

# **BULLYING AND CYBERBULLYING: TWO SIDES OF THE SAME COIN**

## **Brief submitted by UNICEF Canada to the Standing Senate Committee on Human Rights**

**28 May 2012**

### **Introduction**

UNICEF Canada commends the work of the Standing Senate Committee on Human Rights related to its study on cyberbullying and article 19 of the United Nations Convention on the Rights of the Child (the Convention).

Recognizing the link between cyberbullying and children's rights, including the right to protection from harm, as well as other interrelated rights in the Convention, provides the critical perspective necessary to formulate effective responses. Such a perspective allows us to recognize that the Internet, mobile phones and other digital media provide children and young people with many educational and social benefits – access to knowledge, information, recreation, socialization and a sense of inclusion with peers, even across wide geographic boundaries. It also allows us to support these benefits, while addressing the harms resulting from inappropriate digital behaviours, as they evolve through e-mails, online chat lines, personal web pages, text messages, the transmission of images and social media.

While responses to cyberbullying should take into account its relationship to bullying and to relationships more broadly, there are many distinctive elements, which are unique to cyberbullying – namely, it may be less visible to the responsible adults in a child's life; it has the capacity to intrude at any time of day or night; it exponentially increases the audience (or "bystanders"); and it generally forms an indelible permanent record, thus often increasing the trauma felt by victims.<sup>i</sup> Some of the responses, then, will also necessarily focus on the unique aspects of cyberbullying. All responses will benefit from applying a children's rights perspective.

### **About UNICEF**

UNICEF is the world's leading child-focused humanitarian and development agency. Through innovative programs and advocacy work, we save children's lives and secure their rights in virtually every country. Our global reach, unparalleled influence on policymakers, and diverse partnerships make us an instrumental force in shaping a world in which no child dies of a preventable cause. UNICEF is entirely supported by voluntary donations and helps all children, regardless of race, religion or politics. The only organization named in the United Nations Convention on the Rights of the Child as a source of expertise for governments, UNICEF has exceptional access to those whose decisions impact children's survival and quality of life. We are the world's advocate for children and their rights. For more information about UNICEF, please visit [www.unicef.ca](http://www.unicef.ca).

## **UNICEF Canada's position on cyberbullying**

The bullying of children<sup>ii</sup> in all of its forms, including cyberbullying, can have significant and lifelong physical and mental health effects upon children, as well as many other personal and social consequences for both child victims and perpetrators. Bullying is a serious form of violence against children – the effects of which can include violations of such rights as, *inter alia*: the right to life, survival and development (article 6); the best interests of the child (article 3); protection from harm (article 19), participation (article 12); privacy (article 16), information (article 17); freedom of thought (article 14); the highest attainable standard of health (article 24); and education (articles 28 and 29).

The best way to deal with cyberbullying is to stop it before it happens. There is no singular action that will do so. Therefore, a 'systems' approach to strengthening the protective environment is integral to addressing bullying and cyberbullying. A protective environment, which is supported by coordinated national strategies, is one in which all sectors of society protect children and hold accountable those who undermine it.<sup>iii</sup> A 'systems' approach sees a bullied child as a failure of a series of links in the child protection system, and not simply as an unfortunate victim of circumstance.

A 'systems' approach is rights-based and is inclusive of: legislation and law enforcement; social and individual attitudes and behaviours; data collection, evidence and monitoring; and services and practices that minimize children's vulnerability. This approach also addresses the interrelated web of risk factors and strengthens children's own resilience to the full range of harms. In practice, these approaches are heavily intertwined: legislation and law enforcement contribute to changes in social norms, and data collection and monitoring inform service provision. Responses, therefore, are most effective when they: are based on children's rights principles, particularly the best interests of the child and respect for the views of children; make appropriate use of the general measures of implementation of the Convention; seek to strengthen the support role of parents, guardians teachers and other professionals; include appropriate use of legislation and policy; and give adequate attention to preventative measures.

## **Bullying and Cyberbullying – two sides of the same coin**

When children are bullied, they are the target of behaviour that is harmful or intended to cause harm; it is an action that occurs repeatedly, and involves an imbalance of power that prevents the victim from challenging or ending the behaviour<sup>iv</sup>. It includes both subtle and complex forms of psychological violence and is distinguished from other forms of violence because it represents a pattern of behaviour, rather than an isolated event. Cyberbullying can be defined as a form of bullying that takes place through the use of information communication technologies (e.g., cell phones, social media sites, text messaging and other forms). It allows perpetrators to remain anonymous, it enables quick distribution and replication of messages, and it can turn masses of children into bystanders or witnesses of non-physical or social bullying of a highly malicious nature.<sup>v</sup> Though these facets of cyberbullying may exacerbate bullying in new ways, evidence suggests that most cyberbullying is perpetrated by individuals known to the victims, in their daily lives and offline social relationships.<sup>vi</sup> Those at risk of bullying in general are also at greater risk of being bullied online. Canadian research suggests that children who may be perceived as 'different' are often at

greater risk of being bullied than other children (such as minority ethnic groups, lesbian, gay, bisexual or transgender (LGBT) young people, overweight children and those with perceived disabilities).<sup>vii</sup> Since both bullying and cyberbullying are often intertwined in children's lives, key responses must also address the connections between bullying and cyberbullying.

Numerous studies have indicated the health risk and toll caused by this serious human rights violation: According to the UN Study on Violence against Children, the physical symptoms of being bullied can include headaches, stomachaches, backaches, and dizziness, while psychological symptoms include bad temper and feeling nervous, lonely and helpless. The same study found that, according to children's own reports, the more often they had been bullied, the more symptoms of ill-health they have experienced.<sup>viii</sup> Research released through the Health Behaviours in School-Aged Children (HBSC) Study indicated that children who said they were bullies or the victims of bullying were significantly less likely than other children to say that they enjoyed 'excellent health' and a 'very satisfied life'.<sup>ix</sup> The World Health Organization (WHO) has identified bullying as a 'major public health problem' and has indicated that the risks posed by bullying extend beyond the victim to include bystanders and bullies, and manifest themselves in a range of symptoms across the public health spectrum:

*A growing body of research is highlighting the range of significant morbidities affecting individuals involved in bullying, whether as bystanders, bullies and/or victims. Students involved in bullying are at a significant risk of experiencing a wide spectrum of psychosomatic symptoms, running away from home, alcohol and drug abuse, absenteeism and, above all, self-inflicted, accidental or perpetrated injuries. The consequences of bullying extend into adulthood, as there is evidence of a significant association between childhood bullying behaviour and later psychiatric morbidity.<sup>x</sup>*

