive decisions can still be influenced by gender stereotypes and may lack a gender-neutral perspective, while procedural rules create many difficulties and obstacles in evidence determination.

4.1. The limitations of China's current legal system

At the theoretical level, China's current legal system mainly includes the definition of sexual harassment in the Civil Code and provisions in the Criminal Law on forced molestation and rape addressing teacher-student sexual relationships. Article 1010 of the Civil Code clearly specifies that the ways of committing sexual harassment against others include verbal, written, image-based, and physical behaviors [7]. The crime of forced indecency under the Criminal Law includes homosexual sexual harassment, while the punishment for rape targets sexual harassment against women in the form of sexual intercourse under serious circumstances involving violence, coercion, or other means [8]. In addition, apart from laws such as the Teachers Law of the People's Republic of China, the Law on the Protection of Women's Rights and Interests of the People's Republic of China, and the Public Security Administration Punishments Law, there are no other regulations, and there are limitations including gaps in addressing same-sex cases, conflicts regarding the age of responsibility, and unclear boundaries of responsibilities between various departmental laws [9, 10].

4.2. The lack of a gender-neutral perspective

In judicial practice, when judges exercise discretion in adjudicating cases involving homosexual teacher-student relationships, it is easy for them to be influenced by subjective biases against sexual minority identities, deliberately downplaying the oppressive nature and weakening accountability. At the same time, the Criminal Law limits offenses such as sexual assault and rape committed by persons with caregiving responsibilities to female victims. This means that in homosexual cases, law

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can only be downgraded to apply other crimes with lower sentencing, violating the principle of equal application of criminal penalties. As a result, victims in cases of sexual assault between teachers and students of the same sex may find it difficult to obtain remedies of the same strength as in cases of heterosexual assault, and the legal cost for perpetrators is indirectly lowered.

4.3. Difficulties in evidence identification

Without adopting strict liability, it is extremely difficult for victims to prove lack of consent. First, proving subjective states is inherently challenging, as insincere expressions of intent are hard to externalize due to unequal power dynamics. Second, instances of teacher-student sexual harassment face physical barriers to evidence preservation because of their closed, private, and easily destroyed nature. Moreover, victims of same-sex relationships often feel embarrassed or intimidated to provide evidence due to social pressure, which further increases the difficulty of collecting evidence. Finally, fact-finders' judgments commonly carry expectations of a perfect victim, raising the standard of proof for lack of consent.

5. Feasibility recommendations for introducing a strict liability framework in China

The core position of suggestions for China's legal and institutional construction on this issue is that China should not adopt absolute criminal strict liability, but should establish a presumption of sexual non-consent and administrative strict liability to balance protection and procedural justice.

5.1. Legislative pathway

First, judicial interpretations supporting the Criminal Law should be issued to lower the legal threshold for recognizing coercion and clarify that a teacher's academic authority, evaluation power, and control over academic resources constitute implicit coercion. This would help reduce the evidentiary burden on victims in criminal cases. Second, revising Article 1010 of the Civil Code would be a useful proposal because it could establish a presumption of non-consent in teacher-student sexual contact under power imbalance, meaning that unless the perpetrator proves otherwise, the act should be presumed to be against the victim's will. Third, it is recommended to introduce strict administrative liability in Article 37 of the Teachers Law to achieve automatic dismissal and permanent teaching bans. This would eliminate the uncertainty of discretionary sanctions, establish zero tolerance for improper teacher-student sexual conduct, and create a strong deterrent through strict professional penalties. Fourth, in an increasingly diverse and inclusive society, it is necessary to draft a separate law on the right to sexual freedom and the protection of personal dignity for same-sex individuals, which would demonstrate China's socialist values of democracy, equality, and friendliness as well as the responsibilities of a major country.

5.2. Balancing of weights in judicial discretion

In procedural law, the presumption of non-consent in teacher-student sexual power relations means a reversal of the burden of proof. Teachers must provide sufficient and reliable evidence to prove true consent, which removes the previous difficulty and unreasonableness for disadvantaged students in collecting evidence to prove lack of consent, simultaneously places greater focus on the ability of protected minority groups to present evidence, and corrects the structural disadvantage brought by academic authority. The relatively strict liability in the Criminal Law, administrative strict liability, and other relevant laws, regulations, and judicial interpretations ensure that abuse of power can be

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effectively recognized by the relevant legal authorities, forming a complete legal protection chain and establishing criminal, civil, and administrative responsibilities while seeking a balance between protecting teachers' basic rights and safeguarding students from power abuse [11].

5.3. Prevention and relief mechanisms

The issue of sexual power abuse in same-sex teacher-student relationships has always involved little regulation, blurred boundaries, and considerable controversy in both theory and practice. Regarding universal measures, higher education charters should establish independent teacher ethics investigation and disciplinary committees separate from academic administration, publicly disclose teachers' ethical records and investigation outcomes, and set up unhindered confidential reporting channels. At the same time, universities should create complaint and anonymous protection procedures specifically for sexual minority students. Society should strengthen multi-dimensional public opinion supervision mechanisms, incorporate information about perpetrators into the social credit system, enhance legal education, break the culture of silence, and reduce the stigmatization of victims, thereby protecting the personal rights and interests of sexual minority students, including their reputation, personal dignity, privacy, and personal information.

6. Conclusion

The harassment inherent in sexual power relationships between teachers and students in China is essentially an abuse of power caused by structural inequality. However, China's current legal system and judicial practice, especially regarding homosexual relationships, have shortcomings in terms of targeted regulation, rules of evidence, and university responsibilities.

It is necessary to draw on the legal theories, legislation, and judicial principles of the United States and Germany, introduce a presumption of non-consent for sexual contact, improve relatively strict criminal liability, civil liability, and administrative strict liability, break the culture of social silence, encourage sexual harassment victims to use legal means to protect their rights, change the current passive handling mode in some universities of covering up incidents and muddling through for the sake of reputation, build a safe, fair, and responsible campus environment, and promote the genuine implementation of campus sexual ethics norms through clear legal and regulatory guidance and institutional constraints. This is not only a requirement for protecting students' personal rights, but also an important part of improving the rule of law in higher education and advancing the overall development of governing the country according to law in a positive and ethical direction.

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