



Gender Equality in Singapore: An Action Plan for Progress

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PANEL III
Mindsets and Minefields

SPEAKER

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DIGITAL TECHNOLOGY AND SEXUAL CRIMES: THE CONSTANT CHANGING DANGERS THAT LURK

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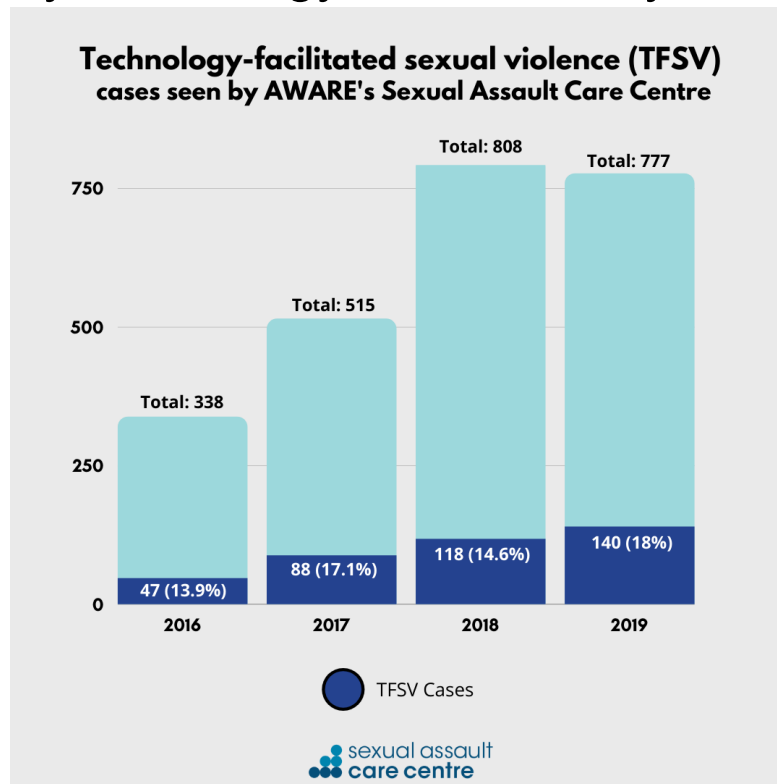
01

Increase in Tech-enabled Sexual Violence



Increase in Tech-enabled Sexual Violence

- As reported in an article by Today (1 Dec 2020), Association of Women for Action and Research (AWARE) has seen a tripling of sexual violence case facilitated by technology in the last 4 years.



Source: <https://www.aware.org.sg/2020/12/awares-sexual-assault-care-centre-saw-140-cases-of-technology-facilitated-sexual-violence-in-2019-the-most-ever-in-one-year/>

Increase in Tech-enabled Sexual Violence

- Based on the cases received by Aware:
 - Image-based sexual abuse (39 per cent)
 - Unwanted and explicit sexual messages and calls (29 per cent)
 - Sexual abuse facilitated by dating or ride-hailing mobile applications (15 per cent)
 - Cases involving multiple forms of abuse (17 per cent)
- As noted by the High Court Judge in ***PP v Lee Seow Peng*** [2016] SGHC 107:

[97] ... The prevalence of mobile technology in the present day and age provides fertile ground for exploitation and abuse ...

APPLICABLE LAWS

1. Protection from Harassment Act

2. Penal Code

- a) Sexual Grooming
- b) Criminal Intimidation
- c) Word or Gesture Intended to Insult the Modesty of a Woman
- d) Voyeurism
- e) Distributing or Threatening to Distribute Intimate Image or Recording

02 LEGAL REFORMS



PROTECTION FROM HARASSMENT ACT

- First introduced in 2014
 - Purpose: To protect victims of harassment, both offline and online
 - *Parliamentary Report* dated 13 March 2014 by Minister for Law, Mr K Shanmugam:
 - “**Cyber-space makes harassment easier, and in some ways, more egregious, because it can be anonymous, borderless, viral and permanent. Late last year, REACH commissioned a study involving more than 1,000 Singapore residents above the age of 15. More than 80% of those surveyed felt online harassment to be a serious issue... These findings correspond with the very grave instances of harassment being reported.**”

PROTECTION FROM HARASSMENT ACT

- Further enhanced in 2019
 - Second Reading Speech by Senior Minister of State for Law, Mr Edwin Tong on Protection from Harassment (Amendment) Bill (7 May 2019):

“We cannot trust the internet companies to regulate this jungle. Why? Because the primary motivation is the pursuit of profit... So we need a solution. The amendments to POHA, today, give power to the people so that the man on the street can take back the truth, and find a way to reclaim his dignity”.

