

# **School Bullying Among Peers, Human Rights and the State's Duty to Protect: The Case of Spain**

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Bullying among peers prevents children from enjoying their human rights in schools without the threat of aggression, harassment and discrimination. However, the States' duty to protect children from bullying remains loudly unexplored both in academia and in human rights practice. This article begins to fill a gap by articulating the States' duty to protect children from physical, psychological or relational aggression caused by other children in an educational setting beyond a punitive or individualistic perspective. This is the first study to operationalise the States' duty to protect children from bullying by examining the reliability of reporting mechanisms, the accuracy and disaggregation of data, and the quality of training for education professionals and future teachers in a country, in this case, Spain. The analysis relies on rigorous empirical research with focus groups and semi-structured interviews with 139 people in three Spanish regions, including parents, children, academics, bullying survivors and education professionals.

**Keywords:** Bullying; Duty to Protect; Education; Human Rights; International Law; Spain.

## 1. Introduction

School bullying among peers is a physical, verbal or relational form of aggression or harassment that is intentional and repeated over time and that is underpinned by real or perceived imbalance of power that prevents the victim from defending herself (Olweus, 1993: 9; UNSG, 2018: 9; UNESCO, 2019: 14).

Bullying involves one party repeatedly hurting or harming another within an uneven power relationship, either face-to-face or online through social networks, texting, emails, chatting and other forms of virtual communication. Online bullying is commonly known as cyberbullying. Bullying does not require a negative emotion from the bully towards the victim; the emotion can be of indifference. The requirement of intentionality is to be understood as a causal link between a decision, an action and a result, but this does not mean that the bully is deliberately and consciously trying to harm or that he or she is necessarily aware of all the consequences (Dixon, 2011; Schott and Sondergaard, 2014). Unlike face-to-face bullying, cyberbullying can be anonymous, the perpetrator does not usually see the victim's immediate reaction, and the actions are instantaneous, but they can carry potentially global diffusion, which results in the permanence of the aggression and the expansion of the audience beyond the near group of peers (Dooley *et al.*, 2009; Livingstone *et al.*, 2016).

Empirical studies around the world have documented the harmful effects of school bullying on mental health, self-esteem, sociability and overall emotional wellbeing, effects that haunt both the victim and the bully over their adulthood; bullying increases the risk of school absenteeism and early drop-out, and it is often the cause of poorer academic performance and achievement (UNSG, 2016: para. 40-44). The absence of effective measures to tackle bullying comes at a high price both to the victim and to society as a whole. Victims are more likely to

experience worse concentration in class and more interpersonal difficulties, which affects the wider group as well. Bullying in its various forms has been associated with various psychological and academic problems in children and young people, effects that are most evident in victims of bullying, but also in perpetrators, and sometimes in the silent bystanders (Downes and Cefai, 2016: 18; Jantzer *et al.*, 2015; Fisher *et al.*, 2012).

School bullying among peers prevents children from enjoying their right to education without the threat of aggression, harassment and discrimination, hampering their chances to have their other rights materialised, since ‘education is both a human right in itself and an indispensable means of realizing other human rights’ (CESCR, 1999: para. 1). Dan Olweus, the Scandinavian psychologist who pioneered research on bullying in the 1970s, was an early proponent of the idea that school safety should be treated as a matter of human rights (Olweus Bullying Prevention Program). However, decades later bullying among peers is yet to enter definitely the human rights field. Despite references to bullying in UN Treaty Body concluding observations and the Universal Periodic Review (keyword search in OHCHR Universal Human Rights Index), recommendations do not elaborate on the specific implications from the perspective of the State’s duty to protect. As shown in section 2, international and regional judicial and quasi-judicial bodies have not tackled the issue in sufficient detail. The large international human rights organisations have seldom addressed school bullying among peers as a human rights issue States must be held accountable for. Until the time of this writing, Human Rights Watch has only published one in-depth study on the matter, looking at homophobic and transphobic bullying in Japan (HRW, 2016). And only in 2019 did Amnesty International launch its first ever report on school bullying among peers, published in Spanish under the title *Hacer la vista... ¡gorda!: El acoso escolar en España, un asunto de derechos humanos* (Amnesty International, 2019).

Based on international human rights law and my own experience as the author of Amnesty International's report on school bullying in Spain, I contend that the lack of understanding of the implications of States' duty to protect, coupled with an individualist and punitive approach to bullying, explain the generally insufficient and ineffective response to bullying in human rights circles. This article begins to fill a gap by articulating the States' duty to protect children from physical, psychological or relational aggression and harassment caused by other children in an educational setting. Protecting children from school bullying is essential to ensure their right to education. This is the first study to operationalise the States' duty to protect children from bullying by examining the reliability of reporting mechanisms, the accuracy and disaggregation of data, and the quality of training for education professionals and future teachers in a country, in this case, Spain. The article shows that international human rights law provides a useful toolbox to identify specific State responsibilities to protect children from bullying, and to interpret this phenomenon not as a *problem* between two or more individuals but as a systemic manifestation of the inability or refusal to appreciate the social value of diversity, essential to ensure the right to education of all children. The analysis relies on rigorous empirical research with focus groups and semi-structured interviews with a total of 139 people in three Spanish regions, including parents, children, academics, bullying survivors and education professionals. More methodological details are provided in subsection 3.a.

## **2. School bullying among peers and States' duty to protect human rights**

The UN Convention on the Rights of the Child establishes that children are entitled to the right to education, directed among other goals towards the full 'development of their personality, talents and mental and physical abilities' (Article 29(1)(a)). Children must be protected 'from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment,

maltreatment or exploitation’ (Article 19(1)). When interpreting this article, the UN Committee on the Rights of the Child expressed that children should be protected from different forms of bullying and from cyberbullying (CRC Committee, 2011: para. 21). Protective measures should include ‘procedures’ and ‘social programmes’ to identify, report, refer, investigate, treat and follow-up instances of child maltreatment, including judicial involvement as appropriate (Article 19(2) of the UN Convention).

‘Children do not lose their human rights by virtue of passing through the school gates’ (CRC Committee, 2001: para. 8). The empirical research presented in section 3 is based on forms of bullying face-to-face between schoolmates primarily after they have crossed the school gates. However, cyberbullying is a rising phenomenon in Spain and internationally (Rigby and Smith, 2011; Morel *et al*, 2016: 52; Fundación Anar, 2018), and further law and policy research would be welcome. Cyberbullying raises questions as regards the degree of responsibility of schools for acts of bullying that take place online outside the school premises. Having said this, a number of countries are placing specific duties on schools to prevent and combat cyberbullying, irrespective of the location of the aggressor and the victim, when the action has effects in the school and it affects the normal development of school life (Morel *et al*, 2016: 10-11). From a human rights perspective, monitoring cyberbullying also raises important questions in relation to digital privacy. Any interference with the right to privacy (European Court of Human Rights, *Szabó and Vissy v. Hungary*, 2016, para. 54) and with freedom of expression (Human Rights Committee, 2011: para. 34) must be set in the law, pursue a legitimate aim, and be necessary in a democratic society. With adequate safeguards, the three requirements can and must be met to protect children from cyberbullying, but it is essential to strike the right balance when “interference with the aforementioned rights has the potential to undermine both individual rights and the effective functioning of participatory democracy” (Murray and Fussey, 2019: 32). The risk of cyberbullying should not be used to restrict adolescents’ access to the

digital environment: “Instead, their safety should be promoted through holistic strategies, including digital literacy with regard to online risks and strategies for keeping them safe, strengthened legislation and law enforcement mechanisms to tackle abuse online and fight impunity, and training parents and professionals who work with children” (CRC Committee, 2016: para. 48).

