

Legal Analysis, Prevention and Management of Academic Sexual Harassment in Chinese University: A Comparison between the Legislation of the United States and China

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Abstract. In the current legal landscape, the existing domestic laws in China fall short of providing adequate assistance to students who have suffered from academic sexual harassment. Moreover, these laws fail to make the obligations of the corresponding responsible parties clear, thus universities and colleges don't play a effective role in the situation. Therefore, the current Chinese law of sexual harassment need explanations and a more effective structure for prevention. This study aims to explores the purpose and the context of legislation of sexual harassment prevention and relief in the United States, and compares domestic laws with the intention of better applying the law in China. This study provides detailed implementation to the law and more clarification obligatory of rights, and serves as a valuable reference for establishing supervisions in both universities and society as dedicated departments on campus and Women's Federation based on the existing legal documents and institutional settings.

Keywords: Sexual harassment; College and university; Students under authorities.

1. Introduction

While now well established in the Chines law, sexual harassment in colleges and universities have occurred frequently in recent years.

A typical case of academic sexual harassment happened on the evening of 2024 July 21, in Renmin University of China. The doctoral student of Renmin University, Wang Di posted a 58-minute video reporting her tutor Wang Guiyuan online. According to the recorded evidence, Wang Guiyuan forcibly molested Wang Di, despite her constant disagreement and resistance. Wang Di rejected his request and in the later two years since, Wang Guiyuan has retaliated against her many times and threatening her not to graduate [1].

The official Weibo of Renmin University issued a statement and started investigation very soon. On the evening of the 22, the university responded to the reported video and issued a briefing. The university held the professor administratively responsible and punished him. The case seems to be complete, but it exposes many problems in my country's prevention and response measures for sexual harassment in colleges.

Sexual harassment incidents in colleges and universities are easily forgotten and addressed in the university level by the silence of the parties involved and the inaction of the school. This paper will start from the discussion the in-depth reasons why academic sexual harassment incidents frequently occur in our colleges and universities, analyze the current Chinese law or regulations about sexual harassment and their real application, and then provide suggestions for prevention and management mechanisms from the perspective of protecting the rights and interests of victims and expanding their relief channels.

2. Reasons of Response to Failure Sexual Harassment Cases in Chinese Universities

Academic sexual harassment means using authoritative access to sexual identity in the teaching process. This behavior hinders students' enjoyment of educational opportunities, resources and welfare. Although under the widely attention and a few laws, sexual harassment still become high frequency. At present, sexual harassment incidents in colleges and universities are mainly exposed by victims or bystanders through anonymous reports on the Internet, and the victims initiate investigations into sexual harassment through "real-name reporting". However, "in a society that protects the rights and interests of victims, victims do not need to show their scars in public at all. When micro-blogging becomes the only way to seek help, it just shows the dysfunction of the social system [2]." The recent incident reflected a lot of problems in the supervision and response.

2.1. Extreme Inequality and Monopoly of Academic Resources

Academic sexual harassment always happens to students under the authority of their teachers which means the victim is under a natural weakness. On one hand, the victim may self-rationalize the sexual harassment based on traditional teacher-student ethics. Professors who commit sexual harassment are generally teachers in the position of teacher, or even regarded as a leader in a particular field. Under the halo of the identity of the perpetrator, the victim often keep silence and try to rationalize the behavior usually based on the sexual shame psychology.

On the other hand, in the teacher-student relationship model in Chinese colleges and universities, special power structure characteristics are reflected. After Professor Wang proposed to have sex with the student and was rejected, he used his mentor status to retaliate against the student for up to two years, including but not limited to arranging unpaid chores beyond the scope of work, insulting and suppressing her, and threatening her not to graduate. It is a typical example of sexual harassment by taking advantage of a dominant position. Extreme inequality of power breeds oppression. They have great authority not only in the university but often expended to the whole academia. In the college tutorial system, when student choose their tutor--they are always push to make the decision in spite of knowing little about how the tutor is or just have heard of once--in the next 3 or 4 years, they work under the tutors control.

Tutor have rights to grade and decide which students can graduate even outside the university. If the student work in the same field, it's still hard to get rid of the control because of the tutor's connections and academic status, social status, etc. Thus students face the dilemma that the consequences of refusing sexual harassment are unbearable-- his academic career will be devastated. Power under such a closed relationship can easily cause the victim to feel fear and surrender, and thus form a "chilling effect" in campus sexual harassment.

