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## A look at Folk Law and its relation to the Bullying of Teachers in Newfoundland and Labrador

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Citer cet article

Learning, J. (2019). The Problem with Changing the Folk Law of Bullying: A look at Folk Law and its relation to the Bullying of Teachers in Newfoundland and Labrador. *Ethnologies*, *41*(1), 225–246. https://doi.org/10.7202/1069853ar

Résumé de l'article

Dans cet article, j'explorerai la relation cruciale entre le droit populaire et l'intimidation dans le but d'expliquer certains des éléments les plus problématiques qui ne sont pas pris en compte dans les solutions anti-intimidation actuelles à Terre-Neuve-et-Labrador. À l'aide d'exemples d'intimidation tirés d'entrevues avec des enseignants de la province de Terre-Neuve-et-Labrador, recueillis pour ma thèse, «Dialogues of Dominance: Narrative, Occupational Folklore, and the Bullying of Public-School Teachers», j'essaierai de montrer à quel point le problème de l'intimidation est insidieux. c'est vrai. Je vais me concentrer sur trois principaux obstacles auxquels font face les mouvements de lutte contre l'intimidation dans les écoles au Canada aujourd'hui: l'exploitation de la loi populaire; la confusion définitionnelle de «l'intimidation»; et la création et le maintien d'une barrière de trivialité qui obscurcit l'intimidation lorsqu'elle se produit entre adultes. J'utiliserai ensuite ces problèmes pour expliquer pourquoi il revient à l'utilisation du folklore de freiner ce comportement, et comment la folkloristique peut aider au développement de campagnes anti-intimidation plus fortes.

# The Problem with Changing the Folk Law of Bullying

*A look at Folk Law and its relation to the Bullying of Teachers in Newfoundland and Labrador*

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In this paper, I will explore the crucial relationship between folk law and bullying in an effort to explain some of the most problematic pieces often left out of current anti-bullying solutions in Newfoundland and Labrador. Using bullying examples from interviews with teachers from across the province of Newfoundland and Labrador collected for my dissertation, "Dialogues of Dominance: Occupational Folklore in Schools, and its relationship with the Bullying of Public School Teachers," I will attempt to show how insidious the bullying problem really is. I will focus on three key barriers facing school anti-bullying movements in Canada today: the exploitation of the processes of folk law; definitional confusion of 'bullying'; and the creation and maintenance of a triviality barrier that obfuscates bullying when it happens between adults.

## Folk law and Written Law

The basic distinction to be made over the definition of "folk law" is that it is created by and relies upon a group's social acceptance (Woodman 2009); moreover, recognizing folklore processes as "artistic communication in small groups" reinforces folk law as a cultural product subject to all of the issues of performance, variability and dynamism of other folklore texts (Ben Amos 1971: 13). The dynamism granted to folk law in light of this interpretation is not without contestation, as Barre Toelken argued in his book, *The Dynamics of Folklore*, wherein the twin laws of folklore create a constant dialogue between stasis and dynamism. Thus, the dynamism of folk law has limits but as an oral tradition it is, by its nature, more dynamic than that of its written counterpart.

The adaptability that folk law gains from this dynamism is not lost on legislators, as legal scholar Amanda Perreau-Saussine points out in her book, *The Nature of Customary Law*:

> Some legal rules are not laid down by a legislator but grow instead from informal social practices. In contract law, for example, the customs of merchants are used by courts to interpret the provisions of business contracts; in tort law, customs of best practice are used by courts to define professional responsibility…The customs defining the obligations…are often treated as legally binding. (2007: i)

Understanding how our written laws borrow this adaptability by legislating around ideas, such as 'best practices,' is fundamental to understanding the larger nature of the failure of both our unofficial and official restraint systems respecting bullying.  The evolution of textual law, as governed by the state, is clearly influenced by the way folk law corresponds to changing and shifting community norms and standards. We can see this process in a number of places from the recent evolution of Canada's marijuana laws to the various laws and statutes that govern what are commonly called "best practices."  For its part, state law also influences folk law in a diverse number of ways, not the least of which is enforcement by state actors on people, businesses, groups and whole communities.

