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WOMEN HARASSMENT IN DIGITAL SPACE

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Abstract

The Internet has become an inevitable part of human life. In a society like India, where crimes are prevalent especially towards the women and children, the increase in the changes and developments in the society and with the rapid growth of technology, paved a new way for the criminals to initiate their crimes. Cyber crimes have emerged which resulted in the violence towards various aspects of human life. This technology knows no boundaries, it can affect anyone living in any part of the world. Mostly women happen to be the victims of cyber crimes one of such is Cyber harassment. It is one of the major issues faced by women of all ages. In order to tackle with the changing and growing cyber crimes against women in India, strict and specific legislations are mandatory.

The purpose of this research is to understand cyber harassment against women and to analyse the existing laws that deal with it and to acknowledge the need for separate legislations for that matter.

Introduction

Technology has made our lives easier. Computers, mobile & laptops are part of that technology, these devices are being used for various purposes across the globe. Earlier computers were part of big businesses and were used in professional capacity only but in today's scenario we can see that computers are very common in every household, they are very popular in every age group be it kids, adults or aged people everyone is using computer or electronic devices. With the arrival of computers, crime related to computers and technology are also prevalent and thus the term cybercrime is coined. It is a very popular type of crime in today's world and is playing a very devastating role in modern India. These crimes are committed especially towards women and children.

We all know that in the ancient Indian society women were given a very high position, the vedas honoured the women as the mother goddess, the person who produces life and was compared to maa saraswati and maa durga. As the time passed by, the society turned out to be a male dominant one which paved the way to gender- based offences. They are various kind of offences done against women, it can be before birth such as female infanticide or in their adulthood such as rape, or even after their marriage such as sati, dowry. That is when the downfall of women in the society started.

Therefore crimes against women have its roots from ancient times. Violence against women is one of the major issues in the present day Indian society. Since the IT sector in India have seen a boom in the 1990's, and the increased amount of internet users and due to lack of awareness and legislation, crimes against women of all ages have also developed like online harassment, sextortion, stalking, cyber sex-trafficking etc.

Cyber crime

Cyber crime is a global happening. Cybercrime and women victimisation in digital space has remained a subject of great fearfulness. With the lack of legislation dealing with cybercrimes in India and rights of the victims, India is at a crucial and frightful place. The term cybercrime is not defined in any statute but however the term is judicially interpreted in some of the judgements pronounced by the courts in India. Cybercrime is the term used to describe crimes carried out online in which the perpetrator remains anonymous behind a computer screen and is not necessarily required to make eye contact with the victim. In digital-crime, the targeted computer or the data is the victim, the crime's intended outcome, or a tool used to make possible the commission of another crime by providing the required inputs¹.

In order to tackle these kind of cyber attacks, India enacted Information Technology Act, 2000, but this act lacks in various aspects as security of women is not covered fully by this Act.

¹ [Parth0501](https://www.legalserviceindia.com/legal/article-8918-cyber-crimes-against-women.html), Cyber Crimes Against Women, legal Services India, (https://www.legalserviceindia.com/legal/article-8918-cyber-crimes-against-women.html) (last visited on Jan 20 2024)

Cyber crime against women in India

Every year we celebrate women's day on 8th of march to show our respect and affection and appreciation towards women for their achievements in various fields. We worship them as goddess Devi but reality shows the worsening picture of this as stated above, in fact women are worshipped only in religious places and in common life exploited in various ways. With the advancement of technology, cyber crime is increasing rapidly and specifically women are becoming more prone to cyber crimes. When we are referring to cyber crime against women in India then it mainly includes sexual crimes and sexual abuse on the internet². Safety and privacy of women is always a major issue when it comes to countries like India.

Earlier, it was only limited to places outside the home. Home used to be the place where women could feel safe and protect herself from the outside world. But now home has become equally dangerous. The criminal can now operate by sitting at home in any part of the world.

