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# “CYBERSTALKING AND WAYS TO PREVENT IT”

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## **1. ABSTRACT:**

The digital era has witnessed the rise of cyberstalking, an ongoing and dynamic kind of harassment distinguished by persistent, undesired online behaviours that cause victims to feel anxious and distressed. Malicious activity can manifest itself in a number of ways, such as persistent emails, messages, or posts; unapproved access to personal accounts; online monitoring; and the sharing of confidential or misleading information. Cyberstalking is a particularly difficult and sneaky threat because, in contrast to traditional stalking, it takes use of the anonymity and extensive reach of the internet.

The increase in digital technologies and the growing pervasiveness of the internet in our daily lives is closely correlated with the rise of cyberstalking. The frequency and sophistication of cyberstalking occurrences have increased along with our reliance on online platforms for socialisation, communication, and professional activity.

This paper explains cyberstalking and the laws which deals with cyberstalking in India. Also, how to prevent cyberstalking and lodge a complaint against it.

**Keywords:** Cyberstalking, Cybercrimes, Computer crimes, Social media, Internet

## 2. INTRODUCTION:

A pattern of recurring actions that include unwelcome attention, contact, harassment, or other actions directed at a particular individual is known as stalking. A victim may be stalked in person, by being followed, or by being watched over and harassed online. Around the world, stalking victims are both men and women.

Cyberstalking is the practice of harassing or stalking an individual or group of individuals using electronic tools, such as the Internet. Numerous behaviours can be associated with cyberstalking, such as identity theft, defamation, slander, libel, threats, and sex solicitation. Since both online and physical stalking reflect a desire to influence, threaten, or control a victim, they are frequently employed in tandem. Cyberstalking is illegal and can involve a known acquaintance of the victim as well as total strangers.

Cyberstalking can be motivated by a variety of factors, such as retaliation, obsession, personal grudges, or even a need for dominance and power. As their online and occasionally actual lives are invaded, victims of cyberstalking frequently experience mental discomfort, anxiety, and a pervasive sense of violation. The digital sphere turns into a battlefield where borders between the public and private sectors are blurred and personal boundaries are crossed.

Due to the widespread use of social media, online forums, and communication platforms, cyberstalkers have many opportunities to use technology for malicious purposes. Therefore, it is imperative that everyone—individuals, law enforcement bodies, and the government understand the mechanics of cyberstalking. A multifaceted strategy is used to combat cyberstalking, including improved cybersecurity measures, legislative frameworks, and educational campaigns to increase public knowledge of online safety and appropriate digital behaviour.

Some examples of cyberstalking are repeatedly sending messages and emails which are threatening or offensive or by creating a fake profile or using somebody else's identity to harass or deceive a person. Even monitoring someone's online activities and tracking someone's online presence comes under cyberstalking.

### 3. TYPES OF CYBERSTALKING

Cyberstalking can be classified into three different types, that are as follows:

1. Email stalking;
2. Internet stalking;
3. Computer stalking.

**1. Email stalking:** One of the most prevalent forms of stalking that occurs in the real world is email stalking, which also involves calling, writing, and physical monitoring. Conversely, there are numerous ways that cyberstalking might manifest itself. Unsolicited electronic mail, including offensive, vulgar, or menacing content, is among the most prevalent types of harassment. Other forms of harassment include sending viruses or a large volume of electronic junk mail to the victim. It is important to understand that merely sending out sales calls or viruses is not seen as stalking. However, these messages could be deemed stalking if they are sent frequently with the intention of frightening (for example, in the same manner as actual stalkers mail subscriptions to pornographic magazines).

**2. Internet stalking:** In this case, stalkers utilise the internet extensively to defame and threaten their victims. In such cases, cyberstalking becomes more of a public than a private matter. The fact that this kind of cyberstalking appears to be the most likely to invade physical space makes it especially worrisome. Internet stalking is frequently linked to traditional stalker tactics like physical attacks, threatening correspondence, property destruction, and phone calls. One who is routinely within shot range of their stalker and another who is stalked from a distance of two thousand miles are two very different situations.

Although mental discomfort is recognised by most criminal punishments, it is not considered to be as harmful as a real physical threat. Even while real-world experiments have demonstrated the link between stalking, domestic abuse, and feticide, most of the online stalking still aims to inflict psychological distress, anxiety, and fear. This is not to say that it is acceptable to criminalise spreading fear and apprehension.

**3. Computer Stalking:** Computer stalking, which uses the Windows operating system and

the Internet to gain access to the intended victim's computer, is the third kind of cyberstalking. Few individuals probably know that a single Windows PC connected to the Internet can be found and connected to another computer over the Internet. Through this computer-to-computer link, the hacker can take over the target's computer without the assistance of a third party.

