

Should the Common Law Tort of Harassment in Hong Kong be Reformed?

1. INTRODUCTION

Harassment is an increasingly pervasive issue in Hong Kong, manifesting both in physical spaces and virtual environments. In a city characterized by its dense population and rapid technological advancements, victims often find it difficult to escape harassment, which can take forms ranging from nuisance calls and physical intimidation to cyberbullying and doxxing. Despite the recognition of a common law tort of harassment by Hong Kong courts, the current framework remains fragmented and inconsistent, leaving significant gaps in protection for victims.

For instance, while cases such as *Lau Tat Wai v Yip Lai Kuen Joey* [2013] 2 HKLRD 1197¹ established the tort of harassment in Hong Kong's common law, subsequent rulings like *Poon Seong Teresa v Chan Norman* [2014] 5 HKLRD 60² have revealed judicial disagreements over its existence and scope. Furthermore, the absence of statutory provisions akin to the Singapore's Protection from Harassment Act 2014 ("POHA") or UK's Protection from Harassment Act 1997 ("PHA") limits the legal remedies available to those subjected to modern forms of harassment, such as online stalking or the misuse of personal data.

This essay critically evaluates whether Hong Kong's common law tort of harassment should be reformed by examining its current legal framework, including its limitations and inconsistencies, and assessing the necessity of statutory intervention. Drawing insights from comparative legal systems, it argues that reform is needed to provide greater clarity, accessibility, and comprehensive protection for victims in an era of increasingly complex and technologically driven harassment. Counterarguments will also be considered to objectively discuss the feasibility and practicality of implementing a statutory framework tailored to Hong Kong's unique social and legal context, demonstrating how legislative intervention can better uphold the rule of law and protect individuals from harassment.

2. BACKGROUND AND CURRENT LEGAL FRAMEWORK

2.1 The Definition of Harassment

Harassment in Hong Kong encompasses a broad range of conduct that causes worry, emotional distress, or annoyance to another person. The common law tort of harassment has been judicially developed in Hong Kong, with its key elements being articulated in *Lau Tat Wai v Yip Lai Kuen Joey*³. According to Anthony Chan J in *Lau*, harassment can be defined as "a cause of conduct by a person, whether by words or action, directly or through 3rd parties, sufficiently repetitive in nature as would cause, and which he ought reasonably to know would cause, worry, emotional distress or annoyance to another person."

This definition provides the framework for understanding harassment in a legal context, but its application has varied across cases and incorporated further specificities in its requirements. For example, in *Secretary for Justice and Commissioner of Police v Persons*

¹ *Lau Tat Wai v Yip Lai Kuen Joey* [2013] 2 HKLRD 1197

² *Poon Seong Teresa v Chan Norman* [2014] 5 HKLRD 60

³ *Ibid*, [1]

*Unlawfully... [2009]*⁴. The Commissioner successfully applied for an anti-harassment interlocutory injunction against individuals who were “doxxing” police officers and their families during the 2019 protests. From which, Coleman J applied A. Chan J in Lau in paragraph 22 to broaden the definition of harassment. These requirements can now be summed into four requirements listed in the following:

1. **A course of conduct:** The behavior must involve repeated actions, whether by words or conduct, directed at the victim, either directly or through third parties.
2. **Reasonable foreseeability of harm:** The harasser ought reasonably to know that their actions would cause worry, emotional distress, or annoyance to the victim.
3. **Mental element:** The harasser must act intentionally or recklessly.
4. **Damage to the victim:** The victim must suffer some form of harm, which can range from physical injury to mental anguish, anxiety, or financial loss.

This definition not only recognized the presence of tort of harassment, but also expanded to include more severe forms of harassment, such as doxxing and cyber harassment, which reflect the evolving nature of the phenomenon in the digital age.

Harassment in Hong Kong can take numerous forms, including nuisance phone calls, stalking, threats, misuse of personal data (e.g., doxxing), or physical intimidation. These behaviors often fall outside traditional torts like assault or trespass and thus require the specific recognition of harassment as a distinct legal wrong. Though, despite these developments, the common law tort remains limited in scope and application.

2.2 The Current Legal Framework in Hong Kong

The current legal framework addressing harassment in Hong Kong is a patchwork of common law torts, statutory provisions, and judicial remedies. While the courts have developed the tort of harassment to fill gaps left by other legal doctrines, the absence of a comprehensive statutory framework leaves victims with limited and inconsistent avenues for redress.

