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### **Effective Aggressiveness and Inconsistencies in the Bijuridical Treatment of Aggressive Behaviour: Mixed Martial Arts, Bullying, and Sociolegal Quandaries**

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## **Effective Aggressiveness and Inconsistencies in the Bijuridical Treatment of Aggressive Behaviour: Mixed Martial Arts, Bullying, and Sociolegal Quandaries**

Sara Ross

### **Abstract:**

This paper seeks to address effective aggressiveness and the treatment of aggressive behaviour in the context of MMA in comparison to the balance of the formal Canadian legal landscape. I choose anti-bullying legislation, and its treatment of aggressive behaviour, as a counterexample to the treatment of aggressive behaviour within the MMA regulatory framework. By intertextually linking and superimposing these two categories of legislation, a critical lens drawing on institutional ethnography is applied in order to question and deconstruct the differential treatment of aggressive behaviour and the rationale behind the legislative mixed message sent. The quandary faced within the fabric of the MMA community regarding its own treatment of aggressive behaviour, where it is both reified as well as castigated through anti-bullying advocacy, will also be examined.

### **Keywords:**

MMA, Mixed Martial Arts, Bullying, Aggressiveness, Federal law, Ethnography

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**EFFECTIVE AGGRESSIVENESS AND INCONSISTENCIES IN THE BIJURIDICAL  
TREATMENT OF AGGRESSIVE BEHAVIOUR: MIXED MARTIAL ARTS,  
BULLYING, AND SOCIOLEGAL QUANDARIES**

**Sara Gwendolyn Ross**

One of the most legally restricted elements of human nature is that of aggression and the intent to harm. Yet in combat sports such as mixed-martial arts (“MMA”) or boxing, one of the key elements in judging a fighter’s performance to determine a winner is “effective aggressiveness”.<sup>1</sup>

This paper seeks to address effective aggressiveness and the treatment of aggressive behaviour in the context of MMA in comparison to the balance of the formal Canadian legal landscape. I choose anti-bullying legislation, and its treatment of aggressive behaviour, as a counterexample to the treatment of aggressive behaviour within the MMA regulatory framework. By intertextually linking and superimposing these two categories of legislation, a critical lens drawing on institutional ethnography is applied in order to question and deconstruct the differential treatment of aggressive behaviour and the rationale behind the legislative mixed message sent.<sup>2</sup> The quandary faced within the fabric of the MMA community regarding its own treatment of aggressive behaviour, where it is both reified as well as castigated through anti-bullying advocacy, will also be examined.

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<sup>1</sup> MMA used to be characterized by the pitting of various styles of martial arts against each other in order to determine the dominant form. Its current practice now focuses on the dominant fighter where each fighter deploys an individually hybridized fighting technique drawing on various martial arts. See e.g. Dale C Spencer, *Ultimate Fighting and Embodiment: Violence, Gender, and Mixed Martial Arts* (New York: Routledge, 2012) at 74-75 [Spencer, *Ultimate*].

<sup>2</sup> I draw on this methodology to consider the implicated regulatory texts, the narratives of MMA community members, and the interactions between the two. See Dorothy Smith, ed, *Institutional Ethnography as Practice* (Lanham: Rowman & Littlefield Publishers, 2006). See especially *ibid*, figure 4.5 at 85. See also Marie Campbell & Frances Gregor, *Mapping Social Relations* (Aurora: Garamond Press, 2002).

## I. THE MECHANICS OF REGULATION

In Canada the regulation of MMA is delegated, depending on the province in question, to the provincial or municipal body or agency—usually the athletic commission—responsible for overseeing athletics-related policy.<sup>3</sup>

### A) THE UNIFIED RULES OF MIXED MARTIAL ARTS

The Unified Rules of Mixed Martial Arts (“Unified Rules”), first codified by the New Jersey State Athletic Control Board in 2000 and adopted in April 2001,<sup>4</sup> address the mechanics of a match and fighter safety precautions.<sup>5</sup> They grew out of the efforts of the United Fighting Championship (“UFC”) and other MMA event promoters to develop and apply an internal set of rules in order to respond to concerns regarding the health and safety of MMA participants.<sup>6</sup> Nevada's MMA rules and regulations, which incorporate the Unified Rules, are usually the model followed by most jurisdictions. As such, when a jurisdiction lists that they are adopting the Nevada regulatory model, it is implicit that the Unified Rules are also implemented into the regulatory scheme.<sup>7</sup>

### B) DECRIMINALIZATION

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<sup>3</sup> See also Jordan T Smith, “Fighting for Regulation: Mixed Martial Arts Legislation in the United States” (2010) 58:2 Drake L Rev 617 at 625. Municipal MMA regulation occurs in Alberta: see e.g. the Edmonton or Calgary Combative Sports Commission.

<sup>4</sup> See “Unified Rules and other MMA Regulations”, online: Discover UFC <<http://www.ufc.com/discover/sport/rules-and-regulations>>. And see the official version: Agency Proposal, *Mixed Martial Arts Unified Rules of Conduct*, NJ ADMIN CODE § 13:46-24A, online: New Jersey State Athletic Control Board <<http://www.state.nj.us/lps/sacb/docs/martial.html>> [Unified Rules].

<sup>5</sup> See *ibid.* See also Smith, *supra* note 3 at 634.

<sup>6</sup> *Ibid* at 626-28. For the American implementation of the Unified Rules, see *ibid* at 627-28.

<sup>7</sup> For a discussion of the reasons behind the popularity of the Nevada regulations as model, see *ibid* at 631.

The recent decriminalization of MMA has altered the regulatory landscape in Canada. While MMA events have been held in Canada for quite a while, their legal status was ambiguous due to the prize fighting provisions in the Criminal Code.<sup>8</sup> Section 83 used to prohibit combative sporting competitions if they fell under the Section 83(2) definition of “prize-fight”.<sup>9</sup> MMA theoretically fell under this definition.<sup>10</sup> There were, however, two exceptions to this prohibition: (1) amateur boxing events; and (2) any boxing event sanctioned by a province’s designated athletics-related regulatory body, or any bout where the boxing gloves worn by fighters were not less 140 grams.<sup>11</sup> A pervasive uncertainty existed throughout the country as to whether or not MMA fell under the exception or not, and it was ultimately left open to the interpretation of each province. As such, while Section 83 of the Criminal Code theoretically “prohibited” MMA events, it was nonetheless possible for provinces to sanction MMA events if the prize-fighting exceptions were interpreted in such a way as to include MMA.<sup>12</sup>

Ontario, for example, lifted its ban on MMA events in 2010 for a number of reasons including the projected lucrative financial benefits linked to the growing popularity of MMA in Canada. The Ontario government predicted that around 30,000 people could be attracted to an MMA event—which, it proposed, would generate approximately \$6 million in associated economic activity within Ontario.<sup>13</sup>

In addition to these reasons for the decision to remove the ban, the grassroots quest for legitimacy sought by the MMA community/cultural normative system through the absorption

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<sup>8</sup> *Criminal Code*, RSC 1985, c C-46 s 83.

