



Cyberbullying – A Global Concern

Jennifer A. Hanley

INTRODUCTION

It is difficult to find a clear definition of cyberbullying, but if Wikipedia is to be believed, cyberbullying involves: “the use of information and communication technologies to support deliberate, repeated, and hostile behavior by an individual or group that is intended to harm others.”¹ Cyberbullying has emerged as one of the most-talked about issues in Internet safety and a top concern for policymakers, parents, and kids. It is a growing phenomenon worldwide and is perpetrated over a growing range of platforms, devices, and websites.

New technologies such as text messaging, “twittering,” social networking site profiles, and instant messaging enable kids to bully one another long after the school day ends. Parents, educators, and legislators are faced with the dilemma of how to deal with this new kind of bullying where the cyber-savvy schoolyard bully uses social networks rather than fists to pick a fight.

A. Prevalence and Trends

According to research from the Pew Internet & American Life Project, one third of American teens using the Internet have experienced online harassment.² This is a growing concern for families dealing with the emotional impact of bullied children. It is also a problem for legislators trying to take action to stop the harmful effects of this behavior. Cyberbullying has the greatest impact on teens, many of whom spend a large portion of their time online creating Internet content about themselves.³

The Centers for Disease Control and Prevention in the U.S. studied cyberbullying and found that, “It’s difficult to say how severe online harassment is as a public health issue, because a posting or e-mail that might upset some children is shrugged off by others.” This is not to say that cyberbullying does not cause problems. While some students report no impact from online harassment, cyberbullying can have a negative effect on others.⁴ “Consistent with previous research, youth who are harassed online report a mix of psychological problems. They are significantly more likely to be targeted by victimization offline.”⁵ Some students may be upset because of what is said to them online and these feelings

and subsequent actions may carry over into their performances at school, their interactions with classmates, their daily habits, and their home lives.

Legislators and educators need to be aware that teasing or making mean comments are different than actual harassment and that they should not overreact to schoolyard behavior with inappropriate laws. Criminalizing cyberbullying will not solve the problem.

B. High-Profile Cases

In the past few years, several high-profile cases have emerged creating a call for legislation to punish cyberbullying, rather than addressing the actual problem. Vermont recently enacted anti-cyberbullying legislation after Ryan Halligan, a 13-year-old Vermont student was taunted online and at school and committed suicide in 2003.⁶

The most high-profile case in the U.S. is that of Megan Meier, a troubled Missouri teen who took her life after being harassed online by the mother of a classmate pretending to be a teenage boy.

This case may be more unique than what most teens face because the person behind the bullying was an adult. What is also different is that Lori Drew, the perpetrator of the computer hoax, was not charged with a crime related to her bullying behavior; instead, she was charged under a “federal statute designed to combat computer crimes that was used to prosecute what were essentially abuses of a user agreement on a social networking site.”⁷

In the UK, a teenager was sentenced to three months in prison for harassment on Facebook.⁸ The case of Keeley Houghton, an 18 year-old who used Facebook to bully another student, gained international attention when she was jailed for posting death threats to the student on Facebook. Australia has not experienced any criminal cyberbullying cases yet, but stories of cyberbullying at elite schools have been gaining national attention.⁹ The case of a 14-year-old Australian student committing suicide after Internet bullying, led some in Australia to call for government action an increased Internet safety education.¹⁰

There are additional high-profile examples of cyberbullying contributing to the psychological problems of teens, but a handful of tragedies should not be used to quickly push through laws that may punish some but not eradicate the problem of cyberbullying.

C. U.S. Federal Legislative Responses: the Megan Meier Cyberbullying Prevention Act and the AWARE and SAFE Internet Acts

Rep. Linda Sanchez introduced the Megan Meier Cyberbullying Prevention Act in April 2009.¹¹ Among its findings, this bill states that “Youth who create Internet content and use social networking sites are more likely to be targets of cyberbullying.”¹² In an effort to combat the psychological harms that can result from cyberbullying, the Sanchez bill would fine or imprison those using the Internet with the “intent to coerce, intimidate, harass, or cause substantial emotional distress to a person, using electronic means to support, severe, repeated, and hostile behavior.”¹³ The bill was discussed and criticized in a recent hearing by the U.S. House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security.¹⁴ This bill is considered by many to have gone too far by making imprisonment a possible punishment for cyberbullying. The case that serves as the namesake for this bill did not even involve peer-on-peer bullying. In extreme cases of cyberbullying, existing laws that protect people from harassment and defamation provide recourse for the person bullied.

