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# FROM SCREENS TO SCHOOLYARDS - A COMPARATIVE ANALYSIS OF DIGITAL AND PHYSICAL SCHOOL VIOLENCE IN LIGHT OF INTERNATIONAL CHILDREN'S RIGHTS STANDARDS\*

## Abstract

This study explores the intersection between digital and physical school violence from a comparative legal perspective, examining how various jurisdictions and international human rights frameworks address this issue. Drawing on legal analysis, case law, policy reviews, and empirical data, the paper investigates the ways in which online abuse – such as cyberbullying, digital harassment, and doxing – fuels in-person conflicts, reinforcing cycles of violence and intimidation among students. The study evaluates national legislative approaches in countries across Europe, North America, Asia, Africa, and Latin America, identifying best practices and gaps in enforcement. Key legal challenges, such as jurisdictional limitations in regulating online bullying, the balance between disciplinary measures and children's rights, and the role of digital platforms in combating school violence, are critically assessed. The research further situates these legal responses within international human rights instruments, including the UN Convention on the Rights of the Child, regional human rights conventions, and emerging jurisprudence from courts and treaty bodies. Findings indicate that while legal systems are increasingly recognizing the convergence of digital and physical violence, enforcement remains inconsistent, and protections for children are often fragmented. This article argues that legal frameworks across jurisdictions have yet to fully integrate digital and physical forms of school violence into a unified rights-based response, and concludes that effective protection of children requires comprehensive legal reforms grounded in international human rights standards.

**Keywords:** *children's rights, school violence, cyberbullying, human rights law, comparative law*



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## 1. INTRODUCTION

School violence today spans both physical spaces and digital platforms, creating an intertwined challenge for educators, policymakers, and legal systems. Traditional in-person bullying and assaults are now often accompanied or amplified by online abuse such as cyberbullying and digital harassment. Research indicates that these forms of violence are deeply interconnected – incidents of cyberbullying frequently spill over into physical confrontations at school, and vice versa (Pichel *et al.*, 2021). This dual-front problem raises complex legal questions. Nations around the world have developed varying legal frameworks – from school policies to criminal statutes – to address bullying and violence, and international human rights standards increasingly inform these efforts. This study provides an academic analysis of the intersection of digital and physical school violence from a comparative legal perspective. It examines how online violence exacerbates in-person harm and evaluates legal responses across jurisdictions. The analysis draws on children's rights and human rights law, reviewing national laws, case law, and international instruments (e.g. United Nations treaties, regional human rights conventions, and recommendations of bodies like UNESCO and the UN Committee on the Rights of the Child). It also incorporates empirical data on the prevalence and impact of bullying, and identifies best practices as well as gaps in compliance with international standards. This study adopts a qualitative legal comparative methodology, grounded in doctrinal analysis and supported by selected empirical evidence. Jurisdictions were chosen to reflect a diversity of legal systems (common law, civil law, and hybrid models), geographical representation (Europe, North America, Asia, Africa, and Latin America), and varying levels of legislative development in addressing school violence. Priority was given to states with either well-documented legal reforms, landmark jurisprudence, or innovative policy frameworks relevant to bullying and cyberbullying in educational settings. The legal analysis draws on primary sources including national legislation, international treaties, regional human rights instruments, and relevant case law. Empirical data cited throughout the article are secondary in nature and drawn from authoritative sources such as UNESCO, the World Health Organization, and national education ministries. These data serve to contextualize the legal findings and illustrate the practical implications of regulatory approaches. The comparative analysis goes beyond describing laws by scrutinizing the underlying philosophies and enforcement approaches in each system. It contrasts retributive or punitive measures (e.g. criminal sanctions and strict disciplinary policies) with restorative justice approaches that emphasize rehabilitation and reconciliation, examines how each country's legal tradition influences its anti-violence policies. The goal of this study is to shed light on how law and policy can effectively tackle the blended problem of school violence in the digital age.

In-person school violence includes direct acts of aggression on school grounds or during school activities. This encompasses physical bullying (e.g. hitting, kicking,

assault), verbal abuse (name-calling, threats), social or relational bullying (exclusion, spreading rumors), sexual harassment or abuse, and other forms of intimidation among students (de Moraes and Fernandes, 2017, 11). It can also include violent acts by teachers or staff, such as corporal punishment or mistreatment of students. Globally, such violence is widespread – for example, a study found that roughly one in three students worldwide has been bullied by peers at school in the last month, and about one in three has been physically attacked (UNESCO, 2021). Half of students aged 13–15 (about 150 million adolescents) report experiencing violence in or around school (Council of Europe, 2023). These behaviors harm students' physical and psychological well-being and create an unsafe learning environment. Bullying, as a subset of violence, is typically defined by a power imbalance and repetitive aggressive behavior.

The rise of information technology has given way to cyberbullying and other online harms among youth. Cyberbullying is bullying that takes place via electronic means – social media, messaging apps, e-mail, online forums, etc. – and can include sending threatening or insulting messages, spreading harmful rumors online, sharing embarrassing images or personal information, or deliberately excluding someone from online groups. This form of bullying has unique characteristics: it can occur 24/7, reach a wide audience instantly, and often allows perpetrators to remain anonymous. Studies confirm that cyberbullying is a growing problem as more children go online at younger ages (UNESCO, 2017). For instance, in Europe, about 16% of adolescents aged 11–15 reported being cyberbullied in 2022 (up from 13% in 2018) (WHO, 2024). In the United States, a 2015 national survey found that 15.5% of high school students had been electronically bullied in the past year (in addition to 20.2% who were bullied on school property). These figures illustrate that a significant minority of students experience online victimization. Cyberbullying often co-occurs with offline bullying rather than replacing it – in one study only 2.9% of adolescents were involved only in cyberbullying, whereas most cyberbullies or victims also had face-to-face bullying involvement (Pichel *et al.*, 2021). Thus, digital abuse tends to complement, and sometimes intensify, traditional forms of school violence.

Online and offline school violence are not isolated phenomena; they intersect and can mutually exacerbate each other. A substantial body of research indicates that students targeted by cyberbullying frequently are bullied in person as well. One cross-national study found around half of online bullying victims were also bullied face-to-face, a combination described as particularly distressing for children (National Center for Injury Prevention and Control, Centers for Disease Control and Prevention & United States Department of Education, 2014).

Conflicts can migrate from the schoolyard to social media and then back again, sometimes triggering further in-person confrontations. The continuous cycle – bullying at school, harassment after school hours via phones and computers – means victims may feel there is “no escape”, heightening anxiety and fear in the school environment. Indeed,

cyberbullying can magnify the impact of traditional bullying by publicizing the abuse to a wider audience and leaving a permanent record of the humiliation. This often intensifies the emotional harm and can provoke retaliation or ongoing feuds. Educational psychologists note that unchecked bullying (including cyberbullying) tends to create an atmosphere of insecurity that can lead to more conflicts beyond the school gates and then feed back into school violence. In extreme cases, online cruelty has been linked with serious offline consequences such as physical fights, self-harm, or even suicide among youth.

In summary, “school violence” today must be understood to include both conventional bullying and physical assaults as well as technology-facilitated abuse. The two domains are interwoven: online violence can be an extension of schoolyard aggression and can aggravate situations that later play out in person. This poses a challenge for legal frameworks, which have historically treated school discipline and criminal assault in physical terms. Modern laws and policies are evolving to address how digital misconduct by students can be prevented and punished, especially when it contributes to a hostile school environment. This study aims to explore how different legal systems are grappling with this blended problem through the lens of children’s rights and safety.