<sup>9</sup> *Ibid*, s 83(1).

<sup>10</sup> See also Layth H Gafoor, Paul Waldron & Hashim Ghazi, “Fighting for Certainty: The Legality of Mixed Martial in Canada”, *Just* (June 2013) at 38-39 online: Just <<http://www.justmag.ca>>.

<sup>11</sup> *Criminal Code*, *supra* note 8, s 83. See also Gafoor, Waldron & Ghazi, *supra* note 10.

<sup>12</sup> See also *ibid* at 40-41.

<sup>13</sup> *Ibid* at 40-41. See also Elaine Wiltshire, “Ontario legalizes mixed martial arts” (October 2010) 30:22 *Lawyer’s Weekly* 14; Miles Adam Park, “In the Octagon: Mixed Martial Arts Comes to Life” in Danielle S Coombs & Bob Batchelor, eds, *American History Through American Sports: From Colonial Lacrosse to Extreme Sports*, Vol 3 (Westport: Praeger, 2013) 295.

and recognition of its internal rules and regulations<sup>14</sup>—especially the Unified Rules—played an important role.<sup>15</sup>

Other provinces took another approach to the federal MMA prohibition in order to respond to the growing public demand for MMA while capitalizing on the financial incentives MMA yielded. Quebec, for example, sidestepped federal prize-fighting provisions by renaming MMA as “mixed boxing” so that MMA regulation fell under the category of boxing.

But all of this changed in June 2013 with the passing of Bill S-209.<sup>16</sup> This bill amended the prize-fighting provisions in the Criminal Code by extending the existing Section 83 exemptions and cleared up confusion as to whether or not MMA in fact fell under the previous exemption.<sup>17</sup> The amendments make MMA events legal across Canada as long as they meet the new stipulations under Section 83(2) where legality is conditional upon provincial or municipal regulation.

Turning back to the prior provincial examples, the Athletic Commissioner of Ontario now has the unquestionable authority to sanction MMA events,<sup>18</sup> and Quebec has no more need to sidestep the Criminal Code provisions against MMA by renaming it “mixed boxing”—although changes to Quebec’s mixed boxing regulations have yet to be made.

### **C) THE UNIFIED RULES IN CANADA AND THE QUEBEC EXCEPTION**

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<sup>14</sup> See also Brian Z Tamanaha, “Understanding Legal Pluralism: Past to Present, Local to Global” (2008) 30 Sydney L Rev 375 at 406.

<sup>15</sup> See Wiltshire, *supra* note 13. See also the political and legal dialogues deployed actively by some MMA community members, for example the blog of British Columbia litigation lawyer and sports law consultant Erik Magraken’s blog: Combat Sports Law <<http://combatsportslaw.com>> [Magraken, Blog].

<sup>16</sup> Bill S-209, *An Act to amend the Criminal Code* (prize fights), 1st Sess, 41st Parl, 2013 (assented to 19 June 2013).

<sup>17</sup> See also Erik Magraken, “And The Yeas Have It! MMA Given Legal Framework in Canada” (5 June 2013), online: Combat Sports Law <<http://combatsportslaw.com>> [Magraken, “Legal Frameworks”]

<sup>18</sup> See Ontario’s *Athletics Control Act*, RRO 1990, Reg 52. Note also the incorporation of the Unified Rules.

Within Canada, the Unified Rules have been implemented into the relevant legislative frameworks in sanctioning jurisdictions—such as within Ontario’s *Athletics Control Act*.<sup>19</sup> Quebec is an exception: not only does Quebec not incorporate the Unified Rules, but its sanctioning legislation overseeing MMA never uses the term “mixed-martial arts”.<sup>20</sup> Instead, MMA in Quebec remains sanctioned and referred to under the term “mixed boxing”, which is defined at Section 195.1 as: “[A] combat sport during which contestants of the same sex fight standing or on the mat; when they fight standing, the contestants use kickboxing techniques unless modified in this Chapter; when they fight on the mat, the only permitted submission techniques are those described in this Chapter.” Clearly Section 195.1 describes MMA—from permissible striking, to grappling, to permissible take downs, to acceptable “ground and pound” and holds,<sup>21</sup> as well as the construction and measurement specifications of the octagonal ring.<sup>22</sup>

#### **D) THE REASONS BEHIND DECRIMINALIZATION**

Legalization is in large part due to lobbying efforts by the MMA community. Not only has the UFC been active in this enterprise, but vocal fans of the sport have been prolific in their awareness-raising efforts regarding the legal and political challenges faced by MMA in Canada.<sup>23</sup> As stated right before Bill S-209 was passed: “MMA has established its seat at the main table of major sports in North America. It is an example of how a new and emerging sport, through its grass root popularity, can influence policy making and legislation.”<sup>24</sup> Popularity not

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<sup>19</sup> *Supra* note 18.

<sup>20</sup> See *Regulation respecting combat sport*, OC 686—98, S-3.1, r 11, c II-1

<sup>21</sup> *Ibid*, s 195.28-195.31.

<sup>22</sup> *Ibid*, s 195.4(2).

<sup>23</sup> See e.g. Magraken’s Blog, *supra* note 15.

