

An Analysis of Cyber Violence from a Jurisprudential Perspective

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Abstract: In recent years, incidents of cyberbullying have become increasingly frequent. As a new form of violence, cyberbullying warrants thorough academic investigation. This paper begins with a discussion of a typical case—the Hangzhou woman who was falsely accused of having an affair with a courier while picking up a package—to explore the connotations of cyberbullying. Through the lens of jurisprudence, the paper analyzes the underlying legal issues associated with cyberbullying. It further examines the relationship between cyberbullying and two pairs of concepts: the right to freedom of online expression versus cyberbullying, and individual liberty versus public order. Based on this analysis, the paper proposes corresponding approaches to address the problem of cyberbullying.

1. Introduction

In recent years, the rapid development of the Internet has brought tremendous convenience to society. However, as one of its adverse effects, the number of cyberbullying incidents has also been continuously increasing. Cyberbullying not only causes severe physical and psychological harm to the individuals involved, but also poses a serious threat to social harmony and stability. It has ceased to be merely an online phenomenon and has become an urgent social issue that must be addressed through legal regulation.

2. Discussion of Cyberbullying Issues through a Typical Case

2.1. Case Summary

On July 7, 2020, during a visit to a courier service point to collect a package, Lang, with malicious intent, secretly used a mobile device to record Gu, who was waiting at the site. Lang deliberately included both Gu and the courier staff in the same frame, intentionally creating footage suitable for online dissemination. Subsequently, Lang uploaded the illegally recorded content to a specific social media group. In pursuit of online attention and economic gain, Lang, in collaboration with another individual, He, impersonated both Gu and the courier in fabricated online conversations, concocting false narratives and records of inappropriate interactions and virtual meetings. As the content spread online, the composite video and forged chat records underwent viral dissemination across multiple platforms. The sensitive nature of the topic attracted high levels

of user engagement and sharing, resulting in a comment section filled with a large volume of insulting remarks.

This incident directly caused severe psychological harm to Gu, who was diagnosed with depression by a professional medical institution. Gu's career development was hindered, ultimately leading to dismissal by her employer, resulting in both psychological trauma and tangible economic loss. Upon review, judicial authorities determined that the actions of the individuals involved constituted dual infringements: they not only directly violated the personal dignity and privacy rights of a specific individual, but also undermined public order and safety in cyberspace. This mode of harm, targeting unspecified members of society, essentially erodes the public's fundamental expectations regarding the protection of individual rights and meets the criminal law's criteria for "serious circumstances." Consequently, the authorities decided to initiate criminal proceedings against the responsible parties.

2.2. Key Points Analysis

The actions of the defendants, Lang and He, involved the large-scale dissemination of false information in cyberspace through the fabrication of sensational text and visual materials. The main characteristics of their conduct can be summarized as follows:

First, they preemptively shaped a negative image of the victim by using targeted language, and continuously reinforced this negative impression through forged conversation records and secretly recorded videos, thereby guiding unrelated internet users to draw conclusions in a predetermined direction.

Second, they exploited the public's moral perceptions to provoke emotional antagonism. In order to attract more online traffic, the perpetrators often deliberately catered to trending social topics or public sentiment, exaggerating and distorting facts by adding sensational elements.

Third, they habitually employed methods such as piecing together and altering information materials.

Fourth, they were adept at fabricating seemingly direct "evidence," such as chat logs and video clips, to enhance the credibility of the false content.

Such false information often results in moral denigration of the individual's character, distorting facts to incite netizens to judge others based on their own moral standards, which in turn leads to condemnation and abuse. In these circumstances, victims of cyberbullying are often unable to effectively refute the allegations and can only passively endure public pressure, while the perpetrators further escalate the situation by spreading false information and inciting others, ultimately deriving personal benefit from the incident.^[1]

3. The Connotation of Cyberbullying

There is not yet a unified consensus in academia regarding the definition of cyberbullying, but two mainstream perspectives prevail. On one hand, the "moral judgment theory" emphasizes the virtual nature of cyberspace, arguing that when netizens conduct moral criticism against specific targets in this non-physical public domain, such actions can be identified as cyberbullying. On the other hand, the "alienation of speech theory" focuses on the connection between the internet and real society, pointing out that the essence of cyberbullying lies in some netizens failing to fulfill their corresponding responsibilities while exercising freedom of speech, resulting in the alienation of originally legitimate expressive rights.