A report published by Health Canada reports that bullying remains a significant problem in Canada, with an alarming proportion of young people reporting involvement in bullying either as the aggressor, victim, or both.<sup>xi</sup> The HBSC<sup>xii</sup> Study in 2005/2006 found that in Canada 11 year olds self-reported that 19 % of girls and 21% of boys had been bullied at least twice in the last 2 months. Health Canada statistics reported that; 36 per cent of Canadian youth say they are victims of bullying, 39 per cent say they are bullies, and 20 per cent say they are both bullies and victims.<sup>xiii</sup> Bullying in all its forms can have negative physical impacts and cause psychological distress and in the worst outcome, can lead to the taking of one's own life (as has been the case in a number of provinces, across the country).<sup>xiv</sup>

Governments and policymakers have a key responsibility to protect all children from bullying, including cyberbullying. Additionally, other stakeholders can play an important role in protecting children from bullying. Parents and children play a vital role, as do other professionals - such as teachers and social workers, law enforcement agencies and the private sector.<sup>xv</sup> Media too, has an important role to play, as recognized, in part, by the World Health Organization's release of a resource for media professionals on preventing suicide, which highlights the importance of avoiding, "undue repetition of stories about suicide".<sup>xvi</sup> All of these stakeholders have a role in creating a safe

environment that allows children and young people to benefit from the use of modern technologies without experiencing harm.

## **Strengthening the response: Effective measures to address cyberbullying**

### **1. Meeting international obligations and supporting general measures of implementation of the Convention on the Rights of the Child**

In all its manifestations, the bullying of children is a human rights violation that impacts a range of rights and requires a rights-based response according to international normative standards and the principles of children's rights. As a State Party to the Convention, the primary responsibility to ensure that the rights articulated in the Convention are implemented in Canada rests with government. In relation to the cyberbullying, a number of Convention articles are engaged - such as: the right to life, survival and development (article 6); the best interests of the child (article 3); protection from harm (article 19), participation (article 12); privacy (article 16); information (article 17); freedom of thought (article 14); the highest attainable standard of health (article 24); and education (articles 28 and 29)<sup>xvii</sup>.

Given the interrelatedness of the rights in the Convention which pertain to bullying and cyberbullying, responses must adopt a broad Convention-based perspective, rather than simply addressing these manifestations as isolated problems. The adoption of a standard approach for incorporating the best interests of the child into all policies, programs and legislation would go a long way towards ensuring that measures to address violence against children, including bullying and cyberbullying, support the protection and development of all children.

In 2003, the UN Committee on the Rights of the Child asked Canada to review and improve its application of the best interests of the child within Canada. It expressed concern that not all children are being represented when applying this principle, which is still not adequately defined and reflected in legislation, court decisions and policies. One way to incorporate the best interests of the child is through a Child Rights Impact Assessment (CRIA). A CRIA can be defined as:

*... a systematic process or methodology of ensuring children's best interests and the potential impacts of policy change upon them are considered in the policy-making process. CRIA involves examining a proposed law or policy, administrative decision or action in a structured manner to determine its potential impact on children or specific groups of children, and whether it will effectively protect and implement the rights set out for children in the Convention on the Rights of the Child.<sup>xviii</sup>*

At the core, a CRIA involves identifying the articles or rights in the Convention on the Rights of the Child – and in particular the Guiding Principles in articles 2 (non-discrimination), 3 (best interests of the child), 6 (right to life, survival and development) and 12 (right to be heard) – that might be

impacted by a proposed action. It asks decision-makers to pay attention to all the children that may be affected by a decision.

**Recommendation 1: The federal government should use a standardized Child Rights Impact Assessment process before legislation, policy and practice are developed that may have significant impacts on children. In this context, the federal government should consider delegating to Justice Canada and the Public Health Agency of Canada (the existing lead departments for the federal implementation of the Convention) the co-responsibility for developing a standard approach for Child Rights Impact Assessments and for ensuring that officials in other departments are trained on how to conduct a Child Rights Impact Assessment. Such a model could also be shared with provinces and territories through the Continuing Committee of Officials on Human Rights, so that provinces and territories may be encouraged to develop a similar assessment tool (if not already in place).**

To further strengthen the general measures of implementation of the Convention, which is fundamental to expanding the protective environment for children and addressing the problem of cyberbullying, the Standing Senate Committee on Human Rights has repeatedly called for a National Children's Commissioner.<sup>xix</sup> The establishment of a National Children's Commissioner is an important step in ensuring that significant legislative, policy and program decisions are considered from the perspective of children's views and their interrelated rights. A National Children's Commissioner could advise on programs and policies in response to violence against children, including cyberbullying, where the knowledge and views of children as "digital natives" are particularly necessary to ensure that effective solutions are developed.

**Recommendation 2: All parliamentarians should work towards consensus to ensure that an independent Commissioner for Children and Young Persons is established so that legislation, policies and services for children are effective, more equitable and better coordinated.**

## 2. Preventative education and capacity building

Educators, policy-makers and parents concerned about child protection and safety are finding it difficult to navigate a balance that respects children's rights to free expression, autonomy and agency while attempting to reduce the negative impact of on-line bullying. Empowering children at an early age to make ethical choices when they use digital media should be a critical objective for children, parents, educators and policymakers. The first line of defence in protecting children online is ensuring they receive specific, age-appropriate education. Children must understand the risks they face and make informed and responsible choices when they use digital media. It can be difficult for young people to distinguish between online communications that are humorous or harmless for the sake of entertainment, and when the online behaviour could result in harm for victims, and harm for perpetrators (e.g., in criminal or school sanctions). There is an urgent need to raise early awareness in children about the limits of free expression, the impact of their actions on

those victimized, and the risk of criminal and other consequences. Programs designed to support children to make informed choices, based on a genuine awareness of the nature of risks involved, need to accommodate an understanding of adolescent sexuality, the role of the peer group, adolescent cultural expectations and assumptions about risks from the perspective of children and young people.

UNICEF Canada submits that empowering children is an essential tool in the battle against online bullying and harassment. In addition to effective education and information to understand and avoid negative consequences resulting from online actions, children need “opportunities and means to report unacceptable activity or behaviour” and “confidence not only that action will be taken when they are harmed or abused, but that they will be respected as active agents.”<sup>xx</sup> Children must be involved as advocates and as stakeholders in finding solutions. It is essential to empower children at an early age to make ethical choices when they use digital media; provide learning opportunities for children to take ownership and develop accountability; foster children’s leadership abilities; assist them in supporting their peers (as victims of cyberbullying) in appropriate ways; raise their awareness of the legal risks and devastating impact of cyberbullying on society; and guide them in promoting inclusive and responsible digital citizenship in an increasingly accessible global society.

