VICTIMISATION OF CHILDREN AND WOMEN ON THE INTERNET IN MALAYSIA: A LEGAL DISCOURSE[1]

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ABSTRACT

Hollywood films with the titles "You've Got Email, "Identity Theft", show us how the Internet has emerged and transcends into our daily activities. The Internet has been used as a medium of communication, making new friends and connecting with the old friends. It is unfortunate that the Internet has also become a place for abusive relationship even though sometimes the victims and perpetrators might not meet face to face. Cyberbullying, cyber harassment and cyberstalking are some of the reported incidents which are reported in daily newspaper. Thus, in some countries, new laws are being introduced to curb the problems of victimization online. Racism, gender, disabled and elder community can be one of the factors that lead to abuse and victimization. Thus, promoting safety is not sufficing, if no legal action is taken to curb and control the problem of victimization. A quick reference by using online search engine is made to daily local newspapers to identify the most reported cases related to Internet. Most of the existing literature on victimization of children and women on the Internet are derived from developed countries such as United States of America (USA) and United Kingdom (UK). This paper examines the reported cases of victimization online in relation to women and children in the Malaysian newspapers by examining news related to cyber pornography, cyberbullying, and cyber harassment. Identifying the most reported incident on the Internet is significant for future research as people especially children and women are prone to risk and danger on the Internet. Finally, this paper suggests that a continuous and a consistent strategic needed not only from the government, but also from the industry not only in order to create awareness among the public, but also and to curb the problem from becoming serious.
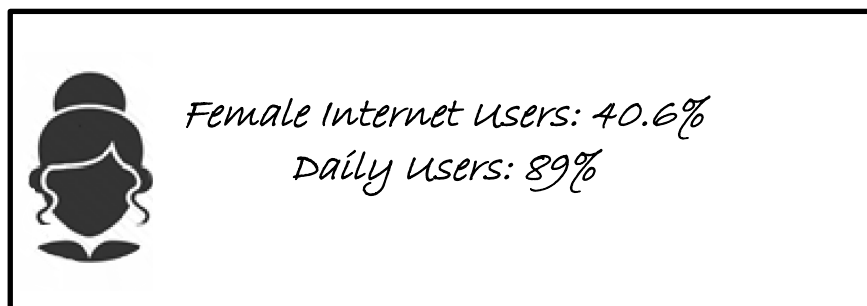
Keywords: Victimization of children and women, cyber pornography, cyberbullying, cyber harassment

INTRODUCTION

In recent years, there have been news on how our children and women are being victimised on the Internet, which become headlines in the local daily newspapers. There has been a little systematic research conducted on how the Internet has affected the innocent lives of children and women in Malaysia. Thus, this paper is an attempt to discuss victimisation of children and women from a legal perspective. Malaysia has a population of 30.1 million and almost 73 percent live in the city. On average, each one of the Malaysian social media users spend almost three hours and twenty-seven minutes each day. The most popular social media among Malaysian is *WhatsApp* in which 38 percent of Malaysian has an account of *WhatsApp* despite the fact that the speed of the Internet ranked 5th among ASEAN countries (Azizuddin, 2016).

