



The Application and Prevention of School Bullying in China's Criminal Law System Based on the Insights of School Bullying in the United States

Wang Yao^(✉)

The University of New South Wales, Sydney, Australia
2482516799@qq.com

Abstract. Minors are in a special period of rapid physiological and psychological changes, and they are still immature in their psychological development, impulsive and herd-like. Under such circumstances, they can easily become perpetrators, participants, or victims of school bullying when they participate in school activities. As perpetrators of school bullying, the physical and mental health and growth of minors are also a concern, and from this perspective, minors are all victims of school bullying. From the practices of overseas countries in dealing with school bullying, some countries have reflected a regulated and severe attitude toward school bullying. Some countries have improved the legal system of school bullying prevention and control, and even in the face of underage bullies, they prefer to protect the rights and interests of the bullied. Some countries have improved their legal systems to prevent and control bullying in schools, and even when dealing with underage bullies, they prefer to protect the rights and interests of the bullied. In the management of school bullying, we can take into account the reality of China's legislation and judicial practice as well as the patterns of school bullying. In addition, we can introduce a special law to clearly stipulate the responsibility and punishment for school bullying, as well as to adopt a new law on school bullying. In addition, a new crime can be added to the criminal law to make up for the shortcomings of the existing law on school bullying. In the meantime, in judicial practice, it is necessary to make up for the shortcomings of the existing laws on school bullying. At the same time, in judicial practice, school bullying behaviors that have serious social hazards should be strict.

Keywords: School Bullying · Criminal Law · Education · Criminal Liability · Crime Prevention

1 Introduction

School bullying is a variety of behaviors in which the bully inflicts physical or psychological harm on the victim through words and physicality in the school radiation zone. In recent years, the number of school bullying cases and the resulting crimes committed by minors have been rising on the Internet. The distortion of minors' minds, the cruelty of their methods, and their bad behaviors have made me think about the panic, but the "age

of criminal responsibility” has become a reason to prevent the criminal law from punishing them. Therefore, for the phenomenon of school bullying, education, and punishment should be given equal importance. At the legislative level, there are many shortcomings in the legal management of school bullying in China. Therefore, for the phenomenon of school bullying, it is necessary to discuss how to regulate it from the perspective of existing laws on the one hand, and to focus on how to regulate it from the perspective of existing laws on the other. Therefore, in order to deal with the phenomenon of school bullying, it is necessary to discuss how to regulate it from the perspective of existing laws on the one hand and also to focus on how to improve the laws in the case of insufficient provisions of existing laws on the other hand, in order to deal with the phenomenon of school bullying in a legal way [1]. Therefore, we need to discuss how to regulate the phenomenon of bullying in schools from the perspective of existing laws and also focus on how to improve the laws in light of the inadequacy of existing laws, so as to deal with the phenomenon of bullying in schools in a legal way, deter and punish the bullying behavior, and provide due protection to the bully.

2 Key Elements of the U.S. Anti-school Bullying Legal System

2.1 New Challenges to Bullying Governance in U.S. Schools

In the new situation, the governance of school bullying in the United States faces many challenges. The main aspects are as follows.

Campus Bullying is Highly Concealed and has Complex Forms of Expression

School bullying is not as obvious and easy to detect as school violence, and it often exists mainly in the form of relational bullying. Especially with the popularization of the Internet, the forms of school bullying are networked, diffuse and anonymous, which are more hidden and more harmful. Overall, it seems that the number of physical bullying aspects has decreased, but the trend of relationship-based bullying has increased [2]. In relational bullying, one or more parties often socially exclude and isolate the victim, creating collective pressure on the victim and depriving him or her of social relationships, resulting in his or her isolation from the mainstream group. The victim is gradually regarded as an “alien” and further marginalized and is more likely to trigger new bullying encounters.

The Harmful Effects of Bullying in Schools are Gaining Attention

School bullying has become an important source of stress for elementary and middle school students. Studies have found that victims in school bullying live in an insecure environment for a long time, which not only leads to a decline in grades, but also physical injuries, such as headaches and stomach pains, triggered by the psychological damage caused by bullying are more common. If the victim does not successfully emerge from the psychological shadows created by bullying, the negative effects can continue into their adult life. As a result, school bullying can lead to fear of school [4], which can lead to boredom and truancy, and these behaviors often become a trigger for other risky behaviors. The direct harm of school bullying may seem small, but its hidden damage is

significant. It can have negative consequences for some students, with anxiety, depression, lower self-esteem and even consideration of suicide. In reality, a large proportion of victims choose to suffer the consequences of school bullying in silence.

