Cyberbullying in the Digital Space: Between Risks of misuse and Protective Mechanisms

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Abstract :

Thanks to technological advances, we are able to connect with one another at an unprecedented speed and level of accuracy. However, these same advances have unleashed new forms of crime and methods of committing them. One such crime is cyberbullying, which poses a significant danger to the lives and wellbeing of young people and children. Perpetrators of cyberbullying use online platforms to mock, harm and exclude their victims, causing untold damage to their lives. Many victims feel trapped and helpless, suffering from anxiety and contemplating suicide.

It is therefore crucial to address this crime and understand its causes and impact, particularly in the absence of clear legal provisions with which to combat it.

Keywords : cyberbullying; digital space; protection; risks; mechanisms.

ملخص:

ان الانتشار الواسع للأنترنت رغم إيجابياته وما حققه في المجال التكنولوجي، الا أنه أسفر عن سلبيات عديدة أدت بالمقابل الى تطور أساليب ارتكاب الجريمة ، حيث ارتبط بالأنترنت جرائم عديدة من بينها جريمة التنمر الالكتروني، هذه الأخيرة التي شكلت تهديدا صارخا لحياة الشاب والأطفال على حد سواء، سواء عن طريق السخرية منهم وايذائهم واقصائهم الكترونيا، مما أثر عليهم سلبا فأصبح معظمهم حبيس بيته تراوده الهواجس تارة، ويفكر في الانتحار تارة أخرى.

لذلك كان لابد من تسليط الضوء على هذه الجريمة للوقوف على أسبابها وأبعادها المختلفة على الشباب و الأطفال خاصة في ظل غياب نص قانوني واضح لمواجهتها.

الكلمات المفتاحية: التنمر الالكتروني؛ الفضاء الرقمي؛ الحماية؛ المخاطر ؛اليات.

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Introduction:

The technological advancements have made significant progress in many fields, leading to a qualitative leap in the digital field and the digitization of all aspecof life. This has brought about broad dissemination of electronic media ranging from smartphones to internet networks and laptops, among others, causing people to become addicted to them and to social media and other forms of communication.

Although technological advancements have brought about many benefits, they have also contributed to numerous drawbacks which pose a significant threat to an individual's privacy, as well as the overall stability of society. This threat is especially alarming towards young people and children, as evidenced by the impact of electronic games such as Blue Whale, which have caused the death of several children. Children play these electronic games unsupervised, leading to the development of various risks that still exist in the online space- cyberbullying being one of them. This issue poses a serious threat to the psychological and mental wellbeing of children. Cyberbullying crimes are challenging to solve as the perpetrators remain unidentified and the victims unsupported. This research aims to address the following question: How has the legal protection against cyberbullying been established by Algerian legislature?

Under this primary concern, the following subsidiary questions arise:

- What constitutes the act of cyberbullying as a criminal offense? What are the various types of bullying that are commonly experienced by children and youth?

- What protective measures has the legislature put in place to prevent this crime?

To address these questions, we rely on a descriptive and analytical methodology to analyze some legal texts covered in the research paper. The aim of this study is to highlight the crime of cyberbullying, its forms, and how different or similar it is to traditional bullying, as well as to understand its impact on victims.

To answer this question, this research is divided into two parts: the first part deals with the nature of cyberbullying and its various forms, while the second part focuses on the dimensions of cyberbullying and its methods of prevention and intervention.

First Part: Nature of Cyberbullying and its Forms

As a result of the widespread use of digital space and the features that it offers, and as our real lives become increasingly linked to the digital world, threats have increased and the circle of those who are susceptible to bullying has expanded, both among young people and children. This has led to the emergence of many cyber crimes, including cyberbullying. In order to understand the nature of cyberbullying, we must first clarify certain concepts. Since traditional bullying exists, we must understand the nature of bullying and the factors that drive a person to bully others, before we can address the forms of cyberbullying. This will be further explained below.

First Chapter : Nature of Cyberbullying Crime:

In this chapter, we establish the nature of bullying, then the nature of cyberbullying and its definition in various legal contexts. We clarify whether Algerian legislature has included this crime in its laws or not. This is achieved through two sections: the first section titled "Definition of Cyberstalking" and the second section titled "Factors of Cyberbullying."