PROTECTION FROM HARASSMENT ACT

- New Offence of Doxxing Introduced
- Doxxing
 - *Statement by Ministry of Law dated 1 April 2019*
“In recent years, there has been an increasing trend of an individual’s personal information being consolidated and published online with a view of harassing the said individual.”
 - Criminalises disclosure of personal information to cause violence or harassment to others
 - Sections 3(1)(c) and 5(1A) of POHA
- Enhanced measures to address spread of falsehoods
 - Introduced General Correction Order which operates against third parties who are not responsible for the publication of false statements
 - To militate against the widespread nature of technology

PROTECTION FROM HARASSMENT ACT

- Recent cases:

- **Male convicted for sexually harassing female colleagues**

- Accused created fictitious social media accounts (through Telegram and Facebook) to send explicit photos and sexually harass his female colleagues.
 - Accused pleaded guilty to two counts of transmitting obscene images, one count of possessing obscene images and one count under POHA (among others).
 - Accused was sentenced to imprisonment term of three years and one week and fine of S\$4,000.



PROTECTION FROM HARASSMENT ACT

- Recent cases:
 - **NUS student stalking woman and trespassing into her property on campus**
 - Accused stalked the woman between Aug 2019 and Jul 2020 by sending multiple messages to her communication apps.
 - He is also accused of trespassing into her property in Jan 2020 and at around the same time, he gained unauthorized access to her Telegram account.
 - Accused was charged in early 2021 - harassment, criminal trespass and unauthorized access to the woman's account on Telegram.
 - Case is still pending in Court.

PENAL CODE

- 2018: Discussed extensive reforms to the Penal Code
- Specifically, there was a chapter dedicated to “*changes made in response to crimes facilitated by new technology*” (*Penal Code Review Committee Report, August 2018*)
- New offences introduced
 - Voyeurism
 - Distributing or threatening to distribute intimate images

PENAL CODE – VOYEURISM

• *Penal Code Review Committee Report, August 2018*

“The existing law is inadequate to address the serious problems that technology has created. There is a bustling market online for “upskirt” videos and photos but the current law neither acknowledges nor is adequate to address this phenomenon. A patchwork of laws has to be relied on to deal with the many components involved in the market for voyeuristic content... The existing law is especially inadequate to deal with the surreptitious recording of others in circumstances of undress or intimacy and the dissemination of such recordings...”

PENAL CODE – VOYEURISM

- New offence (s 377BB of Penal Code)
 - Specific act of voyeurism, which involves the non-consensual observation or recording of someone doing a private act, is an offence
 - It is also a crime to make or distribute voyeuristic recordings

PENAL CODE – DISTRIBUTING OR THREATENING TO DISTRIBUTE INTIMATE IMAGES

- *Penal Code Review Committee Report, August 2018*

“The proliferation of the Internet and smart phones has made it extremely easy for images to be created, uploaded, and downloaded on various platforms, and very difficult for such images to be removed. Existing law should be updated to respond to this contemporary phenomenon... A stronger and consistent response is required to address the actual or threatened distribution of nude, semi-nude, sexual or sexually explicit images without consent.”

PENAL CODE – DISTRIBUTING OR THREATENING TO DISTRIBUTE INTIMATE IMAGES

- New offence (s 377BE of Penal Code)
 - An offence for anyone to intentionally or knowingly distribute an intimate image of another person without the consent of that person and knowing or knowing it likely that such conduct would cause that person harassment, alarm, or distress.
 - Also an offence for anyone to threaten the distribution of an intimate image of another person without the consent of that person and knowing or knowing it likely that such conduct would cause that person harassment, alarm, or distress.

