

STOP STALKING

Recognise stalking as a crime
in Malaysia

JOINT ACTION GROUP FOR GENDER EQUALITY (JAG) • JULY 2018

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SUMMARY¹

1. Stalking is harmful.
2. Stalking is likely widespread in Malaysia.
3. Stalking is not yet a crime in Malaysia.
4. Many stakeholders agree that stalking should be protected against, but there is a lack of urgency to act.

To protect Malaysians from stalking, we must: amend existing criminal laws (Penal Code & Criminal Procedure Code); or introduce a standalone stalking bill.

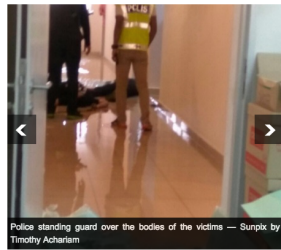
1. Stalking is harmful

- Stalking "can cause **major mental health consequences**," including "anxiety, depression, guilt, helplessness, and symptoms of posttraumatic stress disorder."²
- Stalking is also **indicative of more severe abuse**. An abuser who stalks his intimate partner is likely to be "more controlling and physically and sexually violent" towards his intimate partner, compared to abusers who do not stalk.³
- Stalking also **often precedes murder of a woman by an intimate partner**. 90% of murder or attempted murder victims (in domestic violence cases) in Canada and the United States had earlier been stalked by the violent partner.⁴

Malaysian woman murdered after being stalked by her ex-husband (Feb 2017)

Nation Home > News > Nation
Friday, 3 February 2017 | MYT 7:35 PM

Man shoots ex-wife before committing suicide at KL law firm office



... this was not the first time the man had accosted his ex-wife **at her workplace** since their divorce five years ago.

"Before the law firm moved to this building, the husband had also harassed her at the firm's old office at Dang Wangi"

(The Sun Daily)

"She even changed her workplace because of this and she came back to this firm about two years ago"

(The Star)

"Before this, the suspect had harassed his ex-wife and she had lodged a police report to the effect"

(Bernama)

¹ General references: previous memorandums and documents by JAG; Yu. R. (22 February 2017). Recognise stalking as domestic violence. The Malay Mail Online.

² Abrams, K. M., & Robinson, G. E. (1998). Stalking Part I: An Overview of the Problem. *Canadian Journal of Psychiatry*, 43, 473–476. Retrieved November 1, 2014.

³ National Institute of Justice. (2012, April 20). Intimate Partner Stalking: Comparing Abusive Partners Who Do and Do Not Stalk. Washington, DC, United States of America.

⁴ McFarlane, J., Campbell, J., Wilt, S., Sachs, C., Ulrich, Y., & Xu, X. (1999). Stalking and Intimate Partner Femicide. *Homicide Studies*, 3(4), 300–316.

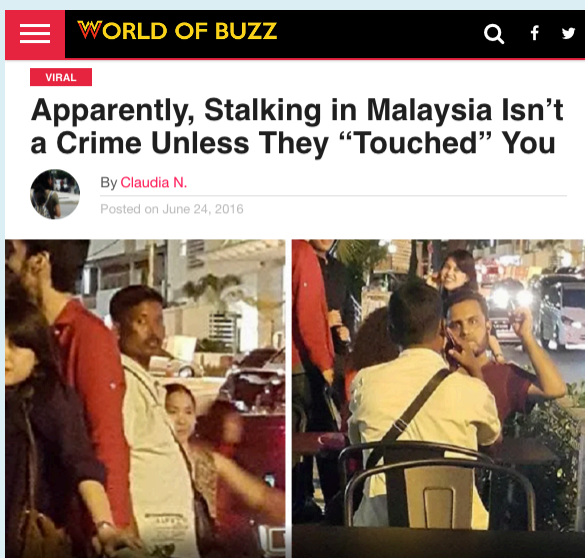
2. Stalking is likely widespread in Malaysia

- 9% of ever-partnered women in Malaysia have experienced domestic violence in their lifetime⁵ – roughly 900,000 women.
- In a 2013 WAO report documenting 34 domestic violence cases, 26% had been stalked by their abusers.⁶ In the US, a third of women domestic violence survivors were stalked by their abusers.⁷
- It is conceivable that ~ **250,000 Malaysian women DV survivors have been stalked by their abusers** (26%-33% of 900,000 women).