First Section : Definition of Bullying and Cyberbullying:

This section outlines the general definition of bullying, followed by the definition of cyberbullying, exploring the following key elements :

Firstly: Definition of Bullying

Bullying is a behavior that has been present from ancient times. Its inception, however, has been closely associated with school students, where an environment conducive to various forms of bullying behavior between students exists. Bullying is understood as causing harm to a person intentionally, either physically, psychologically, or emotionally, and it may also involve attempts to humiliate or mock the victim. However, these harassment acts must occur repeatedly over time.[1]

According to Norwegian researcher Dan Olweus, bullying is " the repeated negative action directed against one or more persons over time," where negative action is defined as "intentionally inflicting bodily harm or disturbing another person's sense of peace through physical contact, words, or other methods."[2]

Bullying is an intentional aggressive behavior with the aim of using persistent violence against individuals who are unable to defend themselves, taking advantage of this vulnerability to exclude them and violate their privacy or reputation[3].

Studies have shown that bullying differs depending on the age groups involved, and is typically exercised by an older age group who aggresses against a weaker group. Bullying can only exist in cases where an imbalance of power and energy are present[4], and this sort of bullying is often carried out through pushing or scowling at the victim, or even through teasing that is taken advantage of by a bullying teenager or child, as long as it is repeated and with malicious intent, since the objective is not to engage in harmless teasing as friends, but rather to cause distress and discomfort to the other party[5].

On the other hand, cyberbullying is a form of bullying that is carried out through digital media, and we will now cover some of the most significant definitions related to it.

Secondly : Definition of Cyberbullying

Cyberbullying entails several terms, such as electronic harassment, online thuggery, internet aggression, and more, all of which are synonyms and convey similar meanings. However, it is challenging to provide a precise definition of cyberbullying, though one of the most prominent definitions is as follows: "remote or distant harassment and stalking through electronic means by a cyberbully, with the intention of creating a psychological environment of threat and anxiety for the victim."[6]

Similarly, cyberbullying can be defined as "deliberate aggressive behavior undertaken by an individual or a group of individuals using electronic communication means repeatedly against a victim who lacks the resources to self-defend as easily."[7]

Cyberbullying is more harmful than traditional bullying, if any, as it constitutes long-lasting aggression that puts the victim's safety at risk, and its detrimental effects are challenging to identify[8].

While cyberbullying does not happen face-to-face, like traditional bullying, it shares a similar menacing nature in the sense that it is aggressive behavior meant to harm the victim, and it's intentional. Furthermore, one cannot rely on power imbalances between both parties, considering

that cyberbullying can mask the identity of the bully and effectively negate any imbalance of power, especially when the cyberbully is unknown to the victim[9].

It is clear that cyberbullying is no different from traditional bullying in that both involve the purposeful practice of aggression or ridicule against those who are weaker, whether it be due to psychological, physical, or health-related factors, and the intent of their behavior is to exclude the person. However, the difference lies in the use of these methods through various electronic communication means.

In terms of law, some laws have established a definition of the crime of bullying, including French and Egyptian legislation. The French legislator, for instance, defined bullying or what is commonly referred to as moral harassment, in Article 2-33-222 as "annoying others through repeated acts or speech whose aim or result is the deterioration of working conditions that could infringe upon their rights and dignity, or adversely affect their physical or mental health or endanger their professional future." This definition has been criticized as it is somewhat broad in terms of its concept,... To qualify as moral harassment under French legislation, actions must be repeated, in spite of whether it is traditional or electronic."[10]

Bullying, in the eyes of the Egyptian Legislature, is a form of showcasing power or a desire to establish control over individuals with the purpose of frightening or reducing their value. This is often done by taking advantage of people's weaknesses, whether it be in their health, personality, or even social status. This is clearly evident in Article 309 (b) of Law No. 189 of 2020[11].

On the other hand, the Algerian legislature, like other legislations, has not addressed the crime of bullying, and in the absence of a clear legal provision and the legal vacuum that Algerian legislation suffers from in this area, there is hardly any way to include this crime. Therefore, it is considered a crime without clear evidence, as lawyer Samia Khalouf explained to El-Chorouk newspaper, and in most cases, this crime is included in the offenses related to the Internet, within Articles 394 bis to 394 bis 7 of the Penal Code under the seventh section entitled "Prejudicing Data Processing Systems."[12]

Practically speaking, such cases are not typically brought before the courts under the banner of electronic or virtual harassment. Instead, such matters are classified as threats, blackmail, defamation, or invasion of privacy[13]. This labeling can be attributed to the Algerian societal viewpoint that regards such issues as highly offensive and harmful to the victim's psychological and physical well-being, as well as their families.