Judith Martin builds off of a Hobbsian perspective of natural law[1] to document the interaction between etiquette and written law in a way that complements this idea of a distinct relationship between folk and state law:

> [W]hen there is no recognized system other than the law for restraining the social behavior inspired by selfish impulse everyday life becomes unbearable. Attempts to expand the dominion of the law to take over the function of etiquette—to restrain students from shouting nasty epithets, or protesters from doing provocative things with flags—threaten to compromise our Constitutional rights. Civilized societies must use etiquette as a second system of restraint, so that they do not have to call in the mighty law every time someone does something disgusting. (1995: 350-351)

Martin continues to explain the importance of etiquette in civilized society by stating that it has three essential functions: regulative, symbolic, and ritualistic, arguing that etiquette does what written laws cannot, namely

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1.  Thomas Hobbes wrote, "What it is we call the law of nature is not agreed upon, by those that have hitherto written. For the most part such writers as have occasion to affirm, that anything is against the law of nature, do allege no more than this, that it is against the consent of all nations, or the wisest and most civil nations" (2001: 30).

enforce conformity to community norms in the absence of, or where, for example, a bill of rights fails (for various reasons) in its regulative function. Etiquette creates a language of rules for strangers to communicate: for example, through its symbolic function by imparting meaning to symbols like flowers, dress codes, and rules for courtship, all of which help the folk communicate their intentions in their social interactions. When these symbols touch on sacred or otherwise important aspects of morality then they often invoke the third function, the ritualistic, which allows for the communication of these core values through these important symbols and procedures.

This eloquent notion that etiquette is a secondary system of restraint helps us to understand how etiquette, and thus the folk law that subsumes it, interacts with written law. Practically speaking, folk law is actually the first layer of restraint. Most behavioural issues are not regulated by official law but by the unofficial law: folk law. Thinking about folk law, or even etiquette, as a catch-all for the gaps between written laws is approaching the system backwards. For instance, where children are concerned in Canada, folk law is frequently all that we have to address situations of bad behaviour, as children often cannot form the criminal intent to break the written law. Even with issues concerning adults, many more disputes are settled outside of the legal system than in it. The notion that folk law is a separate system that supports the justice system is true but the reason that folk law seems to step in where the legal system fails is because our written laws simply do not cover the full breadth of our folk law systems. A better way to approach the phenomenon would be to argue that written laws exist where a society determines that folk law needs a more formal reinforcement.[2] This is also why I would suggest that the Oxford Dictionary's definition felt it necessary to include that,

> there are strands of legal theory which see state law as not strongly differentiated from folk law, which dispute the generalizations about the characteristics of each, and which conclude that state laws are themselves varieties of folk law. (Woodman 2009)

A strong example of this theory in Canada involves the rules surrounding hate crimes. Hate propaganda passed from being something that was viewed as disgusting and socially condemnable (folk law), into a crime in April of 2004 with bill C-250 (official law). The folk laws that

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2.  There is also an argument to be made here that this is why bullying is not in the *Criminal Code of Canada*, that folk law has historically been regarded as adequate in curbing this behaviour in all categories of bullying except those covered in the Criminal code: assault, and harassment.

made it repugnant, were at this point reinforced by formal law. This does not mean that there are no longer folk laws surrounding hate propaganda; it only means that there are now also written laws about it as well. In Alison Dundes' edited collection, *Folk Law*, Alan Dundes wrote, "even if a folk law is recorded in print or writing, that would not stop the folk process of oral transmission whereby additional variations would continue to be introduced" (1994: 2). The successful reinforcement of folk law by written law does not limit the progression of the new variations of the law. Just as was illustrated by Benjamin Staple, in his 2018 FSAC paper, "Traditional Misconceptions of Law in a Pirate Community," simply because a written law exists about a particular idea does not exclude a contradictory folk law, or even a series of folk laws, from existing.

The relationship between folk and codified law marks one of the major problems being encountered in schools today. Schools and the larger Canadian society are trying to change the culture through the implementation of a written code of ethics enforced through civil legislation (through the introduction of the *Safe and Caring Schools Policy*).[3] An initial critique of this approach recognizes that a written code of ethics (created by the administration at any given school in Newfoundland to align the school culture within the guidelines outlined by the *Safe and Caring Schools Policy*), is a top-down approach and cannot, in and of itself, change the culture because it does not address all of the simultaneous variations existing in the folk law that often contradict it. The strategies used to make these codes a cultural reality must also include changing the folk laws already in play in the culture itself. As I will argue, successful implementations of anti-bullying programs, like this policy, must rely on grassroots movements motivated to change the culture from the bottom up. In order to do this, we need to address the given folk law that governs our interpretation of bullying before the problem can be competently addressed within any folk group (much less one that is as large as a school community).

