

AN ANALYSIS OF THE LAWS RELATING TO VICTIMIZATION OF WOMEN IN CYBERSPACE

PRAGNYA S. PATIL

Abstract: Victimization of women is found in every society since time immemorial. The Digital Era or The Era of Information Technology has placed its own challenges to Women. As Internet and computers have seeped into our lives fast and deep, they are no longer a luxury, but basic necessities. Though women have been benefitted by the raise of internet to a large extent, there is a darker side to it which haunts and hampers their progress. The rate of Online Victimization of women is growing larger every day. The paper concentrates on Cyber stalking, Voyeurism and cyber pornography which have grown to be a serious global issue and in particular, to Women. These types of cybercrimes are usually targeted against women in specific and are known to cause irreparable damage to the victims. Women no more feel safe online, owing to their growing vulnerability. The provisions of Information Technology Act 2000 and Indian Penal Code deal with these offences and the recent Criminal Law (Amendment) Act 2013 has contributed largely towards enacting a provision against Cyber Stalking and Voyeurism. However, the effectiveness of the legislations remains unclear. The present paper discusses the laws relating to this cyber victimization of women in India and its effectiveness.

Keywords: Victimizing women in cyberspace, Cyber Stalking, Cyber Pornography, Morphing, Voyeurism, I T Act 2000

Introduction: Victimization of women is a topic on which lot of ink and think has been devoted. Women have been categorized as vulnerable and have been further harassed in the name of protection in our cruel and ruthless society since ancient periods. However, since the Constitution of India took over the rule, the plight of women has been found improving gradually but promisingly. Victimization of women is found in every society since time immemorial. The Digital Era or The Era of Information Technology too has placed its own challenges to Women. The rate of Online Victimization of women is growing larger every day. As Internet and computers have seeped into our lives fast and deep, they are no longer a luxury but basic necessities. Though women have been benefitted by the raise of internet to a large extent, there is a darker side to it which haunts and hampers their progress. However, despite all of these, women are so insecure, their lives so unpredictable and fragile in the ruthless virtual world. The digital world is no exception to this. The virtual world today, has been a bread and butter rather than a luxury. It has seeped deep into our lifestyle. It has changed the status of women in a quite strong and positive manner, yet the negative side of it is quite dark. Women have been financially independent and are able to communicate and interact well owing to the computer and internet revolution, but are sadly enough, often fall prey to cyber crimes especially the hate crimes.

CYBER VICTIMIZATION OF WOMEN Cybercrimes are global phenomena and countering these crimes has been an issue of the hour. It is pertinent to note that some of these cyber crimes are targeted towards

women specifically and thus fall under the category of hate crimes. The most important among these women specific cyber crimes are, Cyber Stalking, Cyber Pornography, Voyeurism and Morphing. The recent Criminal Law (amendment) Act 2013 has brought in a welcome change by recognizing some of these crimes and introducing amendments into Indian Penal Code and other Acts for facilitating better criminal prosecution of the perpetrators of cyber criminals. The Information Technology Act 2000 and Indian Penal Code govern the law relating to cybercrimes in India.

A. CYBER STALKING:

In general terms Stalking means repeated acts of following a woman followed by harassment and /or threatening behavior. The recent *Criminal Law (Amendment) Act, 2013* has introduced amendments into Indian Penal Code wherein, the new **Section 354 D** which intends to protect women from being stalked by men. Thus, according to the provision, to follow a woman and contact, or attempt to contact her to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitor the use by a woman of the internet, email or any other form of electronic communication. The above definition includes both 'Stalking' in general and 'Cyber Stalking'. However, if the act was done in course of preventing or detecting a crime authorized by State or in compliance of certain law or was reasonable and justified, then the person will not be punished under this section. The punishment prescribed is imprisonment for not less than one year but which may extend to three years, and shall also fine. Before the said amendment, the accused were

charged under Section 503 and Sec 509 of IPC which covered any act intended to threaten or outrage the modesty of women. Ritu Kohli case was one of the first such cases decided by Indian Courts. Also Sec 66A of IT Act could be brought to the rescue as in *State of Tamil Nadu v. Suhas Katti* (SC 2004), where the accused posted obscene, defamatory messages about divorced woman in the Yahoo message group and advertised her as a solicitor for sex. This case is considered as one of the first cases to be booked under the Information Technology Act, 2000. He was convicted under sections 469, 509 of IPC and 67 of IT Act and was punished for 2 years RI and fine. However, the new specific provision on stalking has been a welcome change to the existing law.