Children in schools are entitled to the right to education without the threat of aggression, harassment and discrimination. By definition, school bullying among peers is not exercised by adults. Teachers or State actors are not directly part of it. In fact, insofar as they are children as well, the aggressors are potentially vulnerable and entitled to special protection of their rights through educational measures (CRC Committee, 2011: para. 52). Bullying is an intentional aggression by one or more children against one or more children that is repeated over time and that is sustained by the *imbalance of power* between the aggressor/s and the victim/s. In this article I argue that, due to the uneven power relationship that defines the phenomenon of bullying (together with the requirements of intentionality and repetition), it is necessary to develop a sophisticated understanding of States’ responsibility to protect children’s rights in educational settings, an understanding that should go beyond minimalist, individualistic and punitive approaches to bullying, and look for the underlying structure of human rights abuses committed by private actors.

Since the late 1940s, international human rights law has been used to protect individuals from the State. The application of these standards to relations between private actors remains a complex issue. States are, after all, the main duty bearers in a rules-based international society where they consent to be bound by treaties drafted, negotiated and ratified by and among themselves. However, in the last 30 years international human rights law has been increasingly applied horizontally in relation to private actors, starting with armed groups, and more recently

businesses and men's violence against women. Based on the presumption that 'human rights are entitlements enjoyed by everyone *to be respected by everyone*' (Clapham, 2006: 58; emphasis added), the practice of international human rights law has evolved over the years to challenge and narrow the classic 'public/private divide' in international human rights law (Binion, 1995; Chinkin, 1999). International human rights institutions have established States' responsibility when public authorities fail to apply due diligence in front of a serious aggression by one private actor against another. The European Court of Human Rights accepted this in principle in 1993 in a case concerning corporal punishment in a private school (*Costello-Roberts v UK*, 1993: para. 26); however, the Court dismissed the case because it deemed the punishment had not been sufficiently severe to merit the determination of a violation of Article 3 (torture and ill-treatment) or 8 (private and family life) of the European Convention on Human Rights.

The principle of due diligence had in fact been famously established by the Inter-American Court of Human Rights in relation to an enforced disappearance: 'An illegal act which violates human rights and which is initially not directly imputable to a State (...) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention' (*Velásquez-Rodríguez v Honduras*, 1988: para. 172). The UN Human Rights Committee has also endorsed the principle in its interpretation of the general obligations derived from the International Covenant on Civil and Political Rights (Human Rights Committee, 2004: para. 8).

In different ways human rights bodies have urged States to be duly diligent and prevent, investigate and punish actions committed by private actors (ECtHR, *Osman v UK*, 1998: para. 115; ACHPR, *SERAC and CESR v Nigeria*, 2002; ECSR, *Marangopoulos Foundation for Human Rights v Greece*, 2005: para. 14). In relation to business activities, the Committee on

Economic, Social and Cultural Rights has emphasised that ‘States retain at all times the obligation to regulate private actors’, which should be under ‘strict regulations’ when they deliver public services (CESCR, 2017: para. 22). The duty to protect sustains the Guiding Principles on Business and Human Rights (Special Representative of the Secretary General, 2011) and the Revised Draft of the ‘Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises’ (Open-ended Intergovernmental Working Group, 2019).

The principle of due diligence was applied by the European Court of Human Rights in one bullying case that included physical violence, spitting, cigarette burns, verbal abuse and harassment against a victim on the basis of his mental disability (*Dordevic v Croatia*, 2012). This was not a clear-cut case of school bullying among peers, because the victim was not a child; he attended workshops for adults at a primary school for twelve hours a week. Bullying lasted for at least four years, and the Court concluded that ‘the competent State authorities ha(d) not taken all reasonable measures to prevent (the) abuse (...), notwithstanding the fact that the continuing risk of such abuse was real and foreseeable’ (para. 149); furthermore, ‘no relevant action of a general nature to combat the underlying problem’ had been taken (para. 148). The Court recalled States’ obligation ‘to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment or punishment, including such ill-treatment administered by private individuals’ (para. 138). This was a particularly miserable and long-lasting example of school bullying where public authorities shockingly failed to respond at all. The case was unusual because the victim’s mother had managed to report the situation to the police, the ombudsman and the prosecutor’s office, none of whom reacted adequately. Some of the bullying had been physical and was evidenced in medical reports. Unfortunately, in most cases of bullying the paperwork and the signs are difficult to track down, particularly when the aggression is not physical and when public



authorities are not made aware. As shown later in the case of Spain (subsections 3.c and 3.d), public authorities tend to underestimate the actual dimension of the problem. Having said that, *Dordevic* illustrates the significance of the personal circumstances and the identity of the victim to understand the reasons why bullying takes place and the impact that it has on the victim. The man suffered bullying because his underage aggressors did not respect or understand his mental state and because the adults in public authorities did not take the necessary measures to address the structural inequalities that make the lives of disabled people more difficult than they should be.

Non-discrimination is an essential dimension to make education accessible for all (Special Rapporteur on the Right to Education, 1999: para. 57; CESCR, 1999: para. 6(b)). That is why one of States' 'immediate obligations' is to 'guarantee that the right (to education) will be exercised without discrimination of any kind' (CESCR, 1999: para. 43). The prohibition of discrimination is 'subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination' (CESCR, 1999: para. 31). Given the fact that bullying is defined by power imbalance, to respond to bullying effectively from a systemic and contextual perspective, it is necessary to adopt a structural view of equality and non-discrimination. This means recognising that often children and teenagers suffer bullying *because of* their gender, their sexual orientation, their socio-economic status, their perceived disability, their lack of conformity with certain conventions, etc. They suffer bullying because the group refuses to accept them for who they are. Ultimately the roots of bullying lie in the normalisation and acceptance of physical and verbal violence in society. Bullying results from the bully's need to seek recognition from the group and the group's drive to preserve internal homogeneity.

This, however, does not mean that *all* cases of bullying are a violation of the principle of non-discrimination. Children can and do sometimes exercise violence against each other, intentionally, repeatedly and within an unequal power relationship without necessarily infringing any of the prohibited grounds of discrimination. In some instances, therefore, the power imbalance that defines bullying will not necessarily entail discrimination or be an expression of structural inequality. Even in those cases, however, States must adopt measures to prevent circumstances of bullying in schools, and to protect children when it occurs. Regardless of underlying inequalities or expressions of discrimination, mechanisms must exist to identify, report, refer, investigate, treat and follow-up instances of child maltreatment, including judicial involvement as appropriate (Article 19(2) of the UN Convention on the Rights of the Child). In this regard, the UN Committee on the Rights of the Child has ‘emphasized in the strongest terms that child protection must begin with proactive prevention of all forms of violence’ (CRC Committee, 2011: para. 46). Preventive measures include challenging attitudes that tolerate or condone violence in all its forms, including, when relevant to the case, ‘gender, race, colour, religion, ethnic or social origin, disability and other power imbalances’ (CRC Committee, 2011: para. 47(a)(i)).

