

Online Violence Against Women

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Abstract - With the expansion of Information and Communication Technology (ICT), there has been an increase in internet and social media use. As a result, new types of abuse and violence against women have emerged in the internet world. As a result, new types of abuse and violence against women have appeared in the internet world, such as cyber stalking, circulation of sexual images without consent, cyber bullying, revenge porn and trolling, etc. Such acts have restricted women's freedom of expression, violating their fundamental rights and human rights. This causes adverse effects not only on the victim women but also on our society and families. In order to prevent violence against women, comprehensive amendments were made through the Criminal Law (Amendment) Act, 2013 in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872. This made provisions relating to violence against women more rigorous. This amendment act 2013 also incorporated new forms of violence against women related to ICT and social media, such as voyeurism, stalking, disrobing a woman, sexual harassment, and enhanced punishment. However, despite such inclusions and stringent amendments in laws, women face continuous violence online. The irony is that despite all these legislative measures, most instances of online violence go unreported. Nevertheless, the Indian judicial system has set certain landmark judgments to combat online violence against women. Thus, legislative and judicial development in India with respect to online violence against women has set good precedents and the future course of action.

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INTRODUCTION

How would you feel if your nude pictures are posted online without your consent, or you have been targeted by 'memes' shared on social sites without your knowledge, or somebody is sending you unsolicited, threatening, or obscene e-mails regularly? These are a few instances of online harassment against women that sound like a nightmare, where we are clueless, stuck, and feel restricted to share ourselves.

With the advent of technology and the internet, violence against women online has increased. Usually, everyone has a right to use cyberspace and the internet without discrimination. However, violence against women online creates an impediment for women to utilize it fully as women being a soft targets. They are often subjected to online harassment, online rape threats, cyber stalking, etc. Such online violence force women victims to question their existence and make them weak, unconfident, and timid. This creates insecure feelings among women to use cyberspace and the internet freely, which ultimately restricts their fundamental rights and basic human rights. This impacts their mental and physical health and well-being and their social development, which eventually affects society.

The 1993 World Conference on Human Rights identified violence against women as a human rights violation. The Vienna Declaration and Programme of Action asked for a Special Rapporteur on Violence against Women. It finally contributed to the 1993 Declaration on the Elimination of Violence against Women, which became the first international instrument explicitly addressing violence against women. Violence against women is defined as any act of gender-based violence in Article 1 of the Declaration on the Elimination of Violence Against Women, which was adopted by the United Nations General Assembly in 1993 and has been in effect since then. Whether committed in public or private life, gender-based violence causes or is likely to cause physical, sexual, or psychological injury or suffering to women. It can include threats of such actions, coercion, or arbitrary denial of liberty and occur in any setting.

Thus, though violence against women may manifest merely as physical, sexual, emotional, or psychological, the advent of information and technology has given rise to new forms of violence online, which often go unnoticed. The unregulated and unleashed social media platforms and cyberspaces have given rise to violence against women, including cyberstalking, online harassment,

privacy violation, hacking of e-mail, mobile phones, and other electronic devices, etc.

The report from the Special Rapporteur on Violence against women presented to the Human Rights Council in June 2018 recalls that “terminology is still developing and not univocal.” The Special Rapporteur uses the definition “ICT-facilitated violence against women” but also employs the terms “online violence against women,” “cyberviolence,” and “technology-facilitated violence.” Online violence against women is defined in the report as “*gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smart-phones, the Internet, social media platforms or e-mail, against a woman because she is a woman, or affects women disproportionately.*” While not all types of online violence against women are outlined, it is clear that technological advancements, such as artificial intelligence (AI), will definitely lead to new and distinct expressions of online violence.

NEW FORMS OF ABUSE AND VIOLENCE AGAINST WOMEN IN THE ONLINE SPACE

Violence against women online is not limited to only virtual stalking and public shaming, but the internet may turn into an actual tool of virtual violence. Violence against women online by using the internet and social media may take the following forms:

1. Online harassment :

Online harassment is also referred to as cyber harassment. Such harassment is done by e-mail, instant messenger, and derogatory websites to bully/harass an individual or a group. This may be done in many ways, including publishing disparaging statements on social media or sending threatening e-mails/messages under fictitious identities.

2. Intimate partner violence :

Threats of disclosure of intimate communications or “revenge porn” are examples of such violence.

3. Sexual assault :

It uses technology to entice or intimidate women victims into such circumstances that result in rape or other forms of physical violence.

4. Cyber stalking :

Cyber stalking means the use of cyberspace, the internet, and other electronic means to stalk a person to harass a victim. The cyber stalker invades a victim’s privacy by following a victim’s every and every movement.

5. Cyber bullying :

Cyber bullying is the use of Information Communication Technology, particularly mobile phones and the internet, deliberately to upset someone else. It is thus intentional and willful harm caused to the victim by using computers, mobile phones, and other electronic devices by sending messages of an intimidating or threatening nature by using the internet.

6. Impersonation :

The technology is used to assume the identity of the victim of someone else in order to embarrass the victim, contact the victim, access the private information of the victim, for an, e.g., creating a fake account or e-mail id in the name of the victim, calling victim from different unknown numbers to avoid call blocking.

7. Surveillance/Tracking :

Use technology to track and monitor a victim’s movements and actions, either live or historically; e.g., GPS tracking via mobile phone; tracking keystrokes to recreate the victim/survivor’s activities on a computer.

8. Harassment/Spamming :

The information and technology are used to annoy, contact, and scare the victim repeatedly, e.g., calling or texting the victim continuously against her wish, filling up voice mail or message box with messages so no one else can leave a message.

