

***Evaluating the Anti-Bullying Act Of 2013
and Its Implementation in Philippine Public Schools***

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Abstract

School, as a simulation of society, is a place of development for young learners. However, it may also create an environment unhealthy to students caused by bullying -- making it a crucial concern for schools due to victims exhibiting psychological or social repercussions. Thus, the 'Anti-Bullying Act' (RA 10627) was passed into Philippine law in 2013, aiming to prevent such and to further protect learners' rights. Upon its enactment, however, an increasing trend in school bullying became evident despite the measures applied, with social media as a contributor. This status quo may give an impression that the Philippine society is still struggling to understand the problem and in finding resolutions to this escalating concern. This paper discusses the conceptual challenges bullying poses for school policy efforts; evaluate the impact of the law and its Implementing Rules and Regulations in public secondary schools; and propose recommendations such as 'immediate intervention strategies'. Foreign legislation addressing school bullying also serve as a cross-reference vis-à-vis RA 10627. While this paper seeks to contribute to the existing literature of bullying and strengthening policies against it, it is likewise a fresh attempt at examining the consequences that may arise when conflicts and other legal issues come into place. What is clear is that, there is a need today to properly re-examine the policies protecting the children of the nation in light of the growing understanding that every learner is special.

Keywords: bullying, school policy, doctrinal and non-doctrinal legal research

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Introduction

Republic Act 10627 or the Anti-Bullying Act was passed into law in 2013, with hopes of protecting the rights of students. The 2015 Department of Education Report, however, showed an even increasing trend in bullying in schools despite the measures implemented by the Department and the Congress. In 2014, the recorded bullying incidences totaled to 6,363 or around 31 cases per school day, 21 percent higher than the previous year (Diaz, 2015). It then skyrocketed to 19,672 cases in the school year 2016-2017, translating this to 97 reported incidents of bullying on the said 202-day school year.

School Year	Reported Cases of Bullying in the Philippines
2012-2013	5,236
2013-2014	6,363
2014-2015	11,448
2015-2016	29,723
2016-2017	19,672

Figure 1. Source: DepEd Consolidated Report on Bullying

These figures raised concern among parents and school authorities though many of the cases were already attended to, knowing that the biggest threat to the school children is not street criminals but rather their fellow students. Moreover, Eighty percent of teenagers aged 13 to 16 have been cyberbullied through social media, according to a 2015 survey by child-care nonprofit Stairway Foundation Inc. The data presented may give one an idea that the society as a whole is still struggling to understand the problem and in finding resolutions to the escalating social concern.

It then begs the question of why such data are present despite the implementation of RA 10627 and the efforts of the Department of Education. Therefore, there is the need to shed light to this issue as said law may also bring disadvantages such as using the law to commit false accusations and the alleged taking away of most of the responsibilities of parents in disciplining their child. Another issue pertaining said law is its limitations where it only addresses student-student bullying. As such, bullying involving a college student, or one committed by or against a teacher, is also not covered. Moreover, RA 10627, in some of its provision, is a violation of the Article III, Section 4 of the 1987 Constitution of the Philippines stating that, "No law shall be passed abridging the freedom of speech, of expression, or of the press."

Finally, there would also be the need to review specific child protection policies implemented in schools as protocols provided by the Implementing Rules and Regulations stemmed from RA 10627 may not be strictly aligned to a school's policy.

This research paper proposal aims to evaluate the impact of RA 10627 in secondary schools' policy of preventing bullying. It will also examine the weaknesses of the law and how it may be prevented from being exploited as well as its possible remedies.

This study seeks to answer the following questions:

1. How is RA 10627 implemented in public schools in terms of:
 - a. Policies adopted
 - b. Mechanisms to Address Bullying
 - c. Committees involved
2. What are the limitations and legal consequences that may arise when conflicts and other issues come into place?

Conceptual Conundrum

Bullying is not a new phenomenon, it is a well-studied social issue, but it is still prevalent to date. It is estimated that 246 million children and adolescents experience school violence and bullying (UNESCO, 2017). Moreover, in a study of Glew et al. (2000), around 17% in Australia, 19% in England, 15% in Japan, 14% in Norway, 17% in Spain and 16% in the USA. The prevalence of bullying appears to be high at age 7 and ages 10 to 12 (Glew et al., 2000; Nansel, 2001) with boys as the more likely perpetrators and victim than girls.

