

**PROTECTION OF HUMAN RIGHTS IN CYBER SPACE: HOW TO PROTECT
TEENAGERS FROM CYBERBULLYING? EXAMPLES OF RUSSIAN
FEDERATION AND THE UNITED STATES**

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TABLE OF CONTENTS

Abstract	2
Introduction	3
Chapter 1. Theoretical background.....	8
Definition, characteristics, and types of cyberbullying	8
Statistical data	11
Chapter 2. Legal frameworks of protecting Teenagers from cyberbullying	15
International legal frameworks	15
Legislation approach of the problem in Russian Federation	17
General Provisions	18
Administrative Code.....	18
Criminal Code	19
Legal approach of America. Examples of California, Missouri, and Ohio	22
California	23
Missouri	24
Ohio	25
Conclusion	28
Bibliography	30

ABSTRACT

Digital revolution made everyday life much more convenient. However, this phenomenon also has many disadvantages one of which is cyberbullying. My work assesses the degree of legal protection of adolescents from cyberbullying using examples from Russia and the United States. As a methodology, I use an analysis of scholarly articles on cyberbullying and international regulations of human rights in cyberspace as well as Civil Code, Code of Administrative Offenses and Criminal Code of the Russian Federation and three states of the US (California Code and the Missouri and Ohio Revised Statutes). I begin my work by assessing the theoretical basis of the topic, and then move on to look at international legal norms and the legal framework of the two states. In Russia the term cyberbullying does not exist in legal documents, so there is a lot of confusion at the procedural stage. That is why it is urgent to introduce a Federal Law which would fix what specific violations fall under the crime of cyberbullying and the measure of punishment for committing it. American Federal law also does not mention cyberbullying, but each state independently develops policies and laws to protect children from cyberbullying. As practice shows, all work to prevent and eliminate cyberbullying rests on the schools themselves, which do not always cope with this task. That's why it's important to increase control within school districts in America.

INTRODUCTION

At the end of the 20th century, human civilization stepped into the Digital Age. Many social, cultural, and scientific changes in the world have been the clear cause and the consequences of these changes can be referred to as the digital revolution or global progress. In this regard, it is now almost impossible to imagine even a day without going into virtual space. According to DataReportal 30 January 2020, more than 4.5 billion people were internet users¹, that is more than half the world's population². The number of social media users was 3.8 billion. And according to January 2023 data from German company Statista, there are already 5.16 billion internet users, of which 4.76 billion are social media users.³ That is, in just 3 years, the number of social media users has increased by almost 1 billion and this number continues to grow every day.

The phenomenon of the Internet as such has opened an incredible array of possibilities. Relatives and friends living in different countries can correspond and even make video calls, the exchange of cultural values between citizens of different countries has increased, local business has gone global and even education is now available wherever there is an Internet connection point. And while the Internet is a virtual space, it has several characteristics that contribute to its negative aspects. One of the clearest examples is the existence of the Darknet, which uses an encrypted connection between participants to access it, making this segment of the Internet completely anonymous. That is, the organisation of criminal activity via the Internet cannot be traced back even to an IP address. Another major problem is leak of personal data. A single device connected to the internet may store absolutely all information about a

¹ Digital 2020: Global Digital Overview, Simon Kemp, 30th of January 2020, <<https://datareportal.com/reports/digital-2020-global-digital-overview>> accessed March 26 2023

² World Population Forecast (2020-2050), Worldometer, Elaboration of data by United Nations, Department of Economic and Social Affairs, Population Division "World Population Prospects: The 2019 Revision", <https://www.worldometers.info/world-population/#google_vignette> accessed March 26 2023

³ DataReportal & Meltwater & We Are Social, Number of internet and social media users worldwide as of April 2023 (in billions) Statista <<https://www.statista.com/statistics/617136/digital-population-worldwide/>> accessed March 26 2023

person, from his or her first name and surname to passport data and bank details. And if targeted, this data can be used against a person. A complete list of the negative aspects of the Internet can take quite a long time, but my work will focus on another aspect.

The problem around which this paper is going to be relates to the concept of cyberbullying. This concept encompasses a wide range of misconduct: sending inappropriate messages, insulting the honor and dignity of a person, blackmail to extort money, threats to life and health, virtual sexual harassment, the publication of photos and videos that insult the user, the deliberate distribution of false information, to name a few⁴. Acts of cyberbullying can include almost any action on the Internet, which supposed to cause intentional and systematic harm. However, unfortunately, even at this moment propiate attention is not given to the problem, both from Internet users and governments.

In my opinion, adolescents are the most vulnerable group of people exposed to cyberbullying. During adolescence, as a rule, the foundation for further personality is laid, a person learns to establish communication skills, faces the first important challenges (such as exams), learns to control their emotions, and accept criticism. School is the second social step of a person after the family, and it is especially important that this step is passed as calmly as possible.

Every school has its own rules governing behavior, evaluation system and extracurricular activities for children and teenagers, but not all of them have lessons on the rules of Internet literacy. This leads to a number of problems, including cyberbullying. Of course, we can say that regular bullying exists in everyday life, it has always been there, and unfortunately, it may

⁴ Zhang W, Huang S, Lam L, Evans R and Zhu C “Cyberbullying definitions and measurements in children and adolescents: Summarizing 20 years of global efforts” *Front. Public Health*, 2022, 10:1000504 <<https://www.frontiersin.org/articles/10.3389/fpubh.2022.1000504/full#B25>> accessed March 30 2023

never go away. This is true, except that bullying can be recognized and punished both by school administrators and at the state level (with particularly grave consequences).

Online bullying, on the other hand, is not as visible, does not cause physical harm, and therefore it is much more difficult to establish the nature of the violation and the corresponding punishment. However, cyberbullying is not so invisible for adolescents facing it. Systematic cyberbullying generates a range of problems⁵ of mental (feelings of anxiety, embarrassment, fear, or aggression), emotional (feelings of shame, loss of natural teenage interest in things) and physical type (fatigue, insomnia, lack of appetite, headaches). All of these factors can eventually lead a teenager into a state of depression, which can ultimately be fatal.

Therefore, it is imperative for every state to develop a proper and effective strategy to combat and prevent cyberbullying. In this paper, I begin with international legal norms and initiatives and move on to an analysis of anti-cyberbullying strategies of Russian Federation (hereinafter Russia) and 3 States of the United States of America (hereinafter US): California, Missouri, and Ohio.

