Cyberbullying and Online Exploitation: Assessing the Effectiveness of South Africa's Legislative Framework in Protecting the Digital Youth

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SUMMARY

The rapid proliferation of internet-based technologies has transformed communication dynamics, presenting significant opportunities and formidable risks, particularly for minors. As young individuals increasingly navigate online spaces, they become vulnerable to cyberbullying, defined as intentional and recurring aggressive behaviour facilitated through electronic devices. This phenomenon poses a substantial threat to the youth, many of whom lack a comprehensive understanding of digital risks, thereby complicating their ability to safely navigate the complexities of online interactions. The repercussions of cyberbullying can be severe, leading to mental-health challenges such as depression and anxiety, while simultaneously infringing upon children's rights to privacy and protection from exploitation. Social-media platforms exacerbate this issue by providing environments where anonymity emboldens bullies and complicates accountability and enforcement of protective measures. Despite South Africa's position as a regional leader in implementing various legislative measures aimed at addressing cyberbullying, the existing framework falls short in providing clear definitions and youth-focused strategies necessary to protect minors from cyberbullying effectively. Current legislation, including the Electronic Communications and Transactions Act 25 of 2002 (ECTA), the Protection from Harassment Act 17 of 2011 (PHA), the Children's Act 38 of 2005, and the South African Schools Act 84 of 1996, primarily emphasises punitive actions rather than proactive prevention, thereby limiting its effectiveness in curbing cyberbullying among the youth. This research seeks to identify and analyse the gaps within South Africa's legislative framework concerning cyberbullying, employing a comparative legal analysis that juxtaposes South African laws with regions in the United States, such as Utah and California, which have enacted specific legislative

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measures to address cyberbullying, with a focus on protecting minors. Grounded in the Social-Ecological Model, which examines the multifaceted interplay of individual, relational, community, and societal factors in the context of cyberbullying, this study advocates for adopting clearer definitions and implementing proactive measures. Recommendations include enhanced reporting procedures, increased access to counselling services, the introduction of social-emotional learning (SEL) programmes, social-media usage limitations, and heightened parental supervision. Ultimately, the study emphasises the need for a collaborative approach involving government, business, internet service providers, and parents to safeguard children's digital rights. By integrating these strategies, South Africa can fortify its legislative framework to address the escalating issue of cyberbullying and ensure better protection for its youth.

KEYWORDS: Cyberbullying, minors, protection, online exploitation, rights of the child

1 INTRODUCTION

The rapid adoption of internet-based technologies has fundamentally transformed communication, access to information, and social interaction, globally and in South Africa. Over the past two decades, there has been a significant increase in internet penetration rates worldwide, driven by advancements in digital infrastructure, the proliferation of mobile devices, and the widespread availability of affordable data plans.[1] As of 2023, over 5.3 billion people, representing approximately 66 per cent of the global population, were connected to the Internet, highlighting the ubiquity of digital technologies in modern life.[2]

South Africa has mirrored this global trend, with internet penetration reaching 72 per cent in 2023, up from just 7 per cent in 2000.[3] The expansion of broadband infrastructure, the increased affordability of smartphones, and initiatives aimed at bridging the digital divide have all contributed to this growth.[4] The rise in internet usage has opened up new opportunities for economic development, education, and social engagement. However, the current generation faces unprecedented challenges as technology has evolved to amplify and perpetuate harmful behaviours. Modern bullies now exploit digital platforms to reach a broader audience, making cyberbullying a significant threat to today's youth. This is particularly concerning given that minors constitute a significant portion of global internet users.[5]

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1 International Telecommunication Union "ITU DataHub: The World's Richest Source of ICT Statistics and Regulatory Information" (2021) https://datahub.itu.int/ (accessed 2024-07-15).

2 Kemp "Digital 2023: Global Overview Report" (2023) https://datareportal.com/reports/digital-2023-global-overview-report (accessed 2025-09-20).

3 World Bank "Annual Report 2023: A New Era in Development" (2023) https://www.worldbank.org/en/about/annual-report (accessed 2024-07-15).

4 Gillwald "The State of ICT in South Africa" (2020) *Research ICT Africa, 2020* https://researchictafrica.net/research/state-of-ict-in-south-africa/ (accessed 2025-09-20).

5 Smith and Del Barrio *The Wiley-Blackwell Handbook of Bullying: A Comprehensive and International Review of Research and Intervention* (2021) 26–45.

