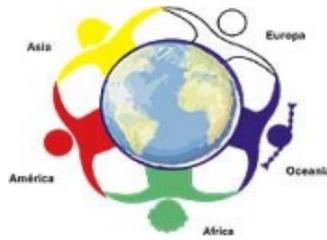


2007- Barcelona



**III Congreso Mundial sobre Derechos de
la Niñez y Adolescencia**
Del 14 al 19 de Noviembre de 2007
Barcelona

Bullying. Children's rights violated

"Bullying is a public matter of violation of human rights"

José Sanmartín.

Director of the Reina Sofía Center for the Study of Violence.

Author: Marina Parés Soliva

Social worker with a specialty in bullying. Legal social expert. Member The International Association on Bullying and Harassment in the Work.

Institutional Reference: European Mobbing Information Service SEDISEM. Email: sedisem@yahoo.es

III World Congress on the Rights of Children and Adolescents

Axis Two: A World Fit for Children

Thematic Axis: Peaceful coexistence and the culture of respect for the rights of children and adolescents; against violence and discrimination.

Title: Bullying. Children's Rights violated.

In the original spanish. Translated by Marina Parés

Summary:

The European Mobbing Information Service is an NGO born three years ago whose main objective is to spread the phenomenon of moral harassment at the international level and promote lines of research, aimed at eradicating this type of psychological violence in the various spaces where it emerges; This summary is the result of one of these lines of research, which deals with violence between equals within schools, which has come to be called bullying. Bullying or bullying is a recently conceptualized phenomenon, and in Spain it jumped to public opinion as a result of the suicide of Jokin, a 14-year-old boy, due to the harassment to which he was subjected by his peers. Based on this fact, which impacted public opinion, various statistical studies have been carried out in Spain on the prevalence of bullying, researchers have also emerged who have contributed their knowledge to develop prevention and intervention plans from educational centres, Likewise, the parents of the affected children have joined together in aid associations, and some of the cases have received the attention of the media and the judiciary. Today in Spain there is a general agreement on what is meant by bullying, and professionals have the necessary information to stop it, but the reality of everyday life confirms that the cases of children bullied by their peers, in instead of decreasing they increase.

This paper will address the phenomenon with the certainty that the emergency of bullying violates the Rights of Children and Adolescents and aims to demonstrate that strict compliance with the International Convention is a way to effectively

eradicate bullying among schoolchildren. In this communication the phenomenon of bullying in Spain will be analysed through the analysis of the articles of the Convention, including the administration of justice in minors (the Beijing rules), the articles that are not complied with will be studied in depth and practical alternatives will be given to its implementation, with the aim that the Spanish society as a whole demands from the pertinent authorities an emotional involvement with the suffering of the attacked minors and their families; This will allow the elaboration of political and legislative actions aimed at creating a better world for children, in which violence and discrimination have no place.

Abstract

The European Information Service on Mobbing is an NGO born three years ago whose main objective is to spread the phenomenon of bullying at the international level and promoting research lines, aimed at eradicating this type of psychological violence at various places emerge; being this summary of the outcome of these lines of research, which deals with peer violence within schools, which has been renamed "bullying". School harassment or bullying is a phenomenon of recent conceptualization, and Spain jumped out to the public following the suicide of Jokin, a boy of 14 years, because of which he was subjected to harassment by their peers. From this fact, that impacted the public has been made in Spain several statistical studies on the prevalence of bullying, researchers have also arisen that have contributed their expertise to develop plans for prevention and intervention from schools, Likewise, parents of affected children have joined in aid associations, and some of the cases have received attention from the media and the judiciary. Today in Spain there is general agreement on what is meant by bullying, and professionals have the information necessary to tackle it, but the reality of day to day, we confirmed that cases of children harassed by their peers, increase rather than decrease.

This paper will address the phenomenon with certainty that the emergence of bullying violates the Rights of Children and Adolescents and seeks to demonstrate that strict compliance with the International Convention is a way to eradicate, an effective bullying among schoolchildren. Such notification shall analyse the phenomenon of bullying in Spain through the analysis of the articles of the Convention, including the administration of juvenile justice (Beijing Rules), further advance the items that are in breach and give practical alternatives to its implementation, with the aim of Spanish society as a whole demands to the relevant authorities emotional involvement with the suffering of children assaulted and their families, thus enabling the development of legislative and political action aimed at creating a better world for children, having no place or violence or discrimination.

Key Words: Children, Violence, Bullying, Rights.

1. SCHOOL HARASSMENT

1. 1 Concept of Bullying

The concept of bullying comes from an adaptation of the concept of bullying at work to bullying in the school environment. Both forms of behaviour have a lot in common, since both are manifestations of psychological violence through group harassment, what differentiates them is the environment where they take place, some at work and others at school; as well as the age of the participants and a greater use of physical assaults in the case of bullying. As they are manifestations of physical violence accompanied by psychological violence, they are aimed at breaking the balance and psychological stability of the victim, therefore, the victim's suicide can be considered as proof of the success of group harassment.

Bullying is divided into two categories: direct and indirect. Direct bullying: it is the most common form among children; instead indirect harassment or social aggression: it is usually more common among girls, mainly from preadolescence. It is characterized by leading the individual to social isolation. This isolation is achieved through a variety of techniques including: spreading rumours, rejecting

social contact with the victim, threatening other children who get along with the victim, criticizing social traits, the victim's dress or religion, race, and disability. These assaults are mostly of a psychological nature, in the form of insults, verbal threats, contempt, ridicule, exclusions and may be accompanied by physical violence: kicking, hitting.

Bullying is a phenomenon that grows daily, approximately 15 percent of children and adolescents have suffered bullying, in Spain some studies point to 25%. Harassment means systematically insulting, intimidating, hitting and humiliating a person. Bullying is a form of psychological harassment perpetrated by a child, with the help of his gang, who is or feels superior to others in a school. The researchers affirm that bullying has three essential elements: aggressiveness, repetition and unequal power. The harasser's behaviour is aggressive and negative, is repeated and occurs in an unequal power relationship between the parties involved.

