ADEQUACY OF MALAYSIAN LAWS IN REGULATING CYBERBULLYING
We hate you
You’re such a child
We do not want to be friends with you

Impacts of bullying to children??
Internet and world wide web have aggravated **BULLYING** into the **CYBERspace**

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**PROBLEMS**

1. **Cyberbullying on the rise***
   - Potential for further harm
   - e.g. low self-esteem, suicide, rape, theft

2. **No legal definition of cyberbullying**
   - No definite legal sanctions
   - Mechanism for managing cyberbullying
   - Punishment to perpetrators
   - Remedies for the victims

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*Source: IPSOS (2018)
UNICEF (2019)
ADEQUACY OF MALAYSIAN LAWS

INTERNATIONAL CONTEXT

GAPS IN THE LAW

GOVERNING MODALITIES
INTERVIEW
(19 EXPERTS)

ONLINE SURVEY
(120 PERSONS)
Finding 1: Inadequacy of Malaysian laws in addressing cyberbullying

1. No specific law
   Cyberbullying is not specifically provided under the Malaysian laws
   = Uncertainty in implementation

2. Laws are dispersed
   Limitations in its application, not adequate to address cyberbullying
Dispersed laws within their respective ambits of criminal, cyber and civil laws, and not adequately address cyberbullying
Interview participants agree that cyberbullying should be criminalized.

Agree that there is no specific laws, existing laws are dispersed.
Finding 2: Comparative study of laws and policies in international context

1. International/Regional laws
   - International and regional laws are generally not binding
   - Even if binding, it does not provide adequate recourse for cyberbullying

2. Other nations’ laws
   - Specific laws in Philippines, Singapore, Australia, UK, New Zealand
   - Worthy to learn their experiences to suit to our local circumstances
International laws and treaties generally have no binding effect on Malaysian laws. The ones that are binding, are not adequate.
### (1) ASIAN COUNTRIES

<table>
<thead>
<tr>
<th>Country</th>
<th>Statutes/Orders/Regulations</th>
<th>Elements</th>
<th>Punishment</th>
<th>Strengths</th>
<th>Weaknesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Singapore</td>
<td>Protection from Discrimination and Harassment Act</td>
<td>Any individual or person who bullies another person</td>
<td>- Could order the bully to stop bullying, usage, or intimidation</td>
<td>- Must involve threat, abuse, or intimidation</td>
<td>- No effective mechanism for reporting</td>
</tr>
<tr>
<td>Malaysia</td>
<td>Education Laws</td>
<td>Any person who bullies another person</td>
<td>- Could order the bully to stop bullying, usage, or intimidation</td>
<td>- Must involve threat, abuse, or intimidation</td>
<td>- No effective mechanism for reporting</td>
</tr>
<tr>
<td>Indonesia</td>
<td>Cyber Crime Law</td>
<td>Any person who bullies another person</td>
<td>- Could order the bully to stop bullying, usage, or intimidation</td>
<td>- Must involve threat, abuse, or intimidation</td>
<td>- No effective mechanism for reporting</td>
</tr>
<tr>
<td>Thailand</td>
<td>Personal Data Protection Act</td>
<td>Any person who bullies another person</td>
<td>- Could order the bully to stop bullying, usage, or intimidation</td>
<td>- Must involve threat, abuse, or intimidation</td>
<td>- No effective mechanism for reporting</td>
</tr>
<tr>
<td>South Korea</td>
<td>Information and Communications Infrastructure Act</td>
<td>Any person who bullies another person</td>
<td>- Could order the bully to stop bullying, usage, or intimidation</td>
<td>- Must involve threat, abuse, or intimidation</td>
<td>- No effective mechanism for reporting</td>
</tr>
</tbody>
</table>

### (2) NON-ASIAN COUNTRIES

<table>
<thead>
<tr>
<th>Country</th>
<th>Statutes/Orders/Regulations</th>
<th>Elements</th>
<th>Punishment</th>
<th>Strengths</th>
<th>Weaknesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Cyberbullying Prevention and Protection Act</td>
<td>Any person who bullies another person</td>
<td>- Could order the bully to stop bullying, usage, or intimidation</td>
<td>- Must involve threat, abuse, or intimidation</td>
<td>- No effective mechanism for reporting</td>
</tr>
<tr>
<td>New Zealand</td>
<td>Cyberbullying Prevention Act</td>
<td>Any person who bullies another person</td>
<td>- Could order the bully to stop bullying, usage, or intimidation</td>
<td>- Must involve threat, abuse, or intimidation</td>
<td>- No effective mechanism for reporting</td>
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</tbody>
</table>

### Selected jurisdictions possess stand-alone legislation to deal with the issue of bullying, cyberbullying and harassment.
Interview participants agree bullying laws in other jurisdictions are effective, and we should learn from their experiences to suit to local conditions.
Finding 3: Gaps in current laws that need to be developed or enhanced

Existing laws that potentially cover cyberbullying can only apply to the extent of its application (not adequately addressing cyberbullying)

Dispersed law means various points of references, which might dilute the urgency/significance of handling cyberbullying cases.