The main question that guided me as I worked, what methods might mitigate the harms for teenagers cyberbullying in both states? And this question raises several other, more narrowly focused questions: Why is cyberbullying so dangerous? What are the current legal frameworks of two countries? How can it be improved?

From these questions flowed the main goal of the Capstone, namely, to analyze the anti-bullying legislation in Russia and the US and to draw up a set of recommendations for its improvement.

⁵ Thomas, Hannah J., Jason P. Connor, and James G. Scott. "Integrating Traditional Bullying and Cyberbullying: Challenges of Definition and Measurement in Adolescents - a Review." *Educational Psychology Review* 27, no. 1 (2015): 135–52 <http://www.jstor.org/stable/43548454> accessed March 30 2023

To achieve this goal, I set myself the following objectives:

- Analyze the phenomenon of cyberbullying;
- Conduct a survey among Internet users to determine the severity of the problem;
- To study both the international legal framework and the legal framework of Russia and America regarding the protection of users' rights in cyberspace;
- To provide a number of recommendations for improving measures to protect against cyberbullying.

The methods of my work have been theoretical analysis (study of monographs, scientific papers and articles and legislation acts of Russia and the US), statistical approach (study of statistical data on various parameters) and comparative analysis.

The practical component of the work consisted of the lessons I conducted in the senior classes of Jurgis Baltrušaitis Lithuanian-Russian School №1247 in Moscow. On March 28th and 30th, I conducted 4 social studies lessons for middle (9A, 9B) and high school grades (10A, 10B). All in all, we had 4 informative lessons. Each lesson of 45 minutes was divided into 3 parts: a discussion of theory (concepts and types of cyberbullying and Russian Federation legislation), solving 2 exercises in groups (the first was aimed at solving what actions a person can take when faced with cyberbullying and the second at discussing what hidden aggressor phrases exist) and a discussion of how important and absolutely unashamed it is to ask for help or to provide it for your friend or classmate if he or she faces this kind of problem.

Of course, I did not set myself the goal of explaining to teenagers aged 14-17 the whole legislation mechanism of Russia. During the lessons we talked to them only about the specific actions they could take if they encountered cyberbullying.

The purpose of these lessons was to discuss the concept of cyberbullying, to explore the point of view of bully and the victim, to learn what forms bullying can take, to develop a strategy to protect themselves from cyberbullying, and the amount of help teenagers themselves can offer a friend or classmate if they become victims of cyberbullying.

Unsurprisingly, students already knew all the theoretical information about cyberbullying and even freely named almost all types of it. However, I was struck by how enthusiastic they were about solving exercises and creating strategies to combat cyberbullying. It seems to me that if they were given free rein, teenagers themselves could develop the most effective strategy for dealing with online bullying.

I would also like to emphasize that I was teaching in a “social humanities” class. Pupils from social-humanities classes are planning to take the general state exam (after finishing the 9th grade) and the unified state exam (after finishing the 11th grade) on the subject of “social studies”. Therefore, the classes were useful for students both as part of their preparation for exams and for preventive purposes.

CHAPTER 1. THEORETICAL BACKGROUND

In order to define cyberbullying, we first need to look at the definition of traditional bullying. Although the phenomenon is widespread, there is no single definition in the academic world. I would therefore like to go back to the origins of the definition, namely the Swedish-Norwegian psychologist Dan Olweus. He was the first to speak of "bullying" in the early 1970s⁶, but it wasn't until the 1990s that he really got a handle on the subject. The first introduced definition of bullying the followong: "Bullying is aggressive behavior or intentional "harmdoing" which is carried out repeatedly and over time in an interpersonal relationship characterized by an imbalance of power"⁷. In this way Dan Olweus laid down the 3 pillars of the definition of bullying - intention to harm, repetitiveness, and power imbalance of interpersonal relationship - which are reflected in one way or another in almost every further definition of bullying.

Definition, characteristics, and types of cyberbullying

The phenomenon of cyberbullying actively emerged with the development of active use of social media and was further analyzed in academic circles^{8,9,10}. However, providing a common definition of cyberbullying was quite difficult. In 2018, German psychologists Ira-Katharina Peter and Franz Petermann in their paper proposes 24 definitions of cyberbullying, citing

⁶ D. Olweus, "Personality factors and aggression: With special reference to violence within the peer group", J. DeWit, W.W. Hartup (Eds.), *Determinants and origins of aggressive behavior*, Mouton (1974), pp. 535-565 <<https://www.degruyter.com/document/doi/10.1515/9783110800494-012/html?lang=de>> accessed March 31 2023

⁷ D. Olweus, "Bullying at school. Long-term outcomes for the victims and an effective school-based intervention program: L. Rowell Huesmann (Ed.), *Aggressive behavior. Current perspectives*, Springer Publishing Company (1994), pp. 97-130, <https://link.springer.com/chapter/10.1007/978-1-4757-9116-7_5> accessed March 31 2023

⁸ Chibbaro, Julia S. "School Counselors and the Cyberbully: Interventions and Implications." *Professional School Counseling*, 11 № 1 (2007): 65–68 <<http://www.jstor.org/stable/42732740>> accessed April 2 2023

⁹ D. Olweus, S.P. Limber, "Some problems with cyberbullying research", *Current Opinion in Psychology*, (2018), pp. 139-143 <<https://www.sciencedirect.com/science/article/pii/S2352250X17301033?via%3Dihub>> accessed April 2 2023

¹⁰ R. Slonje, P.K. Smith, "Cyberbullying: Another main type of bullying?", *Scandinavian Journal of Psychology*, 49 (2008), pp. 147-154 <<https://onlinelibrary.wiley.com/doi/10.1111/j.1467-9450.2007.00611.x>> accessed April 2 2023

research from 2012 to 2017¹¹. This phenomenon is primarily due to the fact that different researchers approach the problem in different ways. For example, some focus on the instruments used by the perpetrator¹², while others focus on the type of ultimate harm done to the victim¹³. The only common criterion to the various definitions of cyberbullying is that it takes place in virtual space. However, almost all researchers turn to Dan Olweus' definition of bullying and its basic characteristics to address this difficult issue.

