

Cyber Violence- Unpacking Case Histories from Counselling Centres,
Cyber Crime Cells

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Abstract

As the Internet becomes a significant part of human existence and a critical space for the voice of marginalized population to be acknowledged, a woman's inability to feel safe online is an impediment to her freedom and to her basic human rights. Yet the issue of online violence and harassment is often overlooked in discussions of violence against women. The problem is highly under-reported. The severity of violence is likely to be under-emphasized because the correlation between injuries sustained as a result of violence varies very little between severe and less severe instances of barbarity. It is a clear expression of gender discrimination and inequality that exists offline. Online, it simply amplifies. The first step to addressing online violence against women is to recognize that it is a legitimate and harmful manifestation of gender-based violence. In India, like anywhere else, online violence and harassment of women and marginalized genders and sexualities is rampant, in contrast to Internet's initial premise of equal opportunity and neutrality. The epidemic of bullying has also been another attention seeking problem in the internet. This can take the form of hacking, morphing of photographs, fake profiles on social networking sites or circulation of images without their consent - not from strangers alone but from those known to them. Or it can take the form of gendered hate mail, sexualised slurs, and uncomfortable references to body, nudity, sex life, and rape threats, which sometimes turn out to be explicit and graphic. Most of the recent cases show that once afflicted with violence, the chances of re-victimization are higher and more traumatizing. This research paper looks at the unrolled cases of online violence that has been reported, and the current legal background with special emphasis on the amended IT Act to comprehend the critical need of the hour.

Introduction

It has become appallingly obvious that our technology has exceeded our humanity. New technologies create new criminal opportunities. With the evolution of the Internet, along came another revolution of crime where the perpetrators commit acts of crime and wrongdoing on the World Wide Web. Internet crime takes many faces and is committed in diverse fashions. The world is fast moving and a proof of this is the ever-advancing technological developments. Technology has forever changed the world we live in. it has become a total phenomenon for civilization. The internet that we refer to today was born in 1989 when Tim Berners-Lee invented the World Wide Web. Since then, there has been no turning back. Inventions and innovations have been home to the world of internet. The pros and cons of this global network of inter-connectivity are widely discussed and debated. The beneficial changes that it has brought to the world are unquestionable. But, there arises a need to dig deeper into the disadvantages to see the real picture. Crimes visible in its physical nature is what had been brought to limelight all the while. While the violence in the cyber space still remains in the shade. Cyber Violence against women is one among those evils that needs to be looked into. Crimes against women are rampant in our society and today it takes the virtual form through cyber space.

Cases

In a survey, conducted by Freedom House, a Non Government Organization. It was found that 58 percent of 500 people surveyed reported cases of some form of cyber violence or the other. Expressing feminist views online invited offensive remarks.¹ Reports suggest that women are being threatened by their ex-boyfriends who, to take revenge, blackmail to reveal their intimate photos taken in the past to their current spouse and jeopardise their relationship, following which the woman chooses to end her life or in the rarest cases resort to police officers. One wouldn't find a speck of evidence of such cases because of the reluctance of the victims, who are fear ridden by the possibility of their family life, being affected to charge an FIR.

In an illustrious piece of writing 'Cyber crime against women, Part II: From the perspective of amended IT Act', cyber-crimes against women can be categorised into six types, namely harassment via email, cyber stalking, cyber pornography, defamation, morphing and email spoofing. Many categories of online crimes targeting women such as cyber flames, cyber eve teasing, cyber flirting, cyber cheating, have been embedded to the cyber-space realm in course of time. Cases of revenge pornography ie, non-consensual sharing of intimate sexual images by former partners, is on the rise in India, stimulated by the growing spread of social media and the veil of anonymity it offers. There are about 3000 revenge porn websites worldwide. In a 2016 survey conducted by Cyber & Law Foundation, an NGO in India pointed out that 27% of internet users aged 13 to 45 have been subjected to such cybercrimes.

To get a deeper picture of the present situation of the cyber violence faced by women, a study had been conducted to know more about the violence faced by women in the cyber world. Below given are the various issues for which first hand information could be gathered.

