



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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An Overview of Cyberbullying and Its Legal Remedies under Indian Law

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Received 24 September 2023; *Accepted* 20 October 2023; *Published* 24 October 2023

Everything has its advantages and disadvantages. Social media being one of the most used platforms has also emerged as a place where people get bullied online whether it's male or female or other. Although laws for the protection of an individual have been implemented by the superior authority, many citizens still suffer from this trauma known as cyberbullying. Many third-party websites use cookies to gain access to our browsing history which is a threat to our basic fundamental right which is mentioned under Article – 21 i.e. Right to privacy of the Constitution of India. Cyberbullying includes threatening someone by using their personal information or sharing negative and mean posts or information to defame an individual and gain some profit which can be money sometimes. This can cause severe mental health issues to the victim's body irrespective of gender and age. Online abuse can harm a person socially, physically, and mentally. The Internet is just like a knife, it depends on the user whether you use it to benefit yourself or try to harm a person. Therefore, it is advisable to use social media properly.

Keywords: *cyberbullying, social media, internet, mental health.*

INTRODUCTION

In a developing country like India, cyberbullying has become more prevalent. India being one of the largest economies existing comes under the top countries where cyberbullying is taking

place more. The Government of India has taken many initiatives to curb this situation still; many of the citizens are getting targeted by bullies. Lack of knowledge or the urge to earn money through illegal means can be used as a reason why bullies nowadays are motivated to do so. I won't say social media is bad for us, but it depends on how many precautions an individual takes while using it. The way we share our personal information or what we are currently doing should be short and precise rather than just writing every single piece of information and posting it publicly.

Social media apps like Instagram, Snapchat, X (formerly known as 'Twitter'), Messenger, True Caller, YouTube, LinkedIn, Facebook, WhatsApp, WeChat, Tinder, etc. are likely the most used apps where people keep updating about their lives and are most active, which is why more cases arise where people are getting bullied online through their social media accounts. Also, these apps have set their algorithm in such a way that the post, articles, reels, etc. appear as per our likes and dislikes which increase the intensity of a person to use their mobile phones more and more. Overuse of social media leads to addictions and can make you a target of cyberbullying sometimes.

Scammers and Hackers are so fine in getting your account access nowadays that you won't even realize that some other person is using your account. These accounts are likely to be untraceable and are used to send text messages to the following real owner and hurt their dignity. For example: - You get a text saying 'Hello I am your friend (or any relation) so-an-so (one of your very close person's name), I am in urgent need of money could you please transfer the amount by using the link I have sent you below this text message' and then once you click on the link they immediately get remote access of your mobile phone and get notified about everything you do on your phone including contacts, pictures, confidential details, etc.

MEANING - CYBER BULLYING

Cyberbullying, also known as cyberstalking and cyber harassment means when someone tries to harm or blackmail you through any of your online accounts. The widely accepted definition of 'Cyberbullying', by cybercrime experts is - 'an aggressive, intentional act or behavior that is

carried out by a group or an individual, using electronic forms of contact, repeatedly and overtime against a victim who cannot easily defend him or herself .¹

Many people due to excess mental pressure from cyberbullying also tend to commit suicide or even go through depression and other diseases. Sometimes we don't even realize that we are the target unless and until we try to notice our accounts online. The perpetrator is a person who bullies online by sending friendly text messages at first to gain their target's trust and make them feel everything is safe between them.

The perpetrator after gaining enough trust, tries to get as much personal information like contact number, and full name, asks questions about friends and family and their photographs, your pictures, also tells their target to share the one-time password (OTP) which they have sent as a text message on their contact number saying 'hi', etc... These are some of their ways of acquiring your details, therefore we should be cautious while talking to someone online whom you don't know or haven't seen in person.

Cyberbullying can take place anytime, anywhere online whether you are a child or an adult. For the utmost security, we should never share the passwords of our mobile phones, debit cards, etc. It's always good to take precautions whether it's for you or your loved ones. Threatening someone for leaking their private information is a breach of Article 21 (Right to privacy) of the Constitution of India under the fundamental rights of a citizen.²

Right to Privacy – Article 21 says that 'every person – citizens and non-citizens have the right to live and the right to have personal liberty. The state can't deprive any person of these two rights except under procedure as prescribed by the Indian Penal Code.'³

¹ 'Cyberbullying – A Changing Trend of Modern Crime' (*My Gov*, 13 November 2020) <<https://blog.mygov.in/cyberbullying-a-changing-trend-of-modern-crime/>> accessed 18 September 2023