Bullying has been a persistent issue throughout human history, affecting children across generations.[6] Minors constitute a considerable portion of global internet users, with estimates suggesting that one in three internet users is under 18 years of age.[7] According to recent statistics, 51 per cent of South African youth have reported experiencing cyberbullying, highlighting the severity of the issue.[8] Moreover, South African youth are at the centre of attention concerning cyberbullying not only in South Africa, but in the world, as it has been discovered that South Africa has the highest rate of cyberbullying in the world.[9]

The vulnerability of minors to these digital risks is heightened by their limited understanding of online threats and their underdeveloped capacity for risk assessment.[10] This heightened vulnerability exacerbates their exposure to cyberbullying, resulting in both anticipated and unforeseen consequences, as well as the exploitation of online platforms.[11] Therefore, while the Internet offers numerous benefits for minors, including educational resources, social interaction and entertainment, it also exposes them to a range of risks. These risks include exposure to harmful content, online grooming, cyberbullying and violations of privacy.[12] In particular, cyberbullying has emerged as a pervasive issue, with potentially severe consequences for the mental health and well-being of young people. Research has shown that victims of cyberbullying are more likely to experience anxiety, depression and even suicidal ideation.[13] Moreover, the anonymity provided by digital platforms can exacerbate the frequency and severity of cyberbullying incidents.[14] Consequently, the vast and accessible nature of the Internet not only facilitates the spread and escalation of harmful behaviour but also serves as a breeding ground for some of the most insidious forms of bullying, including cyberbullying. The potential for exploitation by malicious actors further exacerbates these challenges, underscoring the urgent need

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6 Masiphephe Network *The Impact of Cyberbullying in South Africa. USAID and Center for Community Impact* (2023) https://www.scirp.org/reference/referencespapers?referenceid=4100355 (accessed 2025-11-22).

7 UNICEF "The State of the World's Children 2017: Children in a Digital World" (2017) *United Nations Children's Fund* https://www.unicef.org/media/48581/file/SOWC_2017_ENG.pdf (accessed 2025-09-20).

8 UNESCO "Violence and Bullying in Schools: UNESCO Calls for Better Protection of Students" (2024) https://www.unesco.org/en/articles/violence-and-bullying-schools-unesco-calls-better-protection-students (accessed 2025-09-20).

9 Reddy "Providing a Legal Definition for Cyberbullying in South Africa" 2023 44(4) *Obiter* 755.

10 Haddon and Livingstone *Children, Risk and Safety on the Internet: Research and Policy Challenges in Comparative Perspective* (2012) 339–354.

11 Zhu, Huang, Evans and Zhang "Cyberbullying Among Adolescents and Children: A Comprehensive Review of the Global Situation, Risk Factors, and Preventive Measures" 2021 9 *Frontiers in Public Health* 9, 634909*s.*

12 Livingstone and Blum-Ross *Parenting for a Digital Future: How Hopes and Fears About Technology Shape Children's Lives* (2020) file:///C:/Users/calvinol/Downloads/ojsadmin,+16251-47947-4-ED.pdf.

13 Kowalski, Giumetti, Schroeder and Lattanner "Bullying in the Digital Age: A Critical Review and Meta-Analysis of Cyberbullying Research Among Youth" 2014 140(4) *Psychological Bulletin* 1073–1137.

14 Salmivalli, Kärnä and Poskiparta "Anti-Bullying Interventions in Schools: A Review" 2013 28(4) *European Journal of Psychology of Education* 291–308.

to address the severe threats posed to children's rights, particularly their rights to privacy and protection from exploitation and abuse.[15]

The United Nations Convention on the Rights of the Child (CRC)[16] underscores the right of children to be protected from all forms of exploitation and abuse, including in the digital environment.[17] Addressing these digital risks is thus of paramount importance, especially in the context of safeguarding children's rights. In this regard, the South African legislative framework provides several avenues to seek redress for cyberbullying, *inter alia* the Film and Publications Act (FPA),[18] the Cybercrimes Act (CA),[19] the Protection from Harassment Act (PHA)[20] and the Electronic Communications and Transactions Act (ECTA).[21] However, given the evolving nature of cyberbullying and the distinct challenges it poses for minors, it is crucial to evaluate the current legislative framework. In particular, it is imperative to assess how effectively the framework addresses these challenges and protects young internet users.

2 SOUTH AFRICAN LEGISLATIVE FRAMEWORK REGULATING CYBERBULLYING

South Africa's legislative framework does not explicitly define cyberbullying; however, the Constitution offers circuitous protection and the legislative framework encompasses various laws that collectively address its associated behaviours and consequences.

2 1 Constitution of the Republic of South Africa, 1996

South Africa's commitment to protecting its youth from harmful conduct, including cyberbullying, is articulated in the Constitution of the Republic of South Africa, 1996 (Constitution). The Constitution enshrines the right to dignity in section 10, stating that "everyone has inherent dignity and the right to have their dignity respected and protected". In the context of cyberbullying, this section, therefore, emphasises the impact on victims' self-worth and dignity.[22] Furthermore, section 14 of the Constitution underscores the right to privacy, including the right not to have the privacy of communications infringed.[23] Despite these protections, the rights enshrined

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15 Kowalski and Lattanner "Bullying in the Digital Age: A Critical Review of the Literature" 2014 39(6) *Journal of Adolescence* 1003–1022.

16 *UNGA Convention on the Rights of the Child* 1577 UNTS 3 (1989). Adopted: 20/11/1989; EIF: 02/09/1990.

17 UNICEF "The State of the World's Children 2014: Children in a Digital World" (2014) *United Nations Children's Fund* https://www.unicef.org/media/48581/file/SOWC_2017_ENG.pdf (accessed 2025-09-20).

18 65 of 1996.

19 19 of 2020.

20 17 of 2011.

21 25 of 2002.

