

## SCHOOL VICTIMIZATION AND INSTITUTIONAL RESPONSIBILITY: A LEGAL AND POLICY PERSPECTIVE

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### ABSTRACT:

In educational settings around the world, school victimization which includes peer bullying, harassment, teacher-to-student abuse, and other types of physical, psychological, or sexual harm remains a widespread problem with detrimental effects on students' mental health, academic performance, and long-term wellbeing. This article critically examines the idea of victimization in schools, its manifestations (peer bullying, harassment, teacher-to-student violence, cyberbullying, etc.), and the role that educational institutions play in preventing, addressing, and correcting such harm. It does this by drawing on empirical, legal, and policy literatures. The research focuses on the duty of care that schools have to children, examining how institutional liability may be based on carelessness, willful indifference, or systemic policy flaws.

To determine when and how schools may be held accountable, important legal frameworks are examined, including statutory anti-bullying regulations, civil-law obligations, human rights and anti-discrimination statutes, and judicial precedents in various jurisdictions. Mandatory anti-bullying policies, institutional reporting and grievance procedures, awareness/training initiatives, and school-wide safety climates are among the policy tools that the article assesses. Additionally, it addresses barriers to effective institutional responsibility, such as definitional ambiguities, evidentiary hurdles, underreporting, and a lack of legal clarity, particularly in situations where current regulations may not be sufficient, such as cyberbullying or non-discrimination-based harassment.

The article concludes by outlining suggestions for enhancing institutional accountability, including more precise definitions of victimization, mandatory anti-bullying and anti-harassment policies, thorough reporting and investigation processes, training for school staff, and the incorporation of psychosocial support for victims. The paper makes the case that preventing student abuse is a legal and institutional responsibility that calls for thorough policy frameworks, execution, and accountability rather than just a disciplinary or moral issue.

### INTRODUCTION

#### 1.1 Background and Rationale:

Schools are supposed to be secure places where kids may study, develop, socialize, and reach their full potential. However, school is far from safe for a lot of kids worldwide; it can become a place where they are repeatedly

harmed physically, psychologically, and even sexually. Peer bullying and harassment, professional abuse and humiliation, and emerging forms like cyberbullying can all result in victimization in schools.<sup>850</sup> Such incidents are widespread: both national and international research has shown that a sizable percentage

<sup>850</sup> UNESCO / UNGEI, *School Violence and Bullying: Global Status Report* (2017).

of school-age children report experiencing bullying or harassment while attending school. Students who experience victimization may experience anxiety, sadness, low self-esteem, academic deterioration, dropout, or even more serious repercussions including self-harm or suicidal thoughts.<sup>851</sup>

Given the seriousness and frequency of school victimization, it is necessary to consider what educational institutions themselves are responsible for. Schools are guardians of children's wellbeing during school hours and under their supervision; they are not merely passive environments where harm may occur. Schools are seen as duty-bearers with an obligation to offer secure, non-hostile, and supportive learning environments under many legal and regulatory frameworks as well as international human rights agreements.<sup>852</sup>

Despite this, there is still a lot of variances in the ways that different jurisdictions handle victimization in schools. Victims frequently lack effective remedies due to insufficient policies, poor implementation, ambiguous terminology, or institutional negligence.<sup>853</sup> This brings up important legal and criminological issues about duty of care, institutional accountability, safeguarding children's rights, and the suitability of current regulatory frameworks. Investigating these issues is not only crucial from an academic standpoint, but it also speaks to the fundamental principles of justice, educational equity, and child protection.<sup>854</sup>

## 1.2 Scope and Definitions – What Constitutes “School Victimization”:

For analytical purposes, “school victimization” in this article refers to any physical, verbal, relational, psychological, sexual, or electronic act or pattern of behavior that harms or threatens to harm a student and takes place

within the institutional setting of education. This comprises, but is not restricted to:

- Peer-to-peer bullying includes relational violence (social exclusion, rumor-spreading), verbal abuse (insults, name-calling), and physical aggression (striking, pushing).
- Emotional abuse and psychological harassment include humiliation, threats, intimidation, loneliness, and persistent antagonism from coworkers or employees.
- Sexual harassment, abuse, or exploitation includes unwelcome sexual behavior, harassment by classmates or school personnel, and sexual coercion or assault by peers or authority figures.
- Cyberbullying and electronic harassment include social media abuse, online harassment, threatening messages, and the dissemination of damaging content, particularly when connected to peer interactions or the school community.

Importantly, the definition acknowledges that school victimization is frequently not a single isolated incident but rather a pattern of recurring behavior that interferes with the victim's right to education, growth, and dignity by creating a hostile, threatening, or hazardous environment. This idea is consistent with how harassment, bullying, and institutional obligation are defined in several legal standards.

By establishing this broad but structured definition, the article hopes to prevent legal and policy analysis from becoming unduly limited by excluding psychological, relational, electronic, or indirect harms while still paying attention to the complexity of harm in contemporary education and the actual lived experiences of victims.

## 1.3 Objectives, Research Questions and Theoretical/Legal Approach:

This article's main goal is to examine and clarify the institutional and legal obligations of schools

<sup>851</sup> UNESCO, *What you need to know about school violence and bullying*, 2020.

<sup>852</sup> Na Zhao et al., “School Bullying Results in Poor Psychological Conditions: Evidence from a Survey of 95,545 Students,” 2023.

<sup>853</sup> E. Menesini & others, “Bullying in schools: the state of knowledge and effective prevention,” 2017.

