

# A Review On Constitutional Safeguards Against Cybercrime Targeting Women

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**Abstract:** The increasing dependence on digital platforms and information technologies has led to the emergence of cybercrimes that disproportionately target women. As India advances technologically, incidents of online abuse, harassment, privacy invasion, and digital exploitation of women have risen sharply. The Indian Constitution, through its provisions and judicial interpretations, offers various safeguards aimed at protecting women's dignity, privacy, and freedom in cyberspace. This review explores the constitutional and legal frameworks governing cybercrimes against women, including key provisions under Articles 14, 19, and 21, and landmark judgments such as *Shreya Singhal v. Union of India*. It also highlights the growing significance of the right to privacy & freedom of expression in the digital age. The study emphasizes the urgent need for stronger enforcement mechanisms, judicial vigilance, and public awareness to ensure that cyberspace remains a secure and equitable platform for women. By examining constitutional guarantees, legislative measures, and judicial perspectives, this paper seeks to underline the importance of upholding women's rights and human dignity in the evolving digital environment.

**Keywords:** Women, Rights, Human Dignity, Provisions, Indian Constitution.

## INTRODUCTION

Many criminals take use of the instantaneous, real-time nature of computers to carry out a wide variety of illegal acts, some of which might have devastating consequences. With the constant development of new technologies, new forms of cybercrime have emerged. As much as new technology is improving people's lives and making some tasks easier and more efficient, it is also opening the door for criminals to commit crimes that may hurt individuals, groups, communities, or even nations. The annual net loss for every nation is thousands of dollars, according to the global economic crime report. Although India's recorded crime rate is far lower at 3% than the United States' 23%, the nation is still developing and, as a result, more crimes are occurring there due to rising levels of both technology and user awareness. Without prompt and stringent action, India would similarly see a large proportion of cybercrime in a short amount of time. Statistics show that more cases are filed under the IT Act than the IPC in India. I think it's safe to say that the crime rate is rising at an alarming pace with the development of new technologies. India has to design stricter rules and regulations to rein in these occurrences. The majority of these instances involve invasions of privacy or other forms

of individual freedom. The government must take decisive action to combat these crimes and should strive to establish a precise definition of online and offline privacy infringement. The following table shows the study's findings about the total number of cases lodged under the IT Act and the IPC in India. [1]

## **WOMEN'S RIGHTS AND THE INDIAN CONSTITUTION**

The society subjected her to mental and physical anguish. Finding her position in society and her social standing were also challenges she was facing. Laws protecting Indian women from psychological and physical abuse were urgently needed at that era so that they might rise in the social hierarchy. We can see a dramatic shift in the status and perception of Indian women today because Dr. B. R. Ambedkar, the writer of our Indian constitution, made some positive and necessary moves at that time to empower Indian women and give them more agency in society. Indian women have achieved a position of dignity as a result of the dramatic changes brought about by our constitution and their own efforts. [2]

In addition to guaranteeing women's equality, India's constitution gives the government the authority to eradicate discrimination against women and their rights, which in turn helps to alleviate the social, economic, educational, and political disadvantages that women in India endure. In addition to guaranteeing equal treatment under the law & equal protection under the law, fundamental rights also prohibit discrimination based on place of birth & provide, race, sex, caste or religion that all people have equal opportunity in job concerns.

According to Article 39(a), the state must ensure that all citizens, regardless of gender, have access to sufficient means of subsistence.

- In India, men and women are guaranteed equal pay for equal work under Article 39 (d).
- The state has a responsibility to safeguard the well-being of female workers and to ensure that they are not economically pressured into jobs that are not a suitable match for their talents, as stated in Article 39(e).
- It is the responsibility of the state to ensure that its citizens have access to maternity leave and safe and humane working conditions. [3]

Legal Rights to Women:

1. The right to be anonymous.
2. The right to be free from workplace harassment.

3. The prohibition of domestic abuse.
4. The right to decent treatment.

### **CYBERCRIME AGAINST WOMEN: A HUMAN RIGHTS VIOLATION**

In order to encourage public engagement and discourse, accountability, human development, sustainable development, & the enjoyment of all other rights, the United Nations has advocated for the premise that speech is vital. A free & democratic society cannot exist without the right to free speech. [4]

The protection of human rights & promotion rely heavily on the freedom of speech, which is the bedrock of openness, accountability, and transparency in a democratic society. In addition to protecting individual liberty and variety, it is an effective means of preserving the other basic rights. Both online and offline forms of media have revolutionized modern discourse by giving more people a platform to share their stories, expanding people's access to information, and encouraging them to get involved on a global scale.