The conventional definition of bullying includes three characteristics: (1) intentional aggression, (2) a power imbalance between aggressor and victim, and (3) repetition of the aggressive behavior (Olweus, 2013; Solberg & Olweus, 2003). Cornell and Limber (2015) stated that each of these criteria poses challenges for law and policy.

The first criterion of intentional aggression is broadly inclusive and means that bullying can be physical, verbal, or social in nature (Gladden et al., 2014). As such bullying can overlap with many other proscribed behaviors such as criminal assault, extortion, hate crimes, as well as sexual harassment. In fact, in some of its forms, bullying can be difficult to distinguish from ordinary teasing, name-calling or from pushing to graver physical acts. Delineating children's friendship quarrels from painful social ostracism may prove to be difficult on the part of the untrained teachers.

As for the second criterion, the requirement for a power imbalance between aggressor and victim, is at the core of the concept of bullying. This element actually distinguishes it from other forms of peer aggression. However, assessing power imbalance is difficult. While judgments about physical size and strength are feasible in cases of physical bullying, bullying is most often verbal or social and requires a determination of a power differential that requires an assessment of peer status, self-confidence, or cognitive capability (Cornell & Cole, 2011; Olweus, 2013).

A further complication is that interpersonal power is not a static quality because it can vary across situations and circumstances. A person surrounded by friends gains temporary power over an adversary. An anonymous individual posting to a website has power to make hurtful remarks that may not have been possible in a face-to-face situation.

Meanwhile, the third criterion - repetition - is viewed as a vital element for intervention. Hence, this might complicate enforcement of antibullying policies because observers have the added burden of detecting multiple incidents of abusive behavior before they can conclude that bullying has occurred. Recognition of a

repetitive pattern to bullying, on the other hand, may be helpful in ruling out less serious behaviors (Solberg & Olweus, 2003). Majority of definitions recognize that a single incident can be sufficiently harmful or likely to be repeated that it can be regarded as bullying (Gladden et al., 2014; Olweus, 2013).

Peer Aggression

Taking the definition and its elements into consideration, not all negative actions committed against individuals or groups presumed to be of weaker strength may be called bullying. Aggressive behaviors are considered bullying when performed over and over and to a less influential person or group of individuals. Aggression, meanwhile, that intends to cause injury, physical and emotional pain, including a degree of fear or intimidation, is called peer aggression. The nature and purpose of bullying and peer aggression are the same- to cause harm, pain or injury, but the former is committed in the context of repetition and imbalance of power between the victim and perpetrator (Cascadia, 2014).

Effects of Bullying

Bullying and peer aggression expose children, particularly the victim, to several consequences such as depression, anxiety, loneliness, psychosomatic sickness, low self-esteem, and absenteeism. The prevalence of bullying is quite high among kindergarten children and adolescents that are aging eight to 12 years old (O'Malley, 2014). Researchers defined peer victimization as the "physical, verbal or psychological abuse of victims by perpetrators who intend to cause them harm" (Olweus, 1993; Graham, 2006; O'Malley, 2014). As such, it refers to the experience of the victim of being the target of persistent harassment by individuals who are not siblings and usually not from the same age groups. Victimization differs from simple peer conflict because of the presence of an imbalance power relation and the objective of harming the other party.

Psychologists view bullying as aggressive behavior that works within relationships of power and abuse. Rodkin, Espelage and Hanish (2015) stated that bullying can be cultivated by both the presence and absence of the network of friends. Youths who bully other children may either be socially marginalized young people who are exposed to violence and those who find temporary gratification in bullying other youth. The proponents further suggested the application of relation approach in understanding this type of aggression.

In a 2016 Cebu-based research about the effects of bullying by Laus, results revealed that bullying exists in the school with classmates as the perpetrators; direct verbal and relational are the most common forms of bullying; both sexes are involved in bullying and peer victimization, and, there is a significant relationship between bullying and victimization. Results underscored the need to implement a bullying prevention program focusing on awareness of the problem and their long-term impact to students is highly recommended. Moreover, there proved to be a need for the school to organize a peer counseling group to address the high rate of bullying cases reported only to their peers instead of school officials.

