

From Screens to Statutes: Comparative Study on the Regulation of Cyberbullying through the Criminal Law of China and Cybercrime Act of Guyana

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Abstract

Cyberbullying has emerged as a major concern in today's digital era and is often classified as a type of cybercrime. It jeopardises digital spaces, contemporary societies, and legal systems. This review compares the legal frameworks governing cyberbullying in China and Guyana, with particular focus on how China's Criminal Law and Guyana's Cybercrime Act address the phenomenon. While neither country has enacted laws that specifically criminalise cyberbullying, both use general legal provisions related to defamation, harassment, privacy protection, coercion, intimidation, and humiliation. The review suggests that China adopt a unified cybercrime law that explicitly criminalises cyberbullying, while Guyana incorporates clear and targeted provisions to address this offence. In doing so, the paper contributes to the ongoing legal discourse on cyberbullying by offering recommendations for reform aimed at strengthening the regulatory frameworks in both countries.

Keywords

Cybercrime, Criminal Law, Cyberbullying, China, Guyana, Comparative Analysis

1. Introduction

Cyberbullying has emerged as a significant concern in today's digital era and is often classified as a type of cybercrime. Digital platforms such as social media enable perpetrators to target a wider audience of victims (Curtis & Oxburgh, 2022; Wall, 2013), while simultaneously reducing the barriers to committing such acts,

whether in terms of cost or technical expertise (Curtis & Oxburgh, 2022; Sood & Enbody, 2013; Wall, 2013).

Similar patterns are evident in cyberbullying cases, where the widespread use of the internet, social media, and digital communication platforms has contributed to the global rise in cyberbullying incidents (Lu et al., 2022). Cyberbullying negatively impacts communities by triggering a range of physical, psychological, and behavioural challenges for victims. These include anxiety, depression, psychological distress, frustration, violence, unhappiness, suicidal tendencies, inferiority complex, embarrassment, self-harming attitudes, and a desire for revenge (Kowalski & Limber, 2013; López-Meneses et al., 2020; Schneider et al., 2012; Shahzad et al., 2024). It fosters social isolation, weakening bonds within schools, workplaces, and communities. Furthermore, it contributes to lower academic and job performance, affecting educational and economic outcomes (Cowie, 2013; López-Meneses et al., 2020).

Particularly in East Asian societies such as China, the influence of cyberbullying is profound and shaped by specific sociocultural factors (Park et al., 2021). Cyberbullying negatively impacts on adolescents' mental health, leading to psychological issues like depression, stress, and isolation. Paradoxically, societal collectivist values—maintaining group harmony and avoiding conflict—may foster a greater tolerance for cyberbullying behaviours. Adolescents in this region are less likely to report bullying due to societal pressure to conform and avoid disrupting social harmony. Additionally, academic pressure, parent-child relationship dynamics, and regional disparities, such as urban-rural divides in digital literacy, also shape cyberbullying behaviour and its impact on local society. Effectively addressing cyberbullying therefore demands culturally sensitive approaches that consider these values, while promoting reporting mechanisms and resilience-building within a framework that aligns with the local context (Park et al., 2021).

In Caribbean societies such as Guyana, cyberbullying is an increasingly visible concern (Bynoe, 2024; Linares, 2023), particularly among adolescents and young adults. It adversely affects their mental health, educational engagement, and community well-being. The widespread use of smartphones and social media among young people has enabled both positive and harmful online interactions, with bullying being a significant issue. The anonymity afforded by digital platforms enables perpetrators to engage in bullying behaviour with little fear of immediate consequences, making cyberbullying increasingly difficult to regulate and address in Guyana (Burke, 2017). Schools and community leaders have started advocating for measures like counselling support and education on cyberbullying. However, efforts are ongoing to develop a more robust support infrastructure to effectively protect young people from the psychological harm associated with cyberbullying (Bynoe, 2024).

Despite local efforts to address cyberbullying in China and Guyana, this issue remains a complex global phenomenon without a universally agreed-upon legal definition. Cyberbullying is often described as “an aggressive, intentional act or

behaviour carried out by a group or individual using electronic forms of contact, repeatedly and over time, against a victim who cannot easily defend themselves” (Krešić Ćorić & Kaštelan, 2020; Moreno, 2014; Smith et al., 2013). Although recognised as a complex social issue with diverse meanings, it remains a non-legal concept (Liu & Zhou, 2023) in jurisdictions such as China and Guyana, where there are no specific legal provisions labeled as a “cyber-bullying” or “anti-cyber-bullying” law. However, existing laws in both countries, including those addressing cyber defamation and violations of personal privacy, can be applied to prosecute behaviours associated with cyberbullying. Cyberbullying can take many forms, such as assisted cyber suicide, grieving, cyber-mobbing, defamation, flaming, harassment, cyberstalking, exclusion or ostracism, impersonation or masquerading, catfishing, trolling, frapping, sexting, and outing or trickery (Azimov et al., 2021; El Asam & Samara, 2016; Ilin, 2022; Khudhair, 2021; Xu & Trzaskawka, 2021). These forms of cyberbullying can be carried out through email, instant messaging, text messaging, and social networking platforms like Facebook and Instagram, among other websites (Peebles, 2014).

Cyberbullying has gained national attention in China due to several high-profile cases highlighting the severe consequences of online harassment (Feng, 2023; Patel, 2021; Ting & Shamsul, 2022; Wu, 2023b; Zhang, 2023, 2024). Notable examples include a woman from Shanghai who committed suicide due to cyberbullying (Wu, 2023b), and COVID-19 patients, especially those labeled as “super-spreaders,” who faced aggressive online harassment after being exposed by the media (Patel, 2021; Ting & Shamsul, 2022). Another case involves Dr. An from Deyang, Sichuan, who took her own life after a “human flesh search”; Tang from Huizhou, Guangdong, who attempted suicide twice after being accused of “faking death for attention”; Xuezhou Liu, who endured thousands of malicious comments while searching for his family; a mother in the “Wuhan Campus Crush Case” who succumbed to cyberbullying; Zheng Linghua, a postgraduate from Hangzhou, Zhejiang, who became depressed and committed suicide after being bullied for dyeing her hair pink; and the internet celebrity “Guanguan,” who ended her life after half a year of relentless online bullying (Zhang, 2024). Despite the rise in such incidents, China’s legal system addresses cyberbullying through existing provisions in the Criminal Law, Civil Code, Public Security Administration Penalties Law, and Cybersecurity Law rather than through specific legislation targeting this issue (Li, 2024).

Similarly, in Guyana, several incidents of cyberbullying have been reported. A woman was charged for the misuse of a telecommunication system after allegedly bullying a friend through a fake account on social media (Guyana Times, 2019). A woman from East Bank Demerara reported being cyberbullied; she received death threats and was stalked, prompting her to seek legal action (Guyana Times, 2017). In the “Mudwata” case, a popular social media personality known for creating controversial and often defamatory content targeting various public figures, was found guilty of using a computer to embarrass and humiliate local journalist

Leroy Smith (*Guyana Chronicle*, 2024). There have also been reports of teachers being cyberbullied during online classes (*HGPTV*, 2020). However, like China, Guyana lacks explicit cyberbullying laws, and prosecutions are typically carried out under more general provisions within the Cybercrime Act of 2018.

Although there is an increase in reported cyberbullying incidents in China and Guyana, academic research on the legal regulation of cyberbullying in Guyana is limited. Most scholarly articles discuss cyberbullying in the context of academic performance, intimate partner violence, suicidal ideation, and other topics related to education and psychology (Cummings, 2024; Fraser et al., 2018; Kuldip, 2024; Shako, 2020). In contrast, China has a substantial body of scholarly work on cyberbullying, with scholars exploring various legal aspects, including existing administrative and civil anti-cyberbullying laws for juveniles (Aini, 2019; Almenayes, 2017; Huang, 2015; Lin, 2018; Liu, 2018; Peng, 2024; Ruan, 2024; Sun et al., 2022; Wang & Sha, 2024; Wei, 2021; Wu, 2023a, 2023b; Zhang, 2021). However, there is insufficient research on the criminal regulation of cyberbullying in China. Furthermore, to the researcher's knowledge, there is no comparative analysis of laws regulating cyberbullying in China and Caribbean states such as Guyana.

Therefore, this review compares how China's criminal law and Guyana's Cybercrime Act can be applied to prosecute cyberbullying cases. By examining the differences and similarities in how cyberbullying is treated within these two jurisdictions, this research aims to provide recommendations for legal reforms that could enhance victim protection and improve the effectiveness of existing legal frameworks.

