

Breaking the Cyberbullying Shield: Navigating the Digital Minefield



Wednesday Wisdom
04-10-2023

***Introduction[1]:**

Cyberbullying widely reported that urban children spend about 3 hours online for various activities which is leading to increasing behavioural and attitudinal issues[2]. With this increased online presence of kids and teenagers, one must be conscious about cyberbullying. This article explores the legal provisions related to cyberbullying in India and discusses notable case laws that have set important precedents.

What is Cyberbullying?

The term “cyberbullying” was defined by a teacher from Canada, Bill Belsey who defined cyberbullying as “Cyberbullying involves the use of information and communication technologies to support deliberate, repeated, and hostile behaviour by an individual or group, that is intended to harm others”.[3]

Where does cyberbullying occur?

Cyberbullying occurs on:

- Social Media, such as Facebook, Instagram.
- Text messages, messages apps on mobile or tablet device.
- Instant messaging, direct messaging and online chatting over the internet.
- Online forums, chat rooms.
- Email.
- Online gaming communities.
- Through a website, where the perpetrator creates a website and publishes horrifying images of a victim that could damage the victim’s reputation.

How does cyberbullying occur?

1. Transmission of offensive, personal or authorized communications:

Online harassment may occur when the bully engages in transmitting offensive or disagreeable communications to a person or group, (akin to offline harassment, but on online medium). There may be deliberate, ongoing, and repetitive statements made to have lasting adverse consequences on a victim’s self-confidence or self-esteem.

[1] The article reflects the general work of the authors and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2] <https://timesofindia.indiatimes.com/city/mumbai/60-children-spend-3-hours-a-day-on-social-media-study/articleshow/103878956.cms?from=mdr>

[3] <https://billbelsey.com/?cat=13>

2. Cyberstalking:

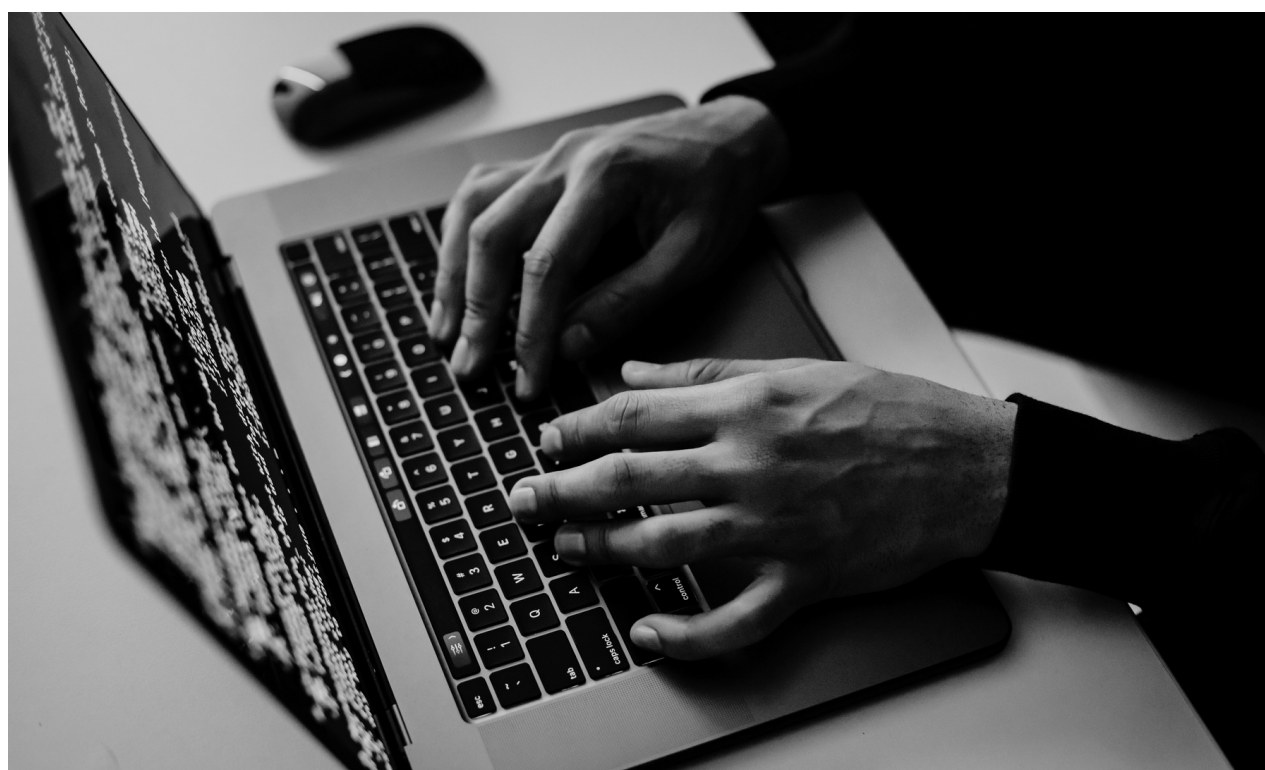
It means the repeated use of electronic communications to harass or frighten someone, for example by sending threatening emails, repeatedly posting on the victim's personal wall or replying offensively to any posts by the victim. These statements may be nasty or disrespectful and also dangerous. The situation could get worse and put the victim's physical safety at peril.