While the internet has opened up many new possibilities, it has also opened up new ways that women and girls may be violently attacked. Gender-based abuse, or cyber-violence, is on the rise and affects people all around the world, regardless of their socioeconomic status or cultural background. Not only does it put people's lives and dignity at risk, but it also runs counter to the UN Charter's stated aims of promoting world peace, equality, or sustainable development. [5] All people, regardless of gender, color, or nationality, have the same fundamental human rights, which include the freedom from torture and discrimination as well as the rights to life, liberty, dignity, and education, as stated by the United Nations. There is a grave danger to gender equality as well as human rights on a global scale when women experience cyber-violence or harassment, which violates their basic rights to live in dignity, to be free from abuse, and to have good physical and mental health. [6]

### **SOCIAL MEDIA AND THE RIGHT TO FREE EXPRESSION ARTICLE 19(1) (A)**

The Internet and social media have evolved into potent mediums in the contemporary digital age, allowing individuals to openly communicate, disseminate information, and brainstorm ideas without limitations. In recent years, these virtual communities have been pivotal in worldwide campaigns for human rights, equality, transparency, and justice. These platforms have made it easier for people to connect with one another and question established power

structures, which in turn has empowered them to demand change. A fundamental human right, according to the Special Rapporteur of U.N on the promotion & protection of the right to freedom of speech and opinion, is access to the Internet. Internet users' ability to freely express themselves is emphasized by this recognition of the medium's significance. It is imperative that states maintain reliable internet connections and provide affordable access for all citizens, irrespective of political unrest.

Article 19(2) of the Indian Constitution makes it clear that "reasonable restrictions" are in place to protect the country's security, public order, and territorial integrity, therefore limiting this right. Although the government has the primary responsibility for safeguarding human rights and fundamental freedoms, people and non-governmental organizations also contribute significantly to upholding a just and equitable society. All citizens are guaranteed the freedom of expression, association, peaceful assembly, and authorized vocations under Article 19(1)(a). Everyone has the fundamental right to seek, receive, & share ideas and information regardless of their location or the medium used, as SC reiterated in the case of *Maneka Gandhi v. Union of India*.

## **RIGHT TO PRIVACYON INTERNET INDIAN SCENARIO**

Data saved, uploaded, downloaded, connected, or disseminated by electronic means like computers, mobile phones, etc. may be easily exchanged on the vast platform known as the Internet. The proliferation of internet services has led many people to feel comfortable enough to share certain private details about themselves online. As a consequence, there have been a number of cases of people having their personal information stolen, such as the koobface malware that infiltrated Facebook and sold users' data for illicit purposes. Cases like *Real Networks* and *Double Click* include defendants who obtained plaintiffs' private information without their knowledge or consent and then sold it to other parties. A number of criteria have been proposed by Daniel J. Solove to assess the potential "harm" that might result from an invasion of one's right to privacy while using the internet. Information gathering, processing, distribution, and invasion are the four main categories into which these damages fall. Consequently, robust privacy regulations were necessary to protect the integrity of the internet in relation to the inherent dignity of every individual.

We borrowed the idea of a right to life from the United States Constitution. *M.P. Sharma v. Satish Chandra* [8], a case involving the administration of criminal justice, was the first to address a right to privacy problem. The case of *Kharak Singh v. State of Uttar Pradesh* was a

seminal decision that came later. [9] According to the court's ruling, article 21 does not provide an express protection of the right to private.