Violence against women online is on an alarming stage and may pose a significant threat to the security of women and society as a whole. Women are subjected to violence or harassment on social media and the internet, Facebook, WhatsApp, Twitter, and other online platforms, increasingly being misused to target women. Thus, India is witnessing a steady increase in violence against women online.

CHANGES IN LAW TO COMBAT ONLINE VIOLENCE AGAINST WOMEN

To prevent violence against women, the Criminal Law (Amendment) Act, 2013 amended the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1972.

All previous criminal offenses are now explicitly recognized under the new statute. A slew of recent crimes has been added to the Indian Penal Code in the last few years, including acid attacks, sexual harassment, voyeurism, and stalking

SEXUAL OFFENSES

- Section 354A - Sexual Harassment

Sexual harassment is defined as bullying or sexual coercion and the unwanted or improper offer of sexual favors in exchange for sexual favors. The crucial aspect is the undesired nature of the behavior, which emphasizes the effect of such actions on the receiver above the perpetrator's purpose.

The fundamental elements of sexual harassment, as outlined in *Vishaka v. State of Rajasthan*, are as follows:

1. Physical touch and approaches that involve unwanted and blatant sexual overtures; or
2. Demand for or solicitation of sexual favors; or
3. Making sexually suggestive statements; or
4. Obnoxiously displaying pornography; or
5. Any other uninvited sexual, physical, verbal, or non-verbal activity.

As per Article 14 of the Constitution of India, sexual harassment breaches a woman's fundamental right to equality, as well as her right to life and dignity, as guaranteed by Article 21 of the Constitution.

- **Section 354B - Assault or Use of Criminal Force Against a Woman with the Intent to Disrobe**

Assaulting or using unlawful force on a woman to remove or force her to be nude in a public place is punished by up to seven years in jail under Section 354B of the Criminal Code.

It adds to and completes the part that deals with offenses against women's modesty by addressing a particular act.

Many women have been publicly stripped as a punishment for minor misdemeanors in backward communities, and this provision is a welcome relief.

- **Section 354C - Voyeurism**

Voyeurism is the act of spying on someone while they are engaged in intimate activities. If a male observes a woman engaging in private acts while she is unaware that anybody is observing, he has committed voyeurism.

- **Section 354D- Stalking**

It entails following someone and making or trying to make contact for personal conversation, despite the other person's evident indifference. Stalking may be carried out both physically and by using electronic means.

- **Section 375 and 376 – Rape**

In *Rafiq v. State of Uttar Pradesh*, Justice Krishna Iyer stated, "a murderer kills the body, but a rapist kills the soul." By amending the Criminal Code in 2013, the Parliament broadened the definition of rape by designating some non-penetrative acts as rape. The Amendment Act, 2013 abolished the Ordinance (Amendment) Act, 2013, which had a broader scope, generating severe concerns about potential judicial lacunae or loopholes.

Rape is now defined under the 2013 Act to include oral sex as well as the insertion of an instrument or other bodily part into a woman's vagina, urethra, or anus.

JUDICIAL SCRUTINY

Despite the amendments mentioned above to combat violence against women, the legislature failed to address online abuses and harassment of women. The violence such as cyber-stalking, non-consensual circulation of sexual images, doxing (publishing private information, usually contact details, on the internet with malicious intent, usually insinuating soliciting sex), etc., are acts that not only affect women's expression but invade their privacy, undermine their dignity and erode their agency and autonomy. Such violence still requires attention from both the legislature and the judiciary.

Sabu Mathew George v. UOI and others (2017)

The petitioner submitted that despite legal prohibition, Yahoo!, Google and Microsoft were displaying advertisements in violation of the provisions of the PCPNDT Act. A Supreme Court Bench ordered Google, Yahoo! And Microsoft to stop displaying and sponsoring any advertisements relating to pre-natal sex determination. The court directed this order to be placed on the 'policy' page and the respondents 'terms and conditions page. The court also ordered them to constitute in-house expert bodies to identify and block keywords indicative of sexdetermination.

Kalandi Charan Lenka v. The State of Odisha

The petitioner has got a one-sided love, and being unsuccessful in materializing the design of love, he took shelter from cyber law to commit a crime. The Hon'ble Court held that the woman's dignity has to be kept in view as stalking or opening a fake Facebook account or obscene representation, including morphed naked photographs, are a menace to society and women's rights.

Thus, the courts in India, especially the higher judiciary, have often played an active role in putting a more feminist spin on the law and filling in the lacunae in the legal landscape

Nevertheless, despite recent developments, the gender-based violence against women in

technology-mediated spaces requires a rebooted approach to the law.

SUGGESTIONS AND CONCLUSION

Women are often left feeling vulnerable and disempowered by the abuse they experience on social media. Online violence against women, that is, violence aimed at women only based on their gender, violates their human rights and so acts as a barrier to achieving gender equality. India already has anti-online abuse legislation. What is required is more effective implementation. This implementation must be accompanied by non-legal measures to resolve structural inequities rooted in patriarchal views of morality, which are at the root of women's online harassment. To begin addressing gender-based abuse on online platforms, we may ask them to adhere to their standards on "abuse and hostile behavior," which, as research has demonstrated, are often violated by the platforms themselves.

National organizations such as the National Network to End Domestic Violence have taken the lead in providing guidance and support to organizations in understanding and addressing safety issues that have and continue to develop with the role of digital communication in our work and lives. As social media campaigns are significant, it is recommended that organizations working on preventing sexual violence adopt clear guidelines for staff in representing the organization in all media, specifically including social media. Safety guidelines should also include a protocol for receiving and documenting disclosures made through social media, including as the result of social media campaigns.

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