Case Study 1

An eminent female actor reported a case of cyber blackmail at the Ernakulam Central Police Station. She was pursuing a six-month TOEFL course at Ernakulam for which she resided at a women's hostel. It was during this while that she met the accused who in due time promised to marry her. However, when he approached her she was unaware of the fact that he was married to another woman and had children. Upon receiving information about this, she decided to end the relationship. The complainant went on to start her career as a budding actor in motion pictures. This was when the accused threatened to reveal their photographs of private and intimate moments which he had captured when they were in the relationship. He threatened to do this unless she agreed to pay him a large sum. As an actor who was gaining acceptance in the cinema field, she was terrified and devastated. Following this she had filed a complaint to the police station and it was settled for the time being with the accused agreeing not to pester her with

1 Japleen Pasricha (2016, May 18). "Violence" Online In India: Cybercrimes Against Women & Minorities on Social Media. Retrieved from https://feminisminindia.com/wp-content/uploads/2016/05/FII_cyberbullying_report_website.pdf

threats in the future. But, it so happened that the accused later on went to the victims house and tried to threaten her using a gun and had also tried to assault the victim's mother when she tried to defend. He also tried to threaten and defame the victim at the places where the victim was working during shoots. Later on, it was found that the accused went on to post the victim's photos on a social media website. It was also shared by many on various social media platforms. This led to the filing of the second complaint on which a First Information Report no.2079/17 was filed. The case was registered under section 511, 384, 506, 34 and 354 D(2) of IPC, 120(o) of KP Act and 67(A) of IT Act,2000 on punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form. The complainant made clear that she believed the accused to have mala-fide intentions to threaten her for money.²

This is a case of cyber blackmail which has had a rampant increase among the women of our society. Most women do not come forward and report their problems and threats due to fear of defamation or any other kind of threat.

Case Study 2

Another eminent female actor was bashed by people on social media websites because she chose to express her views on a public platform. The actor at the event of the International Film Festival of Kerala (IFFK) opened up to express her views on movies in the industry that were discriminatory to women. She cited a movie as an example and stated that the protagonist in the movie renders sexist and misogynistic dialogues. Following this she was severely trolled and bullied online by fans of the actor who played the role of the character mentioned. She approached the Ernakulam Police Station and a case was registered under sections 507 for criminal intimidation by an anonymous communication, 509 of IPC which deals with word, gesture or act intended to insult the modesty of a woman and 67 of IT Act on punishment for publishing or transmitting obscene material in electronic form. . The large amounts of 'obscene' material that circulate on the Internet have long attracted comment in India.

For getting first hand information about the issue and the various difficulties that the actress had to go through, a personal interview was conducted with Ms. Parvathy Thiruvoth Kottuvatta

“It never occurred to me that it was a rarity that people actually went ahead exercising the rights given by the government to protect themselves. I followed what I was educated. It is only now that I realise that the stigma around any kind of assault, our society's conditioning to resort to victim blaming as well as many loopholes to the investigation process stops many from filing cases against their assaulters and follow it through...Absolutely no one discouraged me. Many shared their concern about the case really going any far though. I have never shied away from speaking up. I knew I was in the right path and even while people could disagree with my ways and my opinions, absolutely no one has the right to assault me...There are so many factors here (why women don't speak up). From what I have studied, its lack of support from friends and family, the fear of victim/slut shaming. When it comes to women speaking up, it generally gets tied to the 'prestige' of the family. Many are discouraged by the constant intimidation especially when they are made to feel smaller and weaker as a gender. It is deeply rooted in how we bring

² Retrieved by way of questionnaire, Crime No: 2079/17 of Central Police Station, Ernakulam

up our children so it is hard to make sense to them and remind them of their rights as an individual. Those who get offended/threatened by women speaking up also resort to physical violence so those cases act as deterrent agents. It must also be noticed that the process of filing a case, following it up etc are not very easy, especially for women- so many do not wish to go through the hassle. Once again, the image of the victim (survivor) is what is attacked than the assaulter. Our families are our first educational institution. The idea of equal rights for all genders and respecting another's right to speak and their space to function must be taught in our families. We have a major problem therein. Women are always seen just for their gender and what their roles are for a family. Their individuality has to conform to what the family/society wishes so that there is lesser friction. It is generations of conditioning and it will take generations to alter/undo it. Teaching our women and children that they are individuals first, before their gender or religion or caste (other major triggers) every single day in everything they do will be a solid and consistent first step to take. I think our laws must be updated regularly and more often. As of now, with regards to cyber assault and crimes, I believe our laws don't take into account all the various aspects and ramifications of functioning in a virtual/social media world....Yes celebrities are easy targets too especially because people who claim to be admirers would not like to see beyond the image created by the work celebrities do. So they shut down anything outside the box they deem us fitting right into. I strongly feel we need a stronger and functional cyber cell team in each state and district. We need specially appointed staff and police personnel who will carry out the investigations in a fast track manner. We need to update our cyber laws. Section 66A of the IT Act was struck down and not replaced by a better one. That is of utmost importance here. Along with changes in laws, we also need constant awareness campaigns to undo the damage done by this long-standing stigma.”

