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A Critical Analysis of Cyber Bullying in India-with Special Reference to Bullying in College

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Abstract

Internet has touched every aspect of human life, bringing ease in connecting people around the globe and has also made information available to huge strata of the society on a click of a button. With advancement, came unforeseen banes of cyber offences. Cyber stalking, cyber bullying, spoofing, phishing, credit card frauds are a few to name from the possible cyber offences and many are still not predictable. Cyber bullying is a form of electronic communication which harms the reputation or privacy of an individual, or threatens, or harasses, leaving a long lasting impact. It is using beyond the permissible limit or unauthorized use of electronic technology affecting the life and reputation of another.[1]

The paper aims at introducing the concept of cyber bullying and how it is different from cyberstalking, effects and consequences, remedies available under Criminal Laws and Information Technology Act, and its prevention. The objective of the paper is to discuss international laws prevailing and provision of cyber bullying in other countries while highlighting the need for defining cyber bullying from Indian perspective, making specific regulations against it, and the experts needed in making for such law.[2]

Key Words: Cyberbullying, cyber harassment, cyber law, bullies, punishment.

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[1] http://www.ciol.com/india-lacking-laws-curb-cyberbullying/
[2] http://www.kean.edu/~trauma/bytopic/cyberbullying.htm

1. Introduction

By definition, cyberbullying "is when one person or a group of people try to threaten, tease or embarrass someone else by using a mobile phone or the Internet. Cyber bullying [can be, and is oftentimes,] just as harmful as bullying in the real world." The bullies attack many of the same characteristics of a person that a school bully would, except with the proliferation of social media, these attacks have become more personalized and may occur during any part of the day or night. Social media profiles give people the ability to post pictures of anything they want. Whether it is pictures of themselves, pictures of things that interest them or updates of their whereabouts, cyberbullies are given the opportunity to pinpoint certain aspects of a person's life to make fun of. Cyberbullies carefully single out and humiliate their target on social media publicly, oftentimes embarrassing them or sending hurtful messages.[3]

What makes cyberbullying so dangerous is that it gives bullies the ability to embarrass anyone they want in public at any hour of the day, using multiple different types of technology. These can include devices such as, cellphones, instant messaging platforms, tablets, interactive gaming websites, and even email. Kids are using these platforms more frequently now, so it is becoming easier than ever to be a victim of these prejudices, or even become a prime suspect. A study recently revealed that "1 in 3 high school students have been subjected to some form of bullying or cyberbullying."

2. Aim of the Study

- To study about the concept of cyber bullying
- To Know how cyberbullying is different from cyber stalking
- To know the modes and consequences of cyberbullying in India
- To know the concept under different other countries.
- To know the prevention of cyberbullying

3. Statement of the Problem

Whether the Indian Penal Code and Information Technology Act provides adequate punishment regarding cyberbullying in comparison with cyber stalking.

4. Hypothesis

HO: There is no significant increase in cyberbullying in college with the use of modern technologies.

HA: There is significant increase in cyberbullying in college with the use of modern technologies.

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[3] https://cyberbullying.org/

5. Materials and Methods

The researcher more on relied on the secondary source of data such as books, journals, e-sources, articles and newspaper. Due to the shortage of the time, the researcher in which primary source of the data such as interview and field research is not more adequacy in result of data collection and interpretation in which parameters so described Under this counteractive action and early intercession structure, immense research is being directed to figure out which of the numerous current projects are genuinely powerful.

6. Research Methodology

The present research is conclusive, descriptive and based on non- empirical design. Qualitative data was generated to test the research hypothesis. In order to collect data on the dimensions of the study, a research instrument was designed. The study was conducted on secondary source of data books, articles, journals, e-sources, theories and the relevant provision with decided case laws. Focusing on these three areas put forward specific research problems.
Sample Size Calculation Sources of Study

Only secondary sources are available. The secondary sources include books which is available in English, E-sources. Primary source of interview can't be conducted which researcher unable to refer due to shortage of time.

7. Limitation of the Study

Primary sources, compared to the secondary sources, are limited. Researcher had to rely more on secondary sources available in books, e-sources gather information about the study. The researcher was unable to visit and interview the personnel like construction workers and their employers.

