



Jus Corpus Law Journal

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

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Online Laws against Cyberbullying and Online Harassment in India

Chhavi^a

^aBharati Vidyapeeth University, Pune, India

Received 23 October 2023; *Accepted* 15 November 2023; *Published* 20 November 2023

Online harassment, encompassing cyberbullying and sexual abuse, has emerged as a troubling phenomenon in the digital age. The Indian legal landscape offers recourse and protection against these digital abuses, with various acts and sections that address different aspects of online harassment. The Indian Penal Code (IPC) also contains provisions that address online harassment. Sections 499, 507, and 509 deal with defamation, criminal intimidation, and modesty invasion, respectively. Moreover, the Protection of Children from Sexual Offences (POCSO) Act 2012 offers protection for minors from sexual abuse, including online exploitation. The Indian government has taken proactive steps to combat online harassment through schemes like the Indian Cybercrime Coordination Centre and the Cybercrime Prevention against Women and Children scheme. Helplines have also been established to facilitate reporting of cyberbullying incidents. The creation of the National Database on Sexual Offenders and the Nirbhaya Fund Scheme further reinforces the commitment to protect women and children from online harassment. Online harassment has profound psychological, physical, mental, and emotional effects on its victims, making the legal measures in place even more critical. Several key case laws demonstrate the evolving legal responses to cyberbullying and online harassment in India.

Keywords: *cyberbully, harassment, blackmail, voyeurism, cybercrime.*

INTRODUCTION

While the internet and social media platforms have greatly improved communication in the modern day, they have also given rise to a new kind of abuse and harassment known as online harassment. People are more often subjected to online harassment in the modern digital age. This harassment can take many different forms, such as hate speech, cyberstalking, cyberbullying and the non-consensual posting of private photographs, sometimes referred to as 'revenge porn'.¹

An individual or group using electronic means of interaction carried out over time against a victim who is powerless to defend himself or herself describes Cyberbullying as an aggressive, intentional act or behaviour.² The incidents of kids bothering and bullying their friends in the classroom show that bullying may occur both in person and digitally. Cyberbullying is the term for bullying that takes place online via technology. The sharing of personal or private information about an individual, which could make the victim feel ashamed, is referred to as cyberbullying in India.

Cyberbullying can happen via email, instant messaging services like Facebook Messenger, WhatsApp, and Instagram, as well as SMS and social networking sites like Facebook, Instagram, Snapchat, and Twitter. Cyberbullying, also known as online bullying, differs from traditional bullying in that the victim of cyberbullying is unaware of the bully's identity. Bullying has far-reaching and permanent effects on the victim's mental health, particularly when it involves cyberbullying. There are numerous measures you may take to report the abuse and get help if you are a victim of internet harassment in India. This article will highlight different measures that people can take if they are a victim of cyberbullying.

¹ Joseph Jones, 'How To Stop Online Harassment: Laws, Reporting, & What You Can Do' (*Bosco Legal Services*, 29 April 2021) <<https://www.boscolegal.org/blog/how-to-stop-online-harassment/>> accessed 21 October 2023

² 'Cyberbullying: What is it and how to stop it' (*UNICEF*) <<https://www.unicef.org/end-violence/how-to-stop-cyberbullying>> accessed 24 October 2023

TYPES OF ONLINE HARASSMENT

To understand measures, we have to first know the types of online harassment which are as follows:

Cyberbullying: The use of technology to threaten, harass, or degrade another person is known as cyberbullying. The dissemination of humiliating images or recordings of someone, sending threatening or abusive messages, and other actions are examples of this kind of harassment.

Cyberstalking: It is a form of cyberbullying that involves persistent, repetitive behaviour that instills fear or anxiety in the victim. Sending threatening or harassing messages, tracking the victim's online activities, or spreading false information about them can all be part of this.

Hate Speech: It is defined as any actions, words, writing, exhibition, or conduct that could incite violence or unfair treatment of any individual or group, or that disparages or threatens a particular individual or group.

