

Policies and Legislations for Transgender Restrooms in Schools: Based on the Current Situation of China

Jiao Xu^{1,a,*}

¹*Osaka YMCA International School, Tosabori 1-chome, Osaka, Japan*

a. jaycee.x@oyis.org

**corresponding author*

Abstract: In recent years, the protection of transgender rights has received more and more attention with the development of the times, but in China's education system, transgender rights are still an often overlooked content, and still lag behind in terms of legal framework and social acceptance. There is a lack of specific legislation for the needs of transgender people in educational settings, as well as the construction of facilities. For transgender students, the incomplete facilities of transgender toilets in Chinese schools have always been a problem for them. This paper explores the legislation of transgender toilet facilities for transgender students in Chinese schools, filling a critical gap in legal protection and social awareness. By highlighting the existing shortcomings in the Chinese legal system, this study highlights the urgent need for reforms to recognize and protect the rights of transgender students. In addition, the study advocates educational initiatives that promote understanding and acceptance of gender diversity. The significance of this study is to provide reference for policy changes to create a more inclusive educational environment.

Keywords: Legislative reform, Transgender, Restroom facilities, Gender diversity.

1. Introduction

According to the definition of American Psychological Association (APA), transgender is a general term for people whose gender identity or gender expression does not match the sex assigned at birth [1]. Gender identity refers to a person's psychological consciousness of identifying as male, female or other gender. Gender expression refers to a person's behavior, clothing, hairstyle, voice or physical characteristics to convey the gender he or she identifies with to others. Transgender, sometimes called transsexual aka trans. In addition, transgender may also include people who do not completely belong to traditional masculinity or femininity, such as bisexual, genderqueer and any other gender that does not consider their gender to be within the binary gender theory. According to data published by United Nations Development Programme (UNDP) in 2012, in 2011, there was very little information about transgender people in Asia and the Pacific [2]. It is estimated that the proportion of transgender people in the population aged 15 and above may be about 0.3%. It is estimated to be about 9 million to 9.5 million. In addition, the total population in mainland China, Hong Kong and Taiwan is 1,360,720,000, 7,234,800,000 and 23,410,280 respectively, while the number of transgender people in these regions accounts for 4,082,160, 21,705 and 70,231 respectively [3]. Among them, according to reports in China, 92.8% of transgender youth have been abused or neglected by their parents, and 76.6% of transgender youth have been abused or bullied in school due to their gender non-conforming identity.

According to reported cases of gender confirmation surgery, there are at least 400,000 gender non-conforming people in China [4].

This group is often discriminated against and misunderstood in China. In life, work or school, they often encounter difficulties and obstacles of varying degrees. One of the difficulties is how transgender people should choose when they encounter only two types of restrooms for men and women. For transgender people, the lack of social recognition and unreasonable facilities often make them afraid to go to the restroom in public places because they are afraid of their discomfort. This phenomenon is very much in need of improvement for transgender people and society needs to pay attention to it. Therefore, this article will focus on the unreasonable status quo of restroom facilities in schools and the expectations for future legislation and policy updates.

Finally, this article will start from the analysis of the current status of transgender people in China, the research on contemporary Chinese policies on transgender people, and the expectations for reasonable changes in future policies and legislation.

2. Basic Concepts

Before starting analyzing the current situation of transgender people in China, first it needs to determine the definition of each word in the title. In this article, all the content will be analyzed based on the definition. First of all, the above text has shown the definition of transgender people. This paragraph mainly wants to add content about transgender students: According to the survey report of the 2021 National Transgender Health Survey Report 0130-2, it can be seen in Figure 1 [5].

