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Overview: Cyberbullying Under IPC

Abstract

Technology has changed the life of an individual very much as it make our life go with a flow. But it has a side effect also one of them is cyberbullying. Cyberbullying is a huge problem in India right now, and this article looks at how the IPC can help protect people from it. It looks at how different sections of the IPC can be used to deal with cyberbullying, like harassing, threatening, and defaming people. It also talks about what's new in the law and what's changed in recent court cases. It's important to understand and enforce the right laws to fight cyberbullying and make sure people are safe online..

Introduction

Cyberbullying is a type of bullying or an harassment which is done through digital technology. It is done through various platform like Social Media, Messaging, Mobile Phone, Gaming Platform and etc. It is done to humiliate people, threaten or Embrace someone in front of everyone by giving online threats, aggression, vulgar messages, sendings, posting, negative content or information, sharing personal picture, harming his reputation, etc. ¹ Some Cyberbullying leads to Criminal Behaviour.For Example: Posting someones embarrassing pictures or writing bad comments, sending threatening message via social media or messages.Cyber bullying had caused to depression to teen as teen feel anxious, embarrassed, and worried.Because of it teen face physical and emotional trauma which leads contemplate or complete suicide.Cyberbullying episodes often have a negative influence on people's mental health, overall wellbeing, and behavioural and emotional aspects of their lives.²The goal to hurt or shame, the power disparity between the bully and the victim, and the recurrent abusive conduct are some of the similarities between cyberbullying and Traditional bullying that have led to numerous comparisons between the two types of bullying. Cyberbullying, on the other hand, really represents a transition from traditional face-to-face aggression/exploitation to a more digital environment, where anonymity is ensured and there are no territorial restrictions.

¹ Cyber bullying under ipc Legal Service India - Law, Lawyers and Legal Resources, <https://www.legalserviceindia.com/legal/article-9227-cyber-bullying.html> (last visited Nov 25, 2023)

² What is cyberbullying StopBullying.gov, <https://www.stopbullying.gov/cyberbullying/what-is-it#:~:text=Cyberbullying%20includes%20sending%2C%20posting%2C%20or,else%20causing%20em%20barrassment%20or%20humiliation.> (last visited Nov 25, 2023)

Cyberbullying can occur without the victims and offenders needing to live in the same town, neighbourhood, or even nation³.

Put differently, the acts of cyberbullying are not restricted by time, place, or geography, and can transpire across a variety of social platforms. In addition, if they so choose, cyberbullies are guaranteed anonymity in the online realm. However, because there were more instances of cyberbullying during the COVID-19 shutdown, there has been a rise in mental health issues as a result of the epidemic. This is partially due to the pandemic's encouragement of an increase in internet users looking for information or attempting to keep in touch in a world where cyber reality now rules.⁴ Given that 63.48% cases our increased fro 2018 to 2019 of cyberbullying occur on social media, these platforms have created an environment conducive to an increase in cyberbullying occurrences. As a result, it is assumed that the likelihood of cyberbullying incidents and the detrimental impact they have on mental health are increasing.⁵ These detrimental effects on mental health are substantial according to the assumed increases in cyberattacks and cyberbullying cases¹. According to a Survey conducted in year 2015-16 and 2018-19 it was conducted in two most popular states of India which is Uttar Pradesh and Bihar. It was conducted to study by taking 4428 and 11,864 adolescents aged between 10 to 19 years both male and female respectively. It was found that cyberbullying victim increased from 3.8% to 6.4% among females and 1.9% to 5.6% among males in 3 years. About 33% females and 16.6% male in their adulthood have faced depression symptoms. Around 7.5% females and 2.3% males have tried to attempt suicide in one year. This study says that victim of cyberbullying are at high risk of facing depression symptoms and suicidal thoughts for a long period of time⁶

Types of Cyberbullying

1. Social Exclusion: it is an act of intentionally leaving someone out of a group or a message thread. Which leads that person feeling isolated and depressed. For example: a person excluded from a group where everyone is making plans without including him which involve his mutual friends too.
2. Harassment: It occur when cyberbully send online threats or vulgar content through messages that hurt someone feeling.
3. Cyber Stalking: It means when cyberbully use technology (social media, Internet) to monitor someone presences so closely to afraid them and concerned them about their

³ Cyberbullying: Definition, types, effects, related factors and ..., https://www.researchgate.net/publication/356217274_Cyberbullying_Definition_Types_Effects_Related_Factors_and_Precautions_to_Be_Taken_During_COVID-19_Pandemic (last visited Nov 25, 2023)

⁴ ibdi.