Prolonged bullying by schoolmates can lead to suicide or fierce revenge, which is why actions to prevent and detect it are so necessary. Boys and girls who are bullied are at risk of truancy, serious injury, escape from home, suicide attempt, and abuse of alcohol, drugs, and cigarettes. Approximately statistical data tells us that of those child victims, almost 10% would suffer severe injuries, more than 17% would miss school to avoid bullying and about 7% would attempt to commit suicide due to permanent bullying. Some cases analysed indicate that if bullying occurs over boys who already have social problems, these boys may not be able to defend themselves in a way that is not drastic: namely, killing and killing themselves. Let us mention in this regard the Columbine massacre in the US and the case of Pantriste in Argentina.

1.2 Children's rights in bullying

Children's Rights (or Children's Rights) are rights that children and adolescents have for the simple reason of being born. They are inalienable, innate and essential for a good childhood. The idea of promoting the rights of the child began during the 19th century, and in the first two decades of the 20th century, various declarations of the rights of the child circulated. However, the first systematic declaration of children's rights was the 1924 Geneva Declaration, written by Eglantyne Jebb, founder of the international organization Save the Children, which was approved by the League of Nations on December 26, 1924. Based on this initiative, the UN General Assembly approved in 1959 a Declaration of the Rights of the Child, consisting of 10 principles, specifying for children the rights contemplated in the Universal Declaration of Human Rights. It is from 1979, on the occasion of the International Year of the Child, that a new declaration of children's rights began to be discussed, founded on new principles. As a consequence of this debate, in 1989 the Convention on the Rights of the Child, in force until today, was signed at the UN. Among the rights of the child that have been increasingly recognized, we can note the following:

- Education rights
- Right to a family
- Right to preferential health care
- Right not to be forced to work
- Right to be heard
- Right to have a name

- Right to food every day
- Right of association and right to integrate, to be an active part of the society in which they live
- Right not to be discriminated
- Right not to be mistreated

The Convention on the Rights of the Child is an international United Nations treaty on the rights of the child, which has 54 articles that recognize that all persons under the age of 18 have the right to be protected, develop and actively participate in society, establishing that children are subjects of law. It has been ratified by all the States of the world, with the exception of Somalia and the United States of America, the latter mainly due to the prohibition of the application of the death penalty to children that this convention contains.

Since the Declaration of the Rights of the Child was approved in 1959 at the UN (United Nations Organization) general assembly, every year the International Day of the Rights of the Child has been celebrated. However, despite the fact that several years have passed since then, the child community in many countries continues to suffer serious problems and their rights are continuously violated. We can often think that such violations of children's rights only occur in developing countries and that in advanced countries children are protected. Unfortunately, in the XXI century we must point out an area within developed societies where the Rights of the Child are systematically violated, and this place is paradoxically educational centers.

The right to education is a human right that affirms that education is a right and urges States that primary education should be free for all. The law is mainly contained in the United Nations International Covenant on Economic, Social and Cultural Rights, ratified by a majority of the countries of the world, which in article 13 recognizes the right of everyone to education. The right to education contains the following commitments on the part of the States:

- They agree that education must be oriented towards the full development of the human personality and the sense of their dignity, and must strengthen respect for human rights and fundamental freedoms.
- They also agree that education should enable all people to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and among all racial, ethnic or religious groups, and promote the activities of the United Nations for peacekeeping.
- "Primary education must be compulsory and accessible to all free of charge";
- "Secondary education, in its different forms, including technical and vocational secondary education, must be generalized and made accessible to all, by all appropriate means, and in particular by the progressive introduction of free education";
- "Higher education should be made equally accessible to all, on the basis of individual capacity, by whatever means are appropriate, and in particular by the progressive introduction of free education";
- Fundamental education should be "encouraged or intensified, to the extent possible, for those who have not received or completed the full cycle of primary education";
- "It must actively continue the development of the school system in all the educational cycles, implement an adequate system of scholarships, and continually improve the material conditions of the teaching staff."

It is evident that for a child harassed at school, the education he receives is not oriented towards the full development of his personality and sense of dignity, and

that respect for human rights and fundamental freedoms is not strengthened, but rather everything contrary. Let's listen to the story of a victim:

As a former victim of bullying (today called bullying). No one knows better than I what those children are going through. No one imagines it or imagines what we have suffered through. I came to provoke teasing at 12 and 13 years old because if I did not spend the recesses alone, isolated, like a sucker. I needed contact with people and I knew that even if they hurt me, I would have something new that day. I want you to imagine 2 breaks per day, the 1st for 30 minutes and the 2nd for 3 hours, now multiply it by every day of a school year and, later, by the 8 years that the EGB lasted. Imagine growing up alone, isolated, plagued, between bumps and teasing during all that time and wondering why I did it. Later I thought about committing suicide, but I had no courage, I was afraid of the pain of death and, fortunately, I did not, but I was forever marked.