Based on the Internet Users Survey 2016 which was conducted by MCMC and Google Consumer Barometer, it is estimated there were 24.1 million Internet users in Malaysia. As on first half year of 2016, Malaysia has a relatively high degree of internet penetration, with approximately 140.9 per 100 inhabitants; more than half of the total population of 30.88 million (MCMC, 2016). This paper begins by highlighting the percentage of Internet users in Malaysia in term of its gender, age and the reasons why they use the Internet. Next, the paper explores on the issue of victimization of children and women on the Internet before it specifically discuss on victimization of children in three areas, cyber pornography, cyber bullying and cyber harassment.
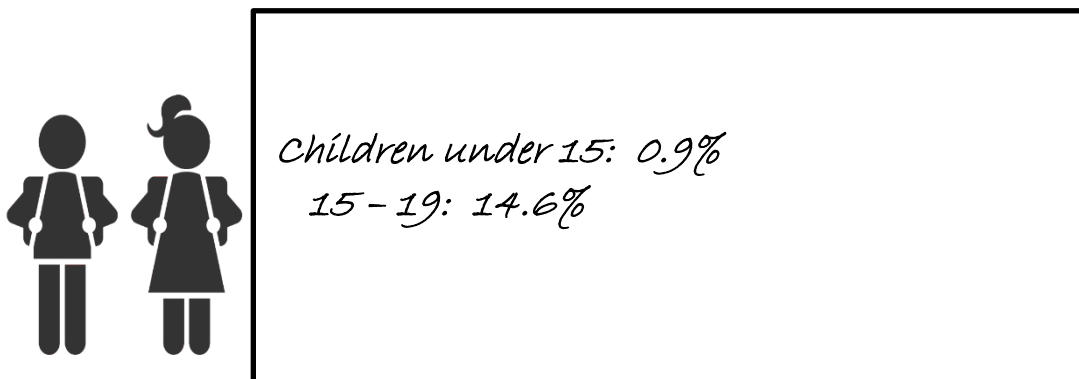
PERCENTAGE OF FEMALE INTERNET USERS IN MALAYSIA

Female Internet Users: 40.6%
Daily Users: 89%

Source: Malaysian Communication and Multimedia Commission, 2016 and Consumer Barometer, 2016
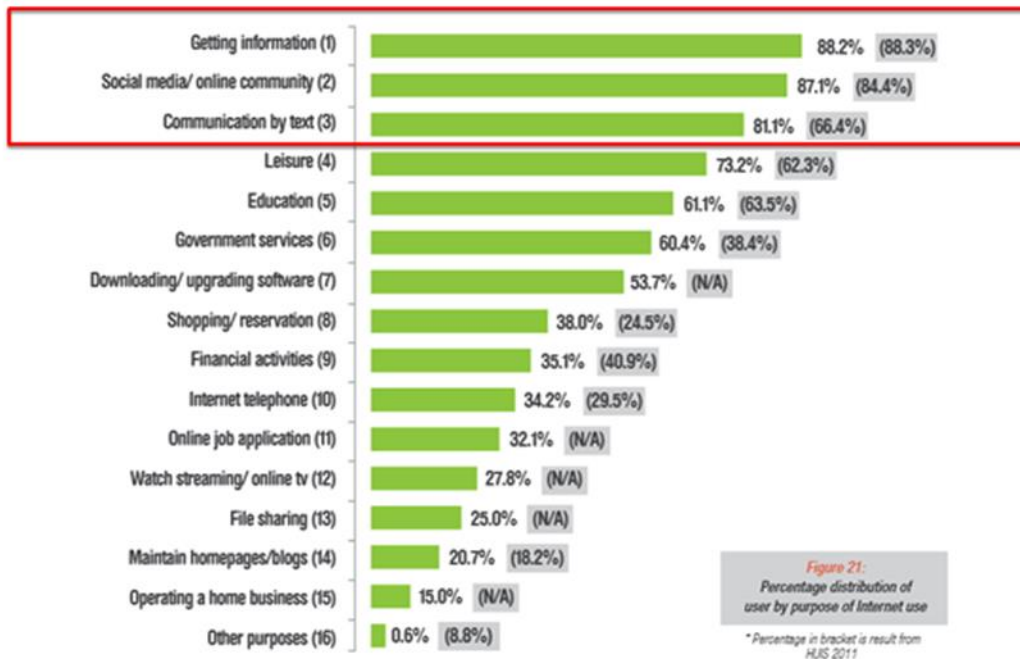
The figure above shows that 40.6 percent among the Internet users in 2016 are female with the estimation of 24.1 million people who used the Internet in 2015. This means that in every five Internet users, there were at least two women and the balance 59.4 percent were male users. (MCMC, 2016). In a research on Google Consumer Barometer, which was done by Google in cooperation with few companies the fact on usage based on gender was slightly different. While based on findings by Google Barometer, they found that there were about 89 percent internet users were female Internet users who use it daily. The research by google covered about 45 countries including Malaysia that started from January 2014 until April 2016. Survey data was collected in all countries via telephone or face-to-face interviewing and the questionnaires distributed were administered in local language(s) in all countries surveyed (Consumer Barometer, 015). Whereas in term of age population in using the Internet. The MCMC found that teenages between the age of 15 to 19 years represent 14.6 percent and children who were under 15 years old was at the slightest number that only 0.9 percent who used the Internet. (MCMC, 2016).

