

Online Harassment- A Virtual Crime with Real Consequences

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Abstract

With increment in the use of computer and internet in day to day work, we are facing a threat as a side effect. It is online harassment that includes cyber stalking, cyberbullying, identity theft, etc. The problem has as yet not received the required attention and hardly made its presence in research literature. The article explores definitional issues, the incidence and potential consequences of online harassment, as well as discussing possible prevention. Here, in this article we are going to discuss about the various forms of online harassments and the ways and the media through they occur. Also in the backdrop of modern technological advancement we will discuss this virtual crime expending globally, although we will keep the discussion focused around Indian context. With a glimpse of some online harassments cases reported worldwide, we will see how the crime has been expending in India and the laws the Indian government has implemented to tackle the problem. In the later part of the article, we also discuss how we can avoid ourselves of being victims of this virtual crime with real consequences

KEY WORDS

Online Harassments; Cyber Stalking; Gender Harassment; Cyber Crime; Indian IT Act

INTRODUCTION

Women violence and sexual harassment have been dominant issues in our society for many years. The last 20 to 30 years, where we saw ever increasing use of the computer for performing day to day functions, has been witnessing this magical devices (computer) serving as a medium for sexual harassment.

Today, in the information superhighway era, the internet mirrors the real world. That means it is able to reflect real life & real people with real problems. Online harassment usually occurs with women, who are harassed by men, or children. Most people who receive threats online imagine their harasser to be large and powerful. But the fact is, the threat may come from a child who does not really have any means of carrying out the physical threats made. This virtual threats sometimes comes with devastating consequences, some resulted in breaking of relation, some in the form of cancellation of marriages while some finds their consequences in suicidal attempts.

Although technology provides numerous benefits to young people, it also has a 'dark side', as it can be used for harm, not only by some adults but also by the young people themselves. E-mail, texting, chat rooms, mobile phones, mobile phone cameras and web sites can and are being used by young people to bully peers. It is now a global problem with many incidents reported in the United States, Canada, Japan, Scandinavia and the United Kingdom, as well as in Australia and New Zealand. Indian society is also facing the problem and some cases of online harassment came in light here as well.

Background Studies

Recent reports indicate 97% of youth are connected to the Internet via different tools. Keeping this huge number of youth participants of online communication, it is important to identify them who may be more vulnerable to negative experiences. Here we will discuss some of the cases filed and their outcome.

Qualifying in 1989, Blakey became the first female captain to fly an Airbus or A300.

Shortly after her appointment, she complained that, in the workplace, she had been targeted with vulgar gender-based comments, including pornographic photos.

In 1993, Blakey filed a formal complaint for sexual discrimination in violation of Title VII of the Civil Rights Act. During litigation, Blakey's co-workers continued to harassing her. The vulgar comments aimed at her were posted on a company website that was used by Continental employees, including pilots and crew members, and was created for learning flight schedules and assignments purposes. Blakey filed suit in the Superior Court of New Jersey. She alleged that she was being harassed through a hostile work environment based on the disparaging comments posted about her on the online forum. The Court noted that the complaint was relevant as the issue arose out of employee relationships. Further, the Court held that an employer may not disregard offensive messages posted on a company website while the employer is aware or should be aware of the messages.

Sauerhaft filed a suit in the district court for the Southern District of New York on behalf of his daughter, S.S. She had received three harassing e-mails on her school e-mail account as a freshman at Hastings-on-Hudson High School by a male student in March 2005. The male student, also using his school e-mail account for sending S.S. the messages based on topics such as her weight and sexual activity. S.S. printed out the e-mails and brought the matter before school's principal through her counselor. But no action was taken.