1.3 Consequences of Bullying

Bullying affects both the victim, members of the bullying gang and witnesses to the violence. Let's briefly see the consequences of harassment on each of its protagonists. The victim produces fear and rejection of the context in which the violence is suffered, as well as loss of confidence in oneself and in others, they are also accompanied by various difficulties that may arise from these problems (decreased performance, low self-esteem). In the aggressor, it favours the increase in the problems that led him to abuse his strength, namely: it diminishes his capacity for moral understanding, as well as his capacity for empathy, which is the main engine of socio-emotional competition, and so much so that a violent style of interaction is reinforced, which represents a serious problem for his own development, hindering the establishment of positive relationships with the environment around him. In students who do not participate directly in violence but who live with it without doing anything to prevent it, bullying can produce, albeit to a lesser degree, problems similar to those of the victim (fear of being a victim of violence). similar aggression) and to those that occur in the aggressor, (reduced empathy); and both contribute to an increase in the lack of sensitivity, apathy and lack of solidarity regarding the problems of others, characteristics that increase the risk that in the future they will be active protagonists of violence. On the other hand, the consequences in the institutional context in which violence occurs, that is, the school are serious, since a reduction in the quality of life of the students is perceived, since it is difficult to achieve the majority of its objectives (learning, quality of work ...) and increases problems and tensions, activating an escalation with serious consequences. In conclusion, regarding the class group, made up of children who witness the humiliations of the victim and subjected to silence by terror of the harassing group, we must agree that education does not enable them to participate effectively in a free society, promote understanding, and tolerance, but on the contrary since they are subject to the terror regime of the strongest, they are not free to talk about what happens neither with the parents nor with the teachers, nor are they free to defend the victim since this would place them in a place of being also harassed in such a way that what they learn are forms of interpersonal relationships based on intolerance, contempt and humiliation. In schools where bullying is allowed to flourish, the educational principle contained in the treaty, of friendship between all nations and between all racial, ethnic or religious groups, is pure utopia.

We must also point out that this same treaty says that the "States Parties to the present Covenant undertake to respect the freedom of parents and, where appropriate, of legal guardians, to choose for their children or pupils schools other than those created by public authorities, provided that they meet the minimum standards that the State prescribes or approves in the matter of education, and

that they make their children or wards receive the religious or moral education that is in accordance with their own convictions ". The right of parents of bullied children to choose different public centers from the center where their children are being harassed is not respected in Spain.

2. RIGHTS OF THE CHILD

2.1 Violated Rights

The Convention on the Rights of the Child, adopted and ratified by the General Assembly in its resolution 44/25, of November 20, 1989, entered into force on September 2, 1990 and is made up of 54 articles that deserve our attention. In summary, the basic human rights enjoyed by children around the world are the following: the right to survival; to full development; protection against dangerous influences, protection against ill-treatment and exploitation; and to full participation in family, cultural and social life. In turn, the four fundamental principles of the Convention are non-discrimination; dedication to the best interests of the child; the right to life, survival and development; and respect for the child's views. The Convention protects the rights of children by stipulating guidelines for health care, education, and the provision of legal, civil and social services. It should be noted that all the rights defined in the Convention are inherent to the human dignity and harmonious development of all children, and as being the victim of bullying represents an attack on the personal dignity of the minor and prevents the harmonious development of the child we must insist on the need to view bullying as a violation of the rights of children and promote the obligation to stop bullying by all those who are defenders of the rights of children.

In this study, we will delve into the articles of the Convention that are breached when a case of bullying appears at school. Not only are we going to see what happens by allowing the emergence of bullying, but we are also going to give practical alternatives so that with its implementation, bullying and violence between equals in educational institutions will end. By allowing bullying, the following articles are violated:

Article 2, paragraph 2 of the Convention (1) which gives States the obligation to guarantee protection measures for children to avoid discrimination, ceases to be fulfilled when a single case of bullying appears in a school and is not resolved. since in these situations the States do not protect the child from the discrimination or punishment that bullying represents. To avoid this non-compliance and provide solutions, it is worth considering what the appropriate measures should be, and we point out the most basic the existence of a legal regulation that sanctions the practices of moral harassment within educational institutions. It is necessary to go towards raising awareness on the one hand and towards the demands of the rulers on the other, so that in all countries legislation against moral harassment is legislated to its full extent, whether in primary, secondary or even of higher education.

Article 3 of the Convention, in its section 3 (2), is also not complied with by allowing the emergence of bullying at school, since States do not ensure compliance with regulations within care services such as educational centers. of security against the psychosocial risk that moral bullying represents, both for the child victim and for children who witness violence. The alternative would be to implement risk prevention measures in educational centers, both those aimed at teachers, non-teaching staff and students. A true policy of prevention of

psychosocial risks within schools would allow the detection of conflict situations that could degenerate into bullying and tackle them in their earliest stages.

Another point that is not complied with is article 12, section 1 of the Convention (3) that guarantees the formation of a proper judgment in minors, this aspect is flagrantly breached when there is a case of bullying since in these situations the means for the harassed minor to express what they do to him. When the student-teacher communication channels fail, the minors, victims of the bullying group are the most affected, but the other children who see how the kingdom of terror is installed in interpersonal relationships are also affected. Children remain silent out of fear and this fact is contrary to their formation in democratic values. The alternative that could be implemented by adults to avoid this type of situation would be to create so-called anti-bullying mailboxes, included in the broad framework of a Plan to prevent bullying. In these mailboxes anonymously, minors can report situations of harassment both their own and others', that is, they have seen other colleagues being attacked. In some cases in which these mailboxes have been created, it is verified that quite a long time before the child-victim denounces the harassment to which they are subjected, other child-witnesses have written anonymous complaints informing the situation of bullying to another partner; This fact confirms the postulate that some children who witness violence towards another and who must remain silent for fear of the group of aggressors also suffer, and in some cases with the same intensity as the child-victim, manifestations of post-traumatic stress, the symptoms being the problems of insomnia, anguish and crying for no reason are more evident.

Article 16 (4) is breached in its two sections, that is, it is breached in its entirety in cases of bullying, since non-interference in the victim's private life is not guaranteed. The first section of the article is not complied with since the attacks on the honour of the child-victim of bullying are carried out with total impunity by all possible means including new technologies, both through messages in private email, and by circulating beatings and harassment by fellow mobile phones.

Violence acquires forms as twisted as mobile recording for later dissemination. This is what happened to another 14-year-old Valencian minor who last November received punches, blows and kicks all over his body to the point of ending up being admitted to the emergency department. Beating that he received while a colleague recorded how he cried and asked for help.

