

Digital harassment and mental cruelty in marriage: Emerging legal perspectives in India

Varun Kumar Jain^{1*}, Dr. Mahendra Kumar Jangir²

¹ Research Scholar, Jaipur School of Law, Maharaj Vinayak Global University, Jaipur, Rajasthan

adv.varunjain@gmail.com

² Supervisor, Jaipur School of Law, Maharaj Vinayak Global University, Jaipur, Rajasthan

Abstract

The rapid expansion of digital communication technologies, social networking platforms, instant messaging applications, and virtual interactions has significantly transformed interpersonal and marital relationships in contemporary India. While technology has enhanced communication and connectivity, it has simultaneously created new forms of abuse, surveillance, emotional manipulation, and psychological violence within marital relationships. Digital harassment in marriage includes cyberstalking, online humiliation, unauthorized access to devices, monitoring of social media activities, circulation of private images, impersonation, threatening messages, excessive digital surveillance, and emotional blackmail through electronic means. These acts often lead to severe mental cruelty, emotional trauma, depression, anxiety, reputational harm, and marital breakdown. Indian matrimonial jurisprudence has gradually evolved to recognize mental cruelty as a valid ground for divorce under personal laws; however, the emergence of digital forms of cruelty has raised complex legal and evidentiary challenges.

The concept of mental cruelty has undergone substantial judicial interpretation in India. Courts have expanded its meaning beyond physical violence to include emotional abuse, humiliation, neglect, false allegations, public defamation, and persistent psychological harassment. In the digital era, cruelty manifests through virtual means, making it difficult to establish evidence, identify intent, and balance privacy rights with matrimonial obligations. Digital abuse frequently intersects with cyber laws, data protection concerns, gender justice, domestic violence laws, and constitutional rights such as dignity, privacy, and freedom of expression.

The Information Technology Act, 2000, the Bharatiya Nyaya Sanhita, 2023, the Protection of Women from Domestic Violence Act, 2005, and various matrimonial laws collectively provide partial remedies against digital abuse within marriage. Judicial decisions increasingly recognize online conduct, defamatory social media posts, invasive digital surveillance, and cyber harassment as factors constituting mental cruelty. However, the absence of specific legislative provisions addressing digital cruelty in marriage has resulted in fragmented legal responses.

This article critically examines the emerging dimensions of digital harassment and mental cruelty in Indian marriages. It analyses the legal framework, judicial interpretations, constitutional perspectives, evidentiary challenges, gender dimensions, comparative international developments, and policy concerns. The study also explores the impact of artificial intelligence, deepfake technology, cyber monitoring applications, and digital evidence on matrimonial disputes. The article concludes that Indian family law must evolve to explicitly recognize technology-facilitated abuse within matrimonial relationships and provide effective legal remedies balancing privacy, dignity, and justice.

Keywords: Digital Harassment, Mental Cruelty, Marriage, Cyber Abuse, Matrimonial Law, Domestic Violence, Cyberstalking, Online Defamation, Privacy Rights, Indian Judiciary

INTRODUCTION

Marriage has traditionally been regarded as a social, cultural, religious, and legal institution founded upon trust, companionship, emotional security, and mutual respect. However, the transformation of society through digitalization has significantly altered the nature of marital interactions. Smartphones, social networking platforms, digital surveillance tools, messaging applications, artificial intelligence, cloud storage, and virtual communication have become integral aspects of everyday marital life. While these technologies provide convenience and connectivity, they have also facilitated new forms of emotional abuse and psychological oppression within matrimonial relationships.

Digital harassment in marriage refers to technology-enabled conduct intended to intimidate, monitor, threaten, manipulate, embarrass, emotionally torture, or psychologically dominate a spouse. Such conduct includes unauthorized monitoring of mobile phones, reading private messages, cyberstalking, sharing intimate photographs without consent, online humiliation, impersonation on social media, tracking locations through spyware applications, threatening emails, revenge pornography, constant digital surveillance, fake social media allegations, and emotional manipulation through electronic communication. Unlike traditional forms of cruelty, digital harassment often occurs continuously and invisibly, leaving deep psychological consequences upon victims.

The Indian legal system has historically recognized cruelty as a ground for divorce under different personal laws. However, earlier interpretations primarily focused upon physical violence and overt abusive conduct. Judicial interpretation later expanded the scope of cruelty to include mental agony, humiliation, emotional neglect, false accusations, and psychological torture. The evolution of digital communication has further complicated matrimonial disputes

because online conduct frequently transcends traditional boundaries of privacy and personal autonomy.