School Bullying and Other High-Risk Behaviors follow Each Other and are Causally Related

In the United States, dropping out of school and using drugs are considered high-risk behaviors. School bullying is often closely associated with high-risk behaviors such as school dropout, drug use, exposure to delinquent cliques, and juvenile delinquency. Considering this, the only way to avoid other high-risk behaviors among school students is to curb school bullying in a good way.

2.2 Anti-school Bullying Legislative Philosophy in the United States

From the first anti-school bullying law established in Georgia in 1999 to the anti-school bullying bill passed in Montana in 2015, all states in the United States have enacted corresponding anti-school bullying bills and anti-school bullying policies, and a comprehensive system of anti-school bullying legislation and regulations has spread throughout the United States. The legal system at different levels is rigorous, clear, and operative, and has achieved remarkable results, and the phenomenon of school bullying has been effectively curbed. From the perspective of legislative philosophy [5], the U.S. anti-school bullying legislation advocates the principles of human rights protection, legality, pre-legislative evaluation, efficiency and effectiveness, and public participation. Among them, human rights protection, as the consistent legislative spirit of the United States, fully reflects the value goal and core concept of legislation; the application of the principle of pre-legislative evaluation can clarify the focus and problems of legislation, and then improve the quality and effectiveness of legislation.

2.3 Implications of the US Anti-school Bullying Legislation Experience

With the arrival of the new media era, new elements must be reasonably integrated into the teaching process to promote the effectiveness of English teaching in colleges and universities. New elements, such as self-media, media resources, short videos, teacher training and information promotion, must be reasonably integrated into the teaching process [3].

2.4 The Experience of Anti-school Bullying Legislation in the United States Has Implications for Our Legislation

Judging from the effectiveness of the post-legislative evaluation of anti-school bullying in the United States, practical results have been achieved, and school bullying has been effectively curbed. The concept of zero tolerance for school bullying has also been recognized and accepted by the public, which has greatly reduced the cost of law enforcement and compliance and achieved unity of efficiency and effectiveness. The legislative follow-up evaluation conducted by each state in the United States after the

bill has been implemented for a period has the functions of advancing the science of legislation, improving legislative techniques, and enhancing the effectiveness of the law. The legislative evaluation system, as an institutionalized, normalized, and standardized implementation mechanism, can effectively avoid the waste of legislative resources and has positive significance in improving the quality of legislation and the effectiveness of laws [6].

At present, the problem of school bullying in China is very serious, and it is urgent to regulate and manage it from the legislative level. In the United States, the legislative evaluation mechanism has been carried out throughout the process of enacting and implementing the anti-bullying law. Whether it is the analysis of the impact of regulation in the preparation stage or the analysis of the effect in the implementation stage, the legislative evaluation mechanism plays a crucial role. It is precise because of a sound and mature legislative evaluation mechanism that good legislative results can be achieved and school bullying can be effectively curbed. The evaluation mechanism of the legislation is the only way to achieve good results and effectively curb the phenomenon of school bullying.

3 The Current Situation of School Bullying in China and the Solutions

3.1 Causes of School Bullying

The analysis of the reasons for the emergence of school bullying in various countries is usually considered to be influenced by a variety of factors, mainly including the following factors. First, the influence of impulsive and rebellious psychology in adolescence; second, the influence of family factors and family education; third, the influence of social environment, especially the spread of diverse bad culture; fourth, the lack of educational management and preventive measures in schools. Especially in the network era, the social environment and the spread of various kinds of different cultural information, and the deepening of the degree of adolescents since the network, make the influence of social factors on school bullying increasingly prominent. Schools are the main place where school bullying occurs, so they are the most important force to deal with school bullying and the main responsible body to deal with school bullying [7]. To deal with campus bullying, the first thing schools should do is to correctly understand campus bullying. First, from the analysis of the causes, school bullying is a social problem that cannot be solved by schools alone, and schools need to perform their functions and duties rather than take full responsibility. Secondly, school bullying is unlikely to be avoided in the short term, and schools need to have a clear sense of this. In other words, schools themselves need to accept the possibility of school bullying, rather than avoiding or concealing it.