Educating children for responsible digital citizenship is an effective strategy to help reach these goals, and should be a primary strategic objective in combating cyberbullying.<sup>xxi</sup> One such platform is the Define the Line initiative, developed by Dr. Shaheen Shariff.<sup>xxii</sup> The federal Office of the Privacy Commissioner and the Media Awareness Network have also developed notable efforts to inform and protect children in their online activities, as have organizations outside Canada, such as the Child Exploitation Online Centre in the United Kingdom. All interventions should be informed by the unique insights and experiences of children to ensure that they are effective, and provide children an avenue for their participation rights.

An important consideration in the design of effective interventions is the consistent message emerging from the research that children and young people see themselves as ‘protectors’ of other children.<sup>xxiii</sup> Children tend to first turn to each other when in need of help. Young people demonstrate high levels of concern and awareness of risks for young siblings, friends and others they perceive as more vulnerable than themselves.<sup>xxiv</sup> This suggests a potential role for children as peer educators, mentors and advisers. Listening to children and supporting them to be the front line in taking care of themselves and each other is likely to be one of the keys to reducing both risk and harm. Children should be the leaders in bringing responsible use of the Internet and digital citizenship into their schools. Children must be supported to be the leaders in promoting and advocating for digital citizenship. For example, students should be encouraged to form groups at schools where they can advocate for and promote digital citizenship to make schools safer for everyone and provide support to those who are being bullied or cyberbullied.

There is a ‘digital gap’ between adults and children, as many adults are not as digitally active, informed of the risks involved with the use of new technologies, or aware of their children’s activities in cyberspace. Parental capacity to protect children is increasingly limited by the fact that many of

the activities previously carried out on computers based in fixed locations are now done in private by children on mobile phones with Internet connectivity. Adults may perceive the online and offline worlds as being quite different, but for many children and young people, who are building social networks through making friends in both worlds, there is significant cross-over and the distinction has little significance.<sup>xxv</sup> A growing body of evidence from the industrialized world identifies that the strongest protective factor for children is actively engaged parents who share Internet experiences with their children and are willing to talk about the issues involved without rushing to limit children's access.<sup>xxvi</sup>

Strengthening parents' ability to support their children is a vital component for online safety. Parents need to be made aware of the nature of risks and encouraged to improve their understanding of young people's online activities. Schools can assist parents by engaging them in awareness campaigns for Internet safety and digital citizenship, for example, through the use of newsletters. Effective protection strategies include the empowerment of parents to enable them to understand and support children's use of information communication technology and the risks and hazards that they may encounter, as well as sources of remedy. Once parents better understand the online environment, they gain a more informed perspective of the risks involved.<sup>xxvii</sup>

A practical example of providing support for students to build digital citizenship skills for life has been implemented in Quebec. In January 2011, the Lester B. Pearson School Board became the first school board in Quebec to adopt a Digital Citizenship program. The program seeks to educate elementary and high school students on ways to use technology responsibly, to prevent abuse and misuse, with the hope that they will become responsible digital citizens, and refrain from harmful online behaviour like cyberbullying. The Digital Citizenship program goes beyond educating students to educate all members of the school community including students, staff, parents and community members on the responsible use of technology. The program is to be integrated into the current curriculum at all grade levels board-wide.

**Recommendation 3: Empower children to take action to address cyberbullying by creating a national strategy to address cyberbullying, which would include child friendly online resources that focus on the safe and legal use of digital technologies and which would emphasize strengthening the capacity of parents, educators and other professionals (such as counselors, health care professionals and others).**

Another useful approach to effective preventive education, which addresses cyberbullying in its broader context of bullying and relationships and directly engages children, is seen in PREVNet, a national network of Canadian researchers, non-governmental organizations (NGOs) and governments committed to stop bullying<sup>xxviii</sup>. PREVNet creates evidence drawn from research to help inform educational interventions to address bullying, and has launched an initiative to evaluate education interventions to ensure that the considerable public funding of such programs flows to measures that actually work.

**Recommendation 4: Support research and initiatives that directly engage children in finding solutions to address violence, bullying and cyberbullying, such as PREVNet, Define the Line, and Stop a Bully<sup>xxix</sup> and ensure that interventions supported with public funding are evaluated for impact (having regard to the views of children themselves), while focusing support on those that are proven to be effective.**

### 3. Addressing cyberbullying in school settings through a rights-based approach

It is widely recognized that bullying and cyberbullying often deprive child victims and perpetrators of their rights to education, interfering with the ability to learn and interrupting school attendance.<sup>xxx</sup> UNICEF Canada works with schools and with research and program partners in Canada such as PREVNet to promote programs and new knowledge that address cyberbullying and bullying in the context of healthy relationships. Paying attention to this broader context helps prevent cyberbullying among other related harms, and supports all children. For example, through UNICEF Canada's Rights Respecting Schools initiative, Canadian schools are starting to adopt a focus on healthy relationships between students and between students and adults, which results in more positive behaviours and less bullying. UNICEF Canada's Rights Respecting Schools initiative uses the Convention to develop a culture of inclusiveness and respect in elementary schools and promotes meaningful participation and active citizenship among students. This is the only program of its kind in Canada. Our research on how young people think bullying should be dealt with (through early and consistent interventions from teachers, addressing both emotional and physical aggression, and more positive parental role-modelling) and on "cyberbullying" is contributing to improved school responses.

Following the national launch in 2011, eleven demonstration schools have adopted the Rights Respecting Schools initiative across the country, reaching 3,000 children.

*We know how to respect each other...we actually know why and how we are respecting that person, we are listening to what they are telling us, we are being kind to everyone. It's pretty awesome.* - Allie, Grade 5, BC

A school becomes Rights Respecting through a process that begins with teacher training and assessing existing school practices, with the goal of working to meet these important benchmarks;

- **Increased student participation** –Students have regular opportunities to participate at school and their opinions are sought after and listened to by decision makers.
- **Improved awareness on children's rights** – Teachers and students understand concepts of children's rights and how they relate to school culture.
- **Enriched teaching and learning** - The Convention on the Rights of the Child is used as a reference point in the classroom. Teachers' model rights-respecting attitudes and behaviour and students have regular opportunities to learn and exercise their rights and responsibilities.

- **Strengthened leadership** – The school administration promotes respect for children’s rights and uses children’s rights as a lens for decision-making.

There is strong evidence to show that children in Rights Respecting Schools have a more positive experience at school. Research<sup>xxxii</sup> in the United Kingdom, with more than 2,500 rights-respecting schools, has shown that these schools see a decrease in bullying, with incidences of bullying referred to as ‘minimal’; a reduction in prejudices; improved rates of attendance; and improved student self-esteem and engagement in learning. Teachers also report improved job satisfaction, and students, staff and parents report being much happier in the school than in the past, due to improved relationships overall.