Children under 15: 0.9%
15 – 19: 14.6%

Source: MCMC, 2016.

MAIN PURPOSES OF USING THE INTERNET

Main purpose of using internet is for information & social networking

Purpose	Percentage	(HUS 2011)
Getting information (1)	88.2%	(88.3%)
Social media/ online community (2)	87.1%	(84.4%)
Communication by text (3)	81.1%	(66.4%)
Leisure (4)	73.2%	(62.3%)
Education (5)	61.1%	(63.5%)
Government services (6)	60.4%	(38.4%)
Downloading/ upgrading software (7)	53.7%	(N/A)
Shopping/ reservation (8)	38.0%	(24.5%)
Financial activities (9)	35.1%	(40.9%)
Internet telephone (10)	34.2%	(29.5%)
Online job application (11)	32.1%	(N/A)
Watch streaming/ online tv (12)	27.8%	(N/A)
File sharing (13)	25.0%	(N/A)
Maintain homepages/blogs (14)	20.7%	(18.2%)
Operating a home business (15)	15.0%	(N/A)
Other purposes (16)	0.6%	(8.8%)

Figure 21:
Percentage distribution of user by purpose of Internet use
*Percentage in bracket is result from HUS 2011

Hakmilik 2016 Suruhanjaya Komunikasi dan Multimeda Malaysia
Semua Hakmilik Terpelihara

Source: Internet Users Survey, 2014 (MCMC)

The Internet Users Survey by MCMC 2014 also listed down the main purposes of using Internet are for getting information and social networking. The other purposes of using internet such as are for leisure, education, shopping /reservations and financial activities and etcetera. are also recorded high percentages among users. However, in the Google Consumer Barometer study, it was found that most of male users prefer to watch online videos through online video site / app compared to watch on social network same goes to the female users. Both recorded 41 percent and 39 percent subsequently. The percentage of users who watch online videos through catch-up TV player, news or magazine site / app and another type of site / app are very low with average 5 percent. Furthermore, Malaysia Computer Emergency Response Team (MyCERT) found that Malaysian spent about 20 hours a week online on Internet. In addition, while Ministry of Education in collaboration with CyberSecurity Malaysia and DiGi Telecommunications on 2013 found that over 50 percent of students in Malaysia surf the Internet for 8 hours a week and 16 percent surfing the Internet for 28 hours a week (Yahaya, K, 2013). According to Mr. Aaron Ikram Mokhtar, previously a Senior Executives and Corporate Communication Department Outreach Cybersecurity; "The risk to be a victim of cybercrimes is higher when the user spent more time on it." He also explained that if a person spent an hour online on the Internet, the chance to become a victim of cybercrime is about 64 percent (Jessica Ong Hai Liaw, 2016).

The increasing numbers of Internet users in Malaysia is expected to grow. The Malaysian government has released "the Action Plan for Child Protection on the Internet" to handle arising issues on the Internet especially on cyber bullying and child pornography (Ministry of Women, Family and Community Development, 2015).

VICTIMISATION OF CHILDREN AND WOMEN ON THE INTERNET IN MALAYSIA.