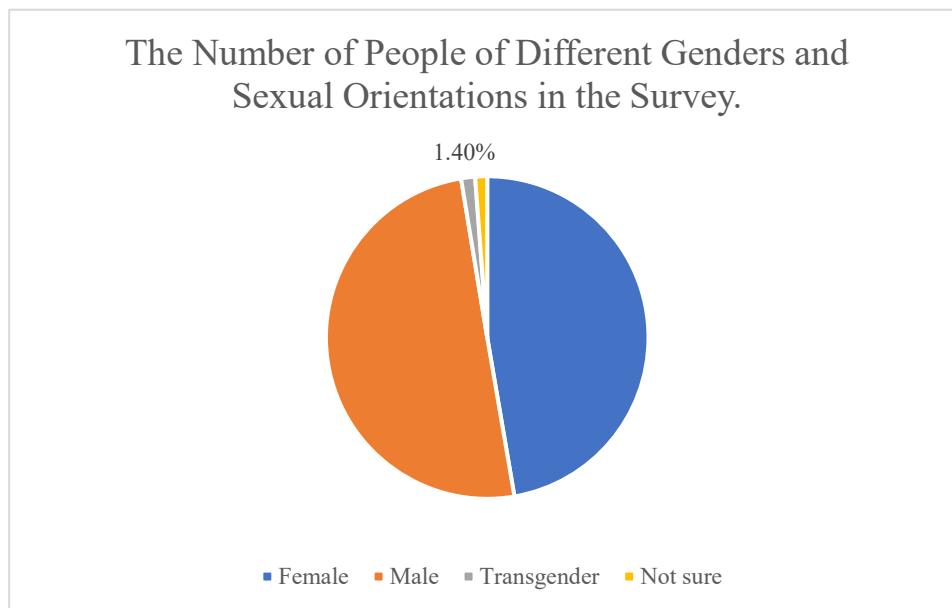


Figure 1: The Number of People of Different Genders and Sexual Orientations in the Survey.

Among 421 students from middle schools, high schools, universities and vocational high schools, 1.4% of them are transgender, which means 5-6 people are transgender. The sample size of this questionnaire is for reference, in other schools, there are more transgender students, but the school has not prepared infrastructure such as third toilets for them. In addition, the research report on the lives and rights of gender-diverse minors in China also puts forward two examples.

Case 1: Transgender woman Bingbing has been living in the school dormitory since fifth grade. "During the three years of junior high school, I only went to the men's bathroom twice, both times because the teacher punished me for cleaning the men's bathroom. I couldn't go to the women's

bathroom, so I had to endure it." Regarding her past experience, Bingbing said calmly that in order to reduce the number of times she went to the bathroom, she deliberately controlled her water intake. "Drink less water, eat less fruit, and insist on not going to the bathroom at school. At that time, my aunt's house was near the school, and if I really couldn't bear it, I would go to my aunt's house to go to the bathroom."

Case 2: Lingling, an intersex person, is most afraid of going to the toilet. After Lingling went to school, the toilets in the school were divided into "male and female", which made Lingling very painful. On the first day of school, "he" was ridiculed. When "he" walked into the girls' toilet, he was greeted with screams and Lingling was kicked out of the girls' toilet. "He" didn't dare to go to the girls' toilet, so he went to the men's toilet when he needed to go to the toilet. However, when he went to the toilet to urinate, everyone stood, only "he" squatted, and his classmates laughed at Lingling for being "weird". After a few days, "he" felt awkward and embarrassed. In the end, Lingling left the campus when she was in the second grade of elementary school. That day, Lingling hated her weird body in her heart.

From the above examples, it can be seen that for transgender students, not being able to freely go to the restroom in school is a very painful thing for them. From the perspective of human rights, according to Article 1 and Article 22 of the Universal Declaration of Human Rights, "All people are born equal and enjoy equal dignity and rights [6]." Everyone has the right to social security and the right to free development, which depends on the efforts of national and international cooperation." Therefore, it can be seen that the inability to freely go to the restroom in school has damaged the dignity, privacy and human rights of transgender students, and in serious cases may cause varying degrees of physical or psychological discrimination and harm.