<sup>24</sup> Gafoor, Waldron & Ghazi, *supra* note 10.



only increases core and peripheral MMA participation and increasingly positive views of the sport, but it also yields lucrative economic results.<sup>25</sup>

Legalization was also influenced by the rationale that greater regulation leads to better protection of MMA participants.<sup>26</sup> Increased ability to regulate post-decriminalization enables the implementation of safety standards and, it is hoped, reduces the attraction of unregulated underground events.<sup>27</sup>

These reasons for decriminalization also appear in the limited case law dealing with the old version of Section 83, such as *R v Chang*.<sup>28</sup> In this case the court found that the 2002 “Extreme Fighting Championship” event promoted by Mr. Chang in Saint John, New Brunswick constituted a prize-fight due to the various fighting techniques used and the pre-arranged nature of the fight.<sup>29</sup> Nonetheless, Judge Brien noted that if the popularity and public acceptance of combat sports of this genre were growing, then regulations would be needed for the safety of the contestants; to be achieved through lobbying efforts seeking a legislative response and resulting change in legislation.<sup>30</sup>

## **II. MMA COMMUNITY, GRASSROOTS, AND LEGAL PLURALISM**

Viewing the MMA community through the lens of what Brian Tamanaha describes as a community/cultural normative system, within his framework for legal pluralism, provides a context for understanding the grassroots elements of the MMA community’s fight for legalization, legitimacy, and State regulation through the State’s absorption of the internal MMA

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<sup>25</sup> See *ibid* at 40-41.

<sup>26</sup> Magraken, “Legal Frameworks”, *supra* note 17.

<sup>27</sup> See Gafoor, Waldron & Ghazi, *supra* note 10.

<sup>28</sup> 2003 NBPC 11 [*Chang*].

<sup>29</sup> *Ibid*.

<sup>30</sup> *Ibid*. See also Gafoor, Waldron & Ghazi, *supra* note 10 at 40.

rules and norms.<sup>31</sup> An understanding of the community provides a window into the space where seemingly disparate regulatory texts—those governing MMA and those intended to counteract bullying—become interconnected through the lives and narratives of MMA community members.<sup>32</sup>

#### **A) CORE VERSUS PERIPHERAL COMMUNITY MEMBERSHIP**

While ties between community members exist across borders and in a number of forms, within this community/cultural normative system, a basic differentiation exists between core members of the MMA community and peripheral members. The difference between core membership and peripheral membership is generally distinguishable through levels of involvement. There are several specific signifiers of core membership and of truly “becoming a mixed martial artist”: fighting in professional events, injuries due to fighting, regular interaction with other fighters, and pain or body callusing.<sup>33</sup>

##### **i. Core Membership**

Beyond the ability to physically deploy a fighting technique in the proper way in order to be accepted into the core MMA community, the physical demarcation of injuries carried by core MMA community membership are observable beyond the core membership and carry significance, or legitimacy, within the peripheral MMA community as well as within the larger

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<sup>31</sup> Tamanaha, *supra* note 14 at 399.

<sup>32</sup> See also Patrick Ewick & Susan S Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998).

<sup>33</sup> Spencer, *Ultimate*, *supra* note 1, ch 5 at 72ff.

social arena.<sup>34</sup> A striking example of the physical mark of injury is what is known as “cauliflower ear”.<sup>35</sup>

An extremely high level of pain is involved in MMA participation—even at the most basic or amateur level—as opposed to other sports.<sup>36</sup> As Greg Downey writes: “Pain is treated as a price paid for expertise or a filter assuring that only courageous individuals get involved in the sport ... pain forms a high barrier to entry against unworthy individuals. As in many athletic subcultures, entry into the athletic community is marked by willingness to endure pain and demonstrations of psychological resilience.”<sup>37</sup> Dale Spencer introduces the process of what he calls “body callusing” as linked to the pain element present within active core MMA members. Body callusing is the hardening of the fighter’s body and mind that is sought through training techniques and peaks when the fighter enters the octagon or ring, with the intent of turning the body into a weapon.<sup>38</sup> It is the gradual increase of a fighter’s pain tolerance and physical ability to withstand the practice of MMA.<sup>39</sup> As a core member, there is a shared understanding developed through the experience and tolerance of pain that all fighters endure and the long-term effects of MMA participation on their bodies.

## **ii. Peripheral Membership**

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<sup>34</sup> *Ibid* at 78-79.

<sup>35</sup> *Ibid* at 78 (for an image of cauliflower ear) and at ch 5, endnote 3: “[A]n ear condition that develops when the external portion of the ear is continually subjected to being hit and rubbed. A blood clot or other fluid develops under the perichondrium causing the cartilage to separate, die, and become permanently deformed resembling a cauliflower.” Cauliflower ear is permanent. There are several “cauliflower clubs” for those with the condition, see e.g. The Cauliflower Alley Club.

<sup>36</sup> *Ibid* at 89, 96; Greg Downey, “Producing Pain: Techniques and Technologies in No-Holds-Barred Fighting” (2007) 37:2 *Social Studies of Science* 201 at 217.

<sup>37</sup> *Ibid*.

<sup>38</sup> Spencer, *Ultimate*, *supra* note 1 at 89, ch 6 endnote 1, 96. See also Dale C Spencer, “Habit(us), Body Techniques and Body Callusing: An Ethnography of Mixed Martial Arts (2009) 15:4 *Body & Society* 119.

<sup>39</sup> Spencer, *Ultimate*, *supra* note 1 at 96.

The interaction between core members and the currency needed for community membership differs from that of peripheral members and reflects the reality of their level of involvement, and physical ability to be involved, in MMA. The identification and common understanding shared by the core members are not only defined by significant or physically active participation in the sport, but usually results in more intense member interactions at a local level, which thickens the shared norms of everyday life that structure interactions.<sup>40</sup> The imagined identification and common understanding shared by the peripheral members—or what may also be seen as “fandom”—is thinner, more loosely defined, and exists on a national and international level rather than primarily local. The customs, habits, and choices made regarding leisure activities are the site of shared understandings amongst peripheral members.<sup>41</sup>

If the peripheral members, with their various degrees of peripheral involvement, were to independently constitute the MMA community/cultural normative system, it is possible that “the norms that bind and define the community may not be definite or reiterated enough to be considered ‘a system’.”<sup>42</sup> But when combined with the core MMA community members, a normative system and common understanding is established—especially with the internal regulatory framework provided by structuring elements like the Unified Rules that enable a shared understanding of the judging and rules of a fight, whether as a participant or as an observer.

## **B) THE MMA COMMUNITY WITHIN THE SOCIAL ARENA**

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<sup>40</sup> See also Tamanaha, *supra* note 14 at 399.

<sup>41</sup> See also *ibid.* According to a study conducted by Nancy Cheever, viewing MMA events is more important to MMA fans than viewing sporting events is to fans of other sports (“The Uses and Gratifications of Viewing Mixed Martial Arts (2009) 4:1 Journal of Sports Media 25 at 35).

<sup>42</sup> Tamanaha, *supra* note 14 at 399.