The lack of specific legislation violates section two of this article since the harassed minor does not have the specific protection that would free him from the serious situation he suffers.

Article 19 (5) is also not fully complied with by allowing bullying situations to not have a specific prevention program that contemplates the actions that a harassed minor must take to receive protection from adults. In Spain, today, there are no legislative or administrative measures to protect the bullied child from the physical and mental abuse of bullying. Although, in most States, the minor is protected from abuse by adults, the same cannot be said when the abuse is carried out by other minors, so it can be said that in school bullying, minors are defenceless against abuse. caused by his peers. This situation can be remedied by implementing a compulsory bullying prevention plan in all schools. From the European Information Service on Mobbing, a Plan and Project for the Intervention of bullying in the school has been designed that will allow ending such defencelessness of harassed minors, in an efficient and economically less burdensome way, since it rests on the actions that They must be carried out from within the institution itself and not so much because of the presence of an expert external to the institution, with the teachers

themselves being the protagonists of the change. The main lines of this Intervention Project are explained a few lines below.

Article 28 (6) is breached in its section one, specifically in subsections "b" and "e", which guarantee education and prevent truancy. And this is so, given that in the absence of protection measures for the bullied child, he finds himself in the situation of having to stop attending school as a way of avoiding the attacks and aggressions to which he is subjected in the school. by his classmates. Lack of protection for the harassed minor encourages truancy.

The next day my daughter did not want to go back to class because she says she knew what was going to happen. They pushed her, humiliated her, and made her drop out of class. In the Language class they threatened her with death and they told her: "You have been able to escape these days, but your parents are not always going to be with you." "We have a surprise for you: they are going to kill you outside."

Likewise, this article is not complied with, also in its section two, since it is precisely the absence of a fair and equitable discipline system that encourages aggressive groups to take power in the classroom and on the patio, terrorizing their peers. Tackling cases of bullying in schools is linked to the implementation of fair school discipline, that is, capable of protecting the victim, otherwise, when the victim is unprotected, we cannot speak of a fair system.

Article 29 (7) is also not fulfilled by allowing the emergence of bullying, basically because it was conceived to foster a culture of education in values that completely fails to allow the emergence of situations of bullying among minors, since a bullied child cannot develop to the best of your abilities.

Six years after living in a daily hell of insults, disqualifications, loneliness, marginalization, constant neck injuries on the part of his peers in the most absolute solitude since he found no support from anyone - neither teachers nor family members - José Carlos has dared to make known the ordeal that one day after another had to endure

Failure to comply with this article is especially serious, especially with regard to subsection "d" in which the signatory States undertake to prepare the child to assume a responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes and friendship between all peoples. Neither bullied children nor witnesses, much fewer bullying children learn to live in a society guided by peace and understanding.

In cases of bullying, article 31 (8) of the Convention is also breached, in its two sections, those that guarantee rest and play for children, and this is so since bullied children do not enjoy cultural outings at school. , or sports since they are situations where the aggressive acts of their peers are carried out with greater impunity.

"I cry for everything, I do not want to do the festival, I find it difficult to make sure that I am well in front of my mother and that I do not care that my friends do not speak to me, I do care that they do not speak to me, I feel super alone, I cannot bear patio time, I'm ashamed too, that everyone looks at me like that and whispers, I can't stand it, I feel weird. On the last excursion they threw a whole can of Coca-Cola at me, I was not going to risk having something else done, so I did not go".

Article 37 (9) is also violated in its entirety by allowing the minor to be physically and psychically tortured by his peers. Let's see as an example the real situation suffered by a minor.

On other occasions, the defendants covered his head with his jacket and gave him all kinds of blows while inviting other students to join the distribution of colleges for free. The minor also suffered the theft of his wallet and keychain, objects that the Civil Guard found in the possession of the detainees. Another harassment to which he was subjected was to put pens in his ears and, among the tortures, the complaint relates that the alleged attackers burned plastics and forced the victim to put their hands on them.

This article obliges States to ensure that no one tortures children and is permanently violated when children who are bullied are repeatedly subjected to aggression, sometimes leading to the suicide of minors as a way of fleeing the harassment to which they are subjected, without there being any action by the educational authorities that prevent it.

Article 39 (10) is also not observed by the signatory States, since the requests of the parents of the children victims of an early resolution of the situation suffered by their children are ignored. This article obliges States to adopt all appropriate measures to promote the physical and psychological recovery and social reintegration of every child victim. The reality is quite the contrary, harassed minors are rarely cared for by public health systems, and parents have to resort to private psychological care so that their children recover from the humiliations received, with the consequent economic cost.

Article 40 (11) is another of the sections that are not complied with in the articles of the Convention when bullying is allowed to appear in schools and nobody does anything to stop it. Let's listen to the story of a victim.

"They called me crazy because I stuttered a lot and sometimes they spoke to me as if I was stupid or subnormal, they constantly gave me nags on the neck of my classmates, on one occasion they hit me in front of the teacher, I kept looking at him to see if he reacted, but no he said no peep, he made a little smile, period".

This article contemplates the promotion of rehabilitation measures for minors who have violated the law aimed at ensuring that such rehabilitation measures strengthen the child's respect for the human rights and fundamental freedoms of third parties. Today, the few bullying children who are tried for their actions of bullying a partner do not have a series of rehabilitative measures to prevent them from continuing to attack their peers once the prescribed detention has ended. In this sense, special measures should be implemented, such as apologizing to the victim and reparative actions that will directly benefit the child-victim by all the minors who have formed the bullying gang and therefore have actively participated in the attacks. It would also have to consider the possibility of placement in foster homes to those minors in whom it is determined that their parents promote the violent actions of their children, until said parents have received adequate therapy that enables them to educate their children. within the prevailing social norms of respect for their peers. This can be a controversial move, especially by people who have never had to deal with parents of bullying children. Bullies or bullies are children who also deserve to be treated appropriately for their well-being and educated by parents who are violent or with personality disorders that manifests in a lack of empathy towards the suffering of others, it is not appropriate for these minors, even if it's his parents. An important indication in this regard is to find out if the parents of the child-bullies have expressed their regret for the actions committed by their children and have been able to empathize with the parents of

the child-victim; otherwise, when they have not been able to understand the pain of the victim's parents, it will be necessary to think that perhaps they are not the most suitable people to educate their children without turning them into criminals.

