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# **CYBER BULLYING UNDER TORT LAW**

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## **ABSTRACT**

The Internet has enabled quick knowledge delivery between people. The technological revolution has established both new criminal offences and new tort laws, like all previous revolutions. The legal framework targets the new development of cyber bullying. Bullies used to walk through schoolyards as well as playgrounds, and school corridors. Traditional bullying was a known experience for people who faced bullying in the past. Social media and the Internet created a new kind of bullying that coexists with traditional bullying practices. Electronically targeted harassment of victims occurs through the use of smartphones, tablets and personal computers as well as electronic communications platforms such as blogs, bulletin boards, chat rooms, Twitter and websites through which bullies attack their victims while maintaining anonymity at a physical distance. Users on these platforms choose to text each other through instant messages, and they also post content online, send texts to each other, and perform hacking activities. Modern photos go through digital enhancement that presents someone improperly or unrealistically. The bullies engage in torment because they seek to inflict ridicule or destructive abuse on the victim. Leading and opposite features characterise the nature of social media. The harassment can be felt 24/7. Occasionally, the victim's distress has been so great that the victim has committed suicide<sup>1</sup>. Attention is focused on teenage bullying, both because it is very common and because teenagers often have insecurity issues as they traverse the difficult years between childhood and adulthood, with hormones kicking in. Teenagers are also well-known for sarcasm and meanness, both of which are manifested in cyberbullying incidents. The Internet, through its various electronic means, is an integral part of the culture and lifestyle of today's younger generation. They are electronically wired. However, cyberbullying is not limited to students. Adults can also be perpetrators and victims.

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1 TNN, "Teen's Suicide After Sexual Abuse Post: NHRC Steps In" The Times of India, 13 June 2021 (accessed 5 March 2025).

There have been cases in India of cyberbullying in the context of workplace harassment<sup>2</sup> as well.

**Keywords:** Cyber bullying, Cyber Torts, IT Act 2000, Tort Laws

The guidelines that control cyber activities exist as cyber law, while cyberspace exhibits no territorial restrictions. The world of information technology and development emerged rapidly because computers became more advanced along with internet connectivity.

The execution of unlawful acts through computers operates as tool and internet serves as medium stands as a cyber tort. The Internet gives illicit businesses several resources to work with. Several Indian government laws and acts serve to explain the growth of cyber technology. The requirement of new laws emerges from expanding understanding of electronic information circulation.

Legal analysis of online torts faces an increasing challenge because this field of law continues to evolve. The concept of cyber law includes the diversity of topics from free speech rights to intellectual property regulations to jurisdiction decisions and digital communication methods to privacy protections, which form a complex domain that keeps changing. Both states and private organisations strive to strengthen online regulation so they can reduce occurrences of frequent accidents, which generate serious consequences. The effort to control the online environment has become increasingly difficult to manage.

According to Willard (2004), “Cyberbullying can take different forms, ranging from flaming to harassment to cyberstalking.”<sup>3</sup>

## CLASSIFICATION OF CYBER BULLYING

With the advent of the digital age, the internet has become part and parcel of people’s lives as people have been using it to communicate, share information, as well as remain connected all

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<sup>2</sup> **Inderjit Badhwar**, “Supreme Court: NV Ramana, Justice TS Thakur, Justice Dipak Misra, Justice Shiva Kirti Singh, Police – Dr. Rini Johar & Anr. vs. State of M.P. & Ors.” *India Legal Live*, available at [Are we deaf to the Supreme Court?](#) (last visited 5 Mar. 2025)

<sup>3</sup> **Nancy Willard**, *Educator’s Guide to Cyberbullying: Addressing the Harm Caused by Online Social Cruelty*, 2004, available at [Educator’s Guide to Cyberbullying Addressing the Harm Caused by Online Social Cruelty](#) (last visited 7 Mar. 2025).

over the world. Yet together with all its advantages, it has brought up a more ominous thing—cyberbullying. Different from traditional forms of bullying, cyber bullying does not have boundaries when it comes to location; it takes place in the virtual world, in places that victims should normally consider to be their safe havens, where they feel safe and free from bullies. This type of online harassment may manifest in various forms and each having its own approach to causing harm and psychological distress.

