

MY STALK ALERT: SWIFT RESPONSE FOR CYBERSTALKING VICTIMS

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ABSTRACT

In the past two decades, Information and Communication Technology (ICT) has become an integral part of our everyday lives and has intensified with the current endemic, which requires people to work from home. However, such heavy reliance on ICT increased the vulnerability to become the victim of various cyber-crimes, including that of cyberstalking. Cyberstalking has been associated with more severe cyber fraud and real-world crimes such as rape and murder. Due to the nature and severity of such crime, the response by the criminal justice system to cyberstalking remains inadequate within the current Malaysian legal landscape due to the under-reporting and under-responsiveness to such crime. Hence, the MY Stalk Alert (MSA) application was developed and aims at helping and facilitating the victims of stalking specifically and victims of harassment to understand, cope, and provide easily accessible documentation for a compelling trail of evidence within the criminal justice process. Prosecution and investigation of such crimes have been challenging due to the inadequacy of evidence on the victim's part. This Application aims to remedy the circumstances by giving access to users to the features that make it easy to document the evidence and provides them with available information on the crime and the current legal landscape of stalking in Malaysia. Furthermore, the MSA also focused on the user's mental health by providing self-assessment and tips for their wellbeing under the feature of victims' support. The Application is a first of its kind in Malaysia and aims to support victims of stalking in getting the justice they deserve. The findings illustrate that the Application provides the tools needed for victims to report and protect themselves from stalking effectively, which aligns with the assurance of the non-denial of justice for victims as envisaged by the Malaysian Cyber Security Strategy 2020 and the Sustainable Development Goals No.16.

Keywords: Cyberstalking, Victim Support, Mental Health, Criminal Justice, ICT, Harassment

1. INTRODUCTION

The extant literature indicates that stalking is a traditional crime that occurs in many parts of the world. Early literature on stalking characterises such crime related to acts or behaviours of pursuit, which is done over time, threatening and potentially dangerous towards the victim (Meloy, 1998; Sheridan & Grant, 2007). With the advancement of the Internet, evidence revealed that traditional stalking has morphed into cyberstalking, which may be committed through any electronic devices where traditional crimes transcend into cyberspace. (Leong, 2015; Hamin & Wan Rosli, 2020). Recent literature indicates that cyberstalking is a common crime and is becoming more dangerous than traditional stalking due to the various crime stimuli of the Internet that provide tremendous opportunities to utilise advanced computer programs (Aa, 2011; Mutawa, 2016; Hamin & Wan Rosli, 2020).

Cyberstalking has been widely defined as a repeated pursuit of an individual to intimidate, control, monitor their victims via the Internet, and its behaviours would include persistent, unwanted, premeditated, and aggressiveness (Pittaro, 2007; Reyns et al., 2012; Piotrowski & Lathrop, 2011; Reyns, Henson, & Fisher, 2012; Roberts, 2008; Sheridan & Grant, 2007; Strawhun et al., 2013). However, extant scholars highlighted that the complex conceptualisation and the variation of the legal definition of stalking make it challenging to assess how can the criminal justice system respond to this offence, even with legislative refinements and effective stalking public policies in place (Brady & Nobles, 2017; Carter, 2016; Miller, 2001; Spitzberg & Cupach, 2007; Tjaden, 2009; Bouffard et al., 2021). Furthermore, the complexity of behaviours required to meet the definition outlined under anti-stalking laws had led to confusion in identifying and responding to the crime (National Center for Victims of Crime, 2008; Tjaden, 2009; Bouffard et al., 2021).

The unique circumstances in the prosecution of stalking are when the victims themselves are often asked to document and present their evidence of this behaviour's repeated nature and the emotional impact experienced (Bouffard et al., 2021). Furthermore, the under-reporting by victims and under-recording by police combined with frequent unresponsiveness of prosecutors and judges leads to significant barriers for effective criminal justice responses to stalking offences. Todd et al. (2021) highlighted that the digital footprint of victims and perpetrators is often overlooked in police investigations. Determining the technologies involved is essential for such risk assessment for earlier intervention to prevent the escalation of stalking behaviour. Bouffard et al. (2021) contended that stalking cases remain rarely prosecuted despite increasing awareness and provisions for enhanced penalties.

