

Original Research Article

Legal regulation on cyberbullying of children

ABSTRACT

With the prevalence of social networking sites, cyberbullying of children has intensified all over the world and caused serious social problems. Compared with traditional bullying, cyberbullying is more widespread, the methods are more diverse, and the harm to children is more persistent. In response to the current problem of children's cyberbullying, China, the United States and Japan are selected for research, and it is found that laws should be formulated to regulate children's cyberbullying to protect the healthy growth of children.

*Keywords: [Children's Internet Protection; Cyberbullying of children; Children's rights protection; Rules and regulation]
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1. INTRODUCTION

With the development of the Internet, the protection of children from illegal acts or inappropriate content on the Internet has attracted widespread attention around the world [1,2]. On February 5, 2019, UNICEF pointed out that 70.6% of the world's Young netizens aged 15 to 24 are facing threats of online violence, bullying and harassment. Children's mental development is not yet sound, and cyberbullying can cause serious mental stress to children, and will seriously affect children's physical and mental health [3,4]. In some egregious cases of cyberbullying, children who are cyberbullied may even resort to suicide or other retaliatory measures. Therefore, how to regulate cyberbullying through legal means has become a very urgent and realistic legal issue.

2. OVERVIEW OF CYBERBULLYING

Cyberbullying is defined as the intentional and repetitive conduct of malicious acts aimed at harming others by individuals or groups using information communication technologies such as email, mobile phones, instant messaging, personal websites, social media, etc. Cyberbullying can be divided into three types based on where it is carried out and what equipment it is carried out on: cyberbullying carried out on campus with school equipment, cyberbullying carried out on campus with one's own electronic devices, and cyberbullying carried out outside of school [5].

The main means of cyberbullying is to intimidate, abuse, harass, slander, ridicule, reveal privacy and other behaviors that seriously infringe on the mental health and image of others through text messages, online forums, online blogs, chat rooms, emails, etc.

Intimidation is mainly through text messages, emails, social media and other means to send frightening information to the other party to threaten the other party. Name-calling mainly refers to the use of provocative or rude language. Harassment emphasizes the intentional attack of the victim by the perpetrator by sending vulgar or annoying messages through cell phones, e-mails, or other means of communication. Slander is to slander the victim's reputation by spreading rumors on the Internet, causing it to be misunderstood and its evaluation lowered. The taunting behavior included insulting the victim and telling discriminatory jokes. In addition, using the identity of the victim to spread inappropriate words on the Internet and go along with others to bully the victim is also bullying.

Compared with traditional bullying, cyberbullying has main characteristics. First, cyberbullying is repetitive. Although both cyberbullying and traditional bullying are repeatable, cyberbullying has a wider audience due to its uncontrollable speed and wide spread. An infinite number of bystanders [6]. Just by clicking the mouse, this kind of bullying will continue and spread to other uncontrollable areas, and the bullied has nowhere to escape. The damage is more lasting. Second, the power of the two sides is asymmetrical. This asymmetry is mainly manifested in the fact that the first offender often has greater information or technical advantages than the victim. He may have relevant information about the victim, while the victim However, they often know nothing about it, and it is difficult for victims to know the reasons for their bullying. Secondly, the invisibility of the Internet makes it difficult to identify the real perpetrator. For example, the perpetrator may cover up his truth through anonymous accounts, technology software, etc. identity, tampering with relevant information, which leads to the difficulty of cyberbullying regulation to some extent. Third, the damage is persistent. Some scholars believe that cyberbullying is a kind of psychological abuse, and that cyberbullying is a kind of psychological abuse, which can lead to psychological trauma of the minors who are harmed, and lead to unacceptable anti-social behaviors, destroying the quality of the school environment, Affect students' learning and social interactions, and in extreme cases, lead to severe violence. Because it can happen at any time and place, cyberbullying has caused many disturbing factors, and because once online information is released, it is difficult to control the speed and scope of its dissemination, and it is difficult to delete it completely, so the consequences of cyberbullying are more serious.

