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CYBERBULLYING: OVERVIEW OF LEGAL ISSUES IN RUSSIA AND THE USA

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Quite recently, considerable attention is focused on the digitization of a real life and such negative consequences of the internet effect as cyberbullying. This paper discusses legal issues of cyberbullying in Russia and the USA and suggests some legal regulation mechanism of this process in Russia.

Initially, it is necessary to understand what “bullying” is? Most generally, the term bullying is equivalent to the concept of harassment, which is a form of unprovoked aggression often directed repeatedly toward another individual or group of individuals [1]. David Fagan indicates that “Cyberbullying is the use of inappropriate behavior, strength or influence, whether verbal, written, physical or through displays of or use of imagery, symbols or otherwise, to intimidate, torment, threaten, harass or embarrass other, using the Internet or other technology, such as mobile telephones” [2]. The definitions have a lot of things in common. Firstly, the inappropriate behavior, marked by threats, aggression, power or influence is taken into consideration. Secondly, this kind of behavior is directed at oppression of a group of people or an individual. Thus, based on the nature of this phenomenon, cyberbullying may be defined as an intentional insult, a threat,

defamation and communication to a group of persons or an individual of compromising data using modern means of communication, usually for an extended period of time.

The next point to be taken into account is the forms of cyberbullying. Several publications have appeared in recent years documenting different forms of cyberbullying. There are several forms that are fixed and are subject to study. The first form is "Exclusion", the deliberate act of leaving someone out, can happen in a number of ways. For example, any child might be excluded from friends' parties or activities. The second form of cyberbullying is «Harassment». Harassment is a sustained, constant and intentional form of bullying abusive or threatening messages sent to your child or to a group. Being quite dangerous it can have serious implications for the child's wellbeing. The messages are generally unkind or malicious, can attack their self-esteem and confidence, and can make them fearful. The constant messaging means that there is no respite from the cyberbully. The cyberbully makes extreme effort to cause fear and pain. The following form is «Outing». Outing is a deliberate act to embarrass or publicly humiliate your child or group through the internet. Outing can happen in a variety of ways and the information. Even reading out your child's messages on their mobile phone can be considered a form of outing. Personal information should not be shared and if someone reveals private information deliberately be sure your child knows to report it as cyberbullying. The fourth form is «Cyberstalking». This form of cyberbullying does not extend to the cyberbully of making real threats to your child's physical wellbeing or safety. Cyberstalking can also refer to the practice of adults using the Internet to contact and attempt to meet with young people for sexual purposes. It is a very dangerous form of cyberbullying and can have serious consequences. There is also such a form as «Fraping». Fraping is when somebody logs into your social networking account and impersonates your child by posting inappropriate content in their name. Fraping is a very serious offense, which many people believe to be funny and entertaining, but it's not. Impersonating somebody online the reputation can have serious consequences. «Fake profiles» is the sixth form of Cyberbullying. Fake profiles can be created in order for a person to hide their real identity with the intention of cyberbullying your child.

The cyberbully could also use someone else's email or mobile phone to cyberbully them. This would make it appear as if someone else has sent the threats. The cyberbully is afraid in the case of their identity is revealed, therefore they choose to use fake accounts. It means that the cyberbully is someone who knew very well, because if they did not know them, the perpetrator would not have to hide their identity. «Dissing»: the act of sending or posting cruel information about your child online, to damage their reputation or friendships with others. It can also include posting material online such as photos, screenshots or videos. A cyberbully wants to put your child down, so draws attention to what they are. The cyberbully is usually someone your child knows. This can make it really upsetting. The eighth form is «Trickery». Trickery is the act of gaining your child's trust, that they reveal secrets or embarrassing information that the cyberbully then shares publicly online. The cyberbully will 'befriend' your child and lead them to the third party. «Trolling» is the deliberate act of provoking a response through the use of insults or bad language on online forums and social networking sites. The troll will attack your child and put them down. Their main aim is to make them. Trolls spend their time looking for vulnerable people to put down. The last form is «Catfishing». Catfishing is when a person re-creates social networking profiles for deceptive purposes. A catfish is someone who wants to hide who he or she is. They will look at your child's social networking profile and take any information they want to create a fake person. Sometimes they will only take your child's photos and use fake names and information. They could take their name and personal information. It can be hard to understand why a catfish has this reputation [3]. Thus, the existence of different forms of cyberbullying makes educators, psychologists, lawyers seek effective remedies to identify the solution to the discussed problem.

That is why the next stage of our research will focus on the causes of cyberbullying. Recently, several authors [4] have proposed several reasons for this. The first cause of cyberbullying is that people are motivated by revenge. Sometimes victims of bullying want revenge for the pain they have endured. Usually these people were victims of hooligans. They feel that their actions are justified, because they are too subjected to persecution and torture. Bulling others and still maintaining an imaginary anonymity, they can feel relief and justification for what they experienced. Sometimes these people are aimed at the offender himself. In other cases, they will poison those they consider weaker or more vulnerable than they are to self-assert. It is also necessary to mention that some people believe that the victim deserve it. Intimida-

tion often revolves around the social status of a person in society. Some people will cyberbully others based on the social ladder. For example, an average girl can be cyberbully by an anonymous group of girls who hope to drive her crazy. On the other hand, the average girl can cyberbully the girl who has achieved certain achievements in hobbies, work and away, because she is jealous of her success. Regardless of the cause, people sometimes feel that their cyberbullying behavior is justified and deserved. It follows that they usually do not have remorse or guilt for it.

The third reason is that Internet becomes their only source of entertainment and an outlet for attracting attention. The next reason is that people succumb to pressure from others. They try to fit in with a group of friends. As a result, they are succumbing to pressure to be accepted, even if it means going against their judgments. They are more concerned about the fit than the consequences of cyberbullying.

