

Cyberbullying and hate speech laws in australia



ONLINE VITRIOL, CYBERBULLYING AND HATE SPEECH IN SOCIAL MEDIA

The world of Internet has allowed us to communicate our thoughts freely. It can be argued that this has made communication easier between people, but it also has some extremely adverse outcomes. Individuals are misusing the evolving technological communication, and with the development of Internet and Social media, traditional bullying has moved and evolved into new forms of bullying. In this essay, I aim to focus on cyberbullying in Australia and also discuss hate speech and online vitriol.

In the present technological phase, the world appears to start and finish at Social Media. Although it provides helpful information, now and again it does cross the line in harming an individual through the online source.

Cyberbullying has increased tremendously amongst youth in the last ten years. Online vitriol or cyberbullying is one common type of abuse within the cyber area.

“ Bullying is often described as being an aggressive, intentional act or behaviour that is carried out by a group or an individual repeatedly and overtime against a victim who cannot easily defend him or herself.” (Whitney & Smith, 1993; Olweus, 1999, Cited in Static. Igfl. net, 2006)

Unlimited access to the Internet and social media has become very easy. Youngsters are being bullied online and feel that there is no escape from this shame game. According to the definition by Smith (2008) “ Cyberbullying is reported as an aggressive, intentional act carried out by a group or individual, using electronic forms of contact, repeatedly and overtime against a victim who cannot easily defend him or herself.” Electronic forms

of communication include laptops, tablets, mobile phones, social networking platforms, video chatting and communication apps like WhatsApp & Snapchat. With the development of smartphones, it is now convenient and readily available to an individual. The usage of social media platforms like Instagram, Facebook, Twitter, Snapchat plays a significant role in increasing the practice of cyberbullying. It also includes trolls or memes made on a specific person, object or businesses.

Cyberbully can be known to you or can be executed anonymously. They use social media to send mean, hurtful messages or sending videos and photos to others online. Another way of bullying is by spreading rumours via emails or social networking sites. Cyberbully sets up fake profiles pretending to be you and post messages from your account. In most cases, victims are not aware of who is hacking and accessing their social media accounts to harass them. It is a challenging task to prove who the culprits are, as trolling and bullying accounts make use of everybody's right to anonymity. The offender uses technology such as a computer, consoles, cell phones with access to the Internet and social media to harass, abuse, or stalk any person by participating in online hate campaigns.(Humanrights. gov. au, 2012)

In the cyber world, people can hide their identity resulting in victims feeling frustrated and without power to reveal their identity. (Slonje and Smith, 2008). We all are at risk of being a victim as cyberbullying is not demographic specific.

The distinction between traditional bullying and cyberbullying is very minimal. The factors differentiating traditional bullying and cyberbullying is

the use of Internet and communication devices to hurt individuals. The characteristics between traditional bullying and Cyberbullying are different such as: “ The absence of physical strength in cyberbullying (Kiriakidis & Kavoura, 2010; Tokunaga, 2009); the lower level of awareness of the victim’s distress (Kowalski & Limber, 2007); the anonymity of the attack, the pervasive nature of cyber-attack, which can occur every time and everywhere and finally the absence of fear in cyberbullies, who often are less aware of the consequences of their behaviours.” (Raskauskas & Stoltz, 2007). (all cited in Menesini, 2012)

People who cyberbully others wish to hurt their targets and execute determined practices to cause them trouble. Some of the forms of traditional bullying are name calling and humiliation in public, whereas features of cyberbullying are that (a) it can happen anywhere and 24/7, (b) embarrassing information spreads quickly online, (c) aggressive and repetitive behaviour, (d) cyberbullies can be anonymous and not feel guilty, (e) tracking a cyberbully is difficult, (f) Victims find it difficult to deal with bullies, (g) victims have reduced social interactivity and have few friends (Moreno & Kota, 2014, cited in Alim, Sophia, 2016).

Effects of cyberbullying are that it tends to be horrendous for victims who are exploited because it can reach a space where they feel they are most secure. Victims suffer from depression, low self-esteem, anxiety, stress, humiliation, anger and rejection from being cyberbullied, and this, in turn, affects their personality. It also lowers their confidence and are socially less cooperative and sometimes due to peer pressure, they may do certain things just to fit in. Besides, an individual who once was very happy go lucky

suddenly pulls back. Constant cyberbullying sometimes also results in victims harming others or themselves, i. e. committing suicide or attempt to commit suicide. One of the first and common effects seen in a victim is that they tend to miss school/University/work. They react violently against their bullies or retaliate by bullying innocent people.