1.1. Scope of Research

Cyberbullying is not explicitly characterised as a criminal offence in China and Guyana. However, the courts in both countries have applied existing laws to prosecute some forms of cyberbullying. Given this judicial practice, the study compares how cyberbullying is addressed under China's Criminal Law and Guyana's Criminal and Cybercrime Act. This analysis focuses on laws for both adults and minors.

1.2. Why China & Guyana

Even though China and Guyana have different legal systems, cultures, and technological advancements, studying their approaches to regulating cyberbullying through criminal law can provide insight into how these nations address various forms of cyberbullying and foster cross-jurisdictional learning. Furthermore, the research outcomes might stimulate partnerships between these countries to address cyberbullying. The foundation for this partnership was established when China organized the Third Ministers' Meeting of the China-CELAC (China and the Community of Latin American and Caribbean States) Forum on December 3, 2021, with Guyana represented as a member of CELAC. During this forum, CELAC Member States collectively endorsed adopting the China-CELAC Joint Action Plan for Cooperation in Key Areas (2022-2024) through equitable consulta-

tions. Notably, one of the critical areas of emphasis was political and security cooperation, with Member States expressing consensus on specific agreements within this domain. Among other things, the Member States agreed to the following:

“Promote dialogue for cooperation, implement, and develop norms and rules for cyberspace to tackle the misuse of information and communication technology (ICT) to incite and commit acts of terrorism. Improve legal assistance mechanisms for cybercrime, actively participate in negotiations to develop a U.N. convention on countering the use of information and communication technologies for criminal purposes, and safeguard peace and security in cyberspace. We highlight the Global Initiative on Data Security presented by China” (Ministry of Foreign Affairs, The People’s Republic of China, 2021).

1.3. The Concept of Cyberbullying

Cyberbullying originates from traditional bullying, but the two concepts differ significantly. The most obvious distinction is that cyberbullying occurs through electronic means (Tran et al., 2018). It is a broad term that encompasses concepts, such as “online bullying”, “cyber aggression”, “cyber violence”, “electronic aggression”, and “Internet harassment” (Grover & Raju, 2023). A key characteristic that distinguish cyberbullying from traditional bullying is that perpetrators are usually both covert and anonymous (Ansary, 2020; Shariff & Johnny, 2007; Tran et al., 2018). Unlike traditional bullying, technology enables cyberbullies to conceal their identities using screen names or anonymous profiles, which complicates efforts to identify them (Shariff & Johnny, 2007; Tran et al., 2018).

Another defining feature of cyberbullying is that it is an aggressive, relentless act intended to harm the victim (Soni & Singh, 2018; Tran et al., 2018). Similar to traditional bullying, the perpetrator acts with the intent to inflict psychological or emotional damage on the target. This intent to harm is often regarded as a vital element in the definition of cyberbullying, distinguishing it from other forms of online violence (Krešić Ćorić & Kaštelan, 2020; Tran et al., 2018).

Further, emerging research describes cyberbullying as a persistent and continuous phenomenon rather than isolated events, with the unique ability to reach victims anytime and anywhere (Ansary, 2020; Shariff & Johnny, 2007; Tran et al., 2018). This persistent nature makes it difficult or even impossible for cyber-victims to find relief from the threat. Unlike traditional bullying, which usually occurs in specific locations and allows some victims respite at home or other safe spaces, cyberbullying can persist day and night, regardless of where the victim is located (Ansary, 2020; Tran et al., 2018).

Additionally, cyberbullying often occurs in front of a large audience and always involves some level of power imbalance (Shariff & Johnny, 2007; Soni & Singh, 2018; Tran et al., 2018). Unlike traditional bullying, where the audience is limited to a specific social environment, cyberbullying has a virtually limitless audience. Once harmful content is shared online, it can be accessed by many people, leading

to a greater power imbalance and perpetuating feelings of isolation among victims (Shariff & Johnny, 2007; Soni & Singh, 2018; Tran et al., 2018).

Cyberbullying content spreads rapidly on online platforms, making harmful material difficult to remove (Shariff & Johnny, 2007). It spreads quickly due to the nature of online platforms. Harmful posts, messages, or videos can be widely shared within moments and are difficult to retract or control. This rapid spread magnifies the damage and allows multiple users to republish or modify content, making it even harder to identify the source.

In addition, cyberbullying can blur the lines between virtual and real-world threats (Shariff & Johnny, 2007). Although it does not require physical force, online threats, such as those of physical harm, can feel as real as face-to-face intimidation. Victims may perceive these threats as genuine, leading to anxiety, fear, and, in extreme cases, self-harm or suicide. Furthermore, cyberbullying often involves sexual or gender-driven harassment, which can have particularly severe consequences for victims (Shariff & Johnny, 2007).

A final feature is that cyberbullying behaviours are often opportunistic, requiring little or no effort from perpetrators (Peebles, 2014). The absence of physical interaction reduces the perceived risk for cyberbullies, who may feel immune to consequences because of the virtual barrier. The lack of clear authority figures in online spaces further enables this behaviour, as children and teenagers may hesitate to report incidents for fear of punishment, such as losing digital privileges. This lack of oversight allows bullies to operate without immediate intervention, causing victims to suffer in silence, which can worsen the emotional toll over time (Peebles, 2014).

It is essential to explore various definitions scholars use to elaborate on the distinctive features mentioned earlier. While there is no universally agreed-upon definition for cyberbullying (Ansary, 2020), most definitions highlight aggressive acts, intentional and repetitive harm, and power imbalances, consistent with the characteristics outlined earlier. Defining cyberbullying is challenging due to many factors, including the type of technology used, its intended purpose, the nature of communication and its impact, perception ambiguities (e.g., teasing), the perspective of the content evaluator, and confusion over the ages of the persons involved (Durkin & Patterson, 2012). Given the complexities of defining cyberbullying, various definitions have emerged. Several of these definitions are provided below.

One of the most accepted definitions of cyberbullying is “an aggressive, intentional act or behaviour carried out by a group or an individual using electronic forms of contact, repeatedly and over time, against a victim who cannot easily defend themselves” (Krešić Ćorić & Kaštelan, 2020; Moreno, 2014; Smith et al., 2013). Additionally, it is described as “the process of using the Internet, cell phones, or other devices to send or post text or images intended to hurt or embarrass another person” (Hu & Lin, 2013).

To the researcher’s knowledge, Guyana has neither legal nor scholarly definitions of cyberbullying. However, Guyana’s Get Safe Online website provides a

succinct definition. The website characterises cyberbullying as “sending threatening or otherwise nasty messages or other communications to people via social media, gaming sites, text or email, posting an embarrassing or humiliating video on hosting sites such as YouTube or Vimeo, or harassing through repeated texts, instant messages, or chats” (*Get Safe Online Guyana, n.d.*). This definition emphasises the mediums and social platforms through which cyberbullying occurs. However, this focus on mediums could lead to a non-exhaustive list as technology evolves. The definition fails to acknowledge core elements of cyberbullying, such as intentional harm, repetition, power imbalance, and the emotional and psychological impact on the victim.

Like Guyana, China’s existing laws, regulations, normative documents, and guiding documents lack provisions defining the scope and content of cyberbullying (Xu & Trzaskawka, 2021; Zhang, 2024). However, when students are involved, it is regarded as online bullying (Xu & Trzaskawka, 2021). In 2017, the Ministry of Education and ten other authoritative bodies implemented the “Measures for Strengthening the Comprehensive Treatment of Bullying Among Primary and Secondary School Students” and listed cyberbullying as a type of bullying (Zhang, 2021). These measures provided a clear definition of bullying:

Bullying among primary and secondary school students involves incidents occurring inside or outside the campus (including primary, secondary, and secondary vocational schools) between students. One party (an individual or group) deliberately or maliciously insults another through physical, verbal, or online methods, resulting in bodily injury, property loss, or mental distress for the victim (Xu & Trzaskawka, 2021).

Chinese scholars offer various definitions of cyberbullying, each differing in scope and focus. From these definitions, six core elements emerge: unlawful acts, intentional harm, use of digital media, repetitive behavior, power imbalance, and emotional and psychological harm. Jiang (2011) defines cyberbullying as “actions where an unspecified majority spontaneously uses online platforms to verbally attack or maliciously defame parties involved in certain online incidents,” but does not address the emotional and psychological harm caused by cyberbullying. In contrast, Hou and Li (2017) provide a more nuanced perspective, offering a broad view that considers cyberbullying as an extension of societal violence on the Internet, defining it as violent acts by netizens. Their narrower view describes cyberbullying as “soft violence” that severely impacts people’s minds and souls through online behaviour. The broad view may be too vague and inclusive of other online crimes, while the narrower view focuses solely on emotional and psychological harm, leaving the term “soft violence” unclear.