As a general principle, anyhow, a structural approach to equality can help tackle bullying as a holistic and systemic phenomenon. A holistic understanding of bullying requires a ‘contextual’ (Schott and Sondergaard, 2014) or ‘integrated’ (Dixon, 2011) approach to defeat the limitations of the punitive perspective that reduces bullying to a criminal action of one aggressor against a victim in front of a silent majority of bystanders. It is helpful in this regard to seek inspiration from the way the UN Committee on the Elimination of Discrimination Against Women has defined gender-based violence since 1992, that is, as ‘violence which is directed against a woman because she is a woman or that affects women disproportionately’ (CEDAW, 1992: para. 6; 2010: para. 19; 2017: para. 1). The 2011 Council of Europe Istanbul

Convention on preventing and combating violence against women and domestic violence recognises that this type of violence is ‘structural’, based on ‘gender’ and ‘a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women’ (Preamble). Adopted in 1994, the Belém do Pará Convention on the Prevention, Punishment, and Eradication of Violence against Women requires States to ‘apply due diligence to prevent, investigate and impose penalties for violence against women’ (Article 7). In *Cotton Field*, the Inter-American Court of Human Rights ruled that, when there is a ‘general pattern of negligence and lack of effectiveness’, the State should adopt ‘comprehensive measures’ to comply with due diligence not only to prosecute and punish those responsible for gender-based violence and murder, but also to prevent these practices; ‘reparations must be designed to change this situation, so that their effect is not only of restitution, but also of rectification’ (*González et al v Mexico*, 2009: para. 255, 258 and 450; see also *Opuz v. Turkey*, 2009: para. 146-149; *Valiulienė v Lithuania*, 2013: Concurring Opinion of Judge Pinto de Albuquerque). A ‘systemic due diligence’ is required to deal with structural forms of discriminatory violence, which means ‘a holistic and sustained model of prevention, protection, punishment and reparations’ (Special Rapporteur on Violence Against Women, 2013: para. 71).

Regardless of whether a specific case of bullying is motivated by discrimination or inequality, to ensure children’s right to education public authorities must prevent, identify, report, refer, investigate (judicially or not), treat and follow-up instances of school bullying. Research and policy-development on school bullying can learn from feminist literature and jurisprudence in adopting a structural view of inequality from an intersectional perspective. Such perspective could inform a more holistic and systemic approach when the aggression, harassment and discrimination are grounded on the rejection of diversity, gender or otherwise. The following section will implement this holistic and systemic approach based on empirical

research carried out in Spain, by looking at the existence of disaggregated data (subsection 3.c), bullying reporting mechanisms (3.d), and training of teachers and future teachers (3.e).

### **3. A human rights-based analysis of the policies and practice in relation to school bullying among peers in Spain**

#### *a. A note on method*

The empirical research that informs this article took place between October 2017 and December 2018, with complementary field research in January 2020.

Initial desk research was complemented with telephone and videoconference interviews with 17 academics and education professionals in December 2017 and January 2018. Their responses contributed to narrow down the regional remit of the analysis. Given its qualitative nature, it was decided to focus on no more than two regions. Galicia (North West Spain) and Extremadura (West) were chosen because both of them were among the regions from which some of the smallest number of calls had been made to the Ministry's bullying helpline in its first year of operations (more on the helpline in subsection 3.d). Existing studies suggest that there is no reason to believe that bullying would be more prominent in one region or another, and therefore the relatively small number of calls was an objective criterion to delimit the regional focus to unearth potential new cases. In no way does this mean that bullying is any more or less problematic or prominent in Galicia and Extremadura than in other regions. It is important to note that all regions have to comply with the same general (quasi-federal) domestic legislation on the right to education, and they have similar protocols and procedures in place to deal with bullying.

Field research took place in two visits to Galicia and Extremadura, followed by a third one to Madrid. In a first trip in April 2018, the author led a small Amnesty International team that met with approximately 40 people from NGOs, trade unions, one regional ombudsman's office, one regional youth council, teachers and parents' associations. All of them were contacted in advance and were informed of the confidential nature of the interviews. A second field mission followed six weeks later, where the interviewees were identified based on 'snowball sampling' (Noy, 2008) from the contacts developed in the first visit, primarily the teachers who were willing to help. The qualitative research included focus groups and semi-structured interviews with approximately 70 people, including seven focus groups with teenagers, one focus group with parents who did not think their children were victims of school bullying, and interviews with one psychologist specialised in cases of bullying, one 18-year-old man and one 18-year-old woman who saw themselves as survivors of school bullying, five mothers, several couples and one father. A teacher was always present in focus groups with underage teenagers, who handed in informed consent forms signed by their parents. The author of this article is male, and there was always one other female person present in interviews with female survivors of bullying. A third and final field mission took place in January 2020 to carry out interviews in the Region of Madrid with young adults that had suffered transphobic or ableist bullying when they were teenagers, as well as some teachers and parents of victims of bullying.

In total, 139 people were interviewed in groups or individually. The primary purpose was not only to meet victims of bullying. Two of the main objectives of the field research were to explore the social phenomenon of bullying from the bystanders' perspectives and to understand the disruption it causes in the classroom. Between ten and fifteen parents interviewed as part of this process considered that their children had suffered or were suffering

long-lasting bullying, as did retrospectively five of the young adults between 18 and 28 years of age.

***b. The domestic legal framework***

The Spanish Constitution proclaims that ‘everyone is entitled to the right to education’, which ‘shall aim at the full development of human personality with due respect for the democratic principles of coexistence and for basic rights and freedoms’ (Article 27). International treaties ratified by Spain, like the 1989 Convention on the Rights of the Child and the 1966 International Covenant on Economic, Social and Cultural Rights, are part of the internal legal system (Art. 96(1)), and the constitutional bill of rights shall be interpreted in accordance with the Universal Declaration of Human Rights and other relevant international human rights standards (Article 10(2)).

According to the 2006 Organic Law of Education, modified in 2013, some of the fundamental principles of the Spanish education system are personal development, non-discrimination, freedom, conflict prevention and gender equality (Article 1). Respect for human rights is supposed to be one of the driving principles of primary and secondary education (Articles 17, 23 and 33), and education must contribute to the reduction of socio-economic inequalities (Article 80).

The central government and the regions or “autonomous communities” (“*comunidades autónomas*”) share the regulatory and oversight responsibility in the area of education (2006 Organic Law of Education, Articles 6bis-11). The core legislation on education is adopted at the quasi-federal/central level but education remains by and large a decentralised/devolved policy area, including decisions on public spending and essential course contents. Each autonomous community has its own education inspectorate, which depends organically on the regional department of education. Each region has adopted its own regulatory framework and

protocols to help schools elaborate and implement their plans on “school life” (“*convivencia escolar*”). Schools are required to adopt and implement a school life plan as part of their educational projects; among other things, the plans should recognise pupils’ rights and duties, and present the activities to promote non-discrimination, gender equality, a healthy environment in the school, and peaceful resolution of conflicts (2006 Organic Law of Education, Articles 121 and 124).

The General Prosecutor’s Instruction No. 10/2005, on the Treatment of Bullying in the Juvenile Criminal Justice system, stresses the need to tackle bullying first and foremost where it occurs, in the educational setting: Teachers bear a primary responsibility to protect the pupils and to ensure their safety. The Instruction specifies the different criminal offences bullying could result in, such as incitement to suicide, physical or mental injuries, sexual offences, and others. Educational and less punitive sanctions and measures would apply to those between 14 and 18 years of age. Children under 14 cannot face criminal responsibility.

Questions remain open about how public authorities, and adults within them, are held accountable when the threshold of criminality is not reached, particularly in the cases of non-physical forms of everyday aggression that drop by drop erode the self-confidence of the victims. Based on a social or systemic understanding of school bullying among peers, the next three subsections will operationalise the Spanish State’s duty to protect children from aggression, harassment and discrimination in schools, by looking at data disaggregation, reporting mechanisms, and the quality and availability of training for teachers.

*c. How many children, and which groups of children, suffer bullying? The need for more accurate and disaggregated data*

How many children suffer bullying? The answer to this question depends on whether the sources are academics' empirical studies or data collected and disclosed by official education inspectorates.