3.Exclusion:

It involves deliberately excluding the victim during any conversations online. Deliberately engaging in conversations on social media sites to which the victim is not authorized may constitute this. Sometimes, the bully may slander the victim indecently.

4. Masquerading:

Masquerading is when a bully uses a false identity to hurt the victim covertly. They may adopt a false identity, imitate someone else, use a real person's account or phone number, or use a combination of these methods to fool the victim. If the bullied person has to remain anonymous, the bully usually knows the victim well. Bullying victims may be cyberstalked or made to feel inferior. Usually, people do it to entertain themselves or to hurt the victim.



Legal Provisions Against Cyberbullying in India

The Cyber Law regime is governed by the Information Technology Act, 2000 (IT Act) and the Rules made thereunder and also the general law like Indian Penal Code. Some examples that may be held as offences under the IT Act are listed below:

Example

A considers B to be his friend and shares that he had written his passwords in a diary. B, being jealous of A's performance, decides to misuse his password for social media accounts. B manages to locate the diary and misuses A's password and posts certain indecent images on internet posing himself online as A, thereby creating an impression that A is engaging in indecent activities.

B forwards the images virtually in many social media groups and channels. B also likes, comments and forwards the same through his own fake accounts. A may suffer mental harm due to such wrong impression about him in the society.

Victim and Bully do not know each other but are waiting at an airport together for a long time as the flight is delayed. Victim is working on his/her laptop and is unaware of Bully's activities.

Bully is sitting next to Victim and is in a position to capture photographs. Bully captures the images of private parts of Victim and publishes them without his/her consent. This leads to public mockery of Victim and Victim feels offended due to constant remarks and comments on his/her image.

Description of Section

This is likely to be considered as an identity theft under section 66C of IT Act which is punishable with imprisonment upto 3 years or fine up to one lakh rupees.

This is likely to be considered as a violation of privacy under section 66E of the Act which is punishable with imprisonment upto 3 years or fine up to two lakh rupees or with both.

A and B have met on social media and develop a friendship around their common interests of following the same social media channels of celebrities. A and B interact often on social media and chat with each other.

B also shares her whereabouts and pictures of vacations. A download the pictures and thereby applies multiple filters available online to create improper pictures with captions containing a sexual overtone and posts them online.

B is unaware of the images, unless she is informed about the same through her friends who see the images online.

This is likely to be considered as transmission of sexually explicit content with under section 67A of the IT Act and A may be liable for punishment. First conviction is imprisonment which may extend up to 5 years also with a fine up to Rs. 10 lakhs however on the second conviction, imprisonment may extend to 7 years and with a fine up to Rs. 10 lakhs. In case B is a child then punishments are higher under section 67B and also under the Prevention of Children from Sexual Offences Act, 2012.