In the researcher's opinion, this complexity makes obtaining accurate statistics and data on the number of victims of the crime challenging. It also makes instituting proper preventative measures and combating the crime itself more difficult. Furthermore, it is necessary to outlaw this act explicitly by the Algerian legislature.

Second Section: Cyberbullying Factors

There are various factors that may push an individual to cyberbully their peers, including psychological, social, or familial factors, which will be further elaborated upon in the following sections.

Firstly: Psychological Factors

Bullies are known for being aggressive, controlling, and overpowering towards others[14]. A significant psychological factor that fuels cyberbullying is a sense of jealousy towards others and

their accomplishments. Moreover, a bully may target others to seek revenge against society due to poor treatment they have experienced in their environment[15].

Secondly: Familial Factors

Familial motivations and the social setting in which a bully was brought up may cause them to resort to cyberbullying. Since a person's upbringing and family environment greatly shape their psychology, family conflicts, instability, family violence, and family breakdown may serve as significant driving strong motivators behind bullying behavior.

Additionally, feeling neglected by family members may prompt an individual to engage in cyberbullying and utilize social media and the internet as their only means of communication[16].

Thirdly: Social Factors

Bullying creates an individual's status among their peers as someone who is distinguished by their power, particularly as bullying, as mentioned earlier, is a practice carried out by an individual who is more powerful than another. By bullying their peers, the individual represents power to them and becomes a means for achieving their aggressive purposes.[17]

Second Chapter : Forms of Cyberbullying and the Methods Utilized

Cyberbullying takes different types, which are somewhat different from traditional bullying, so we will address the forms of electronic bullying and means that bullies use to carry out their crimes, through the following sections:

First Section : Forms of Cyberbullying

Cyberbullying takes numerous types, some of which are stated below:

Firstly: Verbal Bullying and Disrespect in Digital Space

It involves insulting a person with inappropriate language, usually unrelated to them, and disseminating them widely to others by putting up harmful posts on website or electronic means of communication. The aim is to damage the person's reputation and destroy their relationships with others[18].

The bully may also employ hurtful and degrading language, abusive terms, and insults to belittle and spread hatred towards the victim[19].

Secondly: Sharing Negative Content Electronically and Exposing the Victim's Secrets

Sharing insulting content about a certain group or revealing people's confidential information by posting it online is a form of cyberbullying, regardless of whether it is through tweets on Facebook or Twitter or any other means. Online content creators aim to target individuals or groups of people to harm them[20], and by exposing the victim through the disclosure of their secrets or sharing their photos, or by distributing conversations without permission, they may even exchange their private information[21].

Thirdly: Electronic Exclusion

This occurs through an individual's social media account and the internet, where the perpetrator urges others to harass and exclude the victim electronically without valid justification. This is a form of victimization, harassment, and exerting power over someone[22], where the perpetrator may even impersonate the victim and take control of their personal account to send abusive posts and damage their reputation among others[23].

Second Section : Cyberbullying Means

Cyberbullying takes place through electronic means, with perpetrators using several means, which we will outline below:

Firstly: Online Chat Rooms

As young people, teenagers, and children often frequent cybercafes to chat with others and engage in conversations through chat rooms, bullies take advantage of these platforms to carefully target their victims, by luring them, stealing their data, and instilling fear through threatening messages, especially in the absence of control over these conversations[24].

Secondly : SMS Messages or Emails

In addition to chat rooms, bullies exploit communication channels to commit their crimes, specifically through SMS messages or emails. They gain access to the victim's account, trapping them in the bully's control, preventing them from escaping due to the bully's monitoring of their account, posts, and other activities. The victim may be threatened, intimidated, or humiliated[25].

Thirdly : Videos and Images

This is done through hacking the account of a young person or child victim and exploiting their images on the internet to bully them. This involves the use of their photos or videos circulated on pornographic websites, which falls under the sexual exploitation of children online. Alternatively, the victim may become the subject of ridicule and bullying, with the content being shared publicly[26]. This is typically carried out by strangers to the child, with their intention being criminal, such as exploiting the child, stealing their information, or engaging in sexual exploitation[27].

Second Part: Dimensions of Cyberbullying on the Victim and Ways of Confrontation

Bullying can have numerous psychological and social consequences for children, and various studies have confirmed this fact. Therefore, researchers and academics must develop effective ways to confront this problem, whether through preventive or deterrent methods. This part will examine two key chapters: firstly, we will discuss the most significant consequences of bullying, especially for children and young people, and secondly, we will explore the ways of confrontation.

