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INSTITUTIONAL SAFEGUARDS PROTECTING K-12 STUDENTS FROM SEXUAL HARASSMENT BY FACULTY AND PEERS: A COMPARATIVE ANALYSIS OF THE UNITED STATES, THE UNITED KINGDOM, AND INDIA

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ABSTRACT

A school's safety, like a country's justice system, is only as strong as the weakest point in the chain between a rule being written and a rule being known. This paper compares the institutional safeguards that protect K-12 students from sexual harassment by staff and by peers across three very different legal traditions: the United States, where protection is enforced mainly through the threat of a lawsuit; the United Kingdom, where protection is enforced mainly through a standing duty and a named inspector's clipboard; and India, where protection is enforced mainly through the threat of criminal prosecution. Drawing on peer-reviewed secondary research, I argue that each system's safeguards are strongest exactly where its underlying legal logic applies the most pressure, and weakest everywhere else, and that in all three countries, the single most common point of failure is not the absence of a rule, but a child's inability to say what the rule is, who enforces it, or how to invoke it.

KEYWORDS: Title IX, Keeping Children Safe in Education, POCSO Act, K-12 schools, Comparative Education Policy, Sexual Harassment.

INTRODUCTION

If a teacher in Texas, a teacher in Kent, and a teacher in Kerala were each accused of harassing a student tomorrow, three entirely different machines would start turning. In Texas, the operative question would be whether a district official with authority to act had “actual notice” and responded with anything less than “deliberate indifference”, the standard the US

Supreme Court set in *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998), and extended to peer harassment the following year in *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999). In *Kent*, the operative question would be whether the school's designated safeguarding lead followed the escalation procedure laid out in the Department for Education's *Keeping Children Safe in Education* guidance. In Kerala, the operative question would be whether any adult with knowledge of the abuse reported it, as they are criminally obligated to under Section 19 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, an obligation that, as I discuss below, is not always honoured even when children are hurt inside the school gates. Three systems, three logics, and, as this review will show, three different sets of gaps.

As a comparative policy analyst, I would argue that understanding these gaps requires taking each country's legal starting point seriously rather than judging all three against a single template. The United States channels its response through civil rights litigation. The United Kingdom channels its response through a statutory safeguarding duty owed to the state. India channels its response primarily through a criminal statute that treats the school less as a regulated child-protection institution and more as a site where mandatory reporters happen to work. This review synthesises peer-reviewed secondary research to compare institutional safeguards across the three jurisdictions along four dimensions: the underlying legal-institutional model; safeguards against staff-perpetrated misconduct; safeguards against peer harassment; and the implementation gaps each system's own literature admits to.

Comparative Legal-Institutional Frameworks

In the United States, *Gebser* established that Title IX damages liability requires actual notice and deliberate indifference by an official with authority to correct the harassment; the Court went so far as to hold that a district's failure to even have a grievance policy did not, on its own, prove deliberate indifference, a finding that should unsettle anyone who assumes that having a policy on paper is the same thing as protecting a child. *Davis* extended the same standard to peer harassment a year later, but with a considerably higher bar: the harassment must be “so severe, pervasive, and objectively offensive” that it denies the victim access to education, which as a practical matter screens out a great deal of the low-grade harassment that students actually experience. Binding federal regulation requiring every district to name a Title IX coordinator was not adopted until 2020, meaning that for over two decades, US schools operated under a Supreme Court-created liability risk with no accompanying federal rulebook telling them how to avoid it.

In the United Kingdom, the governing framework is a statutory safeguarding duty under the Children Act 2004 and the Education Act 2002, operationalised annually through Keeping Children Safe in Education (KCSIE). Every school must appoint a designated safeguarding lead (DSL) with senior status and protected time, and every prospective staff member must pass an enhanced Disclosure and Barring Service (DBS) check, crucially one that does not “filter out” old convictions for violent or sexual offences the way it would for most other crimes (Struthers, 2021). Compliance is monitored not by individual lawsuits but by Ofsted, the schools inspectorate, which gives the UK model a routine, centralised character the US model lacks.

In India, the governing framework is criminal rather than administrative. The POCSO Act, 2012 defines a wide range of sexual offences against children, including harassment, and imposes on any adult, teacher or otherwise, a legal duty to report suspected abuse, with penalties for failing to do so (Maity & Chakraborty, 2023). What POCSO does not do is create the kind of school-level infrastructure (a named coordinator, a routine inspection regime, a civil grievance channel) that the US and UK models build around their own core statutes. It sits upstream of the school as a deterrent, and how well it protects a child inside the building depends heavily on whether the adults in that building actually pick up the phone. I return to why that matters later in this paper.