The plaintiff brought this claim against the defendant school asserting that the harassing e-mails constituted

student on student sexual harassment under Title IX. The District Court for the Southern District of New York used the criteria set out in *Davis v. Monroe County Board of Education* to determine whether the defendant

school district could be held liable for student-student sexual harassment. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 633, (1999). The court expressed that in order for a 'plaintiff to prevail on a Title IX student-on-student harassment claim against a school board, a plaintiff must show:'

(1) that the school board was a recipient of federal funds;

(2) that it 'act[ed] with deliberate indifference to known acts of harassment in its programs or activities;' and

(3) that the harassment was 'so severe, pervasive, and objectively offensive that it effectively bar[red] the victim's access to an educational opportunity or benefit.' The court held that although the three e-mails sent to S.S. were offensive, they failed to constitute harassment which was so severe and pervasive as to bar S.S. from access to an educational opportunity. Hence, the defendant school district was not held liable.

Online harassment in India

In India's allegedly first case of cyber stalking, Manish Kathuria was arrested by the New Delhi Police in 2011. He was stalking an Indian lady, Ms Ritu Kohli by illegally chatting on the Web site MIRC using her name. He used obscene and obnoxious language, and distributed her residence telephone number, inviting people to chat with her on the phone. As a result of which, Ritu kept getting obscene calls from everywhere, and people promptly talked dirty with her. In a state of shock, she called the Delhi police and reported the matter. For once, the police did not waste time swinging into action, traced the culprit and slammed a case under Section 509 of the Indian Penal Code for outraging the modesty of Ritu Kohli.

In 2011, a DU law student charged with cyber stalking. The law student was accused of stalking and threatening a woman online. He also created her fake profiles on social networking sites to defame her. The woman, from Goa, had lodged a complaint with Delhi Police alleging the accused has been harassing her for over a year. She said the law student has been making obscene phone calls and sending threatening emails. The victim, while working in Delhi in 2010, became acquainted with the accused. According to the complaint lodged by the victim, He (accused) asked her to marry him. When she refused, he assaulted her. He also threatened to kill her. After she logged a complain in police, he apologized and promised not to bother her in future. The accused had given a written statement to police that he would not stalk her. After this, she withdrew her complaint.

The victim then moved to Goa to live with her parents. But soon after she left Delhi, the accused created her fake profiles on social networking websites. He then uploaded photographs on these sites and declared her to be his wife. The accused also impersonated the victim online and made contact with her friends through these profiles. The girl's marriage was called off due to this. A case under Section 66-A of Information Technology Act was lodged at the Economic Offences Wing. In her complaint, the victim has stated that "she is a victim of cyber stalking and identity theft which has created grave problems for her and her family".

Recently, a trainee I.P.S. officer, Merine Joseph, who is going under traing in Indian Police Academy, Hyderabad, has to encounter so many vulgar comments on facebook. She is the youngest lady trainee I.P.S. of 2012 batch. Actually she posted a picture of her in police uniform on facebook. Somone spread rumer that the lady is appointed as A.C.P. of Kocchi. Thousands of people liked her profile and sent the gender based comments also. Seeing vulgar comments the trainee officer posted a comment clarifying that she is under training now, and

will get her first posting in January 2015, but the comments were continue to torture her.

One wrote- the people of Kocchi are going to start robbery as they wanted to be arrested by the pretty A.C.P. of the city. Another wrote- Oh! God, I don't mind if interrogated by the pretty I.P.S. Officer for hours. Finally Joseph had to delete her facebook profile.

Generally, the online harasser's victim is new on the web, and inexperienced with the rules of internet safety. Females and children are their main targets. It is believed that over 75% of the victims are female, but sometimes men are also harassed. The figures are more on assumed basis and the actual figures can really never be known since most crimes of such natures go unreported.

Findings and Discussion

A Lady, who, on her social networking page, posted an update giving information that she was going to the mall, was shocked to see that a person she even didn't know replied, calling her a prostitute. The cyberstalker kept posting obscene messages and comments. When she left the site, he started following her to another one.

Seeing, such cases aren't rare in the country, India woke up to cyberstalking with the Criminal Law (Amendment) Bill, 2013, saying that stalking includes monitoring of a person's use of internet, email and electronic communication.