2.2.1 Common Law Torts

In common law, the tort of harassment in common law requires 4 elements: a course of conduct, reasonable foreseeability of harm, mental element, and damage to the victim, the requirement for a “course of conduct” may exclude single incidents of severe harassment. Furthermore, judicial recognition alone does not provide the same clarity of accessibility as statutory codification.

2.2.2 Statutory Provisions

While Hong Kong lacks a dedicated anti-harassment statute, certain statutory provisions address specific forms of harassment:

- **Personal Data (Privacy) Ordinance (“PDPO”) (Cap. 486):** This ordinance was amended in 2021 to address doxxing, criminalizing the unauthorized disclosure of

⁴ Secretary for Justice and Commissioner of Police v Persons unlawfully and wilfully conducting themselves in any of the acts prohibited under paragraphs 1(a), (b) or (c) of the indorsement of claim [2009] 5 HKLRD 500

personal data with the intent to cause harm whether intentionally or recklessly in s.64(3A) & (3C) “Offenses for disclosing personal data without consent.” In s.64(6) of this ordinance, “specified harm” is defined to include “harassment...threat or intimidation to the person, bodily and psychological harm...”

- **Domestic and Cohabitation Relationships Violence Ordinance (“DCRVO”) (Cap. 189):** This ordinance provides protective injunctions for victims of domestic violence under s.5 and molestation under s.3, s.3(A), and s.(3B), but its scope is limited to specific familial or cohabitation relationships.
- **Sex Discrimination Ordinance (“SDO”) (Cap. 480):** Multiple sections of this ordinance prohibits sexual harassment towards breastfeeding women (2A), in the workplace (s.23 & s.23A), in relevant organizational fields (s.24), in educational establishments (s.39), by clubs (s.39A), and more (s.40), offering protection for women employees and other workplace participants.
- **Trade Descriptions Ordinance (“TDO”) (Cap. 362):** This ordinance addresses harassment in commercial settings under s.13F(3), such as aggressive sales tactics or coercion, with elements that assist in determining whether harassment, coercion or undue influence has taken place.

These provisions, while valuable, are fragmented and do not provide a comprehensive solution for all forms of harassment. For example, they fail to address harassment in non-domestic, non-employment, or non-commercial contexts, leaving victims in such situations reliant on the common law tort.

2.2.3 Judicial Remedies

In Hong Kong, victims of all forms of harassment may seek an interlocutory injunction to restrain harassers from continuing their conduct. However, this remedy is procedural and requires the existence of a recognized cause of action, such as assault, trespass, or the tort of harassment. For example, in repetitive harassment cases, the victim would be advised to keep a diary of these events which will be used to demonstrate affirmation. If the harassment case was severe, a timely police report should be made and exhibited⁵. While case law has streamlined some aspects of obtaining injunctions, the process is often tedious and burdensome for victims, requiring detailed evidence supported by affirmation or affidavit and urgent action to demonstrate the severity of the harassment⁶.

2.3 Limitations of the Current Framework

While the common law tort of harassment and existing statutory remedies provide some protection, significant limitations remain:

1. **Inconsistent judicial interpretation:** The lack of statutory codification results in varying interpretations of the tort’s elements and scope across cases.
2. **Inadequate coverage of modern forms of harassment:** Emerging issues like cyberbullying, revenge harassment, and online trolling are not comprehensively addressed.

⁵ *Anti-harassment injunctions* | hong kong lawyer. (2021, January). <https://www.hk-lawyer.org/content/anti-harassment-injunctions#:~:text=The%20tort%20of%20harassment%20under,distress%20or%20annoyance%20to%20another>

⁶ Ibid, [5]

3. **High evidentiary and procedural barriers:** Victims must demonstrate a "course of conduct" and provide sufficient evidence of harm, which can be challenging in cases of subtle or covert harassment.
4. **Fragmentation of remedies:** The reliance on multiple statutes and common law doctrines creates confusion and uncertainty for victims seeking redress.

In light of these issues, the current legal framework for addressing harassment in Hong Kong is insufficient to meet the challenges posed by modern forms of harassment and the complexities of a densely populated, technologically advanced society. Thus, necessitating a reform, particularly statutory intervention, to provide clearer, more accessible, and comprehensive remedies for victims.

