

## **UNICEF applauds the Supreme Court of Canada's decision in a landmark cyberbullying case**

**TORONTO, September 27, 2012** – UNICEF Canada applauds the Supreme Court of Canada's decision granting the appeal in part of a 15-year-old girl, known as A.B., in the landmark cyberbullying case *A.B. v. Bragg Communications Incorporated et al.* The case involved the alleged violation of A.B.'s identity, privacy and reputation on a fake Facebook page, and her request to shield both her identity and the degrading content from the public while pursuing legal action.

A.B. appealed the case to the Supreme Court of Canada when both the Nova Scotia Supreme Court and the Nova Scotia Court of Appeal denied her request to protect her identity. UNICEF Canada intervened in the case to assert that A.B.'s rights under the UN Convention on the Rights of the Child were not taken into account by the lower courts.

In its unanimous decision the Supreme Court recognized the particular vulnerabilities and rights of children, "Since common sense and the evidence show that young victims of sexualized bullying are particularly vulnerable to the harms of revictimization upon publication, and since the right to protection will disappear for most children without the further protection of anonymity, the girl's anonymous legal pursuit of the identity of her cyberbully should be allowed."

"Today's decision underscores the shared commitment of government, the courts and other responsibility-holders to protect the best interests and rights of children who are pursuing justice when they are victimized, in this case involving cyberbullying or harassment," said Marv Bernstein, UNICEF Canada's Chief Advocacy Advisor. "By recognizing their legal rights under the UN Convention on the Rights of the Child, the courts are fulfilling their role in protecting the most vulnerable population in line with Canada's legal human rights obligations."

Canada is a signatory to the Convention on the Rights of the Child, which grants children the right to special protection in court processes in recognition of their vulnerability. UNICEF argued that the 'open court' principle must be balanced with consideration of children's rights and the child's best interests. In cases of cyberbullying or harassment, disclosing the child's identity and harmful online content can revictimize children and subject them to physical or emotional distress. The Supreme Court agreed with this argument, "The critical importance of the open court principle and a free press has been tenaciously embedded in the jurisprudence. In this case, however, there are interests that are sufficiently compelling to justify restricting such access: privacy and the protection of children from cyberbullying."

"UNICEF Canada intervened in this case to ensure that the harm to children from online bullying, abuse or harassment is recognized as having severe and long-lasting impacts, rather than simply as a mild embarrassment," said Mr. Bernstein. "The invasion of privacy and reputational damage compounds the harms already experienced by young victims, which in the case of bullying can include depression, a sense of fear and despair and disrupted home and school lives, sometimes resulting in self-destructive and even suicidal actions. There is a role for the courts and everyone in society to recognize these serious risks and to mitigate them, rather than to exacerbate them."

The invasion of privacy can also have other negative repercussions, such as deterring children wishing to pursue legal action. Limiting a child's ability to seek justice is a violation of his or her rights.

Canada is one of the most connected countries in the world, with 94% of young people stating they have access to the internet at home. Of Canadian children and young people who say they have been bullied, 27% say they were bullied over the internet. The Courts need to continue to adapt to the changing digital environment to protect children. Children also need a National Children's Commissioner to advocate for their rights and well-being at a national level.

"Today's Supreme Court decision is an important step in protecting children from cyberbullying. It ensures that they can feel safe to seek justice without fear of revictimization," said Mr. Bernstein. "While curbing cyberbullying requires that children be taught the skills needed to ensure their safety online and to understand the significant and long term impact that cyberbullying can have on their peers, this decision is critical to bringing justice for those children who are victims of this type of harassment."

For background information on cyberbullying and to read UNICEF's report *Child Safety Online: global challenges and strategies*, connect to [www.unicef.ca/onlinesafety](http://www.unicef.ca/onlinesafety).

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UNICEF is supported entirely by voluntary donations and helps children regardless of race, religion or politics. As part of the UN, we are active in over 190 countries – more than any other organization. Our determination and our reach are unparalleled. Because nowhere is too far to go to help a child survive.

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