<sup>854</sup> Li-Ming Chen & Ying-Yao Cheng, “Prevalence of school bullying among secondary students in Taiwan...” (School Psychology International, 2013).

in terms of preventing, addressing, and resolving school victimization. The study intends to critically investigate whether and how schools can (and should) be held legally and morally responsible for the injuries their students endure while in their care, as well as what systems are in place (or ought to be in place) to enforce such responsibility. Based on this goal, the paper is guided by the following research questions:

- What legal underpinnings exist for schools' institutional duty in relation to school victimization, including international norms, national statutes, human rights, and education law?
- When bullying, harassment, abuse, or cyberbullying takes place inside or around an institution, under what circumstances can schools be held accountable?
- What institutional and policy measures such as grievance procedures, reporting systems, staff training, and anti-bullying policies are used (or mandated) by schools to carry out their duty of care?
- What weaknesses, inadequacies, or obstacles are present in the current legal and policy frameworks that compromise effective institutional responsibility?
- How may a thorough legal-policy framework be developed (or changed) to guarantee improved student protection and sufficient institutional accountability?

In order to evaluate institutional practices, obligations, and implementation, the paper's theoretical/legal methodology combines a policy-analytical lens with doctrinal study of statutes, case law, human rights instruments, and regulatory policies. To show how the law handles institutional liability, jurisprudence and court rulings from both domestic and foreign courts will be reviewed where available. In order to contextualize the types, prevalence, and effects of victimization, the study will also draw on empirical and social-scientific research,

connecting normative-legal discourse with real-world context.

#### **1.4 Methodology (Doctrinal Legal Research; Policy Analysis)**

The main research approach used in this study is a doctrinal legal technique. It entails a thorough textual study of pertinent human rights instruments, institutional policies made by educational authorities, and statutory and regulatory regulations (national laws, education law, child protection legislation, anti-bullying/harassment laws). Peer-to-peer harassment, teacher-to-student abuse, and cyberbullying are just a few examples of the domestic and comparative judicial precedents that the research will methodically examine in order to determine if schools are liable for student victimization or harassment.

The study employs policy analysis in addition to doctrinal research to assess current institutional frameworks and practices, including mandated anti-bullying regulations, grievance and reporting procedures, staff preventive training, and victim remediation. Comparative viewpoints from other jurisdictions will be taken into account wherever feasible in order to highlight optimal practices and potential hazards.

#### **CONCEPTUAL AND EMPIRICAL OVERVIEW OF SCHOOL VICTIMIZATION:**

##### **2.1 Forms of Victimization: Peer Bullying, Harassment, Teacher-to-Student Abuse, Cyberbullying, etc.**

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Additionally, victimization can be overt or covert, direct or indirect, episodic or ongoing. Indirect forms, such as social isolation, rumor-spreading, systematic psychological pressure, or prolonged harassment, may be more difficult to record but just as damaging as direct ones, such as physical abuse or overt verbal insults.<sup>857</sup> The definition of cyberbullying is further complicated by the fact that it is frequently anonymous and ongoing, making it possible for harassment to take place outside of school hours while yet being connected to school interactions and identities. This wide, inclusive definition covers the entire range of dangers that kids may encounter in contemporary educational situations, preventing the phenomenon from being artificially narrowed to simply physical or readily evident effects.

## 2.2 Prevalence and Patterns – Empirical Evidence from Studies and Reports

A significant percentage of schoolchildren and adolescents are victims of school violence, according to empirical research conducted in various regions. For example, a recent meta-analysis of 116 research involving over 600,000 children and adolescents worldwide revealed that approximately 25% of them are victims of bullying, 16% are bullies, and another 16% are "bully-victims" (those who both bully others and are bullied). This shows that victimization

affects a sizable number of students worldwide and is not a minor or isolated issue.<sup>858</sup>

About 33% of middle and high school students (ages 11 to 18) reported being victims of traditional school bullying, while 17% reported being victims of cyberbullying in a large-scale survey. Approximately 25.6% of students in a cross-sectional survey of teenagers in a North Indian city reported engaging in bullying in one way or another: 16% as victims, 5.2% as perpetrators, and 4.3% as both bullies and victims. According to the same study, 2.7% of people reported being the victim of cyberbullying.<sup>859</sup>

Bullying takes many different forms. In that Indian study, verbal bullying was the most prevalent (reported by 55.1% of participants), followed by physical bullying (32.7%) and relational/social bullying (25.2%), which includes social isolation or spreading rumors.<sup>860</sup>

The prevalence of cyberbullying varies greatly (from about 14% to more than 50–60%) depending on the setting, technique, and definitions employed, according to a global analysis. Subgroups appear to be disproportionately burdened. For instance, children who are viewed as "different" due to their appearance, ethnicity, socioeconomic standing, cultural background, gender identity, or handicap are more likely to experience bullying or harassment. Additionally, some studies report higher victimization rates among younger children or those in certain age groups (though results vary), and that prevalence may vary between socioeconomic situations or between public and private schools.<sup>861</sup>

<sup>855</sup> "Child Rights and Child Protection," Tamil Nadu Teachers Education University (TNTEU) study material (2023).

<sup>856</sup> NCPDR, *Preventing Bullying and Cyberbullying — Guidelines for Schools*

<sup>857</sup> School-level Child Protection Policy example, "Bloom Public School — Child Protection Policy."

<sup>858</sup> Ariani, T.A., Putri, A.R., Firdausi, F.A. & Aini, N. (2025). *Global prevalence and psychological impact of bullying among children and adolescents: a meta-analysis*. *Journal of Affective Disorders*, 385, 119446

<sup>859</sup> Ranjith, P.J., Vrandra, M.N. & Kishore, M.T. (2023). *Predictors, prevalence, and patterns of cyberbullying among school-going children and adolescents*. *Indian Journal of Psychiatry*, 65(7), 720–728.

<sup>860</sup> Gebrekidan, K., Laajasalo, T., Ristikari, T., et al. (2025). *Prevalence, risk and protective factors of traditional and cyberbullying among children and adolescents: Systematic Review and Meta-analysis*. (preprint / open access, DOI:10.21203/rs.3.rs-7659338/v1).

