



HUMAN
RIGHTS
WATCH

“The Nail That Sticks Out Gets Hammered Down”

LGBT Bullying and Exclusion in Japanese Schools



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Summary

“In the world there are some weird people,” my high school health teacher said to introduce the lesson. Then she said sex between boys was the main cause of AIDS so we should stay away from homosexuals. That was the only time I heard about LGBT people from a teacher—except when I overheard them making gay jokes.

—Sachi N., 20, Nagoya, November 2015

He said, “No, this graduation ceremony isn’t about you. I’m not going to let your selfishness ruin the harmony of this school.”

—Natsuo Z., 18, Fukuoka, recalling a high school administrator’s response to a request to wear the male school uniform, August 2015

No child’s safety or healthy development should depend on a chance encounter with a compassionate adult. In Japan, however, that is often the case for youth who identify as lesbian, gay, bisexual, or transgender (LGBT) or as other sexual and gender minority identities, or who are questioning their sexual orientation or gender identity.

Japanese LGBT children who attempt to report bullying and harassment to school officials play their luck, as the response depends entirely on an individual teacher or school staffer’s personal perspectives on sexual orientation and gender identity. There is no comprehensive training for school staff, and the guidelines that do exist are non-binding suggestions issued in April 2016, which predicate respect and accommodation for gender identity on the diagnosis of a mental disorder.

Based on interviews with more than 50 LGBT students and former students in fourteen prefectures throughout Japan—as well as teachers, officials, and academic experts—this report documents bullying, harassment, and discrimination in Japanese schools based on sexual orientation and gender identity or expression, and the poor record of schools when it comes to appropriately responding to and preventing such incidents.

Human Rights Watch found that despite official statements to the contrary, there are LGBT students in Japanese schools who, due to policy gaps, inadequate teacher training, and

weak enforcement mechanisms, are targeted by bullies because of their sexual orientation or gender identity.

The Japanese government has failed to institute effective anti-bullying policies that specify the vulnerabilities of LGBT students; adequately train school staff to respond to the needs of LGBT students and hold staff accountable for their actions; or uphold Japan's international human rights commitments with regard to educational content about sexual orientation and gender identity.

Students in Japan who have questions about gender and sexuality are left in a harmful lurch. Seeking information from official sources such as school libraries may leave them empty handed or with limited information—due, for example, to books that construe all gender identity issues as a mental disorder. Approaching school staff with questions can result in censoring or outright bullying. Even in cases of compassionate and supportive responses, the lack of teacher training means that students are at best faced with improvised knowledge based on teachers' personal views. The strong cultural desire to “maintain harmony” means that even teachers who do try to support LGBT students can be left, as one former teacher put it, “alienated in their own compassion.”

Hateful anti-LGBT rhetoric is nearly ubiquitous in Japanese schools, driving LGBT students into silence, self-loathing, and in some cases, self-harm. The information vacuum combined with pervasive hateful comments from students and teachers alike means sexual and gender minority children in Japan sometimes first struggle with their identities with shame and disgust.

Gender nonconforming children often have no choice but to be diagnosed with gender identity disorder (GID) before they can access education according to their appropriate gender. And regardless of whether children pursue a GID diagnosis, instead of being encouraged to explore and express their identity, they are slotted into a rigid system that mandates further medical procedures as part of the legal recognition process later in life—violating their basic rights to privacy and free expression under international human rights law and medical ethics standards.

Even when schools attempt to support and accommodate students who wish to have their gender identity recognized or who request protection from sexual orientation or gender

identity-based harassment, the response can be ephemeral. School officials, while demonstrating care for individual students, remain mired in policy structures that subtly incentivize the maintenance of school harmony over the protection of vulnerable students. Anti-bullying policies remain silent on the specific vulnerabilities and needs of categories of children, including LGBT children.

In a well-known case three decades ago concerning a student suicide following bullying with teacher complicity, a Japanese district court in 1991 ruled that the local government in charge of the school was not liable for the death because the school could not have foreseen suicide of the student as the result of bullying. To its credit, the government has dedicated some political capital to the issue, holding emergency meetings after high-profile cases and drafting policies. But the effective implementation of these policies is elusive as the government remains wed to the theory that “bullying can happen to any child in any school”—a truism that does not acknowledge that structural issues make certain students especially vulnerable to harassment and exclusion.

Japanese schools continue to promote conformity and harmony over rights. The national bullying prevention policy calls bullying a human rights violation, but then promotes moral education on social norms as a bullying prevention measure. The concerns and needs of individual students get lost.

These include issues of rigid gender stereotyping in schools forcing gender nonconforming students to curtail their freedom of expression; a harmful lack of information about sexual orientation and gender identity in both teacher training and school curriculum standards; and pervasive homophobic environments across all types and levels of schools. The government’s role in these abuses or failure to address them can amount to human rights violations.

As the debate over human rights for LGBT people in Japan continues to gain momentum and the national bullying policy comes up for review, the government should sharpen bullying prevention and response measures to specifically enumerate categories of people who are particularly vulnerable to school-based harassment and violence, including LGBT youth.

Governments are obligated to ensure the rights to health, information, and education, and the right to be heard, for all children. Japan has particularly fallen short with respect to transgender and gender nonconforming children. Strict gender segregation in Japan's schools, enshrined through school uniform policies and gender separation for some activities, can make navigating school life difficult for transgender and gender nonconforming children. Facilities that students can only access according to the gender they were assigned at birth create barriers for transgender children, who also face a discriminatory legal age limit and intimidating medical requirements in accessing gender recognition.