The issue of victimisation is not new in the literature but the method of how victimization occurred need a close study, not only to understand the problems but also to examine the causes and how it can be controlled in the future. There is a need to safeguard these groups of people, especially children and women who are vulnerable and capable of being victimized by others using the medium of the Internet. In the opening statement by the Law Commission in United Kingdom in 1993, it was addressed that vulnerable people are of course not a homogenous group and arriving at a definition neither of vulnerability which is nor over inclusive presents some difficulties (Law Commission, 1993).

The issue of victimisation of children and women on the Internet is attracting policy makers as well as it creates attention from the media. However, policy makers are also looking at vulnerable adults who are prone to do mistake. For instance, in UK, there is a concern on some vulnerable adults who may not be within the Mental Capacity Act's definition, whom need protection. In *Re SA*, [2006] 1 FLR, 867 Munby J stated that: "A vulnerable adult who does not suffer from any kind of mental incapacity he or she, or is reasonably believed to be, incapacitated from making the relevant decision by reason of such things as constraint, coercion, undue influence or other vitiating factors" This decision was affirmed in another case in the Court of Appeal in *A Local Authority v DL* [2012] EWCA Civ. 353. Thus, the issue of vulnerability need to be addressed but as put by Professor Jonathan Herring, there is a need to be attentive that everyone is vulnerable (Herring, 2012). Similarly, in cases of Internet users, not everyone may understand or aware of the danger that may be exposed to them when they use social networking websites such as *Facebook, Instagram* and others. Yet, Dunn and Herring argued that the state's obligation to protect children, vulnerable adults and those lacking capacity does not present uniform issues (Dunn and Herring, 2011). The needs of women and children may differ from each other but there is an urgent need for intervention from the state. Hence, in addressing legal intervention, the idea of victimisation and vulnerability may intersect, yet, it also may be different.

Vulnerability acts as a justification for legal intervention to protect children's rights and the rights of other vulnerable groups (Collins, 2015). However, one must bear in mind that children and women also should be given the opportunity to make decision for their own lives. As put by Ost, to define all elderly persons or children as vulnerable, is unfavorable to both groups as it reduces their claim to make valuable and realistic life choices for themselves (Collins, 2015). Thus, some may argue that it is a process of learning in life, in making decision to one's life.

Since the penetration of the Internet in Malaysia, with the increasing numbers of Internet users in Malaysia, the Internet has been the medium where the Internet users are prone to make serious mistake to the extent it may breaches the existing laws. There has been some reported news as regard to victimisation on the Internet in daily newspapers in Malaysia Thus, based on the reported news, three aspects have been widely covered by the press; cyber pornography, cyber bullying and cyber harassment reported in daily newspaper in Malaysia.

VICTIMISATION OF CHILDREN ON THE INTERNET

The case of Pedophile, Richard Hackle, a British who was convicted for pedophile has not only shocked the nation but also creates pressure on the state or government to come out with laws that may deal with online crimes such as anti-grooming laws in Malaysia. There have been studies conducted to examine the relationship between children and the Internet. Children refer to those below the age of eighteen years old as stated in the Age of Majority Act 1971.There has been continuous campaign to propose a strict law on sexual abuse of children. In fact, a National Seminar which was recently held on 13 to -14 March 2017 organized by PERMATA that had successfully highlighted the importance of having a good law dealing with sexual crimes against children. Dato' Azalina, the Minister in the Prime Minister Department pointed out that the government will establish a special criminal court handling cases involving sexual crimes against children which is expected to be operational in June 2017 (themalaymailonline: 7 April 2017). The Sexual Offences against Children Bill 2017 which was passed by Dewan Rakyat on April 4, recently showed the commitment of the government and others to curb sexual abuses against children and protecting them holistically including when they are the victim of online crime.