<sup>861</sup> Bullying victimisation and perpetration and the association with mental health among adolescents across countries" by Erskine, H.E. et al. (2025). *Child and Adolescent Psychiatry and Mental Health*.

According to this factual data, school victimization affects millions of pupils worldwide and is a public health and educational issue. The need for a broad, context-sensitive definition and a multifaceted analytical lens is highlighted by the variance among areas and types.<sup>862</sup>

### **2.3 Consequences for Students: Physical, Psychological, Academic and Long-Term Harm:**

Regardless of the type, the effects of school victimization are wide-ranging and frequently severe, affecting the victims' academic, social, psychological, and physical well-being in the long run.

Victims report high degrees of anxiety, sadness, low self-esteem, loneliness, alienation, and emotional discomfort from a psychological and psychosocial standpoint. Bullying victimization was associated with suicidal thoughts, self-harming acts, and a higher risk of mental health issues in the extensive worldwide meta-analysis. According to a large survey of more than 95,000 students in China, the likelihood of developing PTSD symptoms, anxiety, depression, poor sleep, internet addiction, and other behavioral or emotional disorders was significantly higher among those who reported bullying, and the degree of bullying was positively correlated with the degree of psychological harm.<sup>863</sup>

Because cyberbullying is digital in nature, it can follow victims outside of school hours, penetrate private locations, and become persistent. As a result, the harm may be especially subtle. Reduced self-esteem, social disengagement, depressive symptoms, anxiety, insomnia, and even suicidal thoughts have all been linked to it. Bullied children have also reported experiencing physical and psychological repercussions, such as headaches, stomach issues, sleep

disruptions, school dread, and other symptoms associated with stress. According to some research, children who are bullied have greater rates of absenteeism, school anxiety, and poorer physical health overall. This could be because victimization-related stress and trauma present physically or create avoidance behaviour.<sup>864</sup>

Victimization frequently has a negative impact on a student's performance, engagement, and long-term academic trajectory. Over 30% of children worldwide report having been bullied, according to UNESCO data, and these experiences are linked to poorer academic performance, a higher chance of dropping out of school, disengagement, and a diminished sense of school belonging. According to more focused research, victims of teacher-bullying that is, harassment or abuse by school personnel also exhibit low self-esteem, worse academic motivation, challenges with peer relationships, and long-term psychosocial suffering.<sup>865</sup>

This conceptual and empirical summary shows that school victimization is multifaceted and cannot be limited to a single wrong (like physical bullying) or modality (like peer-to-peer). Instead, it's a complicated phenomenon that encompasses a variety of connections, behaviors, and contexts, including digital environments. The prevalence data shows that a large percentage of pupils are victims, and the patterns indicate that some groups may be disproportionately impacted, including younger students, marginalized or "different" youngsters, and those in particular social circumstances.

The plethora of long-term, psychological, physical, and academic repercussions highlight the fact that victimization is a grave violation of children's entitlement to a secure, encouraging, and supporting school environment rather than just a disciplinary problem or adolescent "rite of

<sup>862</sup> Rtbeay, G., Andualem, F., Nakie, G., Fentahun, S., Melkam, M., Kibrilew, G., et al. (2025). *Bullying victimization and associated factors among school-aged adolescents in Africa: a systematic review and meta-analysis*. PLoS One, 20(4): e0321820.

<sup>863</sup> Kennedy, R.S., et al. (2024). *Traditional Bullying and Cyberbullying Victimization: Trends Before and During COVID-19 in the United States*. (meta-analysis)

<sup>864</sup> Alansari, A.N., et al. (2025). *Prevalence of bullying and violence among adolescents in Arab Gulf Countries: a systematic review*. Journal of Public Health.

<sup>865</sup> Ibrahim, F.M., et al. (2024). *Prevalence of bullying and its impact on self-esteem, anxiety and depression among university students in RAS Al Khaimah (UAE)*. Heliyon.

passage." This empirical foundation supports the claim in legal and policy studies that educational institutions must take accountability under duty-of-care, human rights, and institutional liability frameworks in addition to moral obligations. Legal or policy initiatives run the risk of being insufficient or shallow if they fail to recognize the full scope and complexity of the issue.

In light of this, the sections that follow will look at how jurisprudence, statutory/regulatory frameworks, and doctrines of institutional responsibility might address the issue and whether current safeguards are adequate to deal with the complex reality of school victimization.

### **LEGAL AND DOCTRINAL FOUNDATIONS OF INSTITUTIONAL RESPONSIBILITY:**

The duty of care (often under the guise of *in loco parentis* or custodial duty), the standards for negligence and deliberate indifference, and liability under agency (vicarious liability) for acts committed by teachers or supervised persons are the main legal doctrines and tort principles that underpin the question of institutional responsibility for school victimization. This section evaluates the benefits and drawbacks of doctrinal legal frameworks for holding schools accountable by analyzing these fundamental ideas and how they have been applied (or opposed) in jurisprudence.

#### **3.1 The Duty of Care Doctrine and the Legal Status of Schools ('in loco parentis' / custodial duty)**

The idea that schools and, consequently, their instructors and administrators have a unique duty of care to the pupils entrusted to them is at the core of institutional responsibility in educational contexts. Under *in loco parentis*, the school essentially takes on a custodial or quasi-parental function for the time that pupils are under its control, taking on duties that are comparable to those of a parent in terms of guaranteeing the security, welfare, and supervision of children.