2.2. Definition as Teacher's Moral Anomie

Sexual harassment should be defined as an undesirable behavior based on gender (including sexual orientation and gender identity) that is sexist and deprives individuals of equal opportunities to participate in school programs and activities. As long as the individual does not agree with the act, it is deemed undesirable. According to the Chinese Civil Code and educational law, both the university as the unit and the harasser as the professor should be blamed for sexual harassment and assume legal responsibility. However, the response and report did not directly point to the issue of sexual harassment or sexual assault, and "teacher anomie" has become an excellent fig leaf. Universities common practice is to avoid the importance and characterize the illegal behavior to a moral flaw, and then fuzzy handle the follow-up accountability and disposal, downplaying the negative impact on school and individual reputation.

The process is so understated that could not compared to the heavy burden victims have paid to stand out. Judging from the social reactions after the exposure of sexual harassment cases in colleges and universities, there are many negative comments about the victims during the real-name reporting online. For example, many colleagues and students may speak out, believing that the incident

originated from some people deliberately slandering and tainting the associate professor, and standing opposite the victim, making the victim, who was already in a vulnerable position, even more isolated and helpless. Comments from the Internet often using malicious speculation of the victims. Thus they cause backfire on the victims and bring another psychological secondary harm. Moreover, substantial economic costs are associated with all of the aforementioned harms to those who are in the similar dilemma [3].

2.3. Absence of Supervision

When Wang Di tried to break through the predicament a year ago by reporting on campus, she didn't get any response. However, colleges and universities do have a statutory duty to educate, manage and protect their student from the relevant law and policies.

Firstly, universities and their peers have a unique relationship with their students in that they have the ability to monitor and guide behavior in ways that society-at-large cannot [4]. Especially in China, it's a collective subconscious since the age of Confucius that teacher is not only who teach knowledge but also "a teacher for life", in this case it's not excessive request when it comes to preventing and responding to sexual assaults, universities have the ability to identify the "broken windows" of sexual assault (i.e. risky sexual behaviors) and intervene to correct behaviors before those behaviors and underlying attitudes lead to sexual assault [4].

Secondly, according to Article 1010 of Civil Code, Article 30 and 45 of Educational Law, text VI. To VIII. of Guiding Opinions of the Ministry of Education on the Handling of Teachers' Moral Misconduct in Colleges and text I., II. and V. of Universities and Opinions of the Ministry of Education on Establishing and Improving a Long-term Mechanism for the Construction of Teacher Ethics in Universities, universities have legal obligations to take reasonable measures to prevent and stop sexual harassment, protect the rights and interests of students, and hold perpetrators accountable. Failure to fulfill these obligations can result in civil liability and administrative accountability. Despite these articles, universities seldom take active actions on preventing but only appear in the late punishment which means only half of the legislative purpose is achieved and there's an absence of supervision on campus as well as the society.

3. Comparative Analysis between American Law and Current Chinese Legislation

3.1. Legislation in the United States and the influence of MacKinnon's theories

The United States has established a comprehensive legal framework to address sexual harassment, particularly in educational settings. Title IX of the Education Amendments of 1972 is of great significance to the prevention and control of sexual harassment on campus that prohibits sex-based discrimination in any educational program or activity receiving federal funding.

Under Title IX, sexual harassment is categorized into two main forms similar to the workplace sexual harassment: quid pro quo and hostile environment harassment [5]. The Office of Civil Rights (OCR) within the U.S. Department of Education plays a crucial role in enforcing Title IX. It investigates complaints and ensures that educational institutions comply with the law. Thus universities are required to establish clear policies, provide resources, and implement procedures to handle sexual harassment complaints effectively. For instance, Harvard University has taken proactive steps to prevent and address sexual harassment. They have dedicated Title IX web-pages for legal awareness and established specialized offices and personnel to handle complaints, offering support services to affected individuals [6].

In the U.S., victims receive compensation through internal school procedures, settlement agreements, legal proceedings, and complaints to the Equal Employment Opportunity Commission (EEOC).