As the Bullying Prevention Act comes under a mandatory three-year review in 2016, the government should consider substantial revisions in line with its human rights commitments, including the right to education. Japan's government should take this opportunity to refine its anti-bullying policies to bring them in line with its international human rights obligations, including two recent United Nations Human Rights Council resolutions on ending sexual orientation and gender identity-based violence and discrimination that Japan has supported. This will mean identifying and combating the structural causes for bullying, many of which are highlighted in this report.

Recommendations

To the Ministry of Education, Culture, Sports, Science and Technology

- Specify categories of vulnerable students, including LGBT students, as part of the 2016 review process stipulated in the Bullying Prevention Act.
- Monitor schools for compliance with the principle of non-discrimination, intervene where the policies are failing, and include sexual orientation and gender identity in any data collection tools measuring bullying in schools.
- Work with nongovernmental organizations (NGOs) to develop and conduct research on school climates for LGBT students in which information is gathered directly from affected populations of children.
- Build on the 2016 Guidebook for Teachers Regarding Careful Response to Students related to Gender Identity Disorder as well as Sexual Orientation and Gender Identity, by developing teacher training materials on sexual orientation, gender identity, and human rights, and make such training mandatory for all current teachers.
- Ensure that all university programs for the education and certification of teachers include mandatory training on working with diverse students, including those who are LGBT and those who are questioning their sexual orientation or gender identity.
- Issue a revised directive that clarifying that schools should accommodate students according to their self-declared gender identity without requiring any medical examinations. Schools should ensure that students have full access to education—including school uniforms, lavatories, or documents—without a diagnosis of “Gender Identity Disorder.” This should include access to the lavatory the student is comfortable with, not only gender-neutral or disabled students’ facilities.
- Work with the Ministry of Justice and the Diet to revise Law 111 of 2003 (the Gender Identity Disorder Law), Japan’s legal gender recognition procedure, replacing humiliating mandatory procedures such as sterilization with self-identification criteria for legal gender recognition.

- Include information about sexual orientation and gender identity in the national sex education curriculum based on guidelines set forth by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Population Fund (UNFPA).

To the Ministry of Justice

- Advise Diet members and submit a bill to revise the Gender Identity Disorder Law to bring it in line with Japan’s international human rights obligations and international best practice standards.

To the Ministry of Health, Labour and Welfare

- Update all health care policies that affect transgender people to bring them in line with the World Professional Association of Transgender Health (WPATH) Standards of Care-7, standards set by international health and medical experts for health care systems to provide the best possible care for transgender persons.
- In conjunction with the Ministry of Education, Culture, Sports, Science and Technology’s directive to school boards, issue an urgent directive to psychiatrists and other mental health care professionals clarifying that children are not required to obtain a diagnosis of gender identity disorder in order to access education according to their gender identity.

To Municipal Governments and School Boards

- Institute non-discrimination clauses in local anti-bullying policies that specifically mention sexual orientation and gender identity.
- In line with MEXT’s 2016 Guidebook and in partnership with LGBT NGOs, promptly create programs to conduct teacher training on sexual orientation, gender identity, and human rights, including distribution of resource materials for classrooms and referral instructions for teachers who need extra support.

- Mandate that all teachers undergo training on sexual orientation, gender identity, and human rights, including access to education issues appropriate to the age group the teachers work with.

To the National Diet

- Include in the draft non-discrimination legislation protections for students from discrimination on the basis of sexual orientation or gender identity, as well as the explicit anti-discrimination clause for administrators, teachers, counselors, other school staff, and other employees from discrimination in employment on the basis of sexual orientation or gender identity.

The comics in this report tell the stories of specific individuals Human Rights Watch interviewed, using their own words to describe their experiences. In a few instances the artist added language to provide necessary context. © 2016 Taiji Utagawa

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LGBT Bullying and Exclusion in Japanese Schools

School bullying is a notorious problem in Japan. Students target peers they perceive to be different with harassment, threats, and sometimes violence—including by singling them out based on their real or perceived sexual orientation or gender identity. The Japanese government compounds and even fuels this problem by promoting social conformity and a climate of “harmony” in schools, and by insisting that no student is more vulnerable to bullying than any other. In doing so, it fails to address the vulnerabilities of lesbian, gay, bisexual, and transgender (LGBT) students.

Based on more than 100 in-depth interviews with sexual and gender minority youth and Japanese education experts, *“The Nail That Sticks Out Gets Hammered Down”* examines the shortcomings in Japanese policies that expose LGBT students to bullying and inhibit their access to information and self-expression. Lack of comprehensive sex education, silence on LGBT topics in the national curriculum, and inadequate teacher training on sexual orientation and gender identity all contribute to LGBT students’ vulnerabilities. Policies that require transgender people to obtain a diagnosis of gender identity disorder as a first step toward gaining legal recognition are harmfully rigid and discriminatory, and can have a particularly harsh impact on youth.

While Japan’s education ministry has taken positive steps in recent years to recognize, understand, and protect LGBT students, further action is needed to develop specific policies to address bullying. As the public debate on LGBT rights in Japan gains momentum around same-sex marriage and employment non-discrimination, the government has an opportunity to bring its policies in line with its international human rights commitments, including the right to education free from discrimination for all children.



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