⁵ Manpreet Kaur & Munish Saini, Indian Government Initiatives on cyberbullying: A case study on cyberbullying in Indian Higher Education Institutions - education and Information Technologies SpringerLink (2022), <https://link.springer.com/article/10.1007/s10639-022-11168-4#:~:text=NCRB%20data%201%20reported%20that,were%20reported%20across%20the%20country> . (last visited Nov 25, 2023).

⁶ Cyberbullying research in India Cyberbullying Research Center, <https://cyberbullying.org/research/map/india> (last visited Nov 25, 2023)

safety. For example: tracking person's movement, by sending threats through message, using their information for their demand, etc.

4. Outing: It means when cyberbully leaks someones gender identity or sexual information without their consent to harass themselves in public.
5. Doxing: It means when cyberbully leaks someone personal information or individual private message publicly without their consent in online chat group.
6. Fraping: It come from two words “Facebook” and “ Rape” but now onwards it doesn't seem only to Facebook it is spread to other social media also. It occur when cyberbully gets control of someone's social media account and post inappropriate content without consent which cause harms to persons self respect, reputation.
7. Trolling: It is when person intentionally start attacking comments online which is disrespectful. Trolling is cyberbullying when it is done with malicious and harmful intent and don't have personal relationship with the victim.
8. Dissing: The act of spreading Cruel information about a person through public posts or private messages but here cyberbully should have private relationship with that person.
9. Masquerading: Here cyberbully create fake profile of an individual and start posting inappropriate content without their consent.
10. Trickery: Here cyberbully first become friend of his target and start gaining his trust once he gain his trust and start knowing everything about him. Then he abuse that trust and maliciously share the victim’s secrets and private information with others.¹

Legal Provisions

1. IT Act, 2000: Under this act if any computer related offence has been committed then imprisonment upto 3 to 5 year and fine upto 1 lac rupees or both can be charged and in

¹ Types of cyberbullying - examples of bullying online Social Media Victims Law Center, <https://socialmediavictims.org/cyberbullying/types/> (last visited Nov 25, 2023)

some cases even more. Under section 67, 67A, 67B deals with material containing the sexually act.²

2. The Indian Penal Code, 1860: It is official criminal code of line which have all aspect f criminal law. Section 354A,354D, 507, 509 deals with blackmailing, harassment, stalking, threatening, etc³

Section Under IT Act are:

□ Section 67 Of IT Act : the spread of explicit or obscene content in electronic form, notably via the internet. It says that sharing such material online carries legal repercussions if it is found to be sexually explicit or has the potential to pervert the minds of people who may view or hear it.If this is the first crime, the maximum penalty is five lakh rupees in fines and three years in prison. The punishment might be harsher if there are additional convictions; it can include up to five years in prison and a fine of up to 10 lakh rupees.The goal of this regulation is to control and stop the dissemination of objectionable and explicit material online, particularly where it might hurt someone or corrupt individuals who come across it.⁴

Case Law : Avnish Bajaj vs State (Bazee.com case)

Because of an offensive film that was posted to Bazee.com for sale, the CEO of E-Commerce Portal was detained and eventually granted bail under Section 67 of the IT Act.