The MMA community/cultural normative system must then interact within the greater social arena.<sup>43</sup> Its internal structuring norms, rules and frameworks—notably, the Unified Rules—engage in legal pluralistic interactions with the dominant legal system, such as the Canadian formal legal system and regulatory framework. The interactions between the MMA community’s internal rules and the dominant legal framework occur within what Boaventura de Sousa Santos describes as “contact zones”.<sup>44</sup>

In reality, what the MMA community/cultural normative system seeks is absorption by the dominant legal framework.<sup>45</sup> For example, it is UFC policy to only hold events in states or provinces with an athletic commission that oversees and regulates MMA.<sup>46</sup> And the UFC will actively seek to have overseeing regulation established in order to hold an event in a jurisdiction where MMA is not yet sanctioned. This is distinct from the traditional desire of many sports organizations that seek decreased government regulation and oversight or hope to avoid it altogether.<sup>47</sup>

### **III. EFFECTIVE AGGRESSIVENESS AND THE UNIFIED RULES**

The Unified Rules introduce the notion of effective aggressiveness under the provisions for judging.<sup>48</sup> The provisions that touch on effective aggressiveness include:

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<sup>43</sup> *Ibid* at 396-97. I define the boundaries of Tamanaha’s “social arena” as that of the state in response to his statement that the term is “an empty framing device that can be defined in any way, according to any criteria, that a particular researcher desires. An entire nation can constitute a social arena, as can a local community, or a transnational network of business people” (*ibid* at fn 79).

<sup>44</sup> See e.g. *Toward a New Legal Common Sense*, 2nd ed (London, UK: Butterworths LexisNexis, 2002) at 472.

<sup>45</sup> Absorption is the second of three strategies adopted by an official state legal system in dealing with legal pluralism within the social arena (Tamanaha, *supra* note 14 at 403-404). Absorption is commonly accomplished by explicit incorporation or recognition of elements, such as the Unified Rules, that comprise existing community institutions, rules, or norms (*ibid* at 404).

<sup>46</sup> Smith, *supra* note 3 at 623.

<sup>47</sup> *Ibid* at 622-24.

<sup>48</sup> *Unified Rules*, *supra* note 4, s 14.

- 14(C): “Judges shall evaluate mixed martial arts techniques, such as effective striking, effective grappling, control of the ring/fighting area, effective aggressiveness and defense.”
- 14(D): “Evaluations shall be made in the order in which the techniques appear in (c) above, giving the most weight in scoring to effective striking, effective grappling, control of the fighting area and effective aggressiveness and defense.”
- 14(H): “Effective aggressiveness means moving forward and landing a legal strike.”<sup>49</sup>

Since effective aggressiveness is linked to landing a legal strike, it is also connected to effective striking, which is “judged by determining the total number of legal strikes landed by a contestant.”<sup>50</sup>

## **A) EFFECTIVE AGGRESSIVENESS IN QUEBEC’S MMA REGULATIONS**

Quebec’s regulations for “mixed boxing”, which remain despite the amendments to Section 83 of the Criminal Code, are slightly different. Even though the Unified Rules are not used here, “aggressiveness” is still a factor judges must consider in determining the victor.<sup>51</sup> “Aggressiveness” is “demonstrated by the contestant's forcing the fight during the round by making the greater number of attacks.”<sup>52</sup>

## **B) MMA AND THE REIFICATION OF AGGRESSIVE BEHAVIOUR**

### **i. Judge Preference**

While effective aggressiveness is but one of the elements considered in judging a fight— and despite the fact that Section 14(D) of the Unified Rules places it as the third most important

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<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*, s 14(E).

<sup>51</sup> *Regulation respecting combat sport, supra* note 20, s 195.18(2),

<sup>52</sup> *Ibid.*

consideration—careful consideration of the decisions of judges, viewership interest, and the language of MMA promoters demonstrates that effective aggressiveness is actually one of the most important elements considered in MMA events, if not the most important.

In a statistical assessment of UFC fights between November 2000 to 2009, based on data provided by FightMetric (the UFC’s official statistics provider),<sup>53</sup> Collier, Johnson, and Ruggiero set out to investigate which elements of a fight are the most important in determining which fighter is the winner. To win a fight, unless there is a knockout or submission, the winner is determined by a panel of three judges. The authors look to demonstrate the correlation between strikes (attempted and landed kicks and punches), power strikes, knockdowns, and damage inflicted, on the one hand, and the outcome of a fight, on the other.<sup>54</sup> Specifically, they focus on the subjective degree of importance attributed by judges to certain acts of aggression over others.<sup>55</sup>

The data collected demonstrates that attempted jabs to the head and other attempted jabs lead to a greater probability of winning than if a jab is landed.<sup>56</sup> The authors suggest that the amount of punches attempted may ultimately demonstrate a fighter’s domination in the fight, leading to a decision in their favour.<sup>57</sup> Rather than being in line with the Unified Rules, which were in place during the UFC fights that comprise the data, this would instead seem to be in line with the definition of effective aggressiveness found in Quebec’s MMA regulations. As noted

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<sup>53</sup> See online: FightMetric <<http://www.fightmetric.com>>. The authors consider data from 2000 onward as this is when the current version of the Unified Rules came into effect: Trevor Collier, Andrew L Johnson & John Ruggiero, “Aggression in Mixed Martial Arts: An Analysis of the Likelihood of Winning a Decision” in R Todd Jewell, ed, *Violence and Aggression in Sporting Contests: Economics, History and Policy* (New York: Springer, 2011) 97 at 103.

<sup>54</sup> *Ibid*

<sup>55</sup> *Ibid* at 101.

<sup>56</sup> *Ibid* at 106.

<sup>57</sup> Collier, Johnson & Ruggiero note that this may also be due to the inability of judges in the sampled data to accurately determine whether or not a fighter in fact landed the strike since they, unlike FightMetric, did not have the benefit of television monitors (*ibid* at 106-107).

previously, Quebec’s regulations judge effective aggressiveness by whether a fighter “forces a fight during a round”, which is done through a “greater number of attacks”—whether or not the attacks were successful is inconsequential.<sup>58</sup> The Unified Rules, on the other hand, emphasize the actual *landing* of a legal strike.<sup>59</sup>

The data also demonstrates that attacks that are the most visually violent and harmful also lead to a greater probability of winning. The authors therefore suggest that judges are more inclined to award the fighter who deploys the most harmful and violent of attacks.<sup>60</sup> Again, the aggressiveness of the behaviour is determinative in winning.