The next set of definitions emphasises the intentional, repetitive nature and the mediums used to commit cyberbullying. Xu (2020) defines cyberbullying both broadly and narrowly. In a broad sense, Xu describes it as “the behaviour by an individual or group intentionally and repeatedly attacking others through text, pictures, audio, and video with the help of the Internet, cell phone, and other

network communication technologies.” In a narrow sense, Xu defines cyberbullying as “aggressive behaviour by an individual or group intentionally and persistently torturing, threatening, harming, harassing, and humiliating other minors through text, pictures, audio, and video with the help of the Internet, cell phone, and other network communication technologies.” Xu’s narrow definition focuses on cyberbullying among minors, while the broader definition extends to other age groups.

Zheng & Guo (2021) view cyberbullying as “an aggressive, subjective, and intentional act repeatedly performed by an individual or group to harm others through digital mediums (Wu, 2023b).” They categorize cyberbullying as a “subjective” act, implying that perceptions of cyberbullying may vary. While perceptions of harm are not always universally the same, criminal law tests are more objective, focusing on what a “reasonable person” would perceive as harmful and threatening rather than solely on the victim’s or offender’s personal feelings. This raises the question: is such a subjective definition applicable in criminal law, which requires certainty and less ambiguity? A purely subjectivist approach may decrease the effectiveness of legal regulation of cyberbullying, as it can lead to inconsistent assessments of such behaviour.

The final set of definitions provide a more legal perspective on explaining cyberbullying. Jing and Hu (2021) define cyberbullying as “the deliberate spread of illegal information online by individuals or groups, aiming to repeatedly and continuously harm specific individuals or groups.” Unlike other definitions that describe cybercrime in terms of individual or social consequences, this definition explicitly frames cyberbullying as a criminal act. However, Liu and Zhou (2023) view cyberbullying as “a complex social phenomenon but also a non-legal concept” with multiple meanings or interpretations. They suggest that when applying criminal law to related behaviour, the term “cyberbullying” should be minimally used to focus on specific acts that can be evaluated by criminal law, such as insult, defamation, infringement of citizens’ personal information, and provoking trouble (Liu & Zhou, 2023). This is why Liu and Zhou’s (2023) definition of cyberbullying as a non-legal concept appears most apt for China and Guyana. In both countries, there is no legal term is labeled as “cyberbullying”. Nevertheless, existing laws can be expanded to address specific behaviours related to cyberbullying. Crimes like insult, defamation, and intrusion into citizens’ privacy rights are already covered by both countries’ laws and can be used to prosecute cyberbullying. This approach reflects the flexibility of current laws, which do not have specific provisions for dealing with cyberbullying. However, existing laws can still be used to prevent such harmful online behaviour. Liu and Zhou’s view is suitable where cyberbullying is not yet part of the legal lexicon in certain jurisdictions but where similar forms of harmful conduct are recognised and punishable.

2. Cyberbullying in China and Guyana

2.1. Cyberbullying in China

In the 21st century, China has made significant strides in combating cybercrime,

driven by the country's growing use of the Internet and social media platforms. According to [Lai Lin \(2024\)](#), over seven million new internet users joined China's existing one billion users in the first quarter of 2024. This accounts for more than 60% of the entire population. As internet use grows, so does the risk of individuals being manipulated, harassed, or abused online, raising serious concerns about cyber safety. While China's Criminal Law (as amended) addresses various forms of cybercrime ([Brenner & Rehberg, 2009](#)), this research focuses on cyberbullying.

The Chinese government appears to have focused efforts on preventing, prohibiting, and criminalising cyberbullying among children in schools rather than among adults in general. Although no general legislation explicitly defines and prohibits cyberbullying, specialised laws exist to protect children from such behaviours ([Li, 2024](#)). *The People's Republic of China Law on the Protection of Minors (Amendment) 2020* provides in Article 77(1) that:

“Minors must not be bullied online by any organization or individual through insults, defamation, threats, or malicious harm in text, pictures, audiovisual materials, or other forms.”

The above provision distinctly indicates what could be classified as bullying in cyberspace. It leaves the possibilities open by using the phrase “other forms.” The legislation also states that parents have the right to inform service providers of the incident, who then become obligated under the law to act on the report by either blocking or deleting the comments or issuing a stringent warning to the bully ([Li, 2024](#)).

Additionally, if a service operator or provider fails to fulfill their responsibilities under Article 77, they may face hefty fines under Article 127. This implies that China relies heavily on service operators or processors to curtail, prevent, or manage the problem from the outset ([Li, 2024](#)). Service providers or any other processor or controller of the media platform may be fined between 100,000 and 1,000,000 RMB if there is no unlawful gain or if the gain is below 1 million RMB. If the unlawful gain exceeds 1 million RMB, the fine increases to 1 to 10 times the amount gained.

Moreover, the *Prevention and Control of Bullying and Violence Among Primary and Secondary School Students Regulation in the PRC* states that “we should prevent bullying and violence among students from spreading through the Internet and new media and thereby morphing into cyberbullying.” Other regulations and laws under review by the Chinese Government aim to protect minors from the effects of cyberbullying, even assigning criminal responsibility to perpetrators ([Ilin, 2022](#)). One such regulation is the *Notice on Soliciting Public Opinions on the Online Protection of Minors Regulations*.

Victims of cyberbullying can seek a myriad of legal resources for the harm caused. They may seek recourse under civil, administrative, or criminal law. From a civil law perspective, victims may pursue defamation claims, which provide remedies such as damages or other relief deemed appropriate by the court. Alterna-

tively, cyberbullying may be addressed within the criminal justice system, which is the focus of this study (Brenner & Rehberg, 2009). The *Criminal Law of the People's Republic of China (2020 Amendment)* is the primary legislation addressing specific actions or inactions in China. While the law does not specifically criminalise cyberbullying, it does cover activities under a broader scope (Xu, 2020). These include defamation, insults, and slander. Article 246 of the Criminal Law addresses cyber defamation and can be used to prosecute cyberbullies. However, it is crucial to distinguish between cyberbullying and cyber defamation, as they are related but have distinct characteristics and legal implications. Cyberbullying is similar to cyber defamation in that it involves asserting facts intended to harm another's reputation and subject the person to dishonor or ridicule. However, cyberbullying can occur in private forums without a third-party receiver and may involve a reckless disregard for potential harm. Additionally, cyberbullying can encompass a wide range of actions beyond imputing false facts, which is central to defamation. Another distinguishing factor is that cyberbullying is intentional and repetitive behaviour aimed at harassing or harming someone.

On the other hand, defamation necessitates the communication of the injurious statement to a third party with the intent to harm the claimant's reputation. Defamation doesn't need to be repetitive; a single act of imputing facts to a third party suffices as a criminal offence if it meets the statutory criteria. This distinction clarifies that while defamation laws in China cover certain aspects of cyberbullying, they may not fully encompass the broader range of behaviours or account for cyberbullying in private interactions without third-party witnesses. These distinctions underscore the need for separate legal provisions for cyber defamation and cyberbullying to avoid blurring the lines.

Article 246 of the Criminal Law provides:

Whoever insults another person through violence or other methods, or slanders another person, may be sentenced to imprisonment of up to 3 years, short-term custody, non-custodial correction, or deprivation of political rights, if the circumstances are serious.

The crime described above shall be prosecuted privately unless it causes serious harm to public order or the interests of the State.

The People's Court may request assistance from the public security organ when a victim files a complaint with the Court about an act conducted via an information network and faces difficulties in providing evidence.

It is essential to highlight that this provision applies to physical and virtual incidents involving serious slander of a person or group. Another interesting aspect of this provision is that victims are expected to proceed to court through private prosecution. The State would only intervene *suo moto* when the slander is "very serious" and capable of provoking social disorder or affecting the paramount interests of the People's Republic of China (Xu, 2020). Consequently, Article 246 of the PRC Criminal Law allows victims of cyberbullying to file complaints to the

People's Court, except in very serious circumstances. It further punishes convicted offenders with a maximum of three years' imprisonment. This, however, does not appear to be sufficient, considering the emotional, psychological, and unbearable effects of cyberbullying, which sometimes lead to suicide or attempts (Ilin, 2022).

It is imperative to investigate what could make a slander more serious than another case. Could it be the impact on the victim, or is it measured by the level of engagement on the Internet? Before 2013, justices of the Chinese court made this determination at their own discretion (Ilin, 2022). However, the *Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Specific Application of Law in the Handling of Defamation through Information Networks and Other Criminal Cases (Interpretation) No. 21 2013*, Article 2 provides that:

Any of the following instances of defaming another person through an information network shall be considered a serious circumstance as mentioned in paragraph 1, Article 246 of the Criminal Law:

- 1) The same defamatory information is clicked or browsed more than 5000 times or forwarded more than 500 times.
- 2) Causing derangement, self-mutilation, suicide or any other serious consequence to the victim or his or her close relative.
- 3) Defaming another person after receiving administrative punishment for defamation within two years, or
- 4) any other serious circumstance.

