



Cybercrime against women in India

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Abstract

In the digital age, Information technology has widened itself and has become the axis of today’s global and technical development. With the numerous advancement of internet, crimes using internet also widened and it pose a great threat to individuals. Cybercrime is broadly used to describe the activities in which computers or network are a tool, a target, or a place for criminal activity. Women are the soft targets of this new form of crime. They became victims to cybercrime like cyber defamation, harassment via email, cyber stalking, E-mail spoofing and morphing. Cybercrime causes stress and trauma which thereby affects the mental health of women. In India, cybercrime against women is increasing in an alarming rate. Even though India is one of the few countries to enact the Information Technology Act 2000 to combat cybercrimes, issues regarding women are not covered fully by the Act. The IT Act has been amended by the Information Technology Amendment Act 2008, but still it has many defects. The Act has many undefined terminologies, ambiguities and vague definitions in dealing with matters related to women which makes it inefficient to curb cybercrime against women. Though there are other laws which can be used as a recourse to protect women from cybercrime, a specific law to deal with this issue is the need of the hour. In this

paper the author analyses the effectiveness of Indian laws to protect women from cybercrime, loopholes in the existing laws and the measures to overcome it.

Key words

Information technology, cybercrime, cyber defamation, cyber stalking, Information Technology Act 2000, Information Technology Amendment Act 2008.

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1.0 Introduction

Violence against women is a violation of human rights and it is not a new phenomenon. It always takes new shapes from time to time in Indian history. Though many feminists fought against women violence and for their empowerment in the society, there is no end of her vulnerable life and her exploitation. The advent of information technology brought a drastic change in the women's standard of living and paved way for equal realization of their rights. Although these inventions came with huge benefits it too has some negative effects.

Cyber violence is a new form of violence against women which is facilitated by the internet and information technology. Women are more prone to cyber violence than men. Seventy five percent victims are believed to be female but these figures are more on assumed basis. The actual figures can really never be known because most crimes of such types go unreported as there is no direct physical threat and laws dealing with it are not much clear or implemented properly. So this turns to be the major reason for increase in cybercrime against women. Although it is very difficult to curb cybercrime against women, effective laws and proper implementation of such laws will help in protecting women to some extent.¹

This paper mainly focusses on the various types of cybercrimes against women in India, effectiveness of the laws in India pertaining to it and the defects in the system which lead to increase in cybercrime. The paper also suggests

some solutions to curb cybercrime against women in India.

2.0 Cybercrime against women in India

The expanding reach of computers and internet has made it easier for the people to keep in touch across long distances.¹ In India, the information technology sector has seen a quantum leap since 1990s which is still continuing. It has exposed the society to a new world in which we can share our ideas. But it is not a danger free zone. Cyber space has become an instrument for offenders to victimize or infringe women. In India cybercrime against women increases in an alarming pace. Amongst the various cybercrimes, women are exposed to crimes like cyber stalking, harassment via e-mail, cyber defamation, morphing and cyber pornography. Yet, most women are still unaware of these crimes which makes the offenders to use cyber space as a playground to victimize women.¹

2.1 Cyber stalking

Cyber stalking is defined as 'the repeated use of internet, email or related digital electronic communication devices to annoy, alarm or threaten a specific individual.'¹ It is the use of internet or other electronic means to stalk or harass a person.¹ It is one of the most prevalent cybercrimes which affects women. It is believed that over seventy five percent of the victims are female.¹ Often the victims of cyber stalker is new on the web and inexperienced with the rules of internet use and safety. The main reasons behind cyber stalking are for sexual harassment, for revenge and hate, for obsession love



and for ego.¹ Women are targeted via websites, discussion forums, chat rooms, blogs emails etc. One of the first cases of cyber stalking in the country in 2000 was Manish Kathuria case. In this case he pretended to be Ritu Kohli, wife of former colleague in internet chat rooms, made her phone number public and solicited sex. He was booked under section 509 of IPC for outraging the modesty of women.¹

2.2 Cyber defamation

Cyber violence which includes libel and defamation is another common online crime against women. It occurs when someone posts defamatory matters about someone on websites or send emails containing defamatory information. 71.1% had been defamed in cyber space and also in offline due to cyber defamation as surveyed by Center for Cyber Victim Counseling report 2010. The harm through defamatory statements about any person on a website is irreparable, as the information is made wide open to the entire world.¹

2.3 Cyber bullying

Cyber bullying is the use of mobile phones and internet, deliberately to upset someone else. The offender willfully and repeatedly inflicts harm through the use of computers, cell phones or other electronic devices, by sending messages of intimidating or threatening nature. Women are twice as likely as men to be a victim. India is third on the list behind China and Singapore in the cases of cyber bullying according to a report.

2.4 Morphing

Morphing is editing the original picture by an unauthorized user. When unauthorized user with fake identity downloads victim's pictures and then uploads or reloads them after editing is known as morphing. It was observed that female's pictures are downloaded from websites by fake users and again reposed on different websites by creating fake profiles after editing them.

2.5 Cyber harassment via email

The issue of harassment is a major issue offline as well as online in the cyber environment.¹ Harassment of female netizens through email is not new in the internet world which may include vulgar messaging to the profiles' wall and personal email id which is shown in the profile. E- harassment is similar to letter harassment, but creates problem quite often when it is posted from fake ids with the intent to terrify, intimidate, threaten or humiliate female netizens.¹

3.0 Legal protection to Indian women

This chapter discusses about various laws in India to which women could recourse when affected by cybercrime. The Indian Penal Code 1860, Information Technology Act 2000 and the Indecent Representation of Women (Prohibition) Act 1986 are some of the laws which comes to rescue women affected by cybercrime.

3.1 Information Technology Act 2000

India is one of the very few countries to enact IT Act to combat cybercrime.¹ The primary source of cyber law in India is the



Information Technology Act 2000 which came into force on 17 October 2000. The main aim of the Act is to provide legal recognition to electronic commerce and to facilitate filing of electronic records with the government. The IT Act also penalizes various cybercrimes and provides stringent punishments.¹ In relation to women, this Act seems to be the first logical recourse when she is affected by cybercrime. Section 43 and section 66 of the ITA 2000 deals with cyber hacking. Section 67 of the Act prevents publishing of obscene information and prescribes punishment for the same. The IT Act was amended in the year 2008 and became operational on October 24, 2009. This amendment brought some changes, which helped in protecting women to some extent. Section 66A of the Information Technology Amendment Act (ITAA) 2008 prohibits sending of offensive messages through a communication device.¹ The types of information this covers are offensive message of a menacing character, or a message that the sender knows to be false but is sent for the purpose of 'causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will.'¹

Bloggers, Tweeters, journalists and Facebook users with prominent profiles face rape threats, violent pornographic vitriol, sexual harassment, accusations of promiscuity, and various forms of humiliation on a daily basis – simply because they are women. For women who face such abuse, the first law to which they could logically recourse is Section 66A of the IT Act.¹

Concerning the law pertaining to the offence of cyber obscenity, S.67 and S.67A of the Information Technology Act, 2000 are the first provisions dealing with obscenity on the internet in India. These sections deal with obscenity in electronic spheres and provide punishment for publishing or transmitting obscene materials in electronic form. Punishment for publishing or transmitting of material containing sexually explicit act etc., in electronic form extends from three to seven years of imprisonment and fine ranging from five to ten lakh rupees.¹

3.2 Indian Penal Code (IPC) 1860

The IPC as amended under the IT Act penalizes several cybercrimes.¹ In addition to the ITAA 2008, some sections of IPC protect women from cyber violence. It protects women from online sexual harassment. Section 509 provides punishment for outraging the modesty of women, section 228a prevents one from publishing images or videos of rape victim online, section 415, 419 and 465 can be used to punish offenders of email spoofing. Offenders of cyber hacking are punished under sections 379 and 406 of IPC. The offence of cyber defamation is also well defined under section 500 of IPC which mentions punishment with simple imprisonment for a term which may extend to 3 years with fine.¹ Sections 292, 293 and 294 deals with obscenity, which can be used along with section 67 of the ITA. However, it must be noted that the test to determine offence of cyber obscenity as per the Information Technology Act, 2000 has identical ingredients as provided under Section



292 of the Indian Penal Code, 1860. Even the term 'indecentcy' can be interpreted so as to fall within the preview of the definition of obscenity. Also, the legal understanding of pornography and obscenity have often overlapped with each other.¹ This clearly shows that the IPC turned to be very useful in dealing with cybercrime and in protecting women from it.

4.0 Impediments towards women's safety in cyber space

4.1 Social impediments

Indian society is predominantly patriarchal in nature, and this is the major reason for women becoming victims of cybercrime. Females are generally taught to shun their voice for the fear of being stigmatized which makes them vulnerable to cyber violence.¹

Most of the cybercrimes remain unreported due to the hesitation and shyness of the victim and her fear of defamation of family's name. Many times she believes that she herself is responsible for the crime done to her. The fear of future problems restricts her from reporting the cybercrime. Humiliation, mental torture, stress, depression aggravates the situation. The women are more susceptible to the danger of cybercrime as the perpetrator's identity remains anonymous and he may constantly threaten and blackmail the victim with different names and identities.¹

The Center for Cyber Victim Counselling an NGO, has presented a report on cyber victimization in India, in which the center

has taken 73 respondents of which 60 were females and the rest 13 males. These respondents are from different parts of India and have some knowledge about computer. They have faced different types of victimization such as receiving abusive emails, profile being hacked etc. from that survey it has been found that 35% of the women have reported about their victimization, 46.7% has not reported and 18.3% has been unaware of the fact that they have been victimized. This report proves that women prefer not to report owing to social issues.¹

4.2 Administrative impediments

It is the duty of the state and the law enforcement authorities to take effective measures to curb cybercrime. According to Debarati and Jaishankar, at times there are not enough female cyber cells, no female judges and female cops to deal with the situation. On account of delayed justice, people have lost faith in the law enforcement authorities. Lack of legal awareness makes it more complex.¹ According to a report, out of 4356 cases registered under the IT Act only 20.35% of the offenders were convicted. The poor rate of cybercrime conviction in the country has also not helped the cause of regulating cybercrime.¹ Police personnel also lack training to tackle and handle cybercrime. They lack better understanding of such kinds of victimization and fail to respond quickly to complaints. This turns to be major impediment in curbing cybercrime against women.

4.3 Legal impediments



The main reason for the increased number of cyber-crimes against women in India is mainly due to lack of legal security.¹ Though India is one of the few countries to enact the Information Technology Act 2000 to combat cybercrimes, issues regarding women are not covered fully by the Act. The object of the IT Act is crystal clear from its preamble which shows that it was created mainly for enhancing e-commerce and failed to concentrate on the safety of net users. The majority of the cybercrime against women are being prosecuted under section 66 and 67 of the IT Act. Cyber defamation, email spoofing, hacking are some of the very common cybercrime against women, but the Act fails to speak about these crimes specifically.¹ These crimes are booked under section 67 of the IT Act. It is evident that these sections are not sufficient to deal with the crimes and specific section is the need of the hour with the increasing crime rate. Section 66A of the IT Act which speaks about sending of offensive messages is vague and ambiguous. It has various undefined terminologies. Though there are other Act like the IPC and Indecent Representation of Women (Prohibition) Act to aid the IT Act in protecting women they do not perfectly fit the cases as it happens in cyber space.

It is evident that present India's Information Technology Act includes only few sections for dealing with cybercrime. Hence to curb cybercrime against women the IT Act should be re-modified or a separate law to deal with these crimes should be enacted.¹

5.0 Conclusion

The digital technology has grown faster than the laws governing the technology. The existing laws fall short to tackle the situation. India must bring in more rigid and stringent laws in protecting women from cybercrime. Such crimes cannot be curbed solely by enacting laws, unless it is implemented properly. For effective implementation police personnel must be trained efficiently in dealing with cybercrimes. Workshops and seminars should be conducted by police, legal departments in creating awareness on cybercrime against women. The menace of cybercrime is not just restricted to India, but to the whole of world. Hence, there is a need for coordinated and integrated effort on part of the world community. The mindset of the Indian society towards women should also change. Women should be courageous to deal with the situation. Stringent laws and proper implementation alone won't suffice to curb cybercrime against women unless the crime is reported by them. Indian women netizens still hesitate to report the crime which makes them more vulnerable to cybercrime. The problem would be solved only when the women netizens come forward to report the crime to the authorities. Proper implementation of laws along with public awareness and education of women concerning their rights and legal remedies will play a crucial role in eradicating cybercrimes from our society.