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Kampus Sungai Petani

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MIND YOUR RIGHT BOOKLET: AWARENESS ON CYBER DEFAMATION LAW & MEDIA

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ABSTRACT

Defamation is an area of law that provides a civil remedy when someone's statement or words end up causing harm and injury to reputation of others. The statement tends to lower a person's reputation and dignity in the estimation of public generally which causes him to be shunned and avoided and exposed the claimant to be ridiculed by others. In Malaysia, defamation can be both a civil and criminal offence. For civil cases, the relevant legislation is the Defamation Act 1957 whereas criminal defamation is covered by Chapter XXI (Sections 499 to 502) of the Penal Code. The action of defamation is arising and becomes a highlight in media in recent year. The defamation suit filed by FashionValet and Duck group founder Vivy Yusof on June 15 2020 against alia Najwa Hassannuddin, an Instagram and Facebook user for instance, has caused uproar among the social media users. This project aims to impart knowledge on law of defamation to the target groups namely students and media personnels. The project also aims to evaluate the participant's understanding on this law. For the first phase, the project is applied to the university students from Universiti Teknologi MARA Cawangan Pahang. The booklet uses simple language without legal jargon for easy understanding and learning. A fun and simple game-related technique is also used explain the elements of defamation to the participants. This booklet is user friendly and easy to comprehend. It uses interactive practices to disseminate, deliver, and expose the participants with up-to-date legal knowledge on selected issues which is aligned with Malaysia education blueprint 2015-2025. In terms of its' potential for commercialization, the booklet can be used not only in an academic setting but also very beneficial to the community at large especially to the media personnel who is an easy target for a claim of defamation.

Keywords: cyber defamation, litigation, awareness, lower reputation

INTRODUCTION

Nowadays, many people share their thoughts, opinions, or even what they are having for lunch to social media platforms such as Facebook, Instagram, Twitter, or WhatsApp. Some of them make remarks about others, not concerned about whether the comments they make are true or untrue. The need to share their experiences such as bad customer service or a road rage incident are easier with social media. This form of wide-open, instantaneous, interactive, and largely uncensored communication can expose them to claims of defamation (The Sun Daily, 2021). Not many knows how to prove that someone is defamed. In laymen term, defamation is a statement made to damage another person's reputation. The victim can sue their defamers for compensation. For instance, the founder of FashionValet and Duck Group, Vivvy Yusof has filed a defamation suit against a netizen for allegedly slandering her using the netizen's Facebook and Instagram account on the issue of government helping the B40 and M40 groups affected by Covid-19 outbreak (Malaymail, 2020). This indicated that most social media users are still not aware of the consequences they might face if they made nasty posting on social media. Hence, this project aims to impart knowledge on law of defamation to the target groups namely students and media personnel. The project also aims to evaluate the participant's understanding on this law.

Mind Your Right Booklet: Awareness on Cyber Defamation Law & Media

Product Description

Mind Your Right Booklet: Awareness on Cyber Defamation Law & Media is designed to provide an awareness to the Malaysian community pertaining to the law on defamation. Due to recent unprecedented situation of Covid-19, various aspects of our lives have been drastically changed. Fear of unknown has made the society anxious and thus indirectly they used social media to express opinions or used the social media to publish or posted content, statement, picture, video on issues which have triggered them. Unfortunately, many are unaware on the potential of legal implication of dissemination false information or content in social media. The situation is alarming as it might open the gate to potential litigation in the absence of legal knowledge on ingredients that constitutes defamation action. Due to these reasons, Mind Your Right Booklet: Awareness on Defamation Law & Media is developed. As comprehending laws are arduous and complicated, this product featuring eye-catching visual, incorporated simplifies words and refine legal procedure in the form of infographic in imparting the legal knowledge.

Mind Your Right Booklet: Awareness on Cyber Defamation Law & Media is developed using infographic design tool to suit the subject-matter and objectives of the product's development. The necessary resources from legal documents are organized in a systematic flow to ensure the information can be easily comprehend by students and specific group. Simple words, diagrams and engaging colours are used to attract readers in understanding the legal meaning on defamation and elements to be established for the aggrieved party to take legal action.