## ii. Audience Preference

Where Collier, Johnson & Ruggiero specifically note the audience appeal of the violent component of UFC,<sup>61</sup> Nancy Cheever focuses more broadly on the elements that draw the audience—or the peripheral MMA community members—to the sport of MMA. Based on data drawn from online surveys, Cheever notes that MMA community members generally value the skill of the fighters, the mechanics behind the mixed fighting technique, and the competitive element over the violent aspect of the matches.<sup>62</sup> She nonetheless distills the five characteristics considered the most entertaining by the MMA viewership base: (1) violence, including “blood and brutality”; (2) the competition and sporting element, including a competitor’s skill and technique; (3) drama, including the possibility of upset victories and the “underdog quality” of smaller fighters using fighting technique to triumph over larger opponents; (4) “old school

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<sup>58</sup> *Ibid.*

<sup>59</sup> Unified Rules, *supra* note 4, s 14(H),(E).

<sup>60</sup> Collier, Johnson & Ruggiero, *supra* note 53 at 107.

<sup>61</sup> *Ibid* at 98.

<sup>62</sup> Cheever, *supra* note 41 at 36-40.



technique”, including submissions, tap outs, and grappling; and (5) “new techniques”, including the realistic “street-fight” element brought by combined fighting techniques and knockouts.<sup>63</sup>

Accordingly, by concentrating on the commercialization and reification of aggression in order to appeal to the MMA community and viewership base, MMA promoters appear to be focusing on the entertainment value of MMA rather than the overarching preference of MMA community members. Downey describes how a Zuffa (the parent company of UFC) public relations executive emphasized the importance of a fighter’s ability to “put on a good show” in order to be asked back—regardless of whether or not the fighter won the match.<sup>64</sup> And to “put on a good show” meant that the fighter had to be “aggressive and exciting to watch.”<sup>65</sup> Thus, even if effective aggressiveness is not the most important aspect in the judging of a fight, it is highly important for the fighter’s career to be effectively aggressive. Not being sufficiently aggressive could forestall the fighter’s ability to gain professional experience, or to fight at all.

Downey also suggests that judges—with the implementation of time limitations on fights leading to the need for decisions on inconclusive fights—began to favour contestants who act aggressively in order to respond to the fighting techniques preferred by MMA audiences.<sup>66</sup>

Since aggressiveness appears so prominently in MMA, Quebec’s treatment of effective aggressiveness is a better indicator of the importance that it carries in judging a round, while the Unified Rules do not reflect this reality. First of all, in Quebec’s regulations “aggressiveness” appears as second only in importance to “the recurrence and power of legal blows” in the list of factors that judges are to take into account in judging the effectiveness of the contestants.<sup>67</sup> This

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<sup>63</sup> *Ibid* at 39-40 (for categories that draw viewership); *ibid* at 42 (for entertainment value). Cheever acknowledges the limitations of the self-reporting nature of an online survey, which also required participant computer access (*ibid* at 50).

<sup>64</sup> Downey, *supra* note 36 at 216.

<sup>65</sup> *Ibid*.

<sup>66</sup> *Ibid* at 210.

<sup>67</sup> *Regulation respecting combat sport, supra* note 20, s 195.18

is in contrast to the second to last position of importance accorded by the Unified Rules.<sup>68</sup> While effective aggressiveness, according to the Unified Rules, is defined as “moving forward and landing a legal strike,”<sup>69</sup> the mechanics of visibly accomplishing this incorporate the intent to harm the opponent and inflict damage. This is reflected both in viewer and MMA community commentary as well as by UFC promoters. Quebec’s MMA regulations provide a more straightforward description of how effective aggressiveness is, in reality, demonstrated “by the contestant’s forcing the fight during the round by making the greater number of attacks.”<sup>70</sup> “Forcing the fight” better communicates what is expected of the fighter. Rather than simply “moving forward”, the fighter is expected to maintain a high level of active violence; and rather than simply “landing a legal strike”, the fighter is expected maintain a high frequency of dynamic attacks on the opponent. And demonstrating this behaviour provides the visual identifying factor in quantifying effective aggressiveness—especially for peripheral MMA community members who may have less knowledge of the nuanced techniques deployed by fighters and often focus on the visible and audible signs of the effective aggressiveness.<sup>71</sup>

This reality is further shown by the preference for a fighter to “finish the fight”, where a fight is ended by knockout, submission, or referee stoppage before it goes to decision—which will be discussed subsequently.

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<sup>68</sup> Unified Rules, *supra* note 4, s 14 (C)-(D)

<sup>69</sup> *Ibid*, s 14(H)

<sup>70</sup> *Regulations respecting combat sports*, *supra* note 20, s 195.18(2)

<sup>71</sup> These signs may include: audible noise upon the landing of a strike, appearance of pain on the face of the opponent being struck, appearance of swelling or blood over the course of the fight, minimal fighting and maneuvering before a strike or take down attempt, and minimal defensive maneuvers as opposed to offensive attempts.

### iii. The Encouragement of Effective Aggression by MMA Promoters

Arguably the most apparent encouragement of maximum aggression within a fight is the extra money awarded at the end of UFC events for the submission of the night, the knockout of the night, and the fight of the night that demonstrated the most impressive behaviour—or was the “best show”, which we have seen is determined through the aggressiveness displayed.<sup>72</sup>

But Downey’s suggestion that aggression is favoured and encouraged by judges and promoters is also apparent in the narrative deployed by current UFC President Dana White, who will often apologize to the UFC viewer base after fights if a fighter has not “finished a fight” or displayed an appropriate level of aggression.

For example, Anderson “The Spider” Silva has a reputation for not trying hard enough to “finish the fight”. Even worse, Silva is known for clowning around in the ring, taunting his opponent, and feinting. After one fight in particular—UFC 112—in post-fight interviews White publicly shamed Silva for his behaviour and fighting technique during the fight, even though Silva clearly won the fight by decision. White repeatedly describes Silva’s behaviour and the fight as a disgrace and an embarrassment; and White promises to make it up to the fans who feel angry and cheated for Silva not having “finished the fight”. White’s language reveals the reaction to the self-regulation of a fighter’s level of aggressiveness when faced with the paramount importance of fighting with the proper level of aggression for the sake of the show.<sup>73</sup> In discussing Silva’s fight, White suggests that “if you’re that talented, be Mike Tyson, go in and finish it in two minutes,” and then goes on to state that “he [Silva] shows these little signs of absolute genius and greatness. The flying knee to the head ... he threw it like a punch, that’s

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<sup>72</sup> Downey, *supra* note 36 at 216.