² Constitution of India 1950, art 21

³ *Ibid*

TYPES OF CYBERBULLYING

Every individual should be aware of the different types of cyberbullying which are used by bullies. The types of cyberbullying are explained as follows:

Harassment: Although cyberbullying is a wide definition that encompasses many kinds of behavior, harassment is generally defined as an ongoing structure of hurtful or endangering online messages sent to cause injury to another person.⁴

Exclusion: Exclusion means to be excluded. It means when you are removed intentionally or not allowed to be a part of a particular thing. For example, a student in a class is told not to take part in any of the activities held by the school but on the other hand, all his classmates are welcome to be a part of the same activities. This increases the insecurity of the person and makes him lose his confidence in himself.⁵

Dissing: Dissing means disrespecting or criticizing someone by using bad and vulgar language through posts or sharing someone's details publicly. Here the bully and target have a good relationship between them or are close to each other. It as a result deteriorates the victim's image and reputation. Dissing can happen to anyone whether you are a normal person, an influencer, or a big superstar with fans. Mostly people with high reputations and huge images can be targeted as they have huge followers on their social media accounts and can help bullies spread the news fast.⁶

Trolling: Trolling is an online form of bullying a person. It means when someone deliberately posts hate comments on another person knowing it will hurt the victim. A Troll is known as a person who puts up hate posts on social media. For example, actors, actresses, influencers, etc. who appear more on screen than in real life get trolled online when their fans don't like what

⁴ Daisy Jain, 'Legal remedies available against online bullying' (*iPleaders*, 28 August 2021) <<https://blog.iplayers.in/legal-remedies-available-online-bullying/>> accessed 18 September 2023

⁵ *Ibid*

⁶ Jain (n 4)

they do or what they wear, etc. This can eventually affect the mind and life of the person being trolled.

Outing/Doxing:⁷ The outing, also known as doxing, means when someone openly shares confidential or sensitive information or any private chat of a person without their consent on social media and then tries to blackmail them. It results in loss of job or respect among the people whom we live and interact with daily.

Trickery: Trickery is the same as outing along with falsehood. In this, bullies will try to become good friends in such a way that their target will feel safe while talking to them. Thus slowly after getting the information they wanted from the target, all the details will be sent to third-party websites and be used to spread wrong posts or articles on the targeted person.

Cyberstalking: Cyberstalking is more serious than cyberbullying. In this, the perpetrator tries to stalk the target and threatens him/her to harm them which at times turns into offline stalking. Sometimes the perpetrator also tries to threaten the victim by telling them that they are following or behind them which makes the victim more and more mentally unstable and leads to depression.

Fraping: Fraping means illegally hacking someone else's social media accounts and posting and commenting on wrong things using their account without their consent. This destroys the image of the actual owner of the account.

Masquerading: Masquerading means when the bully creates a fake e-mail, I'd, fake account and posts a fake photo i.e., when they try to impersonate their target. For example, after successfully making an account, they connect with people whom the target is in connection with and text them to share the one-time password that their friend (in reality the perpetrator) has sent to their number. After getting the required information, they use it to get hold of their bank account and withdraw all the money in there.

⁷ *Ibid*

LEGAL REMEDIES UNDER INDIAN LAW

Although there are no specific laws mentioned for cyberbullying in India, some sections of the Indian Penal Code 1860 as well as the Information Technology Act 2000 deal with the issues of cyberbullying and provide punishment for the same.

The Legal Remedies under the Information Technology Act 2000:

Section 66C - Anyone who uses another person's electronic signature password or other unique identification feature dishonestly or fraudulently will be punished with either a short or long-term incarceration extended to three years, as well as being subject to a fine that could reach rupees one lakhs.⁸

Section 66D - This section deals with the use of the computer or any communication device to cheat by personating a person will be held liable for imprisonment which may extend up to three years and a fine of one lakh or both.⁹

Section 66E defines that Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.¹⁰

Section 67 mentions that whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second or

⁸ Information Technology Act 2000, s 66C

⁹ Information Technology Act 2000, s 66D

¹⁰ Information Technology Act 2000, s 66E

subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees.¹¹

Section 67A - This section says that whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.¹²

Section 67B deals with the penalties for using electronic means to publish or transfer material containing illicit sexual acts, pictures, or other material capturing children.¹³

The Legal remedies under the Indian Penal Code 1860:

Section 354C - This section of the Indian Penal Code states that taking photographs and publishing them illegally is a crime.¹⁴

Section 354 - The punishment for stalking is made more severe. It includes the punishment, which is that anyone convicted of stalking faces a sentence of imprisonment of either type for a term not to exceed three years, as well as the fine liability, for a primary conviction.¹⁵