22 Khan "The Impact of COVID-19 on Cyberbullying: A Delictual Claim for Emotional Harm?" 2021 54 *De Jure* 565–578.

23 S 14(*b*) of the Constitution.

in the Constitution are often violated in cases of cyberbullying, as South African youth and children, who are disproportionately affected by cyberbullying, experience infringements on their dignity and privacy.

Section 28 of the Constitution underscores the protection of children's rights, stressing their safety from harm and abuse, including cyberbullying, which can affect a child's dignity and well-being. These constitutional protections form the foundation for legal recourse in cases of cyberbullying.

2 2 Electronic Communications and Transactions Act 25 of 2002

In addition to the Constitution, the Electronic Communications and Transactions Act (ECTA) regulates electronic communication and includes provisions against harassment and defamation through electronic means. Although minors are not explicitly referenced, the Act appears to apply to them. In addition, while the Act does not specifically address cyberbullying, chapter XIII of the Act refers to cybercrimes, which should encompass cyberbullying activities.[24] ECTA, therefore, does not pay specific attention to South African youth and children as it deals with various aspects of electronic communications, including cyberbullying.[25] This omission could contribute to the inefficacy of the legislative framework in addressing cyberbullying effectively.

2 3 Film and Publications Act 65 of 1996

The Film and Publications Act (FPA) governs the distribution and display of specific types of material, including content deemed harmful, especially to children.[26] Consequently, individuals engaging in cyberbullying targeting minors can be held legally accountable under this framework.[27]

2 4 Cybercrimes Act 19 of 2020

The Cybercrimes Act (CA) is the most recent legislation addressing online behaviour. It criminalises various forms of cybercrime[28] and establishes a specialised cybercrime unit within the South African Police Service (SAPS) to investigate and prosecute these offences.[29] However, the Act does not define cyberbullying, which suggests that South Africa may be lagging in effectively combating cyberbullying, particularly among the youth. Notably, the CA includes provisions that allow cybercrimes to be regulated under the

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24 Ss 85–89 of ECTA.

25 Smit "Cyberbullying in South African and American Schools: A Legal Comparative Study" 2015 35(2) *South African Journal of Education* 1–11 https://hdl.handle.net/10520/EJC171000.

26 Ss 2(*b*) and 16 of the Film and Publications Act.

27 S 30 of the Film and Publications Act.

28 Ss 2–12 of the CA.

29 S 30 of the CA.

Child Justice Act,[30] indicating that minors committing cybercrimes may also be subject to the latter Act. The CA is thus primarily targeted at the creators of harmful media and not focused on preventative measures for digital youth.

2 5 Protection from Harassment Act 17 of 2011

A legal framework for harassment, including cyberbullying, is established in the PHA. The Act provides that victims of harassment may seek protection. Accordingly, a victim (who may include a minor) may apply for a protection order against individuals who harass them through electronic communications.[31] The Act includes "any electronic communication that causes harm or inspires the belief to cause harm" under the definition of harassment.[32] This civil remedy, if violated, may result in arrest and subsequent criminal sanctions. Thus, the Act concentrates on the conduct of the harasser and their intent to inflict harm. That being said, the Act does not extend its scope to prosecuting online perpetrators, which is vital in the context of South African youth and children exposed to cyberbullying.

It is evident that none of the current South African statutes specifically targets cyberbullying in the context of child protection.

2 6 South African Schools Act 84 of 1996

The South African Schools Act is one of the key pieces of legislation that addresses cyberbullying among youth, primarily through disciplinary actions such as formal hearings, suspension or expulsion for gross misconduct.[33] This Act, however, focuses on disciplinary actions for perpetrators rather than on implementing preventative measures to combat cyberbullying. From a legal stance, preventative measures to address cyberbullying among South African children and youth are scarce, which may represent a shortfall in the law addressing cyberbullying. The emphasis on punitive measures rather than prevention also highlights the limitations of the current legislative approach, which lacks robust preventative strategies to combat cyberbullying effectively.[34] This may result in the unintended consequence of inefficiency in the South African legislative framework to address cyberbullying among children and the youth.

In this regard, the South African Schools Act obliges school governing bodies to draft a code of conduct for learners that should ensure an environment that is conducive to teaching and learning.[35] However, it may be argued that this directive is somewhat successful in achieving a conducive environment. in this regard, in cases of gross misconduct, a formal

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30 75 of 2008.

31 S 2 of the Protection from Harassment Act.

32 S 1(1)(*a*) of the Protection from Harassment Act.

33 Ss 8–9 of the South African Schools Act.

34 Reyneke and Jacobs "Can Legal Remedy Be Used to Address Bullying and Cyberbullying in South African Schools?" 2018 I(LXXI) *Polish Journal of Educational Studies* 66–80 https://sciendo.com/article/10.2478/poljes-2018-0006 (accessed 2025-09-20).

