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The Legal Landscape of Revenge Porn in India: Issues and Regulations

Abstract:

In the modern world, the rise of social media and technology has led to revenge porn in India. Revenge porn, which is also known as non-consensual pornography, is the heinous crime of spreading someone else's sexually explicit content without seeking any consent from them. It is an absolute violation of the right to privacy. Those who are victims of revenge porn frequently experience shame, worry, and melancholy in society. Revenge porn is a type of cyberbullying that has increased in recent days and have a high chance of significant emotional and psychological trauma. Due to social media and the ease of access to technology in the present world, revenge porn has become one of the major issues in India. The main purpose of this research paper is to examine and analyze the issues associated with law enforcement related to revenge porn in India.

One of the main challenges to the enforcement of laws pertaining to revenge porn is the general public's ignorance of the subject. Because so many people are unaware of the legal ramifications of disclosing another person's sexually explicit information without that person's consent, it is challenging for law enforcement to enforce the rules governing revenge porn.

India has taken steps to address this issue by modifying the Information Technology Act and the Indian Penal Code to make the dissemination of non-consensual sexually explicit content a crime. However, the implementation and enforcement of these laws in India are inconsistent. Victims frequently face victim-blaming and societal shaming, which further compounds the pain they have already gone through. This paper will explore India's legal system and laws that are related to revenge porn and the difficulties it has in enforcing its regulations. The paper will also look into significance of technology and cybersecurity in tackling the problem of revenge porn. The necessity for increased education and awareness on importance of consent, privacy, and online safety will also be covered in this paper.

The paper will be concluded by highlighting the need for a comprehensive and coordinated effort from law enforcement, decision-makers, and society at large to combat revenge porn in India. An increase in cultural respect for privacy and autonomy is necessary to effectively combat revenge porn. Victims must be protected, and both the legal system and society as large must preserve their rights and dignity.

KEYWORDS: Revenge porn, Legal framework, India, Issues, Regulations

INTRODUCTION:

Revenge porn is the distribution of sexually explicit images or videos of an individual without their consent, typically with the intent to cause embarrassment, humiliation or harm. It is a form of cyber-violence that can have severe and long-lasting consequences for the victim.

In India, revenge porn has become a serious issue in recent years, with the proliferation of smartphones and social media platforms. The problem is compounded by the fact that many victims are reluctant to report such incidents, fearing social stigma or retaliation.

The motives behind revenge porn can vary. In some cases, it is used as a form of revenge by an ex-partner seeking to cause harm or embarrassment. In other cases, it is used as a means of control or coercion, with the perpetrator threatening to share the content unless the victim complies with their demands. Revenge porn can also be used as a tool for blackmail or extortion.

Revenge porn can have a devastating impact on the victim's mental health and well-being. Victims may experience feelings of shame, guilt, and anxiety, leading to social isolation and a loss of self-esteem. In extreme cases, it can even lead to depression and suicidal ideation.

The issue of revenge porn is further complicated by the gendered nature of the problem. Women are disproportionately targeted, and revenge porn is often used as a means of exerting power and control over them. This highlights the need for a gender-sensitive approach to addressing revenge porn and ensuring that victims are adequately protected and supported.

Revenge porn has emerged as a significant societal problem in the digital age. With the widespread use of smartphones and social media, sharing intimate images and videos has become increasingly common. However, when such content is shared without the consent of the person depicted in them, it can have severe and long-lasting consequences on the victim's life. This has led to the emergence of the term "revenge porn," which refers to the distribution of intimate images or videos of an individual without their consent.¹

India, like many other countries, has witnessed a rise in the number of revenge porn cases in recent years. In response to this problem, the Indian government has introduced several legal

¹ Shivam Goel, 'Revenge porn', 'Doxxing' and 'Downstream Distribution': Need for Comprehensive Legislation in India, Latest Laws, (Jan 24, 2020),

<https://www.latestlaws.com/articles/revenge-porn-doxxing-and-downstream-distributionneed-for-comprehensive-legislation-in-india/>

provisions to combat revenge porn. However, the effectiveness of these provisions remains a matter of debate, and there are ongoing discussions on the need for further reforms.

CYBERSECURITY AND PRIVACY ISSUES IN REVENGE PORN:

Revenge porn not only violates an individual's privacy but can also pose significant cybersecurity risks. When intimate images or videos are shared without consent, individuals can face significant privacy violations. These violations can be compounded by the fact that images and videos can spread quickly on the internet, making it difficult to control their dissemination. In addition, the use of deep fake technology ¹ in revenge porn can further violate an individual's privacy which is a fundamental right.