Along with the provisions of IT Act, other applicable and relevant provisions of IPC will be adopted. With the country moving towards the 'Digital India' movement, the Cyber Crimes are evolving constantly, and new kinds of Cyber Crimes enter the Cyber Law regime each day. It is important that we become responsible netizens and take appropriate actions against cyberbullying.

Case laws in India:

1. Majeesh Mathew Vs State of Kerala and Ors.[4] wherein the Kerala High Court discussed Section 67A of Information Technology Act, 2000 (IT Act), Section 354 of Indian Penal Code, 1860 (IPC) and certain other provisions. The case was in the context of online harassment wherein the accused were engaging in repeatedly posting many scurrilous comments on the complainant's facebook page and pictures of the victim and her husband were posted along with sexually colored remarks, making her the subject of online harassment. She was tagged in multiple posts, which were liked and made public. The victim filed a complaint, and the accused moved the High Court for anticipatory bail. The Court went through all the posts and contents and rejected the application for pre-arrest bail while specifically observing that:

[4] 2018 (4) KHC 253

“The method adopted by the accused and others clearly fall within what is called in these ages as cyber bullying, cybersexism or cybermisogyny. There is evidently discriminatory an abusive behaviour towards the de facto complainant apparently due to her political leanings. In the virtual world of social media, people feel that they are free to send insulting or abusive messages to others. Though the strength of social media has always been to easily connect and interact with friends and groups, it can also be subjected to gross abuse. The freedom that social media offers cannot be exploited to do online baiting such as in the instant case wherein the de facto complainant is branded as being sexually promiscuous. Prima facie, there are materials to conclude that the applicant has posted messages tinged with sexism with a view to embarrass and humiliate the lady”.

2. S. Muthukumar Vs The Telecom Regulatory Authority of India and Ors.[5] A writ petition was filed before the Madras High Court in public interest to ban the download and use of the Tik Tok mobile application which allegedly contained explicit and disturbing content that degraded culture, encouraged pornography, made teenagers vulnerable to paedophiles, and triggered adverse health issues in adolescents who became addicted to the application. The Petitioner sought a writ of mandamus against the Telecom Regulatory Authority of India (“TRAI”), the Ministry of Communication and Information Technology, District Collector, Madurai and the Commissionerate of Police, Karnataka, directing them to impose ban on the use of Tik Tok mobile application.

The Hon’ble Court held that *“This Court is concerned about several incidents of women and children using cyber space becoming victims reported in newspapers and social media. This Court is also aware of the fact that the millions of users are denied their right to have access to the said platform which also promises several good things.”*

The Hon’ble Court further held that “this Court's endeavour is to safeguard the people using cyber space becoming victims, especially woman and children. Any technological innovation should be utilised for constructive activities and not be used for commission of offences violating rights of the people. The reply affidavits filed by the 6th respondent and the company are treated as an undertaking that negative and inappropriate or obscene materials would be filtered and if any violation is found later, this Court would seriously view it as contempt of Court”.



[5] WP (MD) No. 7855 of 2019

How to be a safe netizen

1. **Protect your account safely:** Ensure the security of your password. To avoid bullying, never reveal your password to anyone, not even your closest friends. Do not allow anyone to pry through your private information; keep your phones and online accounts password protected.
2. **Log-out from social media account after usage:** It is extremely necessary and important to log-out from the social media after its usage even if it's from your personal device.
3. **Don't accept friend requests** from unknown people on social media since the same can be invitation for cyberbullying. Recently while hearing one matter, the Division bench of Karnataka High Court orally suggested Union Government that it should bring in minimum user age limit for accessing the social media.[6]
4. **Don't Share your personal information** on social media platform: Sharing your personal information like date of birth, address, mobile number etc. on social media platforms is extremely dangerous. You can go to privacy settings on social media platforms to select who can access your posts online. Please try to restrict access of your profile to your friends only.
5. **What you post online remains there:** If you post your phone number or the personal information on social media, the same remains as it is. It is also important to be careful while posting any comments on social media platforms since the data/your post remains there.
6. **Never install unwanted software and Apps from unknown sources:** Please do not install unwanted Software and Apps like dating App, online games, etc. from unknown sources. You should be very cautious while chatting in the unknown chat rooms.
7. **Never share hurtful messages or embarrassing pictures/videos online:** Please be conscious before posting messages/videos on social media since your post comment/videos can be embarrassing for your friend or anyone else. You should not become a cyber bully yourself as it is a punishable offence. It adversely impacts the victim.