## 2. INTERNATIONAL AND REGIONAL HUMAN RIGHTS FRAMEWORKS

Children’s right to safety and dignity is firmly established in international law, providing a normative foundation for addressing both physical and digital violence in schools. The UN Convention on the Rights of the Child (UN Treaty Series, vol. 1577, 20 November 20 November 1989; hereinafter: CRC) is the cornerstone treaty in this regard. Art. 19 of the CRC obligates States Parties to protect children from “all forms of physical or mental violence, injury or abuse” while in the care of parents, guardians, or any other person caring for the child. This clearly encompasses violence in school settings, whether perpetrated by educators or peers. Bullying – including psychological torment via cyberspace – falls under the CRC’s broad protection from mental and physical violence. The CRC also mandates that school discipline be administered in a manner consistent with the child’s human dignity (Art. 28, para. 2), implying that harmful or degrading punishments (e.g. corporal punishment or tolerated peer abuse) violate the child’s rights. Furthermore, Art. 3 requires the child’s best interests to be a primary consideration in all actions concerning children, which guides authorities to prioritize student well-being and safety when crafting anti-violence measures. The near-universal ratification of the CRC means most countries are bound by these obligations. In fact, under the CRC, schools have an affirmative duty to ensure a safe environment: they must take “all appropriate legislative, administrative, social and educational measures” to protect students from violence. Failure to do so can amount to a breach of the child’s rights (Art. 19 of the CRC).

The UN Committee on the Rights of the Child, in General Comment No. 13 on the right of the child to freedom from violence (UN Committee on the Rights of the Child, CRC/C/GC/13, 18 April 2011), explicitly identifies bullying as a form of violence that states must prevent and address using a child-rights approach. Likewise, in its General Comment No. 25 on children's rights in the digital environment (UN Committee on the Rights of the Child, CRC/C/GC/25, 2 March 2021), the Committee urges States to protect children from online harms such as cyberbullying, recommending that responses avoid criminalizing children when possible and focus on education and restorative practices. This reflects an understanding that while children must be shielded from harm, the offenders are often children too, entitled to rehabilitation.

Beyond the CRC, broader human rights treaties enshrine principles relevant to school violence. The Universal Declaration of Human Rights (UN General Assembly, A/RES/217(III), 10 December 1948; hereinafter: UDHR) and the International Covenant on Civil and Political Rights (UN General Assembly resolution 2200A (XXI), 16 December 1966; hereinafter: ICCPR) affirm the right to security of person and protection from cruel, inhuman or degrading treatment. Severe bullying can arguably rise to the level of degrading treatment, engaging these protections. The International Covenant on Economic, Social and Cultural Rights (UN General Assembly resolution 2200A (XXI), 16 December 1966; hereinafter: ICESCR) guarantees the right to education (Art. 13) – which implicitly requires a safe educational environment. If bullying or violence drives children out of school or impedes their learning, it undermines the realization of this right. Indeed, UNESCO has stated that school violence in any form is “an infringement of children's and adolescents' rights to education and their health and well-being.” (UNESCO, 2024).

International bodies increasingly frame bullying as not just a disciplinary issue, but a human rights concern. For example, the United Nations General Assembly adopted resolutions recognizing bullying as a serious global problem requiring a rights-based response (e.g. General Assembly Resolution 69/158 and 71/176 on “Protecting children from bullying”, Report of the Secretary-General, A/71/213, 28 July 2016). In 2016, the UN Secretary-General issued a special report “Protecting Children from Bullying” surveying the phenomenon's impact on children's rights and urging comprehensive national strategies. Among its recommendations were enacting anti-bullying laws, promoting positive school climates, educating children and parents about online safety, and providing remedies and support for victims – all in line with human rights norms.

Regional treaties and organizations complement the global framework. In Europe, the European Convention on Human Rights (Council of Europe Treaty Series (CETS) – No. 005, 009, 044, 045, 046, 055, 114, 117, 118, 140, 146, 155, 177, 187, 194, 213, 214, Rome, 4 November 1950; hereinafter: ECHR) does not explicitly mention school violence, but the European Court of Human Rights (hereinafter: ECtHR) has interpreted ECHR pro-

visions to impose positive obligations on states to protect individuals (including children) from serious abuse by others. Notably, in *Špadijer v. Montenegro* (ECtHR, 2021), a workplace harassment case, the Court held that severe bullying can violate the victim's right to respect for private life under Art. 8 of the ECHR, if authorities fail to provide adequate protection and remedies (*Špadijer v. Montenegro*, paras. 81 and 82). By analogy, children subjected to egregious bullying at school could claim state failures to protect them violate Article 8 or even Article 3 (the right to freedom from inhuman or degrading treatment) in extreme cases. Pending cases like *M.C. and Others v. Romania* (ECtHR, 2024) explicitly argue that a state's failure to stop the bullying of a vulnerable child (there, a boy with disabilities) breached his Convention rights, including the right to education and to not endure degrading treatment (*M.C. and Others v. Romania*, Case Communicated under Articles 3, 6, 8 and 14 of the Convention and Article 2 of Protocol No. 1).

The Council of Europe has been proactive on this issue: its Committee of Ministers in 2018 adopted Guidelines to respect, protect and fulfil the rights of the child in the digital environment (Recommendation CM/Rec(2018)7) of the Committee of Ministers, Council of Europe, 2018), which call on member States to combat cyberbullying and ensure children's safety online in accordance with ECHR and CRC obligations. The guidelines emphasize balancing rights with protection, but affirm that the best interests of the child must prevail when developing measures to address digital risks.

Similarly, the Council of Europe's campaign "Free to Speak, Safe to Learn – Democratic Schools for All" frames bullying and cyberbullying as human rights violations that threaten children's rights to live free from violence.

Under the European Social Charter (Council of Europe Treaty Series (CETS) – No. 035, Turin, 18 October 1961), children have the right to social, legal, and economic protection, which the European Committee of Social Rights has interpreted to require anti-bullying measures in schools (as part of the Art. 17 right of children to protection and care).

In the Inter-American human rights system, instruments like the American Convention on Human Rights (Organization of American States (OAS), San José, Costa Rica, 22 November 1969) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention) (Organization of American States (OAS), June 1994) can apply to school violence when it involves gender-based harassment or when State inaction leads to rights violations. For instance, the Inter-American Court of Human Rights in cases of violence against women and girls has underscored states' due diligence duties to prevent and respond to known violence (see for example, *Campo Algodonero (Cotton Field) Case* (2009)). Although no major Inter-American Court case to date deals specifically with peer bullying, the principles of protecting dignity, personal security, and the right to education are certainly implicated.

In Africa, the African Charter on the Rights and Welfare of the Child (Organization of African Unity, 11 July 1990; hereinafter: ACRWC) mirrors the CRC in Art. 16, requiring protection of children from all forms of torture, inhuman or degrading treatment including abuse. School violence would fall afoul of this guarantee. The ACRWC also explicitly prohibits student disciplinary measures that are cruel or degrading (Art. 11, para. 5), reinforcing a safe educational setting. The African Committee of Experts on the Rights and Welfare of the Child has urged States to ban corporal punishment in schools and address bullying as part of their obligations (para. 5.2 of the General Comment No. 5 on State Party Obligations under the African Charter on the Rights and Welfare of the Child (Article 1) and Systems Strengthening for Child Protection, African Committee of Experts on the Rights and Welfare of the Child, 1 October 2018).