The Health Behavior School Checklist (HBSC) of the World Health Organization is a study conducted every four years on children's and young people's health and wellbeing in Europe and North America. The 2018 study is based on questionnaires completed by more than 40,000 teenagers in Spain, and showed that 13.3% of male teenagers and 11.0% of female teenagers declared to have suffered bullying at some point in the last two months (Moreno *et al.*, 2019: 175). In 2000 and 2007, Spain's National Human Rights Institution, the Ombudsman ("*Defensor del Pueblo*"), commissioned two reports, both of them based on representative samples of 3,000 students (half boys, half girls) from 300 secondary schools across the country, and noted a decrease in traditional bullying prevalence in that period (Defensor del Pueblo, 2000; 2007). On the other hand, cyberbullying appears to be increasing, which is unsurprising given the wider availability of smartphones among ever younger students: According to official statistical data, 41.1% of 11-year-olds, 75.1% of 12-year-olds and 91.2% of 14-year-olds have a mobile phone (INE, 2018: 3). One quarter (24.7%) of the victims identified by the largest anti-bullying charity have suffered violence and discrimination online from peers, 86.9% of them out of the school as well as within (Fundación Anar, 2018: 63 and 70).

Spanish public authorities, however, claim that these figures overstate the dimension of the problem. In their view, school bullying is a very serious problem that affects a small number of children. Empirical studies are based on self-reporting and hetero-reporting; in other words, they rely on students' perception of whether they are being a victim of bullying or someone



else is. According to the authorities, children would lack the necessary tools and expertise to identify a specific action of physical or psychological violence as a form of bullying. Their perception of reality would not correspond to the threshold of intentional violence, physical or not, repeated over time and sustained by power imbalance. In the opinion of one regional education inspectorate authority, children and teenagers would exaggerate less serious disruptions of harmonious relationships of school life, which would explain the significant gap between children's perception reflected in quantitative studies and the much lower inspectorate's record.

On the contrary, the teenagers and young adults this author met with (33 girls and 20 boys between 14 and 18 years of age) showed a good understanding of bullying. They were intuitively aware of the three requirements of intentionality, repetition and imbalance of power, and they could distinguish that some forms of bullying are more serious than others. Teenagers and young adults that had suffered it, and some of the parents too, used caveats such as *'I am sure that you have heard of cases that are worse than mine'*. Some participants in focus groups admitted that they had taken part in collective forms of relational bullying. A number of them showed a high degree of empathy towards the bully because they might be victims of violence themselves or they might suffer from low self-esteem. One 15-year-old, for example, said: *'We don't want to overburden our parents. They are busy with many other things. That's why we try to sort things out on our own. We don't want to worry them.'* A similar concern for their parents was shown by this 18-year-old: *'My mum would get very sad if I told her what happens at school. I know it's silly to keep the truth from her. But it is not always easy.'*

Teachers, school psychologists, counsellors and headmasters pointed out that society and public institutions, including the regional departments of education, are paying more attention than ever before, but that in their opinion was not enough. With strikingly similar

words, one headmaster in Galicia said *'if you are told that bullying does not exist, that is either because they do not know the truth or because they are hiding it. I try to do the opposite'*; and a teacher in Extremadura expressed *'if someone does not see the problem, it's because they are insufficiently involved or because they prefer not to see it.'* A Galician primary teacher asked and answered himself: *'Should the children get thicker skin? Perhaps. But you don't have to plan for that. That will happen naturally. As a teacher, I'd prefer to be blamed for worrying too much than for ignoring the suffering of one of my pupils.'*

Effective protective procedures against violence, harassment or aggression require 'the development and implementation of systematic and ongoing data collection and analysis' (CRC Committee, 2011: para. 57(b)). In the case of Spain, however, there is a major mismatch between data recorded by education inspectorates and the number of cases identified by empirical academic studies based on students' responses. Without presuming that one of them is right and therefore the other one is wrong, a significant part of the problem lies in the fact that public authorities are failing to record all cases of bullying, including the disaggregation of the risk factors that make some children more vulnerable to this form of harassment. When the State does not monitor and assess the cumulative and intersectional impact of bullying based on gender, sexual orientation, ethnicity or socio-economic status, among other grounds, they are in effect failing in their duty to protect children's right to education without fear of aggression, harassment and discrimination.

Bullying is often an expression of society's lack of appreciation for difference and real equality. There is no typical victim of bullying as there is no typical profile of *the* bully. In the interviews and focus groups, teachers, school counsellors and members of the school community were unanimous in emphasising that these categories do not exist, and they are indeed unhelpful. Having said that, the lack of official and disaggregated data is a significant

hurdle when it comes to identifying the potential risk and impact of bullying for certain groups, including girls, Roma children, migrant families, or LGBTI students.

The Spanish government set up the State Observatory of School Life in 2007 with the purpose of gathering information for analysis, diagnosis, and intervention regarding school safety. The Observatory is meant to meet at least once a year (Royal Decree 275/2007, Article 4), but between 2011 and 2019 it held no meeting at all. In 2010, the State Observatory produced a thorough study, led by Prof Díaz-Aguado and her team from the Complutense University of Madrid, on the incidence rate of school bullying based on questionnaires filled by more than 22,000 students in secondary education (Ministerio de Educación, 2010). Besides this quantitative report, no other output is known of the State Observatory. To this day, the report remains one of the three most authoritative examinations of the reality of bullying among peers in Spain, together with the abovementioned studies by the Ombudsman, led by Prof del Barrio and her team from the Autonomous University of Madrid (Defensor del Pueblo, 2000; 2007), and the diachronic HBSC study for the World Health Organization, led by Prof Moreno-Rodríguez and her team at the University of Seville (Ministerio de Sanidad, Servicios Sociales e Igualdad, 2016; Moreno *et al.*, 2019).

When it exists, the data in the regions is not adequately disaggregated. For example, a macro-survey on school life was carried out in Galicia in 2015. The survey only distinguished between primary and secondary education and it was based on 200,000 responses from parents, teachers and students; it did not distinguish between public and publicly funded private schools (Consellería de Cultura, 2016). While more than half of the respondents expressed that school life had improved in the previous three years, 8.5% of families reported that their children had received insults and threats. The number rose to 12% when students themselves were asked, and 14.6% for those under 16. 6.8% of students under 16 admitted having committed acts

contrary to school life. Only 0.7% of parents admitted this in relation to their own children. 5.4% of students under 16 claimed that bullying was very common or quite common in their own school (Consellería de Cultura, 2016).

Since 2014, the education inspectorate in the region of Extremadura presents a report on school life based on data gathered from headmasters. The 2018 report was filled by all 663 of them (Observatorio Extremeño para la Convivencia Escolar, 2018). The responses were only disaggregated by sex and age. The report was based purely on the information provided by headmasters: 188 cases of bullying were reported in 2018, 38 of which were confirmed, including 11 of cyberbullying. This amounts to 0.027% of all students in primary and secondary education in the region, remarkably less than most respected studies and surveys, as shown earlier. The report does not distinguish between public and publicly funded private schools.

In its latest concluding Observations, the UN Committee on the Rights of the Child recommended Spanish authorities they should ‘harmonize guidelines for data collection of cases’ of bullying and cyberbullying (CRC Committee, 2018: para. 40(d)). As agreed in the Parliamentary Assembly of the Council of Europe, ‘national authorities should establish a system to centralise statistical data concerning violence at school and the results achieved by the different measures implemented to combat this phenomenon’ (Parliamentary Assembly CoE, 2011: para. 17(5)(1)). Echoing the UN Special Rapporteur on the Right to Health, when dealing with mental health and wellbeing of adolescents, public authorities need to collect ‘appropriately disaggregated data to inform public policy’, and ensure that ‘health plans and strategies prioritize a holistic approach addressing underlying and social determinants and balancing curative service provision with investment in the resilience and autonomy of adolescents’ (2016; para. 111.c and 111.d). To meet the human rights duty to protect all children from aggression, harassment and discrimination in schools, the Spanish central government and

regional education inspectorates should collect the necessary quantitative and qualitative data to monitor bullying, to identify the risk factors and to assess the cumulative impact of bullying on different groups.

