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Cyberbullying Laws in India

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ABSTRACT

India is a developing nation which has been showing a rapid growth in the not only the Cyber World but in all sectors, with latest technologies and high speed internet, India is not lacking behind, but along with growth in Cyber World there's also a significant growth in number of Cyber Crimes in India too. The internet has certainly become an indispensable part of our everyday lives. It has brought everyone together, it has completely evolved the way of connecting and communicating to people around the world, each and every information about everyone is available with a single click. With developing technology and advancements, Cyber Crime has also increased, Cyber Bullying, Cyber Stalking, Phishing, Spoofing, etc. are some Cyber Crimes but still all of them are not foreseeable. Cyberbullying is a sort of online communication in which a person or a group of person anguishes the reputation and privacy of a person, or pester, or threatens, leaving a long-lasting traumatizing impact on that person. It means using over the lawful limit and unapproved use of the internet affecting the life and remanence of a person.

This paper focuses at knowing the what cyberbullying means it causes as to why it happens, its various modes through which it is done, and repercussions, know how cyberbullying involving a major and an adolescent is different, and the cyberbullying laws in different countries worldwide and in Indian Legislations such as the Information Technology Act, 2000 & the Indian Penal Code,1860, and whether there is a provision for cyberbullying offence and are these remedies are ample enough to punish the bullies.

I. INTRODUCTION

In India, the net is easily available to each and every person, the country has made advancements, it has been showing advancement in each and every sector whether it may be health, economy, technology, forces and much more, with sudden advancement in technology in India, the internet is easily available to each and every one, “with over 400 million internet users as of 2018, making it the second-largest internet population in the world”² The number of cybercrimes in India have also been rapidly

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² Countries with the highest number of internet users as of June 2019 (April. 14, 2020)

increasing, advancement in technology also has some cons some of which are increase in Cyber Offences, “India has witnessed a 457% rise in cybercrime incidents under the Information Technology (IT) Act, 2000 from the year 2011 to 2016”³ everyone has access to mobile phones, computers and the internet, the three things which are mainly required to commit a cybercrime, along with a criminal mindset. It has become exceedingly easy for any person in India to commit a cybercrime, such as Transaction Fraud, Cyberbullying, Phishing, Spoofing, Cyberstalking, etc. concerned about the rapid growth of cyber-crimes in India, the Government of India passed the Information Technology Act 2000 to prevent cyber offences, still there are some cybercrimes which have not been discovered yet. Cyberbullying is one such crime, it can be described as targeting students of schools and colleges for harassing, hurting, torturing them online through social media with the help of just a mobile phone and the internet. In most cases, the teenagers / adolescents are victims in case of Cyberbullying since they get affected easily and there are more chances that they will not complain about it to anyone, thinking of about their reputation.

II. RESEARCH METHODOLOGY

The methodology applied in the present research paper is Doctrinal (Non-Empirical), definitive, depictive in nature. The resources used in the paper are secondary sources. These sources primarily include E-sources, articles, news reports and the Bare Acts, Information Technology Act, 2000 & Indian Penal Code, 1860.

III. LITERATURE REVIEW

B.S. Shivashankar & Aswathy Rajan (2018) in their research paper on, “A Critical Analysis of Cyber Bullying in India-with Special Reference to Bullying in College”⁴ found out that Cyberbullying can be frightful in coming times and few Indian Laws are properly outlined for cyber offences, but still many offences have not been discovered yet, there are numerous ways of committing a cyber offence, just like Cyberbullying, which can be horrible in future if no laws are made or are amended, which must be done according to the mentality and disposition of the children who are the main victims of it.

<https://www.statista.com/statistics/262966/number-of-internet-users-in-selected-countries/>

³ India saw 457% rise in Cybercrime in five years (April. 19, 2020) <https://telecom.economictimes.indiatimes.com/news/india-saw-457-rise-in-cybercrime-in-five-years-study/67455224>

⁴ B.S. Shivashankar & Aswathy Rajan, A Critical Analysis of Cyber Bullying in India-with Special Reference to Bullying in College, 17 IJPAM 119 (2018)