3. COMPARATIVE LEGAL ANALYSIS ADDRESSED IN SINGAPORE AND THE UNITED KINGDOM ("UK")

Singapore's Protection from Harassment Act (POHA) and the UK's Protection from Harassment Act 1997 (PHA) provide instructive examples of how other jurisdictions have addressed harassment comprehensively. Both frameworks emphasize clear definitions of harassment, extend protections to cover modern forms of abuse like cyber harassment and doxxing, and offer streamlined remedies for victims.

3.1 Comprehensive Definition of Harassment

One of the most notable features of Singapore's and the UK's frameworks is their comprehensive definitions of harassment, which explicitly cover a wide range of conduct, including non-physical harm and psychological distress.

3.1.1. Singapore

Under the POHA, harassment is broadly defined to include threatening, abusive, or insulting words, actions, or communications that intentionally or unintentionally cause alarm, distress, or harassment. Notably, the POHA distinguishes between:

1. **Intentional harassment (S.3):** Where the perpetrator's actions are aimed at causing harm, such as sending abusive messages or making threats.
2. **Unintentional harassment (S.4):** Where the conduct through threatening words, behaviors, or communication, while unintended, is objectively likely, either heard, seen, or otherwise perceived by the victim to cause harassment, alarm, or distress. For example, online posts targeting an individual that spread falsehoods or provoke public outrage.

This dual approach ensures that victims are protected from both deliberate and reckless behavior, which is particularly relevant in cases of cyber harassment or doxxing, where intent can be difficult to prove.

3.1.2. United Kingdom

The UK's *Protection from Harassment Act* (PHA) defines harassment in s.1(1) as a "course of conduct" where one knows or ought to know it would amount to harassment, assessed using a "reasonable person's" perception under s.1(2). Exceptions outlined in s.1(3) include actions taken to prevent or detect crime, comply with the law, or those deemed reasonable in the circumstances. The PHA also includes s.4, "Putting People in Fear of Violence," which requires a minimum of two occasions to establish a course of conduct that

causes fear⁷. These objective tests ease the burden on victims by removing the need to prove the harasser's subjective intent, making it easier to address persistent behaviors like stalking or repeated online abuse. Clear legal standards also help limit frivolous or abusive claims, while the PHA's provisions offer tailored remedies for cases such as stalking and domestic violence.

3.2 Addressing Modern Forms of Harassment: Cyber Harassment and Doxxing

Both Singapore and the UK have enacted provisions to address emerging forms of harassment, particularly those facilitated by technological advancements. These provisions are crucial in the digital age, where harassment often takes the form of cyberbullying, online stalking, or doxxing.

3.2.1 Singapore

Singapore's POHA explicitly addresses cyber harassment and doxxing:

1. **Cyber harassment:** The POHA criminalizes any form of online communication that causes distress or alarm, including abusive messages, defamatory posts, and digital stalking. For example, in section 3, the focus is on making any "threatening, abusive, or insulting communication that is likely to cause harassment, alarm, or distress to the victim⁸."
2. **Doxxing:** In 2019, the POHA was amended to explicitly target doxxing, defined as publishing someone's personal information (e.g., home address or contact details) or a related person of the target person with the intent to harass or facilitate harm (S.3 of POHA). Penalties include fines of up to 5,000 SGD and/or imprisonment of up to six months, depending on the severity of harm caused. Section 5(1A) further criminalizes publishing identifying information with the intent, knowledge, or reasonable belief that it will cause the victim to fear unlawful violence. To provide victims with swift relief, the law allows applications for disabling orders (Section 15C) or interim disabling orders (Section 16AA) to remove harmful online content. These provisions aim to effectively combat doxxing and its associated harms.

3.2.2. United Kingdom

The UK's PHA does not explicitly use the term "doxxing," but it addresses cyber harassment and online stalking through its provisions on stalking and harassment:

1. **Cyberstalking:** The PHA criminalizes stalking behaviors, including monitoring a victim's online activity, sending repeated emails, or posting harmful content on social media. The relevant provision is stated in s.2A(3)(c) of the PHA where "publishing any statement or other material relating or purporting to relate to a person, or purporting to originate from a person⁹" and s.2A(3)(d) "monitoring the use by a person of the internet, email or any other form of electronic communication."

