



ILE MULTIDISCIPLINARY
JOURNAL

VOLUME 4 AND ISSUE 1 OF 2025

INSTITUTE OF LEGAL EDUCATION



ILE MULTIDISCIPLINARY
JOURNAL

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ILE MULTIDISCIPLINARY JOURNAL

APIS – 3920 – 0007 | ISSN – 2583-7230

(OPEN ACCESS JOURNAL)

Journal's Home Page – <https://mj.iledu.in/>

Journal's Editorial Page – <https://mj.iledu.in/editorial-board/>

Volume 4 and Issue 1 (Access Full Issue on – <https://mj.iledu.in/category/volume-4-and-issue-1-of-2025/>)

Publisher

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“CYBER CRIME AGAINST WOMEN IN INDIA: AN INSIGHT FROM IT ACT 2000”

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BEST CITATION – SAPNA RANI, “CYBER CRIME AGAINST WOMEN IN INDIA: AN INSIGHT FROM IT ACT 2000”, ILE MULTIDISCIPLINARY JOURNAL, 4 (1) OF 2025, PG. 819-818, APIS – 3920-0007 | ISSN – 2583-7230.

ABSTRACT

Information technology has widened itself over the last two decades and has become the axis of today's global and technical development. The world of internet provide every user all the required information fastest communication and sharing tool making it the most valuable source of information with the numerous advancement of internet, the crime using internet has also widened it's roots in all directions. The cyber crimes post a great threat to individuals. Cyber-crime is a global phenomenon and women are the soft target of this new form of crime. In this paper we explore the Cyber-crime and the online security vulnerabilities against women. Cyber-crime is emerging as a challenge for national and economic security. Various issues that are discussed in this paper are :- cyber stalking, harassment via email, cyber defamation, morphine, and email spoofing against women.

KEYWORDS :- Cyber crime, women, information-technology.

INTRODUCTION:-

Technical measures to protect computer system are being implemented along with legal measures to prevent and deter criminal behavior. But this technology knows no physical boundaries, if flows more easily around the world subsequently the criminal are increasingly located in places other than where their acts produce their effects and cybercrimes.⁵⁵⁰ Is no exception to it? Cyberspace is a new horizon controlled by machine for information and any criminal activity where computer or network is used as the source, tool or target is known cybercrime.⁵⁵¹ The common types of cybercrime may be discussed under the following heads: hacking, cyber stalking, cyber pornography, phishing, web jacking, soft piracy, and cyber terrorism.

moreover the problem against women such as harassment via email, cyber stalking, cyber pornography, defamation, morphing, email spoofing etc. are also treated on the type of cyber crime against women in India in the light of Information Technology Act,2000.

CYBER CRIME AGAINST WOMAN IN U.K

In UK cyber harassments and offences against women are comprehensively covered by the protections of harassment Act 1997. The act is considered more conservative regulate gender centric cyber crime harassments except those which involve physical harms. Harassment via email and cyber stalking may be considered some of the main offences against women in cyberspace. Hacking related activities may not always be restricted to crimes committed against the nation or the corporate entities alone but some time it may be seen as a crime when done to stored computer data or the computer as a machine of any female victim. To access her personal information with intention to misuse it distribute it in the internet ,

⁵⁵⁰ The word “cyber crime” was coined by “William Gibson,” the Canadian/American science fiction writer who helped define its cyberpunk sub-genre, in 1982 in his novelette “Burning Chrome” in Omni magazine, and in his Novel “Neuromance”.

⁵⁵¹ The Cambridge English Dictionary define cybercrimes as crimes committed with the use of computers or relating to computer, especially through internet.



modify the contents and give a false impression of the victims etc. are also criminal activities like stalking or bullying. The penalties for such are offences are imprisonment for a term of 12 months or do a monetary fine not exceeding statutory maximum, or both.

PROTECTION FOR WOMAN AGAINST CYBERCRIME IN USA

USA is one of the countries which evaluated the dark and ugly side of internet, the cybercrime a study shows that till 2010 among 349 victims 73 percent are women in cyberspace. Where was it recognized protective laws of both level federal and state. USA noticed a hub of cases in the cybercrime against women and mitigates such crime to prevent future victimization.

CYBER CRIME AGAINST WOMAN IN INDIA

Cyber crime against women is on at alarming stage and it may pose as a major threat to security of a person as a whole. In india the term "cyber crime against women" includes sexual crimes and sexual abuses on the internet. India is considered as one of the very few countries to Information technology Act 2000 to combat cybercrimes.