## Exploiting Folk Law

One of the things that seems to escape most bullying scholars (primarily because they are not folklorists) is that bullies actually rely on a complex

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3.  The *Safe and Caring Schools* policy was created in 2001 in response to a, "growing concern about safety and well-being in our schools, and in recognition of its commitment to the Violence Prevention Initiative, the Department of Education began the implementation of a *Safe and Caring Schools* Initiative in the fall of 2001" (*Safe and Caring Schools Policy* 2006). This policy sets out a series of points to be contained in every school's code of ethics.

social understanding of current folk law vis-a-vis bullying. A key part of understanding the bully's participation in folk law is to recognize the co-existence of the bystanders. If a bully's actions place them too far outside of social acceptability then they will ultimately be confronted by the folk (bystanders), and when this happens they lose the power that they have gained through their bullying. Thus, a good bully must understand how to make their repugnant actions acceptable, and this is done in large part through the manipulation of folklore and folklore processes. More specifically, repugnant actions are made less so by using traditions to expand the boundaries of etiquette to normalize malevolent behaviours.

The strength that folk law gains from its adaptability and variance, which is primarily the resilience to obsolescence, is also the key to its vulnerability. In regard to bullying, this vulnerability is exploited when bullies successfully traditionalize bullying activities (through their inclusion of malevolent content within existing traditions or through the processes of traditionalization/normalization of malevolent content) and thus reinforce the normality of bullying in the group's folk law. Part of the performance of bullying is, therefore, the ability to reinforce and make complicit various bystanders in privileging the more malevolent traditions in interpersonal interactions; this constant reinforcing lends legitimacy to various elements that benefit the bully within the folk law, limit opposing modes of interpreting various actions as malevolent and cloaks much of this process in the various discourses of tradition and traditionalization. Ultimately this process leads to reinforcing harmful worldviews within the breadth of the culture's folk law and because these variations often occur simultaneously it makes correcting them a daunting process. Thus, any attempt at correcting the current conceptualization of the folk law surrounding bullying must address this complex web of traditions as a whole. Current solutions break down the bullying problem into pieces, and this has led to a series of incomplete solutions (such as Canadian Criminal law and the classifications of anti-social behaviours).

## The impact of definitional confusion

Fractionalization and denigration of bullying, in creating the definition of bullying, have had a far-reaching impact on the way society views bullying itself. This problem is two-fold: first, the sheer number of academic definitions; and second, the contestation of the definition in various discourses (for example, legal versus academic). To address the first part of this problem it is important to understand that the growing number of

academic definitions of bullying is partially the result of improvements in the understanding of bullying itself. For example, Valerie Besag's 1989 definition was:

> Bullying is a behavior which can be defined as a repeated attack - physical, psychological, social or verbal - by those in a position of power, which is formally or situationally defined, on those who are powerless to resist, with the intention of causing distress for their own gain or gratification. (14)

In comparison, Wayne Nesbit defined it in 1999 as:

> Bullying is unprovoked abuse, repeated over an extended time, intended to inflict distress (physical and/or psychological) upon a person perceived to be vulnerable, in a one-way exercise of power. The behavior may be initiated by an individual or a group. (26)

In 2007 Barbara Coloroso defined bullying as:

> Bullying is a conscious, willful, deliberate activity intended to harm, to induce fear through the threat of further aggression, and to create terror in the target. Whether it is premeditated or seems to come out of the blue, is obvious or subtle, "in your face" or behind your back, easy to identify or cloaked in the garb of apparent friendship, done by one person or by a group, bullying always includes these three elements:
>
> 1. Imbalance of power: The bully can be older, stronger, higher up the social ladder, a different race or religion, or of the opposite sex. Sheer numbers of people banded together can create the imbalance.
>
> 2. Intent to harm: The bully means to inflict emotional and/or physical pain, expects the action to hurt, and often takes pleasure in witnessing the hurt.
>
> 3. Threat of further aggression: Both the bully and the bullied know the bullying can and probably will occur again. This is not meant to be a one-time event. (56)

As we can see there is both an expansion of the scope of what is considered to be bullying over the last twenty years, and also a clear shift away from defining bullying by the act(s) of aggression, toward defining bullying in relation to damages to the victim.[4] As a result of the continuous

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4.   It also bears mentioning that definitions of bullying still include words referencing repetition of the action. So the abuse continues over time or the threat of further abuse continues over time. In this way we can read bullying as traditional because it is exacted in the present but there is both a history of past abuse and an expectation of further iterations.

process of exploration and redefinition of 'bullying' in academia there is significant confusion about what the most current definition is and thus many people end up continuing to use older definitions. Since these definitions influence our unofficial culture, and thus the folk laws that extend from it, this confusion has created problems in folk law because each term that gains momentum in the official stream spawns multiple folk laws supporting and contesting it—all of which end up in informal, non-formal, and even formal education practices. The reciprocal relationship between cultural registers means that changes at one level reverberate (often times unpredictably) back and forth between the formal and informal fields.