35 S 8(1) of the South African Schools Act.

disciplinary hearing can be held by school governing bodies (SGBs), which can ultimately result in the suspension or expulsion of a learner.[36]

The effectiveness of the South African Schools Act in addressing cyberbullying among children and youth in South Africa is, therefore, questionable, mainly because of its one-sided approach to addressing cyberbullying. This problem may be fueled by the fact that there is no legal definition for cyberbullying, from the national level down to school level. This may result in a misconstrued understanding of cyberbullying. The problem is further intensified in that legal issues around cyberbullying are more intricate if one considers issues such as the jurisdiction of school governing bodies to institute a disciplinary hearing for an online post that was made outside the school, but which affects a learner who is at school.[37] Jurisdictional challenges in addressing cyberbullying seem to further undermine the effectiveness of South Africa's current legislative framework in combating this issue. This gap may contribute to the increasing prevalence of cyberbullying among South African youth.

2 7 Children's Act 38 of 2005

Similarly, while the Children's Act plays a pivotal role in child protection, it also adopts a predominantly consequential approach rather than a preventative one concerning bullying. Research indicates that many existing bullying interventions focus on responding to incidents rather than on preventing them.[38] Of particular importance is the provision that the court can instruct "a person" (thus the bully and or the victim) to "undergo a specified skills development, training, treatment or rehabilitation program where this is necessary for the protection or well-being of a child".[39] Criminal-law remedies such as pressing charges of assault, defamation, *crimen injuria*, extortion, theft, or damage to property are clear evidence that South Africa's approach to addressing cyberbullying is narrow, as it focuses on the consequences of cyberbullying and not on preventative measures to stop cyberbullying.

The lack of comprehensive preventative measures in both the South African Schools Act and the Children's Act may intensify the issue of cyberbullying among children and the youth. To address this growing problem, it is crucial to assess the implications of these legislative gaps and explore the need for more proactive and effective strategies to combat cyberbullying.

3 CRITICAL ANALYSIS: SOUTH AFRICAN ANTI-CYBERBULLYING LEGISLATIVE FRAMEWORK

The South African government has made strides in addressing cyberbullying through various legal and policy frameworks. The National Action Plan to

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36 S 30 of the Cybercrimes Act.

37 S 29 of the Cybercrimes Act.

38 S 30 of the Cybercrimes Act.

39 S 46(1)(*g*)(vi) of the Children's Act.

Combat Racism, Racial Discrimination, Xenophobia, and Related Intolerance incorporates specific measures aimed at combating cyberbullying and promoting safer online practices.[40] In addition, the government has established the Cybersecurity Hub, a central resource for providing support to cyberbullying victims and raising awareness about cybersecurity.[41]

In the educational sector, the Department of Basic Education has implemented the Safe Schools Framework, which outlines comprehensive guidelines for preventing and responding to cyberbullying in schools.[42] This framework emphasises the importance of promoting digital citizenship and responsible online behaviour among students, urging schools to take proactive steps in fostering a safe digital environment.

Despite these initiatives, cyberbullying remains a pervasive issue in South Africa. A significant number of incidents go unreported, leaving victims without the necessary support.[43] There is a clear need for continued and enhanced efforts to tackle cyberbullying effectively. This requires a multifaceted approach that includes not only education and legal measures but also robust support services for victims. While the existing policies are commendable, they represent only the beginning of what must be an ongoing commitment to creating a safe and inclusive digital environment in South Africa.

The existing legislative framework, therefore, reveals significant gaps and challenges. Although recent laws like the Cybercrimes Act aim to bolster cybersecurity, their effectiveness in addressing cyberbullying remains uncertain. A major shortcoming is the lack of comprehensive guidelines for managing cyberbullying incidents, particularly regarding mandatory reporting and response protocols. Furthermore, effective intervention strategies, such as the mobile-based Youth Suicide Screening and Intervention framework, highlight the importance of community involvement in addressing youth mental-health issues related to cyberbullying.[44]

The measures currently in place to combat cyberbullying are therefore limited in scope, focusing primarily on consequences rather than preventative practices. UNESCO has emphasised the urgent need to strengthen legal frameworks and support services for victims, underscoring that existing measures are often victim-centred and do not adequately deter

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40 South African Government *National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance* (2019).

41 Department of Communications and Digital Technologies "Cybersecurity Hub Overview" (2020) https://www.dcdt.gov.za/cybersecurity-hub-project.html (accessed 2025-09-20).

42 Department of Basic Education "School Infrastructure Safety and Security Guidelines" (2017) https://www.education.gov.za/Portals/0/Documents/Publications/School Infrastructure Safety and Security Guidelines1.pdf?ver=2018-10-26-094034-953School%20Infrastructure%20Safety%20and%20Security%20Guidelines1.pdf?ver=2018-10-26-094034-953 (accessed 2025-09-20).

43 Masiphephe Network https://www.scirp.org/reference/referencespapers?referenceid=4100355.

44 Murdoch "Exploring South Africa's Cybersecurity Legal Framework Regulating Information Confidentiality, Integrity, and Availability" 2024 19(1) *International Conference on Cyber Warfare and Security* 430–437.

perpetrators.[45] According to UNESCO, this may be achieved through strengthening legal frameworks and providing support services for victims.[46] This implies that the measures proposed are victim-centred and do not deter the perpetrator from their wrongdoing.