*d. The mechanisms to lodge complaints and seek advice: A matter of accountability*

International human rights law requires public authorities to provide an education where children are not discriminated against and where they are protected from all forms of physical and mental violence. Yet, despite programmes and initiatives related to bullying announced by central and regional governments in the last few years, not all of them have been implemented and the ones that have been put in place have not been sufficiently promoted within the education community.

In March 2017, the Spanish Government presented the “Strategic Plan for School Life” (*Plan Estratégico de Convivencia Escolar*) after consultations with the autonomous communities (regions) and the education sector (Ministerio de Educación, Cultura y Deporte, 2017a). Several of the measures included in the Plan had not been executed two years later, including a registry of cases of bullying across Spain -which could have helped address some of the data shortcomings pointed out earlier-, a national protocol, a training plan for teachers (see subsection 3.e), and the inclusion of bullying in the syllabus in entrance exams for teachers in public education.

As part of the Plan, the Ministry of Education launched a helpline for victims of bullying in November 2016. During its first year of operation, the service received 25,366 calls, 7,508 of which were identified as possible cases of bullying; however, only 278 of them (3.7% of the total) were reported to the regional education inspectorates (Ministerio de Educación, Cultura y Deporte, 2017b: 31). This is despite the fact that the helpline protocol in force back then stated

clearly that all cases had to be reported to the relevant regional inspectorate (Ministerio de Educación, Cultura y Deporte, 2016: 7). In June 2019, the Ministry of Education announced that the helpline protocol had been modified, and that the new regulation no longer required informing the education inspectorate; instead, they were to report to other bodies, which could include social services or the police (El País, 2019). The education inspection is the tool by which the State ensures children have access to education freely, safely and without discrimination. However, if potential cases of bullying are withheld from them, it remains unclear how regional education inspectorates can monitor school life effectively. Instead of elevating the practice to meet the standard, the government appeared to lower the standard to meet the practice.

The UN Committee on the Rights of the Child has asked States to ‘develop safe, well-publicized, confidential and accessible support mechanisms for children’ and their parents; these mechanisms should include the development of ‘protocols which are appropriate for different circumstances and made widely known to children and the general public’ (CRC Committee, 2011: para. 49). According to the 2017-18 activity report of the Ministry’s helpline, only 3% of the callers reported to have learned about the service in the school (Ministerio de Educación, Cultura y Deporte, 2017b: 28-29). A headmaster admitted to this author that *‘if parents know about it, it’s through media not because of us’*, while a teacher in a different school assured that they have been *‘told not to promote the number to avoid scaremongering’*. Children and teenagers seldom use the helpline; parents are the main users. In the first year of operation, only 4% of the calls were made by victims themselves, and around 1% by friends or classmates of the victim or the bully (Ministerio de Educación, Cultura y Deporte, 2017b: 39).

In recent years, autonomous communities (regions) have drafted and adopted school protocols to deal with potential cases of bullying among peers. While there are some differences

between regions, in general the protocols establish that all members of the school community have an obligation to report if they know or suspect of a possible case of bullying; the protocols also lay out a procedure, including immediate and urgent actions, collection of evidence, communication to the family, the school life commission and the education inspectorate, and a follow-up procedure. Education professionals considered the protocols generally helpful in as much as they draw up a step-by-step guide, but they were also perceived to be unnecessarily bureaucratic. Teachers claimed to apply “common sense” instead. Teachers and headmasters assured they knew the protocol but they explained the steps differently. Some convened the concerned students first; some reported the case to the headmaster immediately. Some appointed an internal investigator; some others gave the responsibility to the tutor. The education inspectorate appeared to be informed at different stages. In the opinion of some interviewees, these differences were not necessarily problematic because the application of the protocol should be flexible enough depending on the specificities of the school and the case.

As recognised in the Guiding Principles on the human rights obligations of States to provide public education and to regulate private involvement in education, guidelines that were endorsed among others by the UN Special Rapporteur on the Right to Education (2019), protection from bullying should be a ‘minimum standard’ for both public and private schools to meet (Abidjan Principles, 2019: para. 55(1)). In the case of Spain, the mentioned school protocols apply in publicly funded private schools (so-called “*colegios concertados*”) as well as the public ones, which are owned by the State. Fully private schools, which are not publicly funded, enjoy autonomy to regulate their internal affairs, including school life (Organic Law of Education, Article 25). Education inspectorates do not have investigatory power over them. Therefore, it remains unclear how public authorities make sure that fully private schools also preserve a healthy school coexistence with zero tolerance for bullying.

The education inspectorate has an important role to play according to the bullying protocols. According to Spain's law (see subsection 3.b), the school bears the main responsibility to decide the disciplinary measures against the bully and the inspectorate is supposed to be involved in the follow-up. However, by and large teachers do not seem to expect much from the inspectorate. Headmasters interviewed for this research admitted that they were scared of the negative reputational consequences if they reported cases. That was the reason given to justify that they preferred to address the problem within the school. At the same time, a number of teachers stressed that they would like to learn about good practices in other schools, and they saw a potential role for the education inspectorate in this regard, but they considered that would require significant changes in the inspectorate's operations.

Following the recommendation of the Parliamentary Assembly of the Council of Europe, the bullying protocols of the autonomous communities shall 'guarantee the right of parents to be fully and promptly informed, as well as the right of the victims of violence to the protection of privacy' (Parliamentary Assembly, CoE 2011: para. 17(1)(4)). Mechanisms to protect children from any type of violence should include a clear follow-up procedure, and professionals working under such mechanism 'should have clear guidance and training on when and how to refer the issue to whichever agency is responsible for coordinating the response' (CRC Committee, 2011: para. 50 and 53). If the education inspectorate is the institutional mechanism by which the State meets its duty to protect and ensures that children's rights are respected in schools, all potential cases of bullying should be reported to the inspectorates. This includes cases raised in schools as well as those preliminarily identified by the Ministry's helpline or indeed similar helplines set up by the regional governments, and protective measures ought to be applicable in all schools regardless of their public or private ownership.



*e. Compulsory and relevant training for teachers and future teachers*

Lifelong training is offered by the “centres for teacher training” (“*centros de formación de profesorado*”) in all autonomous communities to keep teachers up to date in terms of didactics and pedagogy. The 2017/18 and 2018/19 regional plans for lifelong training in Extremadura and Galicia included face-to-face courses, working groups, distance-learning and online courses on issues related to mediation, prevention of bullying, cyberbullying, school protocols, and gender equality; there were other initiatives on improving school life and on peer support.