Therefore, the increasing rate of cyber-crime against women has led to development of insecurity and fear within a woman. They don't feel safe anymore. Its effects are worse on them and on the society as a whole, when we look into the broader picture³.

Cyber Harassment

Women became the soft targets of cyber crime. One of the major cyber crimes faced by women of all ages is Cyber Harassment. There is no particular universally accepted definition of cyber harassment. It can be interpreted as repeated, unwelcoming, unfriendly behaviour by a person towards a particular individual with an aim to humiliate, torment, harass or stalk through cyberspace. It can take place in any electronic medium of communication where interaction with others is possible by social media, emails, mobile calls and messages.

Cyber harassment is a broad term. Cyber stalking, bullying, identity theft, catfishing, defamation, morphing, trolling and revenge porn falls under the umbrella of cyber harassment⁴.

² (Dr.) N. K. Thapak, Study on the Case Laws Registered Regarding Cyber Crime against Women, vol 15 / Issue: 1, Advances and Scholarly Researches in Allied Education, 449(2018), (<https://ignited.in/a/58442>), (last visited on Jan 20 2024).

³ Dr. Monika Jain, Victimization Of Women Beneath Cyberspace In India Upbringing, (Bharati Law Review, April – June, 2017), (https://docs.manupatra.in/newslines/articles/Upload/786274E9-B397-4610-8912-28D6D03230F9.monika_jain_pdf_1-1111.pdf), (last visited Jan 20 2024)

⁴ Cyber Harassment, (29 June 2022),

1. Cyber stalking: one of the most popular internet crimes. It is a conduct where the perpetrator attempts repetitive acts of harassment or threatening behaviour towards the victim by using internet service. Usually on the internet stalking happens when the perpetrator follows the victims continuously by sending him/her unwanted messages. Women who are molested are followed by their perpetrators into the cyber world and such perpetrators watch them secretly without their knowledge. Stalkers are taking advantage of modern technology as it has become an integral part of our professional and personal lives. Usually both men and women are stalked but the majority of the victims are females. Most of the cases go unreported. Victims of cyberstalking are as scared as they are in real life. Stalker can be a known person or can be a completely unknown one. Motive behind commission of such crimes can be jealousy, obsession or attraction, revenge or hatred or sexual harassment.

As per the Indian Penal Code section 354D - stalking refers to “any person who monitors the use of the internet, email or any other form of electronic communication of any person is said to stalk that person”⁵.

Ritu Kohli’s case⁶, the very first case of cyber stalking in India. Her complaint was that a person, the stalker, was chatting on net by using her identity and giving her address, talked in obscene language and encouraged other people to call Ritu kohli on an odd hour. Later, she received many phone calls from strangers at odd hours who talked in vulgar language and it created havoc in her personal life. She then filed a complaint to the police who traced the IP address and arrested the accused and this case was registered under section 509 of IPC.

2. Cyber bullying: Cyberbullying is the use of technology to harass, threaten, embarrass, or target another person. Online threats, aggressive, or rude texts, tweets or messages all count. So does posting personal information, pictures, or videos designed to hurt or embarrass and to destroy the reputation and feelings of a person. It includes comments

(<https://vikaspedia.in/education/digital-literacy/information-security/being-safe-online-1/cyber-harassment>) , (last visited on 21 Jan 2024)

⁵ Indian Penal Code, 1860.

⁶ Dr. Sapna Sukrut Deo, Cyberstalking And Online Harassment: A New Challenge For Law Enforcement, 86, Bharati Law Review (2013) (<https://docs.manupatra.in/newslines/articles/Upload/FDF5EB3E-2BB1-44BB-8F1D-9CA06D965AA9.pdf>) (last visited on 21 Jan 2024)

that focus on things like a person's gender, religion, sexual orientation, race, or physical differences count as discrimination, which is against the law in many states. which means the police could get involved, and bullies may face serious penalties⁷.

Motive behind commission of such crimes can be to isolate the victim, to take revenge, to be dominant in the social circle or for entertainment purposes. There are no specific laws that deal with cyber bullying in India.