It's worth noting that the legislative framework in the US is significantly intertwined with Catharine MacKinnon's theories on sexual harassment. According to the theories, sexual harassment is a form

of sex discrimination. It is not just an individual-level issue but a manifestation of broader gender-based power dynamics. Gender inequalities in various settings create a context where sexual harassment is more likely to occur [7]. Thus the power structure within an educational institution, with the unit being the carrier of this structure, has corresponding legal liability for sexual harassment.

OCRR's categorization of campus sexual harassment into quid pro quo and hostile environment harassment also reflects MacKinnon's understanding of how power dynamics play out in harassment. can access support such as financial compensation and counseling. This support is in line with MacKinnon's belief that sexual harassment is not just a personal affront but a violation of one's rights within a gender-unequal power structure. By receiving compensation, victims are being indemnified for the harm inflicted by the power-imbalanced harassment, and counseling helps them cope with the psychological trauma caused by the manifestation of gender-based power inequality.

Furthermore, her theories have contributed to schools' strengthening of preventive measures after harassment incidents. On account of which universities are now more aware of their responsibility to prevent the power-based harassment that MacKinnon's work has brought to light. They strive to create an environment where gender - based power differentials do not lead to harassment.

3.2. Comparative Analysis

Inferring to the details and effects of the law provisions, the American code provides more practical and punitive than the principle and provocative provisions in China. The existing Chinese legal liability of sexual harassment is only administrative punishment, and it is difficult to pursue criminal liability. The anti-sexual harassment provisions of the Law on the Protection of Rights and Interests of Women do not provide a clear definition of sexual harassment, nor do they clarify the responsible subjects, and it is difficult to punish sexual harassment in education and the workplace. The Code of Professional Ethics for Teachers in Colleges and Universities promulgated by the Ministry of Education is biased towards positive advocacy and lacks prohibitions; in the Teachers Law, only the third paragraph under Article 37 is relevant to this, that is, "those who have bad conduct, insult students, and have a bad impact", and "if the circumstances are serious and constitute a crime, criminal responsibility shall be investigated in accordance with the law". While in the US, many states have rules in their criminal codes providing that intimate sexual contact between an adult and someone of any age who is under that person's "authority" is a crime under any circumstances, because the law will not recognize as valid any alleged "consent" by the person under the authority of the accused.

And the fundamental difference in legislation is that the principle of imputation is tort liability, and sexual harassment in the Chinese context focuses more on the value orientation of its personal dignity, rather than institutional discrimination against (female) gender at the social level [8].

Article 1010, paragraph 2 of Civil Code is a provision for exempting liability by clarifying the legal obligations of employers in order to set up a mechanism for preventing and controlling sexual harassment. In other words, the unit itself cannot become the subject of perpetrator, but if the it fails to establish a mechanism for preventing and controlling sexual harassment, then it's liable for the extended damages suffered by the victim in this power field due to its dereliction of duty [9]. From this perspective, the perpetrator and universities in sexual harassment cases are the subjects that bear different responsibilities. That is, although Chinese sexual harassment legislation takes into account the influence of the power structure, it is not considered as one of the necessary conditions for the determination of sexual harassment [10]. Various discriminatory behaviors and even social exclusion arising from power relations are not necessarily linked to the essence of "sex".

However, there are also concerns about this. Although this avoids the arguments of whether sexual harassment is gender discrimination and how power structure works, it still encounters the strictness of the identification standards of tort law, especially when it comes to the unspecified object of sexual harassment [8]. Moreover, it's difficult for "the hostile working environment" to have a place. But what should be mentioned is the improvement of its anti-discrimination legal system as the United

States place sexual harassment under the framework of gender discrimination. So far in China, the construction of a complete anti-discrimination legal system has not fully developed yet, so rashly linking sexual harassment with gender discrimination can impact the entire legal system and lead to incoherence of legal provisions and application which is not a good choice.

4. Measures to Prevent Academic Sexual Harassment

How to implement simple rules and how to design the procedures of investigation and trial in order to understand the situation of the weaker party, prevent the stronger party from abusing its influence, and avoid causing secondary harm to the victim in the particular space of universities, is still a task that needs to be completed. The above comparison of the laws and regulations on anti-sexual harassment in the United States has a lot of inspiration to China. China has different national conditions and culture which needs to use existing legal and administrative infrastructure to promote it according to local conditions.

4.1. Detailed Rules for Implementation and More Clarification Obligatory of Rights

China's current legal regime, as noted, suffers from ambiguities in defining sexual harassment, fragmented accountability mechanisms, and overly depended on administrative penalties, which fail to address systemic power imbalances in universities.