3.2 The Criminal Legal System in China for Dealing with School Bullying

Criminal Law Should Take a Positive Stance in Dealing with School Bullying

Every country's legislation is influenced by its traditional philosophy and history and

culture, and China is no exception. In China, parents are used to arranging their children's lives, and children are the center and even the future of every family. Such a traditional philosophy and mentality also invariably influence legislation. However, education and punishment are not contradictory, and both extended protection and appropriate punishment for minors are of great importance for their growth. When a minor commits a socially dangerous act, criminal legislation should take a positive and appropriate position, adhering to the principle of fairness and upholding the strict character of criminal law as a safeguard. We cannot think that the strict attitude of criminal law towards crimes committed by minors, especially crimes of school bullying, is contrary to the principle of modesty of criminal law [8]. In the face of serious socially harmful behavior, the non-intervention of criminal law seems unfair and inappropriate, and the intervention of criminal law is a necessary and non-humble choice.

Lack of Applicable Offences for Bullying with Serious Social Harm

The regulation of school bullying in China's criminal law has been stuck in that school bullying is specified as a crime and then replaced by this crime, but there is no crime listed about school bullying, which means that school bullying has not been found to have certain social harm and criminal illegality, but in the actual school bullying crime, this behavior has caused psychological and physical damage to the bully's. However, in the actual school bullying crimes, such behavior has caused great harm to the psychological and physical well-being of the bully, but no applicable crime can be found.

First, in the case of campus bullying, if the crime of intentional injury is convicted, there is a major premise that the bully needs to be. However, the standard of identification for "minor injuries" is relatively high, as in the case of some campus bullying. However, the standard of identification for "minor injury" is relatively high, just like some campus bullying, repeated or continuous slapping of the bully, such behavior is difficult to cause more than minor injury to the body of the bully. If the bully is not convicted and punished, the bully can only be compensated in accordance with the civil law and the parents can be strictly disciplined. But the actual to. However, the actual harm caused to the bully cannot be compensated, which leads to a significant decrease in the justice of such school bullying cases [9]. Secondly, school bullying in the form of verbal bullying or insulting or sexual harassment causes psychological harm to the bully. However, due to the lack of an identification standard, the results of verbal bullying do not reach the level of minor injuries, and insults do not reach the level of minor injuries. However, due to the lack of an identification standard, the results of verbal bullying do not reach the level of minor injuries, insults do not produce real harmful results, and sexual bullying does not reach the level of rape or forced indecent assault. However, due to the lack of a standard of identification, verbal bullying does not result in more than minor injuries, insults do not produce real harmful results, and sexual bullying does not meet the elements of rape or forced indecent assault. After these school bullying behaviors occur [10], the public security authorities will allow the bully to be convicted. In the future, the public security authorities will ask the bully to provide some medical certificates, which will eventually become indirect evidence for civil compensation and criminal settlement. These medical certificates will eventually become circumstantial evidence for civil compensation and criminal settlement, and will not be used to locate minor injuries, which cannot be a mandatory condition for the crime of intentional injury, nor can they be used to directly

prove the seriousness of the injuries caused. This evidence cannot be used to directly prove the serious consequences and “aggravating circumstances”. As far as the bully’s defense is concerned, they will In this case, the bully will not be convicted of intentional injury unless it causes the death of the bully. In this case, the aggravating circumstance of intentional infliction of injury resulting in death will not be convicted unless it results in the death of the bully.

4 Conclusion

From the practical experience of anti-school bullying legislation in the United States, a mature and perfect pre-legislative assessment mechanism can help to accurately grasp the actual situation of the target of the assessment, clarify the focus and regulatory path of the legislation, enhance the timeliness, relevance, and systematization of the legislation, and improve the quality and effectiveness of legislation. It also helps to improve the timeliness, relevance, and systemic nature of legislation, and enhance the quality and effectiveness of legislation. The pre-legislative evaluation mechanism is an indispensable part of the legislative project and legislative planning stage. The study of criminal regulation of school bullying is a major trend in the management of school bullying in China and a necessary means to fundamentally curb school bullying. For the protection of minors in China, there is a general background of “emphasis on education, light on punishment” when dealing with school bullying, in this context, how to achieve a balance between punishment and education is also an important research direction for the management of school bullying. According to the questionnaire of this paper, school bullying is a serious criminal offense, and the damage caused to the bully is not negligible, whether it is physical, property or psychological damage.

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