Mental cruelty in the context of marriage involves conduct that causes emotional suffering, mental pain, humiliation, fear, trauma, or psychological imbalance to the spouse. The Supreme Court of India has repeatedly emphasized that cruelty cannot be confined to physical injury alone. Persistent abusive behaviour affecting mental peace and emotional stability may constitute cruelty sufficient to dissolve marital ties. Digital abuse now forms an important dimension of such cruelty because continuous virtual harassment can deeply affect emotional well-being and personal dignity.

The increasing use of social media has intensified marital conflicts. Public accusations, online shaming, defamatory posts, disclosure of personal information, and circulation of private conversations often damage the reputation and mental health of spouses. Additionally, technological advancements such as spyware, hidden cameras, artificial intelligence-generated content, and deepfake technologies have introduced unprecedented challenges in matrimonial disputes. Spouses increasingly use technology as an instrument of control and coercion, thereby transforming ordinary domestic disagreements into severe psychological harassment.

Indian law presently lacks a comprehensive statutory framework specifically addressing digital cruelty in matrimonial relationships. Existing remedies are scattered across personal laws, criminal laws, cyber laws, domestic violence legislation, and constitutional protections. The Protection of Women from Domestic Violence Act, 2005 recognizes emotional and verbal abuse; however, its application to digital harassment remains largely interpretative. Similarly, provisions under the Information Technology Act, 2000 and the Bharatiya Nyaya Sanhita, 2023 provide criminal remedies against cyber offences but do not directly address technology-facilitated matrimonial cruelty.

The judiciary has therefore played a crucial role in adapting legal principles to contemporary realities. Courts have increasingly considered online harassment, defamatory posts, invasive digital conduct, and cyber abuse as relevant evidence of cruelty. Nevertheless, issues relating to electronic evidence, privacy rights, consent, cyber forensics, and misuse of technology continue to create legal uncertainty.

This article seeks to critically analyse the growing phenomenon of digital harassment and mental cruelty in marriage from an Indian legal perspective. It examines statutory provisions, constitutional principles, judicial trends, evidentiary concerns, gender implications, and international approaches to cyber abuse in matrimonial relationships. The study also proposes legal reforms necessary for addressing the evolving challenges posed by technology-driven marital conflicts in India.

Concept of Mental Cruelty in Indian Matrimonial Law

Mental cruelty is one of the most significant grounds for divorce recognized under Indian matrimonial laws. Unlike physical cruelty, which is visible and measurable, mental cruelty involves conduct causing emotional pain, humiliation, anxiety, psychological distress, and emotional suffering. The concept has evolved gradually through judicial interpretation rather than rigid statutory definitions.

Under the Hindu Marriage Act, 1955, cruelty constitutes a ground for divorce under Section 13(1) (ia). Similar principles exist under other matrimonial laws governing different religious communities. Indian courts have consistently held that cruelty includes both physical and mental dimensions. The judiciary has emphasized that matrimonial relationships require emotional compatibility, mutual trust, and psychological security.

The Supreme Court in *V. Bhagat v. D. Bhagat* recognized mental cruelty as conduct causing deep mental pain and suffering that makes it impossible for spouses to live together. Similarly, in *Samar Ghosh v. Jaya Ghosh*, the Court elaborated broad illustrations of mental cruelty, including sustained abusive behaviour, humiliation, false allegations, emotional neglect, and intentional acts causing psychological agony.

Mental cruelty may manifest through verbal abuse, public humiliation, false criminal complaints, neglect, threats, extramarital affairs, coercive control, emotional manipulation, and now increasingly through digital means. Continuous online harassment may create fear, insecurity, embarrassment, and emotional trauma equivalent to physical violence.

Indian courts have also acknowledged that cruelty must be assessed considering social background, education, emotional sensitivity, and surrounding circumstances. Therefore, digital harassment within marriage must be evaluated according to contemporary social realities where virtual communication forms an inseparable part of personal relationships.

Digital Harassment in Marital Relationships

Digital harassment refers to abusive conduct facilitated through electronic communication technologies. In marital relationships, such harassment often occurs within private spaces and involves misuse of digital tools for emotional domination and psychological control.

Forms of Digital Harassment

- **Cyberstalking:** Cyberstalking involves repeated online monitoring, surveillance, threatening messages, tracking social media activities, and persistent digital intrusion. Spouses may continuously monitor calls, emails, location history, and social media interactions to exercise coercive control.
- **Unauthorized Access to Devices:** Many matrimonial disputes involve spouses secretly accessing phones, emails, social media accounts, cloud storage, or digital records without consent. Such conduct violates privacy and creates emotional distress.
- **Online Defamation:** Posting defamatory statements, humiliating photographs, private conversations, or false accusations on social media platforms constitutes a serious form of digital cruelty. Public humiliation through virtual platforms often damages professional reputation and mental peace.
- **Revenge Pornography:** Sharing intimate photographs or videos without consent represents a severe violation of dignity and privacy. Victims often experience depression, social stigma, anxiety, and suicidal tendencies.
- **Emotional Manipulation Through Messaging:** Continuous threatening messages, emotional blackmail, manipulative communication, and coercive digital behaviour may amount to psychological abuse.
- **Use of Spyware and Surveillance Applications:** Technological advancements have enabled spouses to install spyware applications, GPS trackers, and monitoring devices for unauthorized surveillance. Such conduct destroys trust and autonomy within marriage.
- **Deepfake and AI-Based Harassment:** Artificial intelligence technologies can create manipulated videos, audio recordings, or images designed to defame or emotionally