The provision establishes that the Court should consider cyberbullying involving slander a serious circumstance, warranting public prosecution if the post or comment receives at least 5000 likes or views or has been reposted or retweeted at least 500 times. It is also considered a serious circumstance if the act significantly impacts the victim or their relatives or if the accused is a repeat offender committing the act within two years of their first offence (Ilin, 2022).

In addition to Article 246, the Criminal Law of China indirectly addresses cyberbullying in Articles 252 and 253, which cover offences related to infringing on citizens' freedom of speech and privacy. Crimes of infringing citizens' rights in China refer to illegal activities where an individual's personal data is provided, sold, stolen, or otherwise obtained in violation of state regulations (Fu & Li, 2020). Specifically, Article 252 provides:

Whoever conceals, destroys, discards, or unlawfully opens another person's letter, thereby infringing on the citizen's freedom of correspondence, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than 1 year or short-term custody.

Meanwhile, Article 252 states:

A postal worker who opens, conceals, destroys, or discards mail or telegrams without authorization shall be sentenced to fixed-term imprisonment of no more than 2 years or short-term custody.

The above crimes occur when personal data is misused, exposing private information that could be used for further illegal activities (Fu & Li, 2020). If someone seriously engages in these acts against another, he may face imprisonment for up to one year or, in certain circumstances, criminal detention upon conviction.

In the context of cyberbullying, the crime of infringing on citizens' personal information is relevant because cyberbullying often involves the misuse of personal data. Cyberbullies frequently use intimidation tactics, such as silencing people, stealing their private information online, and using it against them. One example is doxxing, where someone unlawfully obtains and exposes a person's private details, such as contact information or more sensitive personal data. Victims of doxxing often face increased vulnerability to online abuse, including defamation, harassment, or public shaming.

However, Zeng (2023) challenges the application of Articles 252 and 253, arguing that while they regulate the broader offence of infringing on citizens' personal information, they fail to address doxing specifically. The failure to directly address doxing—where private information is published online to harass individuals—leaves significant legal gaps, limiting the law's ability to fully combat this form of cyberbullying (Zeng, 2023).

2.2. Judicial Attitudes to Cyberbullying in China

Even without a specific law criminalising cyberbullying in China, numerous cases of online intimidation, harassment, and humiliation have led to litigation over the years (Zhang, 2024). Many of these cases have been pursued under the tort of defamation, particularly libel. It is essential to examine the attitude of the Chinese courts when confronted with these peculiar cases and observe the legal reasoning behind their judgments.

In China, the legal response to cyberbullying often involves applying established defamation and insult laws, such as Article 246 of the Criminal Law, to address online harassment and reputational damage. Chinese courts have increasingly emphasised the importance of evidence standards, including the need to meet benchmarks of online involvement (e.g., 5000 views or 500 reposts) for public prosecution. Judicial perspectives stress the balance between individual rights and maintaining social stability. The courts' reliance on criteria like extensive societal harm highlights the impact of judicial interpretations on regulating cyberbullying (Xu, 2020).

The lack of a cohesive cyberbullying law in China often forces courts to interpret general provisions, leading to inconsistent legal applicability. This inconsistency is evident in the broad discretion given to courts to determine what qualifies as a "serious circumstance" based on public impact rather than the psychological harm to the victim. Understanding these deficiencies in the legal framework is essential when considering legislation to clearly criminalise cyberbullying (Zhang, 2021).

To illustrate the courts' approach, this section analyses three notable Chinese

cases: *Jiang Moumou v. Tan Mou* Jiang Moumou v. Tan Mou, 02672 People's Justice: cases, No. 8, 2021 19-22 (Shanghai Second Intermediate People's Court 2020), *Nanjing Tuniu Technology Co., Ltd. v. Tongcheng Network Technology Co., Ltd.*, 13 *ning zhi min chu zi* (Nanjing Intermediate People's Court of Jiangsu Province 2016), and *Luo Guihua v. Chen Guohua*, Shanghai 0115 Minchu 16424 (People's Court of Shanghai Pudong New Area 2020).

In *Jiang Moumou v. Tan Mou* Jiang Moumou v. Tan Mou, 02672 People's Justice: cases, No. 8, 2021 19-22 (Shanghai Second Intermediate People's Court 2020), Jiang Moumou's daughter was murdered while trying to defend her roommate from her ex-boyfriend, Chen Shieng. This ordeal, which drew significant interest in China and Japan, became the source of Jiang's emotional distress. Later, Jiang opened a fundraising page to help her family with the financial difficulties resulting from the tragedy. However, in February 2018, Tan began posting defamatory content about Jiang on his social media accounts. In a series of articles, essays, blogs, and comments, Tan accused Jiang of killing her daughter for financial gain and claimed her fundraising efforts were fraudulent. Tan's derogatory remarks and insults were seen by over 340,000 people, increasing the plaintiff's suffering. The dissemination of the defamatory material significantly harmed Jiang's reputation and caused her deep emotional trauma, including depression and suicidal thoughts (Ilin, 2022).

In response, Jiang initiated a criminal action through private prosecution, arguing that Tan's defamatory comments caused irreparable harm to her reputation and her daughter. She claimed Tan lied about her rivalry with Chen and falsely accused her of fraudulent fundraising activities. Given the seriousness of the circumstances and the wide dissemination of the defamatory posts, Jiang sought criminal punishment for Tan, requesting fixed-term imprisonment.

In her defence, Tan asserted that her content was not original, as many articles and comments had been copied and forwarded. She further argued that the deceased did not have a right to reputation, making any defamation claim regarding Jiang's daughter invalid. Tan also contended that there was no evidence of the amount and expenditure of the funds received from the fundraising. She further asserted that Jiang should withdraw from the case.

The Shanghai Putuo District People's Court found Tan liable for insult and defamation under Article 246 of the PRC Criminal Law and Article 2 of the Supreme People's Court and Supreme People's Procuratorate Interpretation on Several Issues Regarding the Applicable Law in Cases of Using Information Networks to Commit Defamation and Other Such Crimes (Interpretation No. 21, 2013). These provisions prohibit insulting, defamatory, or malicious comments against others, especially when such online comments receive over 5000 views or 500 reposts. This is considered a very serious circumstance. The Court deemed Tan's actions defamatory and very serious because his social media posts and cartoons publicly demeaned Jiang and damaged her reputation. Additionally, Tan's posts received over 340,000 views. As a result, Tan was sentenced to 18 months in prison (Ilin,

2022).

Both parties appealed the lower court's decision, but the Shanghai Second Intermediate People's Court reaffirmed the original decision. The court emphasised the importance of notarizing digital evidence in cybercrime cases, noting that without proper verification, the evidence might be deemed inadmissible (Ilin, 2022). Additionally, adequately authenticated evidence is essential due to the unique nature of cybercrime, such as the risk of evidence falsification or manipulation. The evidence presented must include the digital evidence of the malicious or humiliating statements made against the plaintiff. Furthermore, it must demonstrate that the requisite number of views or reposts have been met for it to be deemed "very serious". Such evidence must be verified or notarized by a qualified notary public (Ilin, 2022).

The Court's ruling was supported by legal interpretations from Shen Yan and Zhu Yinping of the Shanghai Second Intermediate Court, who emphasised the necessity of criminal prosecution due to the insufficiency of civil remedies in such cases (Shen & Zhu, 2021). They highlighted that internet-based insults and defamation cases are relatively rare due to challenges such as identifying the responsible party, the difficulty in protecting rights in criminal cases, and the challenges in obtaining and preserving evidence, which must be notarized promptly (Shen & Zhu, 2021). Additionally, Shen and Zhu noted that while the legal system may be more lenient toward cyber offences, the impact of such behaviour is often far-reaching due to the broad visibility afforded by the Internet (Ilin, 2022; Shen & Zhu, 2021).

Similarly, in *Nanjing Tuniu Technology Co., Ltd. v. Tongcheng Network Technology Co., Ltd.*, 13 ning zhi min chu zi (Nanjing Intermediate People's Court of Jiangsu Province 2016), the court determined that acquiring and verifying evidence is essential for litigating online defamation case. In this case, Nanjing Tuniu Technology, engaged in business transactions with Tongcheng, which did not proceed as anticipated. Consequently, Tongcheng sent a series of insulting, humiliating, and degrading messages to Nanjing Tuniu Technology. In prosecuting the matter, Nanjing Tuniu Technology took the commendable step of notarizing all the messages to ensure their admissibility in court. Due to this diligence, the court awarded Nanjing Tuniu Technology 314,000 RMB (Ilin, 2022).

