



ORIGINAL RESEARCH PAPER

Law

THE RISE OF CYBER CRIMES AGAINST WOMEN AND GIRL CHILDREN IN INDIA: CHALLENGES AND SOLUTIONS

KEY WORDS:

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ABSTRACT

Many women and girl children around the world are often subjected to deliberate violence because of their gender. The growing rate of Internet, the extend use of mobile and communication technologies and the wide dissemination of social media have offered ample opportunities and enabled various efforts to concentrate on committing variety of cyber crimes against women and girl children in cyber space. Cyber crimes against women and girl children are an emerging global problem which creates serious implications on societies and economies around the world. It poses great risks to the peace and prosperity of the people and country. This research paper is concentrated under the aspect of providing constant report of cyber crimes against women and girl children, legislative improvements for protecting women and girl children from the perpetrator of cyber crimes and to suggest measures to protect the women and girl children.

1. INTRODUCTION:

In this technological era, crimes are highly technical. Criminals are using computer and mobile phones as an instrument for committing their illegal and immoral activities through internet connection especially against women and girl children. The rapid growth of internet allows users to circulate content in the form of text, images, videos and sounds. All these activities can easily be circulated throughout the world by the use of internet. In recent years, there have been numerous reports of women receiving unsolicited emails which often contain obscene and obnoxious language. The women and girl children are often victimized under cyber crimes. Some of the crimes are Cyber-stalking, Cyber-bullying, Hate Crime, Online Predator, Stalking and Trolling. These crimes definitely will give a physical and psychological trauma and sometimes which leads to committing a victim's suicide. So, the main object of this research paper is to find out cyber crimes which are committed against women and girl children in cyber space, awareness on victim side and the legislative developments to prevent the cyber crimes against the women and girl children.

2. Types Of Cyber Crimes Against Women And Girls And Laws:

Generally variety of cyber crimes is committed against individuals and society at large. In India, Information Technology Act, 2000 and Indian Penal Code now it is amended Bharatiya Nyaya Sanhita (BNS), 2023 deal with the cyber crimes. Some of the crimes and the provisions dealing those cyber crimes which can be mentioned as specially targeting women and girl children are as follows:

- I. Harassment via e-mails.
- II. Cyber-stalking and Cyber-bullying.
- III. Cyber pornography.
- IV. Cyber Defamation.
- V. Morphing.
- VI. Email spoofing.

I. Harassment Through E-mails:

This is not a new concept. It is very similar to harassing through letters. Harassment includes blackmailing, threatening, bullying, and even cheating via email. E-harassments are similar to the letter harassment but creates problem quite often when posted from fake ids. Section 66 A of the Information Technology Act, 2000 covers this offence. The punishment for this offence is 3 years and fine.

II. Cyber-stalking And Cyber-bullying:

Generally, Cyber-stalking involves use of internet to harass someone. The behavior includes false accusations, threats etc. Normally, majority of cyber stalkers are men and the majority of victims are women. According to Wikipedia,

"Cyber Stalking is the use of the internet or other electronic means to stalk or harass an individual, a group of individuals or an organization. It may include the making of false accusations or statements of the fact, monitoring, making threats, identity theft, damage to data or equipment, and the solicitation of minors for sex, or gathering information that may use to harass." Cyber-stalking and Cyber-bullying is one of the most talked about cyber crimes which usually occurs with women and children who are stalked by men, adult predators or pedophiles. Oftentimes, the victim of cyber stalker is new on the web and inexperienced with the rules of internet use and safety. There are four reasons behind cyber stalking namely, for sexual harassment, for revenge and hate, for obsession love, and for ego and power trips. Women are targeted via websites, discussion forums, chat rooms, blogs and emails etc. The availability of free emails, and websites space, as well as anonymity has contributed to the increase of cyber stalking as a form of violence. A study says most stalkers are using following methods for cyber stalking:

- a) Collect personal information about the victim. If the stalker is a stranger to victim, he collects the information from internet resources such as various profiles the victim may have filled in while opening a chat or e-mail account or while signing an account with some website.
- b) The stalker may post information on any website related to sex-services or dating services, posing as if the victim is posting this information and invite the people to call the victim on her telephone to obtain sexual services.
- c) Some stalkers subscribe the e-mail account of the victim to innumerable pornographic and sex sites, because of which the victim starts receiving indecent soliciting e-mails.
- d) Some stalkers send repeated e-mails asking for various kinds of favors or threaten the victim.

According to the cyber law expert Pawan Duggal, in one of the first cases of cyber stalking in the country in 2000, which he worked on, Delhi police booked Manish Kathuria for outraging the modesty of a woman named Ritu Kohli. He pretended to be Ritu kohli, the wife of his former colleague in internet chat rooms, made her phone number public and solicited sex. Though police tracked him down, but the lack of specific law, he got off lightly. In another case, an engineering and management graduate, facing prosecution in a dowry harassment case, was arrested by Delhi police for sending obscene e-mails in his wife's name to several persons.