Regarding the 'intention to harm' criterion, almost all researchers agree (except in the rare case of unintentional harm). The perpetrator of cyberbullying has a direct intention to harm the victim, as Dan Olweus confirms¹⁴. The second criterion of "repetitiveness" is less clear-cut, as cyberbullying can occur with a certain frequency, or it can be a one-off act¹⁵. The latter criterion of "power imbalance of interpersonal relationships" is much debated, as it is not clear how power imbalances can arise and whether interpersonal relationships take place in virtual space. Researchers who argue that this criterion is as applicable to cyberbullying as it is to bully refer to "differences in technological know-how between perpetrator and victim, relative anonymity, social status, number of friends, or marginalized group position"¹⁶. However, opponents of this claim refer to the fact that cyberbullies are not necessarily stronger and they do not know how

¹¹ I.K. Peter, F. Petermann, "Cyberbullying: A concept analysis of defining attributes and additional influencing factors", *Computers in Human Behavior*, 86(2018), pp. 350-366, <[HTTPS://WWW.SCIENCEDIRECT.COM/SCIENCE/ARTICLE/PII/S0747563218302395?VIA%3DIHUB](https://www.sciencedirect.com/science/article/pii/S0747563218302395?via%3DIHUB)> accessed April 2 2023

¹² Patchin JW, Hinduja S. "Bullies move beyond the schoolyard: a preliminary look at cyberbullying" *Youth Violence and Juvenile Justice*. (2006) 4:148–69 <<https://journals.sagepub.com/doi/10.1177/1541204006286288>> accessed April 6 2023

¹³ Stewart, R. W., Drescher, C. F., Maack, D. J., Ebesutani, C., & Young, J. "The Development and Psychometric Investigation of the Cyberbullying" Scale. *Journal of Interpersonal Violence*, 29(12), 2014, 2218–2238 <<https://doi.org/10.1177/0886260513517552>> accessed April 6 2023

¹⁴ D. Olweus, S.P. Limber, "Some problems with cyberbullying research", *Current Opinion in Psychology*, (2018), pp. 139-143 <<https://www.sciencedirect.com/science/article/pii/S2352250X17301033?via%3DIHUB>> accessed April 6 2023

¹⁵ Kiriakidis, Stavros P., and Androniki Kavoura. "Cyberbullying: A Review of the Literature on Harassment Through the Internet and Other Electronic Means." *Family and Community Health*, Vol. 33, No. 2, 2010, pp. 82–93 <<http://www.jstor.org/stable/44954176>> accessed April 7 2023

¹⁶ Smith, M.M., Russell, A.K., Schiavinato, A. et al. "A hexadecylamide derivative of hyaluronan (HYMOVIS®) has superior beneficial effects on human osteoarthritic chondrocytes and synoviocytes than unmodified hyaluronan" *Journal of Inflammation* 10, No. 26, 2013 <<https://doi.org/10.1186/1476-9255-10-26>> accessed April 7 2023

much damage the victim has sustained¹⁷. Moreover, they often act anonymously, so in this case we cannot speak of "interpersonal relationships".

Thus, we can see that cyberbullying, although similar to bullying, has a number of significant features that make it more dangerous in some ways than conventional bullying. For example, cyber-aggressors have 24/7 access to the victim, cyber-aggressors can act anonymously, the size of the audience and the field of distribution of online bullying is much wider than conventional bullying. Since there is no single definition of cyberbullying, I would like to quote one that I have arrived at myself through a review of the literature. Cyberbullying is an act of causing only psychological committed in virtual space harm by the perpetrator, who may act either on behalf of himself/herself or anonymously.

There are myriad types of cyberbullying, each of which can be applied across several virtual platforms¹⁸. Among them defamation¹⁹, flaming²⁰, exclusion from a virtual group, sexting²¹, cyberstalking²², impersonation²³, grieving²⁴ etc. Typically, teenagers are not only more active users of social media, but also more sensitive as many of them "escape" into the virtual world to avoid problems present in the real world. When faced with cyberbullying, young people often do not know what to do or who to contact for help as they are afraid of not being understood. This leads to a range of psychological and physical problems, such as depression with all its consequences, withdrawal, poor academic performance, nervousness,

¹⁷ Strom PS, Strom RD "Cyberbullying by adolescents: a preliminary assessment" The Educational Forum, Vol. 70, 2005 <<https://www.public.asu.edu/~rdstrom/articles/cbapaef.pdf>> accessed April 7 2023

¹⁸ Zhang W, Huang S, Lam L, Evans R and Zhu C "Cyberbullying definitions and measurements in children and adolescents: Summarizing 20 years of global efforts" Front. Public Health, 2022, 10:1000504 <<https://www.frontiersin.org/articles/10.3389/fpubh.2022.1000504/full#B25>> accessed April 15 2023

¹⁹ Spreading insulting, humiliating and untruthful information online to damage the victim's reputation.

²⁰ Angry, violent, and rude messages between two or more users in public and private online communication spaces.

²¹ Sexual correspondence, usually of a consensual nature. But it can also be misused by perpetrators when intimate photos and videos of the victim are "leaked".

²² False accusations, slander, identity theft, using information for extortion.

²³ A stalker pretends to be the victim and on his/her behalf sends messages or disseminates information to destroy the victim's reputation.

²⁴ In-game vandalism when one player gets satisfaction from hurting other members of the game.

aggressiveness and so on²⁵. It is therefore crucial that not only is the state's anti-bullying framework competent, but that the teenager knows how to use it properly.

Statistical data

Analysis of statistics is very important for a comprehensive study of the problem. There are many statistical studies of cyberbullying. However, in the course of my work, I became interested in conducting my own one²⁶. I set up an anonymous survey of 61 people aged between 18 and 40 and got the following data.

45.9% of the respondents are Russian nationals, 32.7% are EU citizens (Austria, Czech Republic, Denmark, France, Germany, Hungary, Italy, Slovakia). The remaining percentage was divided among the countries of Northern Europe (Norway), Southern and South-Eastern Europe (Albania, Macedonia), Central Asia (Afghanistan), South Asia (India), Middle East (Armenia), East Africa (Ethiopia), South America (Brazil) and North America (USA, Mexico). 59% of interviewed had ever experienced cyberbullying personally. To the question "How often do you face cyberbullying?" I got the following results (Diagram №1).

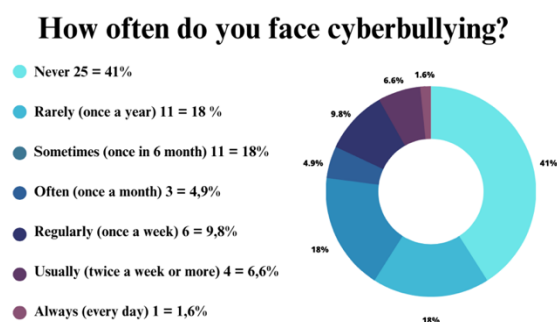


Diagram №1.