Bullying has occurred from day one, throwing paper balls at her in class and insulting her. And they reached a higher dimension on September 24 at a recess when the little sister was threatened and insulted and the older sister was beaten with blows to the head and back when she wanted to intervene to leave her. The girls' mother spoke to the other mother, who refused to collaborate (apparently this is a problematic family).

The signatory governments pledged to safeguard and defend these rights, and therefore fighting against the practices of bullying is a commitment that should be considered an obligation for all the countries of the world.

2.2 Alternatives and solutions

We cannot start talking about effective alternatives to bullying if we have not previously analysed what are the triggers. Let's do a brief review, we know that there are three types of factors (12) that influence the emergency of bullying: individual, organization and community. The individual factors are those that refer to the characteristics of the minors involved, the organizational factors are those of the educational center itself where a case of bullying emerges, that is, it refers to the culture and school climate and the other large group It is made up of community or social factors, that is, those of a particular society, namely the prevailing values in that society and the public policies with which it is endowed. Therefore, tackling bullying will entail the implementation of actions in the three types of factors, in the face of community factors we must bet on the existence of a Law against Bullying, to face organizational factors we advocate a Plan Prevention and Intervention for each Educational Center and to tackle the individual factors specific therapy will be necessary. In conclusion, the practical alternatives to eradicate bullying focus on three axes: the existence of a state law against bullying in all its manifestations (school, work, real estate, etc.), the second axis includes both prevention such as intervention within the Educational Center, as well as on the one hand the implementation of preventive measures through the Prevention of Psychosocial Risks in schools (avoiding harassment of teachers and among schoolchildren) and finally the obligation that each center school has its bullying intervention project from school, which serves as an action protocol in the event that a case of bullying appears. Intervening on individual factors requires prior knowledge of the minors involved, so it must be specifically designed in each case, so now we are going to introduce ourselves in each of the axes in which we can do it, namely, organizational and social factors. The positive part of the knowledge of the propitiatory factors of bullying is that these factors act in both directions, as favouring and inhibiting bullying, that is, their lack can be a trigger and their presence can help us to act to prevent and tackle the bullying, hence the need to be stated.

The importance of a State having a Law against Moral Harassment allows that society, on the one hand, to equip itself with a normative compendium and, on the other, to create social sensitivity by determining such harassment practices as criminal in that country. The existence of a State Law against all types of bullying favours that the community factors that intervene in the emergency of bullying act to stop bullying instead of encouraging it; We can affirm that the non-existence of a Law against Harassment is a facilitating factor for its emergence, since it shows that this society does not have a social base predisposed to stop bullying.

For its part, the implementation of the prevention of psychosocial risks in educational centers will allow tackling both moral harassment between teachers (workplace harassment) and among students (school harassment), which, by implementing this preventive culture, fosters a culture of values from the origin, that is, from daily practice and not only from the great speeches of good intentions. It is difficult to educate in a culture of tolerance when there is harassment among the teachers themselves.

Even if a country had a Law against Bullying and also forced prevention in educational centers, it is probable that some case of bullying will appear since it is not possible to intervene preventively against individual factors. In other words, when these two previous measures, namely, considering bullying as a crime and preventing it, have not been sufficient and there is the emergence of a case of bullying, it is important that the educational center has an action protocol. There is no doubt that intervening in community and organizational factors will decrease the number of cases of bullying, but it will not be able to prevent the emergency of all of them, that is why from the European Mobbing Information Service we advocate the Bullying Intervention Project from school (13) as an action protocol in cases of bullying.

2.3 Bullying intervention project from school

For the implementation of this Protocol, it is based on the premise that bullying is a manifestation of group harassment and all the designed interventions have in common unconditional support for the person, child in this case, victim of the violence of their peers. Therefore, the intervention project presented (14) can only be applied taking into account these two pillars, namely: unconditional support for the child-victim and the admission that we are facing group bullying. It is not therefore a dispute between two, but there is a group that attacks an individual. Without respecting these two premises, the intervention model presented here will probably not achieve the expected results.

Unconditional support for the child-victim is concretized in absolute respect for their word, the version of the events that they manifest, as well as their participation in decision-making on the ways to intervene and the intervention times. Nothing should be done without the child-victim knowing what the adult intervention is going to be, this implies adapting to the times of the minor. Not respecting their criteria, and acting without their knowledge can lead to an aggravation of the violence they receive, since adults, even with the best of intentions, can initiate actions that increase the situation of vital distress of the child-victim. We cannot ignore the certain risk of suicide in harassed minors, precisely because of the vital anguish they suffer, so strict compliance with this point is of vital importance. Thus, the model presented here is based on respect for the minor's decision-making regarding the resolution of his own problem, with the only exception that no further acts of aggression on him will be tolerated. It is very important that at this point the adult is inflexible: it will not be allowed to continue being attacked, therefore all the actions to be designed must meet that objective: to cut off aggressions at the root.

The other pillar on which this intervention model is based is the acceptance that we face group harassment, which means that on the one hand there is a group of children or adolescents who attack and on the other the victim who is attacked, very alone and with very few supports. The model presented here will not have good results if we start from the assumption of a quarrel between two. In interpersonal disputes there is a certain balance of forces that is non-existent in

cases of bullying or bullying. Therefore, it will be necessary to design specific activities aimed at the victim, the aggressors, the spectators, as well as the group-classroom, families and the entire educational community in general. The Intervention Plan involves everyone.

