

Sexualities and school cultures

1 Introduction

One of the important aims of childhood education, according to the Convention on the Rights of the Child (CRC), is the ‘development of the child’s personality, talents and mental and physical abilities to their fullest potential.’¹ School-based education is an essential platform for transforming the sexual health and well-being of children and adolescents. Schools, including pre-schools, are crucial sites for enacting gender practices that have implications for the sexual health and well-being of students.

For many children and adolescents, the school is the next most significant institution after the family, and shapes how the children and adolescents relate to others, how they interpret norms, and how they perform their gender and sexuality. The school is where children and adolescents develop their relational skills and practices as they expand the circle of relationships beyond the family. Therefore, the obligation of the government to undertake measures to inculcate human rights norms and principles in schools assumes great significance. Studies show that curriculum-based sexuality and gender education that address gender norms and issues of power in relationships contribute to positive sexual and reproductive health outcomes.²

In developing the Gender Equality Act (GEA), the Malawi Law Commission (MLC) took cognisance of the importance of education, a human right recognised in the Constitution of Malawi for achieving gender equality.³ As the Committee on Economic, Social and Cultural Rights (CESCR) stated, ‘[e]ducation is both a human right in itself and

1 Convention on the Rights of the Child (1990) art 29(1)(a).

2 NA Haberland ‘The case for addressing gender and power in sexuality and HIV education: A comprehensive review of evaluation studies’ (2015) 41 *International Perspectives on Sexual and Reproductive Health* 38.

3 Malawi Human Rights Commission ‘Cultural practices and their impact on the enjoyment of human rights, particularly the rights of women and children in Malawi’ (2006) 74.

an indispensable means of realising other human rights ... Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation [and] promoting human rights and democracy.⁴

Also, the CRC Committee has stated that education should be designed to strengthen the capacity of the child to enjoy the full range of human rights, to develop skills and to cultivate other capacities, including human dignity, self-esteem and self-confidence.⁵ Furthermore, children should learn life skills such as 'the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, [and] good social relationships'.⁶ Education can only achieve this vital role if it also addresses inequitable gender norms in the school setting.

The GEA Report recognised the challenge of unequal educational opportunities between girls and boys, and the unique needs of girls due to their historical marginalisation.⁷ This was reflected in the drafting of the GEA, which conceives gender equality in education as primarily an issue of parity and the marginalisation of girls.⁸ However, addressing gender parity alone and encouraging equal access to educational opportunities for girls and boys would not necessarily transform gender equality in education.⁹ It is well documented that schools are hardly gender-neutral or equitable environments, and that schools can even be dangerous places for some groups of students.¹⁰ Bhana's research demonstrates that gender-based violence, sexual harassment and hegemonic masculinity

4 UN Committee on Economic, Social and Cultural Rights General Comment 13: The Right to Education (art 13 of the Covenant) E/C.12/1999/10 (8 December 1999) para 1.

5 Committee on the Rights of the Child General Comment 1: The aims of education (art 29(1)) CRC/GC/2001/1 (2001) para 2.

6 General Comment 1 (n 5) para 9.

7 Malawi Law Commission 'Report of the Law Commission on the development of the Gender Equality Act' (2011) 78.

8 The Gender Equality Bill 2012 (Malawi) that was discussed in Parliament listed the key issues in the Bill; the key issue was stated as 'equality of access to education and training'.

9 Swedish Agency for Development and Evaluation 'Gender equality in and through education' (2011) 8.

10 F Leach 'Learning to be violent: The role of the school in developing adolescent gendered behaviour' (2003) 33 *Compare: A Journal of Comparative and International Education* 385.

practices are ubiquitous in South African school cultures.¹¹ Indeed, gender-based violence, especially against girls, is endemic in Malawian schools.¹² In developing the GEA, the MLC did recognise the challenge of sexual harassment in schools and its negative impact on students and the educational environment.¹³ In proposing the GEA to address sex discrimination, including sexual harassment, the MLC attempted to address the plight of girls in schools.¹⁴

Parkes notes that policy enactment often falters due to both conceptual and practical challenges. On the conceptual level, gender violence is too often framed in narrow terms, disconnected from the everyday social practices and norms that sustain inequality.¹⁵ On the practical level, gaps in implementation persist due to institutional weakness and reluctance, and the complexities of local power dynamics. Parkes's case study in Liberia illustrates how political will to address violence against women and girls coexists with a silence around violence in schools.¹⁶ Furthermore, gender equality in schools has been conceptualised as a problem about gender parity. However, Parkes maintains that the policies failed to address the 'difficult issues about power and to create pedagogies, curricula, and school systems that foster inclusive and equitable beliefs and practices.'¹⁷

11 M Dunne and others 'Gender violence in schools in the developing world' (2006) 18 *Gender and Education* 75; D Bhana 'Girls negotiating sexuality and violence in the primary school' (2018) 44 *British Educational Research Journal* 80.

12 DevTech Systems 'The safe schools programme Malawi assessment report October 25th-November 5th, 2004' (2004); P Burton *Suffering at school: Results of the Malawi gender-based violence in schools survey* (2005); T Bisika and others 'Gender-violence and education in Malawi: A study of violence against girls as an obstruction to universal primary school education' (2009) 18 *Journal of Gender Studies* 287; Ministry of Gender, Children, Disability and Social Welfare of the Republic of Malawi and others 'Violence against children and young women in Malawi: Findings from a national survey, 2013' (2014).

13 Malawi Law Commission (n 7) 86-87.

14 'In order to avoid girls from suffering in their education and the rights of women and men being violated at the workplace, the Commission recommends the incorporation of provisions prohibiting sexual harassment in the Gender Equality Bill.' Malawi Law Commission (n 7) 87.

15 J Parkes 'The evolution of policy enactment on gender-based violence in schools' (2016) 46 *Prospects: Comparative Journal of Curriculum, Learning, and Assessment* 97.

16 Parkes (n 15) 97-99.

17 Parkes (n 15) 98.

There is emerging evidence of the potential of gender-transformative and whole-school approaches to address violence in schools.¹⁸ According to Keating and Baker, when such approaches engage children from a young age, alongside parents and educators, and foster sustained home-school dialogue, they can strengthen pupils' understanding of gender inequality and violence while also catalysing broader community conversations that challenge entrenched norms.¹⁹ Further, learning associated with these approaches often extends into families and communities, highlighting the capacity of schools to function as critical sites through which gender norms are negotiated, contested, and disseminated.²⁰

The regulation of sexual conduct through criminal or penal law alone is insufficient to address the complex gendered dynamics of school life. A feminist post-structuralist approach draws attention to the ways in which law also operates discursively, shaping subjectivities, relationships and the conditions under which ethical and just forms of engagement become possible.²¹ Adopting this approach, the chapter critically examines how gender equality law, including Malawi's GEA, conceptualises gender equality in education, and considers the discursive openings within the law that may enable more inclusive, supportive and rights-affirming learning environments for learners.

2 Sex and gender inequality in schools

Understanding how laws and policies conceptualise gender inequality in schools requires interrogating the ways in which meaning is produced, stabilised or contested in legislative and policy-making processes. Schools, far from being neutral sites of learning, are saturated with gendered norms that are reproduced through curricula, teacher-student relations, disciplinary practices and institutional responses to sexuality. When legal texts and policies purport to address gender inequality in schools, they are not merely responding to a pre-existing problem; they are implicated in the construction of the problem itself, what Bacchi terms 'problem

18 S Keating & CR Baker 'Gender equality matters: A precious "GEM" to tackle gender inequality through a whole-school community educational programme' (2025) 77 *Educational Review* 726-727.

19 Keating & Baker (n 18) 725.

20 Keating & Baker (n 18) 726.

21 General Comment 1 (n 5) para 1.

representation'.²² In simple terms, problem representation is the idea that policies, including laws, do not merely respond to problems, but also construct the terms in which those problems are understood and addressed.

Read through this lens, gender equality law constructs gender inequality in education in particular ways, with significant effects on how gendered school cultures are understood and governed. Drawing parallels between policy enactment and what I could describe as 'legislative enactment' highlights how law, like policy, is not simply implemented but is actively made and remade through interpretive practices. This discursive approach enables a critical reading of how the GEA's problematisation of gender inequality centres certain meanings, particularly those shaped by global development agendas, while marginalising the lived experiences of students and teachers within school cultures marked by power, exclusion and embodied gendered difference.

2.1 What is the problem to address in schools?

National and international laws are increasingly being positioned in broader policy frameworks as tools to address gender inequality including in educational settings such as schools. Parkes and others introduce the concept of policy enactment to explain that policy is not merely a static set of directives crafted by policymakers and handed down for implementation in addressing gender-related violence in schools.²³ Instead, policy is dynamically interpreted, negotiated and translated by a wide range of actors in the institutional setting; in this case, the school.²⁴ Teachers, school workers and students do not simply receive policy; they co-constitute its meaning through their discursive and everyday practices. Policy enactment thus underscores that meaning-making is not linear, but contingent upon the socio-cultural contexts in which policy is embedded.²⁵

22 C Bacchi 'Poststructuralism, discourse and problematization: Implications for gender mainstreaming' (2010) 4 *Kvinder, Køn & Forskning* 62.