²⁵ McField, Ariel A, Timothy I Lawrence, and Ifeoma C Okoli. "Examining the Relationships between Cyberbullying, Relational Victimization, and Family Support on Depressive Symptoms and Substance Use among Adolescents." *Clinical Child Psychology & Psychiatry*, Vol. 28, No. 1, January 2023 <<https://journals.sagepub.com/doi/pdf/10.1177/13591045221110126>> accessed April 15 2023

²⁶ The result of the Survey can be found by this link: https://docs.google.com/document/d/1bkw0IT89D140TQMy882ZRUIHA_vywwR_nfSmG9hjZbw/edit?usp=sharing

Although most respondents had either never or rarely encountered cyberbullying, the 14 surveyed people claimed to have encountered it quite often.

When asked "Why do you think people commit cyberbullying?", where there were several options to choose from, the vast majority of respondents answered that it is a "safe way of expressing negative emotions" (44 votes). The second most popular option was "people find it amusing" (35 votes) and the third was "people do it for revenge" (25 votes). This suggests that people as a rule do not take virtual space seriously and see it as a place where they can openly express whatever emotions they want.

The next questions focused on how well aware people are of official UN data regarding the protection of human rights in cyberspace, as well as of the legal framework for combating cyberbullying in their birth country. Thus, only 9.8% of respondents had never heard of official UN statements regarding the fact that a person has the same rights in both real and virtual life. 42.6% say they have heard of these statements, while 47.5% say they were not aware of the official statements but implied they existed. Thus, in general, it can be judged that the dissemination of information about UN ideological values is generally widespread. However, official UN statements tend to be advisory in nature, while the main protection of the individual always takes place at the state level.

As for the extent to which citizens are aware of local anti-bullying laws in their states, the answers are not so optimistic. Only 6.6% of those surveyed constantly hear about such laws, 37.7% have heard of them but not often, and 55.7% admitted that they had never heard of such measures. That is, 34 out of 61 respondents do not know what laws enshrine their rights on the Internet, and therefore actions they can take when faced with cyberbullying.

In the last two questions, I focused on gathering information about how often and from what sources people learn about cyberbullying. To the question "How often do you hear about the

problems of cyberbullying from some open resources?", the following answers were obtained (Table №1). The most popular answers were "This topic has become popular recently (since early 2020)" and "I rarely hear about this topic".

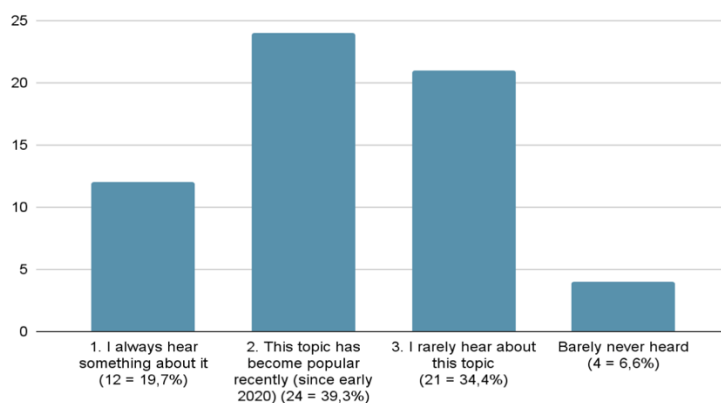


Table №1.

In the question concerning information resources, respondents could choose several answers. The results are as follows (Table №2).

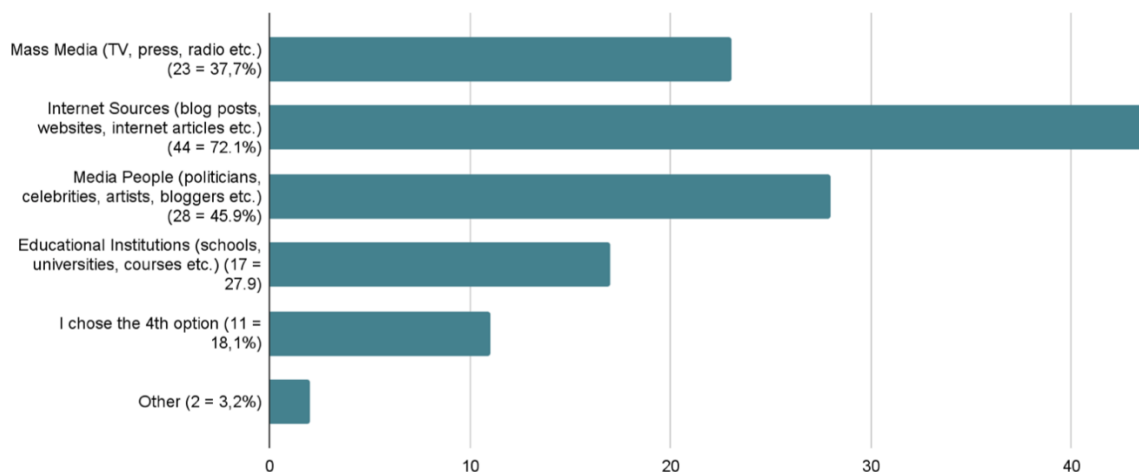


Table №2.

Big amount of information related to cyberbullying is drawn from online resources, which is to be expected. However, it is also worth noting that many of these sources, firstly, are not

always reliable and, secondly, often provide incomplete information so as not to bore readers too much. Media people and mass media also often address cyberbullying, but even here the amount of information available is often quite limited. Educational institutions, on the other hand, are the least popular of the answers provided, which is not the most reassuring result, given the fact that these institutions not only provide the most extensive information, but there is also a human element as a teacher/professor who can help to clarify some controversial points.

After analyzing the results, I came to the following conclusions. The vast majority of respondents are young people between the ages of 18 and 25, that is, Generation Z, who were born during the emergence of digital technology. These people will lay the foundation for the future development of humanity, including the protection of people's rights in the cyberspace, which many do not take seriously. When someone goes online, one does not often think about the feelings of others. Moreover, many people do not realize that activities such as cyberbullying are not only dangerous to the victim's mental health but also illegal. This may also be due to a lack of awareness of the legal side of the issue. This is why the second part of my paper will focus on the legal aspect.