In this aspect the social media can be seen as a double-edged tool. If it gives you a space to express yourself, it also creates space for people to respond violently to your thoughts and views. If it gives you anonymity, it also gives abusers or assaulters the anonymity. Women in India have seen both edges of this tool of which only very few have come forward to persecute the culprit through legal formalities. A huge section of the population going through this chooses to remain silent, majority of which is because they are not aware about their rights and the rest out of fear of damage to reputation and prestige. The question arises as to why cyber violence against women has to be addressed as an issue, to which the answer is that it limits our right to free and full participation, our freedom of expression and our right to safety and to privacy. The fact that it's in the virtual realm doesn't make it any less real. There is a tendency to either blame the victim for 'allowing' or 'provoking' abuse, or to urge the victim to just 'ignore' or block the messages. The resolution should not revolve around the curtailment of women's freedom but the betterment of the cyber space where women, children, youth and transgender can make their voices heard free from the fear of violence of all kinds.

Case Study 3

Another cyber-crime reported at the Ernakulam, Central Police Station is that of a woman who was defamed by way of edited photographs circulated on social media website Facebook. The complainant's photographs were captured during Dharma Raksha March by the accused. The

same photographs were edited and publicised sarcastically that depreciated the victim's role in the society. It has to be duly noted that an act that was considered as trivial by the one who committed it and the people who promoted it were charged with sections 501 IPC, 120(o) of Kerala police Act and 66(e) of IT Act.³

The issue of editing pictures or morphing has also seen utmost rise among the youth. This is an action of editing pictures to portray sarcasm which often causes humiliation to the victim.

Major Issues Faced in Tackling Cyber Crimes Against Women

The Indian Information Technology (IT) Act of 2000 is based on the 1997 United Nations Model Law on Electronic Commerce and focused on communications infrastructure and e-commerce initiatives.⁷ The IT Act included some penalties for economic crime committed online, but failed to address cybercrime against individuals.¹⁴ Amendments to the law passed in 2008 regulated more illegal cyber activities, including distribution of images depicting child sexual abuse. Women who are raped are often re-victimised when the images of their rape are recorded and used against them to perpetuate the cycle of violence.⁴

Nearly a third of survey respondents (thirty percent) had reported online abuse to an Indian law enforcement agency. Of those, just eleven percent said they were helpful, compared to fifty percent who found them only somewhat helpful, and another thirty eight percent who said they were not at all helpful. Over half (fifty two percent) said that officials do not take complaints of online harassment seriously. Thirty percent of survey respondents said they were not aware of laws to protect them online harassment, indicating a lack of information about their rights.⁵ Many consider that it is too much of an effort to report. Also, most law enforcement agencies, especially the Indian police, are not informed enough to adequately tackle the situation.

It has been seen that even after section 66A of the IT Act has been struck down, most police officers continue to charge cases under the same. This shows how much our police forces themselves are unaware and ignorant of the laws and its updated version. Most of the police officers who lack the technical competency have no idea how to produce evidence to these cases which in turn lead to accusing the wrong person. According to a magistrate Mr. John Varghese, the prosecutors need to put in more effort to fathom the context of cyber laws in-order to use them wisely and to improve them at various stages. To get data from computers calls for a hard disk with adequate storage capacity and requires funding from the government.