Moreover, in a research by Adams and Lawrence (2011), it claimed that the effects of bullying lasts into college. The said study had 269 undergraduate students examined whether those bullied in schools continued to show the effects after they enrolled in an institution of higher education. Thus, it was suggested that the negative effects of bullying in junior high and/or high school indeed continues into college.

Philippine Laws on Bullying

Section 2 of RA 10627 states that “bullying” shall refer to any severe or repeated use by one or more students of a written, verbal or electronic expression, or a physical act or gesture, or any combination thereof, directed at another student that has the effect of actually causing or placing the latter in reasonable fear of physical or emotional harm or damage to his property; creating a hostile environment at school for the other student; infringing on the rights of the other student at school; or materially and substantially disrupting the education process or the orderly operation of a school; such as, but not limited to, the following:

- a. Any unwanted physical contact between the bully and the victim like punching, pushing, shoving, kicking, slapping, tickling, headlocks, inflicting school pranks, teasing, fighting and the use of available objects as weapons;
- b. Any act that causes damage to a victim’s psyche and/or emotional well-being;
- c. Any slanderous statement or accusation that causes the victim undue emotional distress like directing foul language or profanity at the target, name-calling, tormenting and commenting negatively on victim’s looks, clothes and body; and
- d. Cyber-bullying or any bullying done through the use of technology or any electronic means.

Cyber-bullying

Aside from the physical bullying evident in schools, another form of bullying continues even in the virtual realm, such event is called cyber-bullying. A crucial factor in such increase in cyberbullying is the rapid growth in children’s access to the internet and other ICTs. A recent estimate suggests that one-third of internet users worldwide are below 18 years of age. (UNESCO, 2017)

The Anti-bullying Act of the Philippines (2013) also takes into account harassment repeatedly expressed through” the use of technology or any electronic means” as bullying (Republic Act 10627, 2013). Such acts can range from simple sending messages containing threats, sexual and racist comments, to ganging up in public forums like group chats and social media, and publishing blogs or posting false statements aimed to embarrass the victims in web pages.

This covers social bullying aiming to belittle another individual or group or gender-based bullying which humiliates another on the basis of perceived or actual sexual orientation and gender identity. (Sec. 3, B-1, RA 10627, Implementing Rules). However, this law only addresses student-student bullying. Hence, a teacher who belittles a student in Facebook or any other social media account, on account of

grades or class performance, social standing or gender may not be held liable under this law.

The Revised Penal Code and The Cybercrime Prevention Act

One who publicly or maliciously imputes to another a crime, vice, defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit or contempt of a natural or juridical person, or blacken the memory of one who is dead may be liable for libel under the Revised Penal Code. (Art. 353, RPC) These acts, when done in social media, will be punished more severely in addition to the civil action for damages which may be brought by the offended party. (Sec. 4 (c-4), RA 10175)

Cyber-libel holds liable only the original author of the post (Sec. 5 (3), Implementing Rules of RA 10175). Meanwhile, slander may also be applicable to one who, in heat of anger, utters statements that are highly defamatory in character. (Art. 358, RPC).

It must be taken into consideration that Republic Act 9344 or the Juvenile Justice Law of 2006 sets the minimum age of criminal liability at 15 years old. In its provisions, those between 15 to 18 years old may be detained in youth centers and go through rehabilitation programs. While, those under 15 years old are exempted from criminal liability and may undergo intervention.

Foreign Legislations addressing School Bullying

During the International Symposium on School Violence and Bullying in Seoul, South Korea in 2017, a published report documented the specific legislations pertaining to or addressing school violence and bullying of different countries.

In 2004, the Republic of Korea established the anti-school violence and bullying law, on the prevention of and countermeasures against violence in schools and the Act has since been revised to ensure it continues to respond appropriately. Its purpose is “to protect the human rights of students and raise students as healthy members of society through the protection of victim students, the guidance and education of aggressor students, and mediation between victim students and aggressor students”. It requires development of a master plan which includes research and education, support and rehabilitation, partnership between agencies and educational institutions and placement of school counsellors.

Similarly, in Sweden, the 2009 Discrimination Act and 2010 Education Act prohibit any forms of discrimination and bullying in schools and, educational institutions have an obligation to investigate and report all incidents of bullying and to have an annual plan to prevent and address it. The Act also prohibits reprisals against those who report incidents of bullying and the right to damages if a school does not comply with the regulations.