These abusive acts should be regulated, and there should be strict laws against it, but with the advancement of technology and accessibility, regulating these acts is very difficult.

Types of Cyberbullying

1. Harassment: By sending repeated malicious messages to an individual.
2. Cyberstalking: Extreme online harassment by threatening and stalking the victim online.
3. Exclusion: Excluding someone online, i. e. from chat groups/online clubs
4. Flaming: Fights online with angry and vulgar language.
5. Impersonation: To hack into others account in order to gather personal information or for spoiling their friendship with other people.
6. Trickery/Phishing: To deceive someone of valuable information and share online.
7. Outing: Sharing private information without consent to harass or embarrass them, i. e. snaps and videos.
8. Trolling: Posting mean messages online to get continuous responses or to start an argument.(The Soccer Mom Blog, n. d.)

We are all part of this digital evolution, and it is difficult to stay away from the online world. Videos/messages once online spread like viral and are not easy to delete, thereby spoiling the image of the victim. The aggressors can be unknown, thus making it difficult to stop them and prevent us from being cyberbullied.

There are various reasons why somebody might bully another person. They may feel weak themselves, have low confidence, and likely to have encountered harassment themselves. Perpetrators bully under peer pressure to look cool and feel superior.(Headspace. org. au)

The two factors that increase the possibility of teenagers being cyberbullied are categorised into demographic and psychological factors. Demographic factors include peer influence, gender and age, education and socioeconomic status. According to Vanden Abeele, Van Cleemput and Vandebosch's, 2013 (Cited in Alim, Sophia 2016) study was conducted on peer group dynamics and found that to gain popularity teenagers indulge in distributing and creating harmful videos of peers and teachers. Research conducted by (Sampasa-Kanyinga, Roumeliotis and Xu (2014), cited in Alim, Sophia 2016) suggests that girls are twice the time at higher risk of being cyberbullied when compared to boys.

Psychological factors for cyberbullying or being a cyberbully are self-esteem, seeking out risk experiences, suicide, depression and loneliness.

Let us have a look at some facts about Cyberbullying.

- An individual is cyberbullied every 7 seconds.

- Approximately 50% of offenders are known to the victim.
- 50% of victims meet their bullies online and are unknown.
- Cyberbullying is mainly prevalent between the age group of 14 -17 and are most likely the same age as the victim.(Gdhr. wa. gov. au, n. d.)

The question coming to my mind is, how can you prevent yourself or your child from being cyberbullied? Based on the article in the(The Conversation. com, n. d.), “ Parents have the most vital role in preventing their child from being bullied. Parents should follow some practical steps, as stated below:

1. Accept your child’s online life
2. Set rules for online interaction
3. Teach respect and responsibility online
4. Monitor online activities.”(Broll, 2018),

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In Australia there is no specific legislation for cyber-bullying however, “ There are existing laws police can use to arrest and charge perpetrators.”(Police. nsw. gov. au, n. d.)

In some cases, “ Under national law harassing, menacing using a phone or Internet, stalking or intimidation, making threats, encouraging suicide, posting nude or sexual images, log on to someone’s online accounts, ‘ publish’ online damaging their reputation for causing serious harm is considered as a crime. To be considered a crime, the behaviour must be likely to have a *serious effect* on the person targeted.”(Youth Law Australia. com. au, 2019)

A person may commit offences, which will fall under the Commonwealth Criminal Code, 1955. Division 474, subdivision C. Telecommunications Offences. The problem here is that NSW lacks a specifically listed offence for Cyberbullying. The cyberbullying laws can differ between different states. In some extreme cases, the maximum penalty is three years imprisonment. (Familyinsights. net, 2017)