Dr. L. Prakash v. Superintendent⁵⁵²

In this case the accused was an orthopedic surgeon forced women to perform sexual acts and later on upload and sale these videos as adult entertainment material worldwide. He charged under section 506 (part 2 of the section which prescribes punishment for criminal intimidation to cause death or grievous hurt), 367(which deals with the kidnapping or abduction for causing death or grievous hurt), 120b(criminal conspiracy) of the IPC and section 67 of information technology Act 2000 (which dealt with obscene publication in the internet). He was sentenced for life imprisonment and a pecuniary fine of rupees 1,25,000 under the immoral trafficking (prevention)Act 2000

HARASSMENT via E-mail

Harassment via E-mail is a form of harassment ,which includes blackmailing, threatening and constant sending of love letters in anonymous names or regular sending of embarrassing mail to ones' mail box. Indian penal code , code of criminal procedure and select section of information technology Act 2000 deal with the amendment in 2008 new sections have been inserted as section 67A to 67C, section 67A and 67B insert penal provisions in respect of offences of publishing or transmitting of material containing sexual explicit act and child pornography in electronic form , 67C deals with the obligation of an intermediary to preserve and retain such information as may be specified for such duration and in such manner and format as the central government may prescribe. These provisions do not mention anything about e-mail harassment of different type but in general they are used to book the perpetrators along with section 292A of the Indian penal code for printing or publishing grossly indecent or scurrilous matter or matter intended to blackmail, and under section 509 of the Indian penal code for uttering any word or making any gesture intended to insult the modesty of a woman.

CYBER STALKING

This is one of the most popular about internet crime in the modern world cyber stalking can be defined as the repeated acts harassment or threatening behavior of cyber criminal towards the victim by using the internet service. The university of virginia defines stalking as behavior where in an individual willfully and repeated engages in a knowing course of harassing conduct direct at another person which reasonably and seriously alarms that persons.

The motivation of stalkers may be considered less than four reasons:

- Sexual harassment
- Obsession for love
- Revenge and hate

⁵⁵² (2008) 3 MCJ (cr1) 578



- Ego and power trips

Ritu kohli case

Ritu kohli case was india's first case of cyber stalking in this case Mrs. Ritu kohli complained to police against a person who was using her identity to chat over the internet at the website <http://www.micro.com/>, mostly in delhi channel for four consecutive days .Mrs. kohli further complained that the person was chatting on the Net, using her name giving her address and was talking obscene language. The same person was also deliberating them to call Ritu kohli at add hours. Consequently Mrs. Kohli received almost 40 call in three days mostly an add hours. The said call created a havoc in personal life of the complainant consequently IP address was traced and police investigated the entire matter and ultimate arrested the offender. A case was registered under the 509, of Indian penal code and there after he was released on bail. This is first time when a case of cyber stalking was reported. Similar to the case of email harassment, cyber stalking is not covered by the existing cyber laws in india.it is covered only under the ambit of section 72 of IT Act that preperator can be booked remotely for breach of confidentiality and privacy. The accused may also be booked under section 441 of the IPC again for outraging the modesty of women.

CYBER DEFAMATION

Cyber defamation occurs when with the help of computer and internet someone publishes derogatory or defamatory information to all of that person's friends or the preperator post defaming stories about the victim. Although this can happen to both genders, but woman are more vulnerable. Unfortunately cyber defamation is not defined by the IT Act 2000.and it is treated by the criminal justice system under the same provisions of cyber pornography or publication of obscene material in the internet (section 67 of the IT Act 2000). The offence is well explained in the IPC under section 500 which mentions punishment with

simple imprisonment which may exted to two years or with fine or both.

MORPHING

When unauthorized user with fake identity downloads victims pictures and then uploads or reloads them after editing is known as morphing.

EMAIL SPOOFING

E-mail spoofing is a term used to describe fraudulent email activity in which the sender address and other parts of the email heads are altered to appear as though the email origated from a different source by changing certain properties of the email such as the from, return path and reply to fields, ill intentioned user can makes the email appear to form someone other than the actual sending email spoofing is possible because simple mail transfer protocol(SMTP), the main protocol used in sending email, does not allow an authentication mechanism. Although an SMTP service extension allows an SMTP client to negotiate a security level with a mail server, however this precaution is not always taken⁵⁵³. One of the best example of cyber spoofing is Gujarat Ambuja's Executive case⁵⁵⁴. In this case the perpetrator pretended to be a girl for cheating and blackmailing the Abudhabi based NRI.