This was the first time India was tackling cyberstalking directly and attempting to make it a nonbailable offence. Section 354D says that anyone who monitors an individual's electronic communication and causes fear or distress is guilty of stalking, just as they are if they follow or attempt to contact them in the real world. The offender could get a fine and three years in jail.

Cyber law expert Pawan Duggal said, 'victims

have been denied justice in the past. In one of the first cases of cyberstalking in the country in 2000, which he worked on, Delhi police booked Manish Kathuria for 'intending to insult the modesty of a woman'. Kathuria pretended to be Ritu Kohli, in internet chat rooms, made her phone number public and solicited sex. Though police tracked him down, the lack of specific laws meant he got off lightly.'

Advocate Vakul Sharma said, 'Section 66A of the IT Act deals with cyberstalking. 'A person who repeatedly sends emails can be booked under 66A, but not many know this.'

Lawyer Debarati Halder, who runs Centre for Cyber Victim Counselling in Tirunelveli, said, 'When I did a study on cyber-stalking in 2010, several police officers referred to it as 'eve-teasing'. The downside is the exceptions to the proposed law. 'If the offender proves stalking was done to prevent crime, it is not stalking. This could be misused by law enforcers, said Halder.

Another exception is that it is not stalking if the offender can show it was; reasonable under the circumstances'.

Incidence of Cases Registered Under Cyber Crimes in India under IT ACT During 2012 & 2013 and Percentage Variation

2012	2013	Percent Variation
2876	4356	51.5

Incidence of Cases Registered Under Cyber Crimes in India under IPC Sections During 2012 & 2013 and Percentage Variation

2012	2013	Percent Variation
601	1337	122.5

During the year 2013

A total of 737 persons were arrested under IT Act for Obscene publication/transmission in electronic form.

30 persons were arrested under IT Act for Breach of confidentiality/privacy

471 persons were arrested under section of IPC for Criminal Breach of Trust/Fraud

Source: <http://ncrb.gov.in/>

While most of the internet users report positive experiences and activities online, little (especially girls) are known about experiences of Internet victimization, specifically in regards online harassment. Online harassment can occur in different ways and through a variety of media. Some of these mediums are;

Chat rooms

Message boards

E-mail

Instant messaging

Social networking sites

Internet advertising

Redirecting/automatic linking

Spam

Pop-ups

The majority of the online harassments can be categorized into one of the following;

Gender Harassment

Gender harassment can be often understood as unwanted verbal and visual comments and remarks that abuse individuals because of their gender or that use stimuli known or intended to provide negative emotions.

Verbal gender harassment

It refers to offensive sexual messages aimed towards a victim that are initiated by a harasser. Such offensive messages include gender-humiliating comments, rape threats, and sexual remarks which are unwelcome, and are neither invited nor consensual. Verbal harassment can be either passive or active depending on whether the harasser targets a specific victim (active) or targets potential receivers (passive).

Graphic gender harassment

It refers to the intentional sending of erotic, pornographic, lewd, and lascivious images and digital recordings by a harasser to specific or potential victims. Graphic harassment often occurs via email, instant messaging, redirected/automatic linking, and pop-ups.

Unwanted Sexual Attention

It occurs when a harasser uses direct personal communication to harass a victim on the internet. The harasser uses personal communication to convey messages directly relating to sexuality which are unwelcome by the victim. Such messages often:

- (1) refer to the victim's sex organs
- (2) refer to the victim's sex life
- (3) refer to intimate subjects
- (4) impose sex-related images or sounds or
- (5) insinuate or offer sex-related activities

Furthermore, a harasser who uses unwanted sexual attention to harass a victim online, intends to solicit sexual cooperation from his/her victim either on the Internet or in person.

Sexual Coercion

Sexual coercion is the least common form of sexual harassment encountered on the Internet. Sexual coercion uses various means online to obtain sexual cooperation by placing pressure on a victim. This pressure is often achieved by the use of explicit threats of harm directed towards the victim or relatives and friends of the victim.

What provoke online harassment

Sexual Harassment

Although the sexual harassment is a common experience offline. The online platform reflects real life & consists of real people. Internet is not a regulated or sanctified world. By virtue of very nature of anonymous communications, this platform can be exploited easily for stalking purpose.