Cyber bullying includes such actions as direct threats, public humiliation, privacy invasions, and dissemination of misinformation against selected targets. Now that internet usage is growing wider, it is important to learn more about the different types of cyber bullying to deal with it effectively, through prevention, legal assistance, and support for the victims. The following classification describes some of the most serious and destructive forms of cyber bullying today, namely Cyber Stalking, Cyber Breach of Privacy, Cyber Obscenity, Cyber Defamation, and Hacking, each of which creates particular challenges to both victims and law-enforcing agencies.

1. Someone experiences cyber stalking by being virtually coerced and then tracked down. The breach of their privacy occurs at this point. Psychological harassment through stalking destroys both the victim's existence and causes them to experience sustained terror and feel threatened. According to the Oxford Dictionary, stalking means the surreptitious chase of someone. Cyberstalkers use their Internet activity to locate and monitor their victims through persistent messages or threats placed on the sites the victim accesses and by entering their visited chat rooms or sending countless emails or messages.
2. Cyber Breach of Privacy: Fast-expanding internet networks and multi-channel televisions all around the world threaten the privacy of the average person more and more. One type of cybercrime that affects every person is a breach of privacy.
3. Cyber Obscenity: Cyberspace makes women and children vulnerable to trafficking and provides a very extensive spectrum of pornography. Included here are internet rape and child pornography. William Gibson originally used the term "Cyber Space" in his 1982 book "Neuromancer". Cyber or Cyber Space is a virtual environment within which the activity of networked computers occurs. Obscenity is any act or statement that greatly violates the accepted morality of the day. Often confused with the term "Pornography," obscenity is a legal term used to describe anything offensive to morality. Originally

from the Latin word *obscenus*, obscenity is the word obscene in *Regina v. Hicklin*<sup>4</sup>, which was precisely defined as “Any matter which tends to deprave or corrupt those whose minds are open to immoral influence.”

4. Cyber Defamation emerges because the vast internet enables defamation to occur. The passive remarks that target a person unprofessionally, yet cannot be prosecuted, fall under the category of cyber defamation. Online defamation functions as a method of targeting particular people with negative messages to reduce their respectability, thus making right-wing society view them with contempt. The exclusive difference between cyber defamation and traditional defamation relates to virtual media utilisation. When a person uses an account that has been hacked to send defamatory emails to others.
5. Computer systems gain unpermitted access through hacking, which remains the common term for this practice. **The Indian Information Technology Act of 2000**<sup>5</sup> uses a broad term beyond hacking, which avoids semantic overlap between authorised access and hacking terms. The term hacking receives a specific definition under Indian law.

## CYBER BULLYING IN INDIA

With more than 85% of children reporting being victims of cyberbullying, India tops the world in this regard. Additionally, the study discovered that children in India reported cyberbullying twice as frequently as children worldwide. While 45% of children in India reported cyberbullying by a stranger, 48% of children in India reported cyberbullying they understood, compared to 21% of children globally. Name-calling (34%) was the most common type of cyberbullying in India, followed by the dissemination of untrue rumours (39%), expulsion from chat rooms or groups (35%), and the dissemination of inaccurate information.<sup>6</sup>

These figures, in comparison to the global averages, are quite high, 17% and 21%. Other than that, 42% of Indian children were found to have been victims of racist cyberbullying, 36% have also claimed to have been trolled, and lastly, 30% alleged to have been sexually harassed and personally harmed, which is twice the global average. The girls within the age range of

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4 *Regina v. Hicklin*, 1868, available at <https://www.britannica.com/topic/Regina-v-Hicklin> (last visited 7 Mar. 2025).

5 The Information Technology Act, 2000, No. 21 of 2000, § 66 (prior to amendment); substituted by The Information Technology (Amendment) Act, 2008, No. 10 of 2009, §§ 22–27, India Code. See also Sections 43, 66C, 66D, and 66E for post-amendment provisions relating to unauthorised access and cyber offences.

6 “*Bullying in India*,” Power of 0, available at: <https://powerof0.org/bullying-india/> (last visited March 23, 2025).

10-16 years are also at a high risk, with 32-34% reporting sexual harassment and threats posed against them, slightly above the global average. Of course, in the global average, where it was at 64%, more than 45% of Indian adolescents in the survey hid their cyberbullying from their parents, possibly due to the lesser talk around it.<sup>7</sup>

With about 489 cases reported to the authorities, the Indian state of Maharashtra had the greatest rate of cyberstalking and bullying events against women and children in 2021 when compared to the rest of the nation. Next, with 201 cases was Telangana. As previously mentioned, roughly 1,150 cases of these offences were registered nationwide in that specific year.<sup>8</sup> This category of offences is covered by **Section 354D of the Indian Penal Code.**<sup>9</sup> In India, cyberbullying is also perpetrated by age groups.

### **DIFFERENCE BETWEEN CYBER CRIME AND CYBER TORT**

When talking about the developing structure of cyber law, it is vitally important to identify cyber crimes from cyber torts and make a clear definition of what varies them, because both of them come from the wrong use of technology, and they differ a lot from each other in legal binding, ways of solutions, targets, etc. Although there can be a fuzzy line between these two areas being the domains of law especially in light of the same happenings being shared by factual circumstances – such as with cases involving online harassment or defamation – it is critical to recognize that they are rooted in separate branches of law: criminal law for the cases of cybercrimes and civil law for situations of cyber torts.<sup>10</sup>

Cybercrimes, to an extent, are attacks on the State or society, even when perpetrated on individuals. These are acts that are criminalised by the legislation because of their inherent nature of hurting a person, which should be prosecuted by the State. Some of the examples of cybercrimes include port hacking and cracking, illegal access or possession of confidential data, cyber terrorism meant to undermine national security and critical infrastructure, spreading of the pirated software, email harassment, cyberstalking, production and broadcasting of

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7 Sukriti Vats, “85% Indian Kids Have Experienced Cyberbullying, Highest in the World, Finds New Survey,” *ThePrint* (8 August 2022), available at: [85% Indian kids have experienced cyberbullying, highest in the world, finds new survey.](#)

8 “Maharashtra Sees 377 Cases of Cyberstalking, Highest Across India: NCRB Data,” Free Press Journal, available at: [Maharashtra sees 377 cases of cyberstalking; highest across India: NCRB data](#)

9 *The Indian Penal Code*, 1860, § 354D, inserted by *The Criminal Law (Amendment) Act*, 2013, No. 13 of 2013, India Code. Available at: <https://www.indiacode.nic.in/>

10 Pavan Duggal, *Cyberlaw: The Indian Perspective*, 6th ed. (LexisNexis, 2020), at 112–115.

pornographic or obscene digital materials, defamation with malice, indecent exposure, computer vandalism, virus/malware distribution, unauthorized remote use of devices, trafficking in clandestine or exploitative content, especially targeting minors.<sup>11</sup> These offences are generally covered under statutes like the **Information Technology Act, 2000**, the **Indian Penal Code, 1860**, and other special laws, and may attract penalties including imprisonment, fines, or both.<sup>12</sup>

On the other hand, cyber torts are civil wrongs envisaged by law with the main purpose being to compensate or provide injunctions to the victim of the harm rather than seeking punishment against the offender. Although cyber torts can emanate from the same digital act as cybercrimes, they differ on the grounds of the nature of harm and legal remedies. Examples of such online torts include cyber defamation (where something false and harmful about a person is published on the internet), cyberstalking (pursued in a manner that violates an individual's right to privacy or mental peace), any violation of privacy, surveillance, or data leakage, and publication of things being obscene, offensive or harmful to personal dignity but may not always rise to the level of a statutory offense.<sup>13</sup> The remedy in such cases is often sought through civil suits for damages, injunctions to prevent further harm, or removal of objectionable content.

It should be explained that there are certain acts which can be simultaneously a cybercrime and a cyber tort, depending on the severity, frequency, and repercussion of the action in question. However, the purpose of any legal interference is different. Criminal law is used to safeguard public order and prevent crime, tort law is used to reward the victim for the loss suffered.<sup>14</sup>

## TORT LAW FOR CYBER BULLY PROTECTION

In the age of the internet, cyberbullying has become a dominant threat, especially among the vulnerable – the minors, the women, and the marginalised communities. Although India has come up with numerous provisions of criminal law to deal with cyberbullying, tort law has a significant albeit underexplored role to play in providing remedies to victims in a civil form.

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11 See generally, *Information Technology Act, 2000*, §§ 43, 66, 66C, 66D, 67, 70B; and *Indian Penal Code, 1860*, §§ 354D, 499, 500.

12 Government of India, *Information Technology (Amendment) Act, 2008*, No. 10 of 2009.

13 Aparna Viswanathan, *Cyber Law: Indian and International Perspectives on Key Topics Including Data Security, E-Commerce, Cloud Computing and Cyber Crimes (LexisNexis, 2012)*, at 208–210.

14 Talat Fatima, *Cyber Crimes*, 2nd ed. (Eastern Book Company, 2016), at 133–135.

Statutory safeguards vis-à-vis the Information Technology Act, 2000 and the latest enacted Bharatiya Nyaya Sanhita, 2023 include excellent deterrence grounds for criminal actions. For example, Section 66A of the IT Act (now struck down by the Supreme Court in *Shreya Singhal v. Union of India*)<sup>15</sup> once criminalised offensive messages online. However, Sections 66E and 67 remain in force and penalise the unauthorised circulation of private images and the online publication of obscene material, respectively.<sup>16</sup> Meanwhile, the BNS, 2023 includes provisions like Section 356 (Defamation), Section 351 (Criminal Intimidation), Section 76 (Sexual Harassment), and Section 78 (Stalking), thereby criminalising a broad range of online bullying behaviour.<sup>17</sup>

With all these developments in criminal law, victims of cyberbullying get complementary civil relief from the tort law. Even though India does not count cyberbullying as a separate tort, victims can employ well-established principles of torts, namely, defamation, IIED, invasion of privacy and harassment/public nuisance to seek civil justice. Cyber defamation, for example, is a viable cause of action where falsely published statements on the web, exposed to a third person, tarnish the victim's reputation. Victims under this tort can sue the defendant for money damages or injunctive relief against continued dissemination of the defamatory content.<sup>18</sup> In the same way, when the bullying behaviour inflicts severe emotional harm, one can bring a claim under the tort of IIED. To prevail, the plaintiff must establish that the conduct of the defendant was outrageous, it was intended to produce distress, and it did result in psychological harm.<sup>19</sup> Over such privacy violations, victims may sue and sue for the removal of aggravating material through civil courts. Finally, consistent cyberbullying that interferes with one's daily routine may amount to harassment or public nuisance, especially when it involves constantly announcing threats or doing rumour-mongering on social media outlets.

Conclusively, cyberbullying is yet to be recognised as a separate tort under the Indian statutes, but the existing tort has available civil alternatives that can complement the criminal statutes. Victims are not limited to penal sanctions under the IT Act, 2000 and BNS, 2023, but can seek relief in the form of restitution and injunctive relief from the civil justice system. The developing jurisprudence indicates that there is an increased need for codified torture or a

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15 *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

16 *The Information Technology Act*, 2000, §§ 66E, 67, India Code.

17 *Bharatiya Nyaya Sanhita*, 2023, §§ 76, 78, 351, 356, India Code

18 Pavan Duggal, *Cyberlaw: The Indian Perspective*, 6th ed. (LexisNexis, 2020), at 114–120.

19 Talat Fatima, *Cyber Crimes*, 2nd ed. (Eastern Book Company, 2016), at 133–137.

specific civil law on cyberbullying in India to further improve the victim-centredness in the digital age.