The right to privacy is not officially recognised in the Indian Constitution, nor is it recognised as a basic right. However, in the case of *Kharak Singh v. State of Uttar Pradesh*,² the Supreme Court recognised for the first time the right to privacy, which is implied in the Constitution under Article 21. The Court ruled that the right to privacy is an essential component of the right to life, but without clear-cut legislation, it remains a grey area.

Because offenders frequently employ hacking or other unauthorised ways to get private photographs or videos, revenge porn raises cybersecurity vulnerabilities. This can lead to a breach of a person's personal information, such as their name, address, and other sensitive information associated to the photographs or videos. Furthermore, after this information has been compromised, it can be utilised to commit other cybercrimes such as identity theft, harassment, and stalking.

To address these cybersecurity and privacy risks, there is a need for stronger legal and policy frameworks that protect individuals from revenge porn and its associated harms. This includes implementing data protection and privacy laws that provide individuals with greater control over their personal information and stronger legal recourse for privacy violations. Additionally,

¹ Dristi IAS, <https://www.drishtias.com/daily-updates/daily-news-analysis/deepfaketechology>

² *Kharak Singh v. State of Uttar*, 1963 AIR 1295, 1964 SCR (1) 332

cybersecurity measures can be implemented to protect individuals' personal information from being accessed without their consent.³

In conclusion, revenge porn not only violates an individual's privacy but also poses significant cybersecurity risks. Addressing these risks requires a multi-pronged approach that includes

legal and policy interventions, cybersecurity measures, and education and awareness programs. By working together, we can better protect individuals from the harms of revenge porn and promote a safer and more respectful online environment.

Existing legal provisions that address revenge porn in India

In India, several legal provisions provide some level of protection to victims of revenge porn. All of these legal provisions related to Revenge porn and other offenses related to it fall under the Indian Penal Code (IPC), the Information Technology Act (IT Act), and the Protection of Women from Domestic Violence Act.

Under the Information Technology Act, 2000

1. Section 66E⁴: This section of the IT Act deals with the penalties for violating an individual's privacy. The section's requirements call for disseminating, or distributing personal images of the victim's private area without their consent. In such situation, the perpetrators may be sentenced to up to 3 years in jail or a fine of no more than 2 lakh rupees or in some circumstances both.
2. Section 67⁵: In accordance with this provision, anybody who is found guilty of publishing or sending pornographic content by electronic means may face a maximum sentence of three years in jail or a fine of Rs. 5 lacs or both in certain circumstances, and for a subsequent offence, a maximum sentence of five years and a fine of Rs. 10 lacs.

³ Aditya Krishnan, Revenge Pornography, <https://www.legalserviceindia.com/legal/article2179-revenge-pornography.html>

⁴ The Information Technology Act, 2000, § 66E (India).

⁵ The Information Technology Act, 2000, § 67 (India).

3. Section 67A⁶: This section states that publication of sexually explicit material through the electronic medium, leads to imprisonment up to 5 years with a fine which may extend to Rs.10 lacs and in the occurrence of a second conviction, imprisonment of seven years and with fine which may extend to Rs.10 lacs.
 4. Section 67B⁷: This section pertains to children below the age of 18 years. Where any such act of publication of obscene content is made involving a child, would lead to imprisonment of 5 years with a fine of Rs.10 lakhs for the commission of such offence.
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5. Section 72⁸: This section penalizes for breach of confidentiality and privacy.

Under the Indian Penal Code, 1860

1. Section 292⁹: this section deals with selling, letting to hire, distributing, publicly exhibiting, or in any manner putting into circulation, etc of obscene materials, etc.
2. Section 354¹⁰: this section explains the use of criminal force or assault on a woman for outraging modesty which would imposes imprisonment up to 2 years or fine or in certain cases, both.
3. Section 354A¹¹: this section states that any man who advances unwelcome and sexual physical contact, asks for sexual favors, forces a woman to watch pornography, or makes sexually colored remarks and statements will be committing sexual harassment and, shall be subjected to rigorous imprisonment up to 3 years or with a fine or both.
4. Section 354C¹²: this section talks about voyeurism, which is an act committed by any man who observes or captures a woman engaged in a private act without her awareness of being viewed or videotaped, with no expectation of being observed by the person who shares such photographs or clips. Such a person may face 1 year of imprisonment, which may be increased to three years, as well as a fine. A second conviction might result in three years in jail and a fine.

⁶ The Information Technology Act, 2000, § 67A (India).

⁷ The Information Technology Act, 2000, § 67B (India).

⁸ The Information Technology Act, 2000, § 72 (India).

⁹ Indian Penal Code, 1860, § 292 (India).

¹⁰ Indian Penal Code, 1860, § 354 (India).