3. Stalking is not yet a crime in Malaysia. To protect against stalking, it must be listed as an offence in the Penal Code

- Acts (by someone reasonably likely to endanger you) like repeatedly following or contacting you – key characteristics of stalking – are not protected against.
- The **Domestic Violence Act** provides some protection through protection orders (IPO/PO), but:
 - Before getting an IPO/PO, usually **abuse has already occurred**.
 - The magistrate **may not include the specific orders** in IPO/PO to prevent the perpetrator from coming near the survivor.
 - IPOs/POs are only valid for a **limited time**.
 - **Stalking by a boyfriend / stranger** is not protected against.

Women stalked by strangers, but could not get protection from police (Jun 2016)



*Experiencing something amazingly horrible today **scared me**.*

...

*After three painful hours, **Devi made a police report** against them. But what happened next really took home the prize of the night.*

Apparently, when there's no "touching", it can't be reported as a case! Unless one is raped or molested, a case can be filed. Otherwise, expect the police officers to dismiss it as "nothing".

(Stalking victim Devi Sudarsani)

⁵ Shuib, R., Ali, S. H., Abdullah, S., Ab Ghani, P., Osman, I., Endut, N., . . . Shahrudin, S. S. (2014). *Executive Report, Summary of Findings: A Country Level Study of Women's Well-being and Domestic Violence Against Women (DVAW) Using WHO Multi-country Questionnaire*. Pulau Pinang: Women's Development Research Centre (KANITA), Universiti Sains Malaysia.

⁶ Women's Aid Organisation. (2013). *Monitoring the Implementation of the Domestic Violence Act (1994), Malaysia*. Petaling Jaya.

⁷ Black, M., Basile, K., Breiding, M., Smith, S., Walters, M., Merrick, M., . . . Stevens, M. (2011). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report*. Atlanta: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

4. Many stakeholders agree that stalking should be protected against, but there is a lack of urgency to act

- Between 2013-2015, a **“Working Committee to Review Laws on Violence against Women and Children”** was established, chaired by then **Attorney General**.
 - Membership included **KPWKM, women MPs, PDRM, BHEUU, JAG**, and others.
 - The Committee **agreed to add stalking in the Penal Code, and a “restraining order” in the Criminal Procedure Code**.
 - The Committee has since been disbanded, and stalking has not been prioritised.
- The (former) Ministry of Women, Family and Community Development proposed recognising stalking in the Domestic Violence (Amendment) Bill 2017,⁸ **but could not as stalking was not an offence in the Penal Code**.
- Stalking laws has **bipartisan and multi-party support**. Kasthuri Patto (DAP), Azmin Ali (PKR), Siti Mariah (Amanah), and Khoo Soo Seang (MCA) all spoke in support of stalking laws in the Dewan Rakyat in 2017.⁹

More and more countries are recognising the need for specific stalking laws (not an exhaustive list)¹⁰

Jurisdiction	Law	Year
Canada	Offence of “Criminal Harassment” in the Criminal Code. Provinces have their own laws, e.g. Manitoba’s Domestic Violence and Stalking Act 1998	1993
USA	Federal crime and state crime (in all states). Notably, California was the first jurisdiction in the world to criminalise stalking, in 1990	1996
South Africa	Offence in the Domestic Violence Act	1998
Japan	Anti-Stalking Act (amended in 2013 to include cyber-stalking)	2000
Philippines	Anti-Violence Against Women and Their Children Act	2004
Germany	Federal Stalking Act, creating offence in the Penal Code	2007
Czech Republic	Offence in the Criminal Code	2010
United Kingdom	Protection from Harassment Act (2012 amendment)	2012
India	Offence in the Penal Code	2013
Singapore	Protection from Harassment Act 2014	2014
South Korea	New law proposed by Korean government in 2016, revised in 2018	To be introduced
Myanmar	Protection and Prevention of Violence against Women (PoVAW) Bill (drafted by govt in 2016 and revised in 2017)	To be introduced

Many countries enacted specific stalking laws after a high profile case of stalking-murder shocks the country. Malaysians are already being stalked, with some eventually murdered or maimed. Do we need to wait for a high profile case to shock the nation before acting?

⁸ New Straits Times, 20 October 2016. *Stalking, violence among lovers, to be included in amended Domestic Violence Act*.

⁹ Hansard, Dewan Rakyat Ketiga Belas, 24 Julai 2017 & 25 Julai 2017.

¹⁰ Source: Various governments’ legal websites and news articles. Thomson Reuters Foundation. (2013). A Landscape Analysis of Domestic Violence Laws.