Safeguards Against Staff-Perpetrated Sexual Misconduct

United States: Screening, “Passing the Trash,” and the Coordinator Nobody Can Name

Consider two teachers accused of misconduct in two neighbouring US districts. One is fired, prosecuted, and placed on a state registry. The other is quietly permitted to resign, receives a warm reference, and is hired six months later by the district next door, which has no idea what it is walking into. This is not a hypothetical; it is a documented pattern researchers call “passing the trash,” and Grant, Wilkerson, and Henschel (2019) found that state-level awareness and enforcement of the federal provision meant to stop it remained inconsistent nationally. A companion case study of five districts that had each already lived through a substantiated misconduct incident found that staff understanding of their own Title IX obligations remained incomplete even after the fact (Grant, Wilkerson, Pelton, Cosby, & Henschel, 2019), which tells me that experience alone does not close an institutional gap; only deliberate redesign does. And when Grant, Haverland, and Kalbfleisch (2024) asked 511 young adults about their own K-12 experience, 94% could not name their district's Title IX coordinator and 70% did not know how to file a grievance, even though districts without

accessible policies had significantly higher reported harassment rates than those with them. A safeguard that 94% of the protected population cannot name is, functionally, a safeguard that exists mainly on paper.

United Kingdom: A Name, a Duty, and a Recurring Pattern of Rediscovery

The UK's answer to “who is responsible” is more concrete than the American one: it is the DSL, by name, on a job description, with protected time. Struthers (2021) argues that this structure still depends on every other adult in the building recognising and escalating a concern, a function that current safeguarding training does not reliably build, and proposes that teaching children about their own rights could give them the vocabulary to name a violation before an adult even notices one. A comparative survey of teachers and safeguarding staff in England and Scotland found meaningful divergence in how the two nations integrate safeguarding and rights-based teaching despite sharing a central government (Struthers & Brittle, 2025), which is itself a small but telling proof that a single “United Kingdom” framework can still produce two different lived realities. Zooming out further, Wright's (2017) analysis of public inquiries into institutional child abuse in the UK and comparable countries found that these inquiries do not function as one-time corrections; they function as a recurring rediscovery of the same failure, institutions protecting their own reputation before they protect a child. If that finding is right, then the UK's real vulnerability is not a missing rule. It is a habit of forgetting the rule under pressure, over and over, until the next inquiry rediscovers it.

India: A Strong Duty to Report, and a Building That Did Not

In August 2024, a contract cleaner at a co-educational school in Badlapur, Maharashtra, was accused of sexually abusing two four-year-old girls in a school washroom. The case only came to light because one child complained of physical pain to her parents, not because any adult inside the school reported it. When the matter reached the Bombay High Court on its own initiative, the bench criticised the police for investigative delays and, notably, directed the state to act against the school's own management for failing to report the crime in the first place (Business Standard, 2024). I raise this case not as a substitute for peer-reviewed evidence, but because it illustrates precisely the gap the academic literature identifies from a distance: POCSO's mandatory-reporting duty is only as strong as the willingness of the adults inside a school to act on it, and there is, as yet, no comparably developed pre-employment screening layer in India, nothing playing the role that DBS checks play in the UK or that anti-

“passing the trash” statutes play in the US, to catch a risk before a child is ever left alone with it.

Maity and Chakraborty (2023), using state-level National Crime Records Bureau data, found that POCSO's introduction was associated with a statistically significant reduction in the growth rate of reported child sexual offences, and that outcomes improved further in states with stronger judicial capacity, public safety scores, and quality-of-life indicators, which tells me that POCSO's protective power is not uniform; it is borrowed, in part, from the strength of the state around it. Choudhry, Dayal, Pillai, Kalokhe, Beier, and Patel's (2018) systematic review of the wider literature found wide variation in prevalence estimates among school-going children, which the authors attribute partly to inconsistent measurement and partly to the absence of standardised, institution-level reporting comparable to the US Civil Rights Data Collection or UK Ofsted inspection framework. Critics might argue that a strong criminal deterrent is itself sufficient, on the theory that the threat of prosecution should concentrate the mind of any adult who might otherwise look away. The Badlapur case suggests otherwise: the law existed, the penalty was real, and adults in the building still did not report.

Safeguards Against Peer Sexual Harassment

United States: A Policy Nobody Can Find, and a Curriculum That Needs Company

Lichty, Torres, Valenti, and Buchanan (2008) sampled 784 K-12 sexual harassment policies and found that only 14% were even available online, which means that for the vast majority of American students, the policy meant to protect them from a classmate's harassment might as well not exist, because they cannot find it. On the intervention side, the evidence is more encouraging but comes with a specific lesson: when Taylor, Stein, Mumford, and Woods (2013) randomly assigned 30 New York City middle schools to a classroom-only curriculum, a building-wide intervention, a combined condition, or a control group, only the building-wide and combined conditions produced significant reductions in peer sexual violence. Classroom instruction alone did not move the needle on perpetration. The lesson I draw from this is not that curricula are useless; it is that a poster on a wall and a policy in a filing cabinet do less work than supervising the actual hallway where the harassment happens. Coker, Bush, Brancato, Clear, and Recktenwald's (2019) five-year trial of the Green Dot bystander program across 26 Kentucky high schools reinforces the same point: effects were strongest only once the program reached full implementation, not when it was merely announced.