Prior to February 2013, there were no laws that directly regulate cyber-stalking in India. India's Information Technology Act of 2000 (IT Act) was a set of laws to regulate the cyberspace. In 2013, Indian Parliament made amendments to the Indian Penal Code, introducing cyber-stalking as a criminal offence. Stalking has been defined as a

man who follows or contacts a woman, despite clear indication of disinterest to such contact by the woman, or monitoring of use of internet or electronic communication of a woman. A man committing the offence of stalking would be liable for imprisonment up to three years for the first offence, and shall also be liable to fine and for any subsequent conviction would be liable for imprisonment up to five years and with fine under Section 354 D of the Indian Penal Code. Section 78 of the Bharatiya Nyaya Sanhita (BNS) 2023, which deals with similar stalking is similar to Section 354D of the Indian Penal Code (IPC).

Shibani Barik Vs State of Odisha, in this case, the deceased has committed suicide, who was the husband of the accused. The marriage between the accused and the deceased was solemnized on 21/02/2019. Prior to marriage, the accused was in a love relationship with a co-accused (Upendra), and even she continued such relation after marriage. Co-accused steamed intimate video of deceased and accused on Tik-Tok platform. This incident made the deceased lose his perspective and balance. This eventually leads the deceased to commit a suicide.

The accused and co-accused in this case were charged with section 306 of the Indian Penal Code for abetment of suicide. The accused applied before the Hon'ble High Court under section 439 of the criminal procedure code. The Orisha High Court in Para 11 of his judgment has made an Observations that the accused was seeking bail under section 439 Crpc concerning the offense involving section 306 IPC. The allegation against the accused is that she has put the victim in mental torture and such agony that eventually led him to commit suicide. In the investigation and from the witness statements recorded under section 161 of Crpc, it was found that the accused and co-accused both inflicted torture on the victim. From the statements, it is clear that the co-accused is responsible for the abetment of suicide. The role of the accused in such a specific incident is not yet clear. Hence, she was granted bail by the high court. The Hon'ble court cited that, the TikTok video in the instant case has become the cause of such tragic end of an innocent life. Such videos with offensive content are on the prowl and gradually on the rise. Large numbers of people, especially the youths, both in rural and urban areas are vulnerable. Such kinds of acts are executed smoothly on digital platforms. Cyberbullying activity like in the instant case has reared its ugly head and swept away so many innocent lives through its ugly manifestation. Tik-Tok videos that encourage pornography and explicit disturbing content are required to be properly regulated so as to save teens from its negative impacts. The government has the social responsibility to put some fair regulatory burden on the companies that are proliferating such applications. Certain sections of the Information and Technology Act especially Sections 66E, 67, 67A which stipulate punishment for violation of privacy but are grossly insufficient. Though this act has imposed some obligations on the companies to take due diligence, India lacks a specialized law to address crimes like cyberbullying. Most of the investigation officers dealing with such crimes are not well trained and therefore they need periodic training to upgrade their skills. Further, improvement is required in cyber intelligence, cyber forensics, and cyber prosecution training.

III. Cyber Pornography:

Cyber Pornography is the other threat to the female "netizens". This would include pornographic websites; pornographic magazines produced using computers (to publish and print the material) and the internet (to download and transmit pornographic pictures, photos, writings etc). Internet has provided a medium for the facilitation of crimes like pornography. Cyber porn as it is popularly called is widespread. Almost 50% of the web sites exhibit pornographic material on the Internet today. Pornographic materials can be reproduced more quickly and cheaply on

new media like hard disks, floppy discs and CD-ROMs. The new technology is not merely an extension of the existing forms like text, photographs and images. Apart from still pictures and images, full motion video clips and complete movies are also available. Another great disadvantage with a media like this is its easy availability and accessibility to children who can now log on to pornographic web-sites from their own houses in relative anonymity and the social and legal deterrents associated with physically purchasing an adult magazine from the stand are no longer present. Furthermore, there are more serious offences which have universal disapproval like child pornography and far easier for offenders to hide and propagate through the medium of the internet.

In the case of State of Tamil Nadu v. Suhas Katti, which is considered as one of the first cases to be booked under the Information Technology Act, 2000 (IT Act). The accused Katti posted obscene, defamatory messages about a divorced woman in the Yahoo message group. The accused advertised the victim as one who solicits for sex. The accused was convicted under sections 469, 509 of Indian Penal Code (IPC) and 67 of IT Act 2000 and was sentenced to undergo 2 years rigorous imprisonment and fine.

In the case of 'Sex Doctor', the accused, an orthopedic surgeon named Dr. Prakash, was found guilty under Section 506 (part II of the section which prescribes punishment for criminal intimidation to cause death or grievous hurt), 367 (which deals with kidnapping or abduction for causing death or grievous hurt) and 120-B (criminal conspiracy) of the IPC and Section 67 of Information Technology Act, 2000 (which dealt with obscene publication in the internet). Dr. Prakash was accused of taking obscene pictures and videos by forcing women to perform sexual acts and then later uploading and selling these videos as adult entertainment materials abroad. He was sentenced for life imprisonment and a pecuniary fine of Rupees. 1,25,000 under the Immoral Trafficking (Prevention) Act, 1956.