IV. WHAT IS CYBERBULLYING

Bullying can be described as an act of stalking, harming, abusing, harassing, or intimidating someone physically or mentally, the victim in bullying is mostly a minor not an adult. This happens mainly in schools and colleges in person, where the bully physically hurts the victim, whereas, Cyberbullying can be interpreted as an act of harassing, defaming, intimidating someone through the internet mainly with the help of mobile phones or computer, on social media, online chat groups, or any other online platform. It can also mean tarnishing someone's reputation deliberately with mala-fide intentions. Both Bullying and Cyberbullying leave a disturbing effect on the victim, and it is very difficult for the victims to get over it. Cyberbullying has been rapidly increasing in India, no doubt that people have internet access every time, and they do it without knowing how their act can affect the life of the person they are targeting, coping up with cyberbullying can be very difficult depending upon the level of bullying, and what can be the repercussions of cyberbullying. Cyberbullying can lead awful situations in which sometimes the victim may commit suicide, since they feel this is the only option left with them, they are not aware about the laws, and feel afraid to complain about the incident thinking it would create more mess, more people will know about the case and their reputation will be damaged. A Cyberbully can be someone the victim knows or someone they don't, it is not necessary that the bully may know the victim. The bully can hurt the victim even after being miles away from the victim, that's what makes it more dangerous and worst, the victim is unaware of who can target him for bullying, they cannot even take precautionary measures to save themselves, the victim does not know anything about the bully since in many cases the bullies keep their identities anonymous so that nobody can complain about them.

V. CAUSES OF CYBERBULLYING

Everything which is done has a reason behind it as to why it is being done, likewise Cyberbullying mainly happens because of many reasons, there is no specific reason for it, the people who are doing it lack sense of responsibility and understanding that how their act can affect any person mentally or physically. Some of the most common reasons due to which cyberbullying is done are:

1. **Power:** In schools, colleges or even at home, some people don't feel that they are powerful enough, here Cyberbullying acts as an exhibition of their power. Here the Bully is someone who has already been a victim of bullying in the past and acts as a victim until they

get online and go for an illegal option of bullying someone else. They feel that by doing this they will feel superior and powerful.

2. Social Status: Many people do cyberbullying thinking that by this they can substantiate their social status, they can get popular, by defaming someone else, making false statements, gossips, rumours, etc. Social Status and Power are two reasons of cyberbullying which sound almost similar but have a difference. The eventual outcome of cyberbullying for them is to gain recognition and have a high social status within the people who are their victims.

3. Revenge: The other common reason due to which cyberbullying happens is revenge and this can be one's own revenge or someone else's avenge, many times people harass, insult, defame, attack others to take revenge. The bully feels that this could be the best way to take revenge of something or to act as a saviour for others. These are actually those who remain silent in real world but become massively aggressive in the cyber world.

4. Entertainment: A lot of people do Cyberbullying for fun, when they feel bored and do not have anything to do, they go online and with the help of internet they have access to their probable target. To satisfy themselves people do cyberbullying since they just have to use their phone or sit in front of their computer and with a single click they can bully someone on the internet and enjoy, they like seeing others in trouble and get hurt. They do not understand that how their such act can affect the victim, even if the victim reacts to them, it will lead to excessive amount of bullying, such types of bully are desperate of reactions from their targets.

VI. MODES OF CYBERBULLYING

Cyberbullying can be done and is done through differing methods, the common factor in all of them is use of the internet and a mobile phone or computer and the intention to harm the victim, there can be numerous modes of doing, some of which may not have been discovered yet it but the most general / common modes that are used for cyberbullying are:

1. Flaming: Flaming means when the bully and the victim keep sending each other hate / insulting mails, texts, messages which can be extremely aggressive in nature and intimidating, hateful messages, threatening messages, sending someone's private pictures and many other things.

2. Excluding: Exclusion means when a single person, the victim / target of the bully is not included in a particular group or chat box and the remaining members of the group harass

and pass hateful messages regarding that person who has been targeted in the group, sharing explicit images and personal texts of that person is also included in it.

3. Outing: Outing means when a person's private picture or information is circulated to public at large or is uploaded on a social media platform intentionally with the purpose of harassing, taking revenge or simple bullying for entertainment. The person whose information or pictures have been circulated is considered "outed"⁵

4. Impersonating: Caricaturing, Impersonating or Masquerading simply means pretending to be someone else or creating a fake account on social media or any other platform. This is generally done to damage the image or reputation of the person who is being impersonated by the bully.