harm spouses. Deepfake technology poses serious legal and evidentiary concerns in matrimonial disputes.

- **Constitutional Dimensions of Digital Harassment:** Digital harassment within marriage raises significant constitutional issues relating to privacy, dignity, equality, and liberty.
- **Right to Privacy:** The Supreme Court in the *Justice K.S. Puttaswamy v. Union of India* recognized privacy as a fundamental right under Article 21 of the Constitution. Unauthorized surveillance, digital monitoring, and invasion of electronic communication violate informational privacy and personal autonomy.
- **Right to Dignity:** Digital humiliation, circulation of private images, and online defamation undermine the constitutional right to dignity. Courts increasingly recognize dignity as an essential component of marital rights and personal liberty.
- **Gender Equality:** Women are disproportionately affected by online abuse, revenge pornography, cyberstalking, and digital coercion. Constitutional guarantees under Articles 14 and 15 require effective legal mechanisms protecting women from technology-facilitated violence.
- **Freedom of Expression vs. Abuse:** While individuals possess freedom of speech under Article 19(1)(a), defamatory, abusive, and threatening online conduct cannot claim constitutional protection when it infringes upon dignity and privacy.

Legal Framework Governing Digital Harassment in India

- **Information Technology Act, 2000:** The Information Technology Act, 2000 provides the primary legal framework for cyber offences in India.
- **Section 66-E:** Punishes violation of privacy through capturing or transmitting private images without consent.
- **Section 67:** Addresses publication or transmission of obscene material electronically.
- **Section 67-A:** Punishes sexually explicit electronic content.
- **Section 72:** Provides penalties for breach of confidentiality and privacy.

Although these provisions address cyber offences generally, they are not specifically designed for matrimonial digital abuse.

Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 recognizes emotional, verbal, and psychological abuse as forms of domestic violence. Courts have increasingly interpreted digital harassment as emotional abuse under this legislation. Digital threats, online humiliation, electronic surveillance, and cyber intimidation may constitute domestic violence if they affect the emotional well-being of the aggrieved woman.

Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023 introduces modernized criminal provisions replacing the Indian Penal Code. Provisions relating to stalking, intimidation, defamation, obscenity, and harassment may apply to digital abuse within marriage. Cyberstalking and electronic threats may attract criminal liability under these provisions.

Matrimonial Laws

Different personal laws recognize cruelty as grounds for divorce:

- Hindu Marriage Act, 1955
- Special Marriage Act, 1954
- Indian Divorce Act, 1869

Judicial interpretation increasingly includes online conduct and digital abuse within the ambit of mental cruelty.

Judicial Approach Towards Digital Cruelty

Indian courts have gradually adapted matrimonial jurisprudence to technological realities.

- **Recognition of Online Conduct as Cruelty:** Courts have recognized that defamatory social media posts, circulation of private content, and false online allegations may constitute cruelty.

- **Privacy and Electronic Evidence:** Judicial decisions increasingly examine admissibility of WhatsApp chats, emails, screenshots, call recordings, and electronic communications in matrimonial litigation. However, courts must balance evidentiary value with privacy rights.
- **False Allegations on Social Media:** Courts have considered repeated public accusations and character assassination through online platforms as serious mental cruelty causing reputational damage.
- **Cyberstalking Between Spouses:** Persistent surveillance, unauthorized access to communication devices, and obsessive monitoring have been viewed as violations of personal liberty and emotional security.

Impact of Digital Harassment on Mental Health

Digital cruelty causes profound psychological consequences.

- **Anxiety and Depression:** Victims often suffer chronic stress, fear, insomnia, depression, panic disorders, and emotional instability.
- **Social Isolation:** Online humiliation and public shaming damage social relationships and professional reputation.
- **Emotional Trauma:** Continuous surveillance and harassment create psychological imprisonment and emotional exhaustion.
- **Suicidal Tendencies:** Severe online abuse and revenge pornography have contributed to self-harm and suicide in several cases globally.

Mental cruelty through digital means often leaves invisible emotional scars more damaging than physical injuries.

Gender Dimensions of Digital Cruelty

Women remain primary victims of digital abuse within marriage.

