

# Exploration and Analysis of the Current Situation of School bullying and the Way of Legal Regulation in the New Period

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**Abstract:** In the new period, teenagers have more access to the Internet world, and school bullying incidents occur from time to time. Although China's laws have certain provisions on related criminal acts, it is difficult to meet the new forms and new social needs in the new era. In this paper, through the analysis of the current situation and characteristics of school bullying in the new era, the new legal regulation path was studied, and the corresponding improvement measures and suggestions were put forward. It is convenient for school education management to restrict school bullying through more perfect laws.

## 1. Introduction

Over the past two years, a large number of studies on school bullying have begun to emerge, and research perspectives have become more diverse. Articles on school bullying have emerged from sociology, psychology, ethics, law and other perspectives. In this paper, the legal responsibility of school bullying was studied from the perspective of educational law, and the double principles of education and punishment were adhered to, hoping to achieve the goal of punishing both the offenders and the perpetrators [1]. At present, there are few literatures on the phenomenon of school bullying in the field of educational law, but through this study, the in-depth discussion of the theory of legal liability for school bullying in the discipline of educational law can be promoted, the research field of discipline can be expanded, and other disciplines can be adopted to carry out the study of school bullying from various perspectives. By making the perpetrators of illegal bullying bear adverse legal consequences and educating the perpetrators of illegal bullying, the effect of preventing the occurrence of bullying can be achieved. The legal responsibility of school bullying is the corresponding adverse consequence set for violating legal obligations, which is the moral condemnation of school bullying by society and the legal condemnation of school bullying by state machinery. Under the function of double condemnation, we can punish offenders, deter other students, promote the rule of law in the whole society, and create a good educational and teaching environment [2].

## 2. Characteristics of School Bullying

### 2.1. Universality of school bullying

School bullying is not only a frequent phenomenon in China's primary and secondary schools, but also a common governance problem in the world. According to the latest UNESCO report on the global situation of school bullying in Korea in 2017, nearly 246 million children and adolescents are bullied every year worldwide for three reasons: physical characteristics, gender and sexual orientation, race and cultural differences. The latest report released by UNESCO and the Ewha Womans University Institute in Korea shows that every year, millions of boys and girls suffer from school violence. School bullying occurs in primary and secondary schools not only in China, but also the world [3].

### 2.2. Imbalance of school bullying subjects

According to the existing cases, it can be found that most students make bullying in the form of

groups, while the victim is the individual to bear the bullying. The case study shows that most of the bullies in school bullying are in a strong group, for some of them have excellent results, some have better family conditions, some have better physical conditions, some have more active interpersonal communication, and some have more consistent ideas. These groups consciously believe that they have some superiority, and that they have the power to discriminate against disadvantaged groups or individuals in many ways, so that the discriminatory and bullying acts often occur in order to show their superiority [4].

### **2.3. Diversity, repetition and concealment of bullying**

The forms of bullying in school are diverse. There are more forms of bullying in addition to the way that the public cognizes such as pushing, beating, armed injury, abuse, insult, threat, intimidation, isolation and ignorance. Through the cases of bullying that have been exposed in detail, it can be found that the means of bullying have diversified, including: using toilet garbage basket to fasten the head, restricting personal freedom, showering the victim, slapping, pinching the face, writing abusive words on the victim's desk, forcing physical contact with the opposite sex, stripping, taking videos, publishing indecent photos in public areas or on the Internet, and even sexual assault. The ways of school bullying are also various. With the development of the times, the ways of bullying are more diversified. There are bullying acts in the form of telephone notification, but the more prominent one is the network way [5].

## **3. Realistic Dilemma of Legal Liability for School Bullying**

### **3.1. Single subject of legal liability**

Students, parents, teachers, schools and relevant administrative departments bear the legal responsibility for school bullying, but after case analysis, it is found that only students or schools bear the responsibility. In the specific case analysis, students are the main body of responsibility. In other cases, schools need to take secondary responsibility because of management mistakes [6]. From the above cases, it can be found that, first of all, in dealing with school bullying cases, only students are emphatically punished, and only in the case of serious negligence of the school does the legal responsibility of the school be investigated, thus ignoring the lack of other responsible subjects in fulfilling their legal obligations. Although in the analysis of individual cases, the People's Court and the People's Procuratorate believe that parents have an inescapable responsibility for educating their children, they do not regard parents as the main body of legal responsibility when investigating legal responsibility. As for the supervisory responsibility of relevant administrative departments to schools, there is no reflection in the above cases, let alone the legal responsibility of school bullying [7].

### **3.2. Forms of legal liability**

Comprehensive analysis of the results of dealing with the legal liability of school bullying, combined with the characteristics of the main body of the legal liability of school bullying, there are four ways of assuming legal liability: admonition and education, civil compensation, administrative punishment, and criminal punishment. The absence of administrative punishment will lead to abuse of administrative power. Without effective punishment, there will inevitably be a lack of a conscientious attitude to fulfill administrative obligations, and more school bullying will breed in areas lacking management [8]. Criminal penalties are concentrated in people over the age of 14, and most students between the ages of 14 and 16 bear the special treatment of probation. In the case of undertaking criminal punishment, the result of judgment for minors is that they are sentenced to fixed-term imprisonment for two years and suspended for one year. Based on the fact that the probation period does not violate the law, the former fixed-term imprisonment will not be executed, so that students can restrain their behavior within the probation period and easily stop violating the law, but they may also violate the law again [9].