This obligation is considered non-delegable in many countries; the institution cannot absolve itself by simply assigning maintenance, care, or supervision to a third party; instead, it must make sure that the supervision is sufficient and competent. *In Commonwealth v. Introvigne (Australia)*, for example, the court determined that the school owed a non-delegable duty of care to a student hurt on school property, even though the injury was brought on by falling equipment.<sup>866</sup>

This custodial duty implies that, in the context of school victimization, bullying, harassment, and abuse, schools have a positive obligation to anticipate and take action to prevent foreseeable harm, whether from unsafe premises, careless supervision, or harmful interactions between students or between students and staff. Commentators have pointed out that teachers must treat students "as a careful parent would take of its children" after they are given to the school.

The fundamental legal standing that underpins institutional accountability is thus provided by the doctrine of *in loco parentis*, which gives schools custodial and supervisory responsibility and frames them as duty-bearers tasked with the safety and wellbeing of children rather than just places of instruction.<sup>867</sup>

#### **3.2 Negligence, Deliberate Indifference and Liability Standards Applied in Jurisprudence:**

Legal culpability frequently emerges under tort law, usually under negligence, or under statutory regimes when available, when a school fails in its custodial role. Courts often need evidence of four things in order to prove negligence:

- (1) a duty of care;
- (2) a breach of that duty (failure to satisfy the "reasonable standard of care");
- (3) proximate cause (causal relationship between breach and harm); and
- (4) real injury or damage.

<sup>866</sup> *Commonwealth v. Introvigne*, [1982] HCA 40 (Austl.)

<sup>867</sup> S. Stuart, *In Loco Parentis in the Public Schools*, Valparaiso University Law Review, 1995.

The "reasonable standard of care" in educational settings is frequently assessed based on the type of monitoring needed and the predictability of injury. When educational institutions fail to maintain safe facilities, respond effectively to known dangers, or offer adequate supervision (playgrounds, extracurricular activities, trips), they may be judged negligent and accountable.<sup>868</sup>

However, the carelessness approach is insufficient to address other forms of school victimization, such as peer-to-peer harassment or abuse by school staff. Courts in several jurisdictions have developed or implemented standards of "deliberate indifference" or equivalent concepts to hold institutions accountable when they know (or should know) about harmful action and do nothing about it, especially in statutory or civil rights contexts.<sup>869</sup> In the United States, for example, *Davis v. Monroe County Board of Education (1999)* established that a school district may be held liable under a federal statute for student-on-student sexual harassment if the district willfully ignores known harassment and if the harassment is so severe, pervasive, and objectively offensive that it prevents the victim from receiving an education.<sup>870</sup>

In a similar vein, the court determined that a school district might be held accountable for teacher-to-student sexual harassment in *Gebser v. Lago Vista Independent School District (1998)*, but only if a school official with the power to take action had real knowledge of the harassment and reacted with willful indifference.

These legal developments show that having a duty of care alone is not always adequate; schools may also be held liable for failing to take proactive and preventive action once they are or should reasonably be aware of detrimental behavior. In situations where harms

are less obvious (such as psychological harassment, bullying, peer sexual misconduct, or cyberbullying) and where traditional negligence analysis may fail due to challenges in establishing foreseeability, causation, or proximate control, the threshold of "deliberate indifference" becomes critical.

However, some legal commentaries note that tort-based claims, whether intentional or negligent, have frequently been accepted more readily in cases of direct injury (accidents, unsafe infrastructure, physical harm) than in cases involving peer misconduct or abuse, particularly when committed by students rather than employees. In the past, when there is no agency relationship between the school and the student offender, courts have been less inclined to impose culpability.<sup>871</sup>

Therefore, even if carelessness and intentional indifference offer significant paths to responsibility, their effectiveness depends on the capacity to prove obligation, foreseeability, supervisory control, and causal link all of which can be difficult in intricate, multi-actor school systems.

### **3.3 Vicarious Liability / Agency Principles: Responsibility for Acts by Teachers/Staff or Students under Supervision:**

The notion of vicarious liability (agency), which holds an employer or institution accountable for torts committed by its employees while they are employed or under its supervision, is another important doctrinal pathway to holding schools accountable. In the context of education, this means that if a teacher, staff member, or other supervised agent engages in wrongdoing (such as physical or sexual abuse or harassment), the school may be held accountable if the act is sufficiently related to the teacher's duties or institutional enterprise or falls within the scope of employment.

For example, in the historic UK case *Catholic Child Welfare Society v. Institute of the Brothers*

<sup>868</sup> Duty of care: direct liability for schools and students," CBP Legal Alerts (Dec. 4, 2023).

<sup>869</sup> T.C. Stamatakos, "The Doctrine of In Loco Parentis, Tort Liability and the Student-College Relationship," *Indiana Law Journal*, 1990.

<sup>870</sup> *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).

<sup>871</sup> *Lister v. Heselley Hall Ltd* [2001] UKHL 22.

of the Christian Schools (2012),<sup>872</sup> the court determined that the school (through its management institutions) was vicariously liable even though the abusive acts by members of a religious teaching order took place outside of regular discipline or educational tasks. The argument was that the institutional enterprise created the risk by hiring such people and entrusting them with children, and there was a sufficient link (referred to as "enterprise risk") between the employment and the wrongdoings.

The extent of vicarious responsibility was expanded in *Lister v. Hesley Hall Ltd.* (2001) by establishing the "close connection" test, which states that an employer may be held accountable if the wrongdoing is sufficiently related to the employment, even if it was sexual assault or other misconduct.<sup>873</sup>

These doctrinal developments represent a change from earlier, more limited perspectives (in which only actions directly related to job responsibilities would result in liability) to a more realistic understanding that institutional settings, through organizing, monitoring, and regulating student-teacher relationships, create opportunities and risks for abuse or neglect. Even in situations when it is challenging to prove direct negligence or teacher personal accountability, vicarious liability can be a potent instrument for holding institutions accountable, especially in cases of institutional or systematic abuse.<sup>874</sup>

Not all jurisdictions have acknowledged wide vicarious liability for schools in relation to peer-to-peer harassment or abuse by non-teacher staff, and the application of these principles varies. When harm results from student-on-student interactions, institutional accountability is often limited by the need for proof of agency, control, or direct supervision.