Revenge Porn: The non-consensual sharing of someone else's private photos or films without that person's consent is known as revenge porn. Someone with access to the photos or videos or a former partner could do this.³

EFFECTS OF CYBERBULLYING

Psychological Effects of Cyberbullying: Psychological repercussions from cyberbullying can be equally harmful as physical ones. A wide range of negative feelings, including fear, shame, rage and bullied individuals can experience grief. They could experience loneliness as well.

Physical Effects of Cyberbullying: The physical well-being of the victim is affected by cyberbullying. Among these outcomes are migraines, pain in the stomach and problems with sleeping.

³ Jones (n 1)

Mental Effects of Cyberbullying: The mental effects include anxiety, loss of concentration, self-harm, and suicidal thoughts.

Emotional Effects of Cyberbullying: Victims of cyberbullying may also find it challenging to establish social connections. They may be afraid to trust people and may not want to engage in social interactions. This could lead to them feeling isolated and alone.

The emotional effects of cyberbullying include depression, shame, guilt, and embarrassment.⁴

LEGAL REMEDIES AGAINST ONLINE HARASSMENT IN INDIA

1. Information Technology (IT) Act

Section 66C:⁵ This clause addresses the consequences of dishonestly or fraudulently utilizing someone else's password, electronic signature, or any other form of identity. This provision penalizes identity theft with a maximum sentence of three years in prison or a fine of one lakh rupees. **In the case of Prakhar Sharma v The State of Madhya Pradesh**, the defendant utilized the original Facebook photos that belonged to the victim to create a fake account, which they then used to post some offensive content. The defendant was charged under Sections 66(c), 67, and 67(a) of the IT Act. The Madhya Pradesh High Court denied the accused's bail request.

Section 66D:⁶ This clause imposes penalties on anyone caught using any social media or communication tool to impersonate someone else in order to cheat. This means that claiming to be someone else while lying about who they are usually results in punishment.

Section 66E:⁷ This provision was added in the **Information Technology (Amendment) Act 2008**. This statute protects both men and women. The privacy of one's physical parts is expressly covered by this clause. The act of recording, publishing, or sending any kind of image, film, or

⁴ Matthew Bergman, 'Effects of Cyberbullying' (*Social Media Victims Law Center*, 18 September 2023) <<https://socialmediavictims.org/cyberbullying/effects/>> accessed 20 October 2023

⁵ Information Technology Act 2000, s 66C

⁶ Information Technology Act 2000, s 66D

⁷ Information Technology Act 2000, s 66E

record that is made available to the public in a way that allows someone else to view it without the person's permission is illegal and constitutes a violation of their right to privacy.

Section 67:⁸ According to this section, it is illegal to publish or transmit any obscene material, especially if it encourages corrupt behaviour among readers, listeners, or viewers. A person who breaches section 67 faces a fine of up to five lakh rupees and a maximum sentence of three years in prison. If they are proven guilty once more, they might face a five-year prison sentence along with a ten lakh rupee fine. **In the case of State of Tamil Nadu v Suhas Katt:**⁹

Facts: The accused was supposed to marry the victim's family friend, but she chose to divorce him. The accused persuaded her again after her divorce, and although she declined to marry him, he started harassing her on the internet. The accused uploaded abusive, obscene, and defamatory content about the victim on a fictitious email account he set up in her name. A charge sheet was filed against the defendant in compliance with Sections 67 of the IT Act and 469 and 509 of the Indian Penal Code, 1860.

Conclusion: The Additional Chief Metropolitan Magistrate determined that the accused person was guilty in line with Sections 469 and 509 of the Indian Penal Code.

Section 67A:¹⁰ The publication or transmission of any content that includes sexually explicit information or acts is punishable under Section 67 A. Such content should only be published or transmitted electronically. According to Section 67 A, the penalty for a first conviction is five years in jail and a fine of up to ten lakh rupees. For a second conviction, the sentence is seven years in prison and a fine of up to ten lakh rupees. **In the case of Jitender Singh Grewal v The State of West Bengal**, the accused created a fake Facebook account for the victim and uploaded graphic pictures of her there. After being prosecuted under Sections 354A, 354D, 500, 509, and 507 of the IPC and Section 67A of the IT Act, the accused entered a bail plea. The trial court rejected the accused's bail request, and the Calcutta High Court upheld the decision.