While academic research may continue to problematize official definitions, it is important to understand that, in criminal law, bullying has no formal definition. In Canada's Criminal Code only a limited spectrum of what is otherwise defined as bullying appears. For example, bullying that includes physical assault is not "bullying" but merely "assault"; and bullying that includes harassment will likewise be treated under the various statutes that criminalize those actions. At no time are they seen as related under the larger umbrella of bullying behaviour which has been studied and defined by the various branches of the social sciences. One consequence of criminal law statutes is that regulation of overt acts leaves no place for a general and therapeutic definition of bullying itself. The fissure that has developed between criminal justice and the academic discourse has led to a spectacular failure to create a unified definition of the term. As there is no consensus across official discourses it should be unsurprising that there is no definitional consensus in folk law either, partially because the two registers directly influence each other so closely.

Alongside the contested manipulation of the definition by the bully themself, an amorphous definition from various social institutions often reduces the definition and management of bullying to individuals themselves. The problem with this approach is clearly articulated by one of my informants in their response to the bullying definition adopted into Nova Scotia (non-criminal) legislation in 2013. J states,

> [The definition]'s pretty broad. In my profession, I think that the term has come to- ah, it's not enough for the parent contacts me, or if the child tells me they're being bullied, it really doesn't tell me what the problem is, because it is so general. So I have my own issues with that term, especially, now that we're hearing more about it in society and the media, because I think that people have different interpretations of what it is. (Interview with J, May 2, 2013)

This sentiment was echoed in three of my other research participants' understanding of the term as well. All three insisted that most people have internalized some portion of a 'bullying' definition, which often places them at odds with other teachers who define and/or interpret the act of bullying differently. The result of definitional ambiguity limits formulating wholistic solutions.

There has been some effort to breach the gap between legal and academic interpretations of the term in recent times. Take for instance, the grass roots movement that forced a redefinition of the laws concerning bullying in Nova Scotia. On February 8, 2013 the Department of Education in Nova Scotia instituted a new definition of bullying:

> Bullying means behaviour, typically repeated, that is intended to cause or should be known to cause fear, intimidation, humiliation, distress or other harm to another person's body, feelings, self-esteem, reputation or property, and can be direct or indirect, and includes assisting or encouraging the behaviour in any way.[5]

This definition represents the first time a legal definition of bullying entered the public consciousness that included the twenty-year-old scholarly finding that bystanders are a core part of the problem, and bullying is more than just the socially tolerated spectrum of anti-social behaviour. This redefinition shifted the perception of bullying away from a vague list of actions (hitting, punching, kicking, threatening, etc.) to the perceived damages to the victim. This change came about because a young Nova Scotian woman, Rehteah Parsons, was bullied to death by people that were left out of the previous definition of bullying.[6] The abuse that Rehteah suffered came mostly from her peers, those who were initially bystanders.

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5.  All definitions of bullying stem from either Public Safety Canada or the provincial departments of education because they are primarily aimed at dealing with bullying as it exists between children and youth (and in situations where it deviates into criminal activity with adults). One of the most succinct explanations for bullying legislation in Canada is a short summary entitled, "An overview of Anti-bullying legislation and Alternatives in Canada," by Lindsey Panjvani (2013).

6.  Parsons' was just fifteen when she was allegedly gang raped by a group of boys at a party, and just seventeen when she committed suicide as a result of continued bullying by peers, through the distribution of pictures taken during the rape. Her story became a beacon for change in Nova Scotia and as tragic as her story is, it has helped propel Nova Scotia into the forefront of anti-bullying legislation in Canada (CBC 2013a; 2013b). This case also had a significant impact on legislation around the distribution of intimate pictures, which as it stands right now, is one of the only ways that bullying has been made illegal in Canada.

The abuse was stark, unabashed and continuous until Rehtaeh took her own life. Bullying scholar Barabara Coloroso's cautionary statement in her 2011 article seems particularly apt here when she notes, "We are devastated by the final act of violence but rarely outraged by the events that lead up to it" (37). Even though their actions ultimately took the life of a young woman, her bullies never committed a crime in the eyes of Canadian law.

Following her death, Rehtaeh's parents started an awareness campaign and became the champions of a legal redefinition of bullying in Canada.[7] Their movement resulted in a significant shift in the perception of the bystander. As I have noted, up until this time bystanders had always been seen as innocent onlookers; after their campaign bystanders were now commonly understood as accomplices, guilty of the same act as the primary aggressor. The Nova Scotian definition, later adopted by Newfoundland and Labrador, was the first legal (although not criminal) definition of bullying to include the bystanders.[8] In this way the legal definition was affected by a change in perception brought about by what the folk felt to be right. In essence, the changing folk law in Nova Scotia at this time forced a change in the written law.