Need to address gaps in law by establishing general definition, duty of care and stand-alone legislation

Reference to laws of other nations: Need to be cautious as to the suitability of importing into Malaysia
Factors motivating ADULT bullies

- Media influence
- Family background
- Peer influence
- Lack of self-confidence
- Pressure at work

Factors motivating CHILD bullies

- Peer influence
- Family background
- Media influence
- Lack of self-confidence
- Pressure at school

Survey data

Interview data
Interview data

Impacts of cyberbullying could be physical and/or psychological.
Different psychological and physical impacts on both cyberbullies and cyberbullying victims

Survey data

Psychological impact on cyberbullies

<table>
<thead>
<tr>
<th>Feeling of accomplishment</th>
<th>High self-confidence</th>
<th>Angry</th>
<th>Low self-confidence</th>
<th>Depression</th>
<th>Upset</th>
</tr>
</thead>
<tbody>
<tr>
<td>87</td>
<td>66</td>
<td>58</td>
<td>54</td>
<td>48</td>
<td>41</td>
</tr>
</tbody>
</table>

Psychological impact on cyberbully victims

<table>
<thead>
<tr>
<th>Depression</th>
<th>Lost of self-confidence</th>
<th>Upset</th>
<th>Fear</th>
<th>Suicidal</th>
<th>Self-inflicted harm</th>
</tr>
</thead>
<tbody>
<tr>
<td>109</td>
<td>98</td>
<td>88</td>
<td>87</td>
<td>62</td>
<td>61</td>
</tr>
</tbody>
</table>

Physical impact on cyberbullies

<table>
<thead>
<tr>
<th>Behavioural problem</th>
<th>Involve in more serious crimes</th>
<th>Withdrawal from society</th>
<th>Withdrawal from family</th>
<th>Criminal punishment</th>
<th>Disciplinary action</th>
</tr>
</thead>
<tbody>
<tr>
<td>96</td>
<td>90</td>
<td>78</td>
<td>56</td>
<td>53</td>
<td>48</td>
</tr>
</tbody>
</table>

Physical impact on cyberbully victims

<table>
<thead>
<tr>
<th>Affecting learning performance</th>
<th>Unwillingness to attend school/workplace</th>
<th>Sleep disorder</th>
<th>Withdrawal from society</th>
<th>Lost of appetite</th>
<th>Easy to get angry</th>
</tr>
</thead>
<tbody>
<tr>
<td>120</td>
<td>100</td>
<td>84</td>
<td>53</td>
<td>48</td>
<td>20</td>
</tr>
</tbody>
</table>
Different punishment for adult and child cyberbullies
Counselling tops the proposed remedies for victims of cyberbullying, followed by apology and rehabilitation.

**Survey data**

**Interview data**

- Remedy for victims of cyberbullying

- Counselling
- Apology from the cyberbully
- Rehabilitation program
- Right to restoration
- Compensation
- Close monitoring by family

- Remedies proposed for victims of cyberbullying:
  - Counselling
  - Public apology
  - Psychological support
  - Rehabilitation programs
  - Community support based system
  - Social services
  - Diversion and mediation
  - Court victim support
  - Therapy
  - Relief/remedy to parent
  - Family support
  - Personal growth
  - Counseling
  - Injunction order
  - Real remedy
  - Restraining order
  - Medical intervention
  - Compensation scheme to victims
  - Expedited order
  - Monetary compensation from offender
  - Removal of abusive content
Finding 4: Other governing modalities to manage cyberbullying in Malaysia

<table>
<thead>
<tr>
<th>Prevention strategies</th>
<th>Handling mechanism</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Establishment of internal policies in schools/organisations/institutions against cyberbullying</td>
<td>• Easy and quick channel of reporting</td>
</tr>
<tr>
<td>• Strengthening of family institutions</td>
<td>• Protection for victims, e.g. rehabilitation, counselling, compensation scheme, etc.</td>
</tr>
</tbody>
</table>
Governing modalities divided into (1) preventive measures, and (2) handling of cyberbullying cases

Survey data

Interview data
Recommendation

Creation of a specific law to address anti-bullying (Proposed name: “Anti-Bullying Act”)

1. Learn from other jurisdictions
2. Strengthen local community resilience and role
3. Drafting of Bill
Proposed key features of the “Anti-Bullying Act”

- PREAMBLE
- DEFINITION
- APPLICATION
- REMEDIES
- PREVENTIVE STRATEGIES
- MECHANISM FOR HANDLING BULLYING CASES
- PUNISHMENT FOR THE PERPETRATORS
- REMEDY/RIGHTS FOR THE VICTIMS
Proposed elements
(reference to definition of bullying in other countries)

ACTUS REUS?

MENS REA?

IMPACTS ON VICTIMS?

SPECIFIC ACTIONS?
Proposed application of the Act

- Adult and child victims of bullying
- Adult perpetrators of bullying
- Stakeholders for bullying
- Protected class
Recommendation

Establishment of working committee as focal point for coordination

Cyberbullying prevention

- Anti-bullying policies
- Family roles

Handling of cyberbullying incidents

- Channel of reporting, handling mechanism for rehabilitations, punishment, etc.
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