Cyberbullying among children and the youth in South Africa has been a serious public-health issue that is closely related to children's behaviour, mental health, and development.[47] In this regard, it may be argued that there is a need to adopt and explore measures that will stop perpetrators from cyberbullying and that will help children and young victims overcome the negative impacts of cyberbullying. As it is, the measures to tackle cyberbullying among South African youth and children in South Africa are not multidimensional.

Moreover, most of the responses adopted by South Africa in empowering children and the youth to cope with cyberbullying are only effective once the act of cyberbullying has taken place. In this regard, many interventions for cyberbullying target teaching the youth specific strategies for coping – like the Stop-Block-Strategy – but these interventions assume that the only barrier to an effective response is knowing what to do when cyberbullied.[48] This points to the fact that the measures adopted to curb cyberbullying are only effective once cyberbullies have committed the crime, but are not effective in deterring the cyberbully from continuing with the act. It may be argued that this defeats the purpose of addressing cyberbullying, which is to stop cyberbullying from occurring. It may also be argued that by not implementing preventative measures to stop cyberbullying, the law may indirectly allow cyberbullying to occur if it only equips young victims to deal with cyberbullying. It is important that the perpetrator be stopped and that acts of cyberbullying not go unaddressed.

An apparent example to prove that measures to address cyberbullying among South African children and youth are only relevant after the act of cyberbullying has taken place is that, in response to the increase in cyberbullying, the Western Cape Education Department launched an education awareness campaign about cyberbullying in 2022.[49] The campaign, which was initiated in memory of a Grade 10 learner who committed suicide after being a victim of cyberbullying, warned learners of the harm that can be caused when social-media users like, share or comment on a harmful post and informed them on how to be responsible

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45 UNESCO "Tackling Cyberbullying and Other Forms of Online Violence Involving Children and Young People: Fact Sheet" (2021) https://unesdoc.unesco.org/ark:/48223/pf0000379486 (accessed 2025-11-22).

46 *Ibid*.

47 Zhu, Huang, Evans and Zhang "Cyberbullying Among Adolescents and Children: A Comprehensive Review of the Global Situation, Risk Factors, and Preventive Measures" 2021 *Frontiers in Public Health* 9, 634909 https://doi.org/10.3389/fpubh.2021.634909 (accessed 2025-09-20).

48 Raskauskas and Huynh "The Process of Coping with Cyberbullying: A Systematic Review" 2015 *Aggression and Violent Behaviour* 23.

49 News24 "Addressing the Scourge of Cyberbullying" (17 February 2024) https://www.news24.com/news24/community-newspaper/pe-express/addressing-the-scourge-of-cyberbullying-20240217 (accessed 2024-07-10).

when receiving a harmful post.[50] The awareness campaign was launched following the passing of a Grade 10 learner, highlighting that such initiatives often arise only after the consequences of cyberbullying become tragically evident. This suggests that proactive measures against cyberbullying are insufficient and that South Africa may not be doing enough to prevent such incidents among children and the youth. In other words, South Africa may not be doing enough to eradicate cyberbullying among children and the youth, which is a major concern this study attempts to address.

To strengthen the South African legislative framework, there is a need to consider successful international models. By examining preventative measures implemented in jurisdictions such as California and Utah, where significant progress has been made in addressing cyberbullying, more robust frameworks for cyberbullying may provide insights as to how South Africa could adopt similar measures.

4 ANTI-CYBERBULLYING LEGISLATION AND STRATEGIES ADOPTED TO PROTECT MINORS IN CALIFORNIA

4 1 Californian legislation

Cyberbullying, a form of harassment using electronic means, has become a significant issue affecting minors across the United States. In response to the growing concern over cyberbullying, California has implemented several legislative measures and strategies aimed at protecting minors from such conduct.

California has been proactive in addressing cyberbullying through a combination of state laws and amendments to existing legislation. One of the cornerstone statutes is the California Education Code Section 48900(r), which specifically defines and addresses cyberbullying within the context of public schools. This section allows school officials to suspend or recommend expulsion for students who engage in cyberbullying, whether the activity occurs on or off campus, provided it causes a substantial disruption to school activities or the orderly operation of the school.[51]

Another significant piece of legislation is the Assembly Bill 86 (AB 86) passed in 2008, which amended the California Education Code to include cyberbullying as a ground for suspension or expulsion. The Bill was instrumental in extending the scope of bullying to include electronic acts, thereby acknowledging the pervasive nature of cyberbullying and its potential harm.[52] In addition, the law requires schools to develop and enforce policies aimed at preventing and addressing bullying, including cyberbullying.

Senate Bill 1177 (SB 1177), also known as the Student Online Personal Information Protection Act (SOPIPA), provides further protection for minors

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50 *Ibid*.