The importance of notarized evidence was further emphasised in *Luo Guihua v. Chen Guohua*, Shanghai 0115 Minchu 16424 (People's Court of Shanghai Pudong New Area 2020). The plaintiff, who lived in the same area as the defendant, raised concerns that the defendant insulted him on WeChat. However, during the court proceedings, the plaintiff provided screenshots and other evidence that were not notarized. Consequently, his actions failed (Ilin, 2022). This case highlights the stringent evidentiary requirements in cyber defamation cases in China, where failure to provide notarized evidence can be fatal to the plaintiff's claim.

2.3. Regulatory Deficiencies

The legal framework for protecting individuals against cyberbullying in China is

limited and fragmented (Wei, 2021; Xu, 2020). As a result, acts considered cyberbullying are often interpreted within existing legal provisions, leaving it up to the judiciary to agree or disagree with the interpretations applied by private or public prosecutors. This reliance on judicial interpretation highlights gaps in China's current approach to addressing cyberbullying (Xu, 2020). The regulatory deficiencies and gaps in China's approach to addressing cyberbullying are further discussed in this section.

1) Absence of a Specialized Cybercrime Law: Unlike most developed countries like the United States of America, Canada, and Australia, which have enacted specialized legislation for the prohibition and penalisation of Cybercrimes, China's framework is embedded within a unified Criminal Law system. Specialized laws would better enable the courts to provide a clear statutory approach for addressing cyberbullying rather than relying on the existing fragmented provisions in criminal law (Xu, 2020).

2) Absence of a clear definition for cyberbullying: The interpretation or definition section of any legislation is pivotal because it helps the court and lawyers understand the elements of the offence in question. However, in China, there is no crime of cyberbullying under the PRC Criminal Law. Although Article 77(1) of the *People's Republic of China Law on the Protection of Minors (Amendment) 2020* prohibits cyberbullying against minors, it fails to define the term, leaving room for future problems in determining what behaviour constitutes cyberbullying and what does not (Xu, 2020).

3) The disparity between serious and unserious cases of cyberbullying: Under the PRC Criminal Law, the Supreme People's Court and Supreme People's Procuratorate Interpretation on Several Issues Regarding the Applicable Law in Cases of Using Information Networks to Commit Defamation and Other Such Crimes (Interpretation No. 21 2013), individuals who believe they have been humiliated online must file a complaint through a private prosecutor, except when the facts fall within specific legislative exceptions. For instance, if the publication has been viewed by over 5000 people or reposted by at least 500 people, the matter can be filed by a public prosecutor. This highlights a significant loophole, as it allows the Court to overlook cases with low public exposure while prioritising those with higher public exposure.

Moreover, requiring 5000 views or 500 reposts to initiate a public prosecution case raises significant concern. This numerical standard is based on the number of clicks, views, and dissemination of prohibited content rather than the degree of suffering experienced by the victims. A publication could still cause severe humiliation or psychological harm even if it receives fewer than 5,000 views or 500 reposts. Nevertheless, victims would be forced to pursue the case privately. Furthermore, requiring victims to file complaints through private prosecutors in most cases may be a barrier to justice. Private prosecutions are usually expensive and time-consuming, making it difficult for victims to seek justice through this route.

Nevertheless, because China has a massive population and highly active internet engagement, thousands of minor complaints could flood the judicial system. Therefore, the numerical threshold ensures that only publications with significant public exposure are prosecuted by the public prosecutor. This threshold provides an objective measurement for cases that can be publicly prosecuted. Without such a criterion, determining which cases should be considered would be subjective and inconsistent.

4) Gaps in penalties or punishment for offenders: Under the People's Republic of China Criminal Law, Article 246 states that individuals guilty of defamation may face up to three years' imprisonment. However, this may not be sufficient given the emotional and psychological impact of cyberbullying, which can sometimes lead to suicide or suicide attempts (Ilin, 2022). Penalties should be proportional to the level of harm inflicted on the victim, ensuring that more serious offences result in more severe consequences.

2.4. Cyberbullying in Guyana

Guyana is one of the Caribbean nations slow to address growing cybersecurity issues within its borders (Donalds et al., 2022). With a population of about 831,087, approximately 84.4% have reasonable Internet access and other social media platforms (Pan American Health Organization, 2022). While increased accessibility in Guyana is commendable, it has unfortunately been accompanied by a rise in cybercrimes (Brain & Oyadeyi, 2023; Guyana Standard, 2020; Inter-American Development Bank & Organization of American States, 2016).

These occurrences led to a swift response by the legislature to enact a law criminalising cybercrime. In August 2016, the Cybercrime Bill was introduced to the National Assembly. After two years of deliberations and revisions, the Cybercrime Act of Guyana was passed into law on July 20, 2018 (Guyana Chronicle, 2018; National Assembly of Guyana, 2018). Like China's framework, which lacks clear definitions and penalties for certain sensitive cybercrimes, the Cybercrime Act of Guyana remains ostensibly silent on the issue of cyberbullying.

The Cybercrimes Act covers a wide range of offences, including illegal access to a computer system, illegal interception, illegal data interference, illegal acquisition of data, illegal system interference, unauthorized access to computer data, computer-related forgery, computer-related fraud, offences affecting critical infrastructure, identity-related offences, child pornography, child luring, and violation of privacy, among many other offences (Council of Europe, 2022, n.d.; Norton, 2024).

According to the Preamble of the Cybercrime Act 2018, the legislation aims "to combat cybercrimes in Guyana by establishing several cyber offences and providing appropriate penalties, investigations, and prosecution of related offences under the law" (Cybercrime Act, 2018). Although there is no specific provision in the Cybercrime Act 2018 explicitly prohibiting cyberbullying, section 19(2) of the Act appears to criminalise behaviours that contain elements of cyberbullying.

Section 19(2) states:

(2) A person commits an offence if he uses a computer system-

(a) to publish or transmit electronic data that is obscene, vulgar, profane, lewd, lascivious, or indecent with intent to humiliate, harass, or cause substantial emotional distress to another person; or

(b) to repeatedly send another person electronic data that is obscene, vulgar, profane, lewd, lascivious, or indecent with the intent to humiliate or harass them, harming their health, emotional well-being, self-esteem, or reputation.

The penalties for this offence are stated in section 19(5) of the Act, which reads:

(5) A person who commits an offence under this section is liable-

(a) on summary conviction, to a fine of five million dollars and imprisonment for three years; and

(b) on conviction on indictment, a fine of ten million dollars and imprisonment for five years.

The offence in section 19(2) is commonly called “using a computer to coerce, harass, intimidate, and humiliate a person.” Cyberbullying involves using digital platforms to repeatedly harass, intimidate, humiliate, and coerce a person, so this provision allows for the criminalisation of various forms of cyberbullying. However, there is potential ambiguity in the term “computer system” in this provision. Some may suggest it only applies to digital computers, not other smart devices. This issue is clarified in Section 2 of the Cybercrime Act 2018, which states that a computer system includes a desktop computer, laptop, internet connection device, smartphone, personal digital assistant, video camera, and other such devices. This interpretation ensures that section 19(2) covers a wide range of technology, making it more comprehensive.

Further analysis of Section 19 of the Cybercrime Act reveals certain conditions that must be met before an accused can be deemed to have violated the provision. Section 19(2) states that a person commits the offence if he uses a computer to send, transmit, or publish insulting, obscene, vulgar, profane, lewd, lascivious, or indecent information about another person repeatedly and with malicious intent, causing intimidation, harassment, or emotional damage to the victim (Norton, 2024). These elements are essential in establishing liability under Section 19(2), which is understood to be cyberbullying.

Additionally, Section 19(3) of the Cybercrime Act 2018 closely aligns with the civil law tort of defamation. It stipulates:

“A person commits an offence if the person uses a computer system to disseminate any information, statement, or image, knowing it to be false, that causes damage to another person’s reputation or subjects another person to public ridicule, contempt, hatred, or embarrassment.”

Based on the section above, the Cybercrime Act 2018 distinguishes two forms of cyberbullying. First, there is “cyberbullying proper,” where the accused intends to intimidate, harass, or humiliate another person, as outlined in Section 19(2) of the Act. The second involves elements of libel, using falsehoods for intimidation,

harassment, or humiliation, addressed in Section 19(3) of the Act. Section 19(4) prohibits cyberbullying for extortion and other related activities on the Internet. The section provides various penalties for offenders. Under Section 19(5) of the Cybercrime Act 2018, a person convicted of using a computer system to coerce, harass, intimidate, or humiliate is liable to a fine of five million dollars and up to three years of imprisonment upon summary conviction. However, if the offender is fully indicted on trial, he is liable to a fine of ten million dollars and imprisonment for five years.