Furthermore, evidence criteria for foreseeability, knowledge, supervisory failure, and causal relationship stay high even after responsibility is established. Because of this, many victims are frequently unable to obtain compensation, particularly in situations involving psychological trauma, cyberbullying, or indirect abuse that may not leave physical evidence or may take place outside of direct supervision.

The previously discussed doctrinal and legal framework offers a solid theoretical and jurisprudential basis for holding educational institutions accountable for student injuries. A number of legal avenues for redress are created by the combination of vicarious liability, negligence (or tort) liability, standards of deliberate indifference, and in loco parentis (custodial duty), recognizing that schools are more than just venues they are entrusted with the welfare of children, authority and control, and the responsibility to protect.

However, there are still major obstacles to overcome. Given the challenges in showing foreseeability, causation, and adequate supervisory control, traditional tort/negligence law may find it difficult to account for complex types of victimization, such as peer harassment, bullying, and cyberbullying. When there is no apparent "course of employment" or when the injurious actor is another student rather than a staff member, agency theories (vicarious liability) may also fall short. Successful claims may be hampered by institutional or factual obstacles, even in staff abuse allegations.<sup>875</sup>

#### STATUTORY AND REGULATORY FRAMEWORKS:

School victimisation is becoming more often seen as a legal wrong involving legislative duties, human rights obligations, and institutional accountability rather than just a disciplinary or moral failure. To address harm that occurs within educational institutions, contemporary legal systems combine human rights frameworks, education rules, anti-bullying statutes, and child protection laws. Together,

<sup>872</sup> *Catholic Child Welfare Society v Institute of the Brothers of the Christian Schools* [2012] UKSC 56.

<sup>873</sup> *Lister v Hesley Hall Ltd* [2001] UKHL 22.

<sup>874</sup> S. Todd, "Personal liability, vicarious liability, non-delegable duty of care: tort liability of schools," University of Canterbury (New Zealand) working paper, 2024.

<sup>875</sup> Md Makinson d'Apice Lawyers, "Schools — Non-Delegable Duty of Care," Mondaq (2012).

these frameworks impose preventive, supervisory, and remedial obligations on schools, turning them from neutral settings where harm is viewed as incidental or private into legally responsible spaces.<sup>876</sup>

#### **4.1 Anti-Bullying / Anti-Harassment Statutes and Policies (Domestic & International Examples):**

In order to acknowledge school-based victimisation as a systemic issue that needs official regulation, special anti-bullying and anti-harassment laws have evolved throughout jurisdictions. Adopting formal anti-bullying policies, codes of behaviour, and reporting procedures is required in many nations. Bullying is usually defined by such regulations as persistent physical, verbal, psychological, or cyber behaviour that results in injury, intimidation, or exclusion.<sup>877</sup> The emphasis on prevention through institutional policy rather than just post-incident discipline is a consistent legislative tendency, notwithstanding differences in terminology. Schools are frequently mandated by law to set up internal grievance redressal procedures, assign accountable authorities, keep track of complaints, and run staff and student awareness campaigns. Education departments' regulatory guidelines, which specify model policies, standards of inquiry, response deadlines, and disciplinary actions, further enhance legislation.<sup>878</sup>

Although there isn't a single worldwide anti-bullying treaty, policy guidelines and soft law tools are important. States are encouraged to enact school safety regulations, deal with cyberbullying, and incorporate child protection concepts into educational governance by UNESCO's frameworks on bullying and violence in schools. These tools emphasise the value of all-encompassing strategies which include

data collecting, parental participation, counselling, and school rules.<sup>879</sup>

while acknowledging that schools have considerable control over children and are therefore not immune from liability. However, the continuation of definitional difficulties and the lack of coverage of newly emerging kinds of victimization particularly cyberbullying and non-discrimination-based harassment, which frequently fall between existing legal categories remain a persistent worry within statutory frameworks.

#### **4.2 Human Rights, Anti-Discrimination and Protection Laws:**

A normative basis for resolving school victimisation is provided by human rights and anti-discrimination laws, especially when bullying or harassment targets protected characteristics including gender, caste, handicap, race, religion, or sexual orientation. Children have rights to equality, dignity, personal safety, and access to education in a secure setting under both international human rights law and the constitution. These rights may be violated when schools fail to stop or appropriately address victimisation. Anti-discrimination laws usually forbid hostile learning environments and place positive obligations on educational institutions to stop harassment that impedes equal access to education.<sup>880</sup>

Persistent bullying or abuse, particularly when combined with institutional inactivity, is becoming acknowledged by courts across a number of jurisdictions as a violation of the rights to equality and dignity. School victimisation is framed by human rights jurisprudence as a systemic failing where the state or school authority exercises control and oversight, rather than just as individual misbehaviour. Crucially, this concept extends institutional accountability to managers who

<sup>876</sup> UNESCO, "Violence and Bullying in Schools: UNESCO calls for better protection of students," (8 November 2024).

<sup>877</sup> UNESCO / UNGEI, *School Violence and Bullying: Global Status Report (2017)*.

<sup>878</sup> National Commission for Protection of Child Rights (NCPCR), *Guidelines for Schools on Preventing Bullying and Cyberbullying* (2024)

<sup>879</sup> Right of Children to Free and Compulsory Education Act, 2009 (India), Art. 17.