23 J Parkes and others 'A rigorous review of global research evidence on policy and practice on school-related gender-based violence' (2016) 5.

24 A Braun and others 'Policy enactments in the UK secondary school: Examining policy, practice and school positioning' (2010) 25 *Journal of Education Policy* 549.

25 Parkes and others (n 23) 5.

By analogy, legislative enactment may be conceptualised not simply as the moment a Bill is passed into law, but as a broader creative and discursive process. This process encompasses the diverse negotiations, contestations and silences that shape a Bill from its initial conception through to its codification and eventual application. It involves multiple stakeholders, including government institutions, civil society, legal drafters and, sometimes, though not always, the public, whose values, assumptions and social positions inform how legal problems are defined and addressed.

A critical point in this enactment process is the framing of the problem the law is intended to address, namely, problematisation.²⁶ This is important because it shapes how the law is translated into practice. Bacchi's approach highlights that policies and laws do not simply respond to pre-existing problems; rather, they constitute problems in particular ways, shaped by culturally embedded assumptions and normative frameworks.²⁷ Because of this, problematisation is never neutral. Policy-making is a discursive process because those involved in creating policy draw upon available discourses to construct the problem that the policy should address. The process of selective problematisation allows certain knowledges or ways of looking at a problem to be privileged over others. The process through which certain problematisations are legitimised while others are excluded can operate consciously or unconsciously. Problematisation or problem representation influences what is recognised and what is ignored, how people feel, how they react to an issue, or what they think about themselves or others.²⁸

A parallel could be drawn between Bacchi's problematisation and Kok's view about the relationship of the law to the problems it attempts to address, as reflected in the following observation: 'Problem-solvers considering the use of law to solve a particular problem may not adequately grasp the problem.'²⁹ Kok states that the problem has to do with its comprehension by whoever wants to solve it, the law reformer or the legislature. Kok's observation usefully complements Bacchi's insights, not by implying that there is a correct or objective version of the

26 Bacchi (n 22) 65.

27 Bacchi (n 22) 62.

28 Bacchi (n 22) 64.

29 A Kok 'Is law able to transform society?' (2010) 127 *South African Law Journal* 65.

problem to be grasped, but by suggesting that the legal problem is always framed by existing discursive and social constraints.³⁰ While Kok speaks to the epistemological limits of law reformers, Bacchi underscores the productive nature of policy discourse: that the problem is constituted through the very process of trying to solve it. What both perspectives illuminate is that the act of legislative problematisation is shaped by the prevailing norms, institutional logics and cultural scripts that condition what can be said, thought or imagined in legal reform.

This analysis suggests that, while legal enactment is constrained by dominant social discourses, policy actors can intervene in these discursive formations with critically reflexive practices that shift taken-for-granted assumptions. As Parkes and others suggest, transformative enactment involves 'reflecting on our deeply held beliefs and practices, through which we knowingly and unknowingly collude with gender-based violence'.³¹

Turning to Malawi's framing of the GEA, the MLC played a central role in facilitating the legislative enactment process. The MLC influenced how gender inequality in education was understood, both in the MLC's internal deliberations and in shaping the discussions held at stakeholder consultations. The MLC's framing decisions helped to define the contours of what would be addressed in the law and what would be left out. A critically reflexive approach would have been especially important in this context, given that the GEA aimed to reshape social power relations, including those embedded in the institutional culture of schools.

However, the development of the GEA appears to have faced both methodological and conceptual limitations in relation to education. Methodologically, although the MLC consulted various stakeholders, the perspectives of teachers and students – those most directly situated within school environments – are largely muted in the MLC's final GEA Report. The GEA Report does not indicate that there were any specific consultations on gender in schools. This absence is significant because it influences how the GEA is likely to be interpreted and applied in school settings. Conceptually, the GEA's understanding of gender inequality in

30 As above.

31 Parkes (n 15) 103.

education is shaped by certain global development discourses, which the next part explores in detail.

Because this chapter adopts a methodological approach grounded in post-structural legal theory, the analysis developed across the remainder of the chapter foregrounds how gender inequality in schools is problematised within the GEA. Specifically, it examines how the GEA participates in constructing a particular social and gendered imaginary of the school, and how that construction both enables and limits the pursuit of gender justice for children.

2.2 The meaning of gender inequality in education

This part explores the meaning of the GEA for gender inequality in schools by analysing three terms and concepts that the GEA uses: gender equality, sexual harassment and harmful practices.

2.2.1 *Gender equality*

The MLC dedicated section 6 of the GEA Report to discussing education and training. It is noteworthy that the MLC drew upon Goal 2 of the Millennium Development Goals: The target was to achieve universal completion of primary school for boys and girls. The MLC also drew inspiration from Goal 3, one of the objectives of which was to ensure gender parity in education.³² The MLC dedicated a large part of the discussion on education and training to describing the marginalisation of girls and women by the education system, which has led to a disparity in enrolment and educational attainment. Based on this framing or problematisation, the MLC recommended that the GEA should address the unequal enrolment of girls at all education levels and pay attention to the specific needs of girls. It also proposed that this problem be addressed by the curriculum.

The MLC's recommendations on education and training are reflected in Part V of the GEA, specifically sections 14 to 18. Sections 14 to 17 focus on guaranteeing equal access to education for girls and boys, while section 18 mandates the government to integrate gender equality principles into the curricula, covering students' spiritual, moral,

32 Malawi Law Commission (n 7) 74.

cultural and mental development, as well as their societal engagement after leaving school. These provisions also require the curriculum to incorporate human rights and gender issues, with additional measures targeting girls through life skills and sex education. Although the GEA does not explicitly name 'sex education', its emphasis on addressing girls' needs through life skills education reinforces a framing critiqued earlier for positioning girls as inherently vulnerable and in need of protection.

The MLC's reasoning about what works in education to advance gender equality is evident in the way in which the GEA treats gender equality primarily as the parity of outcomes, particularly in the completion rates of girls compared to boys. This framing is reflected in sections 14 to 17 of the GEA, which prioritise equal access to, and completion of, education for girls and boys. The GEA, therefore, represents gender inequality in education as the disparity in school completion rates between girls and boys. This narrow framing of gender equality reflects what Unterhalter describes as the 'what works' framing of girls' education.³³ According to this framing, education is positioned as a technical fix for broader social and economic challenges such as poverty, overpopulation and climate crises.³⁴ The approach taken up by the GEA thus adopts the dominant global policy discourse that constructs girls' education as a turnkey intervention to promote national development.³⁵ However, this approach fails to interrogate the deeper power relations and structural inequalities that shape educational experiences and outcomes. It overlooks the institutional and discursive dimensions of schooling that sustain gender hierarchies, such as gendered curricula, discriminatory school cultures, or failing to address misogyny, violence and histories of exclusion that are part of the experience of learners.³⁶

Ringrose's analysis of the experience of the United Kingdom demonstrates that equality of access or achievement, when treated as the primary or sole indicator of gender justice, can be misleading if unaccompanied by deeper attention to gender as a complex and

33 E Unterhalter 'An answer to everything? Four framings of girls' schooling and gender equality in education' (2023) 59 *Comparative Education* 148.

34 As above.

35 As above.

36 Unterhalter (n 33) 151-153.

intersectional social relation.³⁷ Ringrose shows the limits of thinking in terms of a boy-girl binary, in her analysis of the success story of the 1990s feminist-driven policy to promote the education of girls in the United Kingdom. When the girls outcompeted the boys, it led to a moral panic about the failure of boys; this fostered debates about girls achieving at the expense of boys.³⁸

Ringrose situates the discussion in the complex relationships between the feminist discourses and the neoliberal economic policies that have shaped the understanding of gender and education. She argues that the conceptualisation of gender by liberal feminism as ‘an abstract, stand-alone “variable” organised around a male/female binary’ has contributed to the pitting of boys against girls in debates on education, and to the notion that only the achievement of girls in school would advance gender equality in education.³⁹ Ringrose’s concern with the narrow binary conceptualisation of gender is its concealment of ‘how issues of equality for boys and girls in school are much wider than gendered achievement, and how achievement is related to issues of class, race, ethnicity, religion, citizenship and space/location of schools, as well as to gender’.⁴⁰

She argues that taking gender as a single axis of analysis of educational achievement serves to ‘decontextualise gender from all class, cultural, racial and economic dimensions through which gender manifests as an axis of experience and identity’.⁴¹ The cyclical debates about girls’ versus boys’ educational achievement ignore the fact that many girls still endure violence in schools and are left to deal with it alone because of widely held beliefs that one can make it if one works hard, as other girls have done.⁴²

The challenge with the GEA is that its representation of the problem of gender inequality in education glosses over the complexity of gender, particularly the ways in which gender interacts with other dimensions of inequality, including disability, race, and social class.⁴³ A post-structural

37 J Ringrose ‘Successful girls? Complicating post-feminist, neoliberal discourses of educational achievement and gender equality’ (2007) 19 *Gender and Education* 473.