### **3.3. Overemphasizing lightness in the degree of accountability**

In the collected cases, almost all students bear the punishment consequences of education or admonition. Most students or their parents bear the civil compensation penalty on their behalf, and a few bullies who bear the criminal penalty are given special consideration of probation. The aforementioned way of dealing with minor students stems from the principle that education should be given priority to and punishment should be supplemented when punishing juvenile delinquency in our country. However, there are also drawbacks in this way of handling. The education and admonition for students need the cooperation among parents, schools and supervisory organs, and the lack of either side can make the education effect less than expected. Although some students start with a clean slate because of the education of relevant departments, in real life, parents of bullies lack enough attention to students and still have to work for their lives, so the educational environment and educational purposes are difficult to achieve.

## **4. Measures to Improve Legal Liability for School Bullying**

### **4.1. Enhancing the concept of related subjects**

Based on the fact that students, parents, teachers, schools and relevant departments pay insufficient attention to school bullying and have a biased understanding of the legal responsibility of school bullying, all relevant subjects must realize that school bullying can lead to serious moral and social consequences, and it is necessary to raise the awareness of school bullying [10]. Students need to re-recognize the school bullying behavior, results and harmfulness, understand the feeling of being bullied from the perspective of the victim, experience the process of the victim receiving punishment, deeply reflect on themselves, summarize their own characteristics, so as not to implement school bullying, not to be bystanders of school bullying, and not to be victims of school bullying. And when others are bullied in school, they should stop bullying in a variety of ways in a timely and effective manner.

### **4.2. Establishing and improving the legal system**

Complete legal system is the premise and foundation of effective management of school bullying. In order to improve the legal system of school bullying, attention should be paid not only to the completeness and rationality of levels, but also to the coordination and unification of contents. First of all, on the basis of the Constitution and in accordance with the legislative procedure stipulated in the Legislative Law, the Anti-School bullying Law is formulated. Secondly, multi-level legislation should be adhered to. Under the provisions of the Anti-School bullying Law, the State Council and administrative departments at all levels formulate laws and regulations according to the characteristics of their own administrative areas. Only in this way can the multi-level legislation truly realize the seamless docking of the legal system of school bullying. Thirdly, it is necessary to sort out the contents of laws and regulations, and establish a coordinated legal system against school bullying.

### **4.3. Defining the subject and form of responsibility**

When perfecting the legal liability of school bullying, the status quo that the subject of legal liability is single and the form of liability is too simple must be solved, the subject of legal liability should be clearly defined, and a more reasonable form of punishment of legal liability should be constructed. When formulating the criminal liability for school bullying, the principle of giving priority to education and supplementing punishment should still be adhered to. However, in view of the characteristics of simple and inflexible punishment methods of school bullying legal liability, the deterrent effect of criminal punishment liability should be emphasized to play an educational role for offenders. In terms of existing criminal legal liability, it is necessary to add legal liability for school bullying. For the identification of nearly blank administrative responsibility, the responsibility of school bullying management and management should be established systematically. Civil liability is not only monetary compensation, but also compensation and apology, stopping

infringement, returning property, restoring the original state, etc.

#### **4.4. Strengthening safeguard and supervision**

Lack of effective supervision of legal responsibility can't effectively solve the problem of school bullying. In order to improve the legal liability of school bullying in China, regulations on supervisory means in Japan's Bullying Prevention Countermeasure Promotion Law can be used for reference. For example, schools must regularly carry out investigations on school bullying among students so that the phenomenon of school bullying can be contained in the embryonic stage; teachers and staff of schools must participate in training activities on school bullying, master the relevant contents of prevention and control of school bullying skillfully; at the same time, special institutions for the prevention and control of school bullying should be established, which should supervise and guide schools, students and faculty to detect bullying and report it to schools; schools must investigate bullying and provide help to bullied students. When necessary, schools can ask the police for help and punish students, but not suspension punishment; major school bullying incidents must be reported to the Ministry of Science of the Ministry of Liberal Arts. If necessary, the Ministry of Science of the Ministry of Liberal Arts can conduct another investigation. Similarly, guardians also have an inescapable responsibility for students' behavior.

#### **5. Conclusion**

When studying the legal liability for school bullying, in this paper, based on the rationality of the legal liability for school bullying, the dilemma faced by the legal liability for school bullying was analyzed. It is necessary to learn from the useful experience at home and abroad, improve the legal liability of school bullying in China, so that students' rights can be effectively protected, the obligations of relevant subjects such as parents, teachers, schools and relevant administrative departments can be fulfilled in a timely and effective manner, school bullying can be punished, the phenomenon of school bullying can be eliminated, and the legal interests of personal safety and property security protected by law can be realized. In addition, according to the characteristics of the behavior, the specific legal responsibility of the behavior should be defined, and the specific content of the administrative regulations and rules should be formulated for the school bullying. Therefore, the main purpose of this study is to attract more attention to the study of school bullying in various fields.

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