Other international frameworks worth noting include the Sustainable Development Goals (hereinafter: SDGs) adopted by all UN Member States in 2015 – SDG 4 (Quality Education) includes a target (4.a) to build education facilities that provide safe, non-violent, inclusive learning environments for all, and SDG 16 (Peace, Justice and Strong Institutions) calls for ending abuse, exploitation, and all forms of violence against children (16.2). While the SDGs are not legally binding, they have galvanized national commitments and policies to reduce school violence as part of the 2030 Agenda (United Nations – Department of Economic and Social Affairs, Sustainable Development, 2025).

International organizations have also issued influential guidelines and research. UNESCO and UNICEF, for example, jointly published “Behind the Numbers: Ending School Violence and Bullying”, a global report that not only provided up-to-date statistics but also recommended a “whole-education approach” to eliminate bullying – combining legal reforms, curriculum changes, teacher training, and student empowerment (UNESCO, 2019).

UNESCO leads the annual International Day Against Violence and Bullying at School, Including Cyberbullying (observed the first Thursday of November), which was declared by Member States in 2019 to raise awareness and encourage action (UNESCO, 2024). The declaration of this day itself recognises school-related violence in all its forms is an infringement of children’s rights and calls for collaboration across sectors – including education authorities and the tech industry – to ensure safe learning environments.

This global advocacy reinforces that protecting students from both physical and digital violence is not discretionary, but rather part of states’ human rights obligations toward children. The international human rights framework – anchored by the CRC and supported by regional standards – establishes that children have a right to be free from violence, online and offline, and that states must take positive measures to secure

this right in schools. Laws and policies at the national level are increasingly shaped by these norms. The following section will explore how different jurisdictions have translated these principles into concrete legal approaches, and how they grapple with the intersection of cyber and physical bullying under their laws.

### 3. COMPARATIVE LEGAL APPROACHES IN DIFFERENT JURISDICTIONS

National legal systems have developed a variety of approaches – legislative, regulatory, and jurisprudential – to address school violence and its online manifestations. These approaches range from education policies and school regulations to criminal statutes and civil liability regimes. This section examines several illustrative jurisdictions, highlighting how each addresses (or struggles to address) the intersection of digital and physical school violence. Both statutory law and case law will be considered, along with any notable child-rights-oriented innovations.

In the **United States**, the issue of bullying – including cyberbullying – has been largely addressed through state laws and school district policies, with a patchwork of approaches across 50 states. There is no single federal anti-bullying law; however, federal civil rights laws become relevant if bullying is based on protected characteristics like race, sex, or disability. For example, schools that receive federal funding can be found in violation of Title IX (which prohibits sex discrimination) for failing to address severe peer sexual harassment (as in the Supreme Court case *Davis v. Monroe County Bd. of Education*, 526 U.S. 629, United States Supreme Court, 1999). Similarly, bullying targeting a student's race, national origin, or disability can trigger Title VI or ADA/Section 504 obligations. Outside of these scenarios, bullying is primarily governed by state law. Over the past two decades – particularly following high-profile school violence incidents and teen suicides – every U.S. state has enacted anti-bullying statutes (Injury Prevention Research Center, 2017). As of 2021, 48 states explicitly include electronic forms of bullying in their laws, and at least 44 states empower schools to address off-campus cyberbullying that substantially disrupts the school environment (Statista Research Department, 2021). These laws typically require school districts to adopt anti-bullying policies, establish reporting and investigation procedures, and impose disciplinary consequences on bullies. Many state laws now recognize that bullying via text messages, social media, or other digital means is as serious as face-to-face bullying. For instance, Colorado's law defines bullying to include any written or electronic expression that is intended to coerce, intimidate or cause physical, mental, or emotional harm to a student. Several states (e.g. New Jersey, Massachusetts) broadened their laws after notorious cyberbullying cases, mandating specific steps like staff training, parent notification, or even criminal penalties in extreme cases.



On the criminal law side, some acts of bullying may fall under general statutes like harassment, stalking, assault, or laws against distributing intimate images. A few states have created specific criminal offenses for electronic harassment of minors. For example, Missouri updated its harassment law after a 2006 case (involving an adult's MySpace hoax that led to a teen's suicide) to cover cyber-harassment (Missouri Revised Statutes § 160.775, 2016). Generally, however, the preferred approach in the U.S. is to handle bullying through school discipline and preventive programs rather than prosecution of juveniles, except when behavior crosses into clearly criminal conduct (like making violent threats, extortion, or physical sexual assault).

One unique legal challenge in the U.S. has been balancing anti-cyberbullying efforts with the First Amendment right to free speech. Public schools, as government actors, must not infringe students' speech rights without justification. The landmark case *Tinker v. Des Moines* held that student speech is protected unless it "substantially disrupts" the educational process or invades the rights of others (*Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, United States Supreme Court, 1969). But *Tinker* concerned on-campus speech; the rise of social media raised the question: Can schools discipline students for offensive or harassing speech that occurs entirely off-campus, after hours? Lower courts initially split on this issue. In 2021, the U.S. Supreme Court directly addressed it in *Mahanoy Area School District v. B.L.* (a case about a student's profane Snapchat message posted off campus). The Court ruled that the school's punishment of the student violated her First Amendment rights because the speech, while vulgar, did not cause a substantial disruption at school. However, the Court also recognized that some off-campus speech does fall within schools' authority to regulate – notably, cases of "serious or severe bullying or harassment" targeting students, or threats of violence. The justices emphasized that schools have a significant interest in addressing off-campus speech that materially harms the school environment or other students' rights. In short, *Mahanoy* established that while schools can't police all student speech in cyberspace, they can act when online expression meets the *Tinker* disruption standard or constitutes bullying/harassment (*Mahanoy Area School District v. B.L.*, 594 U.S., United States Supreme Court, 2021). This ensures that legal protections for free expression do not become a loophole allowing cyberbullying to go unchecked. Following this guidance, many schools in the U.S. discipline students for off-campus online bullying that is brought to the school's attention, especially if it causes a victim to avoid school or significantly interferes with learning. Overall, the U.S. legal approach is characterized by detailed local policies underpinned by state law mandates, with constitutional boundaries that occasionally constrain how far schools can reach into cyberspace.

Across **Europe**, there is broad recognition of school bullying as a violation of children's rights and a threat to equality in education. Many European countries incorpo-

rate anti-bullying measures into their national education laws or child protection laws, often influenced by EU recommendations and Council of Europe standards. While approaches vary, common elements include: (1) nationwide policies or action plans to prevent bullying, (2) requirements for schools to implement anti-bullying programs or codes of conduct, (3) the availability of legal remedies for extreme cases (either through criminal law or administrative oversight), and (4) integration of cyberbullying into existing legal frameworks.

In the **United Kingdom**, for example, there is no standalone “anti-bullying law” that criminalizes bullying behavior by students, but there is a strong regulatory framework obliging schools to act. The Education and Inspections Act 2006 in England gives headteachers authority to regulate student conduct not only on school premises but also “to such an extent as is reasonable” off-site – which has been interpreted to cover cyberbullying that impacts school climate (Education and Inspections Act 2006, c. 40, Section 89, U.K. Public General Acts). The Department for Education issues guidance that schools are expected to follow. Schools must have a behavior policy including measures to prevent all forms of bullying among pupils. Moreover, the U.K. Equality Act 2010 imposes a duty on schools to prevent harassment and discrimination based on protected characteristics (like disability, gender, race, religion, sexual orientation); thus, if bullying targets those attributes, schools have a legal duty to address it or risk enforcement action (Equality Act 2010, c. 15, Section 85, U.K. Public General Acts). In practice, most U.K. schools have anti-bullying policies, often referencing cyberbullying. From a criminal law perspective, certain acts by bullies can be prosecuted under laws of general application: e.g., the Protection from Harassment Act 1997 (c. 40, U.K. Public General Acts) (which has been used to prosecute persistent harassment including via digital means), the Communications Act 2003 (offense of sending indecent or grossly offensive messages), or laws against assault in cases of physical violence. However, criminal prosecution of minors for bullying is rare and seen as a last resort. The U.K. prefers early intervention, such as counseling or restorative justice, and encourages internet platforms to remove abusive content. Notably, the U.K. has also established a Children’s Commissioner (Children Act 2004, c. 31, U.K. Public General Acts) and in 2020 passed the Online Harms White Paper proposals (now in the form of the Online Safety Act 2023, c. 50, U.K. Public General Acts) which requires tech companies to better protect children from harmful online content, including bullying.