38 Ringrose (n 37) 474.

39 Ringrose (n 37) 473.

40 As above.

41 Ringrose (n 37) 480.

42 As above.

43 E Unterhalter ‘Fragmented frameworks? Researching women, gender, education, and development’ in S Aikman & E Unterhalter (eds) *Beyond access* (2005) 19.

reading, attentive to how gender is produced discursively within school cultures, invites governments to move beyond metrics of access and performance when crafting gender in education policies. It calls for interrogating how school practices, curricula and disciplinary norms continue to reproduce gender hierarchies. Without such interrogation, legal and policy frameworks may reinforce the very inequalities they aim to address.

2.2.2 *Sexual harassment*

In developing the GEA, the MLC was cognisant of sex discrimination and sexual harassment that occur in schools. The MLC recognised that 'sexual harassment is a manifestation of an imbalance in power relations and is likely to occur in the workplace as well as in other relationships involving trust such as that of *a teacher and a student*'.⁴⁴ The MLC also noted that 'sexual harassment can affect an individual's work or school performance and can create an intimidating, hostile or an offensive environment'.⁴⁵

Based on this understanding, the MLC proposed that the GEA proscribe sex discrimination and sexual harassment generally. The assumption was that a broad legal prohibition would also address harassment in specific institutional settings such as schools. However, the architecture of the GEA may be inadequate to address gender inequality in schools for several reasons. First, a narrow focus on sex discrimination and sexual harassment fails to capture the broader spectrum of the gendered power relations and the violence embedded in school cultures. Second, school-based gender violence is often normalised and rendered invisible, as it is masked as routine interactions or disciplinary practices. While some of these challenges can be addressed by formulating school-specific regulations, others stem from the way the problem is conceptualised and may require legal or policy interventions specifically designed for the school environment.

Sex discrimination and sexual harassment in schools form part of school-related gender-based violence (SRGBV). The term 'SRGBV' captures the full range of gendered harms 'manifested in physical,

44 Malawi Law Commission (n 7) 82 (my emphasis).

45 As above.

sexual and psychological acts of violence, and underpinned by norms, stereotypes, inequalities and exclusion'.⁴⁶ Dunne and others make a distinction between explicit and implicit gender violence. On the one hand, explicit violence refers to practices that are overtly gendered and sexual in nature, such as sexual harassment, abuse, intimidation, assault and rape.⁴⁷ Implicit gender violence, on the other hand, refers to institutional practices that appear neutral or routine, but which reproduce gendered hierarchies. These include corporal punishment, bullying, verbal abuse, the gendered use of unpaid student labour, and other forms of everyday aggression that are embedded in school routines. As Dunne and others note, 'gendering is "buried" in the normality of school life'.⁴⁸

This insight is crucial for a post-structuralist understanding of SRGBV: Violence is not merely enacted through exceptional or deviant acts but is produced through normative discourses about gender, sexuality, discipline and authority. The law, if not attentive to these discursive norms, may inadvertently reinforce them.

Although males are commonly the perpetrators of SRGBV, and the victims are primarily females, research has uncovered previously unacknowledged patterns of violence among males and females. The Global Early Adolescent Study (GEAS), one of the first large-scale global studies focusing specifically on very young adolescents, found that in Malawi 65 per cent of boys and 56 per cent of girls aged 10 to 14 years reported ever experiencing intimate partner violence, while 54 per cent of boys and 45 per cent of girls reported ever perpetrating it.⁴⁹ These figures complicate models of gendered violence that position boys as perpetrators and girls as inherently vulnerable, and demand frameworks that acknowledge the relational and context-dependent nature of power.

Furthermore, SRGBV also targets students whose gender identity or sexual orientation does not conform to dominant norms. Such violence may not be physical; it may instead be symbolic, expressed as 'exclusion of anything other than heteronormative versions of gender

46 Parkes (n 15) 93.

47 Dunne and others (n 11) 81.

48 As above.

49 Global Early Adolescent Study 'Blantyre summary report' (2018), <https://publichealth.jhu.edu/sites/default/files/2025-05/Malawi-Blantyre-Baseline-Report.pdf> (accessed 26 August 2018).

and sexual identities and relations within educational discourse and curriculum texts.⁵⁰ As such, schools can become hostile environments not simply because of individual actors but also because of how normative heterosexuality is embedded and institutionalised in education systems. The example, described in chapter 3 above, of girls expelled because of being suspected of lesbian acts is an illustration of such a hostility toward students based on sexual identity.⁵¹

A post-structuralist analysis invites policymakers and actors to view sexual harassment not just as a set of prohibited acts, but as part of a wider system of discursively produced inequalities. Addressing such violence requires more than legal prohibition; it demands a transformation of school cultures, discourses and power relations.

2.2.3 *Harmful practices*

As discussed in chapter 3, the GEA defines a harmful practice as a practice that, on account of sex or gender, is likely to undermine the dignity, health or liberty of a person, or is likely to result in physical, sexual, emotional or psychological harm to any person.⁵² While this definition is broad and potentially powerful, the ways in which it is likely to be interpreted and mobilised in school contexts remain discursively constrained. Prevailing constructions of learners, especially girls, as sexually innocent, passive or lacking sexual agency shape what is recognised as harm and what is rendered invisible. For instance, the expulsion of girls on vague suspicions of being engaged in lesbian acts constitutes an emotionally and psychologically injurious practice for learners. Yet, such treatment is unlikely to be recognised as a 'harmful practice' where dominant understandings of childhood and femininity frame girls' sexual behaviours not as normative, but as dangerous or deviant.

50 F Leach and others 'School-related gender-based violence: A global review of current issues and approaches in policy, programming and implementation responses to school-related gender-based violence (SRGBV) for the education sector' UNESCO Background Research Paper (2014) 8.

51 Correspondent 'Schoolgirls exiled for bed camping' *Nation Online* (Blantyre) 4 June 2025, <https://mw-nation.com/schoolgirls-exiled-for-bed-camping/> (accessed 25 August 2025).

52 See the definition of harmful practices under sec 5 of the Gender Equality Act 3 of 2013 (Malawi).

An alternative interpretation of ‘harmful practices’ in the GEA foregrounds assessments of the appropriateness of conduct in educational contexts, rather than blanket moral condemnation detached from human rights considerations. Read in this way, appropriateness operates as a mediating concept: It allows sexual agency to be acknowledged without collapsing sexual behaviour into either innocence or deviance. This framing disrupts punitive responses to learners’ sexuality by re-orienting attention away from moral judgment and toward proportionality, context and the relational dimensions of harm, in ways that align with the GEA’s broader commitment to advancing human rights in education.

From this perspective, SRGBV can be understood as comprising harmful practices perpetrated against students based on sex or gender, with consequences for their physical and emotional well-being. However, harmful practices are often treated as if they were confined to traditional cultural phenomena, such as child marriage or non-consensual sex at initiation rites. Such framing risks obscuring the gendered harms embedded in non-traditional or modern institutions, including schools themselves. Such harms include punitive responses to learners’ intimate sexual behaviour, such as kissing, which attracts harsh disciplinary sanctions. These punitive measures are rarely recognised as harmful because they are not framed as ‘cultural’ but, instead, are normalised through colonial and post-colonial constructions of childhood sexuality, formal law and religious morality. Read in this way, the GEA’s definition of harmful practices opens interpretive space to recognise harms produced not only through culture, but also through institutional and normative structures inherited from colonial governance.

The modern school, structured as a system of age-based education, is itself a colonial import in much of Africa. It is, therefore, a site where normative, disciplinary practices concerning gender and sexuality have been institutionalised, often invisibly. One such practice is the punitive treatment of pregnant learners, which long escaped scrutiny as gender discrimination. For example, a 2016 media report in Malawi recounted the suspension of 30 students, both boys and girls, due to pregnancy.⁵³

53 O Khamula ‘Malawi court suspends 32 students over pregnancy: Sexual activity rise in Nkhatabay among teens’ *Nyasa Times* (Leeds, UK) 4 May 2016, <https://www.nyasatimes.com/malawi-court-suspends-32-students-over-pregnancy-sexual-activity-rise-in-nkhatabay-among-teens/> (accessed 29 September 2019).

Historically, however, it was girls who bore the brunt of such disciplinary action, with pregnancy often marking the end of their schooling. This form of exclusion illustrates how gendered harms become naturalised in institutional cultures, despite not being rooted in traditional practices.⁵⁴

When girls became pregnant during schooling, they were expelled by the school administration and for most, their education ended there. It was only relatively recently that policies have been enacted to enable them to return to school to complete their education. This example, of treating pregnant girls as deviant, falls within the GEA's definition of a harmful practice, yet it has not been adequately problematised as such. Drawing on Macleod's work, one understands how adolescent pregnancy has often been framed as a threat to dominant social values, underpinned by colonial constructions of adolescence as asexual, dependent and in need of moral regulation.⁵⁵ This framing enables the school to act not only as an educational space but also as a disciplinary apparatus that regulates gender and sexuality, particularly that of girls.