Unless we want to criminalize what is common adolescent behavior today, lawmakers need to be cautious not to criminalize the posting of embarrassing pictures or the spreading of rumors, even though the consequences of such actions can be serious. Legislation should focus on the societal causes of these kind of issues and

the possible alternatives to punishment, encouraging educational solutions. Rep. Debbie Wasserman Schultz has advocated this line of action by introducing the Adolescent Web Awareness Requires Education Act (AWARE Act) in the U.S. House of Representatives in July 2009.¹⁵ This original version of this bill included findings about bullying and noted that, “The Bureau of Justice Statistics has found that online harassment tends to begin in third and fourth grade, peaks in seventh and eighth grade, and continues in reduced amounts throughout high school, college, and professional school.”¹⁶

The AWARE Act seeks to prevent and reduce cyberbullying through research into online safety and grants for education programs to prevent behavior, rather criminal punishment. The School and Family Education About the Internet Act (SAFE Internet Act) introduced by Sen. Menendez also identifies the problem of cyberbullying and seeks to address online safety issues through increased resource for research and grants for Internet safety education.¹⁷ The two approaches seen in the AWARE Act and the SAFE Internet Act would do more to discourage and prevent cyberbullying without imposing criminal penalties on children and teens.

D. State Responses to Cyberbullying in the U.S.

In the U.S. many individual states have responded to concerns about cyberbullying by pushing for legislation to punish those who engage in cyberbullying. Many of these laws have the potential to infringe on freedom of speech. Lawmakers should proceed cautiously before enacting legislation governing off-campus speech that does not “substantially interfere” with school activities. School districts have the most authority to intervene with cyberbullying when the actions occur on school property or on the school computer network. Currently, some states have adopted laws that criminalize cyberbullying or use school discipline codes to punish students for online behavior occurring off campus and after school time.

According to the Washington Post, in the past two years more than a dozen states have enacted laws to deal with cyberbullying and many other states are considering similar legislation.¹⁸ Most of these laws are focused on how schools can punish students who are bullying online. Below are some examples of cyberbullying laws in individual states.

1. Missouri

Missouri, the location of the Megan Meier case, has strengthened its stalking and harassment laws to include electronic communication. Missouri Senate Bill 818 requires policies for school officials to report harassment and stalking committed on school property to

law enforcement.¹⁹ The Missouri governor signed into law a bill that updated previous harassment legislation to include harassment done by computers.²⁰ “The Missouri law makes it a felony for anyone who ‘knowingly communicates’ with a person 17 or under and ‘recklessly frightens, intimidates, or causes emotional distress’ to the minor.”²¹ Missouri officials have started to prosecute individuals under this law, which allows prosecutors to charge cyberbullies with a felony or misdemeanor.²²

2. California

In December 2008, California passed a law to try to stop cyberbullying. This law aims to protect students by allowing school officials to punish for cyberbullying. “On Jan. 1, a new California law will give schools authority to suspend or expel students for bullying fellow students over the Internet, in text-messaging, or by other electronic means.”²³ California law Assembly Bill 86 provides that school officials can suspend or expel students for “bullying by electronic act.”²⁴

3. Arkansas

Arkansas passed anti-cyberbullying legislation in 2007. The Arkansas law requires “public schools to adopt policies to prevent the bullying of students and teachers by electronic means...”²⁵ Arkansas officials noted that a ban on cyberbullying would infringe on First Amendment rights and worked with the American Civil Liberties Union and other groups to create a bill that deals with cyberbullying but protects free speech.²⁶

States with higher profile cases tend to have more stringent anti-cyberbullying legislation passed in reaction to the publicity of a cyberbullying case. If there is going to be legislation at all, there should be a national definition of the problem and a uniform way to address it through education. States must be aware that there is potential danger of infringing on free-speech rights of students through current and proposed legislation.

E. Cyberbullying – Around the World

Over the past few years, cyberbullying has emerged as a global issue. In addition to high-profile cases and legislation in the U.S., many other countries are also facing the challenge of how to address cyberbullying. Below are a few examples of how cyberbullying impacts countries and how those countries are responding to the challenge.

1. Australia

According to Australia’s 2008 Youth Poll survey, cyberbullying impacts one in five young Australians,²⁷ and existing laws are used

to address extreme cases of cyberbullying. The Commonwealth Criminal Code makes an offence of using a carriage service (such as a mobile phone service or the Internet) in a way that is menacing, harassing or offensive. The maximum penalty for committing the offence is three years imprisonment, but there have not been cases brought under this law for cyberbullying.²⁸ Australian courts have not held intermediaries, such as social networking sites, responsible for bullying when those entities have been unaware that bullying is occurring.

Cyberbullying is seen as a problem in Australia and schools and companies are trying to use education to reduce the instances of bullying. The Telstra Foundation recently announced the launch of a new \$2 million program to reduce bullying and harassment of children using the Internet and mobile phones across Australia.²⁹ Australia currently relies on existing laws, including defamation and harassment provisions, to punish for severe forms of cyberbullying, such as electronic harassment, and uses educational programs to deal with cyberbullying.