Some experts are skeptical that restorative or non-punitive approaches to school violence can succeed without substantial support and resources. Research indicates that simply mandating restorative justice programs is not a panacea; a controlled study in 2019 found no significant improvement in school climate or reduction in bullying at middle schools that tried restorative practices compared to those that did not (Acosta *et al.*, 2019). The implementation gap was telling – even with initial training and coaching,

many teachers struggled to carry out restorative circles and mediation, and students reported little actual change in day-to-day conflict resolution. Scholars emphasize that restorative justice “is a process” requiring committed staff, extensive training, and student buy-in – far more demanding than traditional punitive discipline. In the absence of adequate funding, personnel, and time, schools may adopt restorative rhetoric but fail to deliver results. Critics therefore caution against viewing restorative practices as a cost-free cure-all; without proper investment, such programs risk being ineffective or even allowing bullies to escape meaningful consequences, undermining the very safety and rights of the students they aim to protect.

Several continental European countries have enacted specific legislation to strengthen school responses to bullying. **France** took a bold step in 2021 by passing a law that explicitly criminalizes school bullying (fr. *Loi contre le harcèlement scolaire*). Under this law, students found guilty of repeated bullying that causes a victim to withdraw from school or suffer serious harm can face severe penalties – up to three years in prison and a 45,000 euro fine, with even harsher penalties (up to 10 years imprisonment) if the victim dies by suicide or attempts suicide as a result (fr. *Loi n° 2022-299 du 2 mars 2022 visant à combattre le harcèlement scolaire*) (Law No. 2022-299 of 2 March 2022 aimed at combating school bullying, Journal officiel de la République française, JORFTEXT000045310049). The French law, while controversial to some child rights advocates, sends a strong signal by treating bullying as an offense. It also provides for school-based measures: each school must have anti-bullying teams, and educational programs are emphasized. In tandem, France launched policies to root out school bullying, including plans to allow courts to ban convicted bullies from social networks and to station anti-bullying experts in schools and within the justice system.

However, France’s heavy-handed penal strategy has provoked domestic criticism. Opponents argue that criminalising school bullies – even minors – is a disproportionate, overly repressive response. Several left-wing MPs warned they are “not in favour of criminalising minors and increasing repression”, calling the new law an “illusionary and demagogic over-reaction” (Chrisafis, 2021). Others questioned its necessity and efficacy, noting that bullying was already punishable under existing harassment laws and that creating a new offence fails to address the group dynamics of bullying. These critics contend that France’s punitive turn, while well-intentioned, risks clashing with children’s rights principles by prioritizing penal sanctions over educational or restorative solutions.

**Italy** has been a pioneer in Europe in developing a comprehensive legislative response focused on prevention and rapid response to cyberbullying. Prompted by a series of teen suicides (most notably that of Carolina Picchio in 2013), Italy passed Law No. 71/2017, “Provisions for the Protection of Minors to Prevent and Fight Cyberbullying” (Gazzetta Ufficiale della Repubblica Italiana, No. 127, 3 June 2017). This law – one

of the first of its kind in the EU – defines cyberbullying broadly and emphasizes safeguarding and educating minors. Cyberbullying is defined as “any form of pressure, aggression, harassment, insult, denigration, defamation, or identity theft against a minor through electronic means”. The law’s key provisions include: (1) Preventive measures in schools – every school must designate a teacher to coordinate bullying prevention, and integrate awareness activities into the curriculum. (2) Content removal mechanism – minors aged 14 or older (or their parents on their behalf) can directly request the host of a website or social platform to remove or block harmful content, and if the provider doesn’t respond within 48 hours, they can seek action by the national Privacy Authority to get it taken down. This takedown provision empowers youth and families to swiftly curb online abuse and is fairly unique internationally (most countries rely on platform policies or general court orders, not a child-specific statutory right to removal). (3) School policies and sanctions – schools are required to update their student conduct codes to include cyberbullying and can impose educational disciplinary actions. Notably, the 2017 Italian law did not criminalize cyberbullying per se for under-18 perpetrators; rather, it favored correction and education. However, Italy’s approach has evolved. In 2023, in response to continuing concerns, Italy strengthened its legal arsenal with Law No. 70/2024 on bullying and cyberbullying. This new law maintains the child-centric preventive focus but bolsters intervention: it refines definitions (covering not just cyberbullying of minors but also bullying by minors against any person), and enhances the responsibilities of government agencies and social services in addressing cases (Law No. 70, *Gazzetta Ufficiale della Repubblica Italiana*, No. 141, 18 June 2024). Italy’s model is often highlighted as a best practice for its balanced approach – prioritizing swift removal of harmful content and education (consistent with CRC principles of protecting children from harm while using the least punitive measures necessary), and reserving criminal prosecution mainly for related offenses (e.g. child pornography laws if sexual images are involved, or extreme stalking cases).

The Nordic countries have been pioneers in promoting anti-bullying initiatives through education policy. **Finland**’s nationally acclaimed KiVa program (developed by the University of Turku) is implemented in most schools as a comprehensive anti-bullying curriculum, supported by the Finnish education law’s requirement that students be treated with care and respect (University of Turku, 2009). In **Sweden** and **Norway**, education acts require schools to provide a safe environment; bullying incidents can be reported to the School Inspectorate or Children’s Ombudsman (Swedish Education Act) (sv. *Skollagen*, Svensk författningssamling (SFS) 2010:800). **Norway** even adopted an Anti-Bullying Manifesto and legislation enabling fines against school principals who do not act on bullying reports (Tikkanen and Junge, 2004). The **Netherlands** amended its education law in 2015 to mandate that every primary and secondary school appoint an anti-bullying coordinator/contact person and adopt a proven program to tackle bullying. Dutch law also requires annual monitoring of the school climate (UNESCO, 2017).

In Eastern Europe, many countries have updated existing child protection laws to mention bullying or have ministerial decrees addressing school violence. For instance, in **Bulgaria** and **Romania**, national anti-bullying strategies were launched in response to studies showing high prevalence (UNICEF Bulgaria, 2021). Laws in these countries might not use the term “cyberbullying,” but broad definitions of harassment now tend to include electronic acts. A notable effort is seen in **Ukraine**, which in 2019 introduced a law defining bullying (uk. цькування) in the education context and imposing fines on the bully or their parents, while also requiring schools to report and address incidents. This law explicitly mentions bullying can be psychological, physical, or sexual, and can occur via electronic communication, thereby encompassing cyberbullying (Law No. 2657-VIII on Amendments to Certain Legislative Acts of Ukraine on Counteracting Bullying (Tskuvannya), Vedomosti Verkhovna Rada (VVR), 2019, No. 5, p. 33).