Obsession for love

This is generally starts from an online romance, where one person halts the romance and the rejected lover is not ready to accept the end of the relationship. It could arise in that situation also where an online romance moves to real life, only to break-up once the persons really meet. Here also one person of the two is not accepting the no from his/her partner. Sometimes, this obsession can even start from real life.

One major problem with obsession stalking is that since it often starts as real romance, much personal information is shared between the two persons involved. This information leak makes it easy for the cyber stalker to harass their

victim. Some users online enjoy ‘breaking hearts’ as a time pass, and so may well set up obsessions for their own enjoyment. These obsession stalkers are generally jealous and possessive kind of people. Suicide or death threats via email or through live chat messages are a manifestation of obsession stalking.

Revenge and Hate

Revenge are often the consequences of something you may have said or done online which might have offended someone. Usually it starts with arguments where you may have been rude to someone. Also sometimes, it is for no reason. You are being targeted by someone may not known to you always. This happens when the target is selected randomly.

For fun

There are some online harassers who do not have any bitterness with you. They target you just for the having fun. Most of the time they make this happens to showcase their online competence to their friends.

Indian law on online harassment

Although the information technology (IT) Act 2008 (amended) of India does not directly address stalking or online harassment, perhaps, the issue is dealt as an ‘intrusion on to the privacy of individual’ in the act . So the most used provision for regulating cyber harassment in India is section 72 of the Indian information technology act (Amended), 2008 which runs as follows;

Section 72: Breach of confidentiality and privacy: Save as otherwise provided in this Act or any other law for the time being in force, any person who, in pursuant of any of the powers conferred under this Act, rules or regulations made there under, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence,

information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

And also section 72A of the Information Technology Act, 2000(amended in 2008), which runs as follows:

Section 72A: Punishment for Disclosure of information in breach of lawful contract (Inserted vide ITAA-2008): Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person shall be punished with imprisonment for a term which may extend to three years, or with a fine which may extend to five lakh rupees, or with both.

If the cyber harassment is done only to annoy the victim and is not resulted to serious offences like severe defamation, sexual crimes, identity theft or even grave crimes like terrorism, it is considered as a bailable offence.

However, after the December, 2012 Delhi gang rape incidence, the Indian government had taken several initiatives to review the existing criminal laws. A special committee under Justice Verma was formed for this purpose and based upon the report of the committee, several new laws were introduced. In this course, anti-stalking law was also introduced. The Criminal Law Amendment Ordinance, 2013 added S.354D to the Indian Penal Code to define and punish the act of stalking. This law is as follows:

S.354D of the IPC (as has been added by the The Criminal Law Amendment Ordinance, 2013):

Whoever follows a person or contacts or attempts to contact such person to foster personal interaction repeatedly despite a clear indication of disinterest by such person or whoever monitors the use by a person of the internet, email or any other form of electronic communication or watches or spies a person in a manner that results in fear of violence or serious alarm or distress, in the mind of such person or interferes with the mental peace of such person, commits the offence of stalking.

Provided that the course of conduct will not amount to stalking if the person who pursued it shows

that it was pursued for the purpose of preventing or detecting crime and the person accused of stalking had been entrusted with the responsibility of prevention or detention of crime by the State , or

that it was pursued under any enactment or rule of law, or to comply with any condition or requirement imposed by any person under any enactment, or,

that in the particular circumstances, the pursuit of the course of conduct was reasonable.

Whoever commits the offence described in S.354D(1) shall be punished with imprisonment of either description for a term which shall not be less than one year but shall extend to three years and shall also be liable to fine.

Some of the functioning Government reporting agencies in India are;

cybercrime@kolkatapolice.gov.in

<http://www.cyberpolicebangalore.nic.in>

cbcyber@tn.nic.in

<http://www.cybercellmumbai.com>

<http://www.cyberkeralam.in>

http://www.punepolice.com/crime_branch.html

<http://www.thanepolice.org>

Recommendation and suggestion

Some tips to help stay safe online

Although the tips described below cannot be taken as guarantee to stay safe online, but it will help the cause up to great extent.