This requires a display of human rights in a special public place like the campus. The school provides a place for every child to receive education. In school, teachers not only need to teach and impart knowledge about subjects to children, but also need to create a good growth environment for every child in terms of body, mind and body to cultivate children's values and ideas. According to Article 26 of the Declaration of Human Rights, "Everyone has the right to education", and according to the definition of UNICEF, the right to education is considered a human right and is understood as a right of freedom, which clarifies the obligation to provide primary education to children, promote secondary education to all children, the right to equal access to higher education, and the obligation to provide basic education to individuals who have not received a complete primary education [7]. In addition to these provisions on the rights and obligations of individuals to receive education, the right to education also includes eliminating discrimination in the education system at all levels, establishing minimum standards and improving the quality of education. Therefore, the school has the obligation to create a third toilet for these transgender students to ensure the elimination of discrimination against transgender students, and to conduct science popularization courses related to gender diversity.

As for toilet facilities on campus, toilets are a place for people to defecate and usually have the function of cleaning. For people, it is a very private place. For transgender people, entering a toilet that does not belong to their own gender is a very painful thing. According to the design specifications for elementary and middle schools, there are only four categories of toilets for males, females, male teachers, and female teachers, and there is no provision for facilities for third-gender toilets [8]. For China, there are almost no third-gender toilets in schools.

This can be traced back to the development and attention of China's legislation on transgender groups. However, according to an article from the United Nations, there are no laws or policies in mainland China to oppose discrimination against gender identity, gender temperament, gender characteristics or transgender people, and there is even no concept of "transgender" in the legal system [9]. Therefore, this article wants to specifically explore and analyze the improvement of basic

legislation and policies for the establishment of infrastructure for transgender people, especially transgender students.

Therefore, the following article will analyze the situation of transgender people and transgender students in China based on the current situation of the country as a whole.

3. Current Situation in China

3.1. From the Perspective of the Country

As the world's second most populous country and the second largest economy, China is also the world's largest industrial, agricultural and trading country. China's rapid economic development reflects China's efforts to develop its national hard power and international status. However, in terms of values and soft power, it will have great differences with other countries. The Chinese government's current position on LGBT rights is vague. Although homosexuality has been de-diagnosed to a certain extent, homosexuality was officially de-diagnosed in the 2001 "Chinese Classification and Diagnostic Criteria for Mental Disorders (Third Edition)" (CCMD-3).

However, this move was ten years later than the World Health Organization's official de-diagnostic ization of homosexuality on May 17, 1990. The DSM-III released by the United States in 1987 also de-diagnosed homosexuality, and China was fourteen years later than the United States. Therefore, from these official disease diagnosis manuals, it can be seen that China's tolerance for sexual minorities in the whole society is far lower than that of other countries. In addition, in China, non-cisgender identity is not protected by law [10]. According to the 2020 version of the Guidelines for the Diagnosis and Treatment of Mental Disorders, Chapter 13, Section 9, "Sexual Identity Disorders", transgender people are still defined as heterosexual. According to the National Guidelines for the Clinical Application of Restricted Technologies (G05, Guidelines for the Clinical Application of Gender Reassignment Technologies in the 2022 version), patients who want to undergo gender reassignment surgery must be confirmed as heterosexual to meet the conditions [11].

3.2. From the Social Perspective

In reality, sexual minorities encounter obstacles not only in official documents issued by the state, but also in the related dissemination and development in society and life.

As shown in Figure 2, in terms of school education, according to the "Survey on the Living Conditions of Sexual Minorities in China" released by the United Nations Development Program, from the perspective of gender diversity education in China, only slightly more than 10% of the respondents said that they had received gender diversity education in school, and most of them were graduate students and above [12].