3. Cyber defamation: in today's era the internet has raised the bar for the fundamental right of speech and expression. With the evolution of the internet, it has become the global medium of expression. The Internet is the medium which provides limitless opportunities to make ways for netizens' speech and expression. In this way the internet is equally powerful to use as well as to misuse it, one of such ways to misuse the internet is online defamation and it is capable of harming the reputation of the individual. The term "Defamation is explained under section 499 and is punishable under section 500 of Indian Penal Code"⁸.

Cyber defamation can be understood as intentional infringement of someone else's right to his good name. It can be done with the help of computers, internet and mobile phones. On the internet any defamatory material can be distributed very conveniently to a large number of audiences. Here, a woman suffers the most because a single false statement on the internet is capable enough to degrade the reputation or status of women in the eyes of the whole society. In Indian societal structure, the reputation, modesty and social status of a woman are delicate enough that one wrong word about her can destroy her whole life. On the internet people are allowed to speak their mind and it is easy for them to leave a defamatory comment or post on websites as there are thousands of platforms available on the internet. Some of such social media platforms are twitter, facebook, chat rooms etc.

Online defamation is very much different in nature, extent and magnitude. Online defamation of women has a comparatively higher effect on them as it can destroy the status of such women.

⁷ Elana Pearl Ben-Joseph, MD, Cyberbullying (August 2022), (<https://kidshealth.org/en/teens/cyberbullying.html>), (last visited on 21 Jan 2024)

⁸ Indian Penal Code, 1860.

SMC Pneumatics (India) Pvt. Ltd. v. Jogesh Kwatra⁹- India's first case of cyber defamation where the defendant Jogesh, an employee of the plaintiff has sent several humiliating, vulgar and defamatory emails to his employees and also to the various subsidiaries of the said company all over the world. Plaintiff then approached a private computer expert and enquired into the said matter and traced out the IP address from which the emails have been sent.

Investigations revealed that these emails were sent from a local cybercafe in Delhi, the owner of the cybercafe recognised Jogesh(defendant) as the same person who sent those emails. A complaint was filed against the defendant. Later, the hon'ble judge of Delhi high court passed an ex-parte ad interim injunction observing that a prima facie case had been made out by the plaintiff.

R. Arun and Ors. vs. Inspector of Police, Thiruppur North Police Station and Ors - The case was in the focus of attention since it affected a woman about whom a defamatory and vulgar message was posted online due to which the victim has received several threats from the strangers. The court held that “sending obscene and defamatory messages and pictures over a mobile phone, threatening a woman in front of others amounts to outraging the modesty of a woman”¹⁰.

The Suhas Katti Case¹¹ - The victim here was the chief judicial metropolitan magistrate about whom defamatory and obscene comments were posted in the yahoo message group. The accused approached the victim and tried to marry her but the victim married another man. Later when she got divorced, the accused again approached the divorced victim but she rejected him. As the accused couldn't take the rejection, he started sharing her number to various groups saying that she's engaged in sex business. Victim started to receive calls from people. Therefore she filed a complaint under section 67 of IT Act, 2000 and also under 509 of IPC. The accused was punished.

4. Cyber morphing: another kind of major cyber crime related to women is cyber morphing.

In morphing the original picture is edited by an unauthorised user. It involves

⁹ SMC Pneumatics India Pvt. Ltd. v. Jogesh Kwatra, CS(OS) No. 1279/2001 (Delhi High Court, 2001)

¹⁰ R. Arun and Ors. Vs. Inspector of Police, Thiruppur North Police Station and Ors, MANU/TN/4760/2017

¹¹ The State of Tamil Nadu Vs Suhas Katti, CC No. 4680 of 2004.

downloading the victims photos/videos from any social media platforms using fake identity and then editing it and uploading it on the internet. It is a common phenomenon to harass a woman by editing the face of the victims with that of a naked body and this can be done through image editing softwares. The images are morphed to defame the character of the victim. It is a new trend in India. Usually celebrities' pictures are morphed by criminals. Nowadays even an ordinary woman is the target of this morphing. It can be because she rejected the love proposal or marriage proposal or maybe out of jealousy. Through morphing victims are being blackmailed by the perpetrator as the victims don't want their photos to be released as it damages their image and character in the society.