Agencies dealing with cases of cyber violence need to have a high degree of technical competency. They need to be well informed about the legal provisions, which, in this scenario, is primarily the IT (Amendment) Act, 2001 and few provisions in IPC. Since harm caused through cyber violence rarely inflict physical damage and the injury that is caused is trivial in comparison

3 Crime No: 2893/17 Central Police Station, Ernakulam

4 Anita, G., Niveditha, M. (2009, December 9). *Economic and Political Weekly*. <http://www.jstor.org/stable/25663650>

5 Japleen Pasricha (2016, May 18). "Violence" Online In India: Cybercrimes Against Women & Minorities on Social Media. Retrieved from https://feminisminindia.com/wp-content/uploads/2016/05/FII_cyberbullying_report_website.pdf

with crimes of physical damage such as rape, the preference given to the former by the police officers, prosecutors and judges are relatively less. If one weighs two offences, one being the theft of a car and one being the defamation case of a woman through social media platforms, the authorities would attach greater importance to the theft case. Yet another challenging issue is the fact that the cases dealing with issues other than cyber offences are much more in number that this very factor of immense work load compels the police officers to ignore the cyber-crimes to a great extent. People tend to behave differently as opposed to how they normally do, when they use their online identities. One who does not greet a stranger he sees on the road ends up losing that civic sense that he has in the physical world when he enters the cyber space. The screen that separates two persons is often used as a shield and hence the consequences are compromised. This happens because they are unaware of the gravity of their actions. The inadequacy in the number of authorities concentrating solely on cyber crimes might discourage one from coming forward and addressing the issue. Zooming into the image of Kerala, the only two cyber cells are located at Kochi and Thiruvananthapuram. For a person living in an area far away from these places, approaching the cell can be a tedious task.

Regional police stations should be given the responsibility of handling local cases. Or, separate wings specialised in cyber-crimes, competent to handle the cases can be set up. This can help solve the problem of lack of competency as well as relieve the other police officers from such cases. Also, special prosecutors need to be appointed for handling these cases. Another way by which law can be made accessible and approachable to victims is by using online portal. Ironically, this is a way by which one of those many pros of the cyber space can be highlighted.

A rapid increase in the use of computer and internet has given rise to new forms of crimes like publishing sexually explicit materials in electronic form, video voyeurism and breach of confidentiality and leakage of data by intermediary, e-commerce frauds like personation commonly known as Phishing, identity theft and offensive messages through communication services. - *Shreya Singhal vs. Union of India (UOI) (24.03.2015 - SC)*⁶. 66A which dealt with punishment for sending offensive messages through communication service, etc. was struck down not because it is outside the purview of Art 19(1)(a) alone but because of vice of vagueness and the use of loose language. None of the terms in 66A are even attempted to be defined and cannot be defined, the result being that innocent persons are roped in as well as those who are not. Such persons are not told clearly on which side of the line they fall; and it would be open to the authorities to be as arbitrary and whimsical as they like in booking such persons under the said Section. In fact, a large number of innocent persons have been booked and many instances have been given in the form of a note to the Court. The enforcement of the said Section would really be an insidious form of censorship which impairs a core value contained in Article 19(1)(a).

As has been argued by Additional Solicitor General Tushar Mehta, internet doesn't "operate in an institutional form." There is a need for a new law which is not vaguely drafted and is not misused by anyone to harass the others. Most of the people use the internet to advocate their views or as a platform for discussion and deliberation, but there are some miscreants who use it to defame others. If any violation happens there is a need for the perpetrators to be booked under IT Act. It also has to suffice the condition that the law doesn't curb our fundamental right to freedom of speech on the internet nor is it over-regulatory. We also have to look at the fact that the law is not

⁶ MANU/SC/0329/2015

over-regulatory and curbs our fundamental right to freedom of speech on the internet. There is a greater need to draft a law under the IT Act to deal with such cases and circumstances.

Conclusion

The issue of online violence targeted against women is largely under emphasized. The disregard to women is deep rooted in the Indian patriarchal society and it has followed this tradition on every avenue including that of cyber space. Irrespective of how any mechanism to curb cyber crimes are developed, the ultimate solution to this problem, like any other lies in our society. However new initiatives have been under taken by different organizations to bring a difference in the present situation. Numerous NGOs have been coming forward realizing the need of the hour. Also, in 2016, the Home Ministry announced that they plan to launch a portal by March, 2018 named “Cyber Crime Prevention against Women and Children” (CCPWC) that would allow Indian women to report complaints about online harassment. In the coming years with the concerted efforts of the legal fraternity, other governmental and non-governmental organizations and the society cyber crimes would be a story of the past.

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