**Recommendation 5: Promote widespread adoption of the Rights Respecting Schools initiative in all Canadian jurisdictions to support prevention of violence, including cyberbullying in schools and, where appropriate, support pre-service and in-service training for teachers across jurisdictions to strengthen rights-respecting school cultures.**

#### 4. Child friendly legislation

With children having increasing access to their own computers and mobile phones with embedded cameras, they now have the capability to easily access, download and share photographs, videos and messages that they create themselves, depicting themselves or other children. While most children report their online interactions to be positive, some content crosses the line not only into harassment, but in addition, there has been a great deal of concern raised by the growing tendency of some children to send photos, videos and messages with explicit sexual content, called ‘sexts’, over their mobile phones. Some of this activity has resulted in criminal charges against young persons under the *Criminal Code* for child pornography offences. As the boundaries of legal responsibility become increasingly blurred online, there is a need to bring balance to the issues by clarifying and defining the point at which students’ joking and teasing of peers and teachers on social media becomes criminal harassment; where gossip and spreading of rumours can result in civil liability; and where sexting is sometimes treated by police as “child pornography”, thereby exposing more young people to potential criminal charges.<sup>xxxiii</sup> The use of legal sanctions for cyberbullying is a strong consequence for young people who are often uninformed and unintentional in their online actions, and has ripple effects on their well-being.

The consequences of cyberbullying for perpetrators have received less attention than the harm to victims, but support the need to address cyberbullying from the perspective of all children involved. A children’s rights lens can assist in this process, as the interconnected rights of all children – victims, bystanders and perpetrators – need to be in view in the development of legislative, as well as policy and program responses. There is mounting empirical evidence of a rise in legal sanctions against children who cyberbully others. Children are being charged under various laws for activities in the domains of harassment and child pornography, for example, and school expulsions and other forms of discipline may also accrue. There is evidence that in many such instances, the perpetrators did not intend to cause harm, and were unaware of the chain of consequences their

actions could set off. The current trend in federal and provincial jurisdictions to create new legislation to sanction cyberbullying needs to be balanced with a rights based approach that focuses on prevention, education and rehabilitation to the benefit of all children involved.

Any legislation that addresses bullying or cyberbullying should, as previously discussed, have a Child Rights Impact Assessment applied to consider all possible impacts on children, and balance the many Convention rights that are engaged. For example, while we applaud the laudable purposes of Bill C-273, *An Act to amend the Criminal Code (cyberbullying)*, in promoting the protection and safety of children, we are concerned about the potential unintended consequence of some young people being subjected to greater exposure to criminal liability and prosecution. There are heavy and disproportionate consequences that may accrue to young people for not knowing the legal parameters of the responsible use of technologies. The Council of Europe has adopted an approach to reduce the risk of increased criminal liability in the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. This convention provides the authority to signatory Parties to reserve the right not to criminalize the production and possession of pornographic material “involving children who have reached the age of consent [to sexual activities] where these images are produced and possessed by them with their consent and solely for their own private use.”<sup>xxxiii</sup>

Where children under 18 are engaged in illegal activity, the response of the government should be through the youth criminal justice system, in collaboration with the child protection system, rather than through the adult criminal justice system. Law enforcement agencies could play a role in this by working with schools and communities to educate children on the legal system and what actions cross the line. Furthermore, when minors are identified as having perpetrated an act in contravention of the *Criminal Code* or other laws, it is important to ensure that minors are treated in accordance with the principles outlined in the United Nations *Standard Minimum Rules for the Administration of Juvenile Justice* (“The Beijing Rules”), with particular emphasis on the principle of proportionality, the right to privacy, favouring measures that avoid institutionalization and which emphasize rehabilitation.<sup>xxxiv</sup>

**Recommendation 6: Ensure that children are not unduly exposed to criminal charges and investigation and that the UN *Standard Minimum Rules for the Administration of Juvenile Justice* are upheld and made widely known to officials in Justice Canada, relevant officials in provinces and territories, and lawyers, judges and child victim support centres (referred to as child advocacy centres in some jurisdictions).**

Victims of bullying, including cyberbullying, should be empowered to access justice and exercise their right to be heard in a manner that respects their privacy and does not re-traumatize them. In the first order, this means that their right to privacy, protection and dignity should be upheld. One example of the courts failing to uphold these rights is the case of *A.B. (Litigation Guardian Of) v. Bragg Communications Incorporated, The Halifax Herald Limited, and Global Television*, 2011 NSCA 26 (N.S.C.A.), currently on a reserved judgment before the Supreme Court of Canada.

In the *A.B.* case., a 15 year old Nova Scotia female student was unsuccessful in her application in the Nova Scotia Supreme Court to pursue a defamation action on an anonymous basis after discovering that someone had created a false Facebook page using her identity, with contrived details relating to her physical appearance, weight and alleged sexual activity of a private and intimate nature. She then appealed to the Nova Scotia Court of Appeal.

In dismissing this young girl's appeal, the Nova Scotia Court of Appeal ruled that the appellant was in the same position as any other ordinary litigant and it gave more weight to the importance of upholding the 'open court' principle, which meant that she could not have her identity protected or be granted a partial publication ban regarding the derogatory details posted on the false Facebook page, if she wanted to pursue her Court remedy.

In granting its reasons, the Nova Scotia Court of Appeal stated that it was not persuaded by the young girl's argument that a dismissal of her appeal would produce a 'chilling effect', such that people would be reluctant to complain about on-line Internet bullying. According to the Court, obligating the appellant girl to bring her action in open court with unrestricted publication of these proceedings would, if she were to be successful in the litigation, lead to her being "lauded for her courage in defending her good name and rooting out on-line bullies who lurk in the bushes, behind a nameless [Internet Provider's] address...". She then sought leave to appeal to the Supreme Court of Canada which was granted on October 13, 2011.

UNICEF Canada has intervened in this case before the Supreme Court of Canada, emphasizing the importance of A.B.'s right to access justice, as a victim of cyberbullying, in a manner that respects her rights under the Convention. In its Factum filed on April 26, 2012, UNICEF Canada argued among other things:

*"15. In ensuring that this right to be heard [under article 12] is fulfilled, courts should provide an environment that enables children to exercise that right. Procedural rules may need to be modified to allow children to come forward and play an active role in matters affecting their interests without subjecting them to re-victimization. A child cannot be heard effectively in judicial proceedings where the environment is "intimidating, hostile, insensitive or inappropriate for his or her age." Proceedings must be both "accessible and child appropriate." Creating a "child's rights friendly environment" requires among other things, that "confidentiality is ensured for the child."*

UNICEF Canada maintains that children who are victims or witnesses of crime should be treated in accordance with the standards set out in the *UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime* (2005)<sup>xxxv</sup>. These Guidelines were developed in part due to the recognition that children, "...may suffer additional hardship when assisting in the justice process...", and in recognition that, "...children are vulnerable and require special protection appropriate to their age, level of maturity and individual special needs."