The famous Bollywood actress Priyanka Chopra's picture is morphed by the face of Mamata Banerjee who is the Chief Minister of West Bengal. That particular picture created havoc in West Bengal and Mamata Banerjee filed a criminal complaint against them. The complaint was made against a BJP leader Priyanka Sharma, who had allegedly shared the morphed picture. She was then arrested and produced in the Howrah court.

Later the Court in the year 2019 passed an order for the immediate release of Priyanka Sharma subject to condition that she would tender a written apology immediately upon her release.¹²

Air Force Bal Bharati Case - in which the student of the school was teased by his classmates and he wants to take revenge on them. So he created a website and this website is hosted by him on free web space. On this site, he shared explicit and sexual details about various "sexy" girls and teachers of the school. Girls and teachers were also classified on the basis of their physical attributes and perceived sexual preferences. The website also became an adult boys' joke amongst students. This continued for a long period until one day. One of the boys told a girl that she got featured on that website. The father of the girl, who is an Air Force officer, registered a case under section 67 of the IT Act, 2000 with the Delhi Cyber police branch. The police picked up the concerned student and kept him at Delhi juvenile custody. After one week, the juvenile board granted bail

¹² Ashok Bagriya, BJP leader jailed for meme gets bail from SC, ordered to apologise to Mamata Banerjee, (Hindustan Times, May 12 2020), (https://www.hindustantimes.com/lok-sabha-elections/bengal-bjp-leader-jailed-for-sharing-morphed-photo-of-mamata-banerjee-given-bail-sc-says-she-must-apologise/story-HUZgFFGEQ61dFf2spq5HSJ_amp.html) (last visited on Jan 23 2024)

for that 16 year old student¹³.

5. Identity theft: identity theft can happen to anyone in the present generation but most likely it is going to affect the women both in society and in personal life. Identity theft can be defined as illegally stealing the personal information of an individual, it can be done through emails, social media networks, mobile phones etc. Motive behind identity theft is for financial gains or to commit frauds using other identities or to harass a particular individual. Generally individuals, organisations, public/political figures, especially women are the targets. Here the perpetrator disguises himself as someone else thereby gaining access to one's personal information like social media pages, bank details, credit cards. Photos/videos, personal details of the victim are collected without their permission and are used by the perpetrator in order to manipulate any third person and to take advantage.

The IGP received a complaint from a woman in Aizawl, where she stated that an Instagram user disguised himself and used the username - Ebenezer Fanai, sent her obscene video and harassed her by using vulgar words. After repeated harassment she planned to uncover the perpetrator's identity. She asked for his phone number with a false excuse to have a video chat with him through WhatsApp. He fell for her trap and gave his number. A case under sections 500 and 507 IPC read with 67 IT Act, 2000 read with Indecent Representation of Women Act, 1986 was registered against him. The team of cyber crime police then arrested the accused¹⁴.

Impacts of cyber harassment on women

It is not really that easy for a person to get out from any traumatic incident or a situation that happened in their life, especially in the cases where women who care more about their reputation and dignity in the society don't have the strength to take any kind of bad or negative remarks towards them. It affects them mentally and physically in any ways:

1. Experiencing Stress, anxiety and panic attacks,

¹³ Air Force Bal Bharati School Case, (Dullbonline, [October 14, 2020](https://dullbonline.wordpress.com/2020/10/14/air-force-bal-bharti-school-case/)), (<https://dullbonline.wordpress.com/2020/10/14/air-force-bal-bharti-school-case/>) (last visited on Jan 23 2024)