51 S 48900(r) of the California Education Code.

52 Assemb. B. 86, 2008 Leg., 2007–2008 Sess. (Cal. 2008).

by restricting the use of their online data by educational technology providers. Under SOPIPA, operators of websites, online services, or applications primarily used for K-12 school purposes are prohibited from using students' personal information to target advertising or create profiles, thereby reducing the avenues through which minors could be targeted for cyberbullying and online exploitation.[53]

4 2 Strategies adopted by California schools

In addition to legislative measures, California has implemented various strategies at the school level to combat cyberbullying. One notable strategy is the integration of digital-citizenship education into the curriculum. Digital-citizenship education aims to teach students about the responsible use of technology, including how to interact respectfully online and recognise the consequences of cyberbullying.[54] By fostering a culture of respect and empathy in digital spaces, schools aim to reduce the incidence of cyberbullying.

Another strategy involves the use of anonymous reporting systems. Many California schools have adopted platforms that allow students to report incidents of cyberbullying anonymously. Soledad Unified in Monterey County, for instance, has a special mobile app to report bullying, posts QR codes around its campuses linking to its bullying reporting portal, and links to the portal are pre-installed on district devices.[55] These systems are designed to encourage victims and bystanders to report bullying without fear of retaliation, thereby increasing the likelihood that incidents will be addressed promptly.[56]

Moreover, restorative-justice practices have been increasingly employed in California schools as an alternative to punitive measures like suspension or expulsion. Restorative justice focuses on repairing the harm caused by bullying by facilitating dialogue between victim and perpetrator, intending to promote understanding and reconciliation. This approach recognises that addressing the root causes of cyberbullying behaviour can be more effective in preventing future incidents than traditional disciplinary measures.[57]

Accordingly, California anti-cyberbullying laws and regulations encourage and require districts to implement bullying prevention programmes.[58] An example of the prevention programmes adopted is social-emotional learning

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53 Sen. B. 1177, 2014 Leg., 2013–2014 Sess. (Cal. 2014).

54 California Department of Education "Digital Citizenship" (2023) https://www.cde.ca.gov/ls/et/dc/ (accessed 2024-08-28).

55 Yarbrough "What Makes Some California School Districts So Much Better at Preventing Bullying?" (2022) https://centerforhealthjournalism.org/our-work/reporting/what-makes-some-california-school-districts-so-much-better-preventing-bullying (accessed 2024-07-29).

56 Hinduja and Patchin *Bullying Beyond the Schoolyard: Preventing and Responding to Cyberbullying* 2ed (2015) 138.

57 Garcia "The Rise of the Resistance: Evaluating California's Approach to Restorative Justice Practices in Public Education" 2023 60(1) *Californian Western Law Review* 149.

58 Stopbullying.gov "California Anti-Bullying Laws & Policies" https://www.stopbullying.gov/resources/laws/california (accessed 2024-05-15).

(SEL).[59] SEL emphasises students getting in touch with their own emotions and mental well-being and having empathy for others.[60] California school districts are consequently increasingly focusing on their students' mental health.[61] In Los Angeles County, Centinela Valley Union High School District, where less than 23 per cent of students have reported being bullied, increased access to counsellors with a "wellness centre" in each of the district's four comprehensive high schools.[62] This allows students to connect with counsellors and social workers easily, creating a climate within which learners feel safe.[63]

Anti-bullying training for staff and students is also mandatory in some districts of California.[64] The anti-bullying training includes teaching students not to stand by and watch as something happens.[65] The districts that have implemented these measures in California have witnessed success with lower rates of cyberbullying compared to the state average.[66]

4 3 Effectiveness and challenges

The legislative measures and strategies implemented in California have had a positive impact on reducing the incidence of cyberbullying among minors. The inclusion of cyberbullying in the California Education Code has empowered schools to take decisive action against perpetrators, while the SOPIPA has provided additional safeguards against the misuse of students' personal information. The emphasis on digital-citizenship education and the availability of anonymous reporting systems have also contributed to creating a safer online environment for students.

Despite the jurisdictional challenges associated with off-campus cyberbullying and the reliance of restorative-justice practices on the voluntary participation of all parties involved, California has made significant legislative strides in curbing cyberbullying among the youth.

5 ANTI-CYBERBULLYING LEGISLATION AND STRATEGIES ADOPTED IN UTAH

5 1 Utah's legislation

Utah has taken significant legislative steps to combat cyberbullying among the youth, particularly through the enactment of specific laws and policies aimed at defining, preventing and addressing the issue within schools.

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59 Raskauskas and Huynh "The Process of Coping With Cyberbullying: A Systematic Review" 2015 *Aggression and Violent Behaviour* 23.

60 *Ibid*.

61 *Ibid*.

62 *Ibid*.

63 *Ibid*.

64 *Ibid*.

65 *Ibid*.

66 *Ibid*.

Izzy's Bill aims to enhance awareness and prevention strategies within educational settings. This law was named in memory of Izzy Tichenor, a student who tragically took her own life after being bullied. It emphasises the need for schools to create a supportive environment and mandates the establishment of policies that address bullying and cyberbullying comprehensively.[67]

Under the Utah Code Title 53A: Public Education, bullying and cyberbullying are explicitly prohibited in various contexts, including on school property and at school-related events. The law defines cyberbullying broadly, encompassing actions taken through digital means that are intended to harm, embarrass or intimidate others. Cyberbullying is defined in State Board of Education Policy R277-613-1 (2009) and requires policies prohibiting bullying consistent with Code 53A-11a-301 (2008). State electronic-communication law can be applied to cyberbullying and result in a Class A or Class B misdemeanour. On 22 March 2011, the passage of Senate Bill 304 added cyberbullying to an existing bullying-prevention policy. This comprehensive definition helps to ensure that all forms of electronic harassment are addressed.