CYBER PORNOGRAPHY

The issue of cyber pornography can be divided into two aspects, forced children and women to pose for pornography and secondly, those children and women who willingly to act for pornography materials. Thus, this article will discuss more on the former that the latter to reflect on how children and women can fall into being a victim online. A review to the existing research documented in Malaysia is crucial to understand legal issues related to cyber pornography. In a research which examined whether Malaysian laws are adequate to curb pornography, Juriah Abd Jalil found that compared to other countries such as the UK, the United States and the South Korea, Malaysia does not have any specific law criminalizing child pornography (Abdul Jalil, 2015). She highlighted four problems as regard to inadequacy of law in curbing cyber pornography in Malaysia as follows:

a) The existing laws do not mention any specific provision on possession of indecent or obscene images online as a crime
b) There is no clear legal definition on the terms pornography, child pornography, obscenity and indecency. Hence, it is difficult to charge people who possess indecent
c) The policy of non-censorship on the Internet has given the possibility to access to pornographic materials and website,
d) Lack of judicial interpretation on issues pertaining to offensive content. (Abdul Jalil, 2015).

Besides the above-mentioned inadequacy of the existing laws, lack of training among the enforcement and a dedicated agency to curb pornography online might weaken the agenda of protecting children from cyber pornography. In a cross-sectional survey of secondary schools in Kuala Lumpur and Selangor, it was found that social networking was the most commonly used of the Internet and online experiences of being bullied or harassed were common among these secondary school students (Choo and Marrett, 2016). In another survey among secondary school students in Negeri Sembilan, half of the respondents had experienced victimizations in form of online aggression or unwanted sexual solicitation in the social networking sites (Choo and Marrett, 2015). Thus, there is a high risk of being victimization among school children who actively engaged in the social networking websites such as Facebook and Instagram.

The local daily newspaper, The New Straits Times's headline entitled "*Address Weakness to Protect our Children*" on 17 November 2016 reported that it is very alarming that Malaysia is one of Southeast Asia's biggest centers for the transmission of child pornography on the Internet due to unusual number of Internet addresses in the Kuala Lumpur area where the child sexual abuse material were transmitted. It was discovered by Australian anti-pedophile unit Taskforce Argos. Furthermore, it was found that only slightly six per cent of the child sexual offenders were convicted for their crimes due to the weaknesses of the Malaysian legislation for child protection laws and enforcement in Malaysia. (New Straits Time, 2016). Some people do not report or even hide child sexual abuse cases for fear of social stigma, especially if the abuser is a family member as well as they think it is just a small matter for those who obsessed with video and images of child pornography.

The police have set up the Sexual, Women and Child Investigation Division under its Criminal Investigation Department to look into sexual crimes against women and children and the government has established a task force on sexual crimes against children to review child protection laws in the country. At the of October 2016, the task force came up with a new law, the Child Sexual Crimes Act, that seeks to empower those working to put paedophiles behind bars; redefine sexual crime especially through social media and the Internet; and ensure that sexual cases with young victims are handled with utmost urgency.

The Child Sexual Crimes Act proposes a special court for children; judges and prosecutors to be well-versed in child sexual crimes; and resolution of child sexual abuse cases within a year. Malaysia should join the *We Protect Global Alliance*, a global movement with a mission to end the exploitation of children online and it enables law enforcement agencies around the world to share information on sex offenders and send alerts to member countries of child sex offenders headed their way. (The New Straits Time, 2016). The MCMC's senior director of the advocacy and outreach division, Eneng Faridah Iskandar said Malaysian Communications and Multimedia Commission (MCMC) has received 652 complaints in year 2015 and 151 as at March 2016, most of the complaints lodged was on the spread of indecent photos and videos across all age groups including children. (New Straits Time, 2016). Besides the above-mentioned inadequacy of the existing laws, lack of training among the enforcement and a dedicated agency to curb pornography online might weaken the agenda of protecting children from cyber pornography. Thus, it is hoped that by having the Sexual Offences against Children Bill 2017 can lessen the misuse of communication and content by medium of the Internet especially related to vulnerable groups such as women and children.