The accused is released on bond, provided that two sureties, each worth Rs. 1,000,000/-, are provided, to the satisfaction of the relevant court, metropolitan magistrate, or duty magistrate. Additionally, the accused must obtain permission from the court before leaving India's borders, and in order to do so, he must turn in his passport to the magistrate. The granting of bail implies

² Indian Government Initiatives on cyberbullying: A case study on cyberbullying in Indian Higher Education Institutions - education and Information Technologies SpringerLink, <https://link.springer.com/article/10.1007/s10639-022-11168-4#Tab8> (last visited Nov 25, 2023)

³ ibid.

⁴ Section 67: Punishment for publishing or transmitting obscene material in electronic form. -Whoever publishes or transmits or causes to be published or transmitted 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 three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

that he will take part in and support the inquiry. With respect to the aforementioned directives, the bail application is dismissed⁵.

□ Section 67A Of IT Act: the distribution of child pornography and other sexually graphic materials featuring minors. Publication, transmission, or dissemination of any electronic content that depicts sexually explicit activities or activity involving children is prohibited under this legislation. If this is the first crime, the maximum penalty is 10 lakh rupees in fines and five years in jail. The punishment can be harsher if there are additional

convictions; it can include a fine of up to 10 lakh rupees and a seven-year jail sentence. This regulation is essential for shielding kids from abuse and exploitation online. It is a component of the legislative system in India that controls child protection and internet material, with an emphasis on limiting the dissemination of explicit content featuring children.¹²

Exemption from Sections 67 and 67A

- These parts do not cover any electronic versions of books, papers, paintings, or figures.
- Publications that serve the public interest and further science, literature, the arts, or other fields are not covered by these areas.
- Publications pertaining to genuine cultural heritage or religious objectives will not be classified as those included in these categories.¹³

Case Law: **Jaykumar Bhagwanrao Gore v. State Of Maharashtra**

“The learned Sessions Judge has passed the detailed and well reasoned order. *Prima facie* the applicant-accused has committed illegal act and in view of the nature of offence, custodial interrogation is required to find out the details the cell phones, as it is an offence under section 67A. I also take into account the criminal antecedents against the applicant/accused who is MLA. Hence, Anticipatory Bail Application is rejected.

1. The learned counsel Mr. Ponda prays that time be granted to challenge this order before Hon'ble Supreme Court especially for the purpose of interpretation of Section 67A.
2. Considering the nature of offence, I am not inclined to grant time.

In view of dismissal of Anticipatory Bail Application, Intervention Application is also accordingly disposed of.¹⁴

⁵ Avnish Bajaj vs State (Bazee.com case) Info. Technology Law, <https://itlaw.in/avnish-bajaj-vs-state/>

¹² Section 67A: Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.—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.

¹³ Overview of concept of cyber bullying in India iPleaders, <https://blog.ipleaders.in/overview-of-concept-of-cyber-bullying-in-india/>
#:~:text=Section%20509%20of%20the%20Indian%20Penal%20Code%2C%201860,-lf%20a%20person&text=lf%20any%20person%20tries%20to,extend%20to%202%20years%20alo.

¹⁴ Jaykumar Bhagwanrao Gore v. State of Maharashtra, 2017 SCC OnLine com 7283,

□ Section 67B of IT Act: The spread of child pornography, or sexually explicit content featuring children, is a common practice. Any electronic material that shows or includes children engaging in sexually explicit acts or conduct is prohibited from publication, transmission, or sharing under this law. A fine and up to three years in jail are possible penalties for first-time offenders. In the event of additional convictions, the punishment may be more severe, including a fine and a sentence of up to five years in prison. Protecting children from sexual exploitation and abuse, especially in the digital sphere, is the main goal of this law.⁶

Case Law: **vanita Vasant patil vs state Maharastra**

Sections 376(2)(b), 354, 292, 509, 342, 109 of the IPC, Sections 5(c), 6, 14, and 17 of the Protection of Children from Sexual Offences Act, and Section 67-B of the Information Technology Act all acquit Datta Somnath Jadhav and Vanita Vasant Patil of the offense. The fine amount will be returned to both appellants if it was deposited in accordance with the contested judgment and order.

(IV) Both appellants are incarcerated; if they are not needed in any other case, they should be released from custody immediately.