The Intervention Plan has two sections: school intervention and family intervention. Within the school intervention it is necessary to distinguish the work in the classroom, which will fall on the tutor, it also includes the intervention with the rest of the teachers, who will fall more on the direction. This teaching aspect should not be underestimated, since it will be necessary to count on the collaboration of all the teachers to implement dissuasive measures of other possible harassments, since it has been detected that, sometimes, when a victim is highly protected, the group of Bullying is looking for another student to direct their violent actions. On the other hand, the work in the classroom must include the intervention with the protagonist children (victim and bully), and with the class group. In the Intervention Plan the actions towards the three groups of children (victim, bully and witnesses) are distinguished since the interventions will be different for each one of them.

Family intervention must include working both with the family of the child-victim, as well as with the parents of the child-bully and also with the parents of the other violent children. In this section, the involvement of the social workers of the Guidance Teams and the municipal social services is very important.

3. CONCLUSIONS

Bullying is a form of wilful and persistent mistreatment of one group of students towards another without provocation. All the experts and scholars of the subject affirm that the aggressors usually act out of desire for power and dominance towards the other. The way of acting and the educational style of parents and educators are essential both in the prevention and in the early detection and brake of this phenomenon. It is necessary to highlight the importance of the role played by the bullying observers, and to point out that in most cases they choose to position themselves on the side of the stronger for fear of being the next attacked. That is why it is vitally important that when any situation of abuse occurs, you must know how to act quickly and forcefully, following a predetermined plan that involves the entire educational community, including families and other external agents such as social workers and psychologists.

Studies have found that anti-bullying programs achieve a reduction in attacks by minors if they are maintained over the long term. Anti-bullying prevention and intervention projects implemented from the school itself are effective. It was found that children who were in schools where anti-bullying advice was given had changed their behaviour. The data also reveals that violence reappeared if prevention courses were suspended from one year to the next. The importance of prevention is to send messages clearly and constantly that bullying will not be tolerated in the center; Likewise, prevention ensures that the behaviour of teachers and staff structures do not act as models for bullying behaviour.

We recognize that teachers today are overwhelmed in the face of so many situations that they must deal with and in order to intervene in these and other cases, they must have the support of the administration (through the prevention of psychosocial risks for teachers and students) and have the capacity to intervene to cut disruptive behaviour at the root (through a specific action protocol). For this reason, it is necessary to provide teachers with the necessary resources in this

regard, including providing them with the normative authority to enable them to adequately sanction students who distort coexistence in the center.

Recognizing the rights of boys and girls allows them to focus on them as integral beings. With the approval of the Convention, boys and girls stopped being passive recipients of benefits to become autonomous beings and subjects of rights. If children's needs were previously considered negotiable, they have now become fundamental rights. In advanced societies, schools must not only deal with academic content, but must work with attitudes, norms, and values. Thus educating in cooperation, tolerance, solidarity, the peaceful resolution of conflicts, the respect of the norms for coexistence, etc. and being able to let children know how to put themselves in the position of others, that is, how to perceive how others around them feel, we will be able to train the future adults of tomorrow so that they know how to live in peace with their peers. Hopefully this paper has contributed to this.

"I often hear that you refer to the man who commits a crime as if he were not one of you, as a stranger and an intruder in your world ... But I tell you that in the same way that not a single leaf turns yellow without the silent knowledge of the tree, neither can the wicked do the evil without the hidden will of all of you "
Jalil Gigrán, Lebanese writer

REMARQUES:

1 -2. Los Estados Partes tomarán todas las medidas apropiadas para garantizar que el niño se vea protegido contra toda forma de discriminación o castigo por causa de la condición, las actividades, las opiniones expresadas o las creencias de sus padres, o sus tutores o de sus familiares

² Artículo 3

1. En todas las medidas concernientes a los niños que tomen las instituciones públicas o privadas de bienestar social, los tribunales, las autoridades administrativas o los órganos legislativos, una consideración primordial a que se atenderá será el interés superior del niño.

2. Los Estados Partes se comprometen a asegurar al niño la protección y el cuidado que sean necesarios para su bienestar, teniendo en cuenta los derechos y deberes de sus padres, tutores u otras personas responsables de él ante la ley y, con ese fin, tomarán todas las medidas legislativas y administrativas adecuadas.

3. Los Estados Partes se asegurarán de que las instituciones, servicios y establecimientos encargados del cuidado o la protección de los niños cumplan las normas establecidas por las autoridades competentes, especialmente en materia de seguridad, sanidad, número y competencia de su personal, así como en relación con la existencia de una supervisión adecuada.

³ Artículo 12

1. Los Estados Partes garantizarán al niño que esté en condiciones de formarse un juicio propio el derecho de expresar su opinión libremente en todos los asuntos que afectan al niño, teniéndose debidamente en cuenta las opiniones del niño, en función de la edad y madurez del niño.

2. Con tal fin, se dará en particular al niño oportunidad de ser escuchado, en todo procedimiento judicial o administrativo que afecte al niño, ya sea directamente o por medio de un representante o de un órgano apropiado, en consonancia con las normas de procedimiento de la ley nacional.

⁴ Artículo 16

1. Ningún niño será objeto de injerencias arbitrarias o ilegales en su vida privada, su familia, su domicilio o su correspondencia ni de ataques ilegales a su honra y a su reputación.

2. El niño tiene derecho a la protección de la ley contra esas injerencias o ataques.

⁵ Artículo 19

1. Los Estados Partes adoptarán todas las medidas legislativas, administrativas, sociales y educativas apropiadas para proteger al niño contra toda forma de perjuicio o abuso físico o mental, descuido o trato negligente, malos tratos o explotación, incluido el abuso sexual, mientras el niño se encuentre bajo la custodia de los padres, de un representante legal o de cualquier otra persona que lo tenga a su cargo.

