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### Cyberbullying: legal regulations in Central Asia

*Cyberbullying: regulaciones legales en Asia Central*

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#### ABSTRACT

This study analyses the social and psychological determinants of cyberbullying and identifies the setting in which traditional face-to-face bullying transforms into virtual violence. The article also outlines the features influencing the manifestation of cyberbullying in the countries of Central Asia. Considering the flavour of traditionalism in the Asian culture and social relations, countries within the region should implement new institutions and foster cultural values in schoolchildren, with the focus kept on the prevention of cyberbullying. The juvenile justice system should keep up with the anti-cyberbullying trend because older children may be legally liable due to age and hence, carry punishment.

**Key words:** Central Asia, Crimes, Cyberbullying, Virtual Violence.

#### RESUMEN

El estudio actual analiza los determinantes sociales y psicológicos del acoso cibernético e identifica el entorno en el que el acoso cara a cara tradicional se transforma en violencia virtual. El artículo también describe las características que influyen en la manifestación del ciberacoso en los países de Asia Central. Teniendo en cuenta el sabor del tradicionalismo en la cultura y las relaciones sociales de Asia, los países de la región deberían implementar nuevas instituciones y fomentar los valores culturales en los escolares, con el foco puesto en la prevención del acoso cibernético. El sistema de justicia juvenil debe mantenerse al día con la tendencia contra el acoso cibernético porque los niños mayores pueden ser legalmente responsables debido a la edad y, por lo tanto, llevar castigo.

**Palabras clave:** Asia central, delitos, ciberacoso, violencia virtual.

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## INTRODUCTION

Virtual reality removes any barriers to communication like language, geographical position, financial status, etc. However, there are new risks posing a threat to the psychological security of the individual. Bullying at school used to be a common phenomenon, but recently, a new permutation has arisen. Cyberbullying is partly the result of the geopolitical situation. While the post-Soviet countries show a relatively stable trend of political and socio-economic development, Afghanistan, which has been in a state of civil, tribal and ethno-religious war for several decades, has an extremely low standard of living.

The Taliban, a radical Islamist movement, has been holding power over most of modern Afghanistan for many years. In the Taliban-controlled area, the law is represented by the Sharia, the strictest version of it. Additionally, there is *de facto* gender inequality with the violation of women's rights. The chilling picture is topped with the opium fields being grown in Afghanistan and with a significant narcotisation, including youth narcotisation.

More than 33% of the population lives below the poverty line; 25 % do not have a permanent job. When it comes to cyberbullying issues, one may notice the high cost of the Internet in Central Asia. This restrains national development across the region. By the end of 2016, the Internet-to-GDP-per-capita ratio in Tajikistan was 48%, in Kyrgyzstan – 11%, in Uzbekistan – 10%, and in Kazakhstan – 1%. For comparison, in the Russian Federation, the level of the Internet-to-GDP-per-capita ratio is 0.09% and 0.02% in the United States (Digital Report, 2016). Currently, 25.7% of the population of Afghanistan has access to the Internet. The major problems of Internet users boil down to the high price and low quality of service (Afghanistan Today, 2018). With this problem being active, cyberbullying can reach only those segments of the population who can afford Internet service.

A crucial factor in the increase in cyberbullying is the rapid growth in children's access to the internet and other ICTs. A recent estimate suggests that one-third of internet users worldwide are below 18 years of age (Livingstone et al.: 2015; Mikhaylova & Alifirov: 2017, pp. 14-19; Gomes & Romão: 2016; Heydarian: 2018).

Advanced studies and statistical surveys cannot provide a spot-on prevalence of cyberbullying. It is partly related to inconsistent definitions, but also due to varied methodological approaches. Some studies ask their teen participants about any experience with cyberbullying, while others focus on "online youth" who experience specific types of high-tech harm within the previous 30 days. One published study found that 72% of youth have experienced cyberbullying, whereas other published research has put this number at less than 7% (Ybarra: 2004, pp. 247–257).

The majority of studies estimate that anywhere from 6% to 30% of teens have experienced some form of cyberbullying, while the number of youths who admit to cyberbullying others at some point in their life's ranges from about 4% to 20%. Of course, this means that 70–80% of youth have not been cyberbullied, and have not cyberbullied others.