<sup>880</sup> Ministry of Human Resource Development (India), "Advisory for Eliminating Corporal Punishment in Schools under Section 35(1) of the RTE Act" (2014).

show wilful negligence, apathy, or tolerance of detrimental behaviours in addition to direct offenders. When harassment is not directly connected to a protected ground, there are still protection gaps. These instances highlight the shortcomings of remedies based on discrimination and emphasise the necessity for victim-centered interpretations that put vulnerability and harm ahead of legal classification alone.<sup>881</sup>

### **4.3 Institutional Obligations under Children's Rights / Education Law Preventive, Supervisory and Remedial Duties:**

Due to the vulnerability of kids and the coercive power schools have, educational institutions are subject to a unique and increased duty of care under children's rights and education laws. Three interconnected duties preventive, supervisory, and remedial can be used to examine these responsibilities. As part of their preventive responsibilities, schools must proactively establish safe learning environments through staff training, policy development, behavioural standards, and student sensitisation. Since injury in school settings is frequently predictable given established patterns of peer violence and power imbalances, the lack of preventive frameworks may be considered negligent in and of itself.<sup>882</sup>

Supervisory responsibilities include the need for schools to keep an eye on interactions that take place on their property and on educational digital platforms. Education legislation is beginning to acknowledge that monitoring is not limited to classrooms; it also includes places where school authority works, such as buses, playgrounds, hostels, and online learning environments. Claims of institutional culpability are strengthened by inadequate supervision, especially after earlier complaints or warning indicators. Once victimisation takes place, remedial obligations exist that call for swift,

unbiased, and efficient action. These obligations include conducting an inquiry, shielding the victim from more harm, disciplining offenders, and providing access to counselling or psychosocial support.

### **JUDICIAL PRECEDENTS AND CASE LAW ANALYSIS:**

The definition of institutional liability has been greatly influenced by judicial involvement with school victimisation, especially in situations where statutory frameworks are still vague or inadequate. Courts have been called upon to balance educational autonomy with the duty of care provided to students, while also addressing the complicated evidentiary and policy concerns that arise when injury happens within institutional contexts. A gradual trend from considering bullying or abuse as individual misconduct to acknowledging it as a failure of institutional governance is seen in case law across jurisdictions, particularly when authorities are aware of the hazards and do nothing.

#### **5.1 Landmark Cases on School Liability for Peer Victimization and Harassment:**

The US Supreme Court's ruling in *Davis v. Monroe County Board of Education*<sup>883</sup> is a fundamental addition to the body of law on peer victimisation. According to the Court, a school board may be held accountable for student-on-student harassment under federal civil rights legislation if the victimisation is so severe, widespread, and objectively objectionable that it essentially prevents the victim from receiving an education. Importantly, the Court established the "deliberate indifference" criterion, which imposes culpability not only on the occurrence of harassment but also on the institution's wilful refusal to take appropriate action. This criterion affirms that passive tolerance or inaction in the face of known abuse constitutes a legal wrong, but it also demonstrates court reluctance to impose severe liability on schools.

<sup>881</sup> Addressing Bullying in Schools Act (NI) 2016 (Northern Ireland).

<sup>882</sup> North Carolina School Violence Prevention Act, N.C. Gen. Stat. §§ 115C-407.15–407.17 (USA).

<sup>883</sup> *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999)

In conjunction with *Gebser v. Lago Vista Independent School District*<sup>884</sup>, which dealt with teacher misconduct but clarified the institutional knowledge requirement, Davis created a framework for liability that calls for both actual knowledge by a suitable authority and a response that is obviously irrational given the known circumstances. These rulings highlight the fact that systemic or administrative shortcomings, not just the actions of certain students, are the source of institutional liability. From a criminological perspective, such jurisprudence shifts the emphasis from individual deviance to institutional response mechanisms by acknowledging the role that corporate culture and power hierarchies play in permitting harm.

### **5.2 Case Law on Teacher-to-Student Abuse and Institutional Liability:**

Because of the trust, power, and control that these relationships entail, judicial examination is more demanding when victimisation involves abuse by teachers or school personnel. Courts have consistently acknowledged that sexual or physical abuse by teachers is both illegal and a violation of the school's non-delegable duty of care. In the *Gebser* decision, the US Supreme Court restricted institutional liability to situations in which officials with the power to implement corrective actions are aware of misconduct and choose to ignore it. The ruling indicates court concern about excessive liability while maintaining accountability for knowing institutional failings, notwithstanding criticism for setting a high threshold.<sup>885</sup>

On the other hand, a few of domestic countries have a more victim-centered approach, acknowledging vicarious culpability or carelessness due to inadequate supervision, screening, or response. When warning indicators were disregarded, concerns were dismissed, or internal procedures were not properly followed, courts have held schools

accountable. These rulings highlight the fact that institutions cannot avoid accountability by attributing abuse exclusively to individual malfeasance when structural flaws like inadequate training, inadequate oversight, or informal complaint handling contribute to the harm. This strategy is consistent with criminological theories of institutional abuse, which emphasise how silence and authority systems facilitate recurrent victimisation.<sup>886</sup>

### **INSTITUTIONAL POLICIES, IMPLEMENTATION AND CHALLENGES:**

How educational institutions convert statutory commitments into practical policies and practices ultimately determines the efficacy of legislative and judicial frameworks addressing school victimisation. The gap between the existence of written anti-bullying or anti-harassment policies and their effective enforcement continues to be a major concern from both legal and criminological viewpoints, even though the majority of schools currently claim compliance through such policies. Therefore, formal compliance alone is insufficient to fulfil institutional obligation; instead, consistent execution, accountability systems, and a culture that puts student safety ahead of reputational interests are needed.

### **6.1 Anti-Bullying / Anti-Harassment Policies – Existence vs. Enforcement:**

Anti-bullying and anti-harassment measures, which are frequently required by law or regulatory bodies, have become a standard component of educational governance. Definitions of forbidden behaviour, reporting guidelines, and disciplinary actions are usually outlined in these regulations. Doctrinal examination, however, shows that victims are not always effectively protected by the sheer existence of such policies. Policies are frequently merely symbolic texts created to meet legal requirements rather than to direct institutional action. Their preventive potential is

<sup>884</sup> *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998).