**Recommendation 7: Ensure that children who are the victims of cyberbullying have child friendly mechanisms to access justice and seek redress in the courts, having regard to the United Nations Convention on the Rights of the Child. In this context, the UN *Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime* should be upheld and made widely known to officials in Justice Canada, relevant officials in provinces and territories, and lawyers, judges and child victim support centres (referred to as child advocacy centres in some jurisdictions).**

Since legislation, policy and practice related to education is set by provinces and territories, the provincial and territorial governments have an important role to play in strengthening the protective environment for children, which includes protection from cyberbullying. An Angus Reid opinion poll conducted in February 2012 suggests that 90% of Canadians support provincial legislation to address cyberbullying.<sup>xxxvi</sup> A study in 2009 found that 15 per cent of Canada's provinces and territories address bullying in legislation governing children's conduct in schools. The study reviewed the Safe Schools Acts and Education Acts authored by provincial/territorial departments of education and found that two provinces, Manitoba and Ontario, were the only ones to explicitly refer to bullying as prohibited behaviour in their legislation.<sup>xxxvii</sup>

In November 2011, the Ontario government tabled Bill 13 (the *Accepting Schools Act, 2012*) and the Provincial Conservatives tabled a Private Member's Bill, Bill 14 (the *Anti-Bullying Act, 2012*), legislation intended to address with wider measures the issue of bullying and safety in schools. These Bills, if passed, would amend the *Education Act*<sup>xxxviii</sup> so that all schools would be mandated to establish codes of conduct. On February 15, 2012, the Quebec Government tabled Bill 56 (*An Act to Prevent and deal with Bullying and Violence in Schools*), that would amend the *Education Act* and the *Act Respecting Private Education* to prevent and deal with bullying and violence in private schools. On April 17, 2012, the Nova Scotia government tabled Bill 27 (the *Cyberbullying Intervention Act*), which seeks to establish liability for parents and guardians whose children engage in cyberbullying.

It is essential that proposed school-based legislation such as the Bills referenced are rights-based. Such legislation is only a part of a protective environment that should place priority on prevention (healthy, respectful relationships and specific, youth-informed digital citizenship skills/education). Likewise, it is critical for governments to ensure that there are no unintended negative consequences for children in legislation. In every instance, legislation needs to be carefully assessed so that the exposure of children to the most severe school-based responses (such as expulsion) and to criminal charges and prosecution are a last resort. The increased exposure to criminal liability and severe disciplinary consequences may occur even when young people engage in actions that are not intended to cause harm and/or reflect a lack of awareness of the consequences that may accrue for not knowing the legal parameters of the responsible use of technologies. The strongest measures must be applied, having regard to the various interconnected rights of the victim and of the perpetrator, including the right to protection from harm, the right to education, and the right of all children to have their best interests considered.

Any legislation proposed should:

- Be rights-based, with the best interests of the child (all children involved) as a primary consideration
- Focus on prevention including responsible digital citizenship
- Provide for the establishment of school codes of conduct, anti-bullying action plans, child friendly reporting mechanisms and appropriate consequences, remedies and appeal processes, which involve children directly in the development of related codes, policies, consequences, remedies and action plans and ensure they are fully informed of them
- Focus on accountability for duty-bearers
- Use the most severe penalties only as a last resort, with a focus on progressive discipline
- Be adequately resourced

Through ministries/departments of education and school boards/districts, governments have the responsibility to put in place legislation, policies and programs that support the rights of all children. Applying Child Rights Impact Assessments to such proposals and ensuring they are evaluated during implementation for effectiveness would support these efforts. Legislative measures must be supported with mechanisms and protocols to properly implement them, or there is a likelihood of a greater dependence on harsher, reactive measures. All school staff should be trained and supported in the use of non-violent and respectful classroom management strategies, as well as specific skills to prevent patterns of bullying and to respond to it effectively.<sup>xxxix</sup> Staff must understand and be able to respond to the situation and particular risks experienced by minority groups, children with disabilities, and children without parental care.

**Recommendation 8: Review anti-bullying, safe schools and child protection legislation, policies, programs and strategies in every province/territory in order to give priority to the best interests of children, having regard to the views of young people themselves. The focus of this review should be on creating board or school based plans of action that emphasize prevention and promote rights-based education, which empower young people to make responsible and safe digital choices.**

**Recommendation 9: Encourage the systemic adoption of child friendly and empowering anti-bullying legislation that is aligned with Canada's international obligations, as set out in the United Nations Convention on the Rights of the Child, across all provinces and Territories, where it remains optional.**

#### 5. Addressing the cycle of violence more broadly

Evidence suggests that prevention of bullying (and therefore cyberbullying) can also be approached through violence prevention in the family. Sweden, for example, has one of the lowest rates of bullying in the world - and has the longest-standing legal ban on the physical punishment of children.<sup>xi</sup> A very substantial body of published peer-reviewed research has demonstrated a strong link between the use of physical (corporal) punishment and the development of aggressive attitudes

and behaviour in children from childhood, through adolescence and into adulthood. One of the early demonstrations of such behaviour is bullying, which has become the subject of intensive study, policy, law, resource investment, and intervention around the world. Two studies conducted by Statistics Canada are among the research that demonstrates this strong link and the need to address the generation of bullying at an early stage, in the context of the family.<sup>xii</sup> Other studies have noted that children from homes where physical punishment is regularly used exhibit signs of more aggressive behaviour, such as bullying, and are up to three times more likely to be involved in fighting.<sup>xiii</sup> Additionally, research has also indicated that young children who grow up with punitive parenting often grow up to be more aggressive, anxious and anti-social than other children.<sup>xiii</sup>

A number of articles in the Convention support children's rights to protection from physical punishment, including such articles as: 3(1), 6(2), 24(3), 28(2), 37(a), and 40, as well as the Preamble to the Convention.<sup>xiv</sup> The UN Committee on the Rights of the Child has called upon the government of Canada on two separate occasions to look at its legislation permitting physical punishment. In 1995 and in 2003 in its Concluding Observations to Canada, the UN Committee on the Rights of the Child requested a review of the legislation allowing corporal punishment of children by parents, in schools and in institutions. Furthermore, General Comment No. 8 issued by the UN Committee in 2006 affirms the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (articles 19, 28(2) and 37, inter alia) CRC/C/GC/8.