Section 19(2) of Guyana's Cybercrime Act applies to specific types of cyberbullying, such as flaming and sexting, but not all forms. Flaming, often called trolling, involves aggressive online behaviour that typically incites social conflict and backlash. These messages may contain aggressive, hostile, intimidating, insulting, sarcastic, unfriendly, and unrestrained content, primarily eliciting an aggressive reaction from the recipient (El Asam & Samara, 2016). Since Section 19(2) (a) and (b) address the transmission of obscene, vulgar, or indecent electronic data with intent to humiliate or harass, it can be applied to cases of flaming. Similarly, sexting involves sending explicit images or pornographic content accompanied by sexually explicit and harassing messages through electronic communication (Ilin, 2022). Given that Section 19(2) (a) and (b) also pertain to sending obscene, vulgar, profane, lewd, lascivious, or indecent content, it is applicable in cases of sexting as well.

Furthermore, the Cybercrime Act 2018 extends criminal liability to individuals who attempt to commit, aid, abet, or conspire to commit cyberbullying-related offences. Section 22 specifies that anyone who intentionally incites, advises, attempts, procures, conspires, counsels, facilitates, or aids another to commit an offence under the Act is also guilty and shall be penalized as a principal offender or party to the offence (Cybercrime Act, 2018). For example, if Mr. A advises Mr. B to bully Mr. C on Facebook, Mr. A would face the same legal consequences if Mr. B is prosecuted under Section 19(5) of the Cybercrime Act. This legal provision is a commendable effort by the legislators of Guyana, promoting deterrence for both direct and indirect actors. However, despite these strides, further improvements and amendments to the legislation are needed.

2.5. Judicial Attitude Towards Cyberbullying in Guyana

The implementation of the Cybercrime Act of 2018 in Guyana reflects a contemporary yet evolving legal approach to cyberbullying. Judicial processes, as exemplified in the case of *Keron Bruce v Leroy Smith* (2024) (*Unreported*), commonly referred to as the "Mudwata" case (Guyana Chronicle, 2024), show that courts are prepared to use provisions under Section 19(2) to prosecute actions similar to cyberbullying, even without a formal definition. The judiciary often focuses on the offender's intent (e.g., humiliation or harassment) and the vulgarity of the content rather than the broader psychological effects on victims. Despite the developments of the Cybercrime Act, the lack of a clear distinction between criminal

cyberbullying and civil defamation poses a significant issue within Guyana's legal framework. Judicial bodies may struggle to differentiate between harmful speech warranting civil penalties (e.g., defamation) and cyberbullying that poses genuine threats to individuals' emotional well-being, thus requiring criminal consequences. Without explicit guidelines, the judiciary often interprets the law on a case-by-case basis, leading to potential inconsistencies and insufficient prosecution of cyberbullying cases.

Since the enactment of the Cybercrime Act of 2018 in Guyana, numerous cases have involved individuals charged with cyberbullying-related offences. Unlike in China, where such cases are frequently reported publicly, accessing official judgments in Guyana remains challenging, especially for the Magistrate's Court. Available reports are mostly brief mentions in newspapers or blogs. For instance, one report details a woman charged with misuse of a telecommunication system after allegedly bullying a friend through a fake social media account (*Guyana Times*, 2019). In another case, a woman from Diamond East Bank Demerara reported being cyberbullied, receiving death threats, and being stalked, prompting her to seek legal action (*Guyana Times*, 2017). Additionally, *GSA News* (2020) reported a 22-year-old woman became embroiled in a legal dispute after a pornographic video of her and her ex-fiancé went viral on social media. Moreover, *HGPTV* (2020) noted a surge in reports of teachers being cyberbullied during online classes.

In the case of *Mae Toussaint Jr. Thomas v. Joseph Rankin* (2023) (*Unreported*), the defendant, Joseph Rankin, was charged with the offence of Using a Computer System to Humiliate a Person under section 19 of the Cybercrime Act. Rankin allegedly used a computer system to transmit electronic data intended to humiliate, harass, or cause substantial emotional distress to Mae Toussaint Jr. Thomas (*Kaieeteur News*, 2023). The Magistrate initially presided over the matter at the Georgetown Magistrates' Court on March 27, 2023.

The prosecution's case involved testimony from five witnesses, including law enforcement officers and the complainant, Thomas. Thomas alleged that Rankin posted defamatory content on WhatsApp, implying she was involved with a wealthy individual known for marital infidelity and spousal abuse. She claimed this post implied she encouraged the individual to separate from his wife. However, substantial gaps in the evidence presented by the prosecution led the Magistrate to dismiss the case.

The Magistrate highlighted several critical deficiencies in the prosecution's case. Notably, the prosecution failed to establish clear ownership or control of the phone number associated with the alleged messages. They could not verify that Rankin authored the allegedly humiliating WhatsApp status, and there was a break in the chain of custody of the phone allegedly in Rankin's possession. The Magistrate indicated that the prosecution did not provide details about the phone used to take the screenshots or proof of the registration details, as it was not Thomas' phone that captured the screenshots. Furthermore, the prosecution

could not identify who took the screenshots. While Thomas' legal team argued that the post was directed at her, the prosecution did not prove that the content targeted Thomas specifically. The WhatsApp post contained no direct reference to her name, place of work, or other identifiable details. The court found the prosecution's evidence inadequate to substantiate the charge. The case highlights the importance of authenticating digital evidence in cybercrime cases, where ownership and intent must be established. This practice is widely adopted in China, which has strict rules regarding electronic evidence authentication.

2.6. Regulatory Deficiencies

Guyana has made commendable efforts to safeguard its citizens from cyber threats through its Cybercrime Act and law enforcement. However, the points below highlight the shortcomings of the provisions used to prosecute cyberbullies.

1) Absence of explicit criminalisation of Cyberbullying in Guyana: Notably, the term "cyberbullying" is absent from the Cybercrime Act of 2018. Section 19, typically used to prosecute cyberbullying perpetrators, does not mention or define the term. Instead, it addresses the crime of using a computer to coerce, harass, intimidate, and humiliate a person. To fully criminalise cyberbullying in Guyana, the Act must include an explicit provision that clearly defines, prohibits, and punishes the offence under the law.

2) Limited Scope of Section 19 of the Cybercrime Act 2018: Sections 19(1) to (5) of the Cybercrime Act 2018 outline the crime of publishing information intended to intimidate, humiliate, or harass a person, as well as instances of extortion or making false claims against the victim. However, this only covers certain aspects of cyberbullying. Other forms, such as stalking, dissing, frapping, and masquerading, are not explicitly addressed in this section. Therefore, until legislative reforms are enacted, Magistrate's courts should adopt a broader interpretation of section 19 to include these additional forms of cyberbullying.

3) No distinction between cyberbullying and defamation: Section 19(3) criminalises civil defamation (libel) but does not clearly differentiate it from criminal cyberbullying, leading to potential ambiguities in legal interpretation and enforcement. In other jurisdictions, such as China, a distinction is made between less severe insults or defamatory acts, which remain within the civil law, and very serious insults are treated as a criminal offence. This distinction ensures that only the most severe cases of cyberbullying that present a real threat to an individual's safety or reputation are prosecuted as criminal offences, while lesser infractions are addressed through civil remedies. For instance, China's legal regulation distinguishes between "very serious" insults subject to criminal prosecution under Article 246 of the PRC Criminal Law and ordinary insults, which may be addressed through civil actions.

In contrast, section 19(3) of the Cybercrime Act blurs the line between defamation and cyberbullying, as it closely mirrors the civil tort of defamation without differentiating the circumstances warranting criminal versus civil proceedings.

This lack of distinction could risk over-criminalising minor instances of defamatory speech and failing to prioritise resources for prosecuting the most dangerous forms of cyberbullying. It also creates the potential for inconsistent legal outcomes, where actions that should be civil disputes are treated as criminal offences or vice versa.

3. Comparative Analysis

There are numerous differences and a few similarities between the criminal regulation of cyberbullying in China and Guyana. A significant concern in both countries is the challenge of substantiating cyberbullying due to the unique characteristics of digital evidence. Judicial bodies in both nations emphasise the importance of authenticated, notarized evidence in adjudicating cyber defamation and cyberbullying cases (Ilin, 2022). This requirement poses a structural barrier for victims, especially those lacking resources to obtain such proof, thus restricting their access to justice. The evidence requirements mandated by courts in cyberbullying cases reflect a broader issue in prosecuting internet offences. While safeguarding due process is crucial, excessively rigorous evidentiary standards may disproportionately hinder victims, complicating their ability to prevail in court. Legal changes in China and Guyana must address these problems by establishing explicit protocols for collecting and presenting digital evidence in court. Neither country has explicitly criminalised cyberbullying; however, through legal interpretation, certain forms can be prosecuted. In China, this falls under Article 246 of China's Criminal Law (Ilin, 2022; Xu, 2020; Zeng, 2023), while in Guyana, it is addressed under Section 19 of the Cybercrimes Act 2018. Although these legal provisions offer some level of protection, further legislative reforms are needed to comprehensively tackle cyberbullying in both countries. Article 246 of China's Criminal Law and Section 19 of Guyana's Cybercrime Act share a common goal: to protect individuals from harm to their reputation. However, these provisions vary in scope, application, and penalties.