Cyberstalking has always been a problem worldwide and even in Malaysia. However, in Malaysia, stalking has yet to be gazetted as a crime, which in turn makes it very challenging to investigate and prosecute (Hamin & Wan Rosli, 2018; Wan Rosli & Hamin, 2020; Wan Rosli et al., 2021). Due to the unresponsiveness of the criminal justice system and the under-reporting by victims, the MY Stalk Alert was developed to facilitate and provide the adequate support needed for victims to have a trail of evidence in aiding investigation and prosecution on the part of the enforcement. This App has several valuable features that include an easy-to-understand explanation of the law governing cyberstalking, mental health support, and a quick checklist to identify mental health risks. The App also offers a novel feature of "Stalking Diary", which helps victims record and report their stalking incidences, including automatic date and location generation. The App also contains victim support features where important emergency contacts can be inserted and automatically dialed when the button is activated. This feature is vital to ensure the victim's safety and location.

2. MATERIALS AND METHODS

Mixed methods research is a method of collecting and analysing both quantitative and qualitative data in the same study. In a cross-sectional study, a mixed-method design was used to collect quantitative and qualitative data from the MY Stalk Alert application users. One of the important ways to strengthen a study design is through triangulation or the combination of qualitative and quantitative approaches in studying a situation or a certain phenomenon. This research adopts an exploratory sequential design in which the qualitative data collection and analysis occurs first, followed by quantitative data collection and analysis. The researchers triangulate the two methods to check on the accuracy of the data gathered by each method, make the choices available more concrete, amplify strengths and lessen weaknesses in a study, and answer a broader and more complete range of research problems. For this paper, the preliminary findings are based on the primary and secondary data collection, and this stage is divided into two phases. The first phase is the library-based research or the literature review stage (Bell, 1987). All the relevant literature on cyberstalking, the legal position, and the said crime impact, criminal justice response, and motivations were examined. While the primary sources involve the CMA 1998 and the Penal Code, the secondary sources include textbooks, academic journal articles, government reports, newspaper articles, and online databases and sources.

The second phase of the data collection is the fieldwork, in which the primary data is mainly generated from the face-to-face semi-structured interviews with the twenty respondents. Bertaux (1981) and Guest, Bunce, and Johnson (2006) suggest that fifteen respondents would be the minimum sample size for qualitative research. The respondents of this research comprised officers from the Royal Malaysian Police, Cyber Security Malaysia, the Malaysian Bar Council representative, the Deputy

Public Prosecutors from the Attorney General Chambers, legal practitioners, and an NGO (Women Aid Organisation). Such an interview method was chosen as it allows the researcher to explore the respondents' opinions of the said issues in-depth, rather than test their knowledge or categorise it (Matt, 2000). The quantitative approach will be conducted by using a survey through questionnaires to more than 150 users. The sampling technique will be through random sampling. The sampling method in this research is purposive sampling, where the respondents were selected because they were likely to generate valuable data for the research (Crouch and McKenzie, 2006).

The qualitative data analysis was conducted through thematic and content analysis, in which the observations and the interview transcripts from the semi-structured interviews were examined (Seidman, 2006). The process consisted of creating codes and categories, considering the themes, analysing the respondents' perceptions and experiences, and the literature review. The primary data were triangulated with the semi-structured interview data obtained from an officer from the Ministry of Communication and Multimedia and another officer from the Ministry of Women, Family, and Community Development. The said interviews were digitally recorded, and their contents were later transcribed and analysed using the Atlas.Ti qualitative research software (Friese, 2014). Triangulation is seen as a traditional viewpoint in which quantitative and qualitative research are combined to reach so that they can be mutually corroborated.