⁸ Information Technology Act 2000, s 37

⁹ State of Tamil Nadu v Suhas Katt, CC No. 4680 of 2004

¹⁰ Information Technology Act 2000, s 67A

Section 67B:¹¹ This section addresses the dissemination of content that shows kids engaging in sexually explicit behaviour or acts. Section 67B penalizes anyone who writes, produces ads, photographs, or recordings anything that depicts children in a vulgar or obscene manner.

2. Indian Penal Code 1860

Section 292A:¹² This section addresses printing anything that is indecent or meant to be used as blackmail. It covers printing, selling, or transferring any written or printed document that is obscene or meant to be used as blackmail. This clause makes it illegal to engage in or profit from any business that involves the sale, import, export, printing, or other activities involving such items or their advertising in a way that would be morally repugnant. In the case of **Vishaka v State of Rajasthan**¹³- In this particular case, the Supreme Court acknowledged cyberbullying as an issue for the first time. Concerning bullying, the Supreme Court released guidelines and directives to protect women from sexual harassment.

Section 354C:¹⁴ According to this clause, it would be illegal for a male to take a picture of a woman performing a private act in a situation where the woman is presumed to be private or to share the image with a third party. This clause solely applies to men, as it is gender specific. This provision does not punish women. On his first offense, he will be sentenced to a term of imprisonment with a minimum of one year and a maximum of three years, as well as a fine. A second offense results in an increase in prison time of at least three years, with the possibility of seven years in prison and a fine.

Section 354D:¹⁵ As defined by Section 354 D, stalking is:

- i. When a man approaches a woman who she clearly indicates she is not interested in him, or when he follows her and makes repeated attempts to get in touch with her in order to initiate a personal conversation.

¹¹ Information Technology Act 2000, s 67B

¹² Indian Penal Code 1860, s 292A

¹³ *Vishaka v State of Rajasthan* (1997) 6 SCC 241

¹⁴ Indian Penal Code 1860, s 354C

¹⁵ Indian Penal Code 1860, s 354D

- ii. He keeps track of the woman's online activities using a variety of messaging apps and email platforms.

This section just addresses females. Section 354D does not apply to any form of stalking of men.

In the case of *The State of West Bengal v Animesh Box*¹⁶- This is a case where the defendant gained access to some of the victim's personal photos by breaking into her phone. Threatening to publish the photos on a pornographic website, he used them as leverage against her. The victim in this case suffered from virtual rape, the court ruled. IPC **Section 354 D** will thus result in the accused's conviction.

Section 499:¹⁷ Along with verbal or written defamation that occurs offline, this also encompasses any speech or document that is placed online by an individual that tends to damage the reputation of another individual. Since he will be considered to be participating in online defamation, this person will be punished under Section 500 of the Indian Penal Code. The punishment can be two years in simple prison, a fine, or both.

Section 507:¹⁸ The use of anonymous communication in criminal intimidation is specifically covered in this section. This implies that anyone who threatens another individual using a fictitious identity, which may be any social media platform or an unidentified communication source, faces a maximum two-year prison sentence.

Section 509:¹⁹ A person faces simple imprisonment, which can last up to three years, and a fine if they behave, say, gesture, or make noises with the aim to invade someone else's privacy and violate women's modesty. Every individual who attempts to harass a woman by electronic means or by using telecommunication equipment faces a fine and a harsh two-month jail sentence, with the possibility of an additional two years. **Ritu Kohli's case**²⁰ was the first cyberstalking case to be publicized in India. A young woman named Ritu Kohli claimed in 2001

¹⁶ *State of West Bengal v Animesh Box* C.R.M. No. 11806 of 2017, GR/1587/2017

¹⁷ Indian Penal Code 1860, s 499

¹⁸ Indian Penal Code 1860, s 507

¹⁹ Indian Penal Code 1860, s 509

²⁰ *Manish Kathuria v Ritu Kohli* C C No 14616/2014

that she was being called from multiple numbers, including ones from overseas, and that someone was using her identity on social media. A case was also filed in accordance with Section 509²¹.

