

Heights of Inhumanity in Cyberspace

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INTRODUCTION

Cyberbullying is one kind of cybercrimes. Cybercrimes are criminal actions that uses computers as both tools and targets to achieve an unethical prospect. The word cyber crime is nowhere defined in any Indian statute or an act. Cybercrime is understood and inferred as what is to crime in the Indian penal code, 1860 and any act which is punishable under the Indian penal code amounts to crime. When the mode of performance of that criminal act is through computer, internet connections, electronic devices or communication tools (Social media, websites, messages, blogs) then it becomes a cyber crime. The inferred definition of cybercrime from the Indian penal code clearly states that cyberbullying is an essential and a subordinate branch of cybercrime. The Indian laws in this aspect are; Information technology Act 2000 and Information technology Act 2008. We will be dealing with it in the later part of our discussion.

DEFINITION & MEANING:

The word cyberbullying can be defined as "the defeatist innovation by the technological giant in a nonrealistic platform in which the criminal act is in the nature of abuse, agony, defamation, physical or mental loss or any other form of torture performed intentionally to humiliate individuals."

From the definition it is clear that any act done with the motto of depriving another or causing loss to an individual's physical or metaphysical entity via electronic means is cyberbullying. We must understand the difference between traditional bullying and cyberbullying. Cyberbullying is

ABSTRACT

Abuses are not new in town. It has been there in prevalence since time immemorial, right from Paleolithic to Neolithic age. In recent years, it has taken various tints and has gone to next level by means of science and technology. Any inhumane treatment done with the intention of embarrassing, shaming or intimidating another individual comes under the domain of bullying, harassment and abuses. When the same is done with a computer and a network system it is coined as cyberbullying. This column brings to light the instances that would suitably project the inhumanity in the cyber world. The authors define the term – cyberbullying and elucidate its meaning along with its types. This paper also deals with the current laws in the arena and briefly demonstrates foreign laws in the same subject for a clear comparison. 'Being perfect' is the only ever statement that is actually perