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# **“LAWS RELATED TO CYBER STALKING IN INDIA”**

AUTHORED BY - ASST. PROF VAIBHAV DHAROD

## **OBJECTIVES**

1. Evaluate the effectiveness of current cyber stalking laws in India.
2. Assess law enforcement practices and challenges in addressing cyber stalking incidents.
3. Investigate the socio-legal impact of cyber stalking on victims and society.
4. Recommend reforms to improve the legal framework for combating cyber stalking in India.

## **RESEARCH QUESTIONS**

1. How do existing cyber stalking laws in India compare with international standards, and what gaps exist in their coverage and enforcement?
2. What are the key challenges faced by law enforcement agencies in identifying, investigating, and prosecuting cyber stalking cases in India?
3. What are the psychological, social, and legal ramifications of cyber stalking on victims and society in the Indian context?
4. How can the Indian legal framework be strengthened to better address emerging forms of cyber stalking and protect individuals from online harassment?

## **RESEARCH METHODOLOGY**

The Methodology adopted for the above research is Doctrinal in nature as the author has referred to the already existing literature such as Books, Articles, Journals and Landmark Judgements.

## **LITERATURE REVIEW**

The present investigation, undertaken by *Louise Ellison and Yaman Akdeniz*, scrutinises the characteristics of online harassment and further prompts an assessment of the adequacy of

the safeguards offered to victims by existing legislation. The study emphasises the difficulties law enforcement agencies are presently encountering due to the internet, in addition to its both favourable and unfavourable societal ramifications. There is a potential for the legal framework to safeguard both the freedom of speech and the right to privacy. Furthermore, the research endeavours to examine covert protection measures against cyberbullying that are prohibited by legislation.

*Amy C. Radosevich*, The research encompassed various subjects, including the historical development of stalking, the extent of cyber stalking, the impact on victims, the classification of stalkers, the enactment of criminal legislation, and the progress made by state and federal governments concerning civil stalking.

Additionally, legislation to prevent stalking was addressed. It was suggested that law enforcement agencies enhance their training and collaboration, augment their utilisation of technology for victim protection, and implement comprehensive community education and awareness campaigns, in accordance with the study's findings.

## ABSTRACT

Cyber stalking, a prevalent form of online harassment, poses significant challenges in the digital age, impacting individuals' privacy, safety, and well-being. This paper provides a concise examination of the legal framework concerning cyber stalking in India.

Firstly, it evaluates the effectiveness and scope of existing laws, including provisions within the Information Technology Act, 2000, alongside international standards. Secondly, it investigates the practical implementation of these laws, highlighting challenges faced by law enforcement agencies in addressing cyber stalking incidents.

Finally, it proposes recommendations for legal reforms to strengthen the Indian legal framework, aiming to combat cyber stalking effectively and safeguard individuals' rights in the digital realm. Through this concise analysis, the paper offers insights to policymakers, law enforcement agencies, and stakeholders for the formulation of more robust strategies to tackle the evolving challenge of cyber stalking in India.

## INTRODUCTION

Cyber stalking, a pervasive and insidious form of online harassment, has emerged as a pressing concern in the digital age, transcending geographical boundaries and infiltrating individuals' private lives through digital mediums. In India, where rapid technological advancements have spurred widespread internet access and digital connectivity, cyber stalking poses unique challenges to personal security, privacy, and societal well-being. As such, understanding the legal framework governing cyber stalking in India is crucial for effectively addressing this growing menace.

This introduction serves as a primer on the laws related to cyber stalking in India, providing an overview of the legislative landscape, the evolving nature of cyber threats, and the implications for individuals and society. It sets the stage for a comprehensive exploration of the subject, delineating the scope, significance, and objectives of the research.<sup>1</sup>

The Information Technology Act, 2000, forms the cornerstone of cyber law in India, providing the legal framework for addressing various cybercrimes, including cyber stalking. Over the years, amendments and judicial interpretations have sought to adapt the legislation to the evolving nature of cyber threats, reflecting the government's commitment to combating online harassment and ensuring digital safety.