Additionally, in the 2007 Senate report, *Children: The Silenced Citizens: Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, it was recommended: "Pursuant to articles 19 and 28 of the Convention on the Rights of the Child, that the federal government take steps toward the elimination of corporal punishment in Canada... Steps should include... Repeal of section 43 of the *Criminal Code*<sup>xv</sup> by April 2009." However, to date Canada has not joined the other 32 nations who have prohibited all forms of physical punishment of children. As well, there are currently two provinces which are out of lockstep with the rest of the country in failing to ban the use of corporal punishment in school settings under their respective education statutes – being Manitoba and Alberta.

**Recommendation 10: All levels of government should enact the legal prohibition of all forms of violence against children in all settings, including within the home.**

## **Conclusion**

Cyberbullying is essentially an extension of bullying – two sides of the same coin. The bullying of children in all of its forms is a human rights violation, requiring a rights-based response according to international normative standards and the principles of children's rights. Responses to bullying and cyberbullying are most effective when they adopt a children's rights-based perspective and apply a 'systems' approach. Responses should be informed by the principles of the best interests of the child and respect for the views of children. This child-centred perspective, in turn, supports a focus on prevention and education, particularly by promoting responsible behaviours and digital citizenship. It also supports keeping all children in front of mind, whether as victim, bully or bystander.

Submitted on behalf of UNICEF Canada by:

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## **APPENDIX 1**

### **LIST OF RECOMMENDATIONS**

**Recommendation 1:** The federal government should use a standardized Child Rights Impact Assessment process before legislation, policy and practice are developed that may have significant impacts on children. In this context, the federal government should consider delegating to Justice Canada and the Public Health Agency of Canada (the existing lead departments for the federal implementation of the Convention) the co-responsibility for developing a standard approach for Child Rights Impact Assessments and for ensuring that officials in other departments are trained on how to conduct a Child Rights Impact Assessment. Such a model could also be shared with provinces and territories through the Continuing Committee of Officials on Human Rights, so that provinces and territories may be encouraged to develop a similar assessment tool (if not already in place).

**Recommendation 2:** All parliamentarians should work towards consensus to ensure that an independent Commissioner for Children and Young Persons is established so that legislation, policies and services for children are effective, more equitable and better coordinated.

**Recommendation 3:** Empower children to take action to address cyberbullying by creating a national strategy to address cyberbullying, which would include child friendly online resources that focus on the safe and legal use of digital technologies and which would emphasize strengthening the capacity of parents, educators and other professionals (such as counselors, health care professionals and others).

**Recommendation 4:** Support research and initiatives that directly engage children in finding solutions to address violence, bullying and cyberbullying, such as PREVNet, Define the Line, and Stop a Bully<sup>xlvi</sup> and ensure that interventions supported with public funding are evaluated for impact (having regard to the views of children themselves), while focusing support on those that are proven to be effective.

**Recommendation 5:** Promote widespread adoption of the Rights Respecting Schools initiative in all Canadian jurisdictions to support prevention of violence, including

cyberbullying in schools and, where appropriate, support pre-service and in-service training for teachers across jurisdictions to strengthen rights-respecting school cultures.

**Recommendation 6:** Ensure that children are not unduly exposed to criminal charges and investigation and that the UN *Standard Minimum Rules for the Administration of Juvenile Justice* are upheld and made widely known to officials in Justice Canada, relevant officials in provinces and territories, and lawyers, judges and child victim support centres (referred to as child advocacy centres in some jurisdictions).

**Recommendation 7:** Ensure that children who are the victims of cyberbullying have child friendly mechanisms to access justice and seek redress in the courts, having regard to the United Nations Convention on the Rights of the Child. In this context, the UN *Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime* should be upheld and made widely known to officials in Justice Canada, relevant officials in provinces and territories, and lawyers, judges and child victim support centres (referred to as child advocacy centres in some jurisdictions).

**Recommendation 8:** Review anti-bullying, safe schools and child protection legislation, policies, programs and strategies in every province/territory in order to give priority to the best interests of children, having regard to the views of young people themselves. The focus of this review should be on creating board or school based plans of action that emphasize prevention and promote rights-based education, which empower young people to make responsible and safe digital choices.

**Recommendation 9:** Encourage the systemic adoption of child friendly and empowering anti-bullying legislation that is aligned with Canada's international obligations, as set out in the United Nations Convention on the Rights of the Child, across all provinces and Territories, where it remains optional.

**Recommendation 10:** All levels of government should enact the legal prohibition of all forms of violence against children in all settings, including within the home.

## APPENDIX 2

### CONVENTION ON THE RIGHTS OF THE CHILD: PROVISIONS MOST RELEVANT TO CYBERBULLYING

- 1. Definition of a child (article 1):** A child is recognized as a person under 18, unless national laws recognize the age of majority earlier.
- 2. Non-discrimination (article 2):** All rights apply to all children, and children shall be protected from all forms of discrimination, regardless of the child's status.
- 3. Best interests of the Child (article 3):** All actions concerning the child shall take full account of his or her best interests, and consider these a priority in all decisions affecting a child or children collectively.
- 4. Implementation of Rights (article 4):** The State must do all it can to implement the rights contained in the Convention. This includes putting in place particular processes to "govern" well for children, such as independent ombudspersons/advocates, legal protections, and Child Rights Impact assessments.
- 5. Survival and Development (article 6):** Every child has the right to life, and the State has an obligation to ensure the child's optimal survival and development.
- 6. The child's opinion (article 12):** Children have the right to express their opinions freely, and have their opinions taken into account in matters that affect them.
- 7. The right to freedom of expression (article 13):** The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - a) For the respect of the rights or reputations of others; or
  - b) For the protection of national security or of public order or of public health or morals
- 8. Freedom of thought, conscience and religion (article 14):** State Parties shall respect the right of the child to freedom of thought, conscience and religion.
- 9. Freedom of association (article 15):** State Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.
- 10. The right to privacy (article 16):** No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. The child has the right to the protection of the law against such interference or attacks.

**11. The right to information (article 17):** State Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources...

**12. Protection from abuse and neglect (article 19):** Children shall be protected from abuse and neglect, whether in or out of care. States shall provide programs for the prevention of abuse and treatment of those who have suffered abuse.

**13. Health and health services (article 24):** Children have the right to the highest possible standard of health and access to health and medical services.

**14. Right to education (article 28):** Children have the right to education. Primary education should be free. Secondary education should be accessible to every child. Higher education should be available to all on the basis of capacity. School discipline shall be consistent with the child's rights and dignity.