3. RESULTS AND DISCUSSION

The initial findings indicated that an insufficient response by the criminal justice system, specifically the police, resulted in the under-reporting of the crime. On the one hand, the findings underscored the critical nature of reporting cyberstalking incidents to the police to guarantee a trail of evidence exists to facilitate an investigation. This perspective is consistent with the literature on cyberstalking, which encourages victims to disclose their stalking experiences to appropriate authorities to expedite the criminal justice process. On the other hand, victims' perceptions indicate that the majority are incredibly hesitant to disclose, believing that reporting would result in the harassment continuing. This impression is also consistent with recent research indicating that underreporting results from the criminal justice system's unresponsiveness. This under-reporting prompted the researchers to create an app to assist victims in reporting crimes. Such elements within the App will aid in the documentation of evidence and provide legal and psychological support to victims.

Legal Response to Cyberstalking

According to the evidence, the majority of the respondents (85 percent) believed that the legal response against cyberstalking is inadequate. The impression is consistent with local literature, claiming that Malaysia's criminal justice system provides minimal stalking victims. On the other hand, several respondents put the responsibility to the victims in collecting evidence to ensure easy prosecution. Similarly, one respondent agreed with the importance of keeping evidence and reporting to the authorities, namely the police and the MCMC, to have trails of evidence of cyberstalking experienced by the victim.

Documenting incidences as Trail of Evidence

The findings revealed that the majority of the respondents (87 percent) believed that MY Stalk Alert has the potential to aid victims of stalking in documenting relevant evidence in helping with the investigation. However, a minority of respondents (2.3 percent) feel that the App is unhelpful in helping stalking victims. The literature suggested that cyberstalking victims who experienced serious offences were not likely to engage with anyone to report or seek help as they were ashamed of the incidents (Fissel, 2021). This situation is similarly observed among stalking victims. Nevertheless, the survey suggested that 88% of My Stalk Alert users find the apps helpful in documenting stalking incidents.

The Novelty and Unique Characteristic of the MY Stalk Alert Application

On the Application's novelty and unique requirements, the majority of the respondents (95%) highlighted that the Application enables victims of cyberstalking and harassment to document proof and keep track of their activities. Additionally, this Application is unique from other existing market offerings in that it is concerned with the wellbeing of the individual and victim of stalking crime and contains a first aid kit for self-assessment of victims' mental health. Finally, this Application includes proprietary criteria for documenting stalker activities that can be shared with criminal justice organisations for reporting purposes.

4. CONTRIBUTION AND USEFULNESS/COMMERCIALISATION

MY Stalk Alert was designed to assist at least three parties: application users, law enforcement agencies, and legislators. The majority of feedback gathered from the user's experience indicated the fulfilment of its purpose of assisting and providing support to victims of stalking. In addition, the user feedback on this Application could be used by Parliament to enact a specialised anti-stalking statute. A total of 83.7 percent of users stated that this Application is helpful, straightforward, and serves its goal, and a total of 88.9% are highly confident in utilising MY Stalk Alert to gather evidence and receive the aid they need. Additionally, the survey conducted on the commercialisation of the apps suggested that the user had not used any self-reporting tools or apps before My Stalk Alert. A stunning 95% of the respondents indicate that they have no experience encountering similar apps in Malaysia that offer the platform to record and report cyberstalking incidents.

5. CONCLUSION

The findings indicate that there are paradoxical views on the effective response of the criminal justice system, leading to the under-reporting of such crime. While some respondents urged victims to report such crimes to the police to ensure the trail of evidence is secured, the response from the criminal justice system has been disappointing from the victim's point of view. The findings also revealed that there is a lack of protection afforded to victims of cyberstalking. While some legal protection exists, it only covers those who are in familial and marital relationships. Legal protection should be accessible to all those in need, illustrating the necessity for a specific law to govern such crime. The Malaysian legislation that may be utilized to deal with cyberstalking is in dire need of immediate reform, to ensure effective investigation and prosecution of the crime. My Stalk Alert would be effective in assisting law enforcement agencies, victims, and legislators in effectively governing cyberstalking as it provides easy access to record evidence and provides users with psychological and legal understanding. In the long run, the victims' psychological and emotional well-being may be jeopardized by the lack of specialized legislation. The possibility of the third victimization of friends and family will also impact the nation. Thus, it is strongly recommended that Malaysia follow the lead of developed nations such as the United Kingdom in regularly improving and reviewing the anti-stalking legislative framework to criminalise cyberstalking and empower victims with holistic legal protection.

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