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## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **CYBER BULLYING AND HARASSMENT:** **LEGAL REMEDIES AND LIMITATIONS**

AUTHORED BY - JAISMIN TANWAR<sup>1</sup>

## **Abstract**

We are living in a digital era, where everyone has a means to connect with the internet. With the increasing number of people using internet globally the problem of cyber bullying and harassment is also increasing day by day. Cyber bullying means when a person or a group of persons are being targeted or harassed by a person or group of persons with the use of digital technologies. It is a repetitive behaviour with the intention to cause harm. This has become an issue which is faced by the society as whole and is necessary to be kept in check. There can be serious consequences of cyber bullying and harassment resulting in emotional, psychological and even physical distress. This article will discuss the remedies available to the people who are facing the problem of cyber bullying and the limitations related to it.

**Key words:** Cyber bullying, legal framework in India, preventing cyber bullying, types of cyber bullying.

## **INTRODUCTION**

“Anyone can become a victim of cyber bullying<sup>2</sup>.”

In today's age the use of social media by teenagers and young people is rapidly increasing. It has become a race to go viral and become a social media influencer and make a career out of it. Sometimes the content they put out is not everyone's cup of tea and they start to spreading hate comments and harassing the said creator.

According to UNICEF when bullying happens it can feel as if you are being attacked everywhere, even inside your own home. It can seem like there is no escape. The effects can last for a very long time and it can affect a person in so many ways

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<sup>2</sup> UNICEF for every child



Cyber bullying is defined by the NATIONAL CRIME PREVENTION COUNCIL as the process of using the internet, cell phones or other devices to send or post text or images intended to hurt or embarrass another person. The term cyber bullying was first coined by a Canadian named Bill Belsey. It can also be observed during online gaming. Hate speech or commenting hate in the comments or messages or e-mails is also cyber bullying.

One in a three kid engages in some kind of bullying and one in five children has suffered from some kind of cyber bullying and these stats are going to keep on increasing if some serious precautions and steps are not taken to solve the problem or at least to bring these numbers down. Peoples are practically strangers online and sometimes giving them access to one's daily life through social media might result in harassment or cyber bullying. People tend to hide behind the fact that they can say anything because they are hiding behind a screen and it usually people who are being harassed end up depressed and needing a break. because nobody takes it seriously. The invention of technology was to connect people globally and make it easier for them to be able to talk to anyone around the world, to share their community, culture, ideas, etc., the main platform is social media like Instagram, Facebook, YouTube, etc, and many such. bullies hide behind a screen and harass people because they think that there will be no consequences because there is no legal remedy available to the victim. There is lack of accountability by the harasser and it often goes unchecked as there is no one overseeing it.

There was a widespread increase in the usage of internet during last decade. People were being introduced so many ways to use the internet to make their life easier and the developers of the apps were also making new apps every other day. Let us see how many different types of cyber bullying occur nowadays.

### **Types of cyberbullying**

1. Doxing - It is also known as outing. It means when some sensitive or personal information about someone is revealed or leaked without their consent with the intent to cause harm or humiliation to that person. Exposing sensitive photos or sharing of private messages in the public is a case of cyberbullying.
2. Frapping - When someone uses one's social media account to post something derogatory, inappropriate photographs and videos and messages with the intention of

damaging the reputation of the person whose account is being used to post such things. This type of cyberbullying is also called online defamation.

3. Social exclusion - It is cyberbullying to exclude a person intentionally from a group or any activity and make them feel lonely and isolated from everyone else. It has severe emotional and mental consequences.
4. Flaming or Roasting - Attacking a person by sending them direct text, messages, emails, or comments which are offensive and personal and aggressive to aggravate and provoke them. Using abusive language with the intention to provoke someone to an argument online is an example of flaming.
5. Cyberstalking - It is a type of stalking which is done digitally. It threatens a person for their safety. It can be done by keeping the tracks of a person's online activity or their physical location with the help of the internet. It can be done to an individual or a group of people or an organisation. It can also include defamation, online slander, false accusations etc. it also includes tracking someone's location using GPS.

It is a criminal offence which was defined under sec. 354 IPC and now u/s 78 in Bhartiya Nyaya Sanhita. It includes sending or posting obscene content, misusing a victim's personal information to post an obscene message, monitoring a victim's online activity, communicating with a victim without their interest.