¹¹ Indian Penal Code, 1860, § 354A (India).

¹² Indian Penal Code, 1860, § 354C (India).

5. Section 406¹³: this section is for committing a criminal breach of trust, the offender shall be imprisoned for up to 3 years with a fine or both.
6. Section 499¹⁴: This section allows to file of defamation suit under the criteria that whoever, by words spoken/intended to be read, or by signs/visible representations, makes/publishes any imputation on any person intending to harm, believing that such imputation will harm the reputation, is said to defame that person.
7. Section 500¹⁵ : This section specifies the penalty for defamation, which is a noncognizable offence. It indicates that anyone implicated in defamation would face a year of simple jail, which might be extended to two years, as well as a fine.
8. Section 506¹⁶: This section establishes a penalty for the commission of criminal intimidation, which carries a 2 year imprisonment or a fine, or both. If the accused

threatens the victim with death, bodily harm, or property damage, imputes unchastity to a woman, leads to imprisonment for up to seven years, a fine, or both.

9. Section 509¹⁷: This section discusses the punishment for a male who attempts to offend a woman's modesty using words, gestures, noises, or items with the intent of being seen or heard, invading the woman's seclusion. Such a person will face up to a year in prison, a fine, or both.

Under the Indecent Representation of Women (Prohibition) Act, 1986:

1. The victim may also file a complaint under Section 4¹⁸, which prohibits the act of publishing or sending by post books, pamphlets, distribution, selling, letting for hire, or circulation, etc. on paper, slide, film, writing, drawing, painting, or photograph containing an indecent representation of women.
2. Section 6¹⁹ specifies penalties for violating Section 4, with the offender facing harsh imprisonment and a fine.

The usefulness of these legal procedures in preventing and prosecuting revenge porn crimes is being called into question. One difficulty is that victims underreport incidences owing to

¹³ Indian Penal Code, 1860, § 406 (India).

¹⁴ Indian Penal Code, 1860, § 499 (India).

¹⁵ Indian Penal Code, 1860, § 500 (India).

¹⁶ Indian Penal Code, 1860, § 506 (India).

¹⁷ Indian Penal Code, 1860, § 509 (India).

¹⁸ Indecent Representation of Women (Prohibition) Act, 1986, § 4 (India).

¹⁹ Indecent Representation of Women (Prohibition) Act, 1986, § 6 (India).

societal shame, fear, or a lack of understanding. As a result, only a small percentage of instances are reported and prosecuted.

However, there are difficulties with evidence collecting and the technical complications of investigating internet offenses. To properly combat revenge porn instances, law enforcement authorities, internet service providers, and social media companies must work together.

The first case of revenge porn in India was *State of West Bengal v. Animesh Boxi*²⁰, a 2018 case in which the accused was sentenced to five years in prison and fined Rs.9000 for publishing and sharing private images and clips of his ex-partner without her consent as revenge porn after she ended their relationship. The state government was ordered by the court to treat such a victim as a rape survivor and to provide proper compensation.

The Court declined to give bail to the offender in the case of *Subhranshu Rout v. The State of Odisha*²¹, observing that "allowing objectionable photos and videos to remain on social media without her consent is a direct affront to a woman's modesty and right to privacy." The Supreme Court also emphasised the importance of the 'Right to be Forgotten' (having the images permanently erased from the server) in the context of the right to privacy.

Challenges in addressing the issue of revenge porn and providing comprehensive protection for victims

²⁰ *State of West Bengal v. Animesh Boxi*, 2018

²¹ *Subhranshu Rout v. State Of Odisha*, 2020

One of the most significant issues is the lack of dedicated regulation aimed only against revenge porn. Existing regulations, such as those found in the Indian Penal Code and the Information Technology Act, are not adapted to the specific dynamics of revenge porn, resulting in a patchwork of legal protection.

Revenge porn is frequently performed on internet platforms and may span jurisdictional lines. Determining the proper jurisdiction for inquiry and prosecution can be difficult, especially when foreign aspects are involved or anonymous online identities are used.

Due to the continuously growing nature of technology and the difficulties in locating and preserving information, gathering digital evidence in revenge porn cases can be complicated. To properly gather, analyze, and present digital evidence in court, law enforcement and legal personnel may require specialized training and resources.

Victims of revenge porn frequently endure social stigma, embarrassment, and fear of retaliation, which can deter them from reporting incidences or seeking legal action. It is a big challenge to create a supportive climate that encourages victims to come forward while still preserving their privacy and safety throughout the judicial process.