CHAPTER 2. LEGAL FRAMEWORKS OF PROTECTING TEENAGERS FROM CYBERBULLYING

International legal frameworks

Multiple legal frameworks exist to address the problem of cyberbullying, both at the international level and at the level of legislation in each individual state. They aim both to establish restrictions, guidelines, and punishment mechanisms for perpetrators, as well as effective legal and psychological support for victims. A well-formulated legal framework on cyberbullying can help to avoid its negative consequences and create a safe virtual environment for young people. In this chapter, I would like to take a closer look at both some international legal frameworks and the approaches to the problem in Russia and the USA, including the legislative frameworks of States and the efforts of educational institutions. Understanding how the current legal framework works, I would like to analyze their weak points and provide some recommendations to improve states' ongoing efforts to combat cyberbullying.

International legal frameworks

According to Article 1 of the Universal Declaration of Human Rights²⁷ "all human beings are born free and equal in dignity and rights", Article 19 of the same declaration states that every person "has the right to freedom of opinion and expression; ... and to seek, receive and impart information and ideas through any media and regardless of frontiers". These two articles often raise the question of where in the virtual world one's right to freedom of expression ends, and where does the violation of another's dignity begin? In order to understand this question, it is worthwhile to consult additional sources.

²⁷ Universal Declaration of Human Rights, Adopted by UN General Assembly resolution 217 A (III) of 10 December 1948, Articles 1, 19

To begin analyzing the international legal framework for protection against cyberbullying, I would first like to talk about the protection of human rights in cyberspace in general. At a keynote speech by former UN High Commissioner for Human Rights Michelle Bachelet²⁸ the following phrase was mentioned "the same rights exist online and offline". UN Human Rights Council Confirms that Human Rights Apply to the Internet and adopts resolution "The promotion, protection and enjoyment of human rights on the Internet"²⁹. The first article of the resolution states that "the same rights that people have offline must also be protected online", singling out freedom of expression under Article 19 of the UDHR and the ICCPR. The second article of the resolution condemns all possible disregard for human rights on the Internet and the abuse of the right to freedom of expression and calls on states "to ensure accountability and effective remedies in this regard, in accordance with their international obligations".

Although the UN Convention on the Rights of the Child³⁰ does not include information on cyberbullying, it does cover a wide range of fundamental rights of the child that can be extended to the Internet. Article 2.1 of the Convention, for example, states that every state is obliged to respect the rights of the child "without discrimination of any kind", while Article 17 refers to the need for states to disseminate information through various sources "especially those aimed at the promotion of child's social, spiritual and moral well-being and physical and mental health".

²⁸ Keynote speech by Michelle Bachelet, UN High Commissioner for Human Rights, "Human Rights in the Digital Age. Can they make a difference?", Japan Society, New York, 17 October 2019 <Office of the UN High Commissioner for Human Rights, available at: [HTTPS://WWW.OHCHR.ORG/EN/SPEECHES/2019/10/HUMAN-RIGHTS-DIGITAL-AGE](https://www.ohchr.org/en/speeches/2019/10/HUMAN-RIGHTS-DIGITAL-AGE)> accessed May 6 2023

²⁹ The promotion, protection and enjoyment of human rights on the Internet: resolution / adopted by the Human Rights Council on 13 July 2021, A/HRC/RES/47/16, Articles: 1,2, 8.a <[HTTPS://DIGITALLIBRARY.UN.ORG/RECORD/3937534](https://digitallibrary.un.org/record/3937534)> accessed May 6 2023

³⁰ Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 < <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed May 7 2023

United Nations Educational, Scientific and Cultural Organization proclaimed every first Wednesday in November “International day against violence and bullying at school including cyberbullying”³¹. This day calls on UN Member States and its partners, regional organisations, and also civil society to unite against all forms of violence against children to ensure the safety and dignity of children and young people. A message from Audrey Azoulay, Director-General of UNESCO, on the 2022 celebration, said “on this day, UNESCO is eager to remind all victims of bullying that they are not alone. ... It is time to put an end to this global scourge once and for all”³².

International legal frameworks, while not binding, provide a framework to address the problem of cyberbullying. International conventions, resolutions and inter-governmental initiatives work together to develop a plan of action to create an optimal safe online environment for children and young people. However, the direct implementation of these strategies lies with the states themselves and it is the state's legal and regulatory framework that will determine how effective the fight against cyberbullying becomes.

Legislation approach of the problem in Russian Federation

As for Russia's jurisdiction, the problem of cyberbullying is often underestimated by the state, as there is still no unified approach to protect children from bullying and cyberbullying. All the legal provisions that can protect against cyberbullying are scattered under different articles of Russian jurisdiction. There are number of laws and regulations that set out the rights of citizens, including those involved in the learning process, and accountability standards that can

³¹ International day against violence and bullying at school including cyberbullying, UNESCO official webpage <https://www.unesco.org/en/days/against-school-violence-and-bullying?TSPD_101_R0=080713870fab2000dcc054d47637482ea735bd2cfaac8b7e1e882b71cd83f8a721043c1d320fb8fc08c167144514300031dd8dea24c4cf3b90f1a62650dbd47e0be2110abe7862510056a3aee1421ed274bd7c2125f6cc05765044a86faf3f7> accessed May 7 2023

³² Message from Ms Audrey Azoulay, Director-General of UNESCO, on the occasion of the International Day against Violence and Bullying at School, including Cyberbullying, 3 November 2022 <https://unesdoc.unesco.org/ark:/48223/pf0000383560_eng> accessed May 7 2023

be applied to the problem of cyberbullying as well. For example, Chapter 2 of the Constitution of the Russian Federation³³ enshrines the right of every person to respect for personality and human dignity, which is protected by the state, and nothing can be invoked to diminish it³⁴.

General Provisions

Article 150 of the Civil Code³⁵ of the Russian Federation, establishes the concept of “non-material values” (hereinafter NMV) as well as guarantee the procedure for their protection. NMV refers to “life and health, personal dignity, personal immunity, honour and good name ...” and many other concepts related to the protection of the rights of citizens. If NMV have been violated, the citizen has the right to demand judicial protection according to Article 152 of the same document. In a civil case, it is possible to claim compensation for non-pecuniary damage caused by the perpetrator, regardless of the fact that he or she has been held administratively or criminally liable. Regarding this kind of harm caused by a teenager, Article 1074 of the Civil Code³⁶ states that from the age of 14 a minor can be held civilly liable, and if there are insufficient funds, jointly with his or her parents.