“ On a national level, Chapter 10 of the Criminal Code Act 1995 creates a number of offences relating to the use of telecommunications, including making it an offence to Use a telecommunications network with an intention to commit a serious offence (section 474. 14). Use a carriage service to make a threat (section 474. 15; “ carriage service” has the same meaning as in the Telecommunications Act 1997, i. e. a service for carrying communications by means of guided and/or unguided electromagnetic energy). Use a carriage service for a hoax threat (474. 16), Use a carriage service to menace, harass or cause offence (474. 17). Freedom for right to opinion and expression can be practised under the law ICCPR- Article 19.” (Cbp. com. au, 2014)

Hate speech laws have been enacted in all state and territories of Australia except the Northern Territory. It involves the enactment of both criminal and civil provisions against racist hate speech, sexuality, religion, transgender status, disability, and HIV/AIDS. (McNamara, 2002, cited in Gelber and McNamara, 2015)

“ Although criminal laws have been implemented in several subnational jurisdictions, but in jurisdictions that possess both criminal and civil laws, the

criminal laws have never been successfully invoked.” (Gelber 2007, cited in Gelber and McNamara, 2015)

Under The Enhancing Online Safety Act 2015 eSafety Commissioner’s functions and powers were related to enhancing online safety for Australian children. In 2017 this act was amended, and it included online safety for all Australians and not just children. An online complaints service was initiated under this act for Australians who experience cyberbullying. The commissioner can investigate complaints about serious cyberbullying. Under this act, removal of cyberbullying material can either be conducted on a cooperative basis or by issuing legally binding notices and civil penalties for non-compliance to social media platforms. They can also issue a notice to individuals who take part in such cyberbully crimes and refrain them from posting such material. You can specifically complain about an image-based cyberbully, and the portal also provides reporting facility, support and resources to victims and family. It highlights the significance of using research to educate people about bullying, its effects and prevention.(Office of the eSafety Commissioner, 2019)

A few issues concerning its absence of a definition, precise technique and estimation issues are equivalent patrons towards the difficulty to guarantee a quiet and safe human relationship inside the online community (Smith P. and Steffgen G., 2013).

Apart from the counselling and resources mentioned above, additional help can be obtained by contacting:

Kids Help Line (1800 55 1800) and Lifeline (13 11 14) It is a free and confidential telephone counselling service between the age group 5 to 25. (Kidshelp. com. au, 2019),(Lifeline. org. au, n. d.)

The Australian Human Rights Commission has a complaint handling service that investigates complaints of discrimination, harassment and bullying. (Humanrights. gov. au, n. d.)

CASE ANALYSIS

In this section, I will provide two case studies about cyberbullying in Australia and one case study from the USA. This will help in comparing and analysing cyberbullying and how it is being handled in two different countries under different laws.

Amy Dolly Everett's Suicide (Australia)

Dolly Everett, a 14-year-old girl from Northern Territory, committed suicide on 3rd January 2018. She belonged to a well-known cattle family and was a victim of Cyberbullying. Amy Dolly Everett was at one time the face of iconic Australian hat company “ Akubra”. Tick and Kate Everett (parents) and sister Meg stated that cyberbullies tormented Dolly. (ABC News, 2018) Although Dolly's father, Tick Everett, did not provide any details about the bullying but mentioned that she wanted to “ escape the evil in this world”.(BBC News, 2018)

Dolly's family expressed their grief and sorrow online and also their intention to raise awareness and help families against bullying and harassment. They started a campaign on social media using the hashtags #stopbullyingnow and #doitforDolly. Tick and Kate Everett established a trust called “ Dolly's Dream” to raise awareness of bullying, anxiety, depression, and youth suicide. (ABC News, 2018) Dolly's dream mission is to educate the community and prevent cyberbullying. “ Dolly's Dream” vision is to become a voice for victims and raise awareness in regional Australia.(Dolly's Dream, 2019)

The death of Dolly shook Australia, but it also received criticism. According to Project Leader at Mindframe (the evidence-based initiative which aims to

<https://assignbuster.com/cyberbullying-hate-speech-laws-in-australia/>

encourage media to represent mental illness & suicide accurately), Marc Bryant wrote on Twitter, “ Suicide is complex and not often down to a single factor”.(Stephens and Stephens, 2018)There were discussions that there is a possibility of many different reasons behind her suicide, and it cannot be narrowed down to one “ cyberbullying”. In this case, initially details were not disclosed by Dolly’s parents, but after a couple of months, they disclosed some details. According to the revelation (News. com. au, 2017), cyberbullying was definitely one of the factors that caused her death, however entire facts are still unknown. The lack of strict laws in Australia makes it hard for the victim and their family to take necessary actions in time against these crimes. Even though there are associations to support victims, yet stricter laws would create a sense of fear and prevent individuals engaging in the act of cyberbullying, on the other hand, victims will also experience a sense of security online. In Australia, strict enforcement of laws and policies handling cyberbully should be implemented so that perpetrators face severe punishments.

Eva Davey Cyberbullying (Australia)

A 12-year-old girl Eva from Perth Western Australia was being cyberbullied and bullied in-person for seven months by her schoolmates before she self-harmed herself and was hospitalised. She was a bubbly girl, but because of bullying, there was a drastic behavioural change resulting in being withdrawn and moody. Eva was brave enough to talk to her parents Carl and Leigh and they in return contacted and complained to the school authorities. The school followed the standard procedure, but the harassment continued. Counselling was organised for Eva by her parents, and any sharp objects

were kept at a length from her. School authorities tried to help, but they had limitations, as there are no strict laws in Australia to prevent cyberbullying. (Now To Love, 2018)

It went to such extent that a video of Eva sitting in class with legs slightly open and a caption about the smell was posted on Snapchat. Since there are no strict laws for cyberbullying, it was on police sole discretion whether to consider it as photographing and distribution of pornographic material. According to police, the content did not breach certain criteria, and therefore, bullies were not punished, and no strict action was taken. (Mirror. com. au, 2017)

Leigh decided to use Social media positively, and she posted Eva's story online. The story moved people and was shared approximately 33, 000 times. It also received 24, 000 comments and 67, 000 reactions from Facebook. Eva responded positively to this Global attention, and this helped in reassuring her that she is not alone, and her condition has since improved. (Mirror. com. au, 2017)

This example shows how online bullying negatively affects a child and how social media if used correctly, can help build confidence in a child.

Mallory Grossman Suicide (USA)

A 12-year-old girl Mallory Grossman committed suicide in June 2017. The family of Mallory sued Copeland Middle School accusing them of not taking action and failing to prevent cyber-bullying that led to Mallory's death.

Over a period of 9 months, Mallory was bullied online and in-person by girls of Copeland Middle School. She was sent mean text messages and posts on Instagram and Snapchat. She was excluded from activities in school and was given dirty looks. The victim's parents repeatedly complained to the school authorities, but no strict action was taken.(Nydailynews. com, 2017)

Though New Jersey has probably the most grounded Harassment, Intimidation and Bullying (HIB) laws in the country, the school never recorded a required HIB report.(NBC New York, 2017)

Following Mallory's death, a community known as ' Mallory's Army'(Zaremba, 2017)was formed online so that people can share their bullying experiences within the Rockaway Township. Their goal is to reduce bullying in the Rockaway Township School District.(Nj. com)

In the above case study, we can see another tragic incident of cyberbullying, which could have been avoided with prompt action by school authorities and availability of strict laws in the New Jersey state (USA). This can be an excellent example for Australia to pass new strict laws against these crimes to prevent cyberbullying and protect victims from these heinous crimes.

CONCLUSION

According to NCAB (Australia's National Centre Against Bullying), bullying rates have declined, but there has been a sharp rise in cyberbullying. On the one hand, the national suicide rates in Australia have declined, but on the other hand, the number of suicides between the age group 15 to 24 has increased. " What's different in the case of cyberbullying is that it can be

constant, 24/7 and anonymous,” Jeremy Blackman of the NCAB told the BBC News.

Teenagers are reluctant to report against bullying, and they only contact helplines or services when the situation has worsened.(BBC news, 2018)

Anyone can be a prey of Cyberbullying, however, its more prevalent within the younger generation. A significant number of perpetrators happen to be minors; therefore, education in primary and middle school is essential to prevent cyberbullying. Since cyberbullying can take place anonymously by creating false profiles, it gets difficult to take legal action hence parents need to spend more time and be involved in their child’s life and provide them with different kinds of education like education about bullying or being bullied, drug, alcohol and sex education. If cyberbullying can be reduced, it will improve an individual’s life.

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