2. Canada

In Canada, studies found that 70% of students said they have been bullied at least once online and 23% of middle-school students surveyed were bullied by email and 41% by text message on their cell phones.³⁰ A recent study by Microsoft Canada and Youthography discovered that more than half of Canadian teens have been the victim of bullying and found that the teens say “people bully because it is cool.”³¹ According to Canadian news sources, some Canadian teachers are calling for a distinct cyberbullying law as opposed to existing laws that can be applied to extreme cases of cyberbullying such as defamation and harassment.³²

Canadian law also protects individuals from defamatory libel which can offer a remedy in extreme cases of cyberbullying. The Criminal Code of Canada states that the punishment for being found guilty of publishing material known to be false and harmful to a person’s reputation is up to 5 years imprisonment.³³ This includes publishing a web page or posting on a newsgroup untrue statements about a person that could entice other people to ridicule or perpetuate the untruths about this person.³⁴

Section 264 of the Criminal Code of Canada makes harassment through electronic communications illegal. The Canadian definition of criminal harassment has been updated to keep up with technology and could therefore cover severe cyberbullying. The punishment for a person found guilty of harassment under the Criminal Code of Canada is up to ten years in prison.³⁵

The Canadian Human Rights Act protects people from discrimination and hate based on matters including a person’s size, age, national or racial origins, disability, and sexual preference. The punishment for computer crimes and cyberbullying based on a Human Rights Act violation is a fine up to \$50,000.³⁶ Canada’s existing laws can protect individuals from severe cases of cyberbullying.

3. United Kingdom

According to recent studies 15 % of children and young people in the UK have received abusive or aggressive messages and there has been an increase in children being bullied over new technologies.³⁷ Nearly 10,000 children each week seek help to cope with cyberbullying according to cybermentors.co.uk established by the UK charity Beatbullying.³⁸ The charity said that a third of children are being cyberbullied, and that most victims are in the 11-18 year-old age range, with girls four times more likely to be bullied than boys.³⁹

According to the Department of Children, Schools and Families, there is zero tolerance for bullying in UK schools.⁴⁰ School communities in the UK have a duty to protect members by providing a safe, healthy environment.⁴¹ Existing education laws can help stop severe bullying in the UK. The Education and Inspections Act 2006 (EIA) provides schools with some power to deal with cyberbullying. “Head teachers have the power ‘to such an extent as is reasonable’ to regulate the conduct of pupils when they are off site. The EIA also provides a defense for school staff in confiscating items such as mobile phones from pupils.”⁴²

There are no specific criminal laws to deal with cyberbullying in the UK; however, there are existing laws that can apply to severe cases of cyberbullying such as harassment. Some cyberbullying could be charged as criminal activity under a number of different laws in the UK, including the Protection from Harassment Act 1997, which has both criminal and civil provision, the Malicious Communications Act 1988, section 127 of the Communications Act 2003, and the Public Order Act 1986.⁴³ The UK government is active in trying to stop cyberbullying. Existing laws are used to protect people in extreme cases and the government also works to educate families on how to deal with cyberbullying and to increase awareness about the issue.⁴⁴

4. Additional Countries

Cyberbullying is a growing concern around the world. It is clear that cyberbullying has a world-wide impact, but existing laws and increased education about the issue can help countries respond to and eliminate the problem.

a. European Commission

According to the European Commission, “more than half of Polish teenagers and 34% of Belgian and UK youngsters have been the target of cyberbullying.”⁴⁵ The European Commission is also working to combat cyberbullying through awareness campaigns. In February 2009, the Commission released a video about cyberbullying on television throughout Europe and online in all EU languages. This solution-oriented video explores how a victim of cyberbullying can take control of the situation and report abuse.⁴⁶ The Commission also provides tips and resources about cyberbullying and online safety.⁴⁷

b. Spain

In Spain, cyberbullying impacts almost 30% of adolescents.⁴⁸ There are some examples of civil suits brought against schools for allowing bullying to take place, but Spain does not have specific legislation on cyberbullying.⁴⁹ Protection also comes from harassment legislation in elCodigo Penal Espana and elCodigo Civil.

c. Malaysia

A recent UNICEF report also addressed the issue of cyberbullying in Malaysia and noted that a heightened awareness of the issue is essential. “Media reports in Malaysia suggest that cyberbullying is prevalent among children and young people here, but much of it could be under-reported, as few people are aware that it is a serious problem.”⁵⁰

d. Croatia

In 2008, UNICEF partnered with a Croatian children’s hotline to launch an awareness campaign about cyberbullying in Croatia.⁵¹ The “Break the Chain” campaign is a good example of using public awareness campaigns to encourage kids to stop bullying and promote safe Internet use.