The aftermath of the change in the Nova Scotian definition remains to be seen as there is significant opposition in both the existing folk and legal law. For example, journalist Jesse Brown, a reporter for Maclean's Magazine, demonstrates the arguments of those opposed to the legislation:

> I've written before about the problems involved in legislating against cyberbullying. I focused on the impossible issue of reaching a definition. Rape, assault, harassment: these are crimes with established parameters. All of them could also be called "bullying." They could also be described as "mean," and I suppose we could enact a law against being mean. But I'd rather have laws against specific crimes, rather than against vast swaths of vaguely defined human behaviour. (Brown 2013)

Brown's comments highlight the practical problems with enforcement of the new definition, which from this perspective, is a nightmare. For

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7.  On October 5, 2017, the Nova Scotia Legislature introduced Bill No. 27, the Intimate Images and Cyber-protection Act (the "Cyber-protection Act", or the "Act"). The Act comes as Nova Scotia's previous cyber-bullying legislation, the Cyber-safety Act ("CSA"), was struck down in 2015 by the Nova Scotia Supreme Court on a constitutional challenge (For a more complete timeline please see Eriq Yu and Keith Rose's 2017 legal blog on McCarthy Tetrault's website).
8.  From the perspective of folklorists this is particularly important because the bystanders are the audience (and this opens up the gates for performative studies with bullying).

the first time we have a strong legal definition of what bullying is, and yet from a practical point of view it is all but unenforceable; first, because it is not defined in criminal law, and second, because everything now depends on the perceived damages to the victim.[9] If the victim does not perceive damage having been done to them, or they do not interpret the act that caused them as bullying, then no bullying took place. On the other side, arresting everyone as accomplices to an act of bullying creates the potential for extreme overreach that law enforcement officers are not particularly keen on seeing put into action. The title of Brown's article, "Nova Scotia's Cyber Abuse Law makes bullies of us all" was supposed to be flippant in pointing out that we are all bystanders and thus culpable under the new definition, but the truth is we are all bullies. We all bully, whether we call it aggressive negotiations, or gloss it over as something that is done for the benefit of the victim, we bully. Bullying is so common in our lives that it often takes an extraordinary effort for us to even see it. Bullying scholar Valerie Besag writes,

> Bullying is always with us. We encounter bullies in some form or other throughout our lives. There does seem to be some prevalent process by which there is a testing out of will and strength over others. It is not only as children that we encounter bullying, it happens in all strata of society and in all localities. (1989: 10)

The ubiquity of bullying does not, however, mean that it exists outside of wider considerations of custom, norm, tradition and the various contests that accompany these processes—in short, folk law.

## Bullying in Newfoundland Schools

In schoolhouses across Newfoundland and Labrador, the policy governing social interactions between teachers, students and administration is *The Safe and Caring Schools Policy*. This policy makes it clear that its mandate is the result of a concerted effort to correct the problem of student bullying in schools. This policy has changed several times since its inception in 2001 (2006 and 2013) and, like the definition of bullying, the more it is reanalyzed and restructured, the closer to outlining the actual problem it has come; and yet there remains a significant portion of the bullying problem that is left unaddressed in the policy; namely, the bullying culture

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9.   It is also important to note that although the definition is a legal definition, it is defined by the Department of Education, which demonstrates that whether it is conscious or unconscious our society delegates bullying to a problem of one life stage, youth.

of adults who run and staff the schools. There are three parts of the policy that touch on this gap:

> 3.1. Everyone has a role and responsibilities in building a safe, caring and inclusive school climate. Success depends on the active involvement of all stakeholders who are committed to a shared vision, common goals and the on-going work required in achieving them (2).

> 4.1.1.15. Encourage community partners to utilize the SCS Curriculum Database by providing information on resources and services which will support or complement specific curriculum outcomes.

> 4.1.2.4. Promote and communicate the guiding principles of the provincial Safe & Caring Schools Policy in order to establish an understanding of its underlying philosophy.

These sections govern interaction between the adults in the school community. These exchanges take place between community partners, stakeholders, and the non-student school community, and while it is understood that everyone has a responsibility to maintain the school as a safe place nothing states that bullying is a problem with the workers themselves.