In Mexico, the 2014 Law on the Protection of the Rights of Children and Adolescents required authorities to establish strategies for the detection, prevention and elimination of bullying. According to this law, public servants and school staff should be trained to be able to manage bullying and mechanisms that provide care,

counselling and protection of children experiencing harassment or violence in schools should be established.

The Department of Education in the USA has taken a range of policy actions to fight bullying and cyberbullying which covers the following: requiring public elementary and secondary schools to report incidents; helping develop a standard definition of bullying; hosting summits aimed at bullying prevention; creating training modules for school bus drivers and classroom teachers; producing Indicators of School Crime and Safety; as well as supporting the Stopbullying.gov website including hosting webinars on cyberbullying.

Number Matters

In the consolidated report of Department of Education (DepEd) as seen on figure 1, bullying cases on both elementary and high school of private and public schools on 2013-2014 rose by 21% or a total of 6,363 cases, compare with the 5,236 on 2013. This translates to 31 daily bullying cases from a divisor of 201 school days. Moreover, the data kept on increasing, reaching 29,723 cases in the school year 2015-2016; while the recent from their report listed 19,672 cases of bullying in school year 2016-2017.

While the numbers do not necessarily reflect a significant percent of the total school population, it must be taken into consideration that students are initially ashamed of reporting an incident of bullying. Also, such incident usually happens privately.

Methodology

This research employed both doctrinal and non-doctrinal legal research. A doctrinal legal research through analysis, attempts to test the logical coherence, consistency, and technical soundness of a proposition or doctrine. While non-doctrinal research involves study of social impact (existing or proposed) or of “self-auditing of law” (Aynalem & Vibhute, 2009). Primary sources for this research are statutory materials such as the constitution and legislative acts, and case reports. Secondary sources, on the other hand, consist of law commentaries and law journals.

Further, an evaluative model of legal research aims at expounding the logical coherence of concepts, elements, facts and interests of legal phenomenon individually, or those outside the legal system. (Aynalem & Vibhute, 2009)

Conclusion

One of the many challenges encountered in the implementation of RA 10627 is the proper procedure in dealing with cases of bullying in schools. Even in the existence of school manuals and student handbooks in both public and private schools, there is no complete provision regarding the procedural steps in responding to bullying incidents which must be clearly explained and published for the stakeholders to recognize and follow. Grievance teams, Anti-Bullying committees, and school policy enforcers should design a comprehensive procedure that will ensure a positive outcome, adequate follow up and that relationships are restored for all involved.

Considering such challenges encountered, a more comprehensive approach is needed to protect any student who is bullied. While the spirit of the law shows the intent of the framers to prevent bullying, the language becomes susceptible to misinterpretation.

The implementation, as such, becomes problematic as the law is now construed in different manners. Worse, its conformance is not attained due to limitations. With the given evidence, it may be recommended that amendments be made to RA 10627 to wit:

1. An amendment changing the definition of bullying as provided in sec 2 (1) of RA 10627. Study the best definition applicable in the Philippine context. One possible amendment shall highlight the second element – power imbalance;
2. Add a procedural provision on how to properly address bullying cases and another provision for cyber-bullying. Therefore, the IRR shall include training of all school staff to detect, prevent, and respond appropriately to bullying. Such training would include the distinction between bullying and other illegal behavior;
3. Expand the law's coverage to include college, tech-voc schools (TESDA sites); resolve issue on conflict with the freedom of speech; look into the possibility of teacher bullying and teachers being bullied;
4. Empower the stakeholders by frequently involving them in anti-bullying campaign in schools. The Child Protection Committee (CPC) shall continuously engage the students, parents, community, and the like to ease the reporting, hearing procedures as well as counseling;
5. School policies should instruct school staff to assess students who are bullied for possible mental health and academic problems and shall immediately provide support and referrals for these students and their parents, as needed. Conversely, policies should also direct staff to provide support and referrals for students who engage in bullying (Kowalski et al., 2012; U.S. Department of Education, Office for Civil Rights, 2010);
6. Sanctions should be intensified. Leniency of such regulations only results in improper compliance for RA 10627; thus, the safety of learners is compromised. Section 14 of the Implementing Rules and Regulations stating the sanctions for non-compliance should be strictly observed, if not elevated.

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