Continued from there in Govind v. Madhya Pradesh State Justice Mathew acknowledged that Articles 19(a), (d), and 21 give rise to a right to privacy, but he also noted that this right is not absolute. The right to privacy, being a basic right in and of itself, must be susceptible to limitation based on compelling public interest, assuming that there are penumbral zones for the expressly given fundamental rights to citizens. "Depending on the person's background, the nature of the surveillance, the goals of the monitoring, and any restrictions imposed, home visits may not always constitute an unjustified invasion of privacy. Regarding "per-sons not places," the right to privacy is concerned. Justice Krishna Iyer made a similar point in the same case, stating that, while incomplete, the Indian constitution does provide some stake in individual sovereignty.

Subsequently, in the case of Kameshwar Prasad & Ors. v. The State of Bihar & Anr [10] this Court ruled: Taking these US court decisions into account, keep in mind that despite the fact that the First Amendment says "Congress shall not make any law.... abridging the freedom of speech," "...", This freedom belongs to the police power, the scope of which has not been fully defined, but it has long been recognized that this does not provide Congress the ability to restrict the exercise of the given right.

One area of worry in India is the privacy of female users. There have been countless examples when females have been harassed on social networking sites, either by their own friends or by anonymous users. Numerous methods exist for perpetrating harassment on the internet. Unauthorised email exchanges that are hostile, threatening, or sexually explicit constitute a direct kind of online harassment. As one example of electronic sabotage, the perpetrator may flood the victim's inbox with spam.

## **ROLE OF JUDICIARY AS WE BROADEN THE SCOPE OF CYBERSPACE**

A new way of thinking about and approaching lawmaking has emerged with the rise of the Internet. The rules now apply to both humans and robots. One may argue that computers are today both victims and weapons of crime.

After two ladies voiced their disapproval during a bandh ordered after the death of Shiv Sena chairman Bal Thackeray in November 2012, and were subsequently arrested by the Mumbai

police, Section 66A became notorious. Many people have been arrested since then by different state police for minor offences related to the distribution of internet information.

- Shreya Singhal Verdict

A portion of IT Act of 2000 was knocked down by the country's highest court in the case of Shreya Singhal Vs Union Of India [11]. A more lenient set of criteria for reasonable limits was considered in the Shreya Singhal case.

Shaneen Dhanda and Rinu Srinivasan were two Mumbai girls who expressed their grief at the death of Bal Thakrey, the leader of the Shiv Sena, on Facebook. In 2012, they were detained by the Mumbai police for their actions. Officials from the police department allegedly overstepped their bounds after the girls' release, citing section 66A of IT Act of 2000. The relevant authority is granted the ability to arrest an individual without a warrant under Section 66 A. The subsequent arrests of several celebrities were based on offensive material they had posted on social media. To avoid making an arrest without the Inspector of Police's or a senior officer's prior consent, the police sought an advisory opinion in 2013.

- Distinctive Features of Internet

In his argument for a more lenient standard in the Shreya Singhal case, the assistant solicitor general of India cited the following aspects of the internet:-

- 1) Internet access transcends physical borders. People from all walks of life may access it. Because of this, individuals are vulnerable to abuse and harassment regardless of where they reside.
- 2) Internet use is prevalent among both educated and unskilled individuals worldwide. The dissemination of any kind of offensive material is as simple as clicking a mouse. Defamatory and otherwise objectionable material is easily disseminated online. With the use of portable electronic devices like smartphones, laptops, etc., it is easy to upload and share media files. Any location might be a target for cybercriminals.
- 3) Everyone has the freedom to publish, broadcast, or share material online in their role as director, producer, or viewer; hence, pre-censorship of online content is not an option.

- 4) Morphing is a breeze to perform on the web. Changes to people's voices made possible by modern technology have the potential to cause serious social problems.
- 5) Since more individuals have access to the internet, it opens the door to more opportunities to pry into people's personal lives. An invasion of privacy is an attack on fundamental human rights, such as the freedom and dignity that are foundational to the right to exist. The violation of article 21 is so obvious.
- 6) The internet is not at all like television or newspapers. Anonymity is a breeze to maintain. Criminals online have the ability to sexually harass anyone. The internet is a constant invitation to say anything disrespectful or unpleasant to anybody.
- 7) Because of the internet, the attackers may remain anonymous. The identity of the perpetrator remains concealed until an inquiry is carried out with the assistance of an inspecting agency. The cooperation of the compromised websites is essential to the successful completion of this process.
- 8) The unique approach to exercising free speech on the internet and other social media platforms is a point number eight. The oversight of appropriate standards and monitoring is flawed.