Publishing transmitting information which is obscene in electronic form 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 a 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 under Section 67 of the Information Technology Act, 2000.

Publication and transmission of containing sexually explicit act or conduct is to be punished with imprisonment up to 5 years and fine up to 10 lakh rupees and for second or subsequent conviction with imprisonment for a term up to seven years and fine up to 10 lakh rupees under Section 67A of Information Technology Act, 2000. The same punishment is prescribed for child pornography under Section 67B of Information Technology Act, 2000. In addition, creating texts/digital images, collecting, seeking, browsing, downloading, advertising, promoting, exchanging/ distributing material in any electronic form depicting children in obscene or indecent or sexually explicit manner is also punishable offence under Section 67 B (b).

IV. Cyber Defamation:

Cyber defamation is when someone publishes defamatory matter about someone on a website or sends e-mails containing defamatory information to all of that person's friends. Section 66A of the Information Act, 2000 does not specifically deal with the offence of cyber defamation but it makes punishable the act of sending grossly offensive material for causing insult, injury or criminal intimidation. The punishment for this offence is three years and fine.

V. Morphing:

Morphing is editing the original picture by unauthorised user or fake identity. It was identified that female's pictures are downloaded by fake users and again re-posted/uploaded on different websites by creating fake profiles after editing it. This amounts to violation of Information Technology Act, 2000 and attracts sec. 43 & 66 of the said Act. The violator can also be booked under IPC also. The offender will be given penalty of not exceeding one crore rupees under Section 43 of the IT Act, 2000 and three years or with fine of five lakh or both under Section 66 of the IT Act, 2000.

VI. Email Spoofing:

A spoofed e-mail may be said to be one, which misrepresents its origin. It shows its origin to be different from which actually it originates. A review in the CyberlawTimes.com shows that India has crossed the danger mark in cyber crime targeting women and children. Statistics show, and law enforcers confirm, that the maximum number of cyber crimes related to obscenity occurred in Mumbai. This amounts to violation of Information Technology Act, 2000 and attracts sec. 43, 66, and 66 d of the said Act. The offender will be given penalty of not exceeding one crore rupees under Section 43 of the IT Act, 2000 and three years or with fine of five lakh or both under Section 66 of the IT Act, 2000. Like that, the offender will be given a punishment of three years and fine under Section 66 d of the IT Act, 2000.

3. CONCLUSION:

Cyber crimes against women and girl children are global problem. These crimes are committed through internet mostly targeted on women and girl children. For example in social medias like Face book, Twitter, WhatsApp, etc., the perpetrators are a many a times sending obscene pictures and messages. But in reality is that the victims (women and girl children) do not know whether they are victimized and sending of obscene pictures and messages to their time line and groups are also gender crimes in cyber space. Then, they are left the matter unattended like closing their account on internet or block the member. Victims are not ready to find out the offender. Suppose if they find out the offender, they are not willing to report this matter due to the fear of wrongdoer or parents or society. Victims are less in chance to know the laws regarding gender crimes in cyber space. There is a gap between the cyber crimes and laws relating to cyber crimes. This is main reason that the women and girl children are not having awareness on laws and reporting behavior. When the positive aspects of media and technological development are in doorstep, the negative aspect of this media and technology should be known to everyone. The cyber laws and gender crimes in cyber space and their enforcement should have been incorporated in the curriculum of first year students in all the colleges and the awareness program and speech should also be given to students and their parents during their school level. Like that, the awareness programme on gender crimes in cyber space should be given to women at work and women in rural areas. The Information Technology Act, 2000 is inadequate to handle the recent development of cyber crimes against women and girl children in cyberspace. So, the legislative development should be improved regarding cyber crimes. Prevention at an earlier stage is better than to cure.

4. Suggestions:

1. Do not give the personal details, address, phone number and photos to unknown persons while chatting in social networks. Privacy setting should always be checked especially pass ward should be changed from time to time.
2. Awareness campaign programmes, workshops, seminars and conferences must be arranged from school level to collages etc about cyber crimes like Cyber-stalking and Cyber-bullying, Cyber Defamatory, Morphing and misusing emails and social networking websites, Cyber pornography, Email spoofing, and legislative

developments etc. These campaigns will definitely create an impact on the minds of students especially girl students to know their security and laws at their gross root level itself. Not only student levels these awareness prgrammes should be arranged to working women and house wives.

3. Victims of cyber crimes should come forward to report the incidence of cyber crime to cyber investigation cell instead of left the matter on the fear of police or parents or society.
4. The Information Technology Act, 2000 should be amended with the stringent punishment because in many times these types of harassment may let the victim even to commit suicide. In India, prostitution is prohibited but seeing adult pornography is not an offence only watching and downloading of child pornography is an offence. It is vital gray area under this Act. Like that cyber-stalking, cyber-bullying, cyber defamation, E-mail spoofing has not been defined and these types of crimes are punished in any one of the provisions suited under this act. So, it has to be amended from time to time based on the changing scenario of the society.

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