The Protection of Children from Sexual Offences (POSCO) Act 2012: This act guarantees the protection of minors from sexual abuse and exploitation, especially child sex abuse over the Internet. The law imposes severe penalties on those who engage in child pornography or use the internet to sexually exploit youngsters.²²

ACTIONS TAKEN BY THE INDIAN GOVERNMENT

Indian Cybercrime Coordination Centre Scheme: The victims and issues experienced by women and children in online media are the main focus of this plan. It also raises youth consciousness regarding cybercrime. Comprehensively, it addresses every type of cybercrime. It consists of the following: National Cybercrime Training Center, National Cybercrime Forensic Laboratory Ecosystem, National Cybercrime Training Portal, National Cybercrime Threat Analytics Unit, Joint Cybercrime Investigative Team Group, National Cybercrime Training Center, Management Unit of Cybercrime Ecosystem, and National Cyber Research and Innovation Centre.

Cybercrime Prevention against Women and Children Scheme (CCPWC Scheme): A number of units are established under this plan to review cybercrime reports and related investigations. These teams are also responsible for reporting cases of cyberbullying in order to combat cybercrime. Under this, financial assistance has been provided to all states and UTs to aid in the program's implementation. Using the cybercrime.gov.in portal, citizens can report inappropriate internet content related to child pornography, child sexual abuse, and sexually graphic content like as rape and gang rape.

²¹ Indian Penal Code 1860, s 509

²² Protection of Children from Sexual Offences (POSCO) Act 2012

Helpline Numbers: Numerous helpline numbers have also been established to address the issue of cyberbullying.

National Database on Sexual Offenders (NDSO): It was developed to help with monitoring and investigating sexual offenses. The NDSO portal will only be used by law enforcement organizations in order to efficiently monitor and look into sexual offense cases.

The Nirbhaya Fund Scheme: The Indian government to guarantee the security and safety of women and children established this fund. Furthermore, the Ministry of Home Affairs has established a single phone to manage the problem. This is located under the Emergency Response Support System (ERSS).²³

SUGGESTIONS

India is seeing an increase in cases of online harassment, so it is critical that victims are aware of their legal rights and options. Cyberbullying is a problem that is difficult to solve in developed societies where people may communicate with each other virtually. Though it can happen to anyone, young people today are most frequently impacted.

They are less likely to continue in that route if we can stop this terrible behaviour as soon as it starts, while they are still young. Unfortunately, this is not an easy process to accomplish. In order to do this, parents and schools need to be informed about the issue and act appropriately. It will take time and cooperation from all of us to put an end to cyberbullying. If the government is willing to recognize that cyberbullying is a problem, laws may be able to help discourage this kind of behaviour. Cybercrime needs to be addressed right away since it could turn nasty in the future.

Since these offenses have a higher effect on an individual's mental health than their physical health, mental health practitioners ought to be consulted when developing such legislation.

²³ Shobita, 'Overview of concept of cyber bullying in India' (*iPleaders*, 29 April 2023) <https://blog.iPLEaders.in/overview-of-concept-of-cyber-bullying-in-india/#Section_66_A_of_the_Information_Technology_Act_2000> accessed 26 October 2023

Following such incidents, both the abuser and the victim may benefit from counseling since the intention is to inform the public and assist them in realizing their own shortcomings.

CONCLUSION

In conclusion, cyberbullying and other forms of online harassment are increasingly common in India and have serious negative effects on victims' mental, physical, and emotional health. The Indian government has implemented policies and legislation to shield citizens from various types of internet harassment as part of its major efforts to address this issue. To stop cyberbullying at its source, however, parents, educators, and the public must become more aware of the issue. To successfully address this issue, mental health care and education are crucial. Even while there are legal options, it will take a team effort from the government, communities, and individuals to stop cyberbullying and make the internet a safer place for everyone.