¹⁴ HC Vanlaluata, 2 held in Mizoram for cyber crimes, (TIMES OF INDIA, May 17 2023), (<https://timesofindia.indiatimes.com/city/guwahati/2-held-in-mizoram-for-cyber-crimes/articleshow/100295833.cms>) (last visited on Jan 24, 2024)

2. Silencing Effect and not being able to socialise,
3. A feeling of powerlessness in ability to respond to abuse or harassment online,
4. Not being able to sleep well,
5. Lower self-esteem and self confidence,
6. Feeling of apprehension of danger when using the internet or other social media,
7. Feeling of isolation,
8. Not being able to perform day-to-day activities,
9. Losing one's appetite,
10. Feeling of insecurity.

Cyber laws for women in India

Cyber crimes against women are at an alarming rate, it not only poses a major threat to the individuals but to the society as a whole. Cyber crimes need immediate actions. In India, Information Technology Act, 2000 is one such act which deals with cybercrimes but at the same time this particular act has got many loopholes such as lack of clarity in data protection laws¹⁵, Act is limited to only a few types of cyber offences and most of the other cyber offences like phishing, and other cyber offences against women are not specified in this Act. Although there are no particular complete regulatory framework with respect to laws related to cybercrimes against women in India, there comes certain legal provision that helps women victims in case of cyber violence¹⁶.

1. The Indian Penal Code, 1860

Initially, IPC didn't have any particular provisions dealing with cyber crimes against women. However, by the Criminal Law Amendment Act in 2013 certain amendments were brought in section 354 through which section- 354A, 354B, 354C and 354D were added.

“Section 354A - sexual harassment

If a man commits any act of physical contact and unwelcoming explicit sexual overtures; or

¹⁵ Iamkishanpandey, Technology Laws in India: Impact and Loopholes, Legal Services India, (<https://www.legalserviceindia.com/legal/article-10604-technology-laws-in-india-impact-and-loopholes.html#:~:text=Loophole%201%3A%20Lack%20of%20clarity%20in%20data%20protection%20laws&text=However%2C%20these%20rules%20do%20not,businesses%20to%20comply%20with%20them>) (last visited on 24 Jan 2024).

¹⁶ Women - Cyber laws in India, (<https://www.infosecawareness.in/concept/cyber-laws-in-india/women>), (last visited on 24 Jan 2024).

demanding/requesting sexual favour; or showing pornography against her will; or making sexually coloured remarks shall be punished in the first three instances with rigorous imprisonment which may extend to 3 years and in the case of fourth instance imprisonment which may extend to 1 year.

Section 354C – voyeurism

If a man watches or captures the images of a woman when she's engaged in her private activities, shall be punished with imprisonment for not less than 1 year which may also extend to 3 years incase of first conviction and incase of subsequent or second conviction - imprisonment not less than 3 years which may also extend to 5 years.

Section 354D – stalking

If a man repeatedly follows and tries to foster personal interaction with a woman after showing disinterest by her or monitors the use by internet, email or any other electronic media of a woman shall be punished with imprisonment which may extend to 3 years if it is first conviction and incase of subsequent conviction- imprisonment which may extend to 5 years”¹⁷.

Other than the above stated sections, there also exist certain other provisions under which woman victims of cyber crimes can file a complaint:

Section 500- punishment for defamation

Intentionally harming the reputation of a person by words, gestures and signs. Defamation by publication of imputations made in against a woman with the intention to harm her reputation, is punishable with imprisonment for a term, which may extend to two years, or with fine, or with both¹⁸.

Section 507 - criminal intimidation by anonymous communication

Whoever commits the offence of criminal intimidation by anonymous communication by taking precautions to conceal the name or abode of the person from whom threats comes shall be punished with imprisonment of either description for a term which may extend to 2 years, in addition to the punishment provided for the offence by the last preceding section¹⁹.