- **Section 66 A's ambiguity in language**

The judiciary used the case of *K.A. Abbas v. The Union of India & Another* [12] while debating the ambiguity of Section 66 A. In this case, the claim is that the rules are too general and don't allow for any room for artistic brilliance. As a result, we must first determine whether the 'void for vagueness' theory is relevant. *Baldeo Prasad v. Madhya Pradesh and Others*, When faced with a seemingly ambiguous statute, the court has an obligation to provide a reasonable interpretation, within the bounds of the language available. The Goonda Act is an example of a legislation that violates the Constitution when it cannot be reasonably construed, leaving its users in an endless state of ambiguity, and when it seems to take away a fundamental right.

## **UNIFORMED FREEDOM OF EXPRESSION & SPEECH ONLINE UNITED STATES**

The First Amendment to U.S Constitution guarantees the freedom of speech, which includes the press, throughout the country.[13] Freedom of the press is one of the five liberties guaranteed by U.S Constitution in its first amendment. Today, it also encompasses the right to



freely express oneself online. In the case of *Whitney vs. California* in 1927, the following were the opinions of Louis Brandis J. on the subject of free speech under the United States Constitution:

*“That men should be free to develop their faculties was the ultimate goal of the state, according to those who earned our freedom... They thought that the freedom to think and voice one's mind were fundamental rights...”*

In an effort to limit free speech online, Congress passed a bill. We enacted the Communications Decency Act (CDA) in 1996 to address this very problem.

Section 223(a) & (d) of Title 47 of U.S Code (USC) [14] were revised by Section 502 of the Communications Decency Act.

The use of an interactive computer service to transmit or show obviously objectionable content to minors was also made illegal under these regulations, as was the production of pornographic or otherwise inappropriate material & its delivery to a minor via a telecommunications device. [15] However, due to their conflict with the right to free speech, these restrictions were seen as an unnecessary infringement on that right. Following this, the ACLU took legal action to challenge the provision's constitutionality. The case is well-known as *ACLU v. Reno I*, and it involves Janet Reno, the United States Attorney General.

## CONCLUSION

The rapid expansion of cyberspace has brought both opportunities and challenges, especially for women who increasingly face targeted forms of online harassment, defamation, and privacy violations. The Indian Constitution, as the supreme law of the land, provides a robust framework to protect women from such abuses through its guarantees of equality, freedom of expression, and personal liberty. Judicial interventions, such as the *Shreya Singhal* verdict striking down Section 66A of the IT Act, have reaffirmed the balance between free speech & protection from misuse of online platforms. However, the persistent ambiguity in cyber laws and the anonymity provided by digital media continue to pose major obstacles. There is an urgent need for a unified and gender-sensitive approach that integrates legal, technological, and educational strategies to combat cyber violence. Strengthening cyber law enforcement, promoting digital literacy, and ensuring timely judicial recourse can empower women to safely navigate the online world. Ultimately, safeguarding women's rights in cyberspace is not just a



constitutional mandate but a moral and social imperative for achieving equality, justice, and human dignity in the digital era.

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10. 1962 Supp. (3) S.C.R. 369,
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12. [1971] 2 S.C.R. 446:
13. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. 218274 U.S. 357 (1927)
14. Prohibited acts generally Whoever (1)in interstate or foreign communications (A)by means of a telecommunications device knowingly (B)by means of a telecommunications device knowingly (i)makes, creates, or solicits, and(ii)initiates the transmission of,any comment, request, suggestion, proposal, image, or other communication which is obscene or child
15. Sending or displaying offensive material to persons under 18 Whoever (1)in interstate or foreign communications knowingly (A)uses an interactive computer service to send to a specific person or persons under 18 years of age, or(B)uses any interactive computer service to display in a manner available to a person under 18 years of age,any comment, request, suggestion, proposal, image, or other communication that is obscene or child pornography, regardless of whether the user of such service placed the call or initiated the communication;or(2)knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,