CYBER BULLYING

Some Internet users feel that words recorded online is simply a joke and it will not hurt anyone. There have been studies conducted to examine the prevalence of cyber bullying among school children in Malaysia. At a first glance, it seems that report pertaining to cyber bullying is widely reported at schools and among school children compared to cyber bullying towards women. Cyber bully became a cover story in 2004 in the *New Straits Time* (2004), which highlight concern on the increasing numbers of cyber bullying online. Several secondary school students in the Klang Valley revealed that cyber bullying is common, and has in fact been around for at least five years. ASP Mahfuz Abd Majid from the police Technology Crime Investigation Unit agreed that the same bullying cases he saw 20 years ago are now taking place online (Anandarajah, 2004).

A study conducted by Vimala Balakrishna (2015) among Malaysian teenagers found that no significant differences for gender and age on cyberbullying activities. It was discovered that Internet frequency significantly predicts cyberbullying. Cyberbullying incidences are still taking place, even though they are not as rampant as observed among the younger users. In another research conducted by Mary J. Marret and Wan-Yuen Choo (2016) which involved secondary school students from randomly selected public schools in Selangor and Kuala Lumpur responded to an anonymous self-administered questionnaire (78 percent response rate). Out of 3,349 Internet or mobile phone users, 51 percent had been invited to meet offline with an online-meeting acquaintance and 30 percent complied. Of the 1,005 respondents who went to offline meetings, 55 percent had meetings with

more than six people. Verbal, physical, or sexual assaults were reported by 5.5 percent of the 1,005 including 13 males and five females who reported forced sexual intercourse. Hence, such finding is worrying as not only sex under age is a crime but it is also sinful in Islam.

In a recent research conducted in UK, four focus groups were conducted with 29 children aged 11- to 15-year-olds recruited from two schools. Interpretative phenomenological analysis revealed three themes: impact of technology, vulnerability and cyberbullying. Cyberbullying was regarded as the actions of an anonymous coward who sought to disrupt social networks and acts should be distinguished from banter (Gurham, 2017).

CYBER HARASSMENT

Harassment happens not only offline, but it has extended to online environment. In some countries such as Belgian, online sexual harassment is increasingly encountered by adolescents and is associated with various negative psychosocial outcomes. This study used focus groups to examine sexual harassment on SNSs from adolescents' (aged 12 to –18 years) point of view: what do they perceive as severe cases and who do they think should play a role in addressing them. In a research conducted by Nansen and others (2012) in Australia, they suggest that a concept of digital wellbeing should be developed rather than focus only on risk protection measures, it is important to equip children with the knowledge and skills to be active, ethical and critical participants online. The concept of digital wellbeing is similar to the concept of cyber wellness as promoted by Singapore. In fact, Madam Eneng from the Malaysian Communication and Multimedia (MCMC) is considering to set up a cyber wellness centre in Malaysia. (The Star, 2016).

Countries such as the United States, the UK, and India have codified laws dealing with cybercrimes and cyber-harassment to protect the victim (Halder and Jaishankar, 2011). However, despite there are codified laws, it was reported that the trivialization of the problems by laws or criminal justice systems further victimise the crime victim. Thus, in matters pertaining to tender issues such as cyber harassment, cyber bullying and cyber pornography, it is best if it is dealt by way of mediation rather than criminal. With the above mentioned suggestion on setting up a cyber wellness centre, it is hoped that more social issues which occurred online can be settled by way of mediation. This will not only protect the victim, but it also gives space for the victim to seek rehabilitation and counselling from the expert. Criminal procedures might be very long for the victim to bear. It can be a worth nightmare for the victims.