<sup>73</sup> See also Raul Sanchez Garcia & Dominic Malcolm, “Decivilizing, Civilizing or Informalizing? The International Development of Mixed Martial Arts” (2010) 45:1 *International Review for the Sociology of Sport* 39 at 54.

what this guy is capable of. That's what I think he could do every second of every round, *but for some reason he chooses not to.*"<sup>74</sup>

While we have seen the importance and encouragement of aggressive behaviour within MMA, an uncontrolled variable is introduced through the fighter's own desire, or lack of desire, to deploy the proper level of effective aggression sought by the viewers and promoters. In the case of Silva and UFC 112, he did not deploy the level of aggressiveness desired of him. In response, Silva's employers made it known that they were both disappointed and concerned.

Another example of the importance placed on the ability to "finish a fight"—or satisfactorily demonstrate aggression—can be seen in the press's treatment of former UFC Welter-weight Champion Georges "Rush" St. Pierre (GSP). While considered a dominant champion fighter, a common criticism of St. Pierre is that he has become a "boring" fighter due to a few fights where he failed to "finish" his opponent.<sup>75</sup> Looking to the particular fights in question, for St. Pierre to have satisfactorily finished the fight, he would have had to dislocate the shoulder or snap the elbow of his opponent after having successfully placed him in an arm bar submission hold;<sup>76</sup> or he would have had to knock out his opponent even after the other fighter had already developed a goose egg (scalp hematoma) that covered the majority of the

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<sup>74</sup> See especially the press conference post-UFC 112 regarding the Anderson Silva v Demian Maia fight: "Once again, Dana White apologizes for Anderson Silva's performance" (April 2010) online: Cage Potato <<http://www.cagepotato.com>>. See also: Keith Harris "The real reason Dana White is so mad at Anderson Silva for clowning around at UFC 112" (11 April 2010) online: Cageside Seats <<http://www.cagesideseats.com>>; Kevin Iole "Unrepentant Silva makes mockery of sport" (10 April 2010) online: Yahoo! Sports <<http://sports.yahoo.com>>; "Dana White Weighs in on Anderson Silva's Loss, Claims of Throwing the Fight, and more (video)" (7 July 2013) online: MMA Weekly <<http://www.mmaweekly.com>>; "Dana White tells Jim Rome he will cut Anderson Silva if he pulls this crap again" (video) (April 2010) online: Cage Potato <<http://www.cagepotato.com>>.

<sup>75</sup> Jonathan Snowden, "UFC 167 Exclusive: Georges St Pierre swears it's not his fault he's boring" (15 November 2013) online: bleacher report <<http://bleacherreport.com>>; Damon Martin, "Georges St Pierre Legacy: Will Not Finishing Fights Define his Career?" (18 March 2013) online: bleacher report <<http://bleacherreport.com>>; Nathan Smith, "GSP Does Better than Finish Fights, He Finishes Careers" (November 2013) online: Cage Potato <<http://www.cagepotato.com>>; Richard Raycraft, "Georges St Pierre is not a true fighter" (19 March 2013) online: the gazette <<http://www.westerngazette.ca>>.

<sup>76</sup> UFC 111: GSP v Dan Hardy (27 March 2010).

upper part of his face. Even though St. Pierre continued to hit the gruesome wound repeatedly after inflicting it, this was still not enough to satisfactorily “finish the fight”.<sup>77</sup>

Again, it becomes apparent that the uncontrolled variable in the aggressiveness of a fight is the fighter’s decision as to how much aggression they will deploy. White’s criticism of Silva and fan criticism of St-Pierre show dissatisfaction at the choices the fighters have made to self-regulate the aggressiveness of their fighting techniques. Even these professional fighters—or, professional aggressors—considered by some to be two of the greatest MMA fighters of all time, did not themselves always seek to maximize aggressive behaviour and the extent of possible damage they could inflict on their opponent. Yet external pressure was present for them to stop such self-regulation in future fights.

This highlights the internal moral quandary of deploying aggressive behaviour in the context of MMA. This also mirrors the quandary existing within Canadian law where, on the one hand, aggressive behaviour is heavily controlled and seen as the indicator of castigated behaviour, such as bullying, but on the other hand, aggressive behaviour is a required element in the Unified Rules that are adopted within the Canadian legislative framework for the regulation of MMA events.

#### **IV. REGULATING AGGRESSION**

##### **A) THE STATE MONOPOLY ON VIOLENCE**

Since violence is an unavoidable element of MMA,<sup>78</sup> from a Weberian perspective, it is not surprising that the rules of MMA have been incorporated into the dominant legal framework

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<sup>77</sup> UFC 124 GSP v Josh Koscheck (11 December 2010).

<sup>78</sup> Spencer, *Ultimate*, *supra* note 1 at 7.

as an extension of the State’s monopoly on violence.<sup>79</sup> But though this violence is regulated by the State, aggression is usually a measure of unacceptable or violent behaviour, rather than a positive attribute.

Considering that the legality of MMA is conditional upon proper provincial or municipal regulation, and that these regulations incorporate the Unified Rules, “effective aggressiveness” becomes part of the regulatory framework in place for the conduct and judging of MMA events. Thus, the dominant legal framework absorbs the MMA’s community/cultural normative system’s internal rules. Even in Quebec, where the Unified Rules are not incorporated, “aggressiveness” is still a factor included in the regulatory framework.<sup>80</sup>

But this acceptance—or sanctioning—of aggression in the context of MMA is at odds with the manner in which aggression is regarded in most other legislative and regulatory contexts. An example of this is the legislation dealing with bullying, which illustrates the differential treatment of aggressive behaviour that I wish to highlight and deconstruct.

## **B) BULLYING**

In addition to recent changes in the legality of MMA events, other recent developments in legislation dealing with aggressive behaviour in Canada and Ontario include anti-bullying legislation that is being introduced across Canada.

### **i. Ontario Schools**

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<sup>79</sup> *Ibid.* See also Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (Berkeley: University of California Press, 1978).

<sup>80</sup> *Regulation respecting combat sport, supra* note 20, s 195.18(2).