⁷ *Civil and criminal harassment in the UK*. (2025, March 1). Pinsent Masons. <https://www.pinsentmasons.com/out-law/guides/harassment>

⁸ Wong, J. (2024, December 4). *What is considered harassment in singapore? 6 types of harassment*. Tembusu Law. <https://www.tembusulaw.com/insights/what-considered-harassment-singapore/>

⁹ *Stalking or harassment | the crown prosecution service*. (2024, April 22). <https://www.cps.gov.uk/legal-guidance/stalking-or-harassment>

2. **Restrictive and corrective orders:** Victims can seek injunctions to prevent further online harassment, and courts can order the removal of harmful content. Under stalking as an offense, the PHA has also stated that a person guilty of this offense under s.2A could be convicted to imprisonment for a term up to 51 weeks, or “a fine not exceeding a level 5 on the standard scale.”

3.3 Streamlined Remedies and Victim-Centric Processes

Both Singapore and the UK provide streamlined processes for victims to seek legal remedies, ensuring timely and effective protection against harassment.

3.3.1 Singapore

Singapore’s ‘Protection from Harassment Court’ is a dedicated forum that simplifies the process for victims. Key features include¹⁰:

1. **Expedited Protection Orders (EPOs):** Victims can apply for urgent protection, and courts can issue EPOs within 24 (when there is risk of violence or actual violence) to 72 hours in cases where there is an immediate threat of harm.
2. **Non-Publication and Correction Orders:** Courts can order the removal of harmful online content or require perpetrators to issue public corrections, addressing the harm caused by false statements or defamatory posts.
3. **Civil Claims for Compensation:** Victims can pursue monetary compensation for emotional distress, anxiety, or financial losses caused by harassment.

3.3.2 United Kingdom

The UK’s PHA allows victims to seek:

1. **Restraining Orders:** Issued upon conviction or acquittal to prevent further harassment, with breaches constituting a criminal offence.
2. **Stalking Protection Orders (SPOs):** Civil orders that provide preemptive protection for victims of stalking, even before criminal charges are filed.
3. **Damages:** Compensation for anxiety and financial harm resulting from harassment¹¹.

Both jurisdictions emphasize victim accessibility and prioritize swift action to prevent further harm.

Using the insights taken from Singapore and UK’s harassment law, this essay will now delve into the feasibility and practicality of reforming Hong Kong’s harassment law through evaluating arguments for and against the issue.

4. ARGUMENTS FOR REFORM

Reforming Hong Kong’s legal framework for harassment is essential to address its inability to handle modern forms of harassment, particularly in the digital age. The current reliance on the common law tort and fragmented statutes fails to provide consistent and effective remedies. Codifying harassment into a statutory framework and introducing streamlined processes would resolve ambiguities, improve protections for cyber harassment

¹⁰ *How to file and serve a protection from harassment application.* (n.d.). Default. Retrieved 5 January 2025, from <https://www.judiciary.gov.sg/civil/how-to-file-serve-protection-from-harassment>

¹¹ *Ibid*, [7]

victims, and reduce procedural barriers, ensuring the legal system evolves to meet contemporary challenges.

4.1 Codifying Harassment into a Statutory Framework

One of the most pressing arguments for reform is the need to codify harassment as a statutory tort and criminal offence. Currently, the common law tort of harassment lacks clarity and consistency, making it difficult for victims to predict outcomes or even understand whether their case meets the threshold for harassment. While *Lau Tat Wai v Yip Lai Kuen Joey* [2013]¹² confirmed the tort's existence, subsequent cases, such as *Poon Seong Teresa v Chan Norman* [2014]¹³, have questioned its scope, creating judicial uncertainty.

Jurisdictions like Singapore and the UK demonstrate how codification can provide victims with greater clarity. For example, Singapore's *Protection from Harassment Act* (POHA) defines harassment broadly to include verbal abuse, psychological intimidation, and online threats, while the UK's *Protection from Harassment Act* (PHA) uses an objective "reasonable person" test to determine liability. Incorporating these approaches would address the current limitations in Hong Kong's framework, such as the need to prove intent or a repetitive "course of conduct." Codification would also ensure consistency in judicial interpretation and provide victims with greater legal certainty.