The main problem that is not being addressed by the policy is the same one that is being glossed over elsewhere. By segmenting bullying into the purview of differing social spheres (in this case we are addressing child culture exclusively) we are decontextualizing the real problem, which is that we reside in a society that is not anti-bullying. We may be anti-harassment, anti-violent crimes, and possibly even anti-abuse but we are not anti-bullying. In 2003 American bullying scholars Josephine and Jo Blase estimated in their book, *Breaking the Silence: Overcoming the Principal Mistreatment of Teachers*, that in the United States about 10% to 20% of employees work for abusive bosses (2). In Canada, according to a 2011 CBC article that quoted a management specialist, Assistant Professor Jacqueline Power of the University of Windsor's Odette School of Business, nearly 40% of employees in Canada are bullied at work. So long as adults bully each other in front of students, we offer viable bullying traditions that can be learned by them. Adults, as tradition bearers, are for the most part overlooked by the policy and thus they are left to continue reinforcing bullying's accepted place in our folk law. In short, one of the largest gaps in these anti-bullying implementations in schools lies in recognizing that the folk law of bullying extends to everyone in the school environment.

## The Triviality Barrier

Another effect that our legal interpretation of bullying has on the perception of bullying is that it sets bullying a place at the children's table. As I have argued, because the legal system effaced bullying from the criminal code and school programs limit the discussion to the acts and harm children cause each other, bullying definitions risk what Brian Sutton-Smith called a "triviality barrier" (1970). Although Sutton-Smith was discussing how we trivialize child culture and its study, there are echoes in any critical study of bullying in general.  Prior to the various social movements following the death of Rehtaeh Parsons, the confinement of bullying to child culture[10] itself, as well as a failure to recognize its widespread participation through the bystander phenomenon risks trivialization (see Boulton 1997 for examples among teachers).

## Understanding how bullies use folk law to maintain power: How bullying becomes institutionalized

Before we can talk about solutions to this problem, it is important that we understand how power is maintained by bullies. Bullies exist on the periphery of social acceptability and their actions actively create violence and the discourses that normalize it. There are primarily two ways that bullies use folklore to modify folk law. First they use specific genres like rhymes, jokes, naming traditions, proverbs (among others) to establish rhetorics which justify their actions.  Second, acts are embedded in discourses of traditionality (and thus cultural legitimacy), whose chief goal is to normalize socially ambiguous or threatening acts.  For example, violent actions like punching or kicking will be framed within a fight; or taunting and teasing will be enacted as part of a discourse of reciprocity or the deserved consequences of the victim's first violating a social norm (wearing atypical clothes, for example)   Several scholars have noted that if this process continues unabated the activities grow in severity. In her 2007 book, *Extraordinary Evil: A Brief History of Genocide*, bullying scholar Barbara Coloroso argues that this process, if left unchecked, can ultimately result in genocide:

> [O]ne can see the path leading from the first scenes of schoolyard bullying to this act of extraordinary evil--this Final Solution. In a genocide, a bully (often a "bullied bully") rises to power, is elected to political

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10.  These dismissals are something that really demands further research for folklorists because understanding why people feel they are socially acceptable strikes at the heart of our cultural problem with bullying.

office, or seizes control of a government. The bully then espouses a
murderous racial, ethnic, or religious ideology, brings along an entire
cast of characters, and goes about creating increasingly sinister scenes
of what psychiatrist Robert Lifton calls "atrocity producing situations".
(2007: 52-53)

To examine how a basic tradition can be hijacked to convey anti-social
behaviour, take, for example, the tradition of nicknaming. Nicknames
are often playful and harmless, although the person responsible for the
nickname always has some kind of social power over the named. If the
namer decides on creating abusive or degrading nicknames for others, this
can have a startlingly powerful impact on how that named one is viewed
by others. Cruel nicknames demean the victim directly. They also create
social distance from their human name which allows individuals to be
dehumanized (especially names like 'cockroach' or something that depicts
the victim as inhumane). Finally, it provides precedence to allow for the
growth and escalation of the malevolent tradition. Each time the traditional
genre and practice is used to humiliate, it reinforces the antisocial aspect
of the entire genre itself until it becomes an effective gateway for the
proliferation of hate.

A strong example of how a tradition becomes weaponized within
the school system is through the seldom publicly discussed tradition of
student assignment at the end of year grade level meeting. At this meeting
the neurologically and behaviourally impaired students are assigned to
classes for the following school year. In order to understand this practice
fully it is important to know that the occupational structure within a
school adheres to a two-tiered social hierarchy system (Formal/Informal).
The formal hierarchy is viewable from the outside in: Principal → Vice
Principal → Teacher; but the informal system is almost never discussed:
Tenured Teachers →  Tenure-track Teachers → Replacement Teachers
→ Substitute Teachers. In any hierarchal system the potential for abuse is
elevated. In the traditional year-end grade level meeting an ugly variation
exists in several schools whereby class selection is based on seniority, which
means that extra behaviourally or neurologically challenged children are
often assigned to younger teachers' classes. The explanation for this unfair
arrangement is that easier classrooms are a perk of seniority. The existence
of this tradition, however, makes the teachers at the bottom of the informal
social hierarchy subject to an almost untenable job.

