

'Tell it as it is': Academic bullying and harassment are human rights abuse



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Abstract

It is not easy for academics who have experienced sustained acts of incivility, bullying and academic harassment to regain control of their disrupted lives [1] and to restore their physical and mental health to the level it was before their abuse [2]. Bullying and academic harassment have profound effects on individuals who more often than not will experience depression [3] and post-traumatic stress disorder [4] as a result of being shouted at in public or private and facing public humiliation, persistent criticism, personal insults and name calling, persecution through fear or threats, unfair disciplinary actions, demotion, marginalisation or exclusion. Less obvious bullying behaviours, such as the withdrawal of funding and professional opportunities, setting academics up to fail, setting unrealistic deadlines for an increased workload, deliberately sabotaging or impeding work performance, unreasonable and unjustifiable suspensions, and unwarranted disciplinary sanctions and dismissals lead to prolonged suffering, distress, anxiety, loss of reputation and professional injuries. In a betrayal of their mission statements and proclaimed aims, universities not only have embraced fully the neoliberal model of treating human beings as easily disposable objects but show a remarkable disregard for the dignity, rights and careers of academics [5].

Perpetrators do not seem to be concerned about the adverse consequences of their actions to targets mainly because the possibilities for any repercussions tend to be slim. Targeted employees cannot compete with universities' power, resources, connections and influence, and institutional responses to reports of bullying and harassment frequently involve legal teams and consultants seeking to minimize the risks of exposure and future consequences [6]. This imbalance of power is manifest throughout the process of academic harassment within the university as well as externally, that is, when the targeted employee commences employment litigation. Targets face a number of systemic and procedural obstacles when they lodge employment complaints about breaches of their rights to dignity, health, equality and non-discrimination, fair and just working conditions. [7] The high cost of litigation, the reduction or non-availability of legal aid, fear and intimidation tactics pursued by the law firms representing universities, delays and partiality on the part of judicial authorities often leave targets without vindication and a remedy and perpetrators without punishment.

Accordingly, the prevention of bullying and academic harassment and of their progressive escalation are very important. But how can prevention be made real and effective? Do universities need to be incentivised in order to ensure that all staff and students work and interact within safe and respectful environments? Incentives are deployed when there are no legal duties. If bullying and academic harassment are seen as constituting inhuman or degrading treatment (- one of the most fundamental values of democratic societies)[8] prohibited by the Universal Declaration on Human Rights (1948), the International Covenant on Civil and Political Rights (1966, in force in 1976), the European Convention on Human Rights (1950, in force in 1953) and the EU Charter of Fundamental Rights (2000, in force 2009), then universities do not need incentives in order to prevent human rights abuse [7] while academics could deploy a powerful weapon to fight the injustice they experience.

Keywords

bullying and academic harassment; post-traumatic stress disorder; humiliation; distress; anxiety; employment litigation; high cost of litigation; non-availability of legal aid; ECtHR thereafter; cardiovascular disease; insomnia; depression; anguish; inferiority capable of humiliating.

Introduction

In this contribution, I call for the adoption of an explicit human rights perspective to bullying. I argue that the prohibition of inhuman or degrading treatment of individuals which is enshrined in the global and regional international law instruments mentioned above can prompt universities to act to prevent bullying and academic harassment as well as provide a protective

shield for targets. A human rights approach thus represents a paradigm shift not only for targets but also for universities and other organisations.

The Universal Declaration of Human Rights has a dignity and equality clause at its apex. Article 1 states that 'All human beings are born free and equal in dignity and rights', while Article 5 provides

that 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'. The wording of Article 5 is replicated almost perfectly in Article 3 of the European Convention on Human Rights which states that 'No one shall be subjected to torture or to inhuman or degrading treatment or punishment' and in Article 4 of the European Union's Charter of Fundamental Rights. This right is absolute; no restrictions are permissible. It has been used effectively to outlaw torture, deportations and extraditions, expulsion and the return of migrants and asylum

seekers to countries where they might face torture or inhuman and degrading treatment, protracted detentions and inadequate conditions of detention. Initially, the first limb of the article, that is the reference to torture, shaped the interpretation of the second limb, that is, of inhuman or degrading treatment resulting in a rather high threshold for it. The European Court of Human Rights (ECtHR thereafter) required 'an intense level of severity' or 'a certain roughness of treatment' [9].