A cyberstalker typically communicates directly with the target computer as soon as it makes any kind of Internet connection. The victim's only line of defence is to withdraw from the Internet and give up their current IP address to prevent the stalker from taking over their computer.

#### 4. LAWS IN INDIA:

##### Indian Penal Code <sup>[1]</sup>

- The act of stalking is expressly prohibited by **Section 354 D** of the **Indian Penal Code**, which was added by the Criminal Law (Amendment) Act 2013: Anyone who follows, contacts, or attempts to contact a person repeatedly to foster personal interaction, despite a clear indication of disinterest from the victim, or whoever keeps an eye on a person's use of the Internet, email, or any other form of electronic communication, or whoever watches or spies on a person in a way that causes them to fear violence, serious alarm, or distress, or interferes with their mental peace, is guilty of stalking.
- Additionally, the victim has the option to sue the offender for defamation under **Section 499** of the **Indian Penal Code**. The clause has protected those stalking activities carried out by an individual who has been given such authority by the state in order to prevent and detect crime. Additionally, it is not permissible to refer to situations in which engaging in such behaviour was justified or in which the individual was allowed by law as stalking offences.
- Sexual harassment is punishable **under Section 354A of the IPC** by three years in prison and/or a fine.
- Voyeurism is a crime according to **Section 354C**. It is described as taking a picture of a woman doing a private act and/or sharing it online without the woman's permission. According to the section, a first offence carries a sentence of three years in prison, while a second offence carries a sentence of seven years in prison and a fine.

- Criminal intimidation is defined by **Section 503** as any threat made to a person whose reputation has been damaged, either to frighten her or to persuade her to change her mind about anything she would otherwise do or not do. S. 499 and S. 503 violations are subject to a two-year maximum sentence in jail as well as a fine.
- If someone persistently bothers you with verbal abuse that is disparaging to you due to your gender, you can get protection under **Section 509 of the IPC**. According to this law, anyone who speaks, makes a sound, or gestures with the intention of offending a woman's modesty by letting her know they are doing so could face a year in prison and/or a fine.
- Criminal intimidation by anonymous communication is punishable under Section 507 by up to two years in jail. **Section 228A of the IPC** penalises the retaliatory posting of pictures or films of rape victims, which carries a two-year maximum sentence as well as a fine.

#### **The Information Technology Act, 2008 [2]**

- To address the stalking offence, **Section 72** of the Act states: Any individual who, in accordance with any of the authorities granted under this Act, rules or regulations adopted thereunder, has secure access to any electronic record, book, register, correspondence, information, document, or other material; discloses such electronic record, book, register, correspondence, information, document, or other material to any other person without the consent of the person concerned; and faces punishment ranging from one lakh rupees in fines to two years in jail.
- Publication, transmission, and instigation of the transmission of pornographic material are forbidden by **Section 67**, which also imposes fines and a maximum sentence of three years in jail on the first offence and five years in prison on the second.
- Material featuring a "sexually explicit act" is a special category that has been eliminated by **Section 67A**. Publishing, transmitting, or facilitating the transmission of such material carries a maximum sentence of five years in jail and a fine upon a first conviction, and a maximum sentence of seven years in prison and a fine upon a second conviction.

### **5. HOW TO LODGE A COMPLAINT:**

The Code of Criminal Procedure, 1973<sup>[3]</sup>, does not apply to any police officer who is not a deputy superintendent of police or any other officer of the Central Government or a State

Government authorised by the Central Government to do so. The Information Technology Act allows any officer to enter a public place, search anyone inside, and make an arrest without a warrant if they have reasonable suspicions that someone there has committed, is committing, or is about to commit an offence covered by the Act. (**Section 80**)

Since cybercrimes are committed without regard to national boundaries, they are not subject to legal authority. Therefore, regardless of the location of the crime, you can report a cybercrime to the cybercrime units of any city.