- **Patriarchal Control Through Technology:** Technology is often misused to reinforce patriarchal dominance and monitor women's activities.

- **Economic Dependence:** Financial dependency may prevent women from seeking legal remedies against digital harassment.
- **Social Stigma:** Victims of online abuse frequently face victim-blaming and social ostracism.
- **LGBTQ+ Relationships:** Digital abuse also affects same-sex relationships and queer partnerships where privacy concerns are particularly sensitive.

Challenges in Addressing Digital Harassment

- **Absence of Specific Legislation:** India lacks a dedicated legal framework addressing digital cruelty in matrimonial relationships.
- **Evidentiary Difficulties:** Electronic evidence may be manipulated, deleted, or fabricated.
- **Privacy Concerns:** Obtaining digital evidence often conflicts with privacy rights.
- **Technological Complexity:** Judicial officers and investigators may lack cyber forensic expertise.
- **Cross-Border Jurisdiction:** Online harassment frequently involves international digital platforms complicating jurisdictional enforcement.

Comparative International Perspectives

- **United Kingdom:** The UK recognizes coercive and controlling behaviour, including digital surveillance, as domestic abuse under the Domestic Abuse Act.
- **United States:** Several states criminalize cyberstalking, revenge pornography, and electronic harassment within intimate relationships.
- **Australia:** Australian domestic violence laws explicitly include technology-facilitated abuse.
- **Canada:** Canadian courts increasingly recognize cyber abuse as emotional cruelty and domestic violence.

India can draw valuable lessons from these jurisdictions in developing comprehensive legal protections.

Role of Artificial Intelligence and Emerging Technologies

Artificial intelligence has intensified digital harassment risks.

- **Deepfake Technology:** AI-generated fake videos and images can damage reputations and emotionally traumatize spouses.
- **Facial Recognition and Tracking:** Advanced surveillance technologies facilitate invasive monitoring.
- **AI-Based Manipulation:** Automated messaging, fake profiles, and digital impersonation can psychologically harass victims.
- **Need for Legal Regulation:** India urgently requires legal safeguards addressing AI-driven cyber abuse in matrimonial contexts.

Need for Legal Reforms

- **Specific Definition of Digital Cruelty:** Matrimonial laws should explicitly recognize technology-facilitated abuse.
- **Cyber Forensic Infrastructure:** Specialized cyber forensic units should assist matrimonial courts.
- **Judicial Training:** Judges require training regarding digital evidence and cyber abuse.
- **Victim Protection Mechanisms:** Counselling, psychological assistance, emergency digital protection orders, and privacy safeguards should be strengthened.
- **Regulation of Surveillance Software:** Spyware and unauthorized monitoring technologies require stricter regulation.
- **Gender-Sensitive Cyber Laws:** Legal reforms must address disproportionate impact upon women and vulnerable communities.

CONCLUSION

Digitalization has fundamentally transformed the institution of marriage and the nature of interpersonal relationships in contemporary India. While technological advancement has improved communication and connectivity, it has simultaneously facilitated new forms of emotional abuse, surveillance, humiliation, and psychological domination within matrimonial relationships. Digital harassment now represents a significant dimension of mental cruelty capable of destroying emotional stability, trust, dignity, and marital harmony.

Indian matrimonial jurisprudence has progressively expanded the concept of cruelty beyond physical violence to include emotional suffering and psychological abuse. However, existing legal frameworks remain inadequate for addressing the complexities of technology-facilitated cruelty. Digital abuse frequently intersects with cyber law, constitutional rights, privacy concerns, domestic violence protections, and criminal liability, thereby requiring a multidimensional legal response.

The judiciary has played an important role in recognizing online conduct, cyberstalking, digital humiliation, and electronic surveillance as forms of mental cruelty. Nevertheless, absence of clear statutory definitions and specialized mechanisms continues to create uncertainty and inconsistency in legal outcomes. The growing misuse of artificial intelligence, deepfake technologies, spyware applications, and digital monitoring tools has further intensified concerns regarding privacy, dignity, and emotional security within marriage.

Effective legal reform requires explicit recognition of digital cruelty under matrimonial laws, stronger cyber forensic infrastructure, judicial sensitization, victim protection mechanisms, and gender-responsive legal frameworks. India must develop comprehensive legislation capable of balancing technological innovation with human dignity, privacy, emotional well-being, and constitutional rights.

Ultimately, marriage cannot survive where technology becomes an instrument of fear, humiliation, coercion, and psychological oppression. The law must evolve continuously to ensure that digital spaces do not become zones of invisible domestic violence. Protecting individuals from digital harassment within marriage is essential not only for preserving marital justice but also for safeguarding constitutional values of dignity, equality, privacy, and human freedom in the digital age.

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