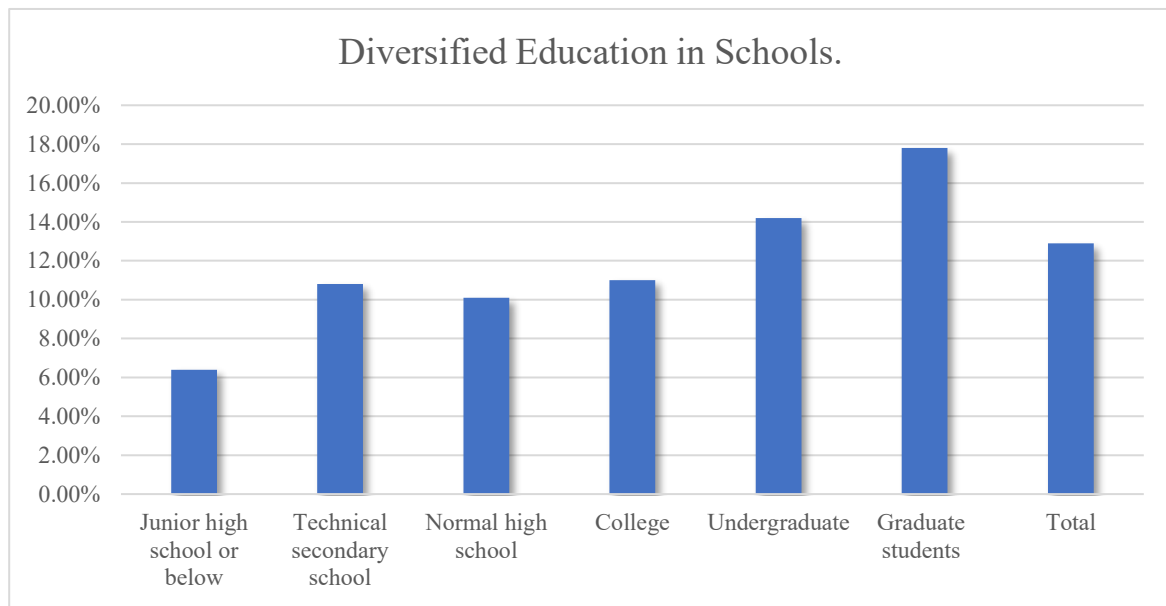


Figure 2: Diversified Education in Schools.

Therefore, it can be seen that China still has defects in targeting sexual minorities. According to the 2017 China Transgender Group Living Status Survey Report, the dropout rate of transgender groups is extremely high. The survey results show that the dropout rate of sexual minorities is around 5%-10%, and the proportion of those who suffer from campus violence during school is extremely high. The average total sample is 70.8%, and the highest proportion of transgender women is 75.07% [13].

Therefore, it can also be seen that the situation of transgender students in school is very difficult. There are no perfect facilities to protect their rights, and they are also bullied to varying degrees psychologically.

In public places, China is not perfect in the construction of public space facilities. According to the 2021 National Transgender Health Survey Report, most transgender men and transgender women avoid using public toilets because of fear. Among 1,465 transgender men, the proportion of transgender men who are afraid to use public toilets is about 62.5%, and 15.4% of transgender men will suffer verbal bullying when using public toilets. Among 2,839 transgender women, the proportion of transgender women who are afraid to use public toilets is 60.2%, 9.5% of transgender women suffer verbal bullying, and 3.6% suffer harassment. Other sexual minorities have also suffered varying degrees of verbal bullying and harassment [5].

On the Internet, in the broadcast of film and television, according to the second point of Article 5, Item 6 of the "General Rules for the Production of TV Drama Content", it is mentioned that sexual minorities are not allowed to be disseminated. In various media magazines, the more traditional the media, the harder it is to see the image of sexual minorities, such as newspapers and magazines. The more new media, such as the Internet, the more images of sexual minorities appear, but only 8.2% of people think that they often see images of sexual minorities on the Internet. Therefore, it can be seen that in society, due to the influence of the media and personal thoughts, people will default to sexual minorities as a normal group [14]. There are also few images of sexual minorities in various traditional media. However, with the progress of the times, new media also tend to show more images of sexual minorities. Unfortunately, for middle-aged and elderly people, most of the time they do not have the opportunity to receive information about sexual minorities, whether in life or on the Internet, and naturally they will develop prejudices along with social trends.