Avoid anything cute, sexual or over feminine. This also assisted by using gender-neutral username, email ids, etc.

Maintain privacy on the virtual platform. Do not share your personal E mail to those whom you don't know much and trust.

Have a secondary email account and use it for all your other online activities. Make sure this id would feature a gender neutral user name.

Don't provide information just because it is requested. There are many websites ask you to provide details of your name, date of birth, address, mobile no. email id, etc. give as little information as possible. When the request is not justified just leave the page. Some people give false information at such sites, especially if they don't plan to return in the future. Be cautious of 'profiles' and 'directory listings' for instant messaging programs or web sites.

Ignore unwanted users or simply block them. Whether you are in a chat room or using IM, always check out what options/preferences are available to you and take advantage of the 'Block all users except those on my buddy list'.

Keep yourself out of any conflict. It is safer to ignore the one who wants to draw you into the fray. When you respond a harasser in any way, you are letting him smile with the smell of his success. The best way to respond a harasser is to ignore him. Your ignorance makes him understand that you cannot be his target. Hence he moves for another soft target.

In chat rooms, just sit quietly for 10-30 minutes to see if the discussions that are going on are truly something in which you wish to engage. Don't respond to private messages in that time, either.

Leave the place which becomes stressful. If another visitor to a chat room or forum is harassing you and the forum owner/moderator not willing to take decisive action, why would you want to be there?

Change not for the sake of change. If you have decided to change your online identity then change it wholesome not substantially. It is because the harasser has many ideas about your behavior or hobbies. So change them too, atleast for this virtual world.

Don't put your company name, title, email address, address, phone/fax number, etc. there unless your employer requires that you do so.

Never use a business account for personal use

Never give your password to anyone.

Don't provide your credit card number or other identifying information to anyone.

Monitor children's internet use personally.

Instruct children to never give out personal information.

Be very cautious about putting any pictures of yourself or your children online anywhere, or allowing anyone else to publish any photos.

What to do if have been harassed online

If you are a kid or teenager, must tell your parents that you are harassed or threatened by someone. It may possible your parents wouldn't want to talk to you for some reasons but you have to. So overcome your fear and tell your parents that you are in trouble. They will certainly help you.

If you are an adult, express your trouble with your spouse and family.

Don't ever reply to provocative e-mails if you get them. Don't respond to flaming or get provoked online.

You could also report harassment mails to your ISP (like VSNL etc) & your e mail provider (like hotmail, yahoo etc) & take advice from your technical savvy friends. If you remember, even the creator of the 'I love you' virus was tracked down. So through the I.P address a stalker does leave behind a trail & though difficult it may be possible to trace the stalker.

So remember, if you are being stalked, you don't have to be a victim. And yes, If possible stay away from chat rooms & don't flirt around there. This is just like real life. If you think you have the right to flirt with strangers be prepared for the consequences.

Conclusion

Maximum democratic countries, including India, are committed to provide their citizens full safety and security, Indian constitution has provides all its citizens some fundamental rights. One of these fundamental rights is 'right against exploitation.' Besides, the government has implemented several laws to stop this type of crime. Actually, no one has a right to harass or threaten you. If somehow harassment becomes a threat for you, then at the same time the harasser has also broken the law and there are a number of steps you can take to deal with it. You can take help of the Police department. Most of the time, the attack or harassment will

appear as motiveless. So with some kinds of online harassment not waste your time trying to work out 'why' and better to concentrate more on what you can do to protect yourself & how to end this nightmare. You can discuss your problem with your parents/spouse/family. The family's support boosts your moral and courage and this will help you a lot fighting against the unseen devil. Lastly, the golden rule our parents taught us 'Never talk to strangers' remains a golden rule in today's information superhighway world. And the best way to avoid getting harassed online is to always maintain a high level of safety awareness.

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