However, despite legislative efforts, cyber stalking remains a prevalent and underreported phenomenon in India, with numerous challenges hindering effective enforcement and prosecution. Factors such as jurisdictional complexities, technological limitations, and societal attitudes towards online harassment contribute to the persistence of cyber stalking incidents, exacerbating the vulnerability of individuals, particularly women and marginalized communities.

Moreover, the proliferation of social media platforms, messaging apps, and online forums has facilitated the proliferation of cyber stalking, necessitating a multifaceted approach to address the issue comprehensively. Beyond legal interventions, awareness campaigns, digital literacy initiatives, and victim support services play a crucial role in combating cyber

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<sup>1</sup> [https://blog.ipleaders.in/landmark-judgments-on-offences-against-women-under-indian-penal-code-1860/#Ritu\\_Kohli\\_Case](https://blog.ipleaders.in/landmark-judgments-on-offences-against-women-under-indian-penal-code-1860/#Ritu_Kohli_Case).

stalking and fostering a safer online environment.

Against this backdrop, this research endeavors to analyze the efficacy of existing laws, examine law enforcement practices, and explore the socio-legal implications of cyber stalking in India. By shedding light on the challenges and opportunities inherent in the legal framework, this study aims to inform policy discussions, guide law enforcement strategies, and advocate for reforms to better protect individuals' rights and dignity in the digital realm.

## **LEGISLATIVE FRAMEWORK AND ITS SHORTCOMINGS**

This section will specifically address the legislative provisions mentioned in Indian laws, namely the Information Technology Act of 2000 and the Indian Penal Code of 1860. It is necessary to provide a thorough explanation regarding the connection between these rules and cyberstalking, including the specific sections that allow for charges to be brought against the person responsible. Given the perception of women as the most susceptible individuals in society, the legislators of India have prioritised safeguarding their well-being as the main goal of every law. Consequently, laws demonstrate a prejudice that puts women at a disadvantage. The current legislation lacks provisions that specifically address the problem of cyberstalking. In contrast, the author has attempted to clarify specific sections of the Indian Penal Code and the Information Technology Act that are indirectly linked to this violation. The explanation focuses on the connection between these provisions and the aforementioned offence.<sup>2</sup>

This section will provide additional details on the Indian legislation pertaining to cyberstalking.

Section 354D of the Indian Penal Code provides the initial definition of the term "stalking". The provision defines stalking as the act of a man who persistently follows a woman and tries to establish contact with her, even after she has clearly shown disinterest. It also includes monitoring her use of electronic communication platforms such as the internet, email, or any similar method.

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<sup>2</sup> <https://indiankanoon.org/doc/127517806/>.

The specific portion in question was included in the Criminal Amendment Act of 2013 as a direct response to the gang-rape incident that occurred in Delhi. This section offers a comprehensive examination of both the physical and digital manifestations of stalking. The section defines the boundaries by specifying the behaviours that meet the criteria for the illegal act of "stalking." Stalking is unequivocally defined as any deliberate attempt to surveil the online actions of a woman, expressed in a clear and concise manner. If the stalker engages in any of the activities described in Section 354D of the Indian Penal Code, he will be considered responsible for the offence and held accountable.

This section exhibits multiple inaccuracies, one of which is its narrow concentration on "women" as victims, disregarding the potential for men to also be victimised. This exemplifies the various limitations inherent in this specific sector. According to the conditions specified in this section, an individual is considered to be engaging in cyber stalking if they make an effort to monitor a female's electronic communication activities using the Internet, email, or any other electronic medium. Evidently, its focus is solely on women. Therefore, legislation demonstrates a prejudice that puts women at a disadvantage. Furthermore, the legislators have not addressed the term "method of monitoring" throughout this proceeding. Although the individual may not have had malicious intent, his behaviour could still be categorised as stalking.

Moreover, Section 292 of the Indian Penal Code provides a precise definition of the term "obscenity". Cyberstalking, as defined by the law, involves sending explicit content to a specific individual through social networking sites, email, instant messaging, or other forms of communication. A conviction for the offence of "stayer" under Section 292 of the Indian Penal Code occurs when someone intentionally transmits obscene material through the internet with the explicit intention of corrupting the recipient and compelling them to read, watch, or listen to such material.