One teacher that I spoke to, L, was subject to this practice twice in
their early years of teaching and it resulted in L's failing to gain tenure at
their first fulltime position. The tenure evaluation was completed by the

principal (as are almost all tenure evaluations) and so this abusive system, that started as an informal practice was granted tacit approval by the official system when the principal felt that the class's failure to achieve high academic scores on their tests was L's fault. The principal knew how the classes were divided and even participated in approving transfers of additional impaired students into the class. In L's case they had to transfer to another school and start the process of evaluation over from scratch before they managed to achieve their tenure. In another example, F toured a school close to their home town and was told by a senior teacher not to transfer to the school because they would be at the bottom of their seniority list and would get the worst classes. In these cases an occupational folk practice that appears to be merely a normal part of the seniority system is actually a form of institutional bullying; however, we can fail to recognize these instances when, as I have argued, we trivialize bullying by narrowly confining it to children's culture.

Stepping out of the misuse of the genres into the realm of 'normalization,' we see the traditionalization process fully at work. Take, for example, the tradition of making rude and defamatory comments on a teacher's social media page. This happens so often that every teacher I interviewed knew someone who had negative comments made about them in a public forum. The commonality of this type of abuse has not been specifically measured in Canada but we know that in Britain (whose other related statistics are only slightly worse than Canadian statistics) the rate of verbal assault (if we include false allegations and verbal abuse over the Internet) is about eight in ten teachers every year.[11] The high rate of abuse suggests that there is some kind of tacit social acceptance by parents of these abusive interactions with teachers.

The treatment and subsequent turnover rate of new teachers in Canada should be the canary in the mineshaft to indicate that our problem with bullying extends well beyond the sphere of students. Educational scholar Thierry Karsenti suggested in his 2013 work, that Canadian rates of teacher retention (7 out of 10 in 2013) are the result of several problems that exist only in the countries that fail to manage things like work load, student balance, teacher aid, and the overall treatment of their teachers (2013).

One of my consultants, H, told a story about online abuse that highlighted how this type of abuse escalates when left unchecked. When H

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11. See Garner 2015a and 2015b, Espinoza 2015a, 2015b, and 2015c, and Crouch 2015 for more details on the growing problem with the teaching profession in the UK.

was a new teacher, they encountered online abuse from parents that began in the second week of September and lasted until H left the community. In this story, our victim, 'H' quickly found out that they had been mentioned in a post made on a social media site, on which most of the school parents and teachers were members. The post was by a parent raving about how much their child hated H and how H was a bad teacher that others in the community should avoid. To the credit of the principals in the community they were quick to act and told the woman to remove the post immediately from the forum. She did, and then she opened up a new forum, a private one, and invited all of the parents from her child's class and most of the teachers at the school and began again posting negative comments about H. This time she used a pseudonym for H, and because of this, the principals never asked her to take down the second forum. Over time the comments on the site darkened, becoming more personal, more vicious and began appearing with greater regularity until, to H's horror, some of their peers began supporting posts on the group. For an entire school year H had to endure being constantly surrounded by people who had poured vitriol into these online forums about them.

By the end of the year this abuse left H contemplating leaving their career. When they learned about my project from a friend they reached out to tell me their story in the hope that maybe something good could come from "their misery." The posts made against H systematically demeaned and alienated them. In folklore and companion disciplines this process is referred to as "othering" and is meant to socially isolate H from parents, peers, and finally from their own students. H interpreted this process as attitudes of the adults "bleeding down" to the children. H's final communication to me stated,

> It would be nice to be able to be open about all of these issues with other people...[12] Unfortunately our code of ethics doesn't allow that...I'm sure everybody who has shared stories with you would be suspended if you published...our info... I wish parents here loved teachers. As an outsider

12. During the course of my research I discovered that teachers take their code of ethics very seriously, and there are portions of this document that place clear limitations on a teacher's ability to communicate with the public. Under the heading "Teacher-professional organization" subsection "vi" of the Newfoundland and Labrador Teachers' Association Code of Ethics) the act also states, "A teacher recognizes the Newfoundland and Labrador Teachers' Association as the official voice of teachers on all matters of a professional nature" (2017: 35). Thus, teachers will often not discuss any aspect of their work with outsiders in any formal manner without a guarantee of complete anonymity.

coming into the community I was expecting to be welcomed warmly...
but the parents here are rough– H.

