Bullying and Cyberbullying: Children’s Rights to Redress

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• **Redress** = access to compensation

• **Under most legislative and systems and criminal codes, redress is only applicable where a crime has been committed, but bullying may not be (is usually not) defined in the criminal code** *(also applicable to other redress, including child pornography)*

• **Cyberbullying in particular often not addressed in criminal code**
  • covered by laws relating to harassment, threatened assault, and offences relating to the use of telecommunications
  • *(civil defamation)*
  • Technology may be deemed an aggravating factor
Cyberbullying compensation may be confounded by transnational nature where a resident in one country uses the internet to bully someone in another country, they do not qualify for state compensation.
• Not a particularly developed area of law, particularly in Asia and Africa
• Compensation through the criminal justice system, payable by the perpetrator
• Wealthier countries may have access to a victim compensation fund, but may only cover violent crime
• Options between criminal redress and redress through non-criminal system (civil, victim/offender conferencing etc)
Emerging Trends

- Integration of victim compensation into criminal processes, which may help in avoiding re-traumatizing of children BUT, is the criminal route the best option for both victim and offender
- Appointments of civil advocates to assist victims
- Creation of states-sponsored compensation schemes

(Binford, 2015)
Practical considerations

• Financial and other practical constraints in resource-constrained countries
• Where integrated into criminal processes, dependent on efficient and functioning criminal justice systems
• Lack of awareness of rights to redress and compensation
• Where prosecutors deem that criminal prosecutions of offenders not in the child’s best interest, then civil claims an option (see Morocco)
Practical considerations

• Inherent challenge in determining harm to the child as a result of bullying or cyberbullying, as well as determining causation and liability for aggregate harm where more than one offender is involved.
• BUT how relevant, and what form, does redress take within context of:
  – Low reporting
  – Dysfunctional systems
  – Child – centred legislation (both victims and offenders)
  – Punitive approaches
• Safe spaces & reporting
• Responsive systems at every level
  – (including recognition of harms associated with bullying)
  – Premised on best interest of the child, and rights of both the child perpetrator and victim
• Accountability at school, district and Ministry level