**15. Education shall be directed to respect for human rights (article 29):** State Parties agree that the education of the child shall be directed to... the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations...the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin...

**16. The right to play and to recreational activities (article 31):** State Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities... and to participate freely in cultural life and the arts.

**17. The right to legal help and protection of privacy (article 40):** State Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth... and to have his or her privacy fully respected at all stages of the proceedings.

## ENDNOTES

- <sup>i</sup> “Cyberbullying: Reality Check”, Kids Help Phone Research Update, 2012 (page 7) <http://org.kidshelpphone.ca/media/80712/2012-cir-cyberbullying.pdf>
- <sup>ii</sup> References in this brief to “children” include all persons below age 18, consistent with the definition in article 1 of the Convention on the Rights of the Child.
- <sup>iii</sup> A systems approach to child protection seeks to address the full spectrum of risk factors in the lives of all children and their families. Along with partners, including governments, non-governmental organizations, civil society actors and the private sector, UNICEF promotes the strengthening of all components of child protection systems - human resources, finances, laws, standards, governance, monitoring and services. Depending on the country context, child protection systems may cut across part of the social welfare, education, health, and security sectors. For more information about UNICEF’s approach, please visit: [http://www.unicef.org/protection/CP\\_Strategy\\_English.pdf](http://www.unicef.org/protection/CP_Strategy_English.pdf)
- <sup>iv</sup> Child Safety Online: global challenges and strategies (2011), UNICEF Innocenti Research Centre, [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)
- <sup>v</sup> “Cyberbullying: Reality Check”, Kids Help Phone Research Update, 2012 (page 6) <http://org.kidshelpphone.ca/media/80712/2012-cir-cyberbullying.pdf>
- <sup>vi</sup> Child Safety Online: global challenges and strategies (2011), UNICEF Innocenti Research Centre, page 3 [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)
- <sup>vii</sup> From Child Safety Online: global challenges and strategies (2011) (See, for example: Keith, Susan, and Michelle E. Martin, ‘Cyber-Bullying; Creating a culture of respect in a cyber world’, *Reclaiming Children and Youth*, vol. 13, no. 4, Winter 2005, pp. 224–228; and Sharif, Shaheen, *Cyber-Bullying*.)
- <sup>viii</sup> UN Study on Violence against Children (2006), <http://www.unviolencestudy.org/>
- <sup>ix</sup> Currie C et al. (2004). *Health Behaviour in School-Aged Children (HBSC) Study: International Report from the 2001/2002 Survey*. Health Policy for Children and Adolescents, No. 4. Geneva, World Health Organization (CHECK for latest version)
- <sup>x</sup> Sraubstein, Jorge C and Bennett L Leventhal, *Bulletin of the World Health Organization: Prevention of bullying-related morbidity and mortality: a call for public health policies*, (2010), <http://www.who.int/bulletin/volumes/88/6/10-077123/en/index.html>
- <sup>xi</sup> Boyce, W.F., King, M.A., & Roche, J. 2008. Healthy settings for young people in Canada. Health Canada (<http://www.phac-aspc.gc.ca/hp-ps/dca-dea/publications/yjc/pdf/youth-jeunes-eng.pdf>)
- <sup>xii</sup> The Health Behavior in School-aged Children (HBSC) study is a cross-national research survey conducted in collaboration with the World Health Organization Regional Office for Europe. The HBSC aims to gain new insight into, and increase the understanding of young people’s health and well-being, health behaviors, and their social context. Initiated in 1982 in three countries, there are now more than 35 participating countries and regions.
- <sup>xiii</sup> Taking Action on Report to Albertans 2008 ([http://www.child.alberta.ca/home/documents/familyviolence/Taking\\_Action\\_on\\_Family\\_Violence\\_and\\_Bullying\\_Report\\_to\\_Albertans\\_FINAL.pdf](http://www.child.alberta.ca/home/documents/familyviolence/Taking_Action_on_Family_Violence_and_Bullying_Report_to_Albertans_FINAL.pdf)) referencing Boyce, W.F., King, M.A., & Roche, J. 2008. Healthy settings for young people in Canada. Health Canada. (<http://www.phac-aspc.gc.ca/hp-ps/dca-dea/publications/yjc/pdf/youth-jeunes-eng.pdf>)
- <sup>xiv</sup> A number of adolescent suicides related to cyberbullying have taken place in the last several year, including, for example, Jenna Bowers who took her own life on January 17, 2011 after being harassed at school and through a social networking site. See coverage: <http://www.cbc.ca/news/canada/nova-scotia/story/2012/05/03/ns-cyberbullying-law-murchison.html>
- <sup>xv</sup> A recent positive example of private industry helping to address the issue of cyberbullying is seen with Facebook Digital Citizenship Research Grant that was awarded to Dr. Shaheen Shariff, a leading Canadian researcher on cyberbullying from McGill University. For more information, see: [http://www.definetheline.ca/en/About\\_Define\\_The\\_Line\\_36](http://www.definetheline.ca/en/About_Define_The_Line_36)
- <sup>xvi</sup> Preventing Suicide: A Resource for Media Professionals, Department of Mental Health and Substance Abuse, World Health Organization, Geneva (2008), [http://www.who.int/mental\\_health/prevention/suicide/resource\\_media.pdf](http://www.who.int/mental_health/prevention/suicide/resource_media.pdf)
- <sup>xvii</sup> For a full list of engaged articles of the Convention, please refer to Appendix 2.
- <sup>xviii</sup> For more information, see: <http://www.unicef.ca/en/policy-advocacy-for-children/what-is-a-child-rights-impact-assessment>
- <sup>xix</sup> See Standing Senate Committee on Human Rights, Report The Sexual Exploitation of Children in Canada: the Need for National Action, page xi (November 2011), <http://www.parl.gc.ca/Content/SEN/Committee/411/ridr/rep/rep03nov11-e.pdf> and Standing Senate Committee on Human Rights, Children: The Silenced Citizens – Effective Implementation of Canada’s International Obligations with Respect to the Rights of Children, <http://www.parl.gc.ca/Content/SEN/Committee/391/huma/rep/rep10apr07-e.pdf>
- <sup>xx</sup> Child Safety Online: global challenges and strategies (2011), UNICEF Innocenti Research Centre, [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)
- <sup>xxi</sup> The Canadian Association of School Boards has highlighted a digital citizenship initiative in one Canadian school district that draws on the work of Ribble & Bailey’s 2007 book “Digital Citizenship in Schools.” ([International Society for Technology in Education](http://www.iste.org/International_Society_for_Technology_in_Education)). “The authors identify [nine elements of digital citizenship](#): digital access, digital commerce, digital literacy, digital etiquette, digital law, digital rights and responsibilities, digital health and wellness and digital security. Each of these nine elements

form general guidelines for school communities-with the goal of understanding roles and responsibilities in a digital society.” For more information, see: <http://cdnsba.org/all/education-in-canada/best-practices-in-public-education-across-canada-lester-b-pearson-school-boards-digital-citizenship-project>