6. Harassment - It usually pertains to the unconsented behaviour of a person which includes threatening or harassing emails or direct messages or any kind of blog entries or making an entire website just for the sole intention of tormenting or harassing a person. It may also include unwarranted sexually explicit images or texts, offensive advances on social media, threats of violence, etc. It follows a constant pattern of the messages with the intention of causing hurt.
7. Impersonation - It is one of the most common types of Cybercrime and cyber bullying. It means when a person is pretending to be someone else with the intention of damaging that person reputation by posing to be him and posting malicious comments or spreading hate. It can also be done when someone hacks into a someone's social networks or his emails and pretends to be them with any kind of malicious intent. Sensitive information about the victim or people related to the victim can be shared publicly and it can cause severe damage to the life of the victim.
8. Trolling - It has increased with the increasing use of social media and such platforms where commenting is allowed. It can be done solely for the amusement of the preparator, or just because of the fact that the victim is easily available for the bullies

to troll. Public figures, celebrities are usually the target of trolling. It can be done by posting hate comments or offensive messages to the victim just to disturb the victim mentally or emotionally. It has really become a very serious offence of late.

## **Legal framework in India**

### **INFORMATION TECHNOLOGY ACT, 2000<sup>3</sup>**

This act was passed in the year 2000 and it was revised in the year 2008 with the main purpose to combat modern cybercrimes and digital offences.

Section 66A: The main intention of this clause was to punish the sending of abusive messages via internet but it was challenged in the supreme court. It was held that section 66A of IT Act, 2000 was ambiguous and violative of the right of freedom of speech and it takes within its range the speech that is innocent as well. It was of the view that that even if section 66A is struck down, provisions in the Indian Penal Code, 1860 will continue to be applicable prohibiting racist speech and any speech that outrages the modesty of the woman or any speech aimed at the promotion of enmity, abusive language, criminal intimidation etc. The name of the case was *Shreya Singhal v. UOI* (2015<sup>4</sup>)

Section 66C: section 66 C deals with the identity theft and the punishment for it. It is punishable with imprisonment up to three years and may also be fined with up to one lakh rupees.

Section 66D: this section addresses the punishment for cheating by personation using a computer resource. The punishment for this offence is up to three years of imprisonment and may be up to one lakh rupees fine. Some examples of this are creating a fake facebook profile or hacking into someone's social media account.

Section 66E: Under this section whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

Section 67: this section deals with whoever publishes or transmits or causes to be published or

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<sup>3</sup> Information technology act, 2000 which was amended and revised in 2008

<sup>4</sup> *Shreya Singhal v. union of India* on 25 March, 2015

transmitted in electronic form any material which contains sexually explicit act or conduct shall be punished with on first conviction with imprisonment with description for a term which may extend up to five years and a fine which may extend up to ten lakhs. This section only penalizes the transmission and publication of obscene material. Viewing, downloading and possessing such content is not punishable unless the victims are minors.

Section 67A: this act deals with the punishment for publishing or transmitting material that contains sexually explicit acts or conduct in electronic form. Under this act the first conviction is punished with imprisonment up to five years and a fine up to ten lakh rupees and second or subsequent conviction leads to imprisonment up to seven years and a fine up to ten lakh rupees. Section 67B: This is same as section 67A but the difference is that this is for the children. The supreme court clarified that this section criminalizes the possession and consumption of child pornography. The PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) also has very strict punishment against child pornography.

Section 69A: this section gives the power to Indian government to block online content. It allows the government to block access to any information transmitted, received, stored, hosted, or generated in any computer resource if it deems it a threat to India's sovereignty, national security or public order.

The case of Rini Johar v. state of MP.(2019) is a very important case which addressed the context severity of workplace harassment and abuse. In this the court recognized the level of online abuse and affirmed that the legal provisions which already existed could be applied to combat the cyberbullying in employment settings.

### **BHARTIYA NYAYA SANHITA, 2023**

Section 78: This section is about stalking. Under this stalking is defined as the act of a man repeatedly following or contacting a woman despite clear signs of disinterest, or monitoring her activity online.

Section 351: this section deals with criminal intimidation. It refers to any act where a person threatens another, causing harm or fear. This can also involve threat to a person's life, property or reputation. This can also be done digitally.



Section 356: this section deals with the act of defamation. Defamation is defined as the act of making or publishing an imputation about a person with the intention of harming their reputation. There are some exceptions to defamation which includes that sharing of true facts or information in the interest of public, criticising somebody in good faith, or making a statement in jest as long as it doesn't seriously damage the reputation of a person.

### **NATIONAL CYBER CRIME REPORTING PORTAL**

This is a Government of India initiative portal which was made to facilitate complainants or victims to report complaints online for cybercrime. Here anyone can file any complain as this portal caters to all types of cybercrime. There are two options available in this portal. One is to report crime related to women/ child and the second one is to report other cybercrimes. The second one can be used to report the cases of cyber bullying and if the case is related to the first one than it can be reported in that section. It has been advised to keep the record of all the evidences which can prove the incident of cyberbullying and submit all the necessary evidences at the same portal. Once the complaint has been filed it can not be withdrawn and if the case is related to women or child the complaint can not be withdrawn.