The *actus reus* for the offence under Article 246 of China's Criminal Law encompasses two primary actions: insulting and slandering another person. Insults involve actions that openly humiliate or offend an individual through various means, such as verbal attacks or written statements. Slander involves making false statements that damage another's reputation. The *mens rea* associated with Article 246 involves intent and knowledge. The perpetrator must intend to insult or slander the victim and be aware that their actions could cause reputational harm or emotional distress.

On the other hand, Section 19(2) of Guyana's Cybercrime Act encompasses actions related to the misuse of a computer system. The *actus reus* of this offence involves the offender using their digital device to publish or transmit obscene, vulgar, profane, lewd, lascivious, or indecent content. Alternatively, the offender repeatedly sends electronic data that is obscene, vulgar, profane, lewd, lascivious, or indecent to another person. Similar to Article 246 of China's Criminal Law, the

mens rea of Section 19(2) is the intent. Therefore, the victim must prove that the offender intended to intimidate, humiliate, harass, or cause substantial harm to the victim's health, emotional well-being, self-esteem, or reputation.

Concerning penalties, both countries impose strict penalties for these crimes. However, it appears that Guyana imposes longer confinement sentences than China. In China, offenders may face up to three years of imprisonment, short-term custody, non-custodial correction, or deprivation of political rights, depending on the severity of the offence. In contrast, Guyana imposes heavier fines and imprisonment for up to five years. This shows a harsher stance by Guyana in penalizing cyberbullying behaviours.

The legal processes differ as well. In Guyana, offences can be pursued through public prosecution. In contrast, in China, offences under Article 246 are subject to private prosecution unless they meet a "serious circumstance" threshold. Guyana's Section 19 allows for summary and indictable trials under Section 19(5) (a) and (b), providing flexibility in handling cases. Despite these differences, both legal systems share similarities in applying evidence. In China and Guyana, electronic evidence must be appropriately verified and notarized, and courts are prepared to dismiss cases if the evidence is deemed unreliable or lacks credibility.

3.1. Factors Influencing China's Legal Responses to Cyberbullying

China's legal system is shaped by the principles of socialism with Chinese characteristics. This system aims to consolidate and develop socialism, safeguard the people's interests, and ensure the leadership of the Communist Party of China (CPC) (*The Supreme People's Court of the People's Republic of China, 2015*). It prioritises societal stability and the advancement of socialist modernisation through a dynamic and open legal framework. The primary sources of law are the laws enacted by the National People's Congress and regulations set by the State Council and central government departments. Additionally, judicial interpretations issued by the Supreme People's Court and the Supreme People's Procuratorate, which have the force of law, also serve as binding legal sources (*Jiang, 2023*). These structures, along with Confucian legal theory—one of the key influences on Chinese law, which emphasises moral governance, ethical behavior, and social harmony over formal punishment—significantly shape the country's approach to cyberbullying cases.

China's cybersecurity and protection measures are highly advanced. However, the lack of specific cyberbullying legislation reflects China's preference for broad regulations that allow flexible interpretation. This approach aligns with early scholars who debated whether computer-related crimes required specialized legislation. For instance, *Ma (1992)* argued there was no need for new legislation because the harms associated with computer-related crimes, such as threats to state security and property, were already punishable under China's Criminal Law. This view favored including cyber-related offences under existing legal classifications rather than enacting separate legislation (*Ma, 1992; Wang, 2016*). Consequently, cyber-

bullying, particularly concerning natural persons or entities, may be classified as defamation or slander under current criminal statutes, such as Article 246 of the Criminal Law.

People v. Wu [REDACTED] (*case of defamation*) illustrates China's emphasis on social and communal security. In this case, the defendant Wu wrote and published stories online on his personal account to attract followers and increase traffic for real estate sales. On November 19, 2021, Wu read the post "Daily Life with Grandpa" by victim Shen, downloaded the images from the post, and used them to publish a post on his account. He claimed that "a 73-year-old entrepreneur from Qingxi of Dongguan married a 29-year-old woman from Guangxi and gave her money, an apartment, and a luxury car." This post was widely reposted and commented on, leading to online abuse and degradation of Shen. The post received 75,608 comments, 31,485 reposts, and over 470 million views, creating an adverse social impact. Additionally, Wu fabricated and published defamatory information online against Min. Consequently, the First People's Procuratorate of Dongguan City, Guangdong Province, filed a public prosecution against Wu for defamation. The court determined that the extensive reach of the post and its harmful societal effects amounted to "serious circumstances," justifying public prosecution and imprisonment (*Seven Model Cases of Punishing Cyberviolence Violations and Crimes issued by the Supreme People's Court, 2023*).

Similarly, the case *People v. Chang et al.* [REDACTED] (*case of insult*) involved abusive online comments that contributed to the victim's suicide. The court deemed this a severe violation of public order due to the extensive online harassment and resulting social unrest. This case highlights how the Chinese legal perspective relies on the societal repercussions of online conduct, consistent with traditional Confucian principles that stress deference to authority and community harmony (*Seven Model Cases of Punishing Cyberviolence Violations and Crimes issued by the Supreme People's Court, 2023*).

Traditional Confucian beliefs in China prioritise respect for authority and social harmony, which may explain why personal privacy and freedom of expression are sometimes subordinate to communal order. Cases such as *People v. Wu* [REDACTED] and *People v. Chang* [REDACTED] demonstrate the judiciary's inclination to treat cyberbullying as a criminal offence when it threatens public harmony. Traditional Chinese values that emphasise social stability over personal rights influence these legal interpretations. Consequently, in China, legal repercussions for cyberbullying are primarily imposed when it disrupts social order, prioritising the collective impact over individual harm.

3.2. Factors Influencing Guyana's Legal Responses to Cyberbullying

Guyana's legal system is primarily rooted in English Common Law, reflecting a strong reliance on English legal principles' form, structure, substance, and content. However, it also retains elements of Roman-Dutch legal traditions, particularly

in Land Law (Antoine, 2008). Based on its constitutional structure, Guyana also has socialist legal system and upholds socialist democracy, constitutional supremacy, judicial independence, transparency, separation of powers and the protection of individual rights, including freedom of expression (Antoine, 2008; Bynoe et al., 2007; Constitution of the Co-operative Republic of Guyana Act, 1980).

As a developing country, Guyana has seen proactive legislative developments, including the introduction of comprehensive cybercrime legislation. The Cybercrime Act 2018 is a great achievement, though it requires further refinement to enhance its effectiveness. The absence of an explicit cyberbullying law reflects the country's political and legislative priorities, which are often shaped by broader international influences. Guyana's economic and political sovereignty is not immune to the dictates of larger states (Antoine, 2008), so its legislative agenda is mainly aligned with the priorities of larger states, sometimes at the expense of addressing local issues like cyberbullying. In Guyana's digital environment, cyberbullying is often seen as an extension of established types of harassment or slander, rather than a separate issue requiring distinct legal provisions. While the country prides itself on upholding freedom of speech, it must balance this freedom by protecting individuals from online harms such as cyberbullying.

3.3. The Role of International Legislative Models

The legal frameworks governing cyberbullying in China and Guyana are primarily guided by local legislation, but international and regional legislative models on cybercrime significantly impact their measures. Although China and Guyana are not signatories to the Budapest Convention on Cybercrime, their cybercrime provisions closely resemble those of the Convention (Council of Europe, 2022; Donalds et al., 2022; National Assembly of Guyana, 2018; Pi, 2009). The Council of Europe Convention on Cybercrime, or the Budapest Convention, is the first international treaty on crimes committed through the Internet and other computer networks (Council of Europe, n.d.).