HACKING

Hacking means unauthorized access to computer system or network⁵⁵⁵. And it is the most predominant form of cyber crime. It is an invasion into the privacy of data, it mostly happens in a social online community to demean a woman by changing her whole profile into an obscene, derogatory one. The reasons vary from personal hatred, revengeful mind to even just for fun even though some social networking communities like orkut facebook have the option of reporting profiles

⁵⁵³ <http://www.mailsbroadcast.com/e-mail.broadcast.faq/46.e-mail.spoofing.html>

⁵⁵⁴ G. Rathinasabapathy and L. Rajendran, "cyber crimes and information frauds: emerging challenges for LIS professionals," conference on recent advances in science and technology (2007)

⁵⁵⁵ Section 66 of information technology Act 2000.



as bogus, photo- video lock, special tools for reporting , still, may women are kept in dark, when their email IDs or even websites are haked.

THERE ARE DIFFERENT CLASSES OF HACKERS :-

Morphing , hacking and email spoofing are interrelated and attract section 43 (penalty for damage to computer, computer system etc.) and 66 (hacking of the system , first proviso to the said section states that whoever with the intent to cause or knowing that he is likely to cause wrongfull loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resources or diminishes its value, its utility or effects injurious by any means, commits hacking) of the IT Act 2000. Perpetrator can also be booked under the IPC for criminal trespass under section 441, section 291A for committing public nuisance, section 292A for printing or publishing grossly indecent or scurrilous matter or matter intended to blackmail and under section 501 for defamation

CYBER PORNOGRAPHY

Internet may be considered the facilitator of crime like cyber pornography, women and children are becoming the main victim of the flip side of technology.

Recently the Air force Balbharati school case(Delhi)⁵⁵⁶ category where a student of the school was teased by all his classmates for having a pockmarked face. He , who is tired of the cruel jockes, decided to get back at his tormentors and scanned photograph of his classmates and teachers, morphed them with nude pornography and put them up on a website that he uploads on to a free web hosting service. The father of one of the class girls featured on the website came to know about this and lodged a complaint with the police.

In another incident, at Mumbai, a swiss couple gathered slum children and then forced them

to appear for obscene photographs, which they took and them uploaded those photographs to websites specially designed for pedophiles . the Mumbai police arrested the couple for pornography⁵⁵⁷

Unlike other crimes like cyber stalking , cyber defamation, morphing, email spoofing, cyber pornography is considered an exceptional case which has been covered by IT Act 200 to a certain extent by section 67 of the Act 2000. Along with IT Act the perpetrator can be punished under section various section of IPC.

CYBER SEXUAL DEFAMATION

Cyber sexual defamation happens between real or virtually known people who out of frustration start publishing defaming stories in obscene language on various social websites subsequently it turn into cyber pornography. The accused can be booked under section 67 and 72 of the IT Act as well as IPC as discussed earlier.

CYBER FLIRTING

Generally cyber flirting may be considered very minimal petty offence that starts when perpetrator force the victim to hear obscene songs, messages and it may consequently result in cyber sexual defamation and breach of trust again this can be treated as the flip side of IT Act that except section 72 which deals with the breach of confidentiality and privacy there is no other support that can be offered by the Act to the victim.

CYBER BULLYING

Cyber bullying means the use of electronic communication to bully a person , typically by sending messages of an intimidating or threatening nature⁵⁵⁸. The main aim and objective behind such crime may be defame the target out of anger, hatred or frustration or secondly when the perpetrator wants to makes simple fun of his friends, classmates, juniors or

⁵⁵⁶ Abhimanyu Behera , “ cyber crime and law in india,” 31,IJCC 19 (2010)

⁵⁵⁷ G. Rathinasabapathy and L.Rajendram,” cyber crimes and information Frauds: Emerging Challenges For IJS Professional,” conferences on recent advances in science and technology (2007)