- **Cyber Cell:** Cyber Cells have been set up to give victims of cybercrime recourse. These units, which are a component of the criminal investigation division, focus on crimes involving the internet. You can register an F.I.R. at a nearby police station if your home does not have a cyber cell. If for some reason you are unable to file an F.I.R., you may also speak with the commissioner or the judicial magistrate of your city. No matter what jurisdiction they have, all police stations are required to file a F.I.R.
- **Online Grievance Redressal:** In India, the police are the most infamous law enforcement body when it comes to handling female victims. Women are reluctant to report incidents to the police, even when it is easy for them to do so, for fear of being harassed and subjected to more suffering. Women continue to experience the brunt of harassment as a result of such crimes against them being ignored. Therefore, women who prefer to remain anonymous can report stalking to the National Commission for Women <sup>[4]</sup>. The Commission contacts the police about the issue and starts the inquiry right away. In the event of a major offence, the commission may establish an inquiry committee to investigate the situation, conduct a spot inquiry, gather information, speak with witnesses, call the accused, obtain police reports, and other actions to further the investigation.
- **Report to the websites:** The majority of social media platforms that allow users to create accounts offer a reporting system. The IT (Intermediary Guidelines) Rules, 2011<sup>[5]</sup> require these websites to act and disable information connected to offensive content within 36 hours. In order to conduct an investigation, the intermediary must keep these documents and related data for a minimum of ninety days. Any offensive material hosted, saved, or published on the intermediary's computer system may be brought to the intermediary's attention by the impacted party in writing or by email signed with an electronic signature.
- **Report to CERT:** The Indian Computer Emergency Response Team (CERT- IN) <sup>[6]</sup> has been recognised as the national nodal organisation for addressing concerns related to

computer security risks under the Information Technology Amendment Act of 2008. Among other things, they include recommendations for the process, prevention, reporting, and handling of cyber events.

## 6. HOW TO PREVENT CYBERSTALKING:

Cyberstalking can be prevented or avoided by combining internet awareness, being watchful of one's online presence, and proactive steps. Some of the steps are

- **Review and Adjust Privacy Settings-** One should regularly review and adjust their privacy settings on their email, social media accounts and other online platforms and they should also limit the information which is visible to the public knowledge or any unknown individual knowledge.
- **Be careful with Personal Information-** One should avoid share their personal information like phone number, or financial details etc with any unknown person online.
- **Use Strong and Unique Passwords-** One should create a strong and unique password for your online accounts and enable two-factor authentication whenever possible to add an extra layer of security.
- **Regularly Update Software and Security Measures-** One should always keep his system updated to latest version and keep antivirus software and other applications up to date to protect against vulnerabilities. Use reliable security software to detect and prevent cyber threats.
- **Educate Yourself about Cybersecurity-** One should stay informed about common online threats and scams. Be cautious when visiting an unprotected sites or clicking on links or downloading attachments from unknown sources.
- **Monitor Your Online Presence-** One should regularly search for your name on internet to identify any potential unauthorized use. Report and request for removal of any inappropriate use of name for content or false information.
- **Trust Your Instincts-** If one feels uncomfortable with any online interactions then he should take appropriate action against such feelings. Block and unfriend any person who exhibits suspicious or harassing behaviour.
- **Be Mindful of Geotagging-** One should turn off his geotagging features on your mobile phones and social media platforms to prevent unintentional disclosure of location.

- **Maintain Cyber Hygiene-** one should regularly update their device and other applications to patch vulnerabilities. Use reputed antivirus and anti-malware program to protect oneself from any cybercrime.
- **Report and seek help-** if any one is dealing with cyberstalking, they report to relevant authorities and the platforms where the harassment is occurring. Seek support from friends, family, or professionals to cope with effects of cyberstalking.

## 7. CASE LAWS AND EVENTS:

### ➤ **State of Tamil Nadu v. Suhas Katti** <sup>[7]</sup>

Facts-The victim's family friend was the accused's target for marriage, but she ended up divorcing him instead. Following her divorce, the accused convinced her once more, and when she refused to marry him, he proceeded to harass her online. The accused created a fake email account in the victim's name and posted offensive, vulgar, and defamatory content about the victim.

A charge-sheet become filed in opposition to the accused man or woman beneath neath Section sixty-seven of the IT Act and Section 469 and 509 of the Indian Penal Code, 1860.

Decision-The offender was found guilty by the Additional Chief Metropolitan Magistrate at Egmore in accordance with Sections 67 of the IT Act and 469 and 509 of the Indian Penal Code, 1860. The accused was sentenced to one year of simple imprisonment and a fine of Rs. 500 under Section 509 of the IPC, two years of rigorous imprisonment and a fine of Rs. 4,000 under Section 67 of the IT Act, and two years of rigorous imprisonment and a fine of Rs. 500 under Section 469 of the IPC.