Both theories reveal the connotation of cyberbullying from different dimensions: the former highlights the special attributes of cyberspace and the moral behavior of netizens, while the latter analyzes the boundaries of online expression from the perspective of balancing rights and

responsibilities. Although their definitions differ, both recognize that cyberbullying possesses a reach and social impact that transcends physical space. ^[2]However, both theories focus on the substantive issues of "cyberspace" and pay insufficient attention to the study of "violence" itself.

In the author's view, the definition of cyberbullying should focus on the core elements of "violence," integrating the connotation of "violence" in the context of criminal law, and can be considered from five dimensions: intensity, depth of impact, target, attribute characteristics, and forms of manifestation. From an etymological perspective, the term "violence" contains both coercive and illegal attributes; its targets can be natural persons or other entities; the degree of violence can substantially infringe upon the personal freedom of the target; and the consequences of violence are directly related to the standards for conviction and sentencing in the criminal law system. These five elements interact to delineate the legal boundaries of violent behavior.

In connection with actual cyberbullying cases, we find that cyberbullying is mainly manifested by unspecified internet users who, dissatisfied with others' speech, opinions, or certain events, insult the victim, thereby achieving the effect of violent attacks in real life. When necessary, they may also engage in "human flesh search" to identify the victim's real identity and expose their privacy.

As Hobeer mentioned in "The Law of Primitive Man," "In any study of law, the ideal situation is that jurisprudence can create as many terms and concepts as possible, within certain limits."^[3]

Based on the above analysis, cyberbullying can be defined as:

In electronic cyberspace, unidentified individuals or groups, based on their self-imposed "moral standards" and "criteria of justice," subject specific events or persons to subjective judgment. When the results of such judgment do not meet their standards, these actors resort to verbal abuse, forced humiliation, malicious defamation, voyeurism, and the dissemination of privacy, causing victims to suffer psychological trauma, disruption of daily life, or other infringements of legitimate rights and interests through collective actions.

4. A Jurisprudential Perspective on Cyberbullying

4.1. Online Freedom of Speech and Cyberbullying

Mill once said in **On Liberty**: "The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race."^[4] This highlights the importance of freedom of speech. China's Constitution explicitly guarantees citizens the fundamental right to freedom of speech. As a special form of this right, online freedom of speech is of great significance. Under constitutional protection, citizens can fully exercise their right to free expression, play a supervisory role through public opinion, and promote the development of socialist democracy. The internet has broken traditional barriers, greatly expanding the space for citizens to express themselves and achieving a more equitable distribution of rights. Online freedom of speech refers to the right of citizens, within the boundaries of the law, to freely express their views and opinions via online platforms, without improper restraint or interference from others or organizations.

The internet creates an open, global space where people from diverse backgrounds interact. Differences in ethnic group, social systems, traditions, and gender contribute to the diversity of online perspectives. In cyberspace, it is normal for individuals or groups to disagree with others or with different viewpoints. Based on human rationality and universal human rights values, we should maintain a degree of tolerance and understanding toward such voices and avoid unwarranted intervention. However, in reality, not all online speech is well-considered. If online freedom of speech is abused without restraint, it will inevitably lead to the phenomenon of cyberbullying. It must be made clear that "the right to online freedom of speech" is by no means a shield for cyberbullying; any speech that crosses the line should be reasonably regulated. The root of cyberbullying lies in some netizens' failure to accurately grasp the boundaries of their own speech,

relying solely on personal prejudice and a so-called sense of naive justice to pass “vigilante” moral judgments on others.

4.2. The Relationship Between Personal Freedom and Public Order

According to the principle of value hierarchy, order is fundamental; it is the basis for realizing freedom, and the establishment of any law aims to maintain order. Therefore, in legal construction, it is necessary to reasonably balance the values of freedom and order.