The State Board of Education Policy R277-613 outlines the responsibilities of local education agencies in preventing and responding to bullying and cyberbullying.[68] The policy also requires, as in the case of Californian law, that each school district implement anti-bullying policies that align with state laws, ensuring a unified approach to tackling these issues across the state. Staff training involved in investigating allegations of bullying, thereby enhancing the effectiveness of responses to incidents, is also mandatory in Utah.

The Senate Bill further expanded the definition of bullying to include cyberbullying and mandated that school districts adopt policies to address these behaviours. It established a framework for the reporting and investigation of incidents, ensuring that schools take appropriate action when cyberbullying occurs.[69]

5 2 Strategies for implementation

Utah's approach includes mandatory training for school staff on recognising and responding to bullying and cyberbullying incidents. This training is crucial for equipping educators with the skills needed to intervene effectively and support affected students.

In addition, the requirement for local school boards to develop and implement anti-bullying policies fosters a proactive stance against cyberbullying. These policies are tailored to the specific needs of each district while adhering to state guidelines, allowing for flexibility and responsiveness to local contexts. Utah's laws further emphasise the importance of clear reporting mechanisms for students and parents. Schools are required to establish procedures for reporting incidents of bullying and

67 H B 428 "Izzy's bill" (2022).

68 Utah Admin. Code R277-613-5.

69 Senate Bill 304 (2011).

cyberbullying, which helps to create a culture of accountability and encourages victims to come forward.

The state has also bravely passed legislation requiring parents to approve social-media accounts for minors, allowing them complete access to their children's internet activity, and imposing curfews and communication limitations.[70] The strong concerns that many parents have about the digital information their children consume and how they engage with others online are reflected in this assertive approach.[71] Moreover, social-media platforms will be required to block users younger than 18 from accessing accounts between 10.30 pm and 6.30 am unless parents modify the settings.[72] The laws also prohibit social-media companies from advertising to minors, collecting information about them, or targeting them with content.[73] The implementation of these preventative measures has been met with opposition from technology companies, limiting the effectiveness of the measures. On the one hand, Utah's laws aim to protect children from cyberbullying by increasing parental control over their children's digital lives and making it more difficult for strangers to get in touch with minors.[74] On the other hand, it is possible that these regulations unintentionally restrict the same liberties that the Internet was meant to uphold. It may be more difficult for minors living in abusive homes to discreetly ask for assistance, and the limitations may prevent them from accessing important information and opposing views on issues like safe sex, politics and gender identity. The creative but divisive laws passed in Utah serve as a reminder of the continuous battle to protect young people's internet privacy while upholding their right to privacy.

5 3 Challenges and considerations

Utah's legislative measures and strategies reflect a comprehensive effort to combat cyberbullying among the youth. By establishing clear definitions, implementing training, and creating robust reporting mechanisms, the state aims to foster safer educational environments. However, ongoing discussions about the balance between free speech and the need for protective measures highlight the complexities involved in addressing this pervasive issue. In this regard, despite the robust legislative framework, challenges remain in effectively regulating cyberbullying, particularly when incidents occur off campus.

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70 Kang "The Case for Banning Children from Social Media" (2023) *The New Yorker* https://www.newyorker.com/news/our-columnists/the-case-for-banning-children-from-social-media (accessed 2024-07-12).

71 Raskauskas and Huynh 2015 *Aggression and Violent Behaviour* 23.

72 Singh "Utah Bans Under 18s From Using Social Media Unless Parents Consent" (2023) *The Guardian* https://www.theguardian.com/us-news/2023/mar/23/utah-social-media-access-law-minors (accessed 2024-07-11).

73 Raskauskas and Huynh 2015 *Aggression and Violent Behaviour* 23.

74 *Ibid*.

6 LESSONS TO BE LEARNED: CALIFORNIA AND UTAH'S ANTI-CYBERBULLYING LEGISLATIVE FRAMEWORKS IN PROTECTING DIGITAL YOUTH

California and Utah have implemented various legal strategies and educational programmes to combat cyberbullying, from which South Africa can learn. These strategies encompass preventative measures, accessibility to mental-health services, reporting mechanisms, training and a balance between safety and freedom.

California emphasises the importance of preventative actions in addressing cyberbullying. The state has integrated social-emotional learning (SEL) into its educational curriculum, which focuses on teaching empathy and emotional regulation. This approach is crucial for fostering a supportive environment that discourages bullying behaviour before it manifests.[75] In addition, the establishment of wellness centres in schools provides students with easy access to social workers and counsellors. This accessibility is vital for addressing mental-health issues that may contribute to bullying behaviours and for supporting victims of cyberbullying.

The state has also implemented user-friendly reporting systems, such as mobile applications and QR codes, which allow students to report incidents of cyberbullying discreetly and efficiently by using smartphone applications and QR codes. Soledad Unified in Monterey County, for instance, offers a dedicated mobile app and places QR codes around campuses that direct users to the reporting site. This proactive approach ensures that bullying is addressed promptly, thereby reducing its prevalence.