Administrative Code

If the personality of instigator of the cyberbullying known, that person may be administratively liable for insults. According to the Article 5.61 of Code of Administrative Offences³⁷ insult, i.e., the dissemination of knowingly false information defaming the honour and dignity of an

³³ Constitution of the Russian Federation: [adopted by popular vote on 12 December 1993, amended and approved by a nationwide vote on 01 July 2020] // Official Internet Portal of Legal Information, Article: 19 <<http://www.constitution.ru/en/10003000-03.htm>> accessed May 21 2023

³⁴ Constitution of the Russian Federation, Article: 21

³⁵ Civil Code of Russian Federation of 30.11.1994 N 51-FZ (ed. of 14.04.2023 with amendments of 16.05.2023) (with amendments and additions, in force from 28.04.2023), Part I, Chapter 8, Article 150, 152 <<https://rospatent.gov.ru/en/documents/1-civil-code-of-the-russian-federation-part-one/download>> accessed May 21 2023

³⁶ Civil Code of Russian Federation of 30.11.1994 N 51-FZ, Part II, Chapter 59, Article 1074, 152

³⁷ Code of the Russian Federation on Administrative Offences of 30.12.2001 N 195-FZ (ed. 28.02.2023), Part 2, Article 5.6, <<https://rulaws.ru/amp/koap/Razdel-II/Glava-5/Statya-5.61/>> accessed May 22 2023

individual, including on the internet, entails an administrative fine of between 3,000 and 5,000 rubles³⁸. Public insult increases the amount of the fine and equals 5-10 thousand rubles³⁹. In case of failure to take measures to prevent insults, a fine of 30-50 thousand rubles may be imposed on an official person and from 50-100 thousand rubles on a legal entity⁴⁰. Article 5.61.1 of the same law⁴¹ also introduces the concept of slander, i.e., “distribution of obviously false data discrediting honor and advantage of other person or hurting its reputation”, which involves the imposition of an administrative fine of between 500 and 3 million rubles (usually against the administration of the social network on which the slander was posted). It is worth noting that a person aged from 14 to 16 years is not liable for an administrative offence; parents or other legal representatives are responsible in their place. A person aged 16 years or older is fully administratively liable.

Criminal Code

When it comes to the most serious consequences of cyberbullying, in actual litigation, lawyers are guided by the following articles of the Criminal Code of the Russian Federation⁴²:

- Article 110. Incitement to suicide (imprisonment from 8 to 15 years);
- Article 110.1 Convincing to commit suicide or assisting to commit suicide (inducement to suicide - imprisonment up to 2 years with hard labour, assisting suicide - imprisonment up to 3 years 2 years with hard labour);

³⁸ Code of the Russian Federation on Administrative Offences of 30.12.2001 N 195-FZ Article 5.6 (1)

³⁹ Code of the Russian Federation on Administrative Offences of 30.12.2001 N 195-FZ Article 5.6 (2)

⁴⁰ Code of the Russian Federation on Administrative Offences of 30.12.2001 N 195-FZ Article 5.6 (3)

⁴¹ Code of the Russian Federation on Administrative Offences of 30.12.2001 N 195-FZ, Part 2, Article 5.6.1 <<https://rulaws.ru/amp/koap/Razdel-II/Glava-5/Statya-5.61.1/>> accessed May 22 2023

⁴² Criminal Code of the Russian Federation of 13.06.1996 N 63-FZ (amended on 03.04.2023), Articles: 110, 110.1, 110.2, 119, 128.1 <<https://rulaws.ru/amp/uk/>> accessed May 26 2023

- Article 110.2 Organization of the activity directed on inducement to commit suicide (imprisonment for 5 to 10 years);
- Article 119. Threat of murder or causing grave harm to health (compulsory labour for up to four hundred and eighty hours, or restriction of liberty for up to 2 years, or compulsory labour for up to 2 years, or detention for up to 6 months, or imprisonment for up to 2 years);
- Article 128.1. Slander (fine of up to five 100 thousand rubles or in the amount of the convicted person's wages for a period of up to six months).

But it is worth understanding that these articles "work" only if the relatives or the victim himself knows exactly who the bully is. If the identity of the offender is unknown, only an administrative sanction procedure may be applied in relation to a social platform that has failed to take appropriate measures to remedy an act of cyberbullying. Also, under Article 20 of the Criminal Code of the Russian Federation, only persons aged 16 years or older can be subject to criminal punishment (Unless a person aged between 14 and 16 has committed an offence with particularly grave consequences, to which only article 110 falls into).

Although Russia has an extensive legal framework to protect children's rights against cyberbullying, no judicial and investigative practice on cyberbullying has yet emerged. This is partly due to the fact that the current legal framework is extremely complex and confusing. According to V. M. Maltsev⁴³, head of the Directorate “K”⁴⁴ of the Ministry of Internal Affairs of Russia, the question of establishing whether the threat made is real, even for a criminal investigation, is particularly difficult to qualify. In other words, if the offender has repeatedly

⁴³ Valentina A. Maltseva "Protection of children from cyberbullying. Issues of Criminal Law Regulation", Law and Law, 2019, No. 10, p. 98 <<https://cyberleninka.ru/article/n/zaschita-detey-ot-kiberbullinga-voprosy-ugolovno-pravovogo-regulirovaniya>> accessed May 26 2023

⁴⁴ Directorate “K” (*rus. Управление “К”*) - unit of the Russian Ministry of Internal Affairs fighting IT crime

sent the victim information of an unambiguously threatening nature, further investigation may reveal the circumstances in which it is impossible to carry out these threats. Therefore, at this point, the Russian Federation needs to build as clear and effective prevention program against bullying and cyberbullying as possible to avoid negative consequences in the future.

There are some very good programs in Russia designed to put an end to cyberbullying. For example, in 2019 VK⁴⁵ announced 11th of November Anti-Cyberbullying Day in Russia and created the portal KiberbullingNet, which contains a lot of useful information for users⁴⁶. Since 2022, the school curriculum has included mandatory after-school "Conversations About the Important"⁴⁷, which are held daily in every classroom, where children are taught important information on various topics, one of which is cyberbullying. It's great to see that kids and teens have started to think about cyberbullying, but all that effort can be a waste of time.

Unless the authorities begin to take this problem seriously and introduce a clear definition of cyberbullying, penalties for its commission and measures to counteract cyberbullying, there will be little point in talking about cyberbullying as an illegal act. Also, a very important omission in this matter is that a teenager under the age of 16 can hardly be brought to any kind of responsibility, which makes peer to peer cyberbullying unpunished. Thus, I can offer a number of recommendations for the Russian Federation regarding the improvement of anti-cyberbullying protections:

- Introduce a federal law that would clearly stipulate the concept of cyberbullying, the range of violations that fall under this concept, and the proportionate punishment for each of them;

⁴⁵ The largest Russian technology corporation that owns the majority of Russian IT servers.