Many countries in the **Asia-Pacific** region, confronting severe school bullying issues, have adopted legal measures blending educational, rehabilitative, and punitive elements. **South Korea** is often highlighted for its stringent and systematic approach. In response to public outcry over violent bullying incidents (and a few high-profile student suicides), South Korea passed the Act on the Prevention of and Countermeasures Against Violence in Schools in 2004 (Act No. 8887, 14 March 2008, Statutes of the Republic of Korea), with major enhancements in 2012. This law (commonly called the School Violence Prevention Act) established a comprehensive mechanism: every school must have a School Violence Committee that includes teachers, parents, and experts to handle reported cases; the law enumerates nine possible disciplinary actions for perpetrators (ranging from apologies and community service to class transfers or expulsion). It also mandates counseling support for victims and perpetrators, and requires that serious incidents be reported to the police. Cyberbullying is explicitly included under school violence. Enforcement is quite formalized – schools hold quasi-judicial hearings via their committees to determine the facts and consequences, and victims dissatisfied with outcomes can appeal to the provincial education office (Lee *et al.*, 2014).

**Japan** enacted a national law in 2013 in response to a notorious case where a 13-year-old boy committed suicide after relentless bullying. The Act for the Promotion of Measures to Prevent Bullying (ja. いじめ防止対策推進法) (Act No. 71 of 2013, Official Gazette of Japan (Kanpō), 28 June 2013) requires schools to establish in-school committees (comprising staff, psychologists and other experts) to implement anti-bullying measures and investigate incidents. It obliges schools to report serious cases to the local education board and for the board to convene third-party investigations (Nagata, 2021). The Japanese law defines bullying broadly and emphasizes early detection. It also, importantly, calls on schools to consult and counsel students – indicating a more restorative and supportive approach alongside any discipline. These provisions align with a cultural preference to avoid harsh punishment of juveniles; Japan, like many countries,

tries to strike a balance between correcting misbehavior and not unduly stigmatizing the bully (who is often also a minor in need of guidance).

**China** has seen an increase in public attention to school bullying (zh. 校园欺凌), and the government issued guidelines in 2016 and 2017 to combat it, but there is not a singular law against bullying. Schools are encouraged to discipline offenders under the Ministry of Education regulations, and severe cases might be handled under general public security or criminal laws (Ministry of Education of the People's Republic of China, 2016).

**Australia** approaches bullying primarily through school policy and a strong emphasis on Wellbeing and Pastoral Care in schools. Each state's education department issues anti-bullying guidelines, and there are extensive resources (e.g., the "Bullying. No Way!" national initiative) for prevention. While Australia does not have a specific criminal offense of bullying, serious online harassment can be caught by misuse of telecommunication laws or stalking laws. Notably, in 2015 Australia established the Office of the eSafety Commissioner, a federal agency with power to investigate and direct removal of cyberbullying material targeted at Australian children (Enhancing Online Safety for Children Act 2015, Australian Government, 2015). This gives a regulatory avenue to tackle online harms quickly.

**India** and **Pakistan** have historically under-recognized bullying as a policy issue, though this is changing. In India, some states like Maharashtra have issued guidelines to prohibit bullying in schools, and the Indian Penal Code (Act No. 45 of 1860) has provisions (like Section 506 for criminal intimidation) that could apply to serious incidents. There is also a growing movement to implement anti-bullying policies in Indian schools, especially elite ones, often modeled on Western examples.

Across many Asia-Pacific countries, corporal punishment by school staff is still a concern – something that international standards view as institutionalized school violence. Countries like India, Malaysia, and Singapore allow some form of corporal punishment in schools (caning, etc.), whereas others like New Zealand, Sri Lanka, and Thailand have legally banned it. This is relevant because it reflects each country's stage in aligning with the CRC's mandate to eliminate violent punishment. Where corporal punishment is legal or culturally accepted, peer bullying might also be downplayed; conversely, countries that outlaw corporal punishment tend to also proactively address peer violence. For instance, **New Zealand** not only banned corporal punishment in the 1990s (Education Act 1989, Section 139A, New Zealand Public Act 1989, No 80), but also has a national School Bullying Prevention and Response framework.

In many **African** countries, legal approaches to school violence often form part of broader child protection or violence prevention strategies. Few have standalone "bully-

ing laws”, but references to bullying appear in national child acts or education regulations. **Kenya’s** Education Act and Child Act, for example, outlaw cruel treatment and have administrative guidelines that treat bullying as a disciplinary offense; teachers can face penalties for failing to maintain student safety (UNESCO, 2017).

**South Africa’s** legal stance is rooted in its strong constitutional protections: the South African Schools Act (Act No. 84 of 1996, Section 10: Prohibition of corporal punishment, Government Gazette of the Republic of South Africa, No. 17579, 15 November 1996) prohibits corporal punishment and abuse, and the Department of Basic Education has guidelines on tackling bullying (with an emphasis on awareness and reporting). Some South African provinces have considered specific anti-bullying bills. In West Africa, countries like **Ghana** identified bullying as a barrier to safe schooling and responded by issuing guidance and toolkits for teachers and communities, although formal laws may not mention “bullying” by name (Ghana Education Service, 2018). Generally, enforcement in many African nations is hindered by resource constraints – even if policies exist, schools may lack counselors or training to effectively intervene.

In **Latin America**, the concept of “convivencia escolar” (peaceful coexistence in schools) guides many legal frameworks. **Mexico** has enacted laws at the state level (and a nominal federal law) promoting school harmony and explicitly forbidding bullying (“acoso escolar”), mandating that schools implement prevention programs (General Law on the Rights of Children and Adolescents, Diario Oficial de la Federación, 4 December 2014). **Brazil** passed an anti-bullying law in 2015 establishing a national program to combat systematic intimidation in schools, which covers cyberbullying and requires schools to train staff and report incidents (Law No. 13.185, Diário Oficial da União, 6 November 2015). **Colombia** created a nationwide system for school coexistence, requiring each school to have a committee to address bullying and a protocol for handling cases (Law 1620 of 2013, Diario Oficial de la República de Colombia, 15 March 2013). These laws often emphasize mediation and restorative practices. In some countries like **Argentina** and **Chile**, cyberbullying can potentially be prosecuted under general statutes (Chile, for example, has used its cybercrime laws to deal with extreme cases of online harassment among students (School Violence Act, Law No. 20.536, Diario Oficial de la República de Chile, 17 September 2011)), but the focus remains on school-based resolution.

Overall, while the legal specifics differ, a few trends emerge in comparative perspective:

- 1) Integration of Cyberbullying – Most jurisdictions have updated definitions of bullying in laws or policies to explicitly include electronic forms, recognizing that harmful conduct is not less serious when behind a screen.

- 2) **School Duty of Care** – Education laws increasingly impose a clear duty on schools to prevent and respond to bullying. This can be through mandatory policies (U.S. states, U.K., Netherlands), required committees (Japan, Korea, Colombia), or simply an expectation derived from the right to education (as in many European countries).
- 3) **Multi-Agency Cooperation** – Laws encourage or require collaboration between schools, parents, mental health professionals, and sometimes police or tech companies. The problem is seen not just as a school's internal issue but a societal one.
- 4) **Reluctance to Criminalize Minors** – With some notable exceptions (France's new law, certain U.S. cases), many jurisdictions try to avoid treating child bullies as criminals. The CRC's child rights perspective that children in conflict with the law should be treated in a manner that promotes their reformation is influential. Thus, several countries favor restorative justice, counseling, or school-based penalties over criminal prosecution for bullying behavior.
- 5) **Empowering Students and Reporting** – An emphasis on making it easier for students to report bullying (often including anonymous reporting channels or helplines) is common. For instance, India's CBSE (Central Board of Education) directed schools to have complaint boxes for students.
- 6) **Judicial Oversight** – While not every country allows lawsuits for bullying, there is a trend of courts being more willing to review whether schools and authorities met their obligations. Human rights courts (like the ECtHR) are also beginning to be engaged on this front, which could drive further legal development.