Mandatory anti-bullying training for students and staff is another key component of California's strategy. This training empowers students to intervene when they witness bullying, fostering a culture of accountability and zero tolerance for such behaviour.

Consideration of California's strategy shows that cyberbullying may be drastically decreased by implementing prevention measures, emotional education, readily available mental-health services, simple reporting procedures, thorough training, and the development of a positive school environment. These tactics provide South Africa with a road map for improving its legal system and better shielding its children from cyberbullying.

Utah's approach highlights the delicate balance between ensuring children's safety online and preserving their freedom. The state has proposed laws that require parental consent for children's social-media accounts and impose curfews on internet usage. While these measures aim to protect children, they also raise concerns about restricting access to vital information and support for those in need.

Utah's strategy highlights how crucial it is to strike a balance between freedom and safety. The state has proposed laws imposing curfews on internet activity and requiring parents to authorise their children's social-

[75] Garcia 2023 *Californian Western Law Review* 149.

media accounts. Although the goal of these restrictions is to shield children from improper content and cyberbullying, there are worries that they could restrict children's independence and access to vital information. Restrictions, for example, may make it more difficult for children who are being abused to seek help quietly or to access vital materials on issues like safe sex and personal identification.

Utah furthermore emphasises the importance of parental involvement in monitoring children's online activities. By educating parents about the digital landscape and encouraging reasonable limits, Utah seeks to empower families to navigate the complexities of internet safety without overly restrictive measures. Preventing children from seeing targeted advertising and prohibiting social-media use during specific hours demonstrates a strong commitment to improving safety.

7 RECOMMENDATIONS FOR SOUTH AFRICA

South Africa could benefit from adopting SEL programmes similar to those in California. These programmes would help students develop empathy and emotional intelligence, which are essential for reducing bullying incidents.

The establishment in schools of wellness centres, akin to California's model, would also ensure that students have access to mental-health support, addressing underlying issues that contribute to bullying behaviour. By creating or improving school-based counselling programmes and collaborating with local mental-health groups, South Africa should broaden its scope of support services to ensure that those who are bullying others, as well as victims, get the support they require to address underlying difficulties.

South Africa should further create streamlined reporting mechanisms that are easily accessible to students, parents and teachers. Sufficient reporting systems are essential for combating cyberbullying. Utah and California should serve as models for South Africa's development of easily navigable and user-friendly reporting systems. One aspect of this is setting up a consolidated reporting platform that parents, teachers and students can readily access via school websites and mobile apps. Simplifying the reporting procedure guarantees that problems are monitored and handled right away.

Regular training for teachers on mental-health awareness and anti-bullying strategies is also essential, as educators equipped with the right tools can better support students and effectively address incidents of bullying. Teachers and other school employees are essential in stopping and dealing with cyberbullying. Regular professional-development training on mental-health awareness, effective student communication, and anti-bullying tactics could therefore be made available in South Africa.

Drawing from Utah's experience, South Africa must find a balance between protecting children and allowing them the freedom to access important information online. This includes involving parents in discussions about reasonable limits on internet usage while ensuring that children can seek help when needed. Considering the recommendations, South Africa can craft a more comprehensive strategy to combat cyberbullying, tailored to

the needs of the South African youth. This approach would enhance online safety and support for the nation's youth by combining proven practices from these regions with specific local considerations.

8 CONCLUSION

The rapid expansion of internet-based technologies has significantly impacted the lives of young individuals, exposing them to the risks of cyberbullying. It is a pervasive issue that threatens their mental health and infringes on their rights. South Africa, despite its leadership in regional legislative efforts, faces challenges in effectively addressing cyberbullying owing to gaps in its current legal framework. By drawing on the experiences of states like California and Utah, which have pioneered youth-focused and specific anti-cyberbullying measures, South Africa can strengthen its approach.

This study advocates for the adoption of clearer definitions and proactive strategies, including enhanced reporting mechanisms, access to counselling services, social-emotional learning programmes, and stricter regulations on social-media use. These measures, underpinned by the Social-Ecological Model, emphasise the need for a multifaceted approach involving all stakeholders, including government, business, internet service providers, and parents. By integrating best practices from regions like California and Utah, South Africa can develop a more robust and effective legislative framework, ensuring a safer and more supportive digital environment for its youth.

South Africa may bolster its efforts to combat cyberbullying by creating comprehensive laws, putting in place school-based preventative programmes, strengthening reporting procedures, increasing parental engagement, and offering sufficient support services. These initiatives will be strengthened even further by launching public awareness campaigns and encouraging partnerships with digital firms to create a supportive environment that protects the rights of young users.

In conclusion, South Africa has the chance to incorporate concepts from Utah and California into its environment to create a more sophisticated and successful strategy for preventing cyberbullying among the youth in South Africa. Through the implementation of a comprehensive plan that incorporates preventative education, strong support networks, and cautious regulation, South Africa can improve its capacity to shield children and the youth from the negative impacts of cyberbullying.