The Organic Law of Education establishes that lifelong training is both a right and a duty for every teacher, as well as a responsibility for public authorities and schools (Article 102). However, while many teachers are eager to learn and develop their skills, training is not compulsory. Meeting a certain number of lifelong training hours is a requirement for pay rises (so-called “six-year terms” or “*sexenios*”) for promotional purposes and for transfer requests, but nothing stops teachers from continuing in their role without the necessary training to prevent, identify and tackle situations of bullying. Furthermore, the training is not equally available to other members of the school community, such as cleaners and janitors, which means that some of the people that are expected to identify cases of bullying, or could identify them, are not trained for it. Evidence shows that identifying bullying, especially in its non-physical form, is not always easy particularly regarding the burden of proof. School protocols rely on them to be alert and to flag cases of potential bullying, but if training is not guaranteed, relevant and mandatory, education professionals, teachers or not, are simply not equipped with the necessary tools to meet the expectation placed on them. A headmaster’s metaphor is quite telling: *‘In a factory the boss makes sure the staff keep up with the new machinery. Why aren’t we teachers treated the same way with the “machines” that we use here in the school, the kids themselves I mean?’*

The university degrees on primary education include modules on emotional education, citizenship and value-based education, psychology, and use of information and communication technologies; the master's degrees to teach in secondary education include general modules on psychological and educational development, didactics or pastoral care. However, a number of people that had delivered or received this sort of training complained about the superficial way in which bullying is treated at the university. For example, a Galician child psychotherapist who taught a module on Psychological Development in one of these degrees explained: *'The contents regarding school bullying exist on paper only. My own students feel lost; they tell me that they wouldn't know how to react in the classroom. Lecturers might talk about the protocols, but the modules should be much more practice-focused to equip future teachers with the tools they'll need to work with children and teenagers.'*

The UN Committee on the Rights of the Child lists identification as the first form of intervention to protect children from any type of violence. For identifications to be effective, all adults who come in regular contact with children must be made 'of risk factors and indicators of all forms of violence', how to interpret them, and how to act appropriately, paying particular attention and providing reasonable accommodation to most vulnerable children (CRC Committee, 2011: para. 48). Reporting interventions to protect children from any type of harassment or aggression should include 'training and providing ongoing support for personnel to receive and advance the information received through reporting systems' (CRC Committee, 2011: para. 49), and investigations 'must be undertaken by qualified professionals who have received role-specific and comprehensive training, and require a child rights-based and child-sensitive approach' (CRC Committee, 2011: para. 51). The Parliamentary Assembly of the Council of Europe agreed that 'school teachers and staff should have mandatory training to better understand the different forms of violence (physical, psychological, verbal and behavioral violence) and learn how to combat such violence and respect the right of children to

a non-violent school.’ (Parliamentary Assembly CoE, 2011: para. 17(2)(3)). To meet the State’s duty to protect children, public authorities should provide compulsory training for teachers on bullying with relevant and practical contents, including among others gender equality and multiculturalism, and with adequate evaluations.

#### **4. Conclusions**

Human rights researchers and institutions would do well to develop an understanding of school bullying among peers as an expression of the intolerance and rejection of diversity in society. School bullying is not kids’ stuff. While not always a violation of the prohibited grounds of discrimination, bullying is often the projection in the classroom of adults’ inability and refusal to address the root causes of racism, xenophobia, homophobia, transphobia, ableism and classism. This article has presented a conceptually original and methodologically rigorous operationalisation of the meaning of State’s duty to protect children from school bullying based on a social, integrated and contextual perspective, and a structural view of equality and non-discrimination. In some instances, the power imbalance that defines bullying will not necessarily entail discrimination or be an expression of structural inequality. Having said that, regardless of whether a specific case of bullying is motivated by discrimination or inequality, to ensure children’s right to education public authorities must prevent, identify, report, refer, investigate (judicially or not), treat and follow-up instances of school bullying.

The empirical analysis has shown that policy analysis combined with semi-structured interviews and focus groups can provide valuable evidence to make international human rights law useful in tackling school bullying among peers. Beyond conventional punitive and individualistic perspectives, this holistic and systemic approach shows that thousands of cases of bullying among peers are under-recorded in Spain as a result of missing data, inadequate

training and deficient accountability. In recent years, Spanish public authorities have taken steps to respond to this challenge. However, not all these measures have been implemented and important gaps remain to ensure that the rights that international and domestic law recognise to children are worth the paper they are written on when children enter into the classroom.

As a matter of good practice, the central government and regional governments in Spain should consider enhancing peer support in the form of partnering, help teams, mediation, tutoring, mentoring and other forms, and facilitate the space to make peer support physically possible in the school. Children have the right to be listened to (Article 12 of the Convention on the Rights of the Child), and as noted by the UN Committee on the Rights of the Child, ‘peer education and peer counseling, and the involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights’ (CRC Committee, 2001: para. 8). Where they have been implemented, both in Spain and internationally, peer support systems in their different forms have a proven record in preventing possible cases of bullying, strengthening a healthy school life, stimulating active citizenship, and encouraging pupils to care about their community (Cowie and Smith, 2010; del Barrio *et al.*, 2011; Córdoba *et al.*, 2016; Avilés-Martínez, 2017; Ortega-Ruiz and Córdoba, 2017).

## References

African Commission on Human and People’s Rights, *SERAC and CESR v Nigeria*, Communication No. 155/96 (2001), Ruling of 27 May 2002.

Amnesty International, *Hacer la vista... ¡gorda!: El acoso escolar en España, un asunto de derechos humanos* (Madrid: Amnesty International, 2019). Available at:

<https://nube.es.amnesty.org/index.php/s/8yAyJ7j3YtLy9De>

Avilés-Martínez, J.M., “Los sistemas de apoyo entre iguales (SAI) y sus contribución a la convivencia escolar”, *Innovación Educativa* 2017 (27), 5-18. Available at:

<http://www.usc.es/revistas/index.php/ie/article/view/4278>

Barrio, C. del, “Bullying and social exclusion in Spanish secondary schools: National trends from 1999 to 2006”, *International Journal of Clinical and Health Psychology* 2008 (8(3)), 657-677. Available at:

<https://pdfs.semanticscholar.org/1cfe/7ba8b9dc19bff6a5932d029b2e05e1008b25.pdf>

Barrio, C. del, *et al.*, “Contribuyendo al bienestar emocional de los compañeros: evaluación del Programa Compañeros Ayudantes en un instituto madrileño”, *European Journal of Education and Psychology* 2011 (4(1)), 5-17. Available at:

<https://dialnet.unirioja.es/servlet/articulo?codigo=3678006>

Binion, G., “Human Rights: A Feminist Perspective”, *Human Rights Quarterly* 1995 (17), 509-526.

Bowles, L., *et al.*, “Peer victimisation during adolescence and its impact on depression in early adulthood: prospective cohort study in the United Kingdom”, *British Medical Journal* 2015 (350), h2469. <https://doi.org/10.1136/bmj.h2469>

Brank, E., *et al.*, “Bullying”, *Annual Review of Law and Social Science* 2012 (8), 213-230.

Doi: <https://doi.org/10.1146/annurev-lawsocsci-102811-173820>

Chinkin, C., “A Critique of the Public/Private Dimension”, *European Journal of International Law* 1999 (10(2)), 387-395. Available at: <http://ejil.org/pdfs/10/2/588.pdf>

Clapham, A., *Human Rights Obligations of Non-State Actors* (Oxford: Oxford University Press, 2006).

Committee on Economic, Social and Cultural Rights, *General Comment No. 13: The right to education*, 1999, UN doc: E/C.12/1999/10. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11)

Committee on Economic, Social and Cultural Rights, *General Comment No. 24: State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities*, 2017, UN doc: E/C.12/GC/24. Available at: <https://undocs.org/en/E/C.12/GC/24>

Committee on Elimination of Discrimination Against Women, *General Recommendation No. 19: Violence against women*, 1992, Contained in UN doc: A/47/38.

Committee on Elimination of Discrimination Against Women, *General Recommendation No. 28: Core obligations of States parties under article 2 CEDAW*, 2010, UN doc: CEDAW/C/GC/28.

Committee on Elimination of Discrimination Against Women, *General Recommendation No. 35: Gender-based violence against women, updating general recommendation No. 19*, 2017, UN doc: CEDAW/C/GC/35.