B. CYBER PORNOGRAPHY: Cyber Pornography unfortunately, is not just about watching prurient material on the internet or computer, it involves much more. The trafficking, revenge porn, fraudulent misuse of private photos by so called lovers or friends etc. it could also include morphing. This leads to grave violation of privacy if without consent. Also the innocent viewers could be of any age groups and are usually exploited after showing such videos. Pornography the word has not given the legal connotation neither in India nor in any other part of the country. What amounts to obscenity varies from each society. The Supreme Court in *Ranjit Udeshi's Case* upheld the constitutional validity of the obscenity law on the ground that it constitutes a reasonable restriction on the right to freedom of expression, which is incorporated in Art. 19(2) (d) of the Constitution of India and also chose to apply the Hicklin test. In *Aveek Sarkar v. State of West Bengal* (the Supreme Court has held that a photograph of Boris Becker and his fiancée, in the nude, is not "obscene" within the meaning of S. 292 of the Indian Penal Code. This judgment is particularly significant because it expressly rejects the Hicklin Test, the archaic 1868 rule for determining obscenity, that the Court has regularly used in its history – most notably, to uphold the ban on *Lady Chatterly's Lover* in *Ranjit D. Udeshi v. State Of Maharashtra*, (1965 AIR 881, 1965 SCR (1)65). In contrast to the Hicklin Test, which was focused on individual or isolated aspects of an entire work that could be deemed obscene, as well as its impact on "vulnerable" sections of society, the Court adopts what it called the "community standards" test. Section 67, of the Information Technology Act 2000 deal with punishment for publishing or transmitting obscene material in electronic form and Section 67 A prescribes punishment for publishing or transmitting material containing sexually explicit act etc., Amendments of 2008 introduced new Section on Cyber pornography i.e. Section 67A. The Section makes publishing or transmitting of sexually explicit act or conduct illegal with a punishment of

imprisonment up to five years and with fine which may extend to ten lakh rupees for first offence and seven years for subsequent offences.

C. VOYEURISM AND MORPHING: These two crimes are of very recent origin and have crept-in with the advancement in the technology. The new technologies like micro cameras, video recorders, hacking tools, picture editing apps etc have facilitated these two crimes and have caused devastating results across the globe. These can be individually committed or committed in combination of Cyber Pornography and Cyber Stalking to give unthinkable damage to victim's life. There are numerous examples of Morphing and voyeurism around us in our national and international dailies. The social media is filled with messages to be careful while using public toilets, hotel rooms, and switching on of cameras through hacking etc which would all amount to acts of voyeurism. The new Section 354C of IPC introduced by the Criminal Law (Amendment) Act 2013, deals with *Voyeurism*, the provision protects the women. Any instance of capturing of images of women in private enclosures is punishable. The prohibited action is defined thus: "Watching or capturing a woman in "private act", which includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public." Herein both, watching or capturing women in private act are punishable. In case of first conviction, imprisonment not less than one year, but which may extend to three years, and fine, and on a second or subsequent conviction, imprisonment of not less than three years, but upto seven years, and fine.

This provision is a first attempt by legislators to curb this menace, though the section addresses the problem with a legal solution its fidelity would be proved once it stands the test of time. Further, Morphing involves editing of photos to create fake, filthy and prurient images. Women are largely under threat due to coward and revengeful posting of morphed photographs by perverts. This amounts to violation of I.T. Act, 2000 and attracts sec. 43 & 66 of the said Act. The violator can also be booked under defamation provisions under torts and section 499 and 500 of IPC. Such morphed images and videos are often used in instances of Cyber Stalking. It is often an act of revenge against the victim.

CRITICAL ANALYSIS

Cybercrimes being of recent origin the law relating to it is also just evolving. The victim often chooses not to report the cases, resulting in boost of confidence in the perpetrator. Application of these provisions

come to picture when the accused is identified and the evidences are produced in the proper condition. Owing to lack of expertise and training among the investigating officer and the rapid change in technology, the investigating agencies fail to gather and preserve the evidence hence the conviction fails.

Considering the irreparable loss suffered by victim and her family, rehabilitation of the victim should be introduced and interim compensation must be awarded. The method of complaining should be made easier and confidential.

Strengthening and equipping the cyber squad with required training, technological infrastructure and manpower is the need of the hour. Most importantly, we can achieve the desired results if we, as a society should join hands and stand as strength to the victims of such crimes. The main reason being that the accused aims to defame the victim and break her inner-self and no legislation can help solve this issue better if the society doesn't stand tough against these perverts.

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Ms. Pragnya S. Patil, Ph. D. Research Scholar,
P. G. Dept., of Studies in Law, Karnatak University, Dharwad, Karnataka