8. Concept of Cyber Bullying

The term Cyberbullying was coined by Bill Belsey, Canadian educator. Cyber bullying is defined as, using both information technology and communication technology beyond the limit in order to harm a person's reputation, state of mind, or to humiliate a person. It is an act by which the person being bullied suffers an adverse effect.[4] It is a deliberate attempt which can be continuous or one time. The bully can be a known person or maybe an unknown person or a group. It is done using technologies such as internet, some chat groups, instant messaging, short message service, web pages, e-mails, etc. The intention is to harm a person. It is an act of a person who is either physically powerful or socially powerful over the victim. It can also be in the form of developing a web site and posting obscene photos or defamatory text on it. Some instances of cyberbullying can be a mere e-mail to someone who has expressed his

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[4] http://www.digizen.org/resources/cyberbullying/full-guidance.aspx

contention of not keeping any contact, posting pictures and sexual remarks. It is alarming to note that 63% of harassers are reportedly under the age of 18 years. As per the survey of 1400 school children grades 4-8th, produced by abcnews.com in September, 2006, the results were surprising; 42% kids were cyberbullying victims, in which 1/4th had it more than once; 35% were threatened, 21% had received mean or threatening emails or messages.

Cyberbullying: an International Perspective

A viral video of an Australian boy retaliating against a bully at school has sharply ratcheted up offline and online discussions of cyberbullying. On websites in numerous countries, young and old alike have recounted their own bullying problems and there's a sense that this is an universal phenomena. In Brazil, it has become increasingly common for kids to suffer from bullying not only in schools, but also on social networking sites.[5]

Many aggressive incidents are recorded by cell phones and posted on sites such as Youtube. Online communities are formed to ridicule these bullied students, and often, they are essentially stalked by other computer mediated tools. Worse, since there is not a lot of awareness about bullying in many schools, many teachers and parents have no idea their kids are being beaten or stalked and videos posted online.

A study done last year, for example, indicated that only 16 percent of students in Brazil worry about cyberbullying, even though 38 percent reported being a victim or knowing someone who was.

A quick search on Orkut, one of the most popular social networking sites in Brazil, reveals numerous online communities offering support for kids and teens who have suffered cyberbullying.[6]

"The majority of people that was bullied don't even know that it is bullying," says a teenage girl in an Orkut support community. "And people who know are ashamed of it. Everybody only speaks about it here, because they can post anonymously."

Because social networking sites disseminate and preserve accounts of the humiliation, they lend a new dimension to bullying. Teens frequently say that bullying starts offline, but almost always migrates to the online environment. The online components are enduring and hard to escape.

"You cannot go home from the Internet," says Paulo, 17, who left school due to bullying problems. "I change cities and still suffer from (online) communities people made against me. It is like being haunted."

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[5] http://www.ijli.in/assets/docs/AshnaRishabh.pdf
[6] https://english.binus.ac.id/2015/06/22/what-are-the-causes-of-cyber-bullying/

Similar concerns have been voiced by professor and researcher Walter Capanema from the Universidade do Estado Rio de Janerio who is currently working on cyberbullying issues: "Since the bullying is registered on the Internet, it allows the victim to relieve the situation, increasing the feeling of humiliation and pain."

Concept Under Different Countries
1. United Kingdom Law

Bullying is not a specific criminal offence in UK law. There are criminal laws that can be applied to cyber bullying.32 Protection from Harassment Act, 1997 for repeated actions. It prohibits harassment, and provides civil remedy for breach of such prohibition under section 3. Threat is punished under section 4.

Communication Acts, 2003 covers cases of offensive, obscene communication. Malicious Communication Act 1988 covers sending of threatening, or threatening, electronic communication. Other remedies are available under Public order Act 1986, Obscene Publications Act 1959, Computer Misuse Act, 1990 and Crime, Defamation Acts of 1952 and 1996, and Disorder Act 1998.

2. United States Laws

Nearly all states have amended and passed laws to address it. The federal law is under the Megan Meier Cyberbullying Prevention Act.33

3. European Law

European data protection legislation is being applied to the issue of cyber bullying, online harassment and identity theft.

4. International Perspective

UNICEF, the Human Rights Commission and the United Nations are calling for a coordinated approach from governments all around the world.

Cyber Bullying versus Cyber Stalking

The difference between cyber stalking and cyber bullying is that of age. When an adolescent is involved, the term used is cyber bullying but in case when a major is involved, it is cyber stalking. There is no legal distinction between the two other than that of age. The act in cyber stalking is same as that of the cyber bullying, only difference being is that of age. Cyber stalking is a form of cyberbullying.[7]

Reasons for Cyber Bullying

Since cyber bullies are people of tender age, they lack the sense of understanding their action and what consequences it can have on others. One of the reasons is ignorance of consequences and nature of the action.[8] Some of the reasons can be anger, frustration, boredom and a need of laughter. Bullies

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[7] https://cyberbullyingandstalkingguide.com/the-difference-between-cyber-bullying-and-cyber-stalking/

[8] https://www.verywellfamily.com/reasons-why-kids-cyberbully-others-460553

generally ignore the fact that it might cause long lasting impact on the person being bullied. The main reason of cyber bullying revolves around the fact of revenge and power. Bullies go for cyber bullying in order to meet their revenge. In most of the cases, a person being bullied in earlier situation turns into a bully to satisfy his hunger of revenge.[9] Also, there are instances where a person who cannot speak up directly in front of the victim, takes advantage of anonymity of cyber bullying. There are possibilities that the reason being social power. Just to become socially powerful, people may try to demean others. Jealousy can also be one of the reasons giving rise to cyber bullying. Since adolescent age attracts jealousy soon, jealous minors are potential bullies.

Types of Cyber Bullying

Cyber bullying can take various forms. To name some are those involving abuse to personal information of a person such as photos, blogs, etc. sending viruses to destroy the information of the other person, or to abuse a person in a chat room, sending images or texts through mobile phones are also some types. Also, emails when conveyed not to, or sending vulgar/junk mails are also its kind. Another type can be that of impersonating someone, revealing the secret information shared, excluding someone from a chat group, exchanging rude comments on the group, harassing someone continuously, online polling, stealing passwords and misusing it in revealing information, telling someone else to bully a person.[10]

Modes of Cyber Bullying

Bullying someone on the internet can take place through various methods. Some methods of cyberbullying can be simplest of all that is, sending text messages, or e-mails or instant message to someone who has already expressed his intention of not keeping any contact with the sender. Other methods can be of threat, gaming up on victim, defaming, sexual remarks, posting rumors, hate speech, making an online forum against the victim, etc. Some other methods can include impersonation, making fake accounts, posting on social media and in video games, portraying or abusing someone.[11]

Illustrative Case: Cyber Bullying

Indian laws have been silent on the problem and victimization of cyber bullying. The instances of the same has been increasing over the years and has reached an alarming situation leaving India on the third position in terms of cyber bullying cases across the globe.[12] The statute which addresses computer related concerns is the Information Technology Act, 2000 along with its amendment of 2008.It is surprising that IT act has not touched upon communication related threats and offences on the cyberspace. Like everything, boon and banes walk hand in hand. Similarly, with advantage of

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[9] http://endcyberbullying.net/why-do-people-cyberbully/
[10] http://www.endcyberbullying.org/5-different-types-of-cyberbullying/
[11] Megan Meier[united states vs drew] article by Jennifer stein hiver
[12] The State (Cyber Cell) Complainant vs Yogesh Pandurang Prabhu r/o. Vashi Accused C.C. NO. 3700686/PS/2009

communication, there are possible threats and shortcomings of the same.[13]

The consequences of such communications are grave and cannot be compared to traditional on-site insult of a person. The traditional insult is limited to a particular area and restricts to limited ears whereas online insult can reach out to ears across the globe crossing all the geographical barriers within a tic of a clock. The potential harm of an online offense is wide and beyond the foreseeing capacity of many. There are numerous potential cybercrimes possible but India has emphasized on some only.[14]

9. Remedies

Legal Remedy under Information Technology Act[15]

Cyber bullying is an injury which leaves it scars for the rest of the life. To cope up with it is difficult. To keep quiet about it and letting go the bullies is not the solution to it neither does it help the victim to overcome it. Letting go bullies without reporting or bringing out an action against them can lead to potential attacks and also aggression in the bully, seeing them free of any harm. There are legal remedies available against cyber bullying. The remedy can be civil or criminal. After the amendment in the Indian Penal Code of 1860 in 2013, cyber stalking has been added as a criminal offense. The remedies available are herein below.

Chapter 11 of the Information Technology Amendment Act consists of offenses, where there is no clear definition of the offence of cyber bullying. Still the act provides remedies against the same under section 66 and section 67.

Remedies under Indian Penal Code[16]

Indian penal code provided remedies against defamatory act or an act outraging the modesty of the women. The amendment of the Act in 2013 introduced other offences and also made cyberstalking as an offence. Under section 354C, a person who takes pictures of a woman, or watches her where she expects privacy or when she is indulged in some private activity and expects no one to be observing, shall be punished with imprisonment in between one year to three years and also liable to fine under first conviction. For the second or subsequent conviction there is imprisonment between the terms of three to seven years and also fine. Under this section, a cyber bully can be punished for taking pictures and can held liable under this section along with other sections if he transmits or publishes the same.