The Budapest Convention seeks to harmonize international laws so that similar behavior is considered criminal worldwide (Hopkins, 2003). The Convention was opened for signature in Budapest on November 23, 2001, and came into effect on July 1, 2004, following ratification by five states, including at least three member states of the Council of Europe (Cybercrime Convention Committee, 2020). By April 2016, the Convention had secured forty-eight ratifications and six additional signatures (Donalds et al., 2022; Wang, 2016). Eight years later, the Budapest Convention remains the most relevant international agreement on cybercrime and electronic evidence. The substantive part of the Convention provides four categories of offences. The first category includes Articles 2-6, which criminalises offences against the confidentiality, integrity, and availability of computer data and systems, where data and computer systems are the targets. The second category contains Articles 7 and 8, which prohibit computer-related crime, namely computer-facilitated forgery and fraud. The third category is content-related crime,

outlawing the creation, uploading, distribution, procurement, and possession of child pornography and related crimes. Finally, the fourth category addresses offences related to infringements of copyrights and associated rights (Chang, 2012; Donalds et al., 2022; Wang, 2016). Despite covering such broad offences, the Convention does not include explicit cyberbullying clauses. This may explain why cyberbullying is not clearly addressed under the criminal laws of China and Guyana, as both nations have aligned their cybercrime laws with the Budapest Convention.

3.3.1. United Nations' Initiatives and Global Cooperation

China and Guyana are both engaged in United Nations initiatives to combat cybercrime and safeguard individuals from various online harms (Kosseff, 2018). The Global Programme on Cybercrime is an initiative launched by the United Nations Office on Drugs and Crime (UNODC) designed to assist countries in enhancing their legal and institutional systems to fight cybercrime, including issues like cyberbullying. This initiative offers training, capacity building, and encourages international collaboration to effectively tackle online dangers and safeguard individuals from cyber-related crimes. Despite China's often cautious stance on international cyber rules, its partnership with the U.N. and growing participation in global cybersecurity discussions may prompt it to adopt a more comprehensive legal framework regarding cyberbullying.

As a non-permanent member of the UN Security Council, Guyana has signaled its commitment to a unified international response to cybercrime. The Guyanese government intends to align its laws with the emerging UN Cybercrime Treaty, recognizing the treaty's potential to modernize and strengthen its national cybercrime legislation (Caribbean News Global, 2024; Guyana Times, 2024). This treaty could provide Guyana with increased access to technical assistance and resources, enhancing its capability to counter cybercrime through knowledge-sharing, capacity building, and electronic evidence gathering. Guyana's participation in these activities can also help establish more sophisticated cyberbullying rules that conform to international norms.

3.3.2. Global Initiatives on Data Security and Cybercrime

China's involvement in international initiatives, such as the Global Initiative on Data Security, which advocates for responsible state conduct in cyberspace, may influence its domestic strategy toward cyberbullying. These frameworks prioritise safeguarding users' data and privacy, fundamental components of many cyberbullying incidents. Guyana's initiative to modernise its digital legislation through the Cybercrime Act aligns with global efforts, and expanding these measures to include cyberbullying would enhance the protection of individual rights.

4. Recommendations

Cyberbullying has emerged as a global issue that poses significant risks to societies if no measures are taken against it. According to Dixon (2024), over 40% of adult

internet users in the United States have been bullied online. This figure is even more alarming when considering teenagers and children. The [Pew Research Center \(2022\)](#) stated that 46% of teens aged 13 to 17 reported experiencing at least one of six cyberbullying behaviours in a survey. The [Office for National Statistics \(2020\)](#) estimated that in the United Kingdom, approximately 764 children aged 10-15 experienced cyberbullying in 2020. However, the U.S. and U.K. governments have since implemented effective strategies and policies to address this issue.

Similar to Guyana and China, the United Kingdom has no single law explicitly defining or criminalising cyberbullying. However, it is regulated through several legal provisions, including the Education and Inspections Act 2006, [Protection from Harassment Act 1997](#), Communications Act 2003, Malicious Communications Act 1988, section 49 of the Telecommunications Act 1984, section 5 of the Public Order Act 1986, Obscene Publications Act 1959, Computer Misuse Act 1990, Crime and Disorder Act 1998, and Defamation Act 2013 ([El Asam & Samara, 2016](#); [Hosani et al., 2019](#); [Samara et al., 2017](#)). These laws are supported by policies requiring schools to implement anti-bullying measures to ensure student safety. Criminal charges for cyberbullying in the U.K. vary based on the harm's severity. Under section 2 of the [Protection from Harassment Act 1997](#), a person convicted of harassment may face up to six months' imprisonment, an unlimited fine, or both. Similarly, an offender under section 2A(4) of the same act for stalking may receive a maximum 51-week prison term, an unlimited fine, or both.

The United States has a sophisticated legal framework to combat cyberbullying, with many state legislations defining and regulating it. Although there are no federal laws specifically targeting cyberbullying, federal laws such as the Interstate Stalking and Prevention Act of 1996 (as amended) and the Interstate Communications Act of 1934 (as amended) provide stringent penalties, including life sentences, for serious cases of cyber harassment and cyberstalking. At the state level, forty-eight states have adopted specific cyberbullying laws, many requiring schools to enforce anti-bullying policies. Additionally, forty-four states include criminal sanctions in their cyberbullying laws ([Hinduja & Patchin, 2024](#); [Patchin & Hinduja, 2023](#); [Petrosyan, 2024](#)). These laws have proven effective in curbing cyberbullying among minors and adults.

Best practices globally emphasise the need to protect vulnerable populations, including minors and adolescents. The legislative approaches adopted by the U.S. and the U.K. underscore the importance of codifying anti-cyberbullying norms and policies into law. Accordingly, the study recommends that stakeholders in China and Guyana take similar actions by either revising legislation to address cyberbullying adequately or enacting new legislation.

Implications of Findings

Legislators

- 1) The findings highlight the need for legislative reforms in China to introduce

separate legislation that penalizes different types of cyber offences, including cyberbullying.

2) The research underscores the need to amend Guyana's Cybercrime Act. This would involve expanding the scope of section 19 to criminalise, define, and regulate cyberbullying explicitly.

3) Section 19(3) of Guyana's Cybercrime Act mirrors the civil tort of defamation. It is essential to distinguish between libel, actionable under civil law, and cyberbullying, which should be prosecuted under criminal law. Only the most severe cases of cyberbullying, where there is tangible evidence of a threat to the victim's health, safety, or reputation, should be considered criminal offences, following examples set by China. There should also be a numerical threshold for the number of views and reposts garnered from the shared content.

Policymakers

Policymakers and stakeholders should implement policies in schools and workplaces that demonstrate a zero-tolerance approach to cyberbullying, cyberstalking, and related cyber offences. These policies should reduce cyberbullying and mitigate other cyber-based harm.

Legal Practitioners

1) Legal practitioners in China and Guyana should play a critical role in the legislative process by providing advisory and analytical insights on proposed legal reforms, especially measures to criminally punish cyberbullies. This is important to avoid laws that are ambiguous, ineffective, or overly complex, which may undermine the enforcement of legal frameworks.

2) Practitioners are encouraged to conduct further legal research and produce academic papers and legal commentaries to contribute to the development of cybercrime jurisprudence in China and Guyana. This input is valuable for policymakers.

Scholars

Scholars should further explore other areas of cyberbullying in China and Guyana, including doxxing, flaming, fraping, trolling, cyber harassment, and cyberstalking. Although these are growing issues in China and Guyana, they have not received adequate scholarly attention.

5. Conclusion

Efforts to regulate cyberbullying remains a significant challenge for both China and Guyana. Though both nations have legal frameworks that can be applied to cases of cyberbullying, neither has specific legislation that explicitly criminalises this conduct. China relies on broad legal provisions, such as defamation, insults, and breaches of personal privacy, often allowing courts discretion to define cyberbullying. Conversely, Guyana uses provisions from its Cybercrime Act that punish harassment, intimidation, and humiliation. However, the absence of an overarching provision in both jurisdictions limits their capacity to provide adequate legal protection for victims. China's fragmented legal structure, while addressing some

aspects of online abuse, requires more comprehensive and cohesive laws to specifically confront cyberbullying. Stricter punishments and clearer prosecutorial standards are necessary to deter offenders effectively.

Furthermore, China's strategy should shift from focusing on public order and social stability to addressing the individual harm caused by cyberbullying. Similarly, while Guyana has made strides with its Cybercrime Act, there should be an explicit provision dedicated to cyberbullying. In addition to incorporating an explicit provision to criminalise cyberbullying, Guyana can refine its legislation to address the ambiguity between civil defamation and criminal cyberbullying. This distinction will ensure that victims receive appropriate redress for the emotional, psychological, and reputational harm they suffer. Both nations would benefit from incorporating international legal frameworks and human rights standards in shaping their legislative responses to cyberbullying. This involves integrating provisions from treaties such as the United Nations Convention against Cybercrime and aligning their legislation with overarching human rights principles. Ultimately, for both China and Guyana to effectively address the complex and rapidly evolving issue of cyberbullying, both China and Guyana must implement clearer, more targeted legislation that explicitly criminalises this conduct and provide victims with accessible legal remedies.

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Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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