Moreover, a statutory framework would allow for the inclusion of modern forms of harassment, including online harassment and doxxing, which are inadequately addressed under current laws. Codifying these behaviors explicitly would provide clarity and certainty about what constitutes harassment, making it easier for victims to pursue legal action and for courts to adjudicate cases consistently.

4.2 Expanding Protections to Cover Cyber Harassment and Doxxing

The rise of online harassment and doxxing has created significant gaps in Hong Kong's current legal protections. While the 2021 amendments to the PDPO criminalized doxxing, the ordinance is narrowly focused on protecting personal data rather than addressing the broader psychological harm caused by online harassment. Victims of cyberbullying, online stalking, or coordinated harassment campaigns often find themselves without adequate legal recourse, as these behaviors do not neatly fit within the confines of existing torts or statutes.

Reform should explicitly criminalize cyber harassment and provide mechanisms for victims to address online abuse. For example, Singapore's POHA integrates doxxing into its anti-harassment framework, criminalizing the unauthorized publication of personal information with malicious intent¹⁴. The UK's PHA similarly addresses cyber harassment through provisions targeting stalking, repeated online abuse, and monitoring of victims' digital activities. These models highlight how Hong Kong could expand its legal protections to cover the full spectrum of online harassment, ensuring that victims of digital abuse are not left without recourse.

¹² Ibid, [1]

¹³ Ibid, [2]

¹⁴ *Singapore: Amendment to harassment law passed to criminalize "doxxing"*. (2019, October 25). [Web page]. Library of Congress, Washington, D.C. 20540 USA. <https://www.loc.gov/item/global-legal-monitor/2019-10-25/singapore-amendment-to-harassment-law-passed-to-criminalize-doxxing/>

In addition to criminalizing cyber harassment, reform should include mechanisms to address online harassment, such as disabling orders to remove harmful content from social media or websites, modeled after Singapore's POHA. These orders would compel internet intermediaries to take down harassing or defamatory content, providing victims with immediate relief. Corrective orders requiring perpetrators to issue public corrections could also help repair reputational damage. Presently, the Defamation Ordinance ("DO") (Cap. 21) of Hong Kong offers correctional approaches of remedies towards unintentional defamation, though this does not cover the wide range of harassment and offer the flexibility that Singapore and the UK's harassment acts cover. Given the viral nature of online abuse, these remedies are vital to prevent long-lasting harm. By tackling online harassment directly, Hong Kong would fill a critical gap in its legal framework and affirm that digital spaces are not exempt from accountability, aligning the law with the realities of a digital society.

4.3 Streamlining Remedies and Reducing Procedural Barriers

Another significant argument for reform is the need to make legal remedies more accessible to victims. Under the current framework, victims of harassment often have to rely on interlocutory injunctions under the common law tort, a process that is both procedurally burdensome and expensive. Victims must gather substantial evidence to prove a "course of conduct" and demonstrate actual harm, which can be particularly challenging in cases of subtle or covert harassment. The complexity of these procedures often deters victims from seeking legal recourse, leaving them without protection.

Reform could address these barriers by introducing EPOs, modeled after Singapore's POHA¹⁵. EPOs provide victims with immediate protection in cases of urgent harm, such as threats of violence or ongoing harassment. Courts in Singapore can issue EPOs within 24 to 72 hours, ensuring that victims are safeguarded while their case proceeds. This streamlined process reduces the evidentiary burden on victims, allowing them to secure protection orders without the need for extensive documentation or lengthy hearings.

Additionally, Hong Kong could establish specialized harassment courts to handle harassment cases more efficiently. Singapore's Protection from Harassment Court provides a one-stop solution for both criminal and civil claims related to harassment, simplifying the process for victims and ensuring that cases are handled by judges with expertise in harassment law¹⁶. A similar court in Hong Kong could consolidate claims, expedite proceedings, and provide consistent judgments, making the legal system more accessible and responsive to victims' needs.

To further reduce barriers, the reformed framework could include simplified procedures for filing civil claims. For instance, victims could be allowed to file claims through online portals or use standardized forms, as seen in Singapore. This would make it easier for individuals without legal representation to seek remedies, such as compensation for emotional distress or financial losses caused by harassment. Simplifying the process would not only empower victims but also encourage more people to come forward, increasing accountability for perpetrators.