Fully implemented in February 2013 and given royal assent about a year before the decriminalization of MMA, Ontario's *Accepting Schools Act* ("Bill 13") is significant, among other reasons, for establishing a definition of "bullying" that identifies the "aggressiveness" of the behaviour as a key indicator of bullying behaviour, along with the repetitive nature of this aggressive behaviour.<sup>81</sup>

**ii. Workplace Bullying**

In addition to schools: "Like schoolyard bullying, workplace bullying is the tendency of individuals to intentionally use aggressive or unreasonable behaviour or comments to hurt or isolate an employee."<sup>82</sup> Legislation related to workplace bullying is found in the *Canada Health and Safety Regulations* at Section 20.3(b) (Part XX - "Violence Prevention in the Work Place").<sup>83</sup> Aggressive behaviour is identified as the category of behaviour that includes factors that contribute to workplace violence, and is thus a general indicator of unacceptable and discouraged behaviour.

**C) INCONSISTENT MESSAGES**

A mixed message is sent by the formal legal framework that simultaneously encourages legally sanctioned aggression within events to be viewed by the public, while other legislation attempts to curb aggression in bullying by establishing working definitions and castigating aggressive behaviour. Superimposing these regulatory texts that MMA actors have themselves

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<sup>81</sup> Bill 13, *An Act to amend the Education Act with respect to bullying and other matters*, 1st Sess, 40th Leg, Ontario, 2012 (assented to 19 June 2012), s1(1) [*Accepting Schools Act*]. See also Ottawa Catholic School Board, "Bill 13: Accepting Schools Act Information for Parents" at 11, online: <<https://bbboard.ocsb.ca>>.

<sup>82</sup> The Professional Institute of the Public Service of Canada, "Pocket Guide on Bullying and Violence in the Workplace" at 7, online: <<http://www.pipsc.ca>>.

<sup>83</sup> *Canada Occupational Health and Safety Regulations*, SOR/86-304

brought together through internally conflicting narratives amplifies the problematic of legalizing MMA and mandating its regulation, which is inextricably linked to the notion of effective aggression.

## V. MMA AND BULLYING

The conflicting treatment of aggressive behaviour within the formal legal framework also appears within the narratives of MMA fighters, beyond the self-regulation of their aggressiveness used during a match. A large number of MMA fighters as well as promoters, such as the UFC, are heavily involved in anti-bullying advocacy. While it may seem inconsistent for an individual—or a professional aggressor—to become an anti-bullying advocate while spending their days training for events where they seek beat up their opponent, taking a look into the narratives of these fighters and their pasts is revelatory.

Georges St. Pierre is a good example of a Canadian fighter who takes an active stance against bullying. He has spoken at length about the bullying he encountered growing up—both in his autobiography,<sup>84</sup> and also through his Georges St. Pierre Foundation, which states as a primary goal: “Help youth, stop bullying and promote physical activity in schools.”<sup>85</sup> Considering his lived experience with bullying, it is clear why he has aligned himself with anti-bullying initiatives. As GSP describes in his autobiography: “The truth is that bullying has helped make me who I am. Without it, without the obstacles, I might not be where I am. The story would be different. Bullying was part of the world I grew up in, at a key period in my life, and I got through it.”<sup>86</sup> And he goes on to conclude: “Maybe the most important lesson I learned

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<sup>84</sup> Georges St Pierre & Justin Kingsley, *The Way of the Fight* (Toronto: HarperCollins, 2013).

<sup>85</sup> See online: The Georges St. Pierre Foundation <<http://www.gspofficial.com/gsp-anti-bullying>>.

<sup>86</sup> St. Pierre & Kingsley, *supra* note 84 at 23.



from my youth is that I don't ever want to make someone else feel the way these bullies did to me.”<sup>87</sup>

Current UFC Lightweight Sam Stout from Ontario is another fighter heavily involved in anti-bullying activism, even though he states that he never personally experienced bullying. Stout, who also runs an MMA program for kids at the gym he co-owns in London, Ontario, is careful to note that violence is setting-specific and that it is not condoned outside of the gym unless it is deployed for the purpose of self-defence.<sup>88</sup>

This message regarding setting-specific aggressive behaviour is also referred to by former professional MMA fighter and Yukon MP Ryan Leef in promoting MMA as an effective mechanism to *counteract* bullying. Through the program Leef established, “Leaders in Life: Mixed Martial Arts against Bullying”,<sup>89</sup> he runs anti-bullying clinics where youth are taught basic MMA skills, such as grappling and boxing.<sup>90</sup> Leef de-emphasizes the aggressive nature of these skills and instead focuses on the discipline, respect, self-control, and confidence-building that can be provided by martial arts training, which he suggests may benefit both victims of bullying as well as bullies.<sup>91</sup> Interestingly, Leef notes that since MMA is a sport rapidly increasing in popularity—and since youth are increasingly exposed to MMA—it is important to

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<sup>87</sup> *Ibid* at 22-24. See also Interview with Georges St. Pierre (9 April 2013) on *CBC Radio Q*, online: CBC <<http://www.cbc.ca>>.

<sup>88</sup> Fightline, “Sam Stout: Violence Against People Who Are Not Willing Participants Just Isn’t Right” (25 June 2011) online: Fightline <<http://www.fightline.com>> (based on an interview conducted by Fightline with Stout). See also Ken Wiebe, “Sam Stout making impact inside and outside the Octagon” *Winnipeg Sun* (12 June 2013) online: *Winnipeg Sun* <<http://www.winnipegsun.com>>.

<sup>89</sup> See online: Inspiration Unlimited <<http://www.inspirationyk.ca>>. See also Jonathan Russell, “MP Ryan Leef to use MMA to combat bullying” *Whitehorse Daily Star* (9 November 2011) online: *Whitehorse Daily Star* <<http://www.whitehorsestar.com>>.

<sup>90</sup> *Ibid*.