Section 507 talks about 'Criminal Intimidation' from an unidentified communication mean is prohibited, and the perpetrator will be liable for jail up to two years if found guilty.¹⁶

¹¹ Information Technology Act 2000, s 67

¹² Information Technology Act 2000, s 67A

¹³ Information Technology Act 2000, s 67B

¹⁴ Indian Penal Code 1860, s 354C

¹⁵ Indian Penal Code 1860, s 354D

¹⁶ Indian Penal Code 1860, s 507

Section 509 states that when a person through online mean tries to outrage the modesty of a woman will be held liable for imprisonment of a term which may extend to three years or a fine or both.¹⁷

None of the above-mentioned laws specifically deal with cyberbullying, however, these laws can be used to punish the perpetrator and give justice to the victim.

WAYS TO FILE A COMPLAINT ONLINE

New and Improved Technology has made it possible to file a complaint online regardless of where you live or who you are. It has emerged as a boon for people who are afraid of physically going to the police station and being judged by some people.

The followings ways that can be used to report cyberbullying are as follows:

Online Grievance Redressal: When it comes to taking in hands cases which are of females being victims of cyberbullying, utmost care is taken by the police authority in India. All the necessary details should be provided by the victim so that it won't take time for the police to identify you and provide you with a solution.

Report to CERT: A Computer Emergency Response Team (CERT) is a group of professionals that majorly deals with detecting and responding against cyber security in a company.

Report to websites: It's a tool available on the majority of all platforms of social media for users. These websites are required to reply within 36 hours (about 1 and a half days) to remove information related to copyrighted content under the IT (Intermediary Guidelines) Rules, 2011, which apply to them.

¹⁷ Indian Penal Code 1860, s 509

IMPORTANT CASE LAWS

Many cases took place in India on cyberbullying. The very first case which was reported in India was the Ritu Kohli case in the year 2001.¹⁸ A girl named Ritu was anonymous getting calls from different numbers and someone was using her identity on social media and was using her telephone number and home address on adult sites. Later when the complaint was filed the Delhi police traced the hacker whose name was Manish Kathuria, and arrested him for outraging the modesty of a woman under the Information Technology Act 2000.

However, the famous case that was issued in the Supreme Court is the landmark case of Vishaka & Ors v State of Rajasthan & Ors.¹⁹ In this case, the writ petition filed by Vishaka emphasized the sexual harassment of women at her workplace which violates the fundamental rights for women under the Indian constitution i.e. articles 14²⁰, 15²¹, 19(1) (g)²² and 21²³. Supreme Court emphasized implementing rules and regulations for the protection of women in the workplace taking into account bullying which was named as 'Vishaka Guidelines'.

As we talked about the legal remedies under the Information Technology Act 2000, let us also know about the case of Shreya Singhal v Union of India in which two girls named Shaheen Dhada and Rinu Shrinivasan were arrested by the Mumbai police in the year 2015 for merely on the purpose of liking, commenting or expressing their own view on the post of Shiv Sena against the Bandh which was declared due to death of the leader named Bal Thackeray in Mumbai which was ultimately the violation of the fundamental right mentioned under article 19(1)(a) i.e Right to freedom of speech and expression of Constitution of India.²⁴ An argument was raised that section 66A of the Information Technology Act 2000 which talks about the penalty for sending offensive texts or messages via communication services was a violation of the Right to freedom

¹⁸ Mukut, 'Cyber Stalking- A virtual crime with real- consequences' (*World Pulse*, 21 January 2015) <<https://www.worldpulse.org/story/cyber-stalking-a-virtual-crime-with-real-consequences-43984>> accessed 20 September 2023

¹⁹ *Vishaka & Ors v State of Rajasthan* (1997) 6 SCC 241

²⁰ Constitution of India 1950, art 14

²¹ Constitution of India 1950, art 15

²² Constitution of India 1950, art 19(1)(g)

²³ Constitution of India 1950, art 21

²⁴ Constitution of India 1950, art 19(1)(a)

of speech and expression under Article 19(1)(a) and hence section 66A of the Information Technology Act 2000 was struck down.²⁵

CONCLUSION

Many of the laws of India are the same as the United Kingdom as we both are out of the common law system. Therefore, to reduce the cases arising from cyberbullying there is a need to introduce laws on cyberbullying specifically.

Workshops, Street plays and Programs in every school, college and other places should be organized to make the young generation aware of cyberbullying and make them realize it's not an issue that should be ignored. As a user, it's our responsibility to make social media and other online platforms a safer place and file a complaint immediately when we see something wrong without hesitating.

²⁵ *Shreya Singhal v Union of India* AIR 2015 SC 1523