How to deal with cyberbullying[7]

1. If you feel hurt after reading any post from your friend or a stranger, don't react with an aggressive reply immediately. It may encourage the bully to keep posting such messages/post. If you find any hurtful post/message which is posted by a known person whom you can get in touch with, you can reach out to that person and speak to him/her to delete such posts.
2. **Block the bully:** If bully is using social media platforms to bully you, you can block the bully. All the social media apps or services have the option to block a user.

[6] [Increase The Age Limit Of Children For Social Media Use | Karnataka High Court Suggested To Government \(livelaw.in\)](#)

[7] [cyber Safety Final 31-10-201... \(kvsangathan.nic.in\)](#)



3. Keep the evidence safe: The victim must record and keep all evidence of cyberbullying so they can later use it to demonstrate their vulnerability. All the evidence, including messages, posts, and comments, must be saved. You can also show this to the appropriate authority for cyberbullying.

4. Report: You can report the account to the particular social media channel if you believe is indulging in cyberbullying to the social media platform and to the authorities.

5. Reach out for help: If you believe you are being bullied, after following the above procedures, speak with a cyber lawyer who can help you stop the bullying and get out of the situation. You can also visit your nearest police station.

Other Initiatives

- Indian cybercrime coordination centre: Indian Cybercrime Coordination Centre is an initiative of the Ministry of Home Affairs, Government of India to deal with cyber crime in the country in a coordinated and comprehensive manner. It is envisaged to act as the nodal point to curb Cybercrime in the country.
- National Cyber Crime Reporting Portal: This is an initiative of Government of India to facilitate victims/complainants to report cybercrime complaints online. This portal caters to complaints pertaining to cybercrimes only with special focus on cybercrimes against women and children. Complaints reported on this portal are dealt by law enforcement agencies/ police based on the information available in the complaints. It is a requirement to provide correct and accurate details while filing complaint for prompt action. The portal also contains an interesting voice note on Cyber bullying.[8]
- Delhi Police have released an interactive and informative video. In this video in simple language they have explained the meaning of cyberbullying and the necessary steps or care to be taken for preventing the spread of cyberbullying[9]. A handbook has also been released on cyber safety by Ministry of Home Affairs. [10]

Conclusion:

Cyberbullying can affect anyone but is most prominent among today's youth. As they say that it takes a village to raise a child, it is important that all members of the society come together to tackle this issue. A bully could be a known or an unknown person. As per the recent study of U.S. Surgeon General's Advisory, up to 95% of youth ages 13-17 report using a social media platform, with more than a third saying they use social media "almost constantly." In the said report they have also stated that nearly 75% of adolescents say social media sites are only doing a fair to poor job of addressing online harassment and cyberbullying.[11]

While parents and teachers have the cardinal responsibility to educate the children with respect to cyberbullying and remind them that they can take steps against a bully, the technology companies should also adopt strict measures to ensure that no reported accounts put obscene contents on social media. The government should also adopt a vigilant approach by enacting specific and stricter rules and regulations against cyber bullying.

[8] [Cyber Crime Portal](#)

[9] <https://dpinteractivevideos.in/delhi-police-cyber-bullying-solution/>

[10] [cyber Safety Final 31-10-201... \(kvsangathan.nic.in\)](#)

[11] [Social Media and Youth Mental Health – Current Priorities of the U.S. Surgeon General \(hhs.gov\)](#)

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