### **CENTRE FOR SOCIAL RESEARCH**

This site gives all the necessary helpline numbers which are helpful if someone you know has or currently encountering online harassment of any sorts which may be bullying, cyber stalking, online impersonation, cat fishing, hate speech or threat of violence, cyber predators or trolling, then you can report these instances on the said helpline numbers and sensitive reports can also be kept anonymous. ([www.csrindia.org](http://www.csrindia.org))

There are also some basic safety measures that can be taken like you can report the bully to on the platform so that, you can block them so that they can not contact you any further. You should stop engaging with the trolls as they will only be encouraged if you continue talking to them. You can use many different methods which are provided by the applications itself to remedy the problem. Almost all the platforms provide two factor authentication which can be used to be safe from hackers and you should always use secure network to lower the risk of getting hacked. These are only some of the methods which can be used for keeping yourself cyber safe.

## **What can be the effects and limitations of cyberbullying**

There can be severe effects of cyberbullying or bullying in general. The worst, case scenario is when the victim ends up committing suicide. It can lead to mental, emotional and sometimes even physical trauma for the victim. It can lead to the lack of self confidence or highly doubting themselves due to them being bullied and leaving them to being vulnerable and at the risk of being bullied again. The youth is highly likely to be cyberbullied and there can be many reasons for that like why are lack of parental control, insufficient experience of the internet, etc. there is still lack of awareness of what is cyberbullying. India is one of the most populated countries and the internet is being used by so many people now and they might not even be aware about the fact that they are even being bullied by anyone. There are certain limitations Lack of awareness about the legal remedies available to the public. Negative effects of cyber bullying on young minds, and experiencing emotional, mental and physical harm. It creates an unsafe environment for the people and makes them feel socially isolated and feeling depressed. In the case for the perpetrator it may lead to them coming more heinous crimes if they are left unchecked.

There have been many instances of people belonging to LGBTQ+ being bullied online just because they are not accepted by someone.

In a study by Rhea Maheshwari 1 in 10 Indian Adolescents faces cyberbullying, half of them don't even report it. It can be due to the fact that they were not even supposed to be on any kind of social media platform but they still are and it can be because of the fact that if they are not then they will be out of the loop and will suffer socially with their peers. They then do not tell their parents or anyone adult who might be able to help them due to fear.

It can also be said that the reason why bullying someone online or via internet is easy because the bully can remain anonymous and hide behind a screen while the victim keeps on facing the backlash of being bullied. It can also become hard to identify who the aggressor is because often they are the people close to us rather than some stranger. It has also lead to the increase in the mental health related issues and a decline in the academic achievements.

There is not enough research and development on the topic of cyber bullying and nor there are any comprehensive laws for the same matter. It hinders the policy makers to create viable

solutions for the problem of cyber bullying. It is often not taken seriously by people and their solution is usually to just get off the internet to stop being bullied, it gives the bullies a new sense of achievement to drive someone off of the social media platforms and they tend to do it again and with more force than before. There is a crucial need to develop legal provisions and creating awareness about the issues in the society and ensuring people that if they are in such a situation there are certain laws that they can use to remedy this problem and that the government is making conscious efforts to help people with this problem. Cyber bullying should be addressed to create a safer environment for the children and society as whole. There is a huge technology illiteracy still in among the population of India, there should be some initiatives that should be launched by the government to spread awareness about it.

### **What can be done to prevent cyber bullying**

“For bullying to be stopped it needs to be identified and reporting it is key”

People should be made aware about the pros and cons of social media. They should be made aware about the consequences of spreading hate online and what effect it can make on the life of people. The main motive of such platforms was to connect people globally, to exchange values and knowledge and culture. Strict actions should be taken against the bullies and precedents must be set so that it can be used as an example for the people to not to engage in cyber bullying. Everyone has a digital footprint and it should be made abundantly clear to all the bullies that they can and will be caught one day, just because they think that they can hide behind a screen forever it does not necessarily mean that they will never be caught.

“We need to be thoughtful about what we share or say that may hurt others”

It can be helpful to collect and keep a record of all the evidences like text messages, emails, any screenshot of social media posts, etc. to show what’s been going on. It can also help to show the bully that their behaviour is unacceptable. If you are in any kind of immediate danger, then you should contact the police or emergency services.

### **Conclusion**

There are a very few legal researches and studies done on the topic of cyber bullying, and its effects on teenagers and adult. It causes severe mental, physical and emotional trauma to its victims and makes it very difficult for them to overcome it. With the transformation of technology, government should also make amendments to the laws to make them up to date.

Formation of new agencies is important to be able to curb the problem. Awareness should be spread about all the legal remedies available to the victim and measures should be taken to reduce the number of cases of cyber bullying.

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