Among the examined jurisdictions, Italy and South Korea stand out for combining strong enforcement with a child-rights-centered approach. Italy's framework – anchored by dedicated anti-bullying laws in 2017 and 2024 – is often cited as a best practice for its balanced emphasis on prevention, swift removal of harmful online content, and rehabilitative measures over punishment. The Italian approach aligns closely with the CRC by protecting students while using the least punitive measures necessary. South Korea's system is similarly comprehensive: the School Violence Prevention Act mandates a formalized response in every school (including mandatory committees and a range of disciplinary options), ensuring consistent enforcement of anti-bullying rules. South Korean law explicitly covers cyberbullying and pairs discipline with counseling and parental involvement, reflecting an effort to balance firm intervention with the child's best interests in mind. The systems that marry strong enforcement with a rights-respecting ethos appear to be the most effective at curbing both digital and physical school violence. They fulfill the duty to protect students through comprehensive measures and accountability, yet also uphold children's rights by emphasizing education, remediation, and proportionality, echoing international standards of child protection and juvenile justice.



## 4. POLICIES AND ENFORCEMENT MECHANISMS

Laws are only as effective as their implementation. Thus, examining enforcement mechanisms and policy measures is crucial to understanding the real impact of legal frameworks on school violence. There are several layers of enforcement and preventive policy: within schools, through administrative bodies, via law enforcement or judicial action, and increasingly through coordination with technology platforms.

The front line of addressing bullying is the school itself. Virtually all jurisdictions require schools to develop anti-bullying policies or include anti-violence provisions in their student codes of conduct. Effective policies typically define prohibited behavior (with examples, including cyberbullying), establish procedures for reporting (students, parents, and staff should know how to report incidents safely), and outline step-by-step interventions. Many schools form dedicated teams or designate staff (e.g., a guidance counselor or vice-principal) to handle bullying complaints. As noted, countries like the Netherlands and Japan require a point-person or committee in every school. In some cases, these school policies are guided by model frameworks provided by government or NGOs. For example, in the U.S., the Department of Education has circulated template anti-bullying policies for states to adapt, and in the U.K. the Anti-Bullying Alliance provides extensive materials to schools.

**Enforcement at the school level** typically involves disciplinary actions proportionate to the offense. Minor first-time incidents may result in warnings, meetings with parents, or conflict resolution sessions. More serious or repeated bullying can lead to detention, suspension, or expulsion from the school. For instance, under India's guidelines, a student who severely bullies could even be transferred to another school for a "fresh start." In South Korea, as mentioned, the menu of nine sanctions ranges from written apologies to expulsion, and includes creative measures like community service or taking special education classes on behavior. The idea is to correct behavior while also protecting the victim. Some jurisdictions allow or require restorative justice approaches – such as mediation between bully and victim, or a restorative conference where the bully hears about the harm they caused and agrees to reparative actions. New Zealand's approach, for example, encourages restorative practices as a key response, aligning with Maori principles of reconciliation for youth wrongdoing.

Enforcement is also preventative – many laws or policies mandate **training** for teachers and awareness programs for students. Teachers and staff need to be trained to spot early signs of bullying (including less visible cyberbullying), to intervene safely, and to support victims. Countries like Israel have very systematic teacher training, and Finland's KiVa program includes classroom curriculum for students about empathy and bystander intervention. Some measures include peer mentoring or peer media-

tion programs, where students themselves are empowered to help maintain a positive environment.

Effective enforcement requires that incidents come to light, which is why **reporting** is important. Several jurisdictions now require schools to record and report bullying incidents, either internally or to higher authorities. In some U.S. states, schools must report statistics on bullying to the state education department annually (which can influence funding or interventions for schools with high rates). Japan's law obliges schools to report serious cases to the Board of Education, which provides oversight. In France's new framework, victims and families can report bullying to a dedicated national helpline (3020) and even an emergency number (3018) for cyberbullying. The availability of anonymous reporting channels (via telephone or online) is increasingly seen as best practice so that fearful students can seek help without retaliation.

Enforcement policies often involve **parents/guardians** – both of victims and perpetrators. Schools usually contact the parents of involved students once bullying is verified and may engage them in resolving the issue (for example, through joint meetings or requiring parental supervision of a child's online activity). Some laws hold parents accountable in a limited way: in Ukraine and some U.S. municipalities, parents of bullies can be fined if they fail to supervise a child who is bullying others.

When does a school violence situation escalate to involve police or courts? The threshold varies. Generally, if a bullying incident involves credible threats of serious harm, extortion, use of weapons, sexual abuse, or physical assault causing injury, schools will involve **law enforcement**. Cyberbullying cases have occasionally led to criminal charges: e.g., teens prosecuted for harassment or for distribution of child pornography in cases where they non-consensually shared sexual images of a classmate (a form of cyberbullying with overlap into sexual violence). However, as noted, many systems are cautious about criminalizing minors for peer abuse. Prosecutors often use discretion to seek alternatives to prosecution (like diversion programs or warning letters) for juveniles, unless the behavior is truly severe. One interesting enforcement mechanism on the rise is civil or administrative penalties for bullying. In some places, families of victims can seek restraining orders against the bully to keep them away from the victim (courts in several U.S. states have issued such orders, and Japan's system allows a form of restraining order as well). Violating such an order can then have legal consequences.

Another enforcement angle is **civil liability**: as mentioned, victims (or their parents) sometimes sue schools for failing to enforce anti-bullying duties. While outcomes differ, the mere possibility of such lawsuits can incentivize schools to strictly enforce policies. In jurisdictions like the U.S., the legal standard (under cases like *Davis v. Monroe County*) is that a school can be liable under federal law if it was “deliberately indifferent” to severe, pervasive harassment that deprived the victim of educational opportunities.

Given the digital dimension of bullying, enforcement now extends to the private sector in some ways. Governments and schools increasingly work with social media companies, messaging platforms, and internet service providers to curb cyberbullying. This can mean requesting or compelling removal of abusive content or accounts. Laws like Germany's NetzDG or the EU's Digital Services Act, while focused on hate speech and illegal content, indirectly cover some cyberbullying content. Australia's eSafety Commissioner can issue a notice to platforms to take down cyberbullying material targeting an Australian child within 48 hours, leveraging fines if not complied with. This is a unique enforcement tool that bypasses the need for the victim to endure a lengthy legal process for removal. Some countries have hotlines or "report abuse" portals where incidents of online bullying can be reported to authorities who then liaise with tech companies – this collaboration is recommended by international bodies as essential, since much of cyberbullying occurs on global platforms outside the direct control of schools. UNESCO's International Day call explicitly invites the tech industry to be a partner in making schools safe by tackling cyberbullying.

Despite these mechanisms, significant challenges in enforcement remain. Underreporting is a universal issue – studies show many victims do not tell anyone due to fear or shame. In one global survey, about 30% of bullied children told no one about it (United Nations, 2016). This limits the reach of any enforcement mechanism. Additionally, even where strong laws exist, lack of resources (too few counselors, overcrowded classrooms, or lack of training) can hamper enforcement. There is also a potential for over-enforcement: zero-tolerance policies in some U.S. schools have been criticized for harshly punishing minor infractions, leading to the so-called "school-to-prison pipeline." Overall, the effectiveness of these mechanisms depends on the school culture, adequate training and resources, and the active participation of students themselves in creating a safe school climate.