⁶ section 67B: Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.—Whoever,— (a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or (b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or (c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or (d) facilitates abusing children online, or (e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children, 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

(VI) In accordance with Section 437-A of the Code of Criminal Procedure, both appellants must provide a personal bond of Rs. 15,000 and a surety bond in an equivalent amount to the concerned trial court in Raigad, Alibag.⁷

Sections under Indian Penal Code:

- Section 354A Of IPC: This section is all about protecting women's rights and making sure they don't have to deal with sexual harassment. If a man makes an unwelcome sexual advance, demands or request for sex, showing pornography against a woman's wishes or make any kind of sexual comments then he is guilty for sexual harassment and will be liable under section 354A of IPC. The punishment for this offence can result in a maximum sentence of one year in prison and a fine or both, depending on a circumstances.¹⁷
- Section 354D of IPC: When a man, usually, follows a woman or makes repeated attempts to get in touch with her, even when it's obvious that she is not interested in these kinds of interactions, it's known as stalking. Surveillance of a woman through various means, including spying on her online, is another aspect of stalking. This section's goal is to shield people—especially women—from unwelcome and possibly dangerous attention. This law tries to stop stalking and provide legal measures to deal with it because it can be upsetting and harmful. If convicted for the first time, stalking can result in a maximum sentence of three years in prison; if convicted again, the maximum sentence is five years.¹⁸ Case Law : State of west Bengal vs Animesh Boxi

¹⁷ 354A. Sexual harassment and punishment for sexual harassment--(1) A man committing any of the following acts-

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

⁷ Vanita Vasant Patil vs The State Of Maharashtra on 2 November, 2018

¹⁸ Section 354D: **Stalking**.—(1) Any man who--

- (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
- (ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that--

- (i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or
- (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or
- (iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.]

The accused hacked the victim's phone and took control of some of her private pictures. He blackmailed her by threatening to post those pictures on a pornography website. Here the court held that the victim has suffered from virtual rape. Thus the accused will be convicted under Section 354 D of IPC. ⁸

Section 507 of IPC: criminal intimidation via online communications that are anonymous. Put differently, it deals with situations in which an anonymous letter or communication is used to threaten someone else, making the recipient fear that they will be punished for a crime. An individual may be subject to legal repercussions if they are proven guilty of making such threats. In addition to any penalties associated with the criminal offence for which the threat was made, the punishment for this offence carries a maximum two-year prison sentence. In order to uphold public order and deter such behaviour, this section is intended to forbid and punish the use of anonymous threats that may cause fear or intimidation.⁹

4 .Section 509 Of IPC: The transgression of disparaging a woman's modesty. The purpose of this section is to discourage and prosecute any behavior that is meant to belittle or disparage a woman's modesty. It encompasses a variety of behaviors, such as using derogatory language, displaying objects with the intention of offending the woman, or making disrespectful noises

⁸ The accused hacked the victim's phone and took control of some of her private pictures. He blackmailed her by threatening to post those pictures on a pornography website. Here the court held that the victim has suffered from virtual rape. Thus the accused will be convicted under Section 354 D of IPC.

⁹ Section 507: Criminal intimidation by an anonymous communication: Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

or gestures. It also includes violating a woman's privacy with the goal to offend her. If someone is proven guilty of this crime, they may have legal repercussions. The court's decision and the particular circumstances will determine whether to impose a fine, simple imprisonment for a maximum of one year, or both as a punishment.¹⁰

Conclusion

Cyberbullying is a huge issue for teenagers, and it's getting worse every day. Kids are being bullied online, and it's affecting their development. Unfortunately, there aren't any laws in place to stop it. India is a growing tech hub, and with that comes a lot of tech-related issues. Cyberbullying needs to be addressed by lawmakers, and awareness programs need to be put in place so parents and teachers know how to spot it in their kids. People need to stand up for the victims and help them get back on their feet and live life to the fullest.

¹⁰ Section 509: Word, gesture or act intended to insult the modesty of a woman:Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, 1 [shall be punished with simple imprisonment for a term which may extend to three years, and also with fine

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