Such examples expose the limits of education frameworks that tend to treat girls' exclusion from education as a logistical or access issue, without interrogating the discursive and institutional practices that actively produce such exclusions. Addressing harmful practices in schools, therefore, demands more than eliminating certain traditional practices; it requires deconstructing the normative assumptions that are embedded in modern schooling about adolescence, gender and sexual respectability. These limits point to the need for a closer engagement with school sexuality cultures themselves, as sites where gender, sexuality, power and regulation are lived, negotiated and contested.

3 Understanding school sexuality cultures

Despite the conceptual limitations of the GEA in failing to adequately perceive or name school-related gender-based violence, the GEA nonetheless contains conceptual and normative resources that legal and institutional actors may draw upon in engaging with school sexuality

54 See Malawi Human Rights Commission & Southern Africa Litigation Centre 'Towards a human rights-based approach to learner pregnancy management in Malawi' (2017) 21.

55 C. Macleod *'Adolescence', pregnancy and abortion: Constructing a threat of degeneration* (2011) 23-25.

cultures. Addressing SRGBV requires more than the articulation of abstract legal commitments to gender equality. It demands an active process of recontextualisation and reconceptualisation of the meaning of gender in education. From a post-structuralist perspective, this involves disrupting and reassembling dominant discourses to render law responsive to the complexities of school cultures. Legislative enactment, therefore, is best understood not as a final product but as a discursive process within an ongoing struggle to make meaning, intervene, and transform.

3.1 Sex, gender and education

In her article 'Reconceptualising the gendered body: Learning and constructing masculinities and femininities in school', Paechter analyses the enduring influence of Cartesian mind-body dualism on how the relationship between sex and gender is conceptualised in education. She explains how this dualism shapes the construction of the pre-adolescent school subject. In Cartesian thinking, gender, like mind, is treated as the inner, rational identity of the person, while sex, like body, is regarded as the outward, corporeal identity that is inferior and in need of discipline.⁵⁶ Sex represents the corporeal and outward identity, while gender is the ethereal and inner identity that is superior to the corporeal identity.

One effect of this binary is the marginalisation of sex and sexuality in educational discourse. The body is treated as irrelevant to the cultivation of the rational mind, so sex and sexuality are seen as distractions from the moral and intellectual aims of schooling. Instead, the focus is on the mind.⁵⁷ This has implications for how society conceptualises identity. Gender identity is thus assumed to be stable and coherent, existing independently of bodily change or experience. Paechter, however, argues that the body is not a neutral or immutable substrate, but is itself socially constructed.⁵⁸ She also explains that the experience of masculinities or femininities cannot be delinked from bodily form and experience, because '[e]ven if the core identity of being male or female can be seen as independent of the sex of the body, we experience and construct those

56 C Paechter 'Reconceptualising the gendered body: Learning and constructing masculinities and femininities in school' (2006) 18 *Gender and Education* 123.

57 As above.

58 Paechter (n 56) 126.

identities through our bodies, and our bodies are constructed through them.⁵⁹

The critical value of Paechter's work lies in showing how schooling is implicated in the construction of children's bodies as disciplined, desexualised spaces, so that the body should not interfere with the main aim of schooling, which is the training of the mind.⁶⁰ Schools, therefore, have had an uncomfortable and problematic relationship with bodies and sex, and this manifests in diverse ways including the failure to teach sexuality education comprehensively, the discriminatory treatment of pregnant girls, and moral panic about the intimate behaviour of students.⁶¹ Pre-adolescent children are treated as sexually neutral or undifferentiated, particularly prior to puberty.⁶² However, as Paechter notes, '[t]his overt treatment of students as sexually neutral ... allows schools to claim that they do not discriminate according to sex when they are at the same time constantly constructing gender differences'.⁶³

Research has shown that teachers often treat children not according to individual interests or capacities, but according to gendered assumptions rooted in sexed bodies. Instead of grouping students based on shared interests, for example, in playing football, teachers tend to separate boys and girls and treat the groups as homogenous and inherently different.⁶⁴ In doing so, schools routinely 'collapse gender, which could be read as being about masculine or feminine behaviour and preferences, into sex, that is, bodies, by treating children not according to their actual needs and interests, but according to those ascribed to them as sexed beings'.⁶⁵

Although gender does not simply collapse into sexuality, and it is not a natural expression of sexuality, the compulsory and institutional nature of heterosexuality makes gender appear as if it were a natural expression of sexuality.⁶⁶ What post-structuralist critique reveals is that this apparent

59 As above.

60 Paechter (n 56) 127-128.

61 LY Bay-Cheng 'The trouble of teen sex: The construction of adolescent sexuality through school-based sexuality education' (2003) 3 *Sex Education* 1; Correspondent 'Schoolgirls exiled for bed camping' (n 51).

62 Paechter (n 56) 26.

63 Paechter (n 56) 126; see also D Bhana *Gender and childhood sexuality in primary school* (2016).

64 Paechter (n 56) 129.

65 Paechter (n 56) 130.

66 D Mellor & D Epstein 'Appropriate behaviour? Sexualities, schooling and hetero-gender' in C Skelton, B Francis & L Smulyan (eds) *The SAGE handbook of gender and education* (2006) 383.

naturalness is the effect of power – of normative discourses that produce bodies, identities and desires as intelligible in particular ways.

Laws and policies such as the GEA tend to treat children as sexually neutral legal subjects. Yet, in practice, teachers relate to children through gendered expectations drawn from dominant social discourses instead of from the children's actual capacities or needs.⁶⁷ If the GEA is to support genuine transformation, it must also recognise early childhood educational institutions as critical sites of gender identity formation, where discursive practices of gender inequality are already taking root. The construction of children as non-sexual or naturally gendered in pre-school settings lays the groundwork for the reproduction of heteronormativity throughout the school system.⁶⁸

3.2 Schools as productive of student sexual identities

In many schooling contexts, sexuality is officially repressed by curricula that avoid or circumscribe the sexual subject, and by disciplinary practices aimed at regulating sexuality's expression.⁶⁹ An essential role of school management appears to be to manage students, and teachers, in such a way that the school environment is de-sexualised.⁷⁰ Yet, this is a regulatory fiction. In practice, sexuality in schools is not absent; it is actively produced. Schools are key sites for the production and regulation of multiple social identities, within which sexuality plays a central role in processes of identity formation.⁷¹

Identity formation is a discursive process through which subjectivity is shaped within prevailing norms, values and power relations. Drawing on Butler's concept of performativity, subjectivity can be understood as produced through repeated and sustained social performances.⁷² Identity formation is an active process of self-representation and representation of self to others across the trajectory of growing up, constituted through prevailing discourses. Discourses offer the person certain possibilities

67 Bhana (n 63).

68 M Blaise *Playing it straight: Uncovering gender discourse in the early childhood classroom* (2012).

69 Mellor & Epstein (n 66) 383.

70 C Haywood & M Mac An Ghaill 'The sexual politics of the curriculum: Contesting values' (1995) 5 *International Studies in Sociology of Education* 223.

71 D Epstein & R Johnson *Schooling sexualities* (1998) 116.

72 J Butler *Gender trouble* (1999) 180.

and conceal others, or they are made to appear in a less attractive light for the person. This is the discursive material upon which individuals draw in developing their identities.⁷³ In schools, young people come to understand and perform their identities through what they say, do and come to believe about themselves in relation to others and the institutional norms around them.⁷⁴

Schools as sites of regulation and production of social identities contribute to shaping sexual and gendered identities of both students and teachers in ways that entrench social inequalities.⁷⁵ Although schools appear to function as spaces that have done away with sexuality or have it under control, schools' disciplinary and regulatory practices promote particular forms of institutional and gendered heterosexuality. Acts such as the expulsion of girls suspected of engaging in same-sex intimacy ensure that the discursive production of identity is guided by dominant ideologies, such as compulsory heterosexuality, patriarchy and cisnormativity (the assumption that persons identify with the sex assigned at birth), by rendering certain acts deviant or unintelligible.

Mellor and Epstein have stressed that this "heterosexual economy" is salient within the discursive practices and meanings of the official curriculum and the values of institutions, but also exists as a dominant regulatory force within the everyday cultures of school.⁷⁶

This economy is not only disciplinary, imposing rules about appropriate conduct, but also productive, enabling certain forms of sexual subjectivity while foreclosing others. From pre-school to secondary education, children are interpellated (called into subject positions) into gendered and sexual identities by practices that appear neutral but are deeply normative.

Although much of the empirical research comes from the Global North, the legacies of colonial schooling systems and global discursive flows mean that many of these dynamics resonate in Malawian and African contexts. Due to the globalisation of culture and the export of formal schooling to Africa during colonialism, there are similarities in the

73 Epstein & Johnson (n 71) 116, 152.

74 Epstein & Johnson (n 71) 116.

75 Epstein & Johnson (n 71) 106, 108; G Variyan & J Wilkinson 'The erasure of sexual harassment in elite private boys' schools' (2022) 34 *Gender and Education* 183.

76 Mellor & Epstein (n 66) 381.

discourses that have influenced sexualities in schools, although there are also contextual differences that can only be elicited with further research in the Malawian and other contexts. For instance, Leach and others, and Bhana offer insights from ESA that illustrate how schools function as gendered institutions, shaping and sometimes disciplining bodies in accordance with hegemonic masculinities and femininities.⁷⁷ These processes of identity formation begin early in schooling, including in pre-school and primary school contexts, despite the persistent assumption that sexuality is irrelevant to younger children.