As far as specific consequences are concerned, because cyberbullying can occur anytime, anywhere in various ways, and its means and spread are difficult to control, the victims are often in an embarrassing and unfavorable situation. Therefore, the experience of cyberbullying may be related to children's social anxiety. At the same time, cyberbullying can lead to severe negative emotions in children, such as fear, sadness, depression, low self-esteem and even suicide. Because traditional bullying usually occurs in schools, children who are bullied can choose to go home to escape the bullying and seek protection. However, cyberbullying is often difficult to get rid of bullying due to the uncertainty of the target of bullying. Over time, this can lead to long-term psychological damage to teens, including loss of self-confidence, depression, temper tantrums, declining academic performance, truancy, and sometimes school violence or suicide. Many victims have suffered more or less psychological damage and even paid the price of their lives.

3. INVESTIGATION ON THE LEGAL REGULATION OF CHILDREN'S CYBERBULLYING

In view of the serious and intensifying harm of cyberbullying to children, it has caused serious threats to the whole family, school and even society, so it is necessary to regulate cyberbullying through laws. . At present, China, the United States, Japan and other countries have formulated corresponding legal measures to regulate the problem of children's cyberbullying, thereby protecting the physical and mental health of children.

2.1 CHINA

China's current legal regulation on children's cyberbullying is mainly divided into two forms: criminal regulation and civil regulation.

According to the Civil Code of the People's Republic of China, if network users and network service providers use the network to infringe upon the civil rights and interests of others, they shall bear tort liability. If network users use network services to commit infringements, the right holder has the right to notify network service providers to take necessary measures such as deletion, blocking, and disconnection. For network service providers, after receiving the notice, they shall promptly forward the notice to the relevant network users, and take necessary measures according to the preliminary evidence of infringement and the type of service; if necessary measures are not taken in time, the enlarged part of the damage shall be the same as the relevant network user. Network users are jointly and severally liable. If the network service provider knows or should know that the network user has infringed upon the civil rights and interests of others by using its network service, and fails to take necessary measures, it shall be jointly and severally liable with the network user.

The Law of the People's Republic of China on the Protection of Minors also clearly stipulates that no organization or individual may abuse, slander, threaten or maliciously damage the image of minors through cyberbullying through the Internet in the form of text, pictures, audio and video, etc. Behavior. Minors who suffer cyberbullying and their parents or other guardians have the right to notify network service providers to take measures such as deletion, blocking, and disconnection. After receiving the notification, the network service provider shall take necessary measures in a timely manner to stop cyberbullying and prevent the spread of information.

The criminal regulation of perpetrators is mainly based on the Criminal Law of the People's Republic of China. Anyone who insults or slanders others through the Internet shall bear criminal responsibility. Network service providers' failure to perform information network security management obligations may also constitute crimes. If they know that others use information networks to commit crimes, they provide Internet access, server hosting, network storage, communication

transmission and other technical support for their crimes, or provide advertising promotion, Payment settlement also constitutes a crime.

In addition to providing relief to children who have been violated afterwards, the law also stipulates that children's parents or other guardians should improve their Internet literacy and strengthen the guidance and supervision of minors' use of the Internet.

Considering that protecting the healthy growth of children is the responsibility of the whole society, the law also requires any organization or individual to discover that online products and services contain information that is harmful to the physical and mental health of minors, and have the right to report to the online product and service providers, or the Internet letter, public security, etc. Complaints and reports to the department.

2.2 UNITED STATES

Some states in the United States have specially formulated or revised cyberbullying laws to prevent and regulate the occurrence of cyberbullying. Because cyberbullying poses more of a legitimate concern for physical harm to children, some states in the United States consider it to be bullying if it causes a student to be placed in a legitimate concern for physical harm, or contains a real or reasonable concern for property damage. There are also some states that specifically provide for actual damage to the mind, spirit or mood.

In the United States, for the cyberbullying behavior of the perpetrator, the victim can claim the perpetrator to bear legal responsibility by filing a civil defamation lawsuit. At the same time, perpetrators who have reached the age of criminal responsibility should also bear corresponding criminal responsibility.

In addition, the United States also stipulates the school's responsibility for safety education, management and prevention of cyberbullying. CIPA) requires schools to develop and implement policies to ensure the safety of minors when using e-mail, chat rooms or other electronic communication tools. Since the United States generally believes that schools have the obligation to provide students with a good learning environment, in order to ensure that schools can fulfill the above obligations, state legislatures generally endow schools with certain punishment powers.