⁵⁵⁸ According to Oxford dictionary



unknown net friends. In the **United states v. lori drew 2006**⁵⁵⁹ is one of the example of cyber bullying. In this case a 13 year old girl got a message on internet, “The world would be better off without you”. And took it to her heart. She had not met the person who sent this message but only after twenty minutes she hung herself. The story turned to be more terrific when it found that the person was just a creation of some LORI DREW, who was arrested in 2008 for violating the computer fraud and abuse Act but unfortunately was acquitted in 2009. The social network like orkut, facebook can be considered the main source of bullying. But despite of the vulnerability of women not suffers IT Act does not provide some direct protection to the victims. While most of the crimes can be booked under IPC , under IT Act there are only three provisions which are not cyber crime i.e. section 67 and 70 and 72. It is true that, other than cyber stalking, cyber pornography and morphing men are equally susceptible to the other types of crime mentioned here. There is no separate provision for cyber crime against women under IT Act.

REASONS FOR THE GROWTH OF CYBER CRIME AGAINST WOMEN IN INDIA

The transcendental jurisdiction of internet cause the major threat of the society in the form of cybercrime. The main victims of this transgression can be considered women and children . the study shows that we have 52 million in the year 2009. Among them working women net users are 8 percent and 7 percent non working women in the year 2009 and 37 percent usage of all users accessing internet through cyber café.⁵⁶⁰ It is very common phenomenon that the important information of the net surfer is being disclosed easily be the owner of cyber café and then it is used for illegal purposes. Although acquaintance with technology is positive aspect that can be considered important for the development of

any country but at the same time it is becoming the source to increase the crime rate with technology against the weaker section of the society. The reasons for the increasing cyber rate against women can be categorized into two folds, legal and sociological reasons.

LEGAL REASONS

The object of the IT Act is crystal clear from its preamble which shows that it was created mainly for exchanging e-commerce hence it covers commercial or financial crime i.e. hacking, fraud, and breach of confidentiality etc. but the drafters were unaware about the safety of net users. As we discussed about that majority of cyber crime are being prosecuted under section 60 (hacking) 67 (publishing or transmitting obscene material in electronic form) 72(breach of confidentiality). The most of the cyber crimes other than e-commerce regulated crime are being dealt with these three sections. Cyber defamation, email spoofing, cyber sex , hacking and trespassing into one’s privacy is domain is very common now days but IT Act is not expressly mentioning then under specific sections or provisions⁵⁶¹. Whereas IPC, criminal procedure code and Indian constitution give special protection to women and children for instance modesty of women is protected under section 506 and rape forcefully marriage, kidnapping and abortion against the will of the woman are offences and prosecuted under IPC . Indian constitution guarantee equal right to live, education, health food and work to women. But the some modesty of women seems not to be protected in general excepts for section 67 which covers cyber sex in Toto.

As it has been discussed earlier that transcendental nature of internet is one of the main reasons for the growth of cyber crime so whereas section 75 of the IT Act deals with the offences or contravention committed outside india but it is not talking about the jurisdiction of the crime committed in the cyber specially the question of place for reporting the case arises

⁵⁵⁹ Available at <http://blog.koldcast.tv/2011/kildcast-news/8-infamous-cases-of-cyber-bullying/>

⁵⁶⁰ <http://trak.in/tags/business/2010/04/07/internet-usage-india-report-2010/>

⁵⁶¹ Abhimanyu Behera, “ cyber crimes and law in india,” 31, IJCC 19 (2010)



when the crime is committed in one place affected at another place. Although in the most of the cases for the matter of territorial jurisdiction criminal procedure code is being followed.

SOCIOLOGICAL REASONS

Most of the cyber crimes remain unreported due to the hesitation and shyness of the victim and her fear of defamation of family's name. many times she believes that she herself is responsible for the crime done to her. The women are more susceptible to the danger of cyber crime as the perpetrators identity remains anonymous and he may constantly threaten and blackmail the victim with different names and identities although the women not surfers are very less in number as mentioned but the other groups targeting them above india, women still do not go to the police to complaint against sexual harassment , whether it is in the real world or the virtual world they prefer to shum off the matter as they feel that it may disturb their family life.

CONCLUSION

India is considered as a one of the very few countries to enact IT Act 2000 to combat cybercrimes, this Act is widely covered commercial and economic crimes which is clear from the preamble of the IT Act but it is observed that there is not specific provision to protect security of women and children ⁵⁶² however there are few provisions to cover some of the crime against women in cyber space under IT Act. The model adopted in USA may be proved a step forward in this direction.

⁵⁶² <http://www.genderit.org/es/nodes/2213>