<sup>xxii</sup> [http://www.definetheline.ca/en/About\\_Define\\_The\\_Line\\_36](http://www.definetheline.ca/en/About_Define_The_Line_36)

<sup>xxiii</sup> UNICEF Innocenti Research Centre, Child Safety Online: Global Challenges and Strategies, page 7 (Florence: UNICEF, 2011), [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)

<sup>xxiv</sup> UNICEF Innocenti Research Centre, Child Safety Online: Global Challenges and Strategies, (Florence: UNICEF, 2011), [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)

<sup>xxv</sup> Child Safety Online: global challenges and strategies (2011), UNICEF Innocenti Research Centre, [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)

<sup>xxvi</sup> Child Safety Online: global challenges and strategies (2011), UNICEF Innocenti Research Centre, [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)

<sup>xxvii</sup> Child Safety Online: global challenges and strategies (2011), UNICEF Innocenti Research Centre, [http://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/ict_eng.pdf)

<sup>xxviii</sup> <http://www.prevnet.ca/>

<sup>xxix</sup> PREVNet: [www.prevnet.ca](http://www.prevnet.ca/); Define the Line: [www.definetheline.ca](http://www.definetheline.ca/); Stop a Bully: [www.stopabully.ca](http://www.stopabully.ca)

<sup>xxx</sup> [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2035568&](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2035568&)

<sup>xxxi</sup> Sebba, J. & Robinson, C. (2010). Evaluation of UNICEF UK’s Rights Respecting Schools Award. UNICEF UK.

<sup>xxxii</sup> For more information on UNICEF Canada’s views on protecting children’s rights in the context of INSERT, see, “ Bill C-22: An Opportunity to Protect all of Canada’s Children in a New Digital Generation”

[http://www.unicef.ca/sites/default/files/imce\\_uploads/TAKE%20ACTION/ADVOCATE/DOCS/UNICEF%20Canada%20submission%20-%20Bill%20C-22%20-%20%28FINAL%29.pdf](http://www.unicef.ca/sites/default/files/imce_uploads/TAKE%20ACTION/ADVOCATE/DOCS/UNICEF%20Canada%20submission%20-%20Bill%20C-22%20-%20%28FINAL%29.pdf)

<sup>xxxiii</sup> Council of Europe, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2010), <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=201&CM=1&DF=&CL=ENG>

<sup>xxxiv</sup> The UN Standard Minimum Rules for the Administration of Juvenile Justice

<http://www2.ohchr.org/english/law/pdf/beijingrules.pdf>

<sup>xxxv</sup> The UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005),

[http://ibcr.org/eng/the\\_un\\_guidelines\\_on\\_child\\_victims\\_and\\_witnesses\\_of\\_crime.html](http://ibcr.org/eng/the_un_guidelines_on_child_victims_and_witnesses_of_crime.html)

<sup>xxxvi</sup> [http://www.angus-reid.com/wp-content/uploads/2012/02/2012.02.29\\_Bullying\\_CAN.pdf](http://www.angus-reid.com/wp-content/uploads/2012/02/2012.02.29_Bullying_CAN.pdf)

<sup>xxxvii</sup> Children’s Rights in Canada 2011 Working Document: Violence Against Children, Research Report

<sup>xxxviii</sup> Bill 13, *the Accepting Schools Act*, if passed, would amend the *Education Act* to include, among other things: a definition of bullying; a requirement that school boards implement policies promoting positive school environments that are inclusive and accepting of all pupils, and promoting the prevention of bullying; the designation of the third week in November as “Bullying Awareness and Prevention Week”; the prevention of bullying in schools in the provincial code of conduct; a requirement that agreements between school boards and other persons or entities regarding the use of a school operated by the board adhere to standards consistent with the provincial code of conduct; and a provision to support pupils who want to establish or lead activities that promote gender equity, anti-racism, the awareness and understanding of, and respect for, people with disabilities and people of all sexual orientations and gender identities. The legislation would also authorize the Minister to establish policies and guidelines with respect to disciplining pupils who engage in bullying, sexual assault, gender-based violence and incidents based on homophobia, among other things. It would further authorize the Minister to establish policies and guidelines with respect to bullying prevention and intervention in schools.

<sup>xxxix</sup> United Nations Secretary-General’s Report on Violence against Children (2006), page 29

[http://www.unicef.org/violencestudy/reports/SG\\_violencestudy\\_en.pdf](http://www.unicef.org/violencestudy/reports/SG_violencestudy_en.pdf)

<sup>xl</sup> <http://prevnet.ca/BullyingFacts/BullyingStatistics/tabid/122/Default.aspx>

<sup>xli</sup> Aggressive Behaviour Outcomes for Young Children: Change in Parenting Environment Predicts Change in Behaviour, Thomas, Statistics Canada, 2004; and National Longitudinal Survey of Children and Youth: Home environment, income and child behaviour, Thomas, Statistics Canada, 2005.

<sup>xlii</sup> (<http://www.unicef.org/protection/files/BehindClosedDoors.pdf>) Behind Closed Doors the Impact of Domestic Violence on Children- noting (Baldry, A.C., ‘Bullying in Schools and Exposure to DV’, Child Abuse and Neglect, vol. 27, no. 7, 2003, pp. 713-732; Fantuzzo John W. and Wanda K. Mohr, ‘Prevalence and Effects of Child Exposure to Domestic Violence’, The Future of Children – Domestic Violence and Children, vol. 9, no. 3 (1999)

<sup>xliii</sup> National Longitudinal Survey of Children and Youth: Home environment, income and child behaviour Thomas, Statistics Canada, 2005

<sup>xliv</sup> Recognition of the linkages between these articles and the right to protection from harm has also been made by the Honourable Judge Alistair Nicholson, former Chief Justice, Family Court of Australia. See, “Choose to hug, not hit: An oration by the Honourable Alistair Nicholson” (2007), <http://www.patmalar.com/hobart2007.pdf>

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<sup>xlv</sup> Section 43 of the *Criminal Code*(1) reads as follows: Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

<sup>xlvi</sup> PREVNet: [www.prevnet.ca](http://www.prevnet.ca); Define the Line: [www.definetheline.ca](http://www.definetheline.ca); Stop a Bully: [www.stopabully.ca](http://www.stopabully.ca)