Benefit To Mankind

Mind Your Right Booklet: Awareness on Cyber Defamation Law & Media has huge potential

in assisting the community to better understand pertaining to the law on defamation. In addition, this booklet may guide readers on the correct method to express views or publish contents on social media to avoid potential legal action on defamation. The product is practical and powerful tools to comprehend laws pertaining to specific area as the information is easily digestible as it is presented in simplified words in the form of infographic.

Potential commercialization

Mind Your Right Booklet: Awareness on Cyber Defamation Law & Media can play a significant role as teaching and learning tool in specific area of private law. Therefore, this simplified legal knowledge is an essential tool to impart the awareness on protection accorded by laws from any wrongful actions and abuse especially in the area of defamation. This knowledge is pertinent so that reader will know whether he is eligible to file a claim should an entity is violating their rights.

LITERATURE REVIEW

The law on defamation is based on the English Common Law. In Malaysia the law is governed by Defamation Act 1987. Unfortunately, the Act does not define the meaning of defamation. In the case of *Dato' Seri Anwar bin Ibrahim v The New Straits Times Press (M) Sdn Bhd & Anor* [2010] 2 MLJ 492, defamatory statement is defined as statement published which has the effect of exposing the aggrieved party to be shunned or ridiculed by the community, said to be made if its effect expose the plaintiff, in the eyes of community. A defamatory statement may either be a libel or slander. Libel is defamation in a permanent and visible form (*Monson v Tussauds Ltd* (1894) 1 QB 671,692) whereas slander is defamation in a temporary form (*BHLB Trustee Bhd & Anor v HSBC (M) Trustee Bhd & Ors* [2006] 4 MLJ 48). Under Malaysian law, a defamatory action can be taken if the essential elements for an action of defamation can be proven by the plaintiff. These elements are; (i) the words are defamatory, and (ii) the words refer to the plaintiff, and (iii) the words have been published (*Kian Lup Construction v Hong Kong Malaysia Bhd* [2002] 7 CLJ 32). The statement published must therefore have a tendency to lower the aggrieved party's reputation in the eyes of society which as a result exposed the person to be shunned and ridiculed. The words may be defamatory in three ways. First, through its natural and ordinary meaning (*Institute of Commercial Management United Kingdom v. News Straits Times Press (Malaysia) Bhd* [1993] 1 MLJ 408), second by innuendo (*Syed Husin Ali v. Sharikat Penchetakan Utusan Melayu Bhd* [1973] 2 MLJ 56) and third by employing visual effects such as placing the plaintiff's photograph with offensive material or better known as juxtaposition (*Monsoon v. Tussauds* [1894] 1 QB 171). Besides proving the statement must be defamatory, the plaintiff must show that the statements must refer to him. The final essential element that needs to be proven is the defamatory statement must be published. A statement is considered to have been published when the defamatory statement is disseminated to another person besides defendant (*Theaker v. Richardson* (1962) 1 All ER 229).

These Days, cyber defamation occurs when defamation is committed with the assistance of computers or the Internet, for instance, someone publishes any defamatory matters about someone on any online platform (Alam et al,2015). According Othman et al (2019), there are two sorts of defamation. First, is libel that is the publication in permanent sort of a

defamatory statement like writing or printing. Second, is libel that is transitory form such vocable or gestures. Proven defamation, the plaintiff must establish three elements which are the words are defamatory, the words ask the plaintiff and therefore the words are published. Other words, “any act, deed, word, gesture in cyberspace designed to harm a person’s reputation on the internet amounts to defamation” (Rahman, 2013). Accordingly, every repost or share of a defamatory statement is considered a new publication because those who do so are deemed to have approved, endorsed or repeated the same. This position was reiterated in the recent Court of Appeal case of *Raja Syahrir bin Abu Bakar & Anor v Manjeet Singh Dhillon and other appeals* [2019] MLJU 75.