VII. REPERCUSSION OF CYBERBULLYING

Cyberbullying can be aggressive sometimes, even if not aggressive, still it leaves an outlasting traumatising effect on the victim, psychologically/mentally, being harassed in front of everyone on social media or any other online public platform can make the child feel ashamed, weak, pressurized and disgusting. The victims is always a minor in case of cyberbullying, they feel afraid to complain about the bully since they are not aware about what is happening with them and whether it is a crime or a joke feel everyone will blame them and think that they are weak and vulnerable. Many times if the level of cyberbullying is extreme, it can lead to some serious situations in which the victim commits suicide under the social pressure, being targeted by everyone for no reason, they start feeling suffocated for no reason, or they may release their anger on the bully or someone else. Even if someone does not commit suicide, they feel vulnerable for rest of their lives, it makes their lives miserable, they struggle in focusing on their studies, they stop doing everything which involves some kind of interaction, they don't feel safe. They feel insulted for being themselves, they feel unprotected. Many times, the victims isolate themselves for the rest of their lives, they don't share anything with anyone, they lose interest in everything that excites them. If the victim somehow passes through that phase, they feel the need to take revenge or release their anger and for that they turn themselves into a bully and then hurt others or their own bully thinking that it will be justice for them. Cyberbullying can leave a traumatising effect on the victim which the bully doesn't consider or keep in mind before bullying them, it can leave a scar on them for the rest of their lives.

⁵ *Different Types of Cyberbullying* (April. 26, 2020) <https://www.endcyberbullying.org/5-different-types-of-cyberbullying/>

VIII. DIFFERENCE BETWEEN CYBERSTALKING & CYBERBULLYING

Cyberstalking can be interpreted as an act of stalking someone online through internet on social media or any other online platform, to know about them without their knowledge, knowing their whereabouts, their daily activities with an intention to harm them in future or present, whereas cyberbullying is an act of harassing, hurting, forcing someone to do anything, insulting, torturing, stalking someone online with the help of the internet, there are various ways of cyberbullying someone, often people confuse cyberstalking with cyberbullying but Cyberstalking is one way of Cyberbullying. Cyberstalking was introduced as a criminal offence in 2013⁶ but Cyberbullying has not been introduced as an offence yet.

IX. CYBERBULLYING LAWS IN DIFFERENT COUNTRIES:

Canada:

Canada is the only country in the world with the strictest laws to deal with Cyberbullying⁷. They have a legislation called the “Education Act” which deals with cyberbullying, under which if a person is found guilty of cyberbullying, he/she may be charged a fine of \$500 or 6 months of imprisonment or more.

European Countries:

To deal with cyberbullying, online harassment, Masquerading or any other Cybercrime, all European countries have the European Data Protection Legislation.

United Kingdom:

For dealing with Cyberbullying cases, the United Kingdom has the Malicious Communications Act⁸ legislation under which, if found a person is involved in cyberbullying, it could lead to burly fine or imprisonment for six months or more. There are other laws like Computer Misuse Act, 1990 and various other legislations for dealing with it.

United States of America

In USA, the Central Legislation for Cyberbullying crimes is the Megan Meier Cyberbullying Prevent Act, 33, though there are different legislations in different states,

Hawaii: As per the SB2094 Law, if a student gets involved in the act of cyberbullying,

⁶ **B.S. Shivashankar & Aswathy Rajan**, *A Critical Analysis of Cyber Bullying in India-with Special Reference to Bullying in College*, 17 *IJPAM* 119 (2018)

⁷ *A sampling of cyberbullying laws around the world* (May. 2, 2020) <http://socialna-akademija.si/joiningforces/4-4-1-a-sampling-of-cyber-bullying-laws-around-the-world/>

⁸ *Cyberbullying Laws around the globe* (April. 26, 2020) <https://resources.uknowkids.com/blog/cyberbullying-laws-around-the-globe-where-is-legislation-strongest>

he/she may be charged with \$100 fine.

- **Louisiana:** As per the H.B.1259 Act, 989, if a student is found blameable of cyberbullying he may be charged with a \$500- or six-months imprisonment.
- **Maryland:** According to the Grace's Law, the cyberbullies must be charged with a \$500 fine, Wrongdoing and one year imprisonment.
- **North Carolina:** As per the 14-458.1, the cyberbullies are charged with misdemeanour for one year in a major and class two misdemeanour if a minor.
- **Tennessee:** As per the SB, a person involved in cyberbullying or online threatening must be charged with a \$2500 fine along with imprisonment for one year and misdemeanour.

X. REDRESSAL AVAILABLE UNDER INDIAN LAWS:

Information Technology Act 2000⁹

The Information Technology Act, 2000 (Amended in 2008), is an Indian legislation passed by the Government of India for dealing with crimes pertaining to the internet or cyberspace, and punishments for these offences. This act describes the cyber offences and punishment for each offence, Cyberbullying is one such offence which leaves a traumatizing effect on the victim for life time, they cannot get over it easily, sometimes it is up to such extreme extent that the victim may commit suicide. It is hard to believe that there is no specific law to deal with cyberbullying in India, but it is true, with cyberbullying rapidly increasing in India, it is a shocking fact. In the Amendment made in 2013 in the act, the offence of cyberstalking was introduced as a criminal offence but cyberbullying has not been yet. Nevertheless, there are certain sections under Chapter XI of the act which may provide remedy for the actions of cyberbullying till some extent:

- Section 66 (A) – This section deals with the punishment for the offence of sending objectionable, derogatory, abusive, hurtful messages or material online through the internet on any social media or any other web chat room or platform.
- Section 66 (D) - “Punishment for cheating by personation by using computer resource”¹⁰ If a person deceives, cheats someone through the internet on a social media or any other online platform, that person should be punished for up to 3 years of imprisonment and fine of up to 1 lakh rupees.