<sup>885</sup> Catherine MacKinnon, "Sexual Harassment and Institutional Responsibility," *Yale Law Journal* (1986).

<sup>886</sup> . Kimberly Jenkins Robinson, "The Case for a Right to Education," *Notre Dame Law Review* (2019).

weakened by ambiguous definitions, arbitrary enforcement, and a lack of regular review.

From a criminological perspective, organisational processes that normalise harm or downplay its severity are reflected in inadequate enforcement. Schools may use informal resolution techniques, minimise bullying as a stage of growth, or put their reputation ahead of the wellbeing of their students. Courts have investigated these practices more closely, realising that a failure to implement internal policies may be proof of carelessness or wilful indifference in and of itself. Therefore, the legal standard for evaluating institutional compliance is now enforcement rather than merely adoption. Lack of staff accountability, monitoring systems, or clarity in policies compromises the duty of care and puts institutions at risk of responsibility.

### **6.2 Reporting and Grievance Mechanisms, Investigation Procedures, Remedies for Victims (Counseling, Transfers, Disciplinary Action):**

Strong grievance and reporting procedures are essential to institutional accountability because they translate legislative promises into practical protections. Accessible reporting channels, protection against reprisals, prompt, unbiased investigations, and significant remedies are all necessary for effective systems. Many schools offer official complaint procedures, but they don't guarantee their independence or accessibility, especially for younger students or members of marginalised groups. Victims are often deterred from reporting by fear of reprisals, disbelief, or social stigma, particularly when peer hierarchies or authority individuals are involved.

Institutional responsibility is further undermined by investigative failures. Conflicts of interest, untrained investigators, and delayed investigations undermine credibility and prolong suffering. According to doctrine, courts have considered insufficient investigations to be aggravating circumstances, especially in cases where there have been previous complaints.

Concerns about secondary victimisation are raised by the fact that remedies for victims frequently centre on displacement, such as moving the victim instead of the offender. Even if therapy and psychosocial support are becoming more widely acknowledged as essential corrective actions, their lack or insufficiency indicates an institutional propensity to view victimisation as a behavioural problem rather than a breach of rights. In order to ensure both protection and accountability, meaningful remedies must incorporate restorative measures, victim assistance, and corrective discipline.

### **GAPS AND LIMITATIONS IN LEGAL AND POLICY REGIMES:**

There are still large gaps in the legal coverage and practical execution of school victimisation policies, notwithstanding the increase of statutory obligations, judicial standards, and institutional policies. These restrictions show a gap between the changing nature of the suffering that students endure and the capacity of the current legal and regulatory frameworks to adequately address it. From a criminological and doctrinal perspective, these loopholes allow harmful situations to continue under the pretence of formal compliance, weakening victim protection and diluting institutional responsibility.

### **7.1 Situations Not Clearly Covered: Cyberbullying, Non-discrimination-based Harassment, Psychological Abuse, Indirect Harms:**

The lack of sufficient legal recognition of new and unconventional forms of victimisation is one of the most urgent gaps. Despite being more common, cyberbullying frequently takes place outside of actual school grounds, which raises questions about jurisdiction and regulations. Many legal systems find it difficult to define institutional accountability for online behaviour, particularly when it takes place on personal devices or beyond school hours. Despite the clear educational and

psychological effects of such harassment, victims are left without appropriate solutions.

Similarly, anti-discrimination laws often do not apply to non-discrimination-based harassment that does not target a legally protected trait. Therefore, even in cases where the harm is substantial, victims of ongoing humiliation, social exclusion, or psychological manipulation may not have legal redress. In the current legal frameworks, which frequently give priority to physical harm or overt wrongdoing, psychological abuse and indirect harms, such as coercive peer pressure or institutional silence, are still poorly conceptualised. From a victimological standpoint, the inability to identify psychological and cumulative harm is a reflection of an antiquated conception of violence that compromises the objectives of child protection.

### **7.2 Limitations of Doctrinal Liability: Knowledge, Foreseeability, Causation, and Immunities:**

Doctrinal restrictions limit institutional culpability even in cases when victimisation is covered by legal definitions. Courts frequently demand evidence of foreseeability of harm, actual or constructive knowledge, and a direct causal connection between institutional action or inaction and the harm sustained. Despite being based on fairness ideals, these evidential criteria provide unique difficulties in educational settings because harm is frequently subtle, cumulative, and underreported. It may be difficult for victims to prove that school administrators were aware of the danger or should have been aware of it, particularly in cases where complaints were made informally or with insufficient documentation.

Another doctrinal challenge is causation, since academic deterioration or psychological impairment might be caused by a variety of factors. Such intricacy is sometimes used by institutions to avoid accountability, claiming that damage cannot be definitively linked to particular mistakes. Doctrines of institutional or governmental immunity also limit

accountability, especially in public schools. Although these privileges are meant to safeguard public resources and educational autonomy, they frequently serve to conceal systematic carelessness. In terms of criminology, these conceptual restrictions place the onus on victims, perpetuating power disparities and deterring reporting.

### **RECOMMENDATIONS FOR STRENGTHENING INSTITUTIONAL RESPONSIBILITY AND POLICY REFORM:**

Addressing school victimization requires a shift from reactive, compliance-oriented approaches to a comprehensive framework of prevention, accountability, and child-centered remediation. Drawing from doctrinal legal analysis, criminological theory, and policy experience, this section proposes reforms aimed at strengthening institutional responsibility and ensuring that educational spaces function as safe and rights-respecting environments for children. These recommendations focus on clarifying legal standards, institutionalising preventive mechanisms, and embedding accountability at multiple levels of governance.