In the countries of Central Asia, cultural values derive from Sunni Islam. In Afghanistan, Sunni Muslims historically live side-by-side with Shiite Muslims. Thus, to understand people of the Islamic world, Western people have to keep in mind a huge number of religious precepts and attitudes that have been dominating people of these countries for centuries. Through the prism of religion, cyberbullying falls under the following tenet of Islam contained in the Koran: the right to have one's honour and dignity of respected.

The tenets of Islam say that a person should never commit acts contrary to one's high position. A man should not insult, humiliate the honour and dignity of others, cast aspersions on them, make fun of people, and give them nicknames. Cyberbullying can take place on different grounds. According to UNESCO, the most common reasons are the appearance, gender, or sexual orientation, as well as ethnic and national attributes.

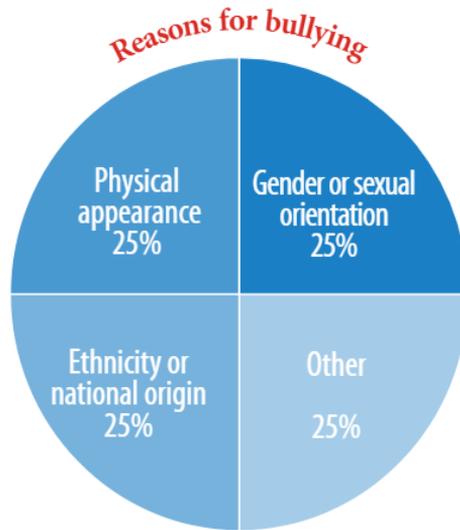


Figure 1. Reasons for bullying

There is no surprise in the fact that cyberbullying reached the countries of Central Asia. However, there are only a few reliable statistics due to an inaccurate understanding of the problem and the fear of children to admit that cyberbullying is real or that they were becoming victims of cyberbullying. Thus, in Kazakhstan, only one child out of 402 interviewed spoke about witnessing an act of cyberbullying at school. Only one child reported on being a victim.

Although these acts take place occurs in cyberspace, the problem should not be trivialized, as it does have real consequences. Although teachers and administrators recognize the problem of school bullying, few are aware that children are being harassed through electronic communication (Bernan & Li: 2005, pp. 36–51). Consequently, not all schools handle this new form of aggression properly (Strom & Strom: 2005, pp. 21-36).

Laws have always been necessary to maintain a certain level of public order and conformity with agreed norms of behavior. When the boundaries of this sphere expand, traditional methods of legal control are no longer applied. Instead, new laws, new ways of implementation, means of solving come in use.

On the background of newly emerging public relations, a new kind of deviant behavior, to be more precise, some regulatory issues need to be settled. These issues are surrounding the adoption of new legislation, the implementation of preventive measures, and punishment.

The purpose of this study is to define the legally relevant attributes of cyberbullying, which have been emerging recently on a global scale and spreading across the territory of Central Asian; to outline related risks to society and identify problems associated with legal regulation. This can be done by analyzing national legal acts and foreign anti-cyberbullying measures by identifying the main trends of cyberbullying to determine the most effective ways and means of dealing with it. This also calls for a thorough study of the world's undertakings against cyberbullying and their enshrinement in the legislations of various countries of Central Asia. The outlined aspects of political, socio-economic and ethno-cultural life of peoples of Central Asian directly affect the research matter. Thus, the antisocial side of cyberbullying behavior and its legal regulation are viewed within the socio-economic, scientific/technical, cultural, political and religious contexts.

## METHODS

This is a systemic analysis of the legislations of various countries of Central Asia, namely Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan, and Afghanistan. The objective is to identify the potential capacity of the legislation for the struggle with cyberbullying, which is gaining in strength, and to identify conflicts and gaps in the regulatory framework. To determine the degree to which this social phenomenon is attractive, this study analyses the latest statistical data on cyberbullying in middle and high schools.