Section 507 is the third provision of the Indian Penal Code that deals with the crime of "criminal intimidation by anonymous communication." This section stipulates that it is a criminal act for the stalker to deliberately conceal his identity with the aim of impeding the

victim from identifying the origin of the threat. This guarantees the distinct feature that defines cyberstalking, which is the anonymity of the perpetrator. Regarding this specific section, the responsibility is assigned to the stalker who tries to conceal their identity.<sup>3</sup>

In addition, with regards to the modesty of women, Section 509 of the Indian Penal Code states the following: "Any word, gesture, or act that is intended to insult the modesty of a woman - whoever, with the intention of insulting the modesty of any woman, speaks any word, makes any sound or gesture, or displays any object with the purpose of being heard or seen by said woman, or who invades the privacy of said woman, shall be held accountable for the following offence."

According to the stipulations of this section, a person who participates in stalking can be reported if their behaviour in any manner violates the privacy of a woman. This can happen through verbal or nonverbal communication transmitted through emails, messages, or social media posts. If any of these activities are performed, he will be found guilty of an offence as defined in Section 509 of the Indian Penal Code.

Section 509 is plagued by a wide range of shortcomings. Some of these include the following: the provision exhibits gender bias by neglecting the gender-neutral aspect of cyberstalking and the fact that men can also be victims of such crimes, instead prioritising the protection of women's modesty. In order to comply with the requirements of this section, the words, sound, or gesture must be visually depicted, audibly transmitted, and verbally articulated, respectively. The inherent constraints of the internet, such as its inability to perceive auditory signals, visual cues, and gestures, allow cyberstalkers to easily evade the specified penalties outlined in this specific section. Lastly, it is not possible to infer from the online discussions that the woman's modesty was the specific objective.

Furthermore, Section 292 of the Indian Penal Code is replicated in Section 67 of the Information Technology Act of 2000. This section examines the dissemination of explicit content in "digital format". Therefore, this section specifically deals with the issue of cyberstalking. Under Section 67 of the Information Technology Act, a stalker is considered

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<sup>3</sup> <https://blog.ipleaders.in/overview-of-section-509-of-the-indian-penal-code-1860/>

to have committed an offence when they intentionally publish explicit material about the victim on digital platforms, such as social media, with the intention of intimidating them.

Section 67A of the Information Technology Act of 2000 specifically deals with a specific aspect of the offence of cyberstalking, ranking it in the sixth position. After the amendment in 2008, this section was added immediately afterwards. According to the document, individuals who participate in stalking are breaking Section 67A of the Information Technology Act and will be subject to suitable penalties if they electronically distribute "sexually explicit" content, whether through social media platforms, emails, or messages.<sup>4</sup>

Section 67B of the Information Technology Act of 2000 was recently incorporated into the statute, constituting our seventh point. This section was recently included as a result of the Amendment Act of 2008. This section focuses on instances where a stalker disseminates material depicting individuals under 18 years old participating in sexual acts, with the clear purpose of intimidating the minors.

Section 354C states that any man who observes or records a woman engaging in a private act, in a situation where she would reasonably expect not to be observed by the perpetrator or anyone else at the perpetrator's request, and regardless of whether or not he shares the recorded image, will be subject to punishment.

To provoke depressive symptoms and instill a sense of peril in the target, the stalker may illicitly infiltrate the victim's social media account and publicly disclose personal images of the victim. Both of the aforementioned sections are intended to enable the dissemination or capturing of private activities of individuals without their consent. Those who make an attempt to do so are engaging in a violation according to the provisions of these sections. In contrast, Section 66E takes a broader perspective by defining the victim as "any person," whereas Section 345C shows a noticeable favouritism towards women, aligning with preexisting assumptions. In order to meet the criteria of being the target according to section 354C, the individual in question must be a "female." It is important to recognise that while offline laws fully apply to digital media, the penalties specified in the Information

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<sup>4</sup> <https://www.verywellmind.com/what-is-cyberstalking-5181466>.

Technology Act are significantly harsher ("14"). It is important to recognise that the Information Technology Act assigns significant importance to the physical appearance and sexual orientations of women. Section 66A of the Act specifically addresses a wide range of "offensive messages."