⁴⁶ KiberBullingNet, official website of the portal <<https://kiberbulling.net>> accessed May 27 2023

⁴⁷ Ministry of Education of the Russian Federation, Letter, June 17 2022 N 03-871, On the organization of classes "Conversations about the important" <<https://docs.cntd.ru/document/351161744>> accessed May 27 2023

- Establish a clear strategy for regulatory practices that a teenager can resort to (together with parents or school administrators), perhaps develop an action memo from the Ministry of Education, and share this information with organizations and online platforms that combat cyberbullying (e.g., KiberbullingNet);
- Establish in the administrative and criminal law the concept of "insulting a juvenile", as well as fix the commission of the act through the use of information and telecommunications networks (including the Internet) by a juvenile;
- Actively promote popular anti-bullying initiatives and create a statewide 24/7 support line for victims of cyberbullying.

In my opinion, these measures can minimize the consequences of the existing problem of cyberbullying.

Legal approach of America. Examples of California, Missouri, and Ohio

In American Federal Law, there is no mention of bullying or cyberbullying. However, each state has its own legal framework dealing with this aspect⁴⁸. Some states have developed laws, policies, and regulations, while others have provided schools and educational institutions with model policies that can be used to develop their own local laws. Most of these laws require schools to establish an effective mechanism to address and investigate bullying and cyberbullying within the school, but some also require the development of prevention programs, including both the introduction of 'Internet literacy' programs for students and specific training for teachers and school psychologists. To give an overview of the most

⁴⁸ Laws, Policies & Regulations, a federal government website managed by the U.S. Department of Health and Human Services 200 Independence Avenue, S.W. Washington, D.C. 20201, <[HTTPS://WWW.STOPBULLYING.GOV/RESOURCES/LAWS](https://www.stopbullying.gov/resources/laws)> accessed May 28 2023

different approaches, I would like to look at the legal regulation of only 3 states: California, Missouri, and Ohio.

California

In California protection against cyberbullying is provided on the basis of both: general law and school policy requirements. California's school districts are obliged to take policy prohibiting measures against all kinds of harassment, including bullying and cyberbullying, as well as measures to prevent it⁴⁹. They are also advised to keep relevant records on complaints and the resolution of such conflicts for at least one review cycle (once a quarter of a year). There is so called Education Code, which includes Safe Place to Learn Act⁵⁰, the main goal of which is "to ensure that all local educational agencies continue to work to reduce discrimination, harassment, and violence"⁵¹. The Act requires the Department of Education to monitor school compliance through the Categorical Program Monitoring process; requires the Department to create up-to-date information for school curricula on anti-bullying and cyberbullying, and to annually inform school districts about information posted on the California Healthy Kids Resource Center website; to develop a model bulletin on combating all forms of bullying; requires the local educational agency to develop measures to prevent cyberbullying; and requires the school district to develop an anti-bullying policy. The actions of the offender, which may qualify as an "extreme form of intimidation" are misdemeanor crimes and fall under

⁴⁹ Laws, Policies & Regulations, a federal government website managed by the U.S. Department of Health and Human Services, <<https://www.stopbullying.gov/resources/laws/california>> accessed May 28 2023

⁵⁰ California Education Code (EDC) 2022, Title 1 "General EDC Provisions", Division 1, Part 1, Chapter 2 "Educational Equity", Article 5.5 "Safe Place to Learn Act" <<https://law.justia.com/codes/california/2022/code-edc/title-1/division-1/part-1/chapter-2/article-5-5/>> accessed May 28 2023

⁵¹ Education Code, Safe Place to Learn Act, Article 5.5, 234 (b)

Section 653.2 of the California Penal Code⁵². These crimes are punishable by one year in jail and/or a \$1,000 fine.

Missouri

The state of Missouri, unlike California, only has law measures to combat cyberbullying, without having definite school policies on the issue. Cyberbullying is defined in Missouri law in the Missouri Revised Statutes⁵³.

Paragraph 160.775 “Antibullying policy required, definition, content, requirements” defines bullying and cyberbullying, as well as introduces antibullying policy for each district, which should ensure that every child or teenager has a safe environment in which to learn. Measures to prevent cyberbullying in each district should contain the following minimum: official statement of the district on the prohibition of bullying; the requirement that any employee of the educational institution report any case of bullying or cyberbullying to an authorized person of the school district, who is also appointed by this law; the development of a procedure for the prompt investigation of violations, which should be conducted under the direction of the school principal or other school staff appointed by the director; provision of information and appropriate training for school staff regarding cyberbullying issues; providing students with information about cyberbullying and its negative consequences in the educational process, etc.

A person who uses social media to bully another can be charged with harassment. Usually, such offenses are treated as Class A misdemeanors⁵⁴, which can be punished with a maximum

⁵² California Penal Code 2022, Part 1 “Of Crimes and Punishments”, Title 15 “Miscellaneous crimes”, Chapter 2 “Of Other and Miscellaneous Offenses”, Se Section 653.2 <<https://law.justia.com/codes/california/2022/code-pen/part-1/title-15/chapter-2/section-653-2/>> accessed May 29 2023

⁵³ Missouri Revised Statutes 2022, Title XI “Education and Libraries”, Chapter 160 “Schools General Provisions”, Section 160.775 “Antibullying policy required, definition, content, requirements” <<https://revisor.mo.gov/main/OneSection.aspx?section=160.775&bid=33227&hl=>> accessed May 29 2023

⁵⁴ Missouri Revised Statutes 2022, Title XXXVIII “Crimes and Punishment; Peace Officers and Public Defenders” Chapter 557 “General Sentencing Provisions”, Section 557.021, Paragraph 3.2(a) “Classification of

of one year in jail and a fine of up to \$2000. Also, such actions may be considered as class E felony if the actions were committed against a minor by an offender over the age of 21 (maximum term of imprisonment of 4 years and fine)⁵⁵.

Ohio

Protection against cyberbullying in Ohio is provided by both state mandated school anti-bullying policies and by state law, as is the case with California. Section 3313.666 of the Ohio Revised Code enters "District Policy Prohibiting Harassment, Intimidation, or Bullying Required"⁵⁶. This law requires all schools to have policies in place that prohibit harassment, intimidation, and bullying on school grounds and thus create a safe environment for students. These rules include identifying violations (including on the Internet) that could lead to psychological and physical harm to a student; establishing procedures for reporting such violations; documenting each incident; ensuring procedures for investigating and preventing such violations; and establishing school procedures for dealing with unlawful acts.