2. Esas medidas de protección deberían comprender, según corresponda, procedimientos eficaces para el establecimiento de programas sociales con objeto de proporcionar la asistencia necesaria al niño y a quienes cuidan de él, así como para otras formas de prevención y para la identificación, notificación, remisión a una institución, investigación, tratamiento y observación ulterior de los casos antes descritos de malos tratos al niño y, según corresponda, la intervención judicial

⁶ Artículo 28

1. Los Estados Partes reconocen el derecho del niño a la educación y, a fin de que se pueda ejercer progresivamente y en condiciones de igualdad de oportunidades ese derecho, deberán en particular:

a) Implantar la enseñanza primaria obligatoria y gratuita para todos;

b) Fomentar el desarrollo, en sus distintas formas, de la enseñanza secundaria, incluida la enseñanza general y profesional, hacer que todos los niños dispongan de ella y tengan acceso a ella y adoptar medidas apropiadas tales como la implantación de la enseñanza gratuita y la concesión de asistencia financiera en caso de necesidad;

c) Hacer la enseñanza superior accesible a todos, sobre la base de la capacidad, por cuantos medios sean apropiados;

d) Hacer que todos los niños dispongan de información y orientación en cuestiones educacionales y profesionales y tengan acceso a ellas;

e) Adoptar medidas para fomentar la asistencia regular a las escuelas y reducir las tasas de deserción escolar.

2. Los Estados Partes adoptarán cuantas medidas sean adecuadas para velar por que la disciplina escolar se administre de modo compatible con la dignidad humana del niño y de conformidad con la presente Convención.

3. Los Estados Partes fomentarán y alentarán la cooperación internacional en cuestiones de educación, en particular a fin de contribuir a eliminar la ignorancia y el analfabetismo en todo el mundo y de facilitar el acceso a los conocimientos técnicos y a los métodos modernos de enseñanza. A este respecto, se tendrán especialmente en cuenta las necesidades de los países en desarrollo.

⁷ Artículo 29

1. Los Estados Partes convienen en que la educación del niño deberá estar encaminada a:

a) Desarrollar la personalidad, las aptitudes y la capacidad mental y física del niño hasta el máximo de sus posibilidades;

b) Inculcar al niño el respeto de los derechos humanos y las libertades fundamentales y de los principios consagrados en la Carta de las Naciones Unidas;

c) Inculcar al niño el respeto de sus padres, de su propia identidad cultural, de su idioma y sus valores, de los valores nacionales del país en que vive, del país de que sea originario y de las civilizaciones distintas de la suya;

d) Preparar al niño para asumir una vida responsable en una sociedad libre, con espíritu de comprensión, paz, tolerancia, igualdad de los sexos y amistad entre todos los pueblos, grupos étnicos, nacionales y religiosos y personas de origen indígena;

e) Inculcar al niño el respeto del medio ambiente natural.

2. Nada de lo dispuesto en el presente artículo o en el artículo 28 se interpretará como una restricción de la libertad de los particulares y de las entidades para establecer y dirigir instituciones de enseñanza, a condición de que se respeten los principios enunciados en el párrafo 1 del presente artículo y de que la educación impartida en tales instituciones se ajuste a las normas mínimas que prescriba el Estado.

⁸ . Artículo 31

1. Los Estados Partes reconocen el derecho del niño al descanso y el esparcimiento, al juego y a las actividades recreativas propias de su edad y a participar libremente en la vida cultural y en las artes.

2. Los Estados Partes respetarán y promoverán el derecho del niño a participar plenamente en la vida cultural y artística y propiciarán oportunidades apropiadas, en condiciones de igualdad, de participar en la vida cultural, artística, recreativa y de esparcimiento.

⁹ Artículo 37

Los Estados Partes velarán por qué:

a) Ningún niño sea sometido a torturas ni a otros tratos o penas crueles, inhumanos o degradantes. No se impondrá la pena capital ni la de prisión perpetua sin posibilidad de excarcelación por delitos cometidos por menores de 18 años de edad;

b) Ningún niño sea privado de su libertad ilegal o arbitrariamente. La detención, el encarcelamiento o la prisión de un niño se llevará a cabo de conformidad con la ley y se utilizará tan sólo como medida de último recurso y durante el período más breve que proceda;

c) Todo niño privado de libertad sea tratado con la humanidad y el respeto que merece la dignidad inherente a la persona humana, y de manera que se tengan en cuenta las necesidades de las personas de su edad. En particular, todo niño privado de libertad estará separado de los adultos, a menos que ello se considere contrario al interés superior del niño, y tendrá derecho a mantener contacto con su familia por medio de correspondencia y de visitas, salvo en circunstancias excepcionales;

d) Todo niño privado de su libertad tendrá derecho a un pronto acceso a la asistencia jurídica y otra asistencia adecuada, así como derecho a impugnar la legalidad de la privación de su libertad ante un tribunal u otra autoridad competente, independiente e imparcial y a una pronta decisión sobre dicha acción.

¹⁰ Artículo 39

Los Estados Partes adoptarán todas las medidas apropiadas para promover la recuperación física y psicológica y la reintegración social de todo niño víctima de: cualquier forma de abandono, explotación o abuso; tortura u otra forma de tratos o penas crueles, inhumanos o degradantes; o conflictos armados. Esa recuperación y reintegración se llevarán a cabo en un ambiente que fomente la salud, el respeto de sí mismo y la dignidad del niño.

¹¹ Artículo 40

1. Los Estados Partes reconocen el derecho de todo niño de quien se alegue que ha infringido las leyes penales o a quien se acuse o declare culpable de haber infringido esas leyes a ser tratado de manera acorde con el fomento de su sentido de la dignidad y el valor, que fortalezca el respeto del niño por los derechos humanos y las libertades fundamentales de terceros y en la que se tengan en cuenta la edad del niño y la importancia de promover la reintegración del niño y de que éste asuma una función constructiva en la sociedad.