Therefore, it can be seen that China's prejudice against sexual minorities has lasted for a long time and involves different factors. If you want to change the prejudice in the hearts of the Chinese people, you can only do it step by step. First of all, you should start with the change of national policies, so that you can change the people's minds in terms of authority. Because China is a one-party state, the constitution and other laws are the moral standards in the hearts of the Chinese people. If you don't make changes at the most fundamental level, it will be difficult to gain understanding and support from the people.

4. Future Improvement

From the above research and analysis, it can be found that the situation of transgender people in China is very difficult and discriminated against in the country. The country has an obligation to protect its citizens. As the cornerstone of a country's good life, the law needs to be updated and iterated according to the development of society and the times. At present, the concept of "transgender" is absent in China's laws. This inaction has brought obstacles and challenges to transgender people to a certain extent. Therefore, if it is necessary to re-propose and take action on the issue of toilet facilities for transgender students in schools, it needs to be changed from multiple aspects at the same time.

4.1. From the Perspective of National Legislation

The law is the best weapon for citizens to protect themselves. When their interests are infringed, using legal means to protect their rights is the best choice. For transgender students, not being able to use the toilets that conform to their gender has violated their rights. In the case of protecting cisgender people, setting up third-gender toilets is the best decision. Therefore, relevant regulations can be added to the original requirements for toilet facilities for primary and secondary school students: schools need to add transgender toilets to the locations of the original toilets, and transgender toilets need to ensure that there are at least two toilets in each toilet area. The rest of the hardware facilities are the same as men's and women's toilets.

In addition, this regulation can also be applied to high schools, universities, and even workplaces and other public spaces. With legal provisions, there will be legal effects, which can really make school leaders pay attention and start to change. Protect the rights of transgender students through legitimate means.

4.2. From the Perspective of School Education

Eliminating discrimination is the biggest need for transgender people. For students, their minds are not yet sound, so in terms of thoughts and values, schools, parents, classmates and atmosphere in the school will greatly affect a child's thinking. Therefore, if the problem of discrimination needs to be solved from the root, it is necessary to popularize knowledge about transgender to students in large quantities, and the school also needs the support of parents. Schools can stipulate that children above the fifth grade need at least one mental health class every week. Teachers need to eliminate discrimination for the transgender group in class, popularize the concepts and knowledge about sexual minorities to students, and improve the mental health level of transgender people, improve the ability of transgender people themselves, and finally promote gender-friendly toilets, etc. Therefore, children can feel the existence of the transgender group in the school environment and classroom, and destigmatize the transgender group.

4.3. From the Perspective of Social Education

In addition to school education, social education is also very important. Some concepts that students can understand may not be understood by parents, such as why schools need to design third-gender toilets, which will also become an obstacle for transgender students. Therefore, in society, more knowledge about transgender can be promoted on television or in the media, so that more and more people can truly understand transgender people, so that parents can maintain a united front with the school when educating their children. Parents can understand why adding third gender bathrooms is important and necessary.

5. Conclusion

In summary, the low penetration rate of transgender toilet facilities in Chinese schools directly reflects China's current neglect and concern for the rights of transgender people. The establishment of transgender toilets is related to the welfare and rights of transgender students, and is also a major challenge these students will face when they enter society. This article focuses on the reasons and current situation of the lack of transgender toilets, including discrimination and lack of legal protection. As far as the current situation is concerned, the first step to protect the rights of transgender people is to have transgender laws in Chinese law, set up transgender toilets, and popularize sexual minority education. The legislative changes and education popularization proposed in this article are to ensure that transgender students will enjoy the same rights and dignity as other students in school and society in the future. In order to achieve a more inclusive and fair society, everyone needs to make certain efforts. Even this goal is difficult to achieve in a short period of time, the changes now are to lay the foundation for better changes in the future. With everyone's joint efforts, China and the world will surely ensure that more and more people enjoy their due rights and build a fairer and happier society.

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