## SUGGESTIONS FOR POLICY AND FUTURE PATHS

Counter-measures to the complex and dynamic threat of cyberbullying in India demand a well-crafted multi-dimensional policy strategy that entails legislatively as well as institutionally and educationally driven approaches. In the first place, the need for regular checking and amendment to the existing laws is to ensure that the legislation is up-to-date in light of technological development and other forms of online abuse. For instance, while the Information Technology Act, 2000, and the Bharatiya Nyay Sanhita, 2023 have useful provisions, newer forms of cyber harm such as doxxing or deepfake distribution or anonymous cruelty online via encrypted platforms, may not be sufficiently addressed by them.<sup>20</sup> Thus, continuous legislative updates are essential to ensure legal relevance and effectiveness.

Furthermore, a national awareness campaign aimed at educational institutions, workplaces and civil society is important in fighting the social stigma associated with reporting cyber bullying. Such campaigns should focus on the psychological effects of cyberbullying, available legal solutions, and measures of preventing cyber bullying. When the trainers, the parents, and digital literacy tutors are all involved, then the knowledge gap that hinders early intervention is bridged.<sup>21</sup>

Because of the transnational character of many cyberbullying cases, it will also be important to develop international cooperation. Many cases of cyber abuse often engage culprits outside the shores of India, thus putting a premium on working with foreign law enforcement agencies, INTERPOL and global technology platforms to facilitate investigation, content takedown and prosecution.<sup>22</sup>

Local capacity building in India's judicial systems and the law enforcement system is also equally important. Judges, police personnel, as well as public prosecutors, have to be trained to understand the technical complexities of digital evidence, emerging cyber norms and a victim-friendly approach towards handling cyber bullying complaints. The setup of the

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20 Aparna Viswanathan, *Cyber Law: Indian and International Perspectives* (LexisNexis Butterworths, New Delhi, 2012) 198–203.

21 UNICEF India, *Online Safety and Cyberbullying: Educational Toolkit* (UNICEF, New Delhi, 2022).

22 Talat Fatima, *Cyber Crimes*, 2nd edn. (Eastern Book Company, Lucknow, 2016) 150–153.

specialised cybercrime cells and rapid-phase digital courts might help immensely to quicken the resolution in such cases.

Finally, great attention should be paid to research activity and the collection of data. At present, there is a lack of empirical studies on the levels and nature of cyberbullying among various age groups, genders, and areas in India. Frequent academic and governmental studies would not only influence law and policy but would also assess the efficiency of the existing cures and identify protection deficiencies. Data-driven decision-making is essential for making sure that India continues to have robust and fair legal and institutional responses that are future-ready.

## CONCLUSION

To conclude, cyberbullying is becoming a major issue, particularly for the vulnerable population such as teenagers, women and marginalised people in India. Although there are already existing laws, such as the Information Technology Act 2000 and Bharatiya Nyaya Sanhita 2023, which entail certain criminal remedies, there is no specific civil law for addressing cyberbullying, leaving most of the victims without proper remedies. Even though the tenets of the tort law, such as defamation, privacy invasion, and intentional infliction of emotional distress (IIED), provide a bit of alleviation, a specialised legal system is mandatory for a more meaningful assurance.<sup>1</sup>

With a constantly changing digital environment, laws must be continually updated to contain new forms of online abuse. In addition, solutions to cyberbullying are multi-faceted, involving legislative reforms, greater digital literacy and greater cooperation between nations to deter transnational cases.<sup>2</sup> Training the judicial and law enforcement systems in handling digital evidence and cyberbullying cases is also important in terms of ensuring adequate response.<sup>3</sup>

After establishing a particular law against cyberbullying with continuous studies and campaigns about it, the victims will be more protected and given the tools to get justice. Cooperation by the government, the police, tech businesses and society at large is necessary to make the digital world safer and more accommodating of everyone.<sup>23</sup>

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23 Soniya Dhantole, "A Cyber Torts: Unfolding Trends of Common Law," *Educational Administration: Theory and Practice*, 30(5) (2024), pp. 7923–7931.

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