

Case study 1

In 2015, Seema, a prominent women's rights activist at the grassroots, was invited by Chaipecharcha.com¹ – a popular social news aggregator and online discussion forum for one of its weekly 'Ask Me Anything' (AMA) sessions. Chaipecharcha's AMAs are structured as hour-long web chats, where achievers in different fields are invited to be a part of an open 'Question and Answer' session. Any person can log in to the session and pose a question, and participation is not moderated. Of course, the guest can always decide which questions to address and which questions to ignore.

The session that Seema was invited to, pertained to a rise in cases of gender based harassment in the India. During the interview, Seema was attacked by various trolls from anonymous handles. Some made rape threats. Some engaged in veiled sexual abuse. A few stopped at making generalised misogynistic statements. And there were others who just continued to be 'pests' seeking to disrupt the conversation, by incessantly posting irrelevant comments.

While the conversation was in progress, Chaipecharcha did not take any action against the trolls – such as blocking them or issuing stern warnings. This was despite Seema's repeated pleas to the admin support team of Chaipecharcha. The team maintained that as a web platform committed to free speech, their terms of use specified that they would function as an open, unmoderated space of discussion. When Seema refused to give up and persisted, by writing to the top management of Chaipecharcha to at least remove the offensive comments from their discussion archives, she was met with a stony silence. When she continued to write and seek explanations, she received a mail which said that as most of the trolls were in a local language, Chaipecharcha did not have the internal expertise to decide if her claims were correct. Also, the letter flagged that according to the new Internet Intermediary rules issued after the Supreme Court judgment in *Shreya Singhal vs Union of India*, Chaipecharcha did not have any liability for the actions of third-party users.

So, Seema decided to take action against the individual trolls and approached the local police station. The police said they could register a case only against the trolls who issued rape threats, for anonymous criminal intimidation. They said that for the generalised misogynistic abuse she received, there could be no case that could be filed. She went to a lawyer thinking that the police were uninformed. The lawyer explained to Seema that currently, Indian law has no provision to tackle gender-based hate speech and generalised misogynistic abuse in online spaces. A broad provision which had previously existed – Section 66 A of the IT Act which penalised 'grossly offensive' speech in online spaces – had been struck down by the Supreme Court in the *Shreya Singhal* case, as its vague wordings were seen as resulting in an unreasonable restriction on the freedom of speech and expression, and misuse by vested political interests.

Seema went back to the police and proceeded to file the case against those trolls who issued rape threats. The Cyber Crime Cell succeeded in tracing only one troller. He was identified to be living in Denmark, and so the police said that jurisdictional issues prevented them from pursuing the investigation and the case was dropped. Seema has since quit all participation in online discussion though she continues her grassroots activism.

¹ This case study is a work of fiction that is based on real accounts of online VAW and IT for Change's primary research on existing legal-institutional frameworks in the country.

Questions

1. In your opinion, should platforms like Chaipecharcha be held liable for acts of online violence committed by users on such spaces? Why/Why not?
2. Should we introduce a law that penalises gender-based hate speech in online spaces, including generalised hate speech? Or will this lead to the Section 66A type of problem where there was gross misuse by people in power?

If you want to read more on these issues, refer:

IT for Change. (January, 2017). Technology-mediated Violence against Women in India- How can we strengthen existing legal-institutional response mechanisms? Discussion Paper.

<http://itforchange.net/Technology-mediated-VAW-in-India-draft-ITforChange.pdf>