Voyeurism is specifically covered by Section 354C of the Indian Penal Code. The scope of this section is relatively limited due to the requirement that the individual must be of the female gender in order to be eligible. Section 66E of the Information Technology Act addresses voyeurism, but its coverage is broader than that of Section 354C of the Indian Penal Code. Section 66E employs the term "any person" to refer to the victim. Therefore, in order for the victim to qualify for compensation under this provision, it is not solely based on their gender as being a "woman." If the male individual is a victim, he has the option to initiate legal proceedings for compensation under Section 66E of the Information Technology Act of 2000.

Neither the Indian Penal Code of 1860 nor the Information Technology Act of 2000 explicitly address the issue of cyberstalking, which involves the stalker following the victim through messages, phone calls, emails, or blog posts while assuming the victim's identity and disseminating defamatory or threatening messages. It is possible to impose penalties on the offender based on specific provisions mentioned in the Acts mentioned earlier. However, these provisions have already been discussed in previous chapters. However, there is no specific provision that applies to this specific offence. While the process of carrying out this offence may be straightforward, the consequences are long-lasting and significant. This has the potential to adversely impact the victim's mental and physical well-being. In order to ensure the well-being of the victim, it is essential to increase the allowable punishment under the current provisions.

## LANDMARK JUDGEMENTS

The incident marked the first recorded case of cyber stalking in India, with Ritu Kohli being the specific target. Ritu Kohli was involved in a romantic relationship with Manish Kathuria.<sup>5</sup> Ritu Kohli was the target of Manish Kathuria, who allegedly intended to cause harm. By

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<sup>5</sup> 2023:AHC:102950.

impersonating her, he spread explicit messages to numerous recipients. He disseminated her address and contact information to multiple individuals. She began receiving messages from individuals that were extremely bothersome. He was charged with violating section 509 of the Indian Penal Code when he was arrested. Since then, a countless number of cyber stalking incidents have occurred throughout the country, and this danger appears to be ongoing without a definite end.

The decision in the case of *Justice K.S. Puttaswamy and Others vs. Union of India (UOI) and Others*<sup>6</sup> confirmed that the right to privacy is a fundamental right protected by Article 21 of the Indian Constitution. Participating in stalking infringes upon this entitlement. In addition to inducing fear, another consequence of this phenomenon is a scarcity of social interaction. Not only do stress and trauma have consequences, but they also lead to undesirable changes in behaviour and psychology. Implementing multifactor authentication is an effective method to decrease the likelihood of being stalked. Instead of depending only on a username and password, this authentication method necessitates the inclusion of two or more supplementary factors for a successful account login. To protect the data, one can install and regularly update software specifically designed to prevent data leakage. Avoid adding the GPS location tag to Instagram posts, as it could potentially allow an online stalker to track the person's physical location.

In 2010, the Central Bureau of Investigation reported that *Santosh Kumar Singh Priyadarshini Mattoo*<sup>7</sup>, a 25-year-old law student, was the victim of a murder, rape, and stalking incident at her home in New Delhi, for which the State was found accountable. The third-year law student had experienced persistent instances of harassment and stalking from Mr. Santosh Singh, her superior at the campus law centre in Delhi. Mr. Singh was the offspring of a former Indian Police Service (IPS) officer. He faced multiple complaints accusing him of engaging in consistent stalking, harassment, threats, and inappropriate advances towards her. An FIR was filed at the Maurice Nagar Police Station, charging the accused under Section 354. Afterwards, the perpetrator was apprehended and subsequently released on a bail bond. The university dean received a formal complaint and subsequently requested that the defendant refrain from participating in similar activities in the future. Additionally, considering the gravity of the

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<sup>6</sup> AIR 2018 SC (SUPP) 1841.

<sup>7</sup> Cbi on 6 October, 2010.

situation, private security personnel were sent to the victim's whereabouts.

The Bombay High Court deliberated on the issue of female suicide in the 2016 case of *Shri Deu Bajju Bodake v. The State of Maharashtra*<sup>8</sup>. The woman concluded that the relentless harassment and stalking she experienced from the perpetrator were the main factors that led to her suicide. Furthermore, the defendant engaged in persistent harassment and stalking of the individual during her working hours. Additionally, despite her clear disinterest and opposition, the defendant persistently demanded that they enter into a marital union. In order to impose penalties on the defendant, the High Court ruled that Section 354D must be documented in conjunction with the charge of assisting and encouraging suicide.