¹⁵ Cheng, M. (2023, April 6). *What is the protection from harassment act [poha]? - Pkwa law*. <https://pkwalaw.com/protection-from-harassment-act/>

¹⁶ *Understand the outcomes of a protection from harassment application*. (n.d.). Default. Retrieved 5 January 2025, from <https://www.judiciary.gov.sg/civil/understand-outcomes-protection-from-harassment>

4.4 Strengthening Protections Through Criminal Penalties

As previously mentioned, introducing criminal penalties for harassment is another crucial aspect of reform. While the common law tort of harassment provides a civil remedy, it fails to serve as a strong deterrent, as perpetrators who are financially solvent may simply pay damages without facing further consequences. Reform should include criminal sanctions for harassment, signalling the seriousness of the offence and providing stronger deterrence. This was recommended by the Hong Kong Law Reform Commission on 30 October 2000¹⁷, by subjecting intentional acts, acts which the harasser ought to know, or acts without reasonable excuse would cause harm and worry to the victim to a fine and an imprisonment for up to 12 months. Though, the current courts of HK are still bound by remedies of injunctions under direct common law tortious acts of harassment.

This essay recommends that criminal penalties should be tiered based on the severity of the harassment. For example, intentional harassment that causes significant emotional distress could result in imprisonment or substantial fines, while less severe cases could carry lighter penalties. Enhanced penalties could be imposed for repeat offenders or cases involving vulnerable victims, such as children or domestic workers. Singapore's POHA provides a useful model, with penalties ranging from fines, to imprisonment, and doubled penalties for repeat offences.

The introduction of criminal penalties would also provide victims with an additional avenue for justice. While civil remedies focus on compensating victims, criminal prosecution holds perpetrators accountable to society as a whole, reinforcing the message that harassment is unacceptable.

5. ARGUMENTS AGAINST REFORM

While the case for reforming Hong Kong's harassment laws is strong, it is important to consider opposing arguments to ensure a balanced evaluation. Some may argue that the current framework already offers sufficient protection, that new laws could lead to misuse or overregulation, and that implementing reforms may be costly and overly complex. These concerns highlight potential challenges with existing legal adequacy, unintended consequences, and strain on the judicial system. While reform may appear necessary, these counterarguments emphasize the need to ensure any changes are effective, proportionate, and sustainable.

5.1 Adequacy of the Existing Legal Framework

One of the most significant arguments against reform is that Hong Kong's current legal framework already provides sufficient remedies for harassment, particularly through the common law tort of harassment and targeted statutory protections. Recognized in *Lau Tat Wai v Yip Lai Kuen Joey* [2013]¹⁸, the common law tort has proven to be a flexible and adaptable mechanism, allowing victims to seek both injunctions and damages for harm caused by persistent and oppressive conduct. Courts have extended this tort to cover various forms of harassment, including online stalking and repeated unwanted communications. Supporters of the existing system argue that the common law's incremental development ensures it remains responsive to social and technological changes¹⁹. This evolutionary

¹⁷ *Stalking*. (2000, October 30). Hong Kong Law Reform Commission.
<https://www.hkreform.gov.hk/en/publications/rstalk.htm>

¹⁸ *Ibid*, [1]

¹⁹ *Ibid*, [4]

approach enables Hong Kong courts to potentially develop jurisprudence to address emerging issues, such as cyber harassment, without the need for new legislation. By relying on judicial adaptation, this framework avoids the risks of overregulation and ensures that the law remains adaptable to the evolving needs of society.

In addition to the tort of harassment, Hong Kong has enacted statutory provisions that address specific forms of harassment. The PDPO was amended in 2021 to criminalize doxxing, empowering the Office of the Privacy Commissioner for Personal Data (PCPD) to investigate complaints, order the removal of harmful online content, and prosecute offenders. Similarly, the DCRVO offers protections for victims of domestic harassment, including injunctions and the ability to exclude perpetrators from shared residences. Other remedies, such as those provided under employment laws and defamation claims, further expand the options available to victims. Critics suggest that these existing mechanisms can be expanded or clarified where necessary, rather than creating an entirely new statutory framework.