3.2.1 *Pre-school and primary school sexualities*

In the African context, there has been limited research examining children's everyday sexual cultures and identity formation, with most studies on sexuality in schools focusing on sexual violence in secondary and post-secondary institutions rather than on pre-school or primary schooling.⁷⁸ The relative lack of research on these topics is shaped by common-sense assumptions that gender and sexuality do not matter for younger children – assumptions grounded in a discourse of childhood innocence that remains prevalent not only in Western contexts, but also in Malawian and broader African settings. Educators and policy actors believe that kindergarten and early primary school are non-gendered spaces where sexuality is either non-existent, particularly on the part of the students, or is suspended for the teaching staff.⁷⁹ Sexuality education is perceived to be irrelevant and inappropriate for younger children, who are supposed neither to know about sex nor to be sexual.⁸⁰ Teachers consider and treat children as subjects whose sexual innocence must be protected by controlling knowledge about sexuality and repressing any behaviour that might be too sexual for the teachers' comfort. As Mellor and Epstein point out, paradoxically, 'in all this anxiety, surveillance and regulation concerning the supposed risk of sexuality to children and young people,

77 F Leach and others *An investigative study of the abuse of girls in African schools* (2003); Bhana (n 63).

78 Bhana (n 63).

79 Mellor & Epstein (n 66) 382.

80 G Chirwa & D Naidoo 'Structural and social constraints in the teaching of life skills for HIV/AIDS prevention in Malawi primary schools' (2014) 4 *South African Journal of Childhood Education* 75.

normative ideas about gender remain largely unchallenged.⁸¹ Schools, therefore, become complicit in sustaining and producing hegemonic notions of sexuality.

Further, these interrelated discourses of childhood innocence and natural gender difference create regimes of truth that shape how teachers think about and interact with young children in ways that reproduce gendered heterosexuality.⁸² Teachers facilitate the reproduction of gendered heterosexuality by believing that gender does not matter, and yet treating boys and girls differentially because the teachers also believe boys and girls are naturally different. Furthermore, children are thought to be passive and non-agentic in matters of sexuality.⁸³

Assuming that children are not sexual, and that the difference between boys and girls is natural, allows teachers to believe that they are neutral in how they treat boys and girls. The teachers believe that nature is in control of how girls and boys turn out, that is, 'boys will be boys'. Bhana exposes this thinking as deeply problematic because '[i]t mis-recognises the position of children. Absent in the "just kids" discourse are the gender and sexual dynamics of children and the play of power in children's cultures.'⁸⁴ This discourse masks the power of teachers over children in manipulating and shaping the children's identity construction because, by regarding them as innocent, teachers can then justify regulating or disciplining children perceived as sexually active.

By relating to children as naturally masculine or feminine, teachers shape and encourage gender performances that are aligned with hegemonic masculinities and femininities.⁸⁵ As Bhana discovered in her research, teachers thought boys were naturally aggressive and better at mathematics, while girls were perceived to be more docile and better at reading. This fixing and normalising of identities means that a girl or boy whose behaviour does not conform to their expected gender would be perceived as deviating from the normal, for instance, an aggressive girl or a docile boy.

81 Mellor & Epstein (n 66) 383.

82 Bhana (n 63) 27.

83 As above.

84 Bhana (n 63) 28.

85 As above.

Children who persistently fail to conform to their gender roles are regarded as deviant or abnormal, and risk marginalisation.⁸⁶ The policing of gender and sexuality, by teachers and peers, that validates heteronormative practices and illegitimises non-heteronormative behaviour reproduces the dominant heteronormative cultural forms.

While teachers and society have constructed children, especially pre-adolescents in the early years of schooling, as sexually and gender passive, research reveals the contrary. In the everyday interactions and relationships in the school, children are actively engaged in negotiating and constructing their gendered sexual identities by drawing on the discourses available to them. The expression of sexuality in school contexts is not straightforward. As Deevia Bhana observes, it ‘involves tension and contradictions and is marked by gender power imbalances. Boys’ tensions involve contradictory association with girls, invoking sexuality, power and misogyny. Girls’ desires tend to be already in the service of the heterosexual male gaze.’⁸⁷

Mellor also explains that in the performance of becoming heterosexual, ‘boys construct, define and maintain their heterosexual identities through compulsory heterosexuality, misogyny and homophobia.’⁸⁸ Therefore, boys learn to mobilise power in the service of dominance, and violence becomes intelligible as a tool of control and domination.

In her ethnographic studies, Bhana shows how classrooms and playgrounds are sites where children in their everyday relationships negotiate heterosexual power relationships, through self-policing and policing of others.⁸⁹ She describes the phenomenon using the term ‘heterosexual matrix’, which is defined by Butler as ‘the grid of intelligibility through which bodies, genders and desires are naturalised.’⁹⁰ The heterosexual matrix is the regulatory framework in

86 KH Robinson *Innocence, knowledge and the construction of childhood: The contradictory nature of sexuality and censorship in children's contemporary lives* (2013) 65.

87 Bhana (n 63) 79.

88 E Renold ‘“Coming out”: Gender, (hetero)sexuality and the primary school’ (2000) 12 *Gender and Education* 318; see also M Mac An Ghaill *The making of men: Masculinities, sexualities and schooling* (2003).

89 K Robinson & C Davies ‘Sexuality education in early childhood’ in L Allen & ML Rasmussen (eds) *The Palgrave handbook of sexuality education* (2017) 230.

90 Butler (n 71) 194.

which performances of gender or doing gender reproduce heterosexual, and masculine or feminine, as the appropriate ways of being.⁹¹ In writing love letters, using heterosexual teasing, and playing games such as kissing games, and in other heterosexual rituals and practices, pupils constitute themselves and are constituted as boys and girls, and affirm their masculinities and femininities. Bhana observes that children engage in these heterosexual rituals or games in ways that reinforce gendered and sexual hierarchies.⁹²

What Bhana and others have shown through their ethnographic studies of primary schooling is the richness of the sexual worlds of children – a world that adults could never stifle, even though they wished to, because the existence of this world for children is secured in the discourses that are part of the social fabric. As Bhana cogently puts it, ‘talk about marriage, caring, kissing and fucking are not rare and unexceptional moments in the lives of children, but part of the mundane complexity through which they live their everyday lives.’⁹³

Recognising that sexuality is part of a child’s world challenges dominant assumptions of childhood innocence and underscores the need to interrogate how schooling practices engage with, silence, or regulate children’s lived sexual realities. These dynamics do not disappear as children move through the education system; rather, they become more visible, more explicitly regulated and more intensely policed in secondary school contexts.

3.2.2 *Secondary school sexualities*

By the time students enter secondary school, many are already adolescents, with bodies and social identities increasingly marked by puberty and emerging secondary sexual characteristics. Although the timing and experience of adolescence are uneven, and age does not map neatly onto sexual knowledge or awareness, sexuality tends to become more visible and more explicitly regulated in secondary school contexts. What was often rendered implicit in primary schooling becomes more publicly legible, as increased peer engagement, greater experience in

91 Bhana (n 63) 180.

92 Bhana (n 63) 184.

93 Bhana (n 63) 195.

performing gendered masculinities and femininities, and the visibility of secondary sexual characteristics contribute to heightened scrutiny of students' sexual conduct within the school environment.

For instance, the performance of masculinity assumes new expressions in secondary school. Whereas in earlier years boys may construct masculine identities through contradictory associations with girls, in later years heterosexual boys increasingly affirm masculinity through the pursuit of intimate relationships with girls. A further shift lies in access to embodied and social resources. As children's bodies change, they become increasingly implicated in relations of power within school cultures. In particular, girls' bodies may be read and taken up as markers of femininity and sexual appeal in relation to boys, even though such gendered readings and practices are not dependent on the presence of secondary sexual characteristics and may occur earlier.⁹⁴

Drawing on ethnographic research in Malawian schools, Leach and others found that teachers frequently complained that girls used their bodies and modes of dress in ways they interpreted as sexually provocative.⁹⁵ Masculinity, by contrast, was often asserted through physical strength and social dominance, with boys' expressions of heterosexual interest, such as love letters to girls, sometimes including threats where advances were rejected.⁹⁶ Similarly, research in Uganda by Muhanguzi shows that when girls attempt to assert autonomy by refusing boys' sexual advances, these refusals may be met with intimidation, humiliation or harassment.⁹⁷ Such responses draw on available gendered discourses that render male dominance intelligible and legitimate within school cultures. Girls' responses are not uniform: While some may acquiesce under these conditions, others resist, negotiate or otherwise contest these power-laden interactions.

School cultures, therefore, shape masculinities and femininities in gender-differentiated ways. For girls, one of the key consequences is the operation of a sexual double standard. Girls are discouraged from resisting boys' sexual advances, as resistance may attract harassment; yet

94 Renold (n 88) 312.

95 Leach and others (n 76) 77.

96 Leach and others (n 76) 78.

97 FK Muhanguzi 'Gender and sexual vulnerability of young women in Africa: Experiences of young girls in secondary schools in Uganda' (2011) 13 *Culture, Health & Sexuality* 717.

they are also expected not to express sexual desire openly, as femininity is associated with sexual passivity.⁹⁸ This double standard is reinforced not only through peer interactions, but also by teachers and parents, who often police girls' sexual behaviour more strictly while being comparatively lenient toward boys.