Foreign methods for combating cyberbullying were studied on the latest data from research papers, statistics, foreign legislation and state programs, and anti-cyberbullying provisions. Because cyberbullying is a new issue to deal with, many questions were raised and left unanswered (Chibarro: 2007, pp. 65–68). For example, why schoolchildren and students play cyberbullying? What motivates them to commit such an act? Besides, this area of research also suffers from poor conceptualization of cyberbullying. To understand the nature of cyberbullying correctly, this study started with face-to-face bullying, which is more thoroughly described (Mason: 2008, pp.323-348).

This study involves criminological factors – patterns in cyber-based aggressive behavior, factors influencing cyberbully's development in childhood, cyber victimization, and the behavior of a cyberbullying victim. The relationship between the victim and the bully also came into the picture. Other factors that were considered are factors influencing cyberbullying exclusively in the countries of the Central Asian – culture, traditions, methods of upbringing and school climate.

Traditional bullying has been defined as the misuse of power acted on behalf of the aggressor to the target (Orpinas & Horne: 2006). This definition has been extended to cyber-attacks, which to provoke fear, distress, or hurt towards targets using communication technologies (Manson: 2008). Thus, cyberbullying can include hurtful and insulting and messages sent to the victim via email, cell phone, iPad, chat rooms, instant messaging, websites, blog pages, and personal social networking pages. Alongside text messages, cyberbullying can also include phone calls, photos and video clips (Aricak et al., 2008, pp. 253-261). Although the different types of cyberbullying:

- Flaming – a type of cyberbullying that occurs when individuals or groups become the target of angry and rude messages via electronic means (Hinduja & Patchin: 2014).
- Outing – sending or posting personal and private information that was meant to be kept secret and should not have been leaked online (Fauman: 2008, pp.780-781).
- Online harassment –repeated or persistent aggressive text messaging or emailing, which is directed at a specific target for the purpose of annoying or hurting someone (Hinduja & Patchin: 2014).
- Misinformation – spreading of untrue and damaging information about another through posts on web pages, slam books, emails, text messages (Fauman: 2008, pp.780-781).
- Identity theft – occurs when a perpetrator pretends to be another and hacks the password of the target's account and sends hurtful and harmful information (Fauman: 2008, pp.780-781).
- Sexting - the practice of sending sexual images such as nude or partially nude photos of the targets or themselves.
- Exclusion/ostracism – occur where a target can be blocked or deleted off a friends list, online group, or when friends purposely do not respond to text or email (Fauman: 2008, pp.780-781).
- Cyberstalking – takes harassment and involves repetitive threats, lurking, and intimidation.
- Happy slapping –occurs when perpetrators intentionally bully, hit, assault or make fun of their targets whilst being video recorded for the sole purpose of leaking the video on a public website and/or sending the video for others to view (Fauman: 2008, pp.780-781).

Various studies often link cyberbullying to the climate in the family and school. The attachment of adolescents to their parents, to some extent, prevents the behaviour associated with bullying. Adolescents, who are less attached to their parents, are more prone to do cyberbullying. Findings on the indifference of school students towards cyberbullying allow developing a sequence of steps to prevent bullying. The responsibility for other people and care can be essential factors in cyberbullying prevention, given its dependence on social morality. School offenders usually become aggressive adults, often convicted of various criminal offences. Cyberbullies have the opportunity to speak and do what they do not dare to say in person to the other party, disclaiming responsibility for actions committed by one of their online personalities. The lack of resistance contributes to criminalisation.

The fight against disparage on the Internet is moving in two directions. On the one hand, there are tools to block unwanted content (filters, censorship); panic buttons were installed on the social networking sites to get reports on the conflict. Moreover, one is able to customizable his/her account privacy settings. On the other hand, users are taught online safety tips and norms of Internet communication. Such methods must necessarily be in the core of the legal protection of cyberbullying victims. After all, the legislator is obliged to respond to the events of cyberbullying urgently before they led to consequences in the "real world."