2. Con este fin, y habida cuenta de las disposiciones pertinentes de los instrumentos internacionales, los Estados Partes garantizarán, en particular:

a) Que no se alegue que ningún niño ha infringido las leyes penales, ni se acuse o declare culpable a ningún niño de haber infringido esas leyes, por actos u omisiones que no estaban prohibidos por las leyes nacionales o internacionales en el momento en que se cometieron;

b) Que a todo niño del que se alegue que ha infringido las leyes penales o a quien se acuse de haber infringido esas leyes se le garantice, por lo menos, lo siguiente:

- i) Que se lo presumirá inocente mientras no se pruebe su culpabilidad conforme a la ley;
- ii) Que será informado sin demora y directamente o, cuando sea procedente, por intermedio de sus padres o sus representantes legales, de los cargos que pesan contra él y que dispondrá de asistencia jurídica u otra asistencia apropiada en la preparación y presentación de su defensa;
- iii) Que la causa será dirimida sin demora por una autoridad u órgano judicial competente, independiente e imparcial en una audiencia equitativa conforme a la ley, en presencia de un asesor jurídico u otro tipo de asesor adecuado y, a menos que se considere que ello fuere contrario al interés superior del niño, teniendo en cuenta en particular su edad o situación y a sus padres o representantes legales;
- iv) Que no será obligado a prestar testimonio o a declararse culpable, que podrá interrogar o hacer que se interroge a testigos de cargo y obtener la participación y el interrogatorio de testigos de descargo en condiciones de igualdad;
- v) Si se considerare que ha infringido, en efecto, las leyes penales, que esta decisión y toda medida impuesta a consecuencia de ella, serán sometidas a una autoridad u órgano judicial superior competente, independiente e imparcial, conforme a la ley;
- vi) Que el niño contará con la asistencia gratuita de un intérprete si no comprende o no habla el idioma utilizado;
- vii) Que se respetará plenamente su vida privada en todas las fases del procedimiento.

3. Los Estados Partes tomarán todas las medidas apropiadas para promover el establecimiento de leyes, procedimientos, autoridades e instituciones específicos para los niños de quienes se alegue que han infringido las leyes penales o a quienes se acuse o declare culpables de haber infringido esas leyes, y en particular:

- a) El establecimiento de una edad mínima antes de la cual se presumirá que los niños no tienen capacidad para infringir las leyes penales;
- b) Siempre que sea apropiado y deseable, la adopción de medidas para tratar a esos niños sin recurrir a procedimientos judiciales, en el entendimiento de que se respetarán plenamente los derechos humanos y las garantías legales.

4. Se dispondrá de diversas medidas, tales como el cuidado, las órdenes de orientación y supervisión, el asesoramiento, la libertad vigilada, la colocación en hogares de guarda, los programas de enseñanza y formación profesional, así como otras posibilidades alternativas a la internación en instituciones, para asegurar que los niños sean tratados de manera apropiada para su bienestar y que guarde proporción tanto con sus circunstancias como con la infracción.

¹² Parés Soliva, Marina. Basado en la ponencia “Factores grupales y sociales del Bullying a través del análisis de casos” presentado en el I Congreso Internacional sobre Violencia Escolar en Almería. Noviembre 2007. Disponible en <http://acosomoral.org/bully46.htm> (réf 17-12-07)

Y en <http://www.educaweb.com/noticia/2007/12/17/factores-acoso-escolar-210691.html> (réf 13-8-08)

¹³ Parés Soliva, Marina “Proyecto de intervención sobre bullying en la escuela”. Disponible en http://www.belt.es/expertos/HOME2_experto.asp?id=3373 (réf 20-Nov-06) y en <http://acosomoral.org/erga.htm>

¹⁴ Parés Soliva, Marina . “Un caso de Bullying ¿Cómo abordarlo?”. VI Congreso Internacional Virtual de Educación (Feb 2006). Disponible en <http://www.acosomoral.org/pdf/cive06.pdf> (réf 5-3-2006)

BIBLIOGRAPHI

CONVENCIÓN SOBRE LOS DERECHOS DEL NIÑO. Oficina del Alto Comisionado para los Derechos Humanos. Disponible en http://www.unhchr.ch/spanish/html/menu3/b/k2crc_sp.htm (réf 10-8-08)

PROCESOS GRUPALES Y SOCIALES EN EL BULLYING. Marina Parés Soliva. VII Encuentro Internacional sobre Prevención y Salud Laboral. Vilanova i La Geltrú. Disponible en <http://acosomoral.org/pdf/bullying2007.pdf> (réf 1-6-2007)

PROYECTO DE INTERVENCIÓN ESCOLAR EN UN CASO DE BULLYING. Marina Parés Soliva. Congreso "Ser Adolescente Hoy" Madrid- Noviembre 2005. Ed. FAD –Fundación de Ayuda contra la Drogadicción. Ministerio de Trabajo y Asuntos Sociales. Libro de ponencias. Pag 421- 426. Madrid 2005. También disponible en <http://www.acosomoral.org/pdf/ProyectoBullying.PDF> (réf 30-11-2005)

All reproduction must cite the author and the source

© marinapares2007.

Por los derechos de la infancia y de la adolescencia : un compromiso mundial desde el derecho de participación en el XX aniversario de la Convención sobre los Derechos del Niño

Autores: Carlos Villagrasa Alcaide (coord.), Isaac Ravellat Ballesté (coord.)

Editores: Editorial Bosch

Año de publicación: 2009

País: España

Idioma: español

ISBN: 978-84-9790-435-3

Acoso escolar: derechos de la infancia conculcados
Marina Parés Soliva

2549-2572