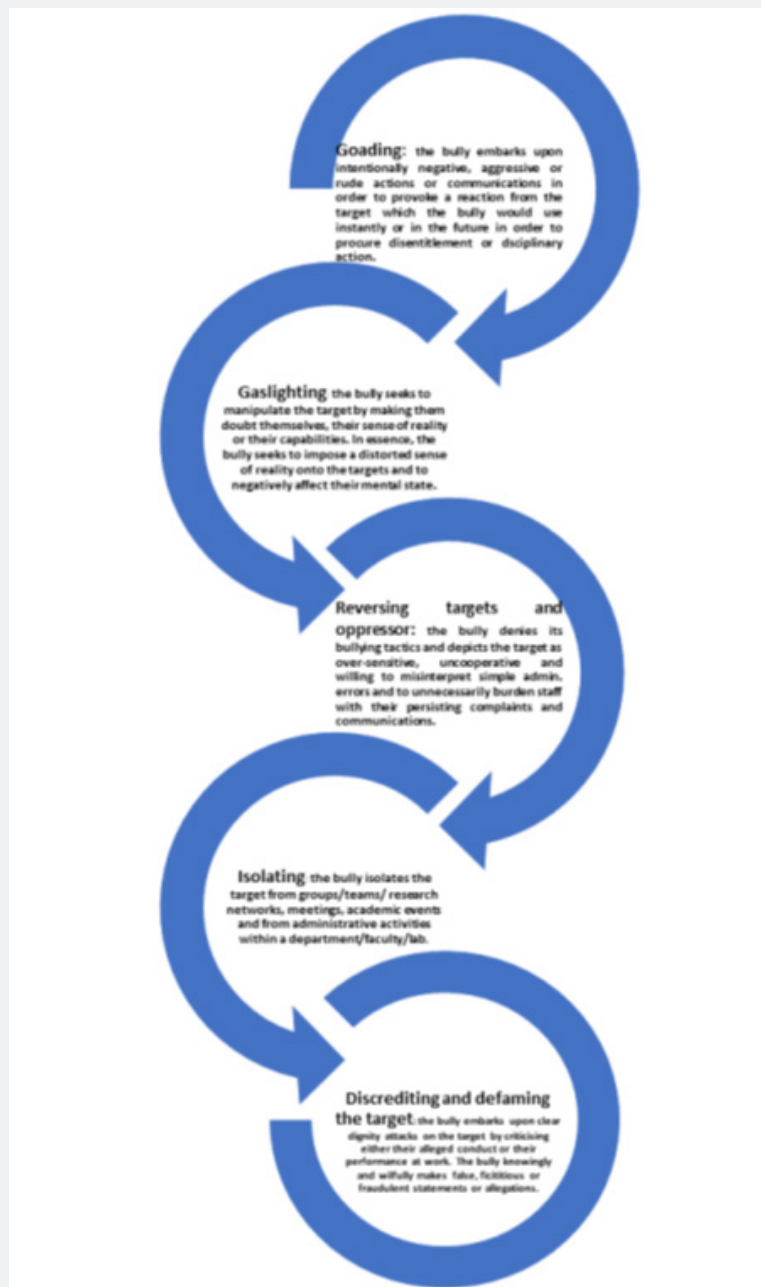


Figure 1. The GGRID tactics of bullying and harassment.

But over time the 'radiation effect' of torture became controlled and the remit of Article 3 ECHR was extended to the denial of social support and medical care to asylum seekers in the UK, [10] the deprivation of spectacles from a person who could not read or write [11], the protection of a prisoner with chronic health conditions from passive smoking in an overcrowded cell [12], and the chastisement of children by their parent at home [13].

As regards inhuman treatment, the ECtHR is looking for acts aimed at humiliating and debasing the person concerned and whether, as far as the consequences are concerned, it adversely affected their personality in a manner incompatible with Article 3 ECHR [14]. The ECtHR examines whether the ill treatment was premeditated, protracted and caused bodily injury or intense physical and mental suffering. Bullying humiliates and debases the target. It is strategic and recurrent – it can continue for months and even years. Therefore, it fits the Court's criteria. Degrading treatment, on the other hand, has been defined by the ECtHR as a treatment that arouses feelings of fear, anguish and inferiority capable of humiliating or debasing the victim and possibly breaking their physical or moral resistance [15]. The question whether the purpose of the treatment is to humiliate or debase the victim is a further factor to be taken into account, but the absence of any such purpose cannot conclusively rule out a violation of Article 3 ECHR [16]. If one considers the obvious and less obvious bullying behaviours noted in paragraph 1 above and/or the five main bullying tactics involved (- GGRID for abbreviation, see figure 1 below), the minimum level of severity required by the Court is met in bullying and academic harassment.

GGRID captures the tactics of i) goading, ii) gaslighting, iii) reversing victim/aggressor subject positions, iv) isolating the targeted employee and v) discrediting or defaming them (Fig. 1 below). It is evident from the GGRID behavioural script that bullying constitutes degrading treatment; it violates the dignity of the person, impedes the free development of personality and career progression, instils fear and anxiety and has profound physical and mental effects on the target. It is very harmful and a serious human rights violation. Exposure to goading and gaslighting even for a short period of time leads to tearfulness, irritability, low morale, low mood, suspicion and insomnia [17]. Following a longer period of time, the victim may have a mental breakdown and be diagnosed with depression [18]. Cardiovascular disease [19] and post-traumatic stress disorder [20] and also arise from the combination of stress, mistrust, exposure to traumatic encounters, fear and alarm. Recovery is usually more difficult owing to the imposed isolation of the victim and their fear of more severe retaliation if they expose the bully and/or their tactics [21]. Over time, the victim's self confidence and self-esteem are eroded thereby making it more difficult for them to resist the aggressor's sabotaging, interfering or impeding their work performance, professional reputation and private and family life. Slander, defamation, false allegations, unnecessary

disciplinary and processes, disciplinary sanctions, suspension and dismissal debase and destroy the innocent target. In addition, it does not matter if the observer of those behaviours is not the intended target; seeing other people who have been victims suffering unnecessarily and being silent are soul corrosive and provide no guarantee that the observer is safe [22].

Early intervention and action are thus essential to prevent a violation of human rights. These can be effective if the target vigorously defends his/her human rights and tells the University that the perpetrators of these behaviours are contravening international human rights and fundamental freedoms and engage in prohibited human rights abuse. In other words, targets can use a human rights lens to expose attacks on their human dignity and 'tell it as it is'. No university and college would like to be known as a human rights abuser. Funding agencies should refrain from providing funding to universities that have been found to infringe upon the human rights of their staff and to tolerate such conduct. Integrating a human rights approach can thus be a very effective strategy forcing universities to take preventive operational measures and to live up to their mission statements of providing safe, healthy, inclusive and respectful environments for teaching and research and the advancement of knowledge.

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