METHODOLOGY

This paper only included studies that provide relevance toward cyber defamation. Selected papers included studies written in Bahasa and English, not related to cyber defamation were excluded. This study conducted search via four different journals database consist of Scopus, Web of Science, Science Direct and CLJ Law. This study includes the publication date from to 2010 and 2021 (articles published within the past ten years). Searched using keywords cyber defamation and awareness exclude crime. Once the search, evaluation, identification, and extraction process are complete, the researchers organize the information consistent with the review in Table 1 and Table 2.

Table 1. Search strings

Database	Search strings	Total paper	Selected paper	Country
Scopus	(TITLE-ABS-KEY (cyber AND defamation) AND TITLE-ABS-KEY (awareness)) AND PUBYEAR > 2010 AND PUBYEAR < 2021	44	7	Malaysia (2) India (2) South Africa (1) Jamaica (1) Israel (1)
Web of Science	cyber defamation and awareness NOT crime	2	1	Australia (1)
Science Direct	cyber defamation and "awareness" NOT crime NOT bully	33	3	India (1) South Korea (1) Germany (1)
CLJ Law	cyber defamation and awareness NOT crime	1	1	Malaysia (1)

Table 2. Cyber Defamation study conducted in Malaysia between 2010-2021

Year	Authors	Country	Area of Concerns
2020	Zakaria, Z., & Harun, S. A.	Malaysia	Platform for cyber defamation via social networking (Twitter, Facebook, Instagram, Telegram, YouTube, WhatsApp & WeChat). It is because these social networking are low barriers to entry and the almost no need to pay anything other than easier to access it. This research shown the level of awareness for cyber defamation among adolescent users is still at medium level which is awareness in cyber defamation cases among adolescent can practically differ from the perspective of early adulthood.
2019	Markom, R., Zainol,	Malaysia	Bagi aspek pemahaman undang-undang berkaitan media baharu tahap literasi belia masih berada di tahap yang sederhana. Majoriti

	Z.A., Fuad, N.A.		responden masih berada di tahap ‘tidak pasti’ mengenai kefahaman perundangan media baharu. Bagi tema kedua pula, iaitu pengetahuan mengenai senarai undang-undang berkaitan media baharu, tahap pengetahuan beliau masih berada di tahap yang sederhana.
2012	Syahirah Abdul Shukor	Malaysia	Create awareness of its importance in rearing and guiding our children on the Internet. The information on the Internet, if it is not supervised and morally guided based on religion, culture, and customs, could be a "silent killer" to the development and thinking of our young generation.

According to Table 1, there were eighty articles related to cyber defamation that have been found in four database journals: Scopus, Web of Science, Science Direct, and CLJ Law. However, only twelve articles relevant to cyber defamation and awareness were included in the review after going through the evaluation and extraction process. Seven of them were found in the Scopus database, three from the Science Direct database and one article found from the Web of Science database and CLJ Law database, respectively. In comparison to other nations such as India, South Africa, Jamaica, Israel, Australia, and Germany, the result shows that Malaysia has the most studies on cyber defamation. This may be due to several factors. First, the internet penetration rate in Malaysia is among the highest in the world. According to the newest Digital 2019 study from Hootsuite and We Are Social, Malaysia ranks fifth in the world and first in Southeast Asia in terms of mobile internet and social media penetration, spending an average of eight hours and five minutes per day online and nearly three hours on social media (BHOnline, 2019). Table 2, according to the Zakaria et al (2020); Malaysian Communications and Multimedia Commission (MCMC), Facebook is the most popular social network application among Malaysians, with 91.7 percent, and WhatsApp is the most popular communication application with 98.7 percent. This makes cyber defamation easier to do as it is easily spread through Facebook and WhatsApp. Second, the culture of Malaysians who are easily influenced by fake news and information and quickly spread slander to bring down or embarrass someone through social media. This is seen to be increasing in recent times where it stems from the attitude of individuals and the lack of awareness among them regarding the legal action that can be taken against those who commit cyber defamation.

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