Before discussing the necessary changes to-be-made in cyberbullying legislation, we have to acquire the state-of-the-art knowledge about the legislative frameworks in the countries of Central Asia and other parts of the world. The legislations of the countries of Central Asia do not regulate the issues at the level necessary. Throughout the legislative acts, you will not find any mention of the words "harassment," "school violence" and "bullying," not to mention cyberbullying. However, effective anti-bullying and anti-cyberbullying mechanisms were not provided. For misinformation, the punishment may be the one established in Article 40 of the Administrative Liability Code of the Republic of Uzbekistan for libel.

In Kazakhstan, libel falls under criminal liability, according to Article 130 of the Penal Code of the Republic of Kazakhstan. The act of imposing criminal liability upon an individual, who committed an act of cyberbullying for the first time, is cruel and inappropriate conduct. There is also another activity that is criminally punishable – an insult. Alongside the bad, there is good in the cyberbullying legislation. For example, Administration "K" of the Ministry of Internal Affairs (MIA) of Kazakhstan fights a wide range of crimes related to computer and Internet technologies: cyberbullying, production of counterfeit video disks, and dissemination of information conducive to extremism, terrorism, cruelty, and violence.

With the advent of new ways of abuse, sometimes referred to as hate speech and commitments intended to do psychological harm through modern communication technologies, preventive programs, and programs for combat need to embrace a broader spectrum of behaviour manifestations. In recent years, other countries have developed a number of programs aimed at combating cyberbullying. These programs include web-based projects (websites) oriented towards parents, adolescents, both victims and offenders, and teachers (Ahlfors: 2010, pp. 515-522).

Considering the lack of a term for cyberbullying in the legislations of countries of Central Asia, it is necessary to develop a specific policy to combat this antisocial phenomenon. First, special legislation is needed, with the concepts of "bullying" and "cyberbullying" defined. More details on the anti-cyberbullying measures are presented in the following Table.

**Table 1.** Anti-cyberbullying measures

| Direction<br>Against<br>Cyberbullying | Steps to Make  |
|---------------------------------------|--|
| <b>Prevention</b>                     | <ul style="list-style-type: none"> <li>✓ issue a state policy to stop bullying and cyberbullying;</li> <li>✓ carry out preventive measures at schools – conduct training sessions explaining the dangers of cyberbullying;</li> <li>✓ conduct periodic (anonymous) monitoring in schools – track the occurrence of cyberbullying cases;</li> <li>✓ make necessary changes in the education legislation.</li> </ul>   |
| <b>Counteraction</b>                  | <ul style="list-style-type: none"> <li>✓ create and implement a mechanism to stop school cyberbullies through the involvement of teachers, administration, a psychologist and parents of the victim and the bully;</li> <li>✓ talk with parents about the dangers of cyberbullying and the need to control children’s activity on the Internet;</li> <li>✓ establish special government and/or municipal bodies responsible for the fight against cyberbullying;</li> <li>✓ order Internet providers to block websites or individual pages that are engaged in cyberbullying.</li> </ul> |
| <b>Liability</b>                      | <ul style="list-style-type: none"> <li>✓ amend the legislation on administrative offences – define bullying and cyberbullying; establish liability for child’s actions associated with bullying and cyberbullying;</li> <li>✓ impose administrative liability of parents whose children are engaged in cyberbullying;</li> <li>✓ impose disciplinary liability of teachers and school staff (for specific cases only).</li> </ul>  |

Student training should be provided to confront cyberbullying by including student competencies which help youth recognize legal and personal consequences of cyberbullying, improve social problem-solving and anger management skills, encourage prosocial behaviour, and increase the ability to empathize with victims (Lund et al., 2012, pp. 246–265). Under the guidance of a school psychologist, teachers will be able to teach children how to work with younger peers and train them so that they can make the right decisions on the Internet from an early age. In so doing, they (the children) will play a crucial role in cyberbullying prevention.

## DISCUSSION

In Europe and the United States, this problem was recognized much earlier, so legislations there have enshrined some of the undertakings that are good. Cyberbullying is a critical public health concern in the United States and is broadly conceptualised as a digital version of peer-based aggression. Given that bullying is a public health concern, schools need to take action to reduce both cyberbullying and bullying inside and outside of school buildings. Schools that choose to seek legal action against students suspected of cyberbullying may face difficult legal battles. Vague court decisions and the changing environment of cyberbullying laws in different states often thwart schools’ obligations toward students’ safety (Hinduja & Patchin: 2014; Mailybaev et al: 2018).