United Kingdom: One National Curriculum, Many Different Schools

England's answer is curricular: statutory Relationships, Sex and Health Education (RSHE), introduced nationally in 2020, which must address peer sexual harassment explicitly. But Bragg et al.'s (2022) evaluation of two whole-school RSHE pilots in English secondary schools found that the same national requirement was enacted very differently from school to school, shaped by exam pressure, inspection anxiety, and whether a school even had enough pastoral staff to do the work properly. This is, in miniature, the same finding as the American classroom-versus-building comparison: a single piece of paper, however well written, does not travel evenly into every building it is meant to govern.

India: A Category the Literature Has Not Yet Built

Here is where I think the comparison becomes most revealing. In the US and UK, researchers ask “was this harassment peer-perpetrated or staff-perpetrated?” as a matter of course, because the two categories trigger different institutional responses. Choudhry et al. (2018) note that their own review sorted perpetrators into only two broad groupings rather than building the peer/adult distinction into the review's central architecture, in sharp contrast to, for instance, a Norwegian study of over 9,000 secondary students that made exactly that distinction its central research question. A school-based study of adolescent girls in Delhi found that friends, relatives, or neighbours, not school staff, were the most frequently identified perpetrators of sexual abuse in the sampled population (Daral, Khokhar, & Pradhan, 2016), which tells me the problem of peer and near-peer harassment is real and substantial in India. What has not yet caught up to it is a dedicated institutional response, nothing playing the role of Shifting Boundaries or whole-school RSHE, built specifically around that category.

Cross-National Comparison

Read together, three patterns emerge, and I think each one has a genuine lesson for the other two countries. First, every system's safeguards are strongest exactly where its underlying legal pressure is applied most directly, and weakest everywhere else. The US produces strong coordinator and grievance infrastructure but cannot get 94% of students to name it (Grant, Haverland, & Kalbfleisch, 2024). The UK produces a strong, named screening and accountability system but cannot make a single national curriculum land evenly across its own schools (Bragg et al., 2022). India produces a strong criminal deterrent but, as Badlapur showed, cannot yet guarantee that the adults closest to a child will use it. No country has built

a system that is strong at every link in the chain, which is, I think, the central finding of this whole comparison.

Second, the United States and United Kingdom can measure their own failures in a way India currently cannot. The US Civil Rights Data Collection and UK Ofsted judgments let researchers track compliance over time, which is precisely how Lichty et al. (2008) were able to prove that 86% of American sexual harassment policies were invisible online, and how Ofsted was able to document its own findings on peer harassment nationally. India's National Crime Records Bureau data captures prosecuted cases, but nothing in the literature reviewed here extends that measurement down to the level of individual school compliance. You cannot fix what you cannot see, and right now, India's institutional literature sees less than the other two.

Third, only the US and UK treat peer harassment as its own category worthy of a dedicated, evaluated response. Shifting Boundaries, Green Dot, and whole-school RSHE all exist because researchers and policymakers in those two countries decided peer harassment was a distinct problem, not a subset of a larger one. If I were advising Indian policymakers, this is the single clearest transferable lesson from the other two systems: build the category first, and the intervention will follow, but not the other way around.

Limitations of the Reviewed Literature

I want to be honest about where this comparison is on firmer ground and where it is not. The US and UK literatures include a substantial base of randomised and quasi-experimental evaluations; the India-focused sources reviewed here are predominantly descriptive, cross-sectional, or macro-statistical, which limits how confidently I can attribute causation to any single Indian institutional mechanism. Underreporting affects all three countries' prevalence data, almost certainly unevenly, which complicates any direct numerical comparison between them. And this review draws on a targeted rather than exhaustive sample of each country's literature; a systematic, database-driven review using identical search protocols across all three jurisdictions would test these patterns more rigorously than a single comparative essay can.

CONCLUSION

Three countries, three legal philosophies, one shared failure: in the United States, the United Kingdom, and India alike, the institutional architecture written on paper consistently outruns the institutional reality a student can actually see, name, and use. The US and UK experience,

particularly their evidence that environment-level interventions outperform paperwork and that centralised measurement is what makes an implementation gap visible in the first place, offers India a genuine roadmap for building the school-level infrastructure its strong criminal deterrent currently lacks. But roadmaps do not walk themselves. A law, a coordinator, or a curriculum that a child cannot name has not yet done its job. It has only been written.

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