As can be seen in the above story how the escalation of a minor verbal confrontation in a classroom resulted in the almost complete ostracism of a teacher. At each stage in the progression of this bullying the people involved could have stopped the escalation, and yet they did not. In the end the teacher had almost no one left in the community that was not part of the abuse. In effect the bystanders became the bullies. As I have noted, this has been a key theme in the understanding of bullying in academic circles since the 1990s but the lag between the understanding in the academy and the understanding outside of the academy in this regard has been quite extreme. Bullies rely on the tacit support of bystanders to allow them to perform their antisocial actions, and anything short of confrontation grants this tacit approval. Supporting bullying actions must be made socially unacceptable at an unofficial level if this behaviour is to be curbed. One solution to this lies in Martin's concept of etiquette whereby new traditions within the folk law of bullying can be used to combat the practice across the multiple folk groups in which it occurs. If it is to work, folklore studies hold many of the keys to affecting this change.

The first problem that can be addressed through folklore is the fundamental lack of empathy that bullies, and often bystanders, have for their victims (for an example of victim blaming see: Bauman 2006). While there are no archival folklore collections of bullying narratives yet there are a lot of bullying stories available in writings about bullying (both academic and non-academic) and they span both the perspectives of the bullied, and those of reformed bullies. Collating this material offers the opportunity to understand the bullying drama from both sides. Such a collection could also help to address the fundamental lack of empathy in perpetrators and bystanders through narrative therapy and narrative engagement (Lawless 2001: xx).

A second element can be found in educational folklife programs that promote collection of folk materials from the surrounding school communities and bring community members into the schools to teach these informal and non-formal materials. Programs, such as Louisiana Lights, or the folklife implementations developed by Linda Deafenbaugh bring critical non-formal and informal learning back into the schoolhouse by making parents and community members into teachers of the unofficial (2017). In many ways folklife programs level the playing field between educators and parents, turning teachers and parents into colleagues and forcing them to

interact in collaborative ways. Thus, folklife implementations present a unique opportunity for the expression of communication without bullying that spans the entire school community.

In addition to folklife implementations and collections of bullying narratives, the inclusion of fieldworkers in the schools provides the opportunity to address the serious problems with problematic communicating that may be going on despite the best efforts of school administrations. CJ Pascoe (2007) study, *Dude, you're a fag*, demonstrates the positive impact that even a single highly motivated fieldworker can have on a school culture. Her work highlighting heteronormative traditions underlying the culture at 'River High School' gave the teachers there an eye-opening study of the biases and malevolent traditions that needed to be rectified or eliminated in order to help the school become more inclusive. Surprisingly, many of her suggestions were small, like telling stories that included the LGBQT content. Her work provided a blueprint of what was wrong with the school, so that the staff and school community knew what to focus on going forward.

This type of fieldwork is extremely difficult to get through our current ethics models for research in schools, but if we are to perform applied folkloristics, which is what *The Safe and Caring Schools Policy* is attempting to do by creating new school cultures, then new models for research are necessary. Spending time trying to force a cultural change through official means with vague notions of what needs to happen with the underlying culture is not the most effective way to tackle this problem. As this paper has demonstrated, it is the unofficial folk culture (of which the folk law of bullying is one aspect) that polices students' behaviour, not any type of pseudo-official code of conduct that may be formulated by administrators. Highlighting problematic traditions and helping to implement new positive traditions is something that folklorists should be involved in.

The bullying problem is a tough nut to crack because force needs to be directed in so many places at once to break it. We need to remove the veil that obscures our interpretation of bullying, while simultaneously removing longstanding malevolent traditions from the culture, all the while teaching empathy as the heart of effective communication. Folklore studies can provide avenues to help develop solutions to all of these problems. Through dedicated fieldwork common dismissals can be highlighted and problematized. Abusive or malevolent traditions can be flagged through the same research. Through the introduction of folklife programs and the creation of more democratic communication spaces we can give community

members (teachers, parents, students, and administrators) the opportunity to address issues arising in the community as equals. These changes create a better forum to discuss and bring the unofficial and official notions of bullying into alignment within the community. These democratic spaces could also act as training spaces to practice new anti-bullying traditions to within the greater school community. Finally, the collection of materials about bullying in the community puts human faces on victims and helps to assist the empathy building strategies already being implemented in schools.

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