Even where strong anti-bullying laws exist on paper, inconsistent enforcement can thwart their impact. Japan's 2013 anti-bullying statute, for instance, required every school to establish prevention policies and reporting committees, yet bullying incidents have remained alarmingly high and in some years even reached record levels (The Japan Times, 2016). A sobering example arose in 2015: a Japanese middle school complied with the new law's mandates, but when a 13-year-old victim documented sustained peer abuse, the school failed to act and the child ultimately took his own life. Investigators concluded that "mere compliance with the letter of the law does not guarantee" effective protection for students (The Japan Times, 2016). Similarly, South Korea's much-lauded school violence countermeasures have been deemed largely ineffective in practice. A recent study found that a wave of anti-bullying programs launched in 2016–17 did not lead to any decrease in bullying cases; some interventions (like student "mock trials" of bullies or mandatory peer counseling sessions) even backfired, inadvertently heightening conflict among students (Daum News, 2023). These examples from Japan and

South Korea illustrate a common challenge: ambitious legal frameworks mean little if schools lack the will or capacity to implement them, or if powerful actors subvert accountability. The disconnect between law and reality shows the need for oversight, educator training, and cultural change within schools to ensure that legal standards translate into tangible protection for children.

## 5. CHILDREN'S RIGHTS AS A LENS FOR LEGAL RESPONSES

Placing children's rights at the center of efforts to combat school violence helps ensure that laws and policies are not merely punitive, but also protective, restorative, and respectful of all children involved. A children's rights lens means considering the rights of victims, perpetrators (who are often children too), and bystanders. Several core principles emerge when applying this lens.

As codified in Art. 3 of the CRC, **the best interests of the child** should be a primary consideration in all measures concerning children. In practice, this principle guides balanced responses to bullying. The primary victim's best interests demand effective protection and remedy – which may mean removing the bully from the class, providing the victim with psychological support, or even seeking justice if a crime occurred. At the same time, if the perpetrator is a child, their best interests (and long-term development) must be considered in determining consequences. This often translates to favoring rehabilitative or educational consequences over strictly punitive ones for the bully. For example, rather than immediately resorting to expulsion or criminal charges, schools might require the bully to undergo counseling, perform community service, or participate in a behavioral program. The Council of Europe emphasizes that any measure should maintain the child's dignity and right to education, applying punitive sanctions only as necessary (Council of Europe, 2022).

Art. 12 of the CRC gives children the **right to express their views** in matters affecting them, appropriate to their age and maturity. In the context of school violence, this underscores the importance of student voice in developing anti-bullying policies and in resolving incidents. Mechanisms like student councils, anonymous reporting systems, and involvement of students in peer mediation reflect this principle. It also means that in investigating bullying cases, authorities should listen to the accounts of children (both victims and alleged bullies) and take them seriously, rather than dismissing bullying as trivial. Some jurisdictions have instituted surveys or consultations to get students' perspectives on safety. Centering children's experiences helps ensure responses are grounded in reality.

Violence and bullying can deny children their **right to education** by creating an environment of fear or by driving children out of school. States have an obligation to

ensure schools are inclusive and safe so that all children can learn. Legal responses are therefore judged by how well they secure the right to education for every child. If a child stops attending school due to bullying, that is a red flag that their rights are being violated. The ECtHR case pending against Romania (*M.C. v. Romania*, ECtHR, 2022) explicitly frames bullying as impeding a child's right to education when the child had to transfer schools to escape abuse. A rights-based approach would demand the state take corrective action to prevent such outcomes, by holding schools accountable to intervene early. The ACRWC and other instruments similarly imply that part of fulfilling the right to education is providing a violence-free setting.

Children are entitled to personal integrity and **protection from degrading treatment**. Being bullied is deeply demeaning and can be seen as a breach of human dignity. The Australian Human Rights Commission (2019) noted that “a life free from violence and from cruel, degrading and inhuman treatment is a fundamental human right”, and bullying or harassment violates that right. Therefore, legal frameworks treat serious bullying as potentially falling under prohibitions of degrading treatment (e.g., constitutional provisions or human rights acts in various countries). This perspective can elevate certain bullying cases from mere disciplinary issues to rights violations requiring official redress. It also reinforces banning any violent or degrading punishments by staff: for example, over 700 million children are still in countries without a legal ban on corporal punishment at school, a clear gap in compliance with children's right to dignity (UNESCO, 2017).

In human rights law, states have a positive obligation to exercise **due diligence** to protect individuals from harm by third parties. For children in school, this means authorities must take reasonable measures to prevent and respond to bullying by peers. If they know or ought to know a child is at risk of serious harm and do nothing, the state can be complicit in rights violations. This doctrine has been affirmed in cases like *Špadijer* (ECtHR, 2021) (workplace bullying) for adults, and it is likely to be applied increasingly for children. To fulfill due diligence, states enact laws, but they also must ensure those laws are implemented – providing training, funding for counselors, monitoring systems, etc.

Sometimes responding to bullying involves balancing competing rights – e.g., the bully's right to free expression or privacy vs. the victim's right to safety. A child-rights approach places the child's best interests at the forefront of this balance. In practice, that often tilts toward protecting the victim's rights over a bully's claim to unchecked expression. For instance, a student's “freedom” to post abusive content online is outweighed by another student's right to dignity and education. Courts like the U.S. Supreme Court in *Mahanoy* acknowledged this by carving out bullying and harassment as types of student speech that schools may regulate despite free speech concerns. Another example is privacy: anti-bullying enforcement might involve searching a student's phone for

evidence or monitoring school internet usage, raising privacy issues. A rights-respecting approach tries to ensure such intrusions are necessary and proportionate – done only when warranted to protect another child, and with safeguards.

Applying a children's rights lens also means involving international and regional oversight. The UN Committee on the Rights of the Child, in its Concluding Observations for state reports, frequently recommends that states strengthen efforts to combat school violence and bullying, including cyberbullying, and cites positive models. Likewise, regional human rights commissions may review cases or issue reports on violence against children. All this contributes to an evolving consensus that bullying is not a normal part of growing up, but a rights violation that states are duty-bound to prevent.

## 6. CONCLUSION

The intersection of digital and physical school violence presents a pressing challenge that demands a coherent legal and policy response grounded in children's rights. This research has shown that online violence like cyberbullying can significantly increase in-person school violence, creating a vicious cycle that threatens students' safety, mental health, and access to education. Comparative analysis reveals that jurisdictions have responded through a spectrum of approaches: from comprehensive anti-bullying statutes and education codes to innovative enforcement mechanisms and court interventions. International frameworks – notably the CRC and related human rights instruments – provide a unifying lens, emphasizing that every child has the right to learn in an environment free from fear and violence, whether on the playground or on social media.

Legal approaches in different countries illustrate both convergence and divergence. Many now converge on key principles: acknowledging cyberbullying in law, holding schools accountable for proactive measures, and involving multiple stakeholders in solutions. Examples, like Japan's and South Korea's mandated school committees, France's bold criminalization of severe bullying, or the United States' extensive state-level policy network, show us a trend toward treating bullying not as "kids will be kids" mischief but as a serious issue of public concern and child protection. At the same time, divergence remains in how far the law goes – some systems favor punitive measures, while others stress restorative practices; some rely on soft policy, while others encode duties in binding law. These differences often reflect cultural attitudes, resource levels, and legal philosophies regarding youth behavior and state intervention.

Based on the comparative analysis presented in this study some policy recommendations can be made.