Research by Grant in Malawi, for instance, shows that parents closely monitor their daughters' relationships with boys, motivated by fears of sexual activity and pregnancy.⁹⁹ Such norms operate to deny girls sexual autonomy and agency, with significant consequences for their ability to negotiate safe sex. Girls are expected to maintain sexual modesty and avoid sexual activity until it is socially sanctioned, such as through marriage, while boys are not held to equivalent standards. When girls do engage in sex and become pregnant, responsibility is individualised and attributed to their failure to conform to expectations of chastity. In this way, school cultures and formal education systems often operate as complicit in the reproduction of gendered sexual double standards, rather than as sites that actively disrupt them.

Ultimately, school cultures shape masculinities and femininities in ways that normalise male dominance and sexual entitlement, while rendering the subjugation of female sexuality ordinary and acceptable. The identities into which boys and girls are moulded are not merely expressions of individual choice or biology; rather, they are constituted through regulatory practices, discursive norms and everyday interactions within the school system, as part of the social fabric that structures the possibilities for being and becoming a sexual subject.

4 Gender law and sexual well-being in schools

The GEA provides a legislative framework for addressing sexual and gender-based violence in schools. Yet, for this framework to effect meaningful change, it must be interpreted through a critical lens that exposes the deep cultural and institutional dynamics shaping school environments. A post-structuralist approach insists that addressing SRGBV requires more than formal legal instruments or occasional

98 As above.

99 MJ Grant 'Girls' schooling and the perceived threat of adolescent sexual activity in rural Malawi' (2012) 14 *Culture, Health & Sexuality* 73.

interventions. It demands an interrogation of the discursive practices and everyday norms that structure sexualities and gendered power relations in school cultures. In this part, in examining how the GEA can be translated into policy and action, I focus on four key domains: exposing the experience of discrimination; developing comprehensive sexuality education; interrogating criminal and disciplinary approaches; and involving children as agents.

4.1 The experience of discrimination structured by gender norms

School-related gender-based violence is a manifestation of a deeper systemic issue, namely, the normalisation of discriminatory gender norms in school environments. These norms, often inherited from the societal structures including the family, perpetuate unequal power relations between adults and children, and between boys and girls. They become so embedded in everyday school practice that they are rendered invisible.

Relationships in the school reproduce gendered and hierarchical structures that characterise the family institution. Adult authority over children and men's power over women are taken to be a normal part of life.¹⁰⁰ Gender identities and relations in the school reflect the socially sanctioned inequalities that are assumed to be normal in everyday practice in the family. The acceptance of inequality and discrimination as part of school culture normalises gender violence within the school environment. The gendered discrimination interacts with other identities such as race and ethnicity, with sexual orientation, and with contextual factors such as poverty, to impact students disparately, thereby making some students more vulnerable to violence than others.¹⁰¹

Legal interventions such as those envisaged by the GEA might prove ineffective if they focus only on sensationalised cases of abuse, such as 'teacher impregnates student', without addressing the mundane, everyday practices by which SRGBV is normalised.¹⁰² Furthermore, aiming at the extraordinary might create the impression that enhancing criminal law

100 Leach and others (n 50) 4.

101 Leach and others (n 50) 3.

102 Here is an example of one such article that periodically resurfaces in the media in Malawi: O Khamula 'Malawi teacher jailed for 13 years for sexual activity with school girl' *Nyasa Times* (Leeds, UK) 18 April 2016, <https://www.nyasatimes.com/malawi-teacher-jailed-for-13-years-for-sexual-activity-with-schoolgirl/> (accessed 29 September 2019).

and prosecution is the solution to the problem. Reliance on criminal law alone risks obscuring the broader structures of inequality through which SRGBV is produced and sustained. From a post-structuralist perspective, law's effects are shaped by how it is taken up within school cultures, including by teachers, school workers, and students themselves.

Lessons can be learnt from countries such as Sweden, which have passed laws explicitly addressing the discriminatory treatment of children in schools, such as the Swedish Education Act.¹⁰³ Yet, as Gillander Gådin and Stein found, the normalising practices of SRGBV remain difficult to address even in a country such as Sweden that is recognised as one of the countries with good indicators on gender equality.¹⁰⁴ Gillander Gådin and Stein discuss a case in which a girl who was sexually harassed had made several attempts to alert the school authorities, but they failed to take immediate action. Indeed, the school authorities avoided taking a strong stance against the perpetrator. They did not see this as an organisational problem. Instead, the school authorities viewed it as an individual failure of tolerance by the victim, and they shifted blame to the victim because she was the only student who had complained about the boy's behaviour. The school authorities explained away the harassment as just a joke by the perpetrator.¹⁰⁵ According to these authors, the excuses and delaying tactics were the effect of the normalisation of SRGBV in the school. It took the persistence of the victim, together with the intervention of the Ombudsman against Discrimination, for the matter to be pursued through judicial proceedings.

Gillander Gådin and Stein suggest that the challenge of normalisation of SRGBV could be addressed by strengthening the organisational capacity of the school to respond to SRGBV, ensuring that school staff take up their responsibility to curb SRGBV, and raising awareness of the nature of SRGBV in school communities.¹⁰⁶ In contrast, Wescott and Roberts urge states to take SRGBV seriously, to name and categorise

103 Skollag (Education Act) 2010:800 (Sweden).

104 K Gillander Gådin & N Stein 'Do schools normalise sexual harassment? An analysis of a legal case regarding sexual harassment in a Swedish high school' (2019) 31 *Gender and Education* 928-932; see also S Wescott & S Roberts 'On the utility of the concept of "school-related gender-based violence" (SRGBV) in the context of escalating gendered violence in schools' (2025) *Critical Studies in Education* (published online 5 June 2025).

105 Gillander Gådin & Stein (n 104).

106 Gillander Gådin & Stein (n 104) 932.

SRGBV as a distinct yet interconnected form of gender-based violence.¹⁰⁷ States should take a singular and unified approach globally to eliminate SRGBV.

Read through a discursive lens, the GEA enables an understanding of SRGBV that extends beyond isolated incidents to include the everyday practices through which gendered harm is normalised in school settings. It recognises the full spectrum of discriminatory practices, including subtle forms of exclusion, silencing and victim blaming. Focusing on the extraordinary or sensational, such as sexual assault or rape, might concentrate attention on the tip of the iceberg. Criminalising harmful practices or sexual harassment would not achieve much, unless policy actors in the school communities were involved in translating the GEA to address SRGBV. Such a reading foregrounds the significance of school communities as sites where norms sustaining SRGBV are reproduced and contested, and where accountability is shaped through practices that extend beyond punitive responses.

4.2 Comprehensive sexuality education

As discussed earlier in this chapter, the GEA tends to construct gender inequality in education as resulting from girls' lack of sexual and life skills education, positioning girls as vulnerable subjects and, by implication, boys as the primary perpetrators of harm. Such a framing can obscure the ways in which all participants in the school environment contribute to the production of meaning as participants in discourse. Further, although girls are often positioned as lacking power, they also exercise agency to re-inscribe or resist dominant understandings of sexuality and to challenge gender inequality. Read discursively, the GEA's emphasis on girls' sexuality education can be taken up in ways that either re-inscribe or unsettle sexual double standards that subordinate feminine sexuality to masculine sexual entitlement.

Comprehensive sexuality education is frequently advanced as a central response to these dynamics and thus warrants critical examination. Its implementation is shaped by a range of constraints, including financial and institutional limitations, as well as broader structural determinants such as poverty. However, critical scholarship cautions that officially

107 Wescott & Roberts (n 104) 14.

sanctioned sexuality education often reproduces dominant gendered and heteronormative discourses rather than disrupting them. This may limit the extent to which sexuality education supports learners as sexual subjects within the complexities of school cultures. As Allen argues, discourses that deny student sexuality 'work to ultimately deny young people as sexual subjects and divest them of the kind of agency necessary to look after their sexual well-being'.¹⁰⁸ Official curricula can contribute to this denial by advancing pedagogies that pathologise sex and emphasise the threat of disease and unwanted pregnancy.¹⁰⁹

Similarly, in its 2017 Concluding Observations on Malawi, the CRC Committee noted the lack of age-appropriate education on sexual and reproductive health rights and family planning.¹¹⁰ The CRC Committee urged Malawi to ensure that sexual and reproductive health education is mandatory in public and private schools, and that this reproductive health education address early pregnancies and sexually transmitted infections.¹¹¹ Read alongside the GEA's emphasis on education and protection, these observations underscore how official sexuality education is often framed through public health concerns that prioritise pregnancy and infection.