First Chapter : Consequences of Bullying on the Victim

Bullying can have several negative consequences on the social, psychological, and educational aspects of a child's life. The following are some of the most common:

First Section : Consequences of Cyberbullying on the Victim's Life

Bullying can have a variety of negative consequences on the lives of those victimized by it. We will outline some of these consequences below:

Firstly: Consideration of Suicide or Suicide Ideation

Research has confirmed that many bullying victims, particularly children and teenagers, may experience thoughts of suicide or engage in suicidal behavior. CDC statistics have shown that the majority of the 4400 suicide cases in the United States were among young people and children. A British study indicates that at least 50% of suicide cases are related to bullying, and girls aged between 10 and 14 are typically targeted. According to ABC News, up to 30% of children either experience acts of bullying or are bullies themselves[28].

Secondly: Perpetration of violence on Others

Studies have found that victims of bullying, whether via traditional or online platforms, feel discouraged and are more likely to join groups of bullies[29].

Second Section : Effects on the victim's psyche and behavior

Bullying also has consequences on the victim's psychological well-being, particularly for children, as it affects the development of a sound psyche. This is manifested in negative ways, such as:

Firstly: The onset of psychological disorders:

No one can deny the impact that bullying leaves on the victim, impacting their mental state. They begin to suffer from disorders, anxiety, and a diminished sense of security. Consequently, these aspects are reflected in their future choices and behaviors[30].

With many of them now preferring to stay at home due to the fear of being bullied, the consequence has been a decline in their academic achievement and even dropping out of school. This is because it is very hard to get rid of bullying, particularly cyberbullying, since it occurs out of sight of parents and teachers, making it hard to detect. A child who experiences cyber threats and intimidation is often neglected by parents, and as such, it is challenging to understand their suffering. Moreover, it is not easy for the child to erase electronic records of the bullying or prevent its distribution, unlike in the case of traditional bullying.

Secondly: Loss of Trust in Others

Bullying victims, including youth and children, lose trust in people around them, and the situation becomes worse if they are bullied by individuals they know or from their own community. This makes them think about suicide as they feel insecure[31].

Second Chapter : Mechanisms for Confronting Cyberbullying

Although bullying statistics in Algeria are low compared to Western countries and some Arab countries, this does not hide the fact that it is still a significant issue that requires attention in Algeria. There are harmful effects of bullying on teenagers and children. According to statistics, 51% of those exposed to bullying see cyberbullying as more dangerous than traditional bullying, and 38% of them do not inform their parents when they confront bullying. For this reason, it is necessary to establish mechanisms in order to address this crime, especially since there is no explicit legislative text that punishes bullying.

As a result, we will be talking about preventive mechanisms in the first section and deterrent mechanisms in the second section.

First Section : Preventative Mechanisms for Combating Cyberbullying:

In an effort to combat the crime of cyberbullying, various preventative mechanisms can be taken. One mechanism is the use of social institutions, such as families and schools, as effective tools in prevention. Another crucial factor is the role of the media in raising awareness of the dangers of this crime, in addition to the role of civil society.

Outlined below is the family's role in raising awareness and preventing cyberbullying:

Firstly: Role of the Family in Raising Awareness of and Preventing Cyberbullying

The family plays a vital role in the healthy upbringing of children and adolescents. Parents must supervise their children's online activity, alert them to the dangers of electronic devices, and instill

self-confidence in them[32]. It's important to educate children that cyberbullying is not their fault and encourage them to report any incidents so that parents can provide timely assistance if necessary[33].

- Parents must also be educated about the internet and its risks, as well as the nature and dangers of bullying on their children and other loved ones, so that they can take the necessary steps to protect their children from it[34.].

Secondly : Role of the Media and Civil Society in Reducing Cyberbullying:

To confront bullying before it permeates - society, all community members and groups must come together to confront it. The community and media have a prominent role to play in the fight against such crimes, especially after the legislature has recognized and supported their role in countering these crimes. Among the measures that can be taken to confront bullying are:

- Conducting sensitization and awareness-raising campaigns for children and adolescents about the dangers of the internet and bullying and ways to prevent them.
- Taking measures to reduce the motives behind bullying and provide alternatives to aggressive and destructive behavior, such as by developing recreational and educational facilities...etc[35].

Thirdly: The actions that need to be taken to prevent bullying : There are several ways parents should learn and instruct their children about in case they are victims of bullying, including:

- Not responding to suspicious or provocative messages, nor continuing to respond to or threaten the bully, as this might cause them to persist in their behaviors, and potentially create a legal case against the victim if they retaliate with insults or verbal abuse.
- Preserving electronic evidence, especially emails and other electronic messages.
- Educating children and teenagers on how to remove a bully from their friends' list and chat rooms, and encouraging them to report the incident to social media management or the electronic crimes police[36].