Many states have enacted laws that address cyberbullying specifically. Notar and colleagues recommend that schools consult with trained lawyers to handle these cases, given students’ First

Amendment rights in the United States (Notar et al., 2013, pp. 133–145). Administrators are advised to proceed with caution when disciplining students for behaviour that may have occurred outside of class (Wong-Lo: 2009). Given this complexity, it is ideal to develop and implement clear pre-emptive policies and programs that aim at reducing cyberbullying (Willard: 2011; Alifirov et al., 2018, pp. 53-55).

There have been a variety of programs implemented in the United States: I-SAFE Internet Safety Program, Cyber Bullying: A Prevention Curriculum (Fauman: 2008, pp.780-781); Sticks and Stones: Cyberbullying (Wilson: 2007); The Second Step Violence Prevention Program. Schools implementing these programs need support through stricter cyberbullying legislation. Finally, educators need far more guides on talking with parents about the limiting screen time, parental control tools, talking to kids on security and privacy on the Internet, and about the necessity of open communication in cases when cyberbullying is evidently happening. Compelling is the fight against bullying and cyberbullying in Europe. The Threat Assessment of Bullying Behaviours among Youngsters (TABBY) Internet program was developed initially in 2010 and implemented in 2011–2013 in Italy and further four EU countries (Bulgaria, Greece, Cyprus, and Hungary) and was then undertaken in Spain, France, and Poland.

The program was developed on the basis of what was known in the scientific community with regard to the reduction of cyberbullying and increased awareness of cyber risks. The program has been developed and implemented thanks to the support of the European Union Daphne Security and Justice Program for the reduction of violence against women and children, and in some of the original countries (Italy, Spain, France, Hungary) it is still used as one of the existing intervention programs. The TABBY program has two components: (1) the material available for students and teachers; (2) the activities with teachers and students. With the TABBY intervention program: students are made aware of the risks of certain online behaviours; significant adults (e.g., teachers who interact with students) are themselves prepared to provide students with information about the risks associated with the Web world and how to avoid them; students are confronted with their own risk of involvement in cyber behaviour related to the (mis)use of online/cyber devices to communicate (Baldry et al., 2015, pp. 36–51).

More recently, a content analysis of anti-bullying policies in schools in Northern Ireland revealed that the majority of schools incorporate elements targeting cyberbullying (Purdy & Smith: 2016, pp. 281–295). Additionally, the 'Quality Circles' approach has been employed in schools in order to tackle the problem of cyberbullying (Paul et al. 2010, pp.157–168). In France, quite a few actions have been undertaken these last few years. A law penalising school bullying was voted in 2014, and cyberbullying is looked upon as an aggravating circumstance (Blaya & Fartoukh.: 2015, pp. 285–300). Such measures imply certain rules and behavioural constraints. Above all, they (measures) enable the formal recognition of children being (cyber) bullied as victims. The battle with cyberbullying is a matter of time. The results are not immediately noticeable.

## **CONCLUSION**

Cyberbullying is a hot-button issue that creeps into the countries of Central Asia. It may happen that this problem was there (in Central Asia) from the very start but become apparent only now. It is necessary to adopt and implement the positive European experience, to create a national or international (international will be even better) program to combat cyberbullying. This must be done, so victims were not afraid to talk when being cyberbullied. Building an online platform with interactive and informative media makes sense. Of course, it is very important to gather (cyber) bullying statistics, and this is exactly the thing, which is poorly developed in the countries of Central Asia. Implementing pilot programs, primarily in schools, with the involvement of teachers, management and psychologists is also a beneficial practice. Do not forget about the social climate, morality, culture and family institution. Remember that prevention is better than cure! A solution to the problem must be systematic and not rogue. To make it right, governments need to create a

long-term policy to eradicate the problem of cyberbullying step-by-step. States may actively help to stop cyberbullying by amending the legislation (defining administrative, criminal and education issues, as well as the rights of the child), by implementing international and national programs and by establishing new bodies authorized to deal with the issue.

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