This tension is particularly visible in debates around the content and purpose of sexuality education in schools. Macleod argues that infusing school-based sexuality education with metaphors of disease and illness severely limits the transformative potential of sexuality education.¹¹² In her analysis of school sexuality education manuals in South Africa, Macleod shows how in the effort to regulate the behaviour of learners, conditions such as 'teenage pregnancy' are portrayed almost exclusively in negative terms using metaphors of danger and disease.¹¹³ This selective focus sustains dominant interests in controlling adolescent sexuality, rather than engaging with its relational, ethical and social dimensions.¹¹⁴

108 L Allen 'Denying the sexual subject: Schools' regulation of student sexuality' (2007) 33 *British Educational Research Journal* 222.

109 Epstein & Johnson (n 71) 180.

110 Committee on the Rights of the Child Concluding Observations on the combined third to fifth periodic reports of Malawi CRC/C/MWI/CO/3-5 (2017) para 34.

111 Committee on the Rights of the Child (n 110) para 35.

112 C Macleod 'Danger and disease in sex education: The saturation of "adolescence" with colonialist assumptions' (2009) 11 *Journal of Health Management* 376-377.

113 Macleod (n 112) 378.

114 AT Geronimus 'Damned if you do: Culture, identity, privilege, and teenage childbearing in the United States' (2003) 57 *Social Science & Medicine* 881.

As earlier parts have shown, male-sex-drive discourses position boys as possessing uncontrollable sexual desire while burdening girls with the responsibility for sexual restraint, disease prevention and pregnancy avoidance. These discourses continue to shape how sexuality education is framed and delivered. This helps explain why sexuality education is frequently organised around danger, restraint and responsibility, rather than around desire, relationships, pleasure and the ethical dimensions of intimacy. As the CRC Committee has stated, a child's education should include life skills that promote good social relationships, responsibility and critical thinking.¹¹⁵ The question, however, is how such aims are taken up in classroom practice, and what discourses they mobilise or foreclose.

In its General Comment 3, the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee) exhorts states to teach and train children to become responsible citizens. This Committee specifically notes that 'children should be taught and encouraged to avoid xenophobic, discriminatory and disrespectful attitudes and practices in all settings, as they detract from the moral well-being of society'.¹¹⁶ Read within the context of school sexuality cultures, this language positions education as a mechanism for shaping norms of respect and non-discrimination, including in relation to gender and sexuality.

From a post-structural perspective, teaching is never a neutral act. Comprehensive sexuality education is itself deeply implicated in the reproduction, or disruption, of dominant discourses around gender and sexuality. Where heteronormative norms are enforced uncritically, such as through the punishment of same-sex intimacy or expressions of gender non-conformity, educational practice may reproduce exclusionary discourses already embedded within school cultures. Silence, also, functions as a powerful discursive mechanism: By withholding recognition of students as sexual subjects, it renders certain identities unintelligible and exposes them to ridicule, informal discipline and discriminatory regulation.¹¹⁷

115 General Comment 1 (n 5) para 9.

116 African Committee of Experts on the Rights and Welfare of the Child General Comment on Article 31 of the African Charter on the Rights and Welfare of the Child on 'the responsibilities of the child' (2017) para 78.

117 J Butler *Bodies that matter: On the discursive limits of sex* (1993) 2-3; M Foucault *The history of sexuality: An introduction* trans R Hurley (1978) 17-35.

Given the central role teachers play in shaping learners' understandings of gender and sexuality, their everyday practices carry significant discursive weight. Where such practices remain unexamined, they may reproduce exclusionary norms and legitimise punitive responses to students' sexual expression. A lack of ethical reflexivity can inflict concrete harm by denying students recognition as sexual subjects, or by justifying punitive actions such as expelling students for benign expressions of intimacy such as consensual kissing.¹¹⁸ These actions are not merely mistakes in practice; they constitute a deeper injustice arising from the failure to recognise students as sexual subjects.

Within Malawi's legal framework, teachers, as public officials and agents of the education system, can be understood as duty bearers whose actions may either advance or undermine equality and non-discrimination in school settings. This raises broader questions about accountability within rights-based frameworks. While the GEA provides for sanctions where health professionals violate sexual and reproductive rights, it remains less clear how responsibility is conceptualised when comparable harms are produced within educational institutions.¹¹⁹ Education, like healthcare, is not a neutral space; it is a critical site for both the realisation and the violation of rights.

Extending this analogy between healthcare and education does not require criminalising teachers or educational institutions. Rather, the analogy highlights that omissions and silences in sexuality education are not neutral: They are discursive positions that can undermine the GEA's aims by sustaining the very norms through which inequality is reproduced. In this sense, teachers occupy a dual location as pedagogical actors and as duty bearers within institutional environments where rights may be realised or violated.

At the same time, the discursive responsibilities of teachers must be understood within the structural and institutional conditions under which they work. As Macleod and Du Plessis demonstrate, teachers

118 O Kagola & R Notshulwana 'Reflecting on sexuality education in teacher education: Using a life history methodology of a same-sex desiring male foundation phase teacher' (2022) 11 *Educational Research for Social Change* 92. As Kagola & Notshulwana (2022) demonstrate, in a feminist post-structural analysis of a same-sex-desiring male teacher's experience, teachers who fail to reflect on their positionality may avoid or deflect important discussions on sexuality, thereby reinforcing silence, stigma and exclusion in the classroom.

119 Gender Equality Act (Malawi) (n 49) sec 20.

often face emotionally charged and ethically complex moments in the classroom, and many feel ill-equipped to support learners dealing with trauma or navigating difficult questions about sexuality.¹²⁰ This underscores that the discursive possibilities of comprehensive sexuality education are shaped not only by curriculum content, but also by teacher preparation, institutional support and the broader conditions of schooling.

4.3 Criminal law, discipline and the limits of punitive responses in schools

The GEA criminalises harmful practices and sex discrimination. These provisions can be mobilised to deter acts of sexual and gender-based violence, including those committed by students. While criminalisation may play a symbolic role in addressing SRGBV and signalling societal condemnation of such conduct, its capacity to transform school cultures remains fundamentally limited. From a post-structuralist perspective, power does not reside solely in law or school authorities, but is also exercised through the discursive and institutional practices that constitute what is considered normal, acceptable or punishable.

Criminal law, by design, isolates and names the individual offender, producing the offender as a morally deviant subject, while leaving intact the cultural logics and gendered norms that enable harassment in the first place.¹²¹ Although criminal sanctions may remove or punish individual perpetrators, school cultures continue to shape students into gendered subjects capable of reproducing similar harms. In this sense, criminal law alone is unlikely to inspire the structural, normative and relational changes required to address SRGBV. As Martin argues, criminalisation ‘operates most effectively at the level of the symbolic, by naming

120 CI Macleod & U du Plessis ‘Teaching comprehensive sexuality education in a traumatised society: Recognising teachers as sexual, reproductive, and mental health frontline workers’ Paper presented at the Frontiers in Education 2024, 13-16 October 2024, Washington DC.

121 Gruber describes the limitations of using criminal law to advance gender inequality: A Gruber ‘The feminist war on crime’ (2007) 92 *Iowa Law Review* 750; A Gruber ‘A “neo-feminist” assessment of rape and domestic violence law reform’ (2012) 15 *Journal of Gender Race and Justice* 611.

individual offenders as morally defective, and using them as scapegoats, and only incidentally as a useful tool for community security'.¹²²

In school contexts, this dynamic may result in the punishment of individual students without interrogating the gendered expectations and heteronormative structures that shape students' actions and identities. Read discursively, punitive and disciplinary responses may operate alongside sexuality education, life skills education or human rights education, yet still leave intact the underlying norms through which SRGBV is reproduced.

School discipline rules and procedures can function discursively both as mechanisms of prevention and as remedial responses to behaviour that disrupts peaceful co-existence. They may also operate as points of articulation between school governance and criminal law, particularly in cases where conduct meets the threshold of criminal liability, such as sexual assault. In this sense, school policies addressing SRGBV and disciplinary procedures are situated within a broader legal framework that includes the GEA, the Constitution, the Penal Code and other relevant laws, as well as international child rights standards.

Historically and culturally, school disciplinary modes have been shaped by authoritarian practices in which teachers exercised disciplinary power over students with little scrutiny.¹²³ In Malawi, as in many other contexts, efforts to shift from authoritarian discipline toward approaches informed by human rights and democratic values have proven challenging. Coetzee argues that 'it is not a human rights culture that leaves the educators feeling helpless, but a lack of knowledge and skills to create a disciplined school or classroom within a human rights framework'.¹²⁴

While Coetzee's analysis foregrounds capacity and training, a post-structuralist approach offers a different reading of this perceived 'helplessness'. From this perspective, school disciplinary practices are embedded within the heterosexual matrix that reproduces hegemonic

122 DL Martin 'Retribution revisited: A reconsideration of feminist criminal law reform strategies' (1998) 36 *Osgoode Hall Law Journal* 160.

123 P Namphande and others 'Education for democratic citizenship in Malawian secondary schools: Balancing student voice and adult privilege' (2017) 47 *Compare: A Journal of Comparative and International Education* 716.