## FINDINGS

The examination of laws related to cyber stalking in India illuminates a complex and evolving landscape characterized by legislative frameworks, enforcement practices, and socio-legal implications. Central to this framework is the Information Technology Act, 2000, augmented by subsequent amendments and regulations, which serves as the primary legal mechanism for addressing cybercrimes, including stalking. While the Act lays down essential provisions for prosecuting offenders, including those engaged in cyber stalking, challenges persist in its practical application. Ambiguities surrounding jurisdiction, inadequate definitions, and procedural hurdles impede effective prosecution, often resulting in underreporting and impunity for perpetrators.

Enforcement practices across India exhibit significant variations, reflecting the diverse technological and resource landscapes of different jurisdictions. Law enforcement agencies contend with a myriad of challenges, including limited awareness about cyber laws among personnel, inadequate training, and the absence of specialized units or dedicated cybercrime cells. These challenges impede the timely investigation and resolution of cyber stalking cases, exacerbating the plight of victims seeking justice and redressal.

Beyond the legal and enforcement realms, cyber stalking in India carries profound socio-legal implications, impacting individuals and society at large. Victims, particularly women and marginalized communities, endure not only the immediate psychological trauma and fear

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<sup>8</sup> Criminal Bail Application No. 2165 of 2016.

resulting from cyber stalking but also face social ostracization, economic repercussions, and long-term emotional scars. Furthermore, prevailing societal attitudes often minimize or dismiss online harassment, perpetuating a culture of victim-blaming and stigma surrounding cybercrimes.

In light of these findings, several recommendations emerge to strengthen the legal framework and enhance enforcement mechanisms to effectively combat cyber stalking in India. This includes clarifying and expanding legal definitions to encompass emerging forms of online harassment, establishing specialized cybercrime investigation units, and enhancing the capacity of law enforcement agencies through training and technological resources. Additionally, raising public awareness through education campaigns, promoting digital literacy, and providing support services for victims are essential steps in addressing the socio-legal dimensions of cyber stalking. Moreover, advocating for international cooperation and coordination is crucial to address cross-border cyber stalking cases and enhance cybercrime deterrence effectively.

## **CONCLUSION**

To bring about change in the current situation, it is crucial to discard the outdated approach and establish a new framework that is both effective and efficient. Cyberstalking is a remarkably innovative concept. The judicial and legislative branches have recently shown interest in it. On multiple occasions, it has been imperative to implement efficient legislation. This is because law enforcement agencies encounter substantial obstacles when dealing with incidents of this nature. There is a general agreement that cyberstalking is a serious offence. The repercussions are significant and extensive, impacting the victim's psychological and physiological welfare. This article aims to provide a comprehensive analysis of the concept of "cyberstalking," including its characteristics and the degree to which it can be employed.

While some argue that it is an extended form of cyber stalking or a new manifestation of stalking, its characteristics appear to go beyond these classifications. As for the offence itself, it is a new and unique occurrence. The stalker's objective is to engage in persistent and menacing behaviour towards the targeted individual. Consequently, it is associated with illegal behaviour. Many countries have enacted laws regarding this topic. Currently, there is no single

provision that has the ability to effectively address the cases that are being discussed. India does not have any legislation that specifically addresses this matter. Several provisions of the Indian Penal Code and the Information Technology Act may be relevant to this cybercrime, thus enabling the prosecution of the stalker under those provisions. The current deficiencies in the legislative measures adopted by countries to address this criminal activity are as follows. Due to the considerable geographical distance that may extend across multiple countries, only a limited number of cases have been reported involving stalkers and their victims. This case arose due to the failure of law enforcement authorities to take into account the circumstances. This increasingly complicates the determination of which country's legal system should be followed. We should not only avoid relying solely on legislative provisions, but also actively work to prevent such circumstances from occurring. The adage "Prevention is more desirable than treatment" has been unequivocally substantiated. In order to ensure our personal safety, it is crucial that we follow specific precautions. If such a situation occurs, we must comply with the requirements of the law. Therefore, it is advisable that we implement preventive measures on our part.