¹⁷ Indian Penal Code, 1860

¹⁸ ibid

¹⁹ ibid

Section 509- word, gesture or act intended to insult the modesty of a woman

Any person who utters any word or makes any sound or gesture, or exhibits any object with the intention that such word, sound or gesture or object be heard or seen by a woman and insult her modesty, or intrudes a privacy, may be charged under this section and imprisoned for a term that may extend to 3 years and also with fine²⁰.

2. The Information Technology Act, 2000

With the changes and increase in cybercrimes, the IT Act, 2000 was amended in 2006 and also in 2008. The IT (amendment) Act, 2008 came up with various other provisions relating to cybercrimes still it couldn't cover various aspects of cybercrimes and many other cyber offences against women. But here are the provisions which aid women victims:

Section 66C - this section makes identity theft a punishable offence with imprisonment for a term of 3 years and fine for rupees 1 lakh.

Section 66E - this section deals with offences of capturing, publishing, or circulating pictures of women without her consent and is punishable with imprisonment for a term of 3 years and fine for rupees 2 lakhs or more.

Section 67A - Makes it illegal to publish and transmit sexually explicit content and is punishable with imprisonment of up to 5 to 7 years²¹.

3. The Indecent Representation of Women (Prohibition) Act, 1986

“An Act to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner and for matters connected therewith or incidental thereto”²².

Section 2(c) - indecent representation of women

It means the depiction in any manner of a woman be it about her body or form or any other part which is having the effect of indecent, derogatory or denigrating or is likely to corrupt or injure the public morality or morals²³.

²⁰ Indian Penal Code, 1860.

²¹ “Cyber Crime Against Women”, (27 Dec, 2023), (<https://www.geeksforgeeks.org/cyber-crime-against-women/>), (last visited on 24 Jan 2024)

²² The Indecent Representation Of Women (Prohibition) Act, 1986.

²³ The Indecent Representation Of Woman (prohibition) Act, 1986, s 2(c).

In the year 2012, Rajya Sabha proposed the Indecent Representation of Women (Prohibition) Bill. It aimed to widen the scope and amend the 1986 Act as per the changing needs. However, the government later withdrew this bill as it felt that the amendments were no longer necessary as the concerns were addressed by the IT Rules 2021, Cinematography Act and various other provisions²⁴.

The Indecent Representation of Women (Prohibition) Act and Article 21:

Article 21 - Right to life and personal liberty

It states that “No person shall be deprived of his life or personal liberty except according to the procedure established by law”²⁵. Article 21 is a wider concept, it cannot be kept limited to only certain aspects.

In the Maneka Gandhi case, The court held that “right to life is not mere physical existence but to live with human dignity.”²⁶ Hence, by summarising both Article 21 and The Indecent Representation Of Women (Prohibition) Act, every woman out there has the right to live with dignity and can approach the court whenever any publication, writings or through any other form her right to live with dignity is violated.

Conclusion

Swami Vivekananda once said “the nation which does not respect women will never become great now or will never be in the future”. In order to make India a great nation we need to work towards giving women the much deserved status and place. In a world where people are more dependent on technology, cyber crimes are prevalent. Cyberspace has no boundaries, with women becoming the targets, the crimes towards them are rapidly growing. There are no specific legislations made in order to tackle these cyber crimes against women. Cyber crimes are grave in nature like all other crimes. Hence, there is an urgent need for strict rules and regulations to curb rising complexities in the world of cyber crimes. Also to create a safe cyberspace for women we need to spread awareness about these digital crimes, make them be vigilant about their rights and encourage them to lodge complaints against criminals promptly.

²⁴ Ambika Pandit, Government withdraws indecent representation of women amendment bill, (Times Of India, Jul 26, 2021), (<https://timesofindia.indiatimes.com/india/government-withdraws-indecent-representation-of-women-amendment-bill/articleshow/84770088.cms?from=mdr>) (last visited on 25 Jan 2024)

²⁵ Article 21, The Constitution Of India, 1950.

²⁶ Maneka Gandhi vs Union of India, 1978 AIR 597.