A critical step forward would involve legislative reforms to codify a precise, behavior-based definition of sexual harassment that encompasses both physical and non-physical conduct, such as unwelcome verbal advances, coercive demands, including hostile environments, aligning with international standards exemplified by Title IX's prohibition of gender-based discrimination. This definition must explicitly delineate institutional responsibilities for universities, including mandatory reporting protocols, impartial investigation procedures, and victim protection measures, thereby transcending the current reliance on vague provisions in the Law on the Protection of Rights and Interests of Women and the Teachers Law.

These offices must operate independently under senior leadership, incorporate multidisciplinary representation, and ensure gender-sensitive adjudication processes. It'll also helps enhance procedural transparency and create an environment with zero tolerance for sexual harassment and gender-based violence.

4.2. Dedicated Body to be Established in Universities

Colleges and universities, as the place where campus sexual harassment occurs, should be considered the primary responsible entity. Quite logically, the first remedy that comes to the victim's mind is to report it to the university, which has a duty to supervise teachers and protect students. As institutional accountability mechanisms in the U.S. model, universities are legally obligated to establish dedicated offices--such as Title IX coordinators--to handle complaints, conduct training, and enforce anti-harassment policies.

Prior to the release of the opinions, universities were largely in a state of lack of rules on sexual harassment. In any case, school leaders at all levels have a responsibility to protect the rights of students, and if they can put the interests of students first and stop such behavior, it can also play a deterrent role. Because the harassed person is often the weaker party, and the harasser has a more important position in the organization, which often creates a "win-win-lose" situation, organizational leaders are more inclined to protect the stronger party or defend the organization's interests through inaction. It will make a difference if the university has women in important positions throughout the university, not just men, but women and men.

Universities should set up a dedicated body for complaints of sexual harassment, independent of the academic and administrative system, to ensure that complaints are dealt with fairly. The department responsible for sexual harassment incidents must include external committee members (e.g. faculty,

students, and legal experts) to prevent complaints from being covered up and suppressed. Specifically, they should provide convenient and confidential reporting channels to protect the rights and interests of whistle-blowers, and encourage victims to speak out. Responses to reports shall be made within a set period of time and the reasons for the decision not to handle them shall be explained.

Furthermore, regular mandatory training programs for all staff and students, as implemented by the University of California system, would empower bystanders to report misconduct and dismantle cultural taboos which also caused "chilling effect".

4.3. The Women's Federation, an Official Organization, to Intervene in Supervision

Although "the Protection of Women's Rights and Interests" clearly stipulates that "sexual harassment is prohibited", it does not provide detailed provisions on how to implement it, and the women's federation, which is supposed to play a role in social supervision, is always invisible in such sexual harassment, so that the original purpose of the law has not been realized. In the current situation of frequent sexual harassment scandals in colleges and universities, it's necessary for the Women's Federation (WF) to issue specific implementation rules and assume corresponding responsibilities.

To strengthen social oversight in combating campus sexual harassment, China should empower the Women's Federation as a proactive regulatory body by institutionalizing its supervisory authority, operational mandates, and collaborative mechanisms with universities, drawing parallels to the U.S. model where civil society organizations complement legal frameworks to ensure accountability. The WF's operational framework should integrate victim-centric support mechanisms and preventative strategies just as its fundamental purpose.

Ultimately, the WF's effectiveness relies on legal reforms that grant it enforceable powers rather than symbolic advocacy roles. By emulating the U.S. system's integration of federal oversight with grassroots activism, China's WF could bridge the gap between legislative intent and practical implementation, ensuring that its social supervision translates into tangible protections for victims and systemic accountability for institutions.

5. Conclusion

In the situation that there are many sexual harassment incidents and even more in silence, it reflects problems in the current law and legislation. In spite of seemingly complete law in different aspects, the students can hardly apply them to defend rights, and the relevant responsible units haven't assumed their responsibilities as required yet. How to interpret the law and make them more applicable to the reality in order that the universities can truly take responsibility and the students' interest can be fully protected, is the prime measure to solve the problem. In the comparison to US law, a dual regulatory system for both campus and society should be established and adapted to the existing system in China, making the subject clear and setting more substantial liability for penalties.

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