For network service providers, the United States stipulates that when cyberbullying victims complain to the network service provider and provide clear evidence, the network service provider should take effective technical measures to stop the infringement or prevent the expansion of the damage consequences. If the network service provider fails to take positive and effective measures, which leads to the occurrence of infringement or the consequence of damage, it can be considered that the network service provider has subjective fault. In addition, realistic pressure has also put forward self-discipline requirements for network service providers. For example, Facebook in the United States clearly stipulates that website registered users should be 14 years old. There are also some non-mainstream websites, in order to gain more market share, the feature of network security communication. For example, in order to protect the privacy of customers, the "Live Information Upload Network" has formulated rules to restrict the forwarding of information, that is, without the permission of the user uploading the information, the uploaded information can only be seen by 50 friends, and the information cannot be transferred to the link, so it is effective to prevent further dissemination of information.

2.3 JAPAN

Japan has stricter regulations on the responsibilities of Internet service providers. In Japan, when website, electronic message board and other network information is infringed and reputation damaged, the victim has the right to request the website, electronic message board and other communication service providers to disclose the name, address and other relevant information of the information publisher. In 2008, Japan clearly stipulated that communication service providers such as mobile phone companies and websites are obliged to provide filtering software for young people and provide filtering services for free. When network information causes major human rights violations, the Japanese Ministry of Justice and other relevant agencies have the right to require network service providers to delete such harmful information.

At the same time, for schools and parents, Japan stipulates that it has the obligation to educate and protect children's use of the Internet. For example, in 2008, the Japanese Ministry of Education, Culture, Sports, Science and Technology published a guideline and case collection on cyberbullying, and summarized the knowledge and methods by introducing relevant cyberbullying cases to schools and teachers. At the same time, education boards in various regions are also conducting surveys on cyberbullying to help parents and teachers learn more. In concrete practice, teachers and parents need to educate children about online ethics, such as how to surf the Internet in a civilized manner, how to avoid risks, and prevent infringements. Children frequently go online. For children who may be cyberbullied, they also have the responsibility to protect the victimized children.

Japan's protection measures for children's cyberbullying mainly rely on network service providers, teachers and parents, and there is no clear provision for post-event remedies for cyberbullying, which promotes cyberbullying to a certain extent and makes it difficult to truly regulate cyberbullying.

4. CONCLUSION

Judging from the regulation of children's cyberbullying in the above-mentioned three countries, China and the United States emphasize that the perpetrators of child abuse should be regulated through civil and criminal laws, and the children who have been abused will be relieved through civil lawsuits. This is a deterrent to combating the use of cyberbullying on children.

All three countries emphasize the education of children's rational use of the Internet, that is, to cultivate awareness through the Internet literacy of schools and parents, to prevent children's cyberbullying behaviors as much as possible, and to regulate cyberbullying behaviors before they occur.

These measures are very effective in regulating children's cyberbullying behavior.

However, since the occurrence of cyberbullying often does not require direct contact between the perpetrator and the victim, it is destined that most cyber infringements can only cause damage to the victim's non-material rights and interests, while for material personality rights such as the right to life, The right to health and the right to the body is difficult to infringe. However, for victims, the biggest harm they suffer is often psychological. For example, cyberbullying through abuse, the victim is more psychologically harmed, which makes it difficult for them to protect their rights and interests through civil litigation. Judging from the current law, in terms of civil affairs, it is difficult for the perpetrators to be punished accordingly, and it is difficult for the children who have been violated to obtain effective relief. In the litigation procedure, since the victim is a child, he does not have the capacity to litigate, and the guardian is required to act as the legal representative to file a lawsuit on his behalf. Some parents have insufficient understanding of cyberbullying and are often lazy to protect the rights and interests of the victimized child through litigation. In addition, because the network evidence is easily tampered with and deleted, the victim is in a weak position in obtaining evidence, and it is often difficult to prove the fact of infringement.

Criminal regulation is more deterrent, but criminal punishment is passive, it cannot be the main means of regulation, and criminal law can only be applied in articles that are difficult to adjust by other laws. Moreover, not all perpetrators of child cyberbullying can reach the age of criminal responsibility.

Therefore, on the basis of the clear provisions of the law, the particularity of children's cyberbullying should be further explored to make the regulatory measures more effective.

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