<sup>91</sup> Debate between Ryan Leef and Wendy Craig, “Can you fight bullying with mixed martial arts” (11 September 2013) on *Q with Jian Ghomeshi*, *CBC Radio*, online: *CBC Radio* <<http://www.cbc.ca>> [Leef debate]. See also Russell, *supra* note 89.

contextualize the aggressive behaviour they observe in MMA fights in order to contain potential emulation of this behaviour in uncontrolled and unsafe environments.<sup>92</sup>

While the narratives of some MMA fighters may reveal a rationale behind their support of anti-bullying campaigns, it is even more surprising to learn of the involvement of MMA promoters, such as the UFC, in anti-bullying advocacy. For example, the UFC, along with the Toronto Police Service, held a high-profile anti-bullying event for youth in Toronto in 2011, which raised questions from the general public.<sup>93</sup> As noted previously, the post-fight dialogue after UFC matches by spokespersons for the UFC does not shy away from publicly shaming fighters for failing to exert what is seen as enough effective aggression or the ability to finish a fight to, what is viewed as, the audience's satisfaction. But the stated rationale behind UFC anti-bullying advocacy is to use the iconic status that many top MMA fighters have with youth as a platform to promote anti-bullying campaigns. Nonetheless, it is unsurprising that anti-bullying advocacy groups—in speaking about the Toronto event—expressed concern regarding the idolizing of MMA combatants who become famous through their violent acts.<sup>94</sup> But as Katie Neu, co-founder of Bullying Canada, also notes, an argument exists for the value of separating the MMA fighter from their consensually adopted profession that takes place in a controlled environment.<sup>95</sup>

While the mixed message transmitted in fusing MMA and anti-bullying is uncomfortably palpable, the mixed messages transmitted by MMA community members are the tip of the iceberg. The Canadian legal framework must also reconcile regulating and sanctioning the

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<sup>92</sup> Leef debate, *supra* note 91; Russell, *supra* note 89.

<sup>93</sup> Michelle McQuigge, "MMA fighters make good anti-bullying ambassadors, says Toronto mayor's brother" *Global News* (5 December 2011) online: Global Toronto <<http://globalnews.ca>>; "MMA fighters deliver anti-bullying message" *CBC News Toronto* (6 December 2011) online: CBC News Toronto <<http://www.cbc.ca>>. This campaign was part of a larger UFC initiative in Canada "UFC Community Works": see e.g. "UFC Launches \$129,000 Community Initiative" (6 April 2011) online: UFC <<http://www.ufc.ca>>.

<sup>94</sup> McQuigge, *supra* note 93.

<sup>95</sup> *Ibid.*

encouragement of effective aggressiveness with simultaneously castigating it as a signpost for bullying and other unacceptable violent behaviour.

## **IX. THE RATIONALE BEHIND CONFLICTING LEGISLATION**

Regulation enables the establishment and enforcement of uniform rules for MMA events. Problems with inconsistency arise when the broadly accepted Uniform Rules are not incorporated into sanctioning MMA-related legislation. For example, while Quebec’s rules governing “mixed boxing” are not that different from the Uniform Rules, there are inconsistencies—which have led to uncertainty as to what rules govern the fight once fighters enter the octagon/ring.<sup>96</sup> Quebec also has an inconsistent history of allowing the Unified Rules to be applied to fights without enforcing Quebec’s own MMA regulations—but then sometimes refusing to follow this precedent.<sup>97</sup> Uncertainty and inconsistency when participating in a sport laden with as much risk as MMA, is very dangerous.

The argument for uniformity of rules buttresses the argument that legal regulation of MMA is beneficial for the safety of those who will participate even if the sport is illegal, and promotes fairness in the outcome of a fight.<sup>98</sup>

### **A) SLIPPAGE**

Naomi Mezey’s discussion of the “slippage” that exists in the intersect of law and culture provides another way of understanding the conflicting treatment of aggression within the context of legislation. Slippage occurs between a law’s aims and its actual effects—“between the

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<sup>96</sup> Smith, *supra* note 3 at 642-43.

<sup>97</sup> *Ibid* at 643-44. See also Erik Magraken, “The Dozens of Ignored Rule Violations at TUF Nations Finale” (17 April 2014) online: Combat Sports Law <<http://combatsportslaw.com>>.

<sup>98</sup> See e.g. Smith, *supra* note 3 at 644-45

production and reception of law and legal meaning.”<sup>99</sup> Mezey suggests that “[a] legal prohibition might effectively eliminate a social practice. Or, more likely, it will alter the meaning of the practice, hence changing the purposes and effects of the practice in a way not entirely contemplated by—and in some cases directly contrary to the aims of the legal rule.”<sup>100</sup>

In applying Mezey’s argument to aggressive behaviour, if aggression were to be prohibited in all contexts rather than discouraged only in certain undesirable contexts, such as the schoolyard and workplace, the opposite effect might arise where prohibition may actually increase the symbolic power of the outlawed behaviour.<sup>101</sup> In that sense, the State maintains an interest in keeping a monopoly on violence and allowing aggression in certain contexts.<sup>102</sup> The acceptance of aggression in the MMA context, as well as the awareness-raising attempts by the MMA community regarding the unacceptable nature of bullying, might thus counteract slippage. While BullyingCanada.ca suggests that bullying ends almost immediately when peers intervene, it remains to be seen if the awareness-raising of anti-bullying campaigns deployed by the MMA community are effective in leading to peer castigation of bullying.<sup>103</sup>

## **CONCLUSION**

The regulation of aggression is a reality of combat sports. Through the legalization and regulation of MMA, effective aggressiveness has been incorporated into the Canadian legal framework. The manner in which aggression is treated in the context of MMA imports the norms of the MMA community, which include additional expectations and pressures regarding the

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<sup>99</sup> Naomi Mezey, “Law as Culture” (2001) Yale JL & Human 35 at 58.

<sup>100</sup> *Ibid* at 58-59.

<sup>101</sup> *Ibid* at 59

<sup>102</sup> Spencer, *Ultimate*, *supra* note 1 at 7. See also Weber, *supra* note 79.

<sup>103</sup> See online: BullyingCanada.ca <<http://www.bullyingcanada.ca>>. See also Nova Scotia, “Bullying & Cyberbullying: What We Need to Know” at 14-15, online: Anti-bullying Web Site <<http://antibullying.novascotia.ca>>

satisfactory performance of effective aggressiveness by MMA fighters in the ring. This reification of aggression is poignantly inconsistent with anti-bullying legislation introduced elsewhere in Canadian law that works to dissuade the use of aggression in the schoolyard and workplace. It is possible that the difference in how aggression is dealt with in regards to MMA as opposed to with bullying, can be explained as an avoidance of slippage as well as the umbrella of the State's monopoly on violence extending over MMA through government regulation while the aggression of bullying does not fall under the same conditions. Nonetheless, the schism between these developing areas of the law paint an irreconcilable picture of aggression that plays out in the cultural fabric and living rooms of Canada where both the law and MMA encourage aggression in one context, and discourage it in another.