Section 354A provides punishment for sexual harassment. Section 354D provides punishment against stalking. If a man contacts a woman or attempts to even after her expressed disinterest, or monitors her activities on the internet,

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[13] Anthara stalking case AIR 2016
[14] Ryan Haligan case
[15] Information technology, Act 2000
[16] Indian penal code, 1860

shall be liable for punishment of imprisonment up to three years and fine under first conviction. Under second or subsequent conviction, he shall be punished with imprisonment up to five years and fine.

International Law[17]

The first case of cyber bullying which gathered the attention of nation world-wide was that of Ryan Haligan. Ryan was a 13 year old boy. He had concerns with speech, language, and motor skills in his early childhood. Having received special education services till fourth grade, he recovered in the fifth grade and was no longer in need of special attention. In his fifth standard he encountered cyber bullying for the first time on his physical and academic weakness. Later on Ryan told his parents about his friendship with that kid who used to bully him in school. Considering him a friend, Ryan told the kid about his embarrassing examination required due to stomach pains. The kid spread rumor that Ryan was a gay. Later during his summer vacations he started spending time online. He started talking to the famous girl in the school he had crush on. The girl also pretended to like him. When he tried to contact her school, she called her a loser in front of everybody. She had also shared their IM chats with others to laugh at. Being a constant victim of cyberbullying, Ryan committed suicide by hanging himself. He had not left any suicide note but the father registered the cause by looking at his IM chats. The police told him that there was no criminal law that covered the circumstances. All he could do was talk to the bullies and their families. He went up to schools to educate them on cyber bullying.

10. Current Scenario

As per the research conducted on 400 students of age 11-14 in the Midwest, in October 2013, statistics say that 97.5% have been online in previous 30 days, 63% has cell phones, 43% are on Facebook, 42% are on Instagram, 11.5% have been target of cyberbullying in previous 30 days from which boys are 6.8% and girls 16%, and 3.9% have cyber bullied others in previous 30 days again of which boys are 0.6% and girls being 6.9%.

Instagram has also become a mode of cyber bullying. There have been cases of cyberbullying on Instagram too. It can take place through posting embarrassing photos of a person, putting hash tags which can be insulting, posting something defaming or cruel comments, creating fake profiles.[18]

Today, social media has become a large platform for cyber bullying. Confession pages are new and have held attention of most.[19] A confession page of a community or institute allows people to post anything about anybody without their identity being revealed. The administrators of such pages receive inbox messages which they post on the page for everybody to ready. People who like

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[17] Indian international perspectives by Aparna Vishwanathan
[18] https://www.independent.co.uk/life-style/health-and-families/features/cyberbullying-what-to-do-9983103.html
[19] Cybercrimes Indian perspective by Pavan Duggal

these pages are connected and remain in that circle and keep getting notifications of posts on the page. Facebook pages and twitter pages are new in the trend. People can inbox anything to the admin to post it. These posts can be any specific confession also. Sometimes it includes posting of photos too which can be humiliating, also posting some secret information of the victim. People post anything since there is no threat of their identity being released.

Rithika Sharma Case

Facts of the Case

Ritika Sharma (name changed), who studies at a prominent Delhi school, went to the police after being stalked by a Facebook user whom she had befriended on the site a month ago.

She had given her cellphone number to the man who was later found to be using a fake name, photo and phone number.

Experts say cyberbullying and cyberstalking are increasingly becoming a daily problem for the city's schoolkids with people using electronic communication like emailing, social networking and texting to harass or pursue them.

Decision

Delhi Police has been launching cyber safety awareness programmes in schools in which students are informed to avoid giving personal information online to anyone they don't know.

Ritu Koli Case

Facts of the Case

The fact that cyber stalking does not involve physical contact may create the misperception that it is more benign than physical stalking. This is not necessarily true. As the Internet becomes an ever more integral part of our personal and professional lives, stalkers can take advantage of the ease of communications as well as increased access to personal information. Whereas a potential stalker may be unwilling or unable to confront a victim in person or on the telephone, he or she may have little hesitation sending harassing or threatening electronic communications to a victim. As with physical stalking, online harassment and threats may be a prelude to a more serious behaviour, including physical violence.