Establishing precise, thorough, and inclusive legal definitions of "victimisation" and "harassment" is a fundamental reform. Existing frameworks frequently adopt limited or disjointed definitions that fall short of capturing psychological abuse, indirect harm, relational aggression, and victimisation enabled by the internet. Legislators and regulatory bodies ought to embrace harm-based definitions that put the child's welfare ahead of the behavior's purpose or mode. By aligning legal responses with current victimological understanding and avoiding technical limitations that compromise protection, inclusive definitions would allow institutions and courts to handle cumulative and subtle forms of abuse.

All educational institutions should be required by law to have anti-bullying and anti-harassment policies with minimal substantive and procedural requirements. These policies

must specify exactly what behaviour is forbidden, the duties of school staff, the rights of students, and the repercussions of disciplinary action. Codes of conduct should be consistently applied and evaluated on a regular basis to take into account changing risks, especially those related to digital harm. Legal requirements ought to go beyond official adoption and call for observable execution, with regulatory sanctions for noncompliance. This strategy transfers accountability from personal judgement to organised governance and strengthens institutional accountability. Accessible, transparent, and victim-sensitive reporting and grievance procedures are essential for effective institutional responsibility. To promote transparency, schools must be mandated to set up a variety of reporting channels, including private and anonymous

To operationalise legislative criteria, mandatory training programs for educators, administrators, and support personnel are crucial. Recognising indicators of victimisation, legal obligations of care, trauma-informed interventions, and suitable disciplinary measures should all be covered in training. In order to ensure ongoing knowledge and competence, capacity-building programs must be ongoing rather than one-time interventions. From a criminological standpoint, skilled staff members are better able to break institutional neglect patterns and promote watchful and caring environments. Certification and recurring retraining should be mandated by legal frameworks as requirements for institutional compliance.

Incorporating psychosocial support within institutional responses is necessary for victim-centered transformation. School safety frameworks should incorporate counselling services, mental health referrals, and restorative methods. Without reducing victimisation to punitive outcomes alone, restoration-focused approaches promote healing, reintegration, and accountability. Recognising that psychological trauma is just as serious as physical injury, legal and regulatory frameworks should provide referral networks and require access to licensed

counsellors. An awareness of victimisation as a multifaceted harm requiring comprehensive response is shown in such integration.

Lastly, independent oversight and accountability are necessary for long-term institutional responsibility. The authority to evaluate institutional compliance, look into systemic flaws, and suggest remedial actions should be granted to external monitoring organisations like child safety commissioners or education ombudsmen. Evidence-based reform and public accountability are made possible by regular policy and outcome review backed by open data gathering. Internal mechanisms should be supplemented by judicial and regulatory scrutiny to guarantee that schools continue to adhere to their ethical and legal commitments.

#### CONCLUSION:

By examining school victimisation through the interrelated lenses of criminology, law, and institutional governance, this study has shown that harm in educational settings is a systemic problem involving legal responsibility and public accountability rather than just an individual or disciplinary issue. The study emphasises that school victimisation, whether it takes the form of peer bullying, teacher-to-student abuse, cyber harassment, or psychological harm, occurs within structured environments where authority, vulnerability, and institutional power intersect. It does this by drawing on doctrinal analysis of statutes, judicial precedents, and policy frameworks. The analysis emphasises that because of their custodial role over children and the predictability of harm in school settings, educational institutions are held to a higher standard of responsibility.

According to the research, modern legal frameworks increasingly acknowledge that schools have a duty of care to prevent, detect, and address victimisation. Educational institutions are subject to preventive, supervisory, and remedial requirements under statutory anti-bullying statutes, children's rights

provisions, and human rights conventions. The criteria of institutional liability have been clarified by judicial decisions, especially through doctrines like purposeful indifference and carelessness, which emphasise that accountability results from failures of reaction rather than from the simple existence of injury. Notwithstanding these developments, the essay points out important restrictions on coverage and enforcement, such as definitional ambiguities, obstacles to evidence, and institutional resistance to accepting accountability.

A recurrent implementation deficit, where anti-bullying policies exist in form but are not implemented, is further revealed by policy analysis. The protective objective of legislative frameworks is undermined by inadequate reporting procedures, inadequate training, and a lack of psychosocial assistance. The implications for law and policy are obvious: symbolic compliance is insufficient to attain institutional responsibility. Rather, the foundation of school governance should consist of victim-centered solutions, clear procedures, and enforceable standards. The efficacy of institutional solutions is increased when criminological insights—particularly those pertaining to organisational culture and power dynamics—are incorporated into law change.

Protecting students from victimisation is an institutional and moral duty that goes beyond legal requirements. Human dignity, equality, and personal growth are inextricably related to education, and settings that condone abuse are in direct opposition to these ideals. The idea that schools are public institutions tasked with ensuring the wellbeing of children rather than private settings is strengthened by the legal protection of students' rights. In addition to being against the law, failing to take action against victimisation undermines public confidence.

From a criminological perspective, institutional indifference normalises violence and silences victims, perpetuating cycles of harm. On the

other hand, proactive institutional responsibility promotes safety, accountability, and respect cultures. Thus, the moral reasoning supports legal doctrine: organisations have an unwavering ethical need to safeguard children due to their vulnerability, not because they run the risk of responsibility. The legitimacy and efficacy of educational governance are strengthened when moral commitment and legal accountability are in line.

Although this study provides a thorough doctrinal analysis, more research is required to improve comprehension and guide reform. Doctrinal findings would be supplemented with empirical research on the efficacy of anti-bullying policies, reporting procedures, and corrective measures. Comparative studies examining various jurisdictions might shed light on contextual issues and effective practices. Furthermore, interdisciplinary study combining sociology, psychology, and education studies may improve legal responses to new types of victimisation, including psychological and cyber-enabled harm. Future research should focus on children's lived experiences in reform initiatives by examining their rights to participate in the formulation of institutional policies.