5.2 Risk of Overregulation and Misuse

Another key concern is that reforming the law to codify harassment and introduce broader protections could lead to overregulation and misuse. Critics argue that a statutory framework with broad definitions of harassment could inadvertently stifle legitimate behavior, such as freedom of speech, vigorous public debate, or even harmless personal interactions. In particular, laws targeting cyber harassment and doxxing could be misused in online spaces to suppress dissent or criticism, especially in a politically charged environment like Hong Kong.

For example, the UK's PHA has faced criticism for being used in cases that involve disputes between neighbors or in trivial situations that fall short of serious harassment. *McGill v Stewart & Anor [2020] EWHC 3387 (QB)*, Master Mcloud commented on the trivial land disputes between neighbors, stating that the courts resources should be placed on disputes that are more consequential, such as cases that concern matters of "brain damage and other life-changing injuries, death, and the very gravest of historic child abuse."²⁰ Similarly, broad legal provisions may encourage frivolous or malicious claims, where individuals exploit the law to settle personal grievances or silence critics. In a society where free speech and vibrant public discourse are highly valued, there is a risk that overly broad harassment laws could be weaponized to curtail these liberties.

Safeguards, such as requiring evidence of harm or intent, can mitigate these risks, but they may also complicate the legal process and undermine the accessibility of the law for genuine victims. Critics argue that any reforms must strike a delicate balance between protecting victims and preserving individual freedoms, which can be difficult to achieve in practice.

5.3 Practical Challenges in Implementation

Implementing reforms to address harassment would face significant practical and financial challenges. Codifying harassment into a statutory framework and expanding protections would require substantial legislative effort, public consultation, and judicial training. Measures such as expedited protection orders or dedicated harassment courts, as

²⁰ <https://www.brettwilson.co.uk/blog/why-suing-your-neighbours-for-harassment-should-always-be-a-last-resort/>

seen in Singapore, would demand significant investment in infrastructure and manpower, further straining Hong Kong's overburdened judicial system.

Enforcing new laws, particularly for online harassment, raises additional concerns. Tracking cyber harassers or doxxers is complicated by anonymity, jurisdictional issues, and case volume, requiring advanced technological capabilities and cooperation from overseas internet service providers. Without robust enforcement mechanisms, new laws risk being ineffective, leaving victims disillusioned. Remedies like disabling or correction orders could also face resistance from technology companies while raising difficult questions about privacy, content moderation, and free speech.

Reform would also impose financial and societal costs. Drafting, implementing, and publicizing new laws would require substantial government resources. Critics question whether these expenditures are justified, especially if reforms duplicate existing protections or fail to deliver meaningful results. Furthermore, expanding harassment laws could increase litigation, placing additional strain on courts and legal aid services and diverting resources from other critical issues like housing and healthcare. This could create a culture of over-reliance on legal channels to resolve interpersonal disputes, creating unintended social consequences.

5.4 The Risk of Duplicating Existing Protections

Opponents of reform also argue that codifying harassment into a statutory framework risks duplicating existing protections, leading to confusion and inefficiency. For example, victims of harassment in the workplace already have recourse to employment laws, while victims of domestic harassment can seek protection under the DCRVO. Introducing a new statutory framework that overlaps with these existing laws could create uncertainty about which legal pathways victims should pursue, increasing procedural complexity and potentially delaying justice.

Moreover, critics argue that a new statutory framework may inadvertently undermine the flexibility of the common law, which allows judges to adapt legal principles to new and complex forms of harassment. By codifying harassment into a rigid statutory framework, the law may become less responsive to evolving social and technological contexts, making it harder to address unforeseen challenges in the future.

6. CONCLUSION

Hong Kong's current legal framework for harassment, while providing some remedies through the common law tort and targeted statutory protections, has significant limitations in addressing modern issues like cyber harassment and doxxing. Although the common law and statutes like the PDPO and DCRVO offer a foundation, they remain fragmented and insufficient for comprehensive protection. Reform is needed to codify harassment, expand its scope to cover emerging issues, and streamline procedures to improve accessibility for victims.

Reform would also emphasize the societal importance of addressing harassment, supported by public education campaigns and training for law enforcement and the judiciary to ensure cases are handled effectively and sensitively. However, such changes must be implemented cautiously to avoid overregulation, inefficiencies, or misuse. A balanced statutory framework, inspired by successful models in the UK and Singapore, can modernize

Hong Kong's legal system to meet the demands of a technologically advanced society while minimizing potential drawbacks.