### ➤ **SMC Pneumatics (India) Pvt. Ltd. vs. Jogesh Kwatra** <sup>[8]</sup>

Facts-Jogesh Kwatra, the defendant in this case, worked for the plaintiff's business. To malign the company and its Managing Director, Mr. R K Malhotra, he began to send nasty, abusive, and filthy emails full of insults to his employers and other subsidiaries across the globe. The email's origin was discovered to be a Cyber Cafe in New Delhi throughout the investigations. During the inquiry, the Cybercafé employee recognised the defendant. The plaintiff fired the defendant on May 11, 2011, after 11 years of employment.

Decision-Because the court did not meet the requirements for certified evidence under section 65B of the Indian Evidence Act, the plaintiffs are not entitled to the relief of a perpetual injunction as requested. The court was unable to accept even the strongest evidence since there was no concrete proof that the defendant was the one sending these emails. The defendant was also ordered by the court to refrain from disseminating or publishing any disparaging or abusive content about the plaintiffs online.

#### □ **Cyberstalking and Production of Child Pornography** <sup>[9]</sup>

A federal grand jury indicted James S. Allen of Baltimore, Michigan on January 23, 2013, on eighteen charges of cyberstalking and five counts of producing child pornography. The defendant stalked eighteen female victims in New York between April and August of 2012, using his cell phone and the Internet. A few of the victims were underage when the assault occurred. Allen threatened the victims by claiming to have discovered their naked photos online and providing them with the location of the images. He tricked the victims into visiting a phishing website, which was really a place where he tried to get their passwords and email addresses so he could access their accounts and take over.

Furthermore, Allen threatened to publish his victims' pictures if they did not participate in a Skype conversation with him. Allen insisted that the victims remove their clothes and have sex as soon as they join the Skype session. He would hand out the naked pictures if they did not want to. The females called the police one by one. Allen is charged with both cyberstalking and child pornography since some of the girls were underage.

#### □ **Delhi man uploads minor girl's private pictures online to defame family** <sup>[10]</sup>

A 25-year-old man uploaded a minor girl's private pictures on social media with obscene audio clips. He was arrested in an alleged cyberstalking case. He tried to defame the family of the minor girl and take revenge on the victim's elder sister for refusing his marriage proposal. The mother of victim lodged the complaint reporting that the man used a false social media account to share her minor daughter's personal pictures. He also disseminated the pictures to their relatives and friends to defame the family of the victim.

□ **Minor girl falls prey to cyberstalker, attempts suicide in Rajkot** <sup>[11]</sup>

For a young girl in the city, an acquaintance she met on social media became her worst nightmare. The young lady tried suicide on Monday after being tormented and mistreated by the man for starting a relationship. The police on Wednesday booked the accused man, who lives in the city on Raiya Road.

The girl did not disclose her experience until after receiving counselling and being released from the hospital. Shehzaad Jogisha, according to the girl, has been harassing her for a while.

The accused had visited the girl's house on Monday night in an attempt to coerce her into getting in a relationship. The grandmother of the girl had woken up to Jogisha's presence, which is why he had departed. After ingesting poison, the girl was spared because she was brought to the hospital promptly.

The girl first made up a narrative that a drug dealer had come to meet her at home and was forcing her to sell narcotics out of fear that her parents would chastise her. She had also stated that she had met the drug dealer through a female police officer. Based on the girl's statement, authorities investigated it, but they turned up nothing substantial. After the girl was released from the hospital, the girl's lies were discovered, and she received counselling.

Inspector A S Chavda of the University police station stated, "We have taken the girl's complaint and booked the man for molestation and under sections of POCSO (Protection of Children from Sexual Offences) Act.<sup>[12]</sup>" He also mentioned that the girl had connected with Jogisha via a social networking platform.

## 8. CONCLUSION:

In conclusion, given the speed at which technology is developing and the interconnection of our virtual lives, cyberstalking poses a more serious and alarming threat in the digital era. The increasing frequency and intensity of cyberstalking occurrences, it is imperative that societies and individuals take coordinated action to address this dynamic threat as it continues to expand. With the growth of social media, digital communication tools, and online platforms, cyberstalkers now have more ways than ever to get personal information and carry out damaging, persistent actions. The sneaky nature of cyberstalking is worsened by anonymity, remote access, and the

availability of communication on the internet, making it a difficult issue to successfully combat. Punishment for cyberstalking is given under Indian penal code, 1860 and the Information Technology Act, 2008. Noting that the law is always changing and that there might be new laws or amendments that particularly deal with cyberstalking is significant. The ability of law enforcement organisations to investigate and prosecute cybercrimes is a crucial factor in determining the success of these laws.

It is recommended that the person seek legal advice and help from law enforcement authorities if they have been the victim of cyberstalking or harassment. With referenceto the current legal framework, they can offer the most recent information and help.

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