F. Industry Response

Technology has indeed meant that the schoolyard bully can continue harassment long after the school day is over, but more importantly, it can also be used to help stop the bullying. The Internet industry works to prevent and stop cyberbullying. One common solution to help stop cyberbullying on social networking sites is the ability to report abuse. According to the U.S. Internet Safety Technical Task Force, “All eight of the social network sites who submitted to the Task Force provide a technology-driven mechanism by which users can report abuse to the site’s operators.”⁵² Through a range of tools and educational programs, the industry gives parents and children some solutions to this problem. Below are examples of how the Internet industry offers help to people being cyberbullied.

1. Facebook

Facebook offers members help to end cyberbullying. The website provides ‘Report This’ tabs and commits to responding within 24 hours to complaints about the harassment of minors.⁵³ Facebook’s reporting infrastructure allows users to report cyberbullying and in extreme cases accounts may be disabled and applications may be removed. Registration on Facebook requires users to agree to a “Statement of Rights and Responsibilities” that prohibits harassment and intimidation. The Facebook Statement provides that, “You will not bully, intimidate, or harass any user.”⁵⁴ Facebook’s safety

website provides information for parents and users about how to block unwanted contact, remove photo tags, report inappropriate content, and notify the company about harassment.⁵⁵

2. MySpace

MySpace provides a comprehensive safety site for users and offers advice about cyberbullying and ways to stop the problem.⁵⁶ MySpace asks users to inform them about cyberbullying and states that, “We at MySpace, have zero tolerance for hate-speech and harassment and we’ll partner with you to stop it, pronto.”⁵⁷ According to a *Wall Street Journal* article about social networking websites, “The site [MySpace] has been expanding e-mail and phone-reporting conduits for parents and generally responds within 24 hours. Parents can flag abuse through either the ‘Contact MySpace’ tab or the ‘Safety Tips’ tab.”⁵⁸ MySpace works to stop cyberbullying by offering a range of tools and reporting options found on each profile and throughout the website.

3. Bebo

Bebo aims to reduce and eliminate inappropriate conduct on its social network. This conduct includes cyberbullying. Bebo provides Terms of Service that explain inappropriate conduct. Bebo asks users to agree to not engage in behavior such as defaming, abusing, harassing, and publishing hateful or inappropriate material.⁵⁹ Bebo also provides an extensive safety website with educational information including videos specifically on cyberbullying prevention and how users can report abuse.⁶⁰

4. YouTube

YouTube is one of the websites offering help for those being cyberbullied. “YouTube has a zero-tolerance policy for predatory behavior, stalking, threats and harassment and reacts to most flags in less than an hour,” according to Victoria Grand, Head of Communications and Community Policy, at YouTube.⁶¹ YouTube offers an Abuse and Safety Center tool, explains to users how to report abuse, and makes it easier to report problems.⁶² YouTube’s “Safety Center” offers advice and suggestions for users who are having problems with cyberbullying.⁶³

5. Daily Motion

In France, video-sharing website DailyMotion is tackling cyberbullying by allowing users to notify the service of inappropriate content and conduct on the site. Daily motion is also working to raise children and parent’s awareness of Internet risks through a dedicated web page which includes a video on cyberbullying in French.⁶⁴

6. Yahoo!

Yahoo! works to prevent and eliminate cyberbullying on certain products. Yahoo! provides links to report abuse on services such as Yahoo! Messenger, Flickr, and Profiles. According to Yahoo!, “Our report abuse feature is meant to help us address several issues, including distribution of offensive or illegal content, online harassment or cyberbullying, and misuse of email or instant messaging services.”⁶⁵ Yahoo! also partnered with NetSmartz.org to provide a video for teens to help teens deal with cyberbullying.⁶⁶

G. Conclusion

Cyberbullying is a global problem but government responses vary by country. This issue cannot be solved by the criminal punishment of teens; instead, the best solution is to encourage kids to make the right choices online in the first place. Teaching kids to use privacy settings, block users who are bothering them, and report abuse to social networks can help prevent and reduce cyberbullying. Companies should continue to offer these solutions and promote consumer education to empower users to follow safety guidelines.

It is best to avoid quick reactions to sensationalized news stories about cyberbullying. Instead, legislators should be encouraged to deal with this issue by focusing on educational solutions to combat this behavior. As shown in this report, existing laws are already available to punish the most severe forms of cyberbullying. Increased industry efforts, education for students, and awareness and resources for parents around the world will go a long way to lessen the number of acts of cyberbullying, and alleviate the impact when they do happen.

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