With the rapid development of the internet, public order in cyberspace should be highly valued and must not be allowed to become a lawless zone. When exercising personal freedoms, one must not infringe upon the legitimate rights and interests of others and must also be subject to the constraints of public order. In cyberbullying incidents, users attack others through verbal violence, disrupting their real-life work and daily life—such behavior seriously violates public order.^[5] We should unify personal freedom and public order, rather than simply separating the two; both should be maintained in a dynamic balance.^[6] Cyberbullying is often characterized by an excessive emphasis on freedom and a disregard for order, disrupting the original dynamic balance between the two. The anonymity, inclusiveness, and openness of online platforms often result in freedom lacking necessary legal constraints. Therefore, strengthening order management on virtual platforms is particularly important. Numerous cyberbullying cases show that excessive advocacy of freedom can negatively impact both online order and real life. Overemphasis on the exercise of rights may also harm the legitimate interests of others. If this situation continues, online platforms will suffer severe damage from cyberbullying.^[7] Free expression is one way for individuals to realize their value, and it is common for netizens to express their views online. However, some may, for various reasons, arbitrarily disclose others’ privacy or even engage in “human flesh searches” and personal attacks. Such behavior, which infringes on others’ dignity and privacy, is illegal. Order without freedom is frightening, but freedom without order is even more harmful.

5. Jurisprudential Regulation of Cyberbullying

5.1. Introduction of the Right to Be Forgotten

The European Court, through the promulgation of the General Data Protection Regulation (GDPR), formally established the right to be forgotten in statutory law. This right allows data subjects to request data controllers to delete their personal data. The right to be forgotten originated from the “right to erasure” in the 1995 EU Data Protection Directive, was first explicitly proposed in the 2012 Data Protection Directive, and was finally established as EU law on May 25, 2018.

China’s Personal Information Protection Law, drawing on the legislative experience of the Civil Code and comparative law such as the GDPR, notably includes specific circumstances under which individuals can claim the right to deletion.^[8] The right to be forgotten is increasingly valued and deserves protection and regulation. There is ongoing academic debate about whether this right should be introduced, with some scholars arguing it may infringe on freedom of expression. However, the beneficiaries of the right to be forgotten are also those who exercise freedom of expression—no one can guarantee they will never be victims of cyberbullying. When subjected to cyberbullying, being able to request platforms to delete private information (such as that exposed through “doxxing”) can greatly reduce the negative impact and consequences of cyberbullying, providing stronger protection for personal privacy.

5.2. Reasonable Restrictions on Online Freedom of Expression

Freedom of expression does not mean one can express opinions without restraint; every freedom has its limits. Inevitably, the exercise of freedom of expression will sometimes conflict with the protection of privacy. In such cases, the principle of proportionality should be applied, balancing fairness in individual cases with the protection of public interests.

It is necessary to reasonably review information published by online self-media, such as popular short video bloggers with hundreds of thousands or even millions of followers, whose online statements have significant influence. If their false or misleading statements are not restricted, the impact on social values could be immense. Online media platforms should pay particular attention to regulating the speech of influential bloggers, reviewing their content to ensure legality and reasonableness, and preventing them from inciting “doxxing,” cyberbullying, or abuse. At the same time, these influencers should be encouraged to promote positive social values and guide correct public opinion.

5.3. Improving Relevant Legislation

Law is the cornerstone of national governance, and good laws are the prerequisite for good governance. Enacting laws related to real-name registration online can better control internet use and prevent cyberbullying. The “Regulations on the Management of Internet Post Comment Services” explicitly require websites to implement real-name registration, marking an important step in addressing cyberbullying.

When formulating and improving the legal system for online real-name registration, a dual mechanism of privacy protection and credit evaluation should be strengthened.^[9] This means using relevant technologies to encrypt the privacy of users on online platforms and software, protect the IP addresses of parties involved, strictly control access to information, and implement credit evaluations for those who frequently engage in online violence. Their number and content of posts should be reasonably limited, and their online behavior should be subject to certain restrictions.

6. Conclusion

The internet has become an indispensable part of people’s lives. Without proper governance, the negative effects of cyberbullying incidents will directly impact real life and inevitably disrupt social order. The state should attach great importance to the governance of cyberspace—not only as a necessary requirement for enhancing people’s well-being, but also as an essential step in building a socialist rule-of-law country. By improving the legal system for addressing cyberbullying, strengthening relevant governance and public awareness, and promoting academic research on related issues, we can work together to advance the effective management of cyberbullying.

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