Committee on the Rights of the Child, *General Comment No. 1: The Aims of Education (Article 29)*, 2001, UN doc: CRC/GC/2001/1. Available at:

[https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a\)GeneralCommentNo1TheAimsofEducation\(article29\)\(2001\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a)GeneralCommentNo1TheAimsofEducation(article29)(2001).aspx)

Committee on the Rights of the Child, *General Comment No. 13: The right of the child to freedom from all forms of violence*, 2011, UN doc: CRC/C/GC/13. Available at: [https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13\\_en.pdf](https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf)

Committee on the Rights of the Child, *General Comment No. 20: Implementation of the rights of the child during adolescence*, 2016, UN doc: CRC/C/GC/16. Available at: <https://undocs.org/en/CRC/C/GC/20>

Committee on the Rights of the Child, *Concluding Observations: Spain*, 2018, UN doc: CRC/C/ESP/CO/5-6. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/ESP/CO/5-6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/ESP/CO/5-6&Lang=En)

Consellería de Cultura, Educación e Ordenación Universitaria, *Estratexia Galega de Convivencia Escolar 2015-2019* (Santiago: Consellería, 2016). Available at: <https://www.edu.xunta.gal/portal/node/14879>

Constitution of Spain, 1978. Available at: <https://www.boe.es/legislacion/documentos/ConstitucionINGLES.pdf>

Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), 2011. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

Convention on the Prevention, Punishment, and Eradication of Violence against Women  
(Convention of Belém do Pará), 1994. Available at:

<https://www.oas.org/en/mesecvi/docs/BelemDoPara-ENGLISH.pdf>

Convention on the Rights of the Child, 1989. Available at:

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

Córdoba, F., *et al.*, “Valoración del alumnado de primaria sobre convivencia escolar: El valor de la red de iguales”, *Psicoperspectivas* 2016 (15(2)), 78-89. Doi: 10.5027/psicoperspectivas-Vol15-Issue2-fulltext-760

Cowie, H. and Smith, P.K. “Peer support as a means of improving school safety and reducing bullying and violence”, in B. Doll, W. Pfohl and J. Yoon (eds.), *Handbook of Youth Prevention Science* (NY: Routledge, 2010), 177-193.

Defensor del Pueblo, *Violencia escolar: el maltrato entre iguales en la Educación Secundaria Obligatoria* (Madrid: DP, 2000). Available at: <https://www.defensordelpueblo.es/wp-content/uploads/2015/05/2000-01-Violencia-escolar-el-maltrato-entre-iguales-en-la-educaci%C3%B3n-secundaria-obligatoria.pdf>

Defensor del Pueblo, *Violencia escolar: el maltrato entre iguales en la Educación Secundaria Obligatoria 1999-2006* (Madrid: DP, 2007). Available at: <https://www.defensordelpueblo.es/informe-monografico/violencia-escolar-el-maltrato-entre-iguales-en-la-educacion-secundaria-obligatoria-1999-2006-nuevo-estudio-y-actualizacion-del-informe-2000-2007/>

Dixon, Roz. *Rethinking School Bullying: Towards an integrated model* (Cambridge: Cambridge University Press, 2011).



Dooley, J., *et al.*, “Cyberbullying Versus Face-to-Face Bullying A Theoretical and Conceptual Review”, *Journal of Psychology* 2009 (217(4)), 182-188.

<http://dx.doi.org/10.1027/0044-3409.217.4.182>

Downes, D. and Cefai, C., *How to prevent and tackle bullying and school violence: Evidence and practices for strategies for inclusive and safe schools – Study* (Brussels: European Commission, 2016). Available at: <https://publications.europa.eu/en/publication-detail/-/publication/3fb78afb-c03d-11e6-a6db-01aa75ed71a1>

El País, “Solo el 4% de los casos de acoso escolar llegan a la inspección educativa”, 5 June 2019. Available at:

[https://elpais.com/sociedad/2019/06/04/actualidad/1559668355\\_102375.html](https://elpais.com/sociedad/2019/06/04/actualidad/1559668355_102375.html)

European Committee of Social Rights, Complaint No. 30/2005, *Marangopoulos Foundation for Human Rights v Greece*, Decision on admissibility of 30 October 2005.

European Court of Human Rights, *Costello-Roberts v UK*, Application No. 13134/87, Judgment of 25 March 1993.

European Court of Human Rights, *Osman v UK*, Application No. 87/1997/871/1083, Judgment of 28 October 1998.

European Court of Human Rights, *Opuz v Turkey*, Application No. 33401/02, Judgment of 9 June 2009.

European Court of Human Rights, *Dordevic v Croatia*, Application No. 41526/10, Judgment of 24 July 2012.

European Court of Human Rights, *Valiulienė v Lithuania*, Application No. 33234/07, Judgment of 26 March 2013.

European Court of Human Rights, *Szabó and Vissy v Hungary*, Application No. 37138/14, Judgment of 12 January 2016.

Fiscalía General del Estado, *Instrucción 10/2005, sobre el tratamiento del acoso escolar desde el sistema de justicia juvenil* (Madrid: FGE, 2005). Available at:

<https://www.boe.es/buscar/doc.php?coleccion=fiscalia&id=FIS-I-2005-00010&tn=2>

Fisher, H.L., *et al.*, “Bullying victimisation and risk of self harm in early adolescence: longitudinal cohort study”, *British Medical Journal* 2012 (344), e2683.

<https://doi.org/10.1136/bmj.e2683>

Fundación Anar, *III Estudio sobre Acoso Escolar y Cyberbullying* (Madrid: Fundación Anar, 2018). Available at: <https://www.anar.org/wp-content/uploads/2018/09/III-Estudio-sobre-acoso-escolar-y-ciberbullying-seg%C3%BAAn-los-afectados.pdf>

Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligations Imposed on States Parties to the Covenant*, 2004, UN doc:

CCPR/C/21/Rev.1/Add. 13. Available at:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yh sjYoiCfMKoIRv2FVaVzRkMjTnjRO%2Bfud3cPVrcM9YR0iW6Txaxgp3f9kUFpWoq%2Fh W%2FTpKi2tPhZsbEJw%2FGeZRASjdFuuJQRnbJEaUhby31WiQPI2mLFDe6ZSwMMvm QGVHA%3D%3D>

Human Rights Committee, *General Comment No. 34: Freedoms of opinion and expression*, 2011, UN doc: CCPR/C/GC/34. Available at: <https://undocs.org/en/CCPR/C/GC/34>

Human Rights Watch, *‘The Nail That Sticks Out Gets Hammered Down’: LGBT Bullying and Exclusion in Japanese Schools* (NY: HRW, 2016). Available at:

<https://www.hrw.org/report/2016/05/05/nail-sticks-out-gets-hammered-down/lgbt-bullying-and-exclusion-japanese-schools>

Instituto Nacional de Estadística (INE), *Encuesta sobre Equipamiento y Uso de Tecnologías de Información y Comunicación en los Hogares - Año 2018* (Madrid: INE, 2018). Available at: [https://www.ine.es/prensa/tich\\_2018.pdf](https://www.ine.es/prensa/tich_2018.pdf)

Inter-American Court of Human Rights, *Velásquez-Rodríguez v Honduras*, Judgment of 29 July 1988 (Merits).

Inter-American Court of Human Rights, *González et al. ("Cotton Field") v Mexico*, Judgment 16 November 2009 (Preliminary Objection, Merits, Reparations, and Costs).