Second Section : Deterrent mechanisms for combating cyberbullying

Since bullying is considered an extraneous crime in Algeria, there is no explicit legislative text that criminalizes it, and it is defined as a crime without evidence, as stated by lawyer Samia Makhlouf in a statement to Echourouk. As a result of this legal vacuum, the Algerian legislature has resorted to using punitive legal mechanisms by including bullying as a form of slander or libel practiced through electronic means. At times, operational mechanisms have also been introduced to combat it, which will be discussed in the following elements :

First: Legal mechanisms for combatting cyberbullying:

Since cyberbullying is not clearly defined by the legislator, there is a legal void in Algerian law to address this crime. Therefore, the Algerian legislature, at times, includes it in the crimes of defamation or libel that are committed through electronic means[37]. According to a lawyer, the legislature has introduced a section called "Prejudicing Automatic Data Processing Systems" in the Penal Code. This is covered in articles 394-394-7 and carries a punishment of imprisonment ranging from three (3) months to one year and a fine of 50,000 DZD to 100,000 DZD for anyone who enters or remains through cheating in all or part of a data processing system or attempts to do so.

Furthermore, the penalty is doubled if such an act causes the deletion or alteration of data from the system.

In case the aforementioned actions cause a disruption in the working system of the mechanism, the penalty would constitute of imprisonment from six (6) months up to two (2) years as well as a fine ranging from 50,000 DZD to 150,000 DZD[38].

This article has become a virtual reference for judges as it is included in the new forms of cyberbullying crimes[39].

It should be noted that the Algerian legislature does not have a clear and explicit legislative text that punishes cyberbullying. Rather, it is considered part of other electronic crimes. This raises the question of violating the principle of legality, especially since interpretation in criminal law is extremely narrow and the judge does not have the right to make analogies.

Secondly: The Newly Established Mechanisms to Combat Cyberbullying:

As part of the protection of children in the digital space, the Algerian Ministry of Posta and Telecommunications has generated a practical guide, which was jointly created with several ministries including Defense, Interior, Religious Affairs, National Education, Communication, Youth, National Solidarity, the National Body for Child Protection and Promotion, and National Security. Incepted on July 15th, 2020, this initiative endeavors to protect children, promote awareness of the potential dangers, clarify the actions that need to be taken for protection, as well as empower children to make optimal use of the internet. It describes how children and adolescents should be handled and educated on the risks of the internet[40], and is complemented by the toll-free line 11-11, which is available to address any concerns related to children[41]. It is hoped that these efforts will be expanded to protect young individuals and minors from this criminal activity.

Conclusion

At the end of this research paper, it has been found that the crime of cyberbullying has become a widespread crime in societies, posing a threat to individuals' private lives, especially children and teenagers, particularly in the absence of explicit legislative text to punish it. Among the results that have been reached are the following:

The technological development in the field of informatics, despite its undeniable benefits in terms of speed and accuracy, is not free from negatives, some of which pose a real danger to individuals and children, especially if it is misused and exploited.

The legal and legislative vacuum and the absence of explicit text that criminalize bullying have led to the need to apply the criminal texts related to electronic crimes, such as violating personal data, which makes it difficult to pinpoint the causes of this crime on the one hand, and to achieve sufficient deterrence on the other hand.

The lack of awareness among individuals about how to deal with electronic crimes, or how to confront them, whether by children or their parents.

The absence of a reporting culture regarding online threats and harassment has exacerbated the issue of cyberbullying. This can be attributed to the nature of Algerian society and the fear individuals have of how this society views victims of such crimes.

Recommendations:

A specific and explicit text should be created regarding cyberbullying committed against individuals, and penalties should be tightened if a child is a victim.

The electronic platform developed for securing children against internet risks should be activated.

Seminars and research should take place around internet perils and electronic crimes, and particularly cyberbullying, which poses a significant threat to children's mental and psychological health.

Practical and technical mechanisms must be put in place to prevent cyberbullying, instead of relying on traditional methods that are becoming less and less effective in the confrontation of modern-day electronic crimes.

Parents and children alike must receive training on electronic communication and how best to handle cyber threats and instances of blackmail. In addition to this, practical preventative measures should be introduced to prevent harm and protect against these criminals.

Encouraging children and adolescents to report bullying so that they can be taken care of and the bullies can be stopped.

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