Decision

The Delhi Police has registered India's First Case of Cyberstalking in 2001 where a lady named Ritu Kohli complained that a person who was using her identity to chat over the Internet at the website www.mirc.com was also deliberately giving her telephone number to other chatters encouraging them to call Ritu Kohli at odd hours. As a result of which, Mrs. Kohli received an estimate of 40 calls, national as well as international, during odd hours within 3 days. A case was registered under section 509 of the Indian Penal Code (Word, gesture or act intended to insult the modesty of a woman).

United States v. Lori Drew

Lori Drew was charged for the death of Megan Meier as a result of her participation in Cyber-Bullying efforts considered to be responsible for Meier's death. In addition, Ashley Grills, the 18-year-old employee of Drew, was called to testify in the case. However, the verdict rendered acquitted Lori Drew of her contribution to the death of Megan Meier.

Megan Meier and Cyber-Bullying
Facts of the Case

Megan Meier was a 13-year-old girl who had attended the Immaculate Conception Middle School in Dardenne Prairie, Missouri. She took her own life shortly before her 14th birthday as a result of what was deemed bullying taking place over the Internet, or 'Cyber-Bullying'.

Megan Meier is considered to be amongst the first cases of suicide resulting from Cyber-Bullying in the United States of America. However, in contrast to a large majority of Cyber-Bullying cases that has followed Meier's case, in which the bullying is typically undertaken by fellow peers and classmates, Lori Drew, who was the parent of a fellow student, was charged with masterminding the bullying of Megan Meier.

11. Prevention

Other than being dependent on technology for prevention of cyber bullying, teachers, parents, and students themselves need to take measures to prevent such offence. There can be advertisements on the effects of cyberbullying and its concept. Anti-ragging cells and also posters in the school can help to prevent it.[20]

School authorities should make students understand the concept of cyber bullying, its consequences and effects. They should teach cyber ethics to the students and impart knowledge of laws against cyberbullying. Schools can prevent the same by organizing some activities or interactive sessions to give them the whole idea of cyber bullying. Schools should also include in the policy, their right to interfere in actions of a child off-campus which affects the children on-campus too. There should also be a teacher in the school, a counselor who can look into the matter of cyber bullying and help the victim to cope up with it. School should also monitor the internet activities of the students and should take necessary disciplinary actions against the same. Parents should explain students what is cyber bullying, should help their child if he has become a victim of the same. Parents should keep a check on the internet usage and activities of their child. They should also make some rules in the house related to internet usage. They should maintain healthy relations with the child and should encourage the child to tell them if they are being bullied. They should

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[20] https://cyberbullying.org/Top-Ten-Tips-Teens-Prevention.pdf

also save evidences and guide the child as to what he can do to overcome it or avoid it. They should keep him busy and also motivate him about positive things. They should make complaint as soon as possible. Parents should inform the school authorities also. They can also seek protection from the court by filing a case.

12. Conclusion

Indian laws are competent and well drafted to punish traditional offences on the physical space. Some laws to punish offences on cyberspace are well drafted to meet the ends of justice. The interesting aspect of cyber space is that it is growing and evolving unlike physical space. Due to the same reason, what shape the crimes might take place is still not fully foreseen; cyber bullying is one such crime. It can take place in many forms and can be tried under different provisions of existing laws but doing so will affect evolution of cyber laws in India. There is a need for defining separate laws for the purpose of cyber-crime offences since the mode, consequences, gravity and probable targets are different. Cyber bullying is one of the offences which can take an ugly shape in the future and needs to be addressed soon. In making of the cyberbullying law, lawmakers should take opinion of the psychiatrist since such offence affects the psyche of a child very much. The law should be made considering the psychology of people involved and the legal expertise of law enforcements. If law is not made, many cyberbullies will be left open and victims will have to suffer the consequences and defeating the concept of justice.

References

[1]   Batra, Mukta. "Cyber-Bullying in India: The Search for a Solution - Why the Current Law Is Ill-Equipped in the Face of Cyber-Bullying." SSRN Electronic Journal, 2013, doi:10.2139/ssrn.2396568.

[2]   Khan, Danyal, and Muhammad Daniyal. Cyber Bullying in Pakistan: Statistical, Legislative, and Social Analysis. 2018, doi:10.20944/preprints201804.0102.v1.

[3]   Mishna, Faye. "Cyber Bullying in a Cyber World." Bullying, 2012, pp. 73–86.

[4]   Lee, S.K. and Oh, I.S., 2012. Comparative analysis of factors influencing on off-line bullying and cyber-bullying. Asian journal of education, 13(2), pp.137-161.

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