Many people, even victims, are uninformed of their legal rights, accessible legal remedies, and possible repercussions for abusers. Raising awareness and educating people about revenge porn, its effects, and legal options for redress are critical for empowering victims and facilitating successful legal action.

opportunities for legal reform in India to address the issue of revenge porn and provide comprehensive protection for victims

Introducing dedicated legislation specifically targeting revenge porn would provide a comprehensive legal framework to address the issue more effectively. This legislation should define revenge porn, outline clear penalties, establish reporting mechanisms, and focus on victim support and rehabilitation.

Reviewing and enhancing the penalties for revenge porn offenses can serve as a deterrent and ensure that the punishment reflects the severity of the crime. This includes considering factors such as the emotional distress caused to the victim, the scale of distribution, and the impact on their personal and professional life.

Implementing a victim-centric approach involves prioritizing the needs and rights of victims throughout the legal process. This includes providing access to support services, counseling, legal aid, and maintaining the confidentiality and privacy of the victim's identity.

Effective legal reform requires collaboration among various stakeholders, including government agencies, law enforcement, legal professionals, technology companies, and civil society organizations. Collaborative efforts can help develop comprehensive strategies, share resources, and improve coordination in addressing revenge porn cases.

Incorporating digital literacy programs and consent education in schools, colleges, and community outreach initiatives can play a proactive role in preventing revenge porn. Promoting

awareness about online risks, consent, and responsible digital behavior can help create a culture of respect and empowerment.

The role of technology companies and social media platforms in preventing revenge porn and protecting users' privacy

The role of technology companies and social media platforms in preventing revenge porn and protecting users' privacy is crucial in creating a safe and responsible online environment. Here are some key aspects of their role:

1. Technology companies and social media platforms should implement strong content moderation policies to identify and remove revenge porn content from internet. This includes utilizing strong algorithms, artificial intelligence, and human moderation teams to detect and take down such harmful content.
2. It is important for platforms to provide accessible and user-friendly reporting mechanisms for users to report instances of revenge porn. These reporting channels should be responsive and confidential, ensuring that reported content is reviewed promptly and appropriate action is taken.
3. Technology companies should prioritize user privacy by providing robust privacy controls and consent tools. This includes features such as two-factor authentication, image watermarking, and granular sharing settings that allow users to have better control over their personal data and prevent unauthorized sharing of their intimate content.
4. Social media platforms should maintain strong partnerships and collaboration with law enforcement agencies to respond to legal requests and provide necessary information for investigations related to revenge porn cases. This helps in identifying perpetrators and holding them accountable.
5. Technology companies and social media platforms should actively promote digital literacy and raise awareness about revenge porn, its consequences, and preventive measures.
6. Technology companies should publish regular transparency reports, outlining their efforts in combating revenge porn and protecting user privacy. These reports can provide insights into the number of content removals, user complaints, and the effectiveness of their moderation systems.
7. Engaging with NGOs, advocacy groups, and experts in the field can help technology companies and social media platforms stay informed about emerging trends, challenges, and best practices related to revenge porn prevention and privacy protection. Collaborative efforts can lead to more effective strategies and policies.

It is essential for technology companies and social media platforms to proactively address revenge porn and prioritize user privacy through a combination of strong policies, robust technological solutions, user empowerment, and collaboration with relevant stakeholders.

CONCLUSION:

In conclusion, the legal landscape surrounding revenge porn in India is a complex and evolving one. While the country has made efforts to address the issue through existing legislation, there are still significant challenges that need to be addressed. The analysis of case studies has shed light on the adverse impact of revenge porn on victims, both in terms of their personal lives and their ability to seek justice.

The existing legal framework, including provisions under the Indian Penal Code and the Information Technology Act, has provided some recourse for victims. However, there are several gaps and loopholes that need to be addressed to effectively combat revenge porn. These include the need for clearer definitions, the inclusion of specific offenses related to revenge porn, and the enhancement of penalties to serve as a deterrent.

Landmark judgments by Indian courts have played a crucial role in shaping legal interpretations and setting precedents. However, there is still a need for consistent application of the law and improved awareness among law enforcement agencies, legal professionals, and the general public.

Awareness and education play a vital role in preventing revenge porn and promoting responsible digital behavior. Efforts should be made to raise awareness among individuals, particularly young people, about the legal and ethical aspects of revenge porn. Schools, colleges, and other institutions should incorporate education on consent, online privacy, and the potential consequences of revenge porn into their curricula.

In conclusion, while progress has been made in addressing revenge porn in India, there is still a long way to go. Strengthening the legal framework, improving victim support services, enhancing technological solutions, and raising awareness are essential steps to combat this harmful phenomenon. By addressing these issues comprehensively, India can strive towards creating a safer digital environment for its citizens and protecting their privacy rights.