Cyberbullying may also be caused by the lack of empathy. Most people who cyberbully believe it is not a big deal. Because they do not see the pain that they cause, they feel little to no remorse for their actions. In fact, several studies have found that a large number of students who engaged in online bullying reported not feeling anything for the victims after bullying online. Instead, many people reported that online bullying made them feel funny, popular and powerful.

Consequently, it is possible that people think that everyone is exposed to cyberbullying. In this case, they do not attach importance to the seriousness of the issue and do not think about the consequences and injuries that can be caused [4].

Much research has been done on cyberbullying in the USA. It is crucial to point out that cyberbullying was defined as a new preferred weapon for the younger generation, weapons so destructive and associated with depression, anxiety, low self-esteem and suicide. In the States cyberbullying has a legal regulation with subsequent punishment. Let us consider legal practice in Wisconsin. Wisconsin's law prescribes schools to have a bullying policy and state department of education (the Department of Public Instruction) to develop a model policy that includes several specific elements. Schools may or may not adopt the model policy. Comments on Proposed Changes to Wisconsin's Bullying Law. [5]

In the last decade the problem of cyberbullying has attracted much attention from the USA. Thus, Forty-eight States had adopted bullying laws by 2012. Wisconsin was one of the first to adopt a bullying law (Wisconsin Act 309; 2009 Senate Bill 154). The law also prescribes schools to adopt bullying policies by August 15, 2010. While the existing law is useful to the extent that it publicly denounces bullying and requires the Department of Public Instruction (DPI) to develop a model policy that may be adopted by schools, it falls short on a number of levels. However, the effective legislation on cyberbullying is still lacking.

The same can be said about Russia. A study of 40 countries, published in the International Journal of Public Health suggests that Russia is on the top-ten list of the countries in the world with the most bullying of teenage students. In accordance with Article 110 of the Criminal Code of the Russian Federation, causing a person to commit suicide or attempted suicide by threats, cruel treatment or systematic humiliation of the human dignity of the victim is punished with three to five years of imprisonment.

In Russia, it was suggested to tighten the punishment. However, President Vladimir Putin called the creators and administrators of "suicidal communities" criminals. He put forward the suggestion to amend the Criminal Code. The Government of Russia also voiced the support. The bill concerning cyberbullying has already been drafted. The Code is proposed to be supplemented with new articles: "Declination to commit suicide or facilitating its commission", "Organization of activities associated with inducing citizens to commit suicide" and "Involving a minor in committing acts that are dangerous to his life" [6].

Conducting the analysis of cyberbullying in the USA and the Russian Federation as a whole, we can conclude that the legal regulation in the US of this problem is more developed and rigid. Almost every state has a law related to Internet bullying, whereas Russian legislation on cyberbullying requires thorough legal remedies and laws specifying all the aspects of this phenomenon.

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РЕАЛИЗАЦИЯ РЕГИОНАЛЬНОЙ ПРОГРАММЫ КАПИТАЛЬНОГО РЕМОНТА ОБЩЕГО ИМУЩЕСТВА В МНОГОКВАРТИРНЫХ ДОМАХ ТЮМЕНСКОЙ ОБЛАСТИ: ПРАВОВЫЕ ПРОБЛЕМЫ, СПОСОБЫ РЕШЕНИЯ

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В Конституции Российской Федерации (ст. 40) закреплено, что каждый имеет право на жилище. Употребление слова «каждый» в анализируемой конституционной норме указывает на то, что право на жилище является правом человека. Сравнительный историко-правовой анализ норм предшествующих конституций СССР, правопреемником которого стала Российская Федерация, позволяет утверждать, что данное право в форме «права человека» впервые конституировано в Российской Федерации. Анализируемая конституционная норма конкретизируется в действующем позитивном праве – в нормах ряда федеральных законов, основными из которых являются Гражданский кодекс Российской Федерации (далее – ГК РФ) [1] и Жилищный кодекс Российской Федерации (далее – ЖК РФ) [2].

В результате приватизации жилищного фонда, реализации конституционных положений о праве собственности в ГК РФ и иных федеральных законах, граждане в Российской Федерации стали собственниками помещений в МКД. Согласно ч. 1 ст. 209 ГК РФ собственнику принадлежат права владения, пользования и распоряжения своим имуществом. По своему усмотрению собственник вправе совершать в отношении принадлежащего ему имущества любые действия, не противоречащие закону и иным правовым актам и не нарушающие права и охраняемые законом интересы других лиц (ч. 2 ст. 209 ГК РФ). Наряду с правом собственности, на собственника помещения, в соответствии с действующим жилищным и гражданским законодательством Российской Федерации, возложено бремя содержания принадлежащего ему имущества. Кроме того, во исполнение положений ЖК РФ, именно на собственников помещений в МКД возложена обязанность по уплате взносов на капитальный ремонт. Данный тезис нуждается в правовом обосновании, которое, в результате проведенного исследования, сформулировано нами следующим образом.

В соответствии с ч. 2 ст. 154 ЖК РФ плата за жилое помещение и коммунальные услуги для собственника помещения в многоквартирном доме включает в себя: плату за содержание жилого помещения; взнос на капитальный ремонт; плату за коммунальные услуги. Во исполнение ч. 3 ст. 158 ЖК РФ, обязанность по оплате расходов на капитальный ремонт многоквартирного дома распространяется на всех собственников помещений в этом доме с момента возникновения права собственности на помещение в этом доме. Согласно ч. 1 ст. 158 ЖК РФ собственники помещений в МКД обязаны нести расходы по капитальному ремонту общего имущества в много-