Jantzer, V., *et al.*, "Does parental monitoring moderate the relationship between bullying and adolescent nonsuicidal self-injury and suicidal behavior? A community-based self-report study of adolescents in Germany", *BMC Public Health* 2015 (15), 583-590.

doi:10.1186/s12889-015-1940-x

Lereya, S.T., *et al.*, "Adult mental health consequences of peer bullying and maltreatment in childhood: two cohorts in two countries", *The Lancet Psychiatry* 2015 (2(6)), 524-531.

[https://doi.org/10.1016/S2215-0366\(15\)00165-0](https://doi.org/10.1016/S2215-0366(15)00165-0)

Livingstone, S., *et al.*, "Cyberbullying: incidence, trends and consequences", in Office of the Special Representative of the Secretary-General on Violence against Children (ed.), *Ending the Torment: Tackling Bullying from the Schoolyard to Cyberspace* (NY: UN, 2016), 115-122.

Ministerio de Educación, *Estudio Estatal sobre la Convivencia Escolar en la Educación Secundaria Obligatoria* (Madrid: Ministerio, 2010). Available at:

<https://sede.educacion.gob.es/publivena/estudio-estatal-sobre-la-convivencia-escolar-en-la-educacion-secundaria-obligatoria/educacion-secundaria-socializacion/13567>

Ministerio de Educación, Cultura y Deporte, *Protocolo General del Servicio de Atención Telefónica de casos de malos tratos y acoso en el ámbito de los centros docentes del sistema educativo español* (Madrid: Ministerio, 2016).

Ministerio de Educación, Cultura y Deporte, *Plan Estratégico de Convivencia Escolar 2016-2020* (Madrid: Ministerio, 2017a). Available at:

<http://www.educacionyfp.gob.es/educacion/mc/convivencia-escolar/plan-de-convivencia.html>

Ministerio de Educación, Cultura y Deporte, *Informe Anual: Servicio de atención telefónica de casos de malos tratos y acoso en el ámbito de los centros docentes del sistema educativo español* (Madrid: Ministerio, 2017b). Available at:

<https://sede.educacion.gob.es/publivena/informe-anual-servicio-de-atencion-telefonica-de-casos-de-malos-tratos-y-acoso-en-el-ambito-de-los-centros-docentes-del-sistema-educativo-espanol-900-018-018-2017/violencia-centros-de-ensenanza-acoso-escolar/22205>

Ministerio de Sanidad, Servicios Sociales e Igualdad, *Los adolescentes españoles: estilos de vida, salud, ajuste psicológico y relaciones en sus contextos de desarrollo. Resultados del Estudio HBSC-2014 en España* (Madrid: Ministerio, 2016). Available at:

[https://www.mscbs.gob.es/profesionales/saludPublica/prevPromocion/promocion/saludJovenes/estudioHBSC/docs/HBSC2014/HBSC2014\\_ResultadosEstudio.pdf](https://www.mscbs.gob.es/profesionales/saludPublica/prevPromocion/promocion/saludJovenes/estudioHBSC/docs/HBSC2014/HBSC2014_ResultadosEstudio.pdf)

Morel, S., *et al.* *Cyberbullying among young people* (Brussels: Directorate-General for Internal Policies of the Union, European Parliament, 2016). Available at:

<https://op.europa.eu/en/publication-detail/-/publication/ca178e3b-7ef4-11e6-b076-01aa75ed71a1/language-en/format-PDF/source-129352382>

Moreno, C., et al. *Informe comparativo de las ediciones 2002-2006-2010- 2014-2018 del Estudio HBSC en España* (Madrid: Ministerio de Sanidad, Consumo y Bienestar Social, 2019). Available at: <http://www.hbsc.org/news/index.aspx?ni=5855>

Murray, D. and Fussey, P., “Bulk Surveillance in the Digital Age: Rethinking the Human Rights Law Approach to Bulk Monitoring of Communications Data,” *Israel Law Review* 2019 (52(1)), 31-60. Doi: <https://doi.org/10.1017/S0021223718000304>

Noy, C., “Sampling Knowledge: The Hermeneutics of Snowball Sampling in Qualitative Research,” *International Journal of Social Research Methodology* 2008 (11(4)), 327-344, Doi: [10.1080/13645570701401305](https://doi.org/10.1080/13645570701401305)

Observatorio Extremeño para la Convivencia Escolar, *Memoria sobre convivencia en centros escolares 2017-2018* (Mérida: Consejería de Educación y Empleo, 2018). Available at: <https://www.educarex.es/convivencia/observatorio-convivencia-escolar-01.html>

OHCHR Universal Human Rights Index. Available at: <https://uhri.ohchr.org/>

Olweus, D., *Bullying at school: What we know and what we can do* (New Jersey: Wiley-Blackwell, 1993).

Olweus Bullying Prevention Program. Available at:

[http://www.violencepreventionworks.org/public/olweus\\_history\\_page](http://www.violencepreventionworks.org/public/olweus_history_page)

Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, Revised Draft of the Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises, 2019. Available at:

[https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/OEIGWG\\_Revised\\_Draft\\_LBI.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/OEIGWG_Revised_Draft_LBI.pdf)

Organic Law 2/2006, of 3 May, on Education. (Spain) Available at:

<https://www.boe.es/buscar/act.php?id=BOE-A-2006-7899> (in Spanish)

Ortega-Ruiz, R. and Córdoba, F., “El modelo de construir la convivencia para prevenir el acoso y el ciberacoso escolar”, *Innovación Educativa*, 2017 (27), 19-32. Available at:

<http://www.usc.es/revistas/index.php/ie/article/view/4287>

Parliamentary Assembly of the Council of Europe, Resolution 1803 (2011) Education against violence at school. Available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17979&lang=en>

Rigby, K., and Smith, P.K., “Is school bullying really on the rise?” *Social Psychology of Education: An International Journal* 2011 (14(4)), 441-455. Doi: 10.1007/s11218-011-9158-y

Royal Decree 275/2007, of 23 February, setting up the State Observatory of School Life.

(Spain) <https://www.boe.es/buscar/pdf/2007/BOE-A-2007-5441-consolidado.pdf> (in Spanish)

Schott, R.M., and Sondergaard, D.M. (eds.), *School Bullying: New Theories in Context*. (Cambridge: Cambridge University Press, 2014).

Secretary General, *Protecting children from bullying*, 2016, UN doc: A/71/213. Available at:

<https://undocs.org/A/71/213>

Secretary General, *Protecting children from bullying*, 2018, UN doc: A/73/265. Available at:

<https://undocs.org/A/73/265>

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Report*, 2016, UN doc: A/HRC/32/32.

Special Rapporteur on the right to education, *Preliminary Report submitted in accordance with Commission on Human Rights resolution 1998/33*, 1999, UN doc: E/CN.4/1999/49.

Special Rapporteur on the right to education, *Right to education: The implementation of the right to education and Sustainable Development Goal 4 in the context of the growth of private actors in education*, 2019, UN doc: A/HRC/41/37.

Special Rapporteur on violence against women, its causes and consequences, *Report*, 2013, UN doc: A/HRC/23/49.

Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, 2011, UN doc: A/HRC/17/31. Available at: [https://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31\\_AEV.pdf](https://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf)

Tzani-Pepelasi, C., *et al.*, “Comparing factors related to school-bullying and cyber-bullying”, *Crime Psychology Review* 2018 (4(1)), 1-25. <https://doi.org/10.1080/23744006.2018.1474029>

UNESCO, *Behind the numbers: Ending school violence and bullying* (Paris: UNESCO, 2019). Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000366483>

Various Authors, *Guiding Principles on the human rights obligations of States to provide public education and to regulate private involvement in education* (‘Abidjan Principles’, 2019). Available at: <https://www.abidjanprinciples.org/>