03

JUDICIAL SENTIMENTS



Use of technology in committing a crime may be an aggravating factor, relevant in determining the appropriate sentence

Yap Lee Kok v Public Prosecutor [2021] SGHC 78



Facts:

- Accused was 55 years old and the Victim was 14 years old.
- Accused used a Facebook account with the moniker “*Peter Teo*” to befriend females.
- In January 2019, Accused added the Victim as a friend on Facebook and both began chatting on the Facebook messenger app.
- Accused lied to the Victim that he was “about 40 years old”.
- Accused initiated conversations of a sexual nature and transmitted photographs of his penis to the Victim. In return, he procured photographs of the Victim’s breasts and vagina.
- Through the online conversations, the Accused also repeatedly requested sexual favours from the Victim.
- In February 2019, both met in a carpark where the Accused proceeded to commit the sexual offences.

Yap Lee Kok v Public Prosecutor [2021] SGHC 78

Facts:

- Accused pleaded guilty to two counts of sexual penetration of a minor under s 376A(1)(a) of Penal Code.
- At the first instance, the District Judge sentenced the Accused to a global sentence of 18 months' imprisonment.
 - The District Judge held that the Accused's use of internet to contact the Victim was an aggravating factor.
- Accused appealed against the sentence on the ground that the District Judge placed disproportionate weight on the factor regarding the use of internet (among others).

Yap Lee Kok v Public Prosecutor [2021] SGHC 78

- The High Court rejected the Accused’s submissions and agreed that the District Judge was entitled to regard the use of internet to contact the Victim as an aggravating factor.

*[9] ... [the Accused] in this case used the internet with the intention of committing sexual offences. In the Statement of Facts (“SOF”), the [Accused] admits to using a Facebook account with the moniker “Peter Teo” to look for females to befriend. Once the victim accepted his friend request, the [Accused] used the Facebook Messenger app to: (a) initiate conversations of a sexual nature (including asking her to fellate him); and (b) send lewd photographs and procure the same from the victim. In the 21 July IMH Letter, the [Accused] also admits to pursuing “sexual relations with females he met over the internet”. **I take this opportunity to signal the court’s contempt for such predatory behaviour in the digital realm and accordingly find that general deterrence is a dominant consideration in this case.***

Yap Lee Kok v Public Prosecutor [2021] SGHC 78

[10] I am also satisfied that the DJ was entitled to regard the falsity of the [Accused]’s Facebook moniker as an aggravating factor. The usage of a false moniker, when seen alongside the [Accused] lying about his true age to the victim and meeting her in a multi-storey carpark instead of his home, reveals an intention to “conceal [his] identity and avoid detection”(AQW at [61])...

How can online spaces be governed to create a safer social platform for all?

- Carrot or Stick approach: what is the right balance to be struck?
- Chain of detection and deterrence: Role of gate-keepers, limit anonymity
- Netizens patrol, AI-patrols, whistle blowers: public-private partnership?

How can online spaces be governed to create a safer social platform for all?

- Relevant and adaptive legislative tools: **Constant** legal review and reforms are necessary to address the developing and changing technological landscape

– However, as pointed out by the English Court in ***Re A (Capacity: Social Media and Internet Use: Best Interests)*** [2019] EWCOP 2:

4 Advances in cyber and digital technology continue to outrun society's ability to monitor or control it and, to an extent, the law's ability to keep pace with its development. The internet is, or can be, a dangerous place; it has a dark side, when dehumanizing and illegal material (including images, pseudo-images, videos, live-streaming and text) is all too readily accessible. Internet abuse is commonplace and is known to take many forms: bullying, harassment, child sexual abuse, sexual grooming, trafficking, trolling and the theft of personal identity among them. These activities thrive when they are left unchecked...

How can online spaces be governed to create a safer social platform for all?

- Respect and Education are **KEY**. Safe/responsible usage of online platforms, cyber security and ease of access to legal recourses (among others) remain the best solution.

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