First, lawmakers worldwide should harmonize legal definitions of bullying – including cyberbullying – across jurisdictions. What counts as bullying still varies: some laws require repeated offenses or school-specific contexts, while others encompass any severe peer aggression. Such inconsistencies hamper coordinated prevention and enforcement. Establishing a shared definition – one that captures the power imbalance, repetitive harm, and both physical and digital manifestations of bullying – would provide a common baseline for action. Notably, many countries have begun moving in this direction by explicitly recognizing cyberbullying in their statutes or policies. For example, Italy's landmark Law No. 71/2017 broadly defines cyberbullying as any form of online pressure, aggression, harassment, or denigration against a minor, and Ukraine's 2019 law on bullying similarly covers psychological or electronic abuse. To build on these advances, international bodies and agreements (e.g. through the UN or regional councils) could encourage uniform terminology and criteria. Adopting consistent definitions globally would not only close protection gaps but also improve cross-border collaboration – for instance, enabling data comparison and mutual assistance in tackling online abuse.

Second, there is a need to integrate a rights-based education and prevention approach into national anti-bullying policies. The findings make clear that a purely punitive stance is neither sufficient nor fully consistent with children's rights. Instead, effective frameworks place heavy emphasis on prevention, awareness, and rehabilitation. Across the jurisdictions examined in this study, many of the most promising practices involve educating youth and fostering safe school climates rather than simply criminalizing misbehavior. For example, Italy's approach under Law 71/2017 focuses on safeguarding and educating minors – every school must implement prevention programs and can take educational disciplinary actions, opting not to create new crimes for child perpetrators. South Korea similarly mandates that schools convene committees and provide counseling for both victims and offenders, aiming to correct behavior through community service or special classes before resorting to expulsion or police referral. In the U.K., authorities favor early intervention (counseling, mediation or restorative justice) over prosecution of schoolchildren. This aligns with the UN Committee on the Rights of the Child's guidance to avoid criminalizing children whenever possible and to emphasize education and restorative practices in responding to bullying. Even where tough legal consequences exist, a balance is crucial. France's new 2022 law, for instance, makes severe school bullying a criminal offense punishable by up to three years' imprisonment (and harsher penalties if the victim attempts or dies by suicide), sending a strong message that such behavior is intolerable.

Third, the digital dimension of school violence demands innovative legal accountability for online platforms under children's rights frameworks. As bullying moves from screens to schoolyards and back, governments must enlist the cooperation of the private sector – social media companies, messaging apps, and other digital service providers – as key stakeholders in child protection. The comparative analysis indicates that bullying is

no longer a problem confined within school walls, and laws are starting to reflect this by bringing tech platforms into the fold. Policymakers globally are recognizing that the duties of care should extend to those who provide virtual venues where cyberbullying occurs. A prominent example is the U.K. Online Safety Act 2023, a trailblazing regulatory framework that requires tech companies to proactively identify and remove or mitigate harmful online content affecting children, including cyberbullying. This kind of legislation assigns clear responsibility to platforms to curb abuse, backed by the threat of fines or other enforcement if they fail to act. Other jurisdictions are moving in the same direction of holding platforms accountable. For instance, South Korea's comprehensive school violence law involves internet companies in preventive education and reporting, and the EU's recent Digital Services Act imposes heightened safeguards for minors on large platforms (e.g. risk assessments for child safety and rapid removal of harmful content). Under international human rights law, states have a duty to protect children from violence by third parties too, which in the digital era translates into oversight of private digital spaces where children interact. The UN Committee on the Rights of the Child, in General Comment No. 25, has explicitly called on governments to ensure that businesses respect children's rights in the digital environment – including taking action to prevent cyberbullying and online violence.

Moving forward, lawmakers should solidify these emerging standards into consistent requirements: clear legal mandates for online platforms to prevent, monitor, and rapidly respond to bullying content, transparency obligations (such as reporting the volume of bullying cases addressed), and child-friendly reporting tools and content moderation policies. This shared responsibility approach not only helps victims obtain relief no matter where the abuse occurs but also incentivizes tech companies to design safer online ecosystems by default, in line with the “best interests of the child” principle.

A children's rights-focused evaluation highlights that the most effective frameworks are those that balance the imperative to protect children from harm with the need to respect their evolving capacities and rights. It is not enough to simply punish bullies; laws must aim to educate and rehabilitate, to change school climates, and to empower bystanders to act. International bodies urge states to avoid criminalizing children except as a last resort, and to instead build a protective framework that involves education, prevention, and, where needed, proportionate discipline. The research showed that best practices – like whole-school programs, teacher training, data-driven strategies, and involvement of tech companies in curbing online abuse – align closely with the recommendations of the UN and other global actors. Where such measures are implemented, studies document reductions in bullying and improved school atmospheres.

However, this study also identified gaps between the aspirational standards of international human rights law and the reality on the ground in many places. Inconsistent application of laws, underreporting of incidents, lack of student awareness of their



rights, and insufficient resources are ongoing issues. Some countries still lack explicit legal protections or allow harmful practices like corporal punishment that undermine anti-bullying efforts. Bridging these gaps will require not only legal reforms but better enforcement of existing laws and a cultural shift in how communities view school violence – from a private matter to a public, rights-based concern. Laws and policies must evolve alongside technology, guided by the principle that every child deserves to be safe and respected both in the classroom and online. International frameworks and comparative lessons offer valuable guidance: prioritize prevention, ensure remedies for victims, educate the young (and the adults around them) about empathy and digital citizenship, and hold institutions accountable to the standard of zero tolerance for violence. By implementing these lessons and closing protection gaps, states can move closer to fulfilling their obligation to provide safe, inclusive, and nurturing educational environments.

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## OD ZASLONA DO ŠKOLSKIH DVORIŠTA – KOMPARATIVNA ANALIZA DIGITALNOG I FIZIČKOG NASILJA U ŠKOLAMA SA STAJALIŠTA MEĐUNARODNIH STANDARDNA DJEČJIH PRAVA

### Sažetak

Ovaj se rad bavi pitanjem veze između digitalnog i fizičkog nasilja u školama iz perspektive komparativnog prava, istražujući kako se ovo pitanje rješava u sustavima različitih sudbenih nadležnosti i u međunarodnom okviru ljudskih prava. U radu se na temelju pravne analize, sudske prakse, pregleda politika i empirijskih podataka istražuju načini na koje zlostavljanje, poput digitalnog nasilja, digitalnog uznemiravanja i doxinga u virtualnom okruženju potiču sukobe u stvarnom svijetu, intenzivirajući obrasce nasilničkog ponašanja i zastrašivanja među učenicima. U istraživanju se analizira relevantno zakonodavstvo u zemljama Europe, Sjeverne Amerike, Azije, Afrike i Latinske Amerike, utvrđuju primjeri dobre prakse i nedostaci u provedbi. Kritički se procjenjuju ključni pravni izazovi poput jurisdikcijskih ograničenja u reguliranju nasilja u virtualnom okruženju, odnos između disciplinskih mjera i dječjih prava te uloga digitalnih platformi u borbi protiv nasilja u školama. Nadalje se pravni odgovori promatraju u okviru međunarodnih instrumenata ljudskih prava, uključujući Konvenciju UN-a o pravima djeteta, regionalne konvencije o ljudskim pravima i recentnu sudsku praksu sudova i ugovornih tijela. Rezultati analize pokazuju da je provedba nedosljedna, a zaštita djece često fragmentirana, unatoč tome što pravni sustavi sve više prepoznaju preklapanje digitalnog i fizičkog nasilja. U radu se iznosi tvrdnja da u različitim jurisdikcijama još nisu u potpunosti integrirani digitalni i fizički oblici nasilja u školama u jedinstveni pravno zasnovani odgovor te se zaključuje da učinkovita zaštita djece zahtijeva sveobuhvatne pravne reforme utemeljene na međunarodnim standardima ljudskih prava.

**Ključne riječi:** *dječja prava, nasilje u školi, digitalno nasilje, pravna zaštita ljudskih prava, komparativno pravo*