As for direct laws regarding protection against cyberbullying, it is worth relying on section 2917.21 "Telecommunications Harassment" of Ohio Revised Code⁵⁷. According to this law, any intentional message, text, photo, or audio recording posted on the Internet with the intent to threaten, insult or harass a person is considered an act of cyberbullying. There are four types of offenses related to cyberbullying that fall under the jurisdiction of the law: sending threatening, intimidating or other obscene messages to cause psychological harm to the victim;

offenses outside this code" <<https://revisor.mo.gov/main/OneSection.aspx?section=557.021>> accessed May 29 2023

⁵⁵ Missouri Revised Statutes 2022, Title XXXVIII, Chapter 557, Section 557.021, Paragraph 3.1(a)

⁵⁶ Ohio Revised Code 2022, Title 33 "Education-Libraries", Chapter 3313 "Boards of Education", Section 3313.666 "District Policy Prohibiting Harassment, Intimidation, or Bullying Required" <<https://law.justia.com/codes/ohio/2022/title-33/chapter-3313/section-3313-666/>> accessed May 30 2023

⁵⁷ Ohio Revised Code 2022, Title 29 "Crimes-Procedure", Chapter 2917 "Offenses Against the Public Peace", Section 2917.21 "Telecommunications Harassment" <<https://law.justia.com/codes/ohio/2022/title-29/chapter-2917/section-2917-21/>> accessed May 30 2023

acts of sexual harassment through the Internet; incitement of third parties to electronically harass the victim; statements of intent to ruin the property of the victim or his or her family. The former is considered first-degree misdemeanor and can be punished by a maximum sentence of up to 180 days in jail with a \$1,000 fine. All the rest are fifth-degree misdemeanors and are punishable by 6 to 12 months in jail with a \$2,500 fine. It is also worth noting that if the above-mentioned actions have led to more serious consequences (real personal or property damage), then such a violation will have a more serious punishment.

Having analyzed the legal approach of all 3 states, I come to the following conclusions. In America's legal discourse, the problem of cyberbullying is quite detailed, both at the state and school district level. Almost every state, regardless of its approach, has directives that prescribe to schools what to do in case of an encounter with bullying or cyberbullying, how to prevent such situations and what regulatory and legal actions should be taken to bully and to the victim.

However, despite this thoughtful and intelligent approach on the part of the state, in practice it turns out that all measures to combat and prevent cyberbullying should be applied by the school itself, which does not always happen. You can often find comments like "My child is being bullied/cyber-bullied at school. We have informed the school administration several times, but no action has been taken. What should we do?", to which the lawyers respond that you can only keep trying and hope that action will be taken, because as long as the bullying has no significant consequences, there is no other complaint mechanism than at the school level.

It is not clear whether this kind of fact is due to the negligence of the school administration, a lack of qualified staff, or whether there is no way to influence bully by "school forces". Anyway, I would like to offer a few recommendations that I think would improve the situation in America:

- Increase school districts' oversight of how schools perform in creating safe spaces for learning, including increased oversight within the school of staff competence;
- Devise a scheme for the state or a state-subordinate body to review cases that have not been properly handled at the school district level;
- Proactively spread free help and support lines for victims of cyberbullying. That way, even if the school district did not take the case seriously, the victim will still get help;
- Strengthen Internet literacy classes in schools, and perhaps introduce more of a psychological element into classes so that victims would not be shy about asking for help.

These types of measures will help improve the mechanism of legal protection and minimize the risk of a victim being left without help or support.

CONCLUSION

In today's world, in which more than half of the population are Internet users, the problem of human rights becomes particularly important. Not all users are aware of the problems they may encounter while in the virtual world. Thus, with the birth of cyberbullying the term has never lost its relevance.

The stumbling block for everyone, researchers, and policy makers alike, remains that there is no single definition of cyberbullying, which is not surprising, because it is extremely difficult to qualify absolutely all types of cyberbullying. Also consider the fact that every year a lot of technology appears, we may not know what a new kind of cyberbullying may come out in a few years. But in general, it is common in academia to refer to the definition of typical bullying and to consider cyberbullying in three dimensions: intentionality, unequal interpersonal relations.

The problem of cyberbullying often does not receive enough attention in society. However, it is worth noting that quite a lot of people are aware of the problem from various sources, and we can see a tendency that since 2020 the degree of awareness has started to grow rapidly. The vast majority of people are aware of the UN policy on cyberbullying. This shows that the organisation is actively promoting its ideas. However, not everyone is aware of anti-bullying regulations within their own country, which may also be due to the fact that not all states follow the UN guidances.

In Russian legal discourse, the term cyberbullying does not exist at all. And despite a rather spacious legal framework that can extend its influence into the Internet space, it is almost impossible to launch a legal procedure against cyberbullying. This is also due to the fact that both the victim's lawyer and the offender's lawyer can interpret the offence falling under the scope of cyberbullying in their own way. Also, peer-to-peer bullying before the age of 16 is

almost never an offence. Therefore, it is imperative to introduce the term and classification of cyberbullying and the penalties for committing this offence into laws of Russia in the first place.

In America each state has its own quite elaborate policies against cyberbullying. Different states take different approaches, but in general, all laws and policies boil down to the fact that schools are required to develop a safe environment without any kind of harassment for their students, must take steps to prevent cyberbullying, and must notify school districts of any incident of bullying or cyberbullying and act on existing guidelines to punish the perpetrator. Each state also has legislative measures for severe and aggravated consequences of cyberbullying. However, in practice, it turns out that not all schools are up to the task. At this time, victims of cyberbullying which “consequences” are not severe enough to be dealt with at the state level may be left without the appropriate legal procedure that the school has to set in motion. It is therefore crucial to either impose stricter controls on schools in this regard or introduce penalties for less serious offences into the laws.

To summarise, I want to emphasize that this paper makes a significant contribution to the study of the legal policies of the two states regarding its measures to combat cyberbullying. However, while writing the paper, I realized that it could be expanded in order to analyze the current situation more accurately. For instance, we could look more closely at social policies and outcomes of anti-bullying organizations activity and analyze incidents of cyberbullying if not in all of Russia or California, Missouri, and Ohio, then at least in a few cities or regions. Based on this additional data, a comparative analysis of the actions of both states can be made based on the "success" of their anti-bullying policies.

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