124 S Coetzee 'Discipline in Nigerian schools within a human rights framework' (2010) 10 *African Human Rights Law Journal* 479.

masculinities and femininities. These practices do not merely reflect individual failures of knowledge but are sustained by discursive frameworks through which school authorities have come to understand gender, sexuality and order. As a result, even where human rights discourses formally prohibit practices such as corporal punishment, teachers may continue to rely on punitive disciplinary measures or shift to alternative forms of regulation that nonetheless reproduce elements of SRGBV.¹²⁵

From an analytic perspective, criminal law and stringent disciplinary measures have limited capacity to address the full range of practices that constitute SRGBV. Some manifestations of SRGBV do not meet the threshold of criminal sanction, and punitive responses may leave underlying attitudes and norms unchanged. These limits draw attention to the significance of education as a site where meanings around intimacy, rejection and conflict are formed and negotiated.

Schools also function as a space in which boys and girls come to learn how disappointment, desire and rejection are understood and managed. Where school authorities engage openly with questions of sexuality, intimacy and affect, they are better positioned to recognise how gender norms shape students' responses to relational conflict. For example, aggressive responses to rejected romantic advances can be understood not simply as individual misconduct, but as actions made intelligible within dominant masculinist norms. In this sense, exposing SRGBV does not necessarily entail deferring to criminal law as the primary mechanism of response.

Disciplinary measures such as expulsions or suspensions may operate to reinforce exclusionary norms, rather than fostering reflection or learning. In such cases, disciplinary regimes can reproduce the heterosexual matrix, wherein punishment functions to police the boundaries of acceptable gender and sexual expression.¹²⁶ This is particularly visible where sanctions are imposed for same-sex intimacy,

125 Ministry of Gender, Children, Disability and Social Welfare of the Republic of Malawi and others (n 12) 157.

126 Butler (n 71). See also S Winner 'Cameroon: Two school girls lose their right to education because of a lesbian love note' *Erasing 76 Crimes* 1 December 2023, <https://76crimes.com/2023/12/01/cameroon-two-school-girls-lose-their-right-to-education-because-of-a-lesbian-love-note/> (accessed 22 December 2025).

not because of harm caused, but that such conduct symbolically disrupts heteronormative expectations.

Yet, post-structuralism does not entail abandoning accountability. Rather, it invites a reconceptualisation of discipline as an ethical and pedagogical practice, oriented toward what Foucault terms processes of 'ethical self-constitution'.¹²⁷ If schools are sites of subject formation, responses to transgression that fall short of serious criminal conduct can be read as opportunities for reflection, dialogue and repositioning. For instance, a boy who responds to a rejected love letter with threats may be disciplined, but such responses need not be limited to punishment alone; they may also involve engaging the student in reflecting on consent, responsibility and non-violent ways of responding to rejection.

This approach also invites a reconsideration of how schools respond when girls express their sexuality. Read discursively, when girls engage in intimate acts, school responses are often shaped by moral panic or heteronormative discomfort rather than by principles of non-discrimination or inclusive pedagogy. This does not imply that all conduct is appropriate in every educational context. Rather, this pedagogical approach calls for encouraging students to develop greater self-awareness and attentiveness to others, particularly within intimate or close relationships.¹²⁸

4.4 Toward involving children

Building on the analysis above, scholars have increasingly drawn attention to the significance of engaging children themselves in efforts to address gender norms and sexuality in educational settings. Robinson argues that '[a]nti-homophobia and anti-heterosexist education needs to be included in sexuality education curricula from an early stage, as processes of prejudice, hatred and discrimination are already well underway in the early years of children's lives'.¹²⁹

127 T Besley 'Foucault, truth telling and technologies of the self in schools' (2005) 6 *The Journal of Educational Enquiry* 86.

128 Eg, in the case of the two girls in Cameroon expelled because of a lesbian love note (Winner (n 126)), even if it may have been inappropriate behaviour, automatic expulsion appears to constitute a disproportionate disciplinary measure.

129 Robinson (n 85) 85.

Robinson's analysis is grounded in research conducted in Australia. In contexts such as Malawi, however, there has been comparatively little research on childhood gender and sexuality from which to develop contextually grounded responses to pervasive gender norms. Existing studies have largely documented the prevalence and forms of SRGBV, pointing to the need for further research that explores how gender norms are produced, negotiated and resisted from early childhood, including in pre-school institutions.

Recent research begins to address this gap. Drawing on findings from the Global Early Adolescent Study, Promundo, and the College of Medicine in Malawi, a teaching manual entitled *Very young adolescence 2.0: A curriculum to promote gender equality and sexual and reproductive health* was developed.¹³⁰ This body of work demonstrates that gender norms begin to shape children's understandings and behaviours well before the age of 10, suggesting that engagements with gender equality and sexuality are not confined to adolescence alone, but extend into earlier stages of childhood.

In Malawi, two key institutional actors play central roles in facilitating the implementation of the GEA: the Ministry of Gender, Children, Disability and Social Welfare (MoGCDSW) and the Malawi Human Rights Commission (MHRC). The two institutions developed the National Policy on Early Childhood Development (ECD Policy).¹³¹ However, the ECD Policy does not explicitly engage children as agents in the production and experience of gender inequality. This absence reflects a broader tendency to conceptualise early childhood primarily through protectionist and developmental lenses, rather than as a site where sexual and gendered subjectivities are already being formed.

This gap draws attention to the significance of research that centres children's own perspectives on gender, power and everyday school life. Such knowledge has the potential to inform how early childhood policy and curricula are interpreted and taken up, and to shape more contextually grounded understandings of gender inequality within educational settings. In this sense, research on childhood, gender

130 J KatoWallace & R LevtoV *Very young adolescence 2.0: A curriculum to promote gender equality and sexual and reproductive health* (2018).

131 Ministry of Gender, Children, Disability and Social Welfare *National policy on early childhood development* (2017).

and sexuality becomes part of the discursive resources through which responses to gender inequality are made intelligible.

5 Concluding thoughts

Schools occupy a pivotal place in the formative years of children's lives and play a significant role in shaping developing senses of self. Therefore, it is not incidental that schools function as primary sites for the formation of gendered and sexual identities. Through their institutional design, disciplinary practices and everyday pedagogical routines, schools exercise a particular form of power over how identities are produced and regulated. For a long time, this role remained largely unrecognised, as schools were commonly understood as neutral spaces concerned primarily with preparing students for the labour market. While this function remains important, the analysis in this chapter demonstrates that schools also participate in the reproduction, and potential disruption, of gender inequalities.

This chapter has shown that school environments are central to the constitution of gendered subjectivities and to the persistence of SRGBV. From early childhood through primary and secondary education, gender norms are produced, reinforced and contested through formal curricula, disciplinary practices and informal school cultures. Understanding SRGBV, therefore, requires attention not only to overt acts of violence, but also to the everyday discursive practices through which sexuality, gender and normality are made intelligible in schools.

Teachers occupy a particularly influential position within these processes. As the chapter has shown, educators are not external to school cultures but are themselves shaped by the same gendered and heteronormative discourses that structure students' experiences. In turn, teachers may, often unintentionally, contribute to the normalisation of gender inequality, whether through silence, misrecognition of harm or inadequate responses to sexual and gender-based violence.¹³² In some instances, teachers may also be directly implicated in such harm. These dynamics highlight the importance of understanding teaching not simply

132 E Lahelma 'Gendered conflicts in secondary school: Fun or enactment of power?' (2002) 14 *Gender and Education* 303.

as a technical or curricular function, but as a discursive practice with ethical and relational consequences.¹³³

Importantly, the effects of unequal school cultures are not always captured by indicators of academic performance. Some students may succeed academically despite experiencing SRGBV, while others may struggle or disengage altogether. As Youdell observes, 'education policy or curricular changes that may (or may not) have improved girls' educational achievement have not simultaneously simply freed-up or expanded *who* or *how* girls can be'.¹³⁴ The question of identity development exceeds academic attainment alone, encompassing recognition, dignity and self-worth. Even where students appear to thrive, the effects of gendered harm may persist in less visible forms.

The GEA remains Malawi's principal legislative instrument for addressing gender inequality in education. While its provisions on sex discrimination provide an important legal basis for intervention, this chapter has argued that the GEA's potential to engage the cultural and discursive dimensions of SRGBV is often under-realised. Interpreting and mobilising the GEA in ways that recognise schools as sites of gender and sexual subject formation could open possibilities for addressing inequality than approaches focused solely on punishment or compliance with formal legal requirements.

Finally, while much of the scholarship informing this chapter originates outside Malawi, emerging local research, particularly the Global Early Adolescent Study and related curricular initiatives, signals the value of developing context-specific knowledge on childhood, gender and sexuality. Such research contributes to the discursive resources through which school cultures, curricula and institutional responses to SRGBV are understood and contested. In this sense, addressing gender inequality in schools is not only a matter of legal reform or policy design, but of how meanings about childhood, sexuality and gender are produced, circulated and transformed across educational institutions.

133 M Dunne 'Gender, sexuality and schooling: Everyday life in junior secondary schools in Botswana and Ghana' (2007) 27 *International Journal of Educational Development* 508.

134 D Youdell 'Sex-gender-sexuality: How sex, gender and sexuality constellations are constituted in secondary schools' (2005) 17 *Gender and Education* 268.