⁹ The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India)

¹⁰ The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India)

- Section 66 (E) - This section deals with the punishment for infringement of privacy, if a person violates someone's privacy digitally, using their pictures, sharing information, he is guilty for cyberbullying in a way and that person must be charged with a fine up to 3 lakh rupees or imprisonment for up to 3 years under this section.
- Section 67 - This section of the act deals with the punishment for uploading, transferring, circulating offensive, vulgar, indecorous material on the internet / cyberspace, with a fine up to 10 lakh rupees or imprisonment for up to 5 years.

Indian Penal Code 1860¹¹

“The Indian Penal Code (IPC) is the official criminal code of India”. This legislation provides punishment for criminal offences but under this legislation also there is no specific laws against cyberbullying, but still there are some sections that may be used for the offences which somehow are a part of cyberbullying but not specifically cyberbullying.

- Section 507: Any person who intimidates someone anonymously, gives a threat, forces them to do something without their will, then the person must be punished with up to 2 years of imprisonment. With the worth of the word Anonymous, this is also included under anti-bullying or cyberbullying offences.
- Section 354 (C): This section provides punishment for the wrongful act of clicking pictures of women without their permission, or keeping an eye on them where they expect to be alone or where they are involved in a private activity, and want nobody to see them, must be charged with fine under first conviction and imprisonment in between 1 to 3 years. If it continues even after being punished, the imprisonment tenure will increase to 3 to 7 years and further. Under this section if the cyberbully uploads these images, he may be punished for the same.
- Section 354 (D): Any person found guilty of stalking someone, monitoring someone's private activities, their whereabouts, their daily lives, without their permission and knowledge on the internet with an intention to harm or hurt that person, which is somehow cyberbullying, the person stalking must be punished with up to 3 years.
- Section 499 – This section provides punishment for the people sending defamatory messages to any person¹², this can be though on email or any other platform also with the help of internet, if it is done on social media or online, it may come under cyberbullying, it will affect the psychological condition of the victim / target.

¹¹ Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India)

¹² Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India)

XI. CONCLUSION

Through this research paper on Cyberbullying Laws in India, it is concluded that cyberbullying is a vicious act of defaming, stalking, harassing, torturing, hurting someone over the internet on a social media platform or any other online public forum, with the help of just a mobile phone or computer and the internet, which is easily available to each and every one due to extreme advancement in technology, and it can be done even after being far away from the victim, this is what makes it more dangerous than normal bullying and how it can leave a traumatising effect on the victim, sometimes the bullying is so aggressive that the victims may commit suicide since they don't feel like sharing their problems thinking that everyone will get to know about it and their reputation will be tarnished in front of the public. To deal with cyberbullying Indian laws are not competent enough, there is no specific provision in the Information Technology Act 2000, the very law which was made to punish the cyber offenders, it looks like the Government of India was not well aware about the concept of Cyberbullying during the time of drafting / passing of this act and the Indian Penal Code 1860 which is the principal criminal code of India.

XII. SUGGESTIONS

Through the research upon the Cyberbullying Laws in India, it is suggested there is a serious need of amending the Indian Cyber Laws are, since cyberbullying is not yet in much people's knowledge including the Government, even of those who are doing it don't know what they are doing, but it has been rapidly increasing and before it reaches to an extreme level where it will become very difficult to manage its consequences, the Government of India should make amendments in current legislations or should pass a new legislation to punish the cyberbullies. Cyberbullies bash the victims aggressively, there is an urgent need of an amendment or a new specific law to deal with cyberbullying, since the cases are increasing on a daily basis, people are unaware of the fact that they are being cyber-bullied, they don't know what it is and the Government must take initiative to aware the public about the crime so that the bullies may stop and the victims can complain about what they suffered or are suffering, which can be done only after there are particular laws to punish the cyberbullies. The punishment must depend upon the level of bullying, and what effect it left on the victim. The way Cyberstalking was introduced as a criminal offence in the amendment made in 2013, Cyberbullying must be considered as a criminal offence too.

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