VICTIMISATION OF WOMEN ON THE INTERNET

There has been literature related to women's victimisation on the Internet. In a book written by Halder and Jaishankar (2012), they found that women are prone to be victimised online compared to male. They suggested that international organisations, including the United Nations, as well as scientific organisations should continue to study the behavior that infringes the rights of women in cyberspace. In a descriptive study conducted by Winkelman and others (2015) they examined the U.S. women's experiences with and attitudes toward cyber harassment by way of an anonymous electronic survey. A total of 293 adult women (mean age 24.6) recruited from popular social networking sites participated in the research. The majority of participants (58.5 percent) reported being a student enrolled at a college or university. Close to 20 percent repeatedly received an unsolicited sexually obscene message and/or sexual solicitation (excluding Spam messages for all categories) on the Internet. More than 10 percent (11.5%, n = 33) repeatedly received pornographic messages from someone they did not know. More than a third of those who did experience some form of cyber harassment reported feeling anxious. One- fifth indicated they noticed changes in their sleeping and eating patterns as well as feeling helpless because of the harassment (Winkelman & Ors, 2015). The traumatization faced by these women if it is not handled quickly, it may jeopardize their future.

Mohd Nawi and Chy Ren (2014) highlighted the negative impacts of social networking to women by highlighting the issue of addiction among women as the Internet users. Social networking such as *Facebook* has contributed to various ills including murder, divorce cases, career, decline in students' performance and many other reported cases. The negative effects should not be underestimated as it can be a silent killer to serious cases in the society. According to the Malaysian Police Enforcement, there were 1,905 women who were reported as victims to African Scam, with a reported lost almost RM 36.5 million (Kamil Maslih, 2014). The Bukit Aman Commercial Crimes Department, Multimedia and Cybercrimes Division investigation officer ASP Mohd Syafiq Jinuin Abdullah said most of the victims were aged between 35 and 45 years, mostly rich single mothers. The perpetrators were mostly Africans who snared their victims through Facebook, e-mail and Skype. (*The Malay Mail,* 2016). In fact, MCMC published a compilation of true stories based on true stories reported in "Cyber 999" (MCMC, 2015). An observation made by a non-government organization known as *Onemyr Awareness Management Centre* found that one in every twenty girls and women in Malaysia had been a victim to cybercrime by willingly share their nude pictures or video to a man they just knew through the social networking websites (New Straits Times, 2016). According to Mohd Ridzman Azhari, the Director of *Onemyr Awareness Management Centre,* in a campaign conducted by his company, they found that the youngest victim was only a ten year old girl and the eldest was a sixty eight year old woman. In a daily newspaper, there have been warnings on Casanovas on the Internet. (New Straits Times, 2016)

Thus, matters are complicated on the Internet especially when someone pretends to be someone else while using the Internet. A continuous effort should be drawn by all parties involved in instilling good manners and ethics while using the Internet especially for communication and when sharing the content in public setting.

CONCLUSIONS

Social media sites increase the ways that people can communicate with each other and invite other people to join them at any time of the day or night. Although this technology making it easy for information to be disseminated quickly, at the same time it allows the sender or recipient of such information to remain anonymous. This may indirectly contribute to cyber bullying where

rumours and vicious teasing can be posted to whole world instead of just to a few classmates. For instance, online grooming is misused by pedophile to groom others especially innocent children or women. Children and women are easily victimised online. It is timely for Malaysia to have laws that deal with online crime which mostly related to the sexual abuse of children and women. As for parents and guardian, it is pertinent to monitor their child's online activities, particularly on social media sites. Having a good and close relationship with their children may make easier for parents to discuss when it comes to discussing online safety and why it is important to be diligent online for online safety especially when accepting or communicating with new 'friends' i.e. friends they do not know and have not met in person before. All in all, online or cybercrimes, as an extension of conventional criminal activity with more complex issues, need some effective responses to focus on technical solutions and legislative provisions. Nonetheless, a holistic approach to prevent victimisation in cyberspace through the cooperation of users and community are equally important.

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