

Cyber bullying women in Australia and laws

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Cyber bullying targeting women is rampant in Australia. However, there are no universal legal definition of cyber bullying or misogynist bullying in Australia and as such, it has not received any focused legal attention still now.

Different stakeholders have given different definitions of cyber bullying (which is not gender specific). As such, according to Australian Human Rights Commission, cyber bullying is defined as “..... *bullying that is done through the use of technology. For example, using the Internet, a mobile phone or a camera to hurt or embarrass someone is considered*

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cyberbullying. It can be shared widely with a lot of people quickly, which is why it is so dangerous and hurtful.”¹

Australian cybercrime online reporting network (ACRON), an Australian government initiative however defines cyber bullying from the perspective of cyber stalking and states that:

“Cyber-bullying or stalking occurs when someone engages in offensive, menacing or harassing behaviour through the use of technology. It can happen to people at any age, anytime, and often anonymously.

Examples of cyber-bullying include:

posting hurtful messages, images or videos online

repeatedly sending unwanted messages online

sending abusive texts and emails

excluding or intimidating others online

creating fake social networking profiles or websites that are hurtful

nasty online gossip and chat, and

¹ See “Cyberbullying: what is it and how to get help: Violence, Harassment and Bullying Fact sheet”. Published in <https://www.humanrights.gov.au/cyberbullying-what-it-and-how-get-help-violence-harassment-and-bullying-fact-sheet>. Accessed on 06.04.2019

any other form of digital communication which is discriminatory, intimidating, intended to cause hurt or make someone fear for their safety.”²

According to ACRON, not all online bullying is criminal.³ It is an unfortunate fact that women form the major group of victims of cyber bullying in Australia. Several researchers have shown that women professionals including media personalities, activists, journalists etc are regularly targeted online by way of cyber bullying.⁴ According to Halder & Jaishankar(2016), online gender bullying is a feminist perception of adult cyber bullying.⁵ However, D’Souza, Griffin, Shackleton & Walt (2018) had addressed online gender bullying from the perspective of gendered hate speech (GHS). They have shown that there exists a serious legal lacuna in addressing GHS including cyber bullying targeting women in Australia. Like many other jurisdictions, in Australia also, cyber bullying targeting women may not be considered as a criminal offence unless it falls within the ambit of defamation or racial or sexual discriminatory act or creates grave threat. In case of cyber bullying targeting women falls under the category of defamation, certain

² See <https://www.acron.gov.au/learn-about-cybercrime/cyber-bullying> Accessed on 06.04.2019

³ Ibid

⁴ For example, see pp 107-108 in Halder D., & Jaishankar, K. (2012). *Cyber Crime and the Victimization of Women: Laws, Rights, and Regulations*. Hershey, PA, USA: IGI Global. ISBN: 978-1-60960-830-9., Tanya D’Souza; Laura Griffin; Nicole Shackleton; Danielle Walt, *Harming Women with Words: The Failure of Australian Law to Prohibit Gendered Hate Speech*, 41 U.N.S.W.L.J. 939 (2018)

⁵ See Halder D., & Jaishankar, K (2016.) *Cyber crimes against women in India*. New Delhi: SAGE Publications. ISBN: 9789385985775 pp.49-50

provincial laws penalizing defamation may be used; these may include Ss 13-20 of Defamation Act, NSW etc. However, most of these laws fall within the ambit of civil penalties. The Federal Criminal Code also offers some solace vide Ss.474.17, 474.15 etc whereby it has been penalized to use “internet and telecommunication services for harassing, creating menace or causing offence and usage of internet and telecommunication services for creating threat and online blackmailing”(Halder & Jaishankar, 2012).⁶

While there is no focused law to penalize cyber bullying targeting women in Australia, the issue is neither neglected by the government and private stakeholders. ACORN offers its services to counsel and handle reports of cyber bullying through its web portal @ <https://report.acorn.gov.au/> . Similarly, Australian Human Rights Commission also receives complaints of discrimination, harassment and bullying in their web portal

@http://www.humanrights.gov.au/complaints_information/index.html

⁶ Halder D., & Jaishankar, K. (2012). Cyber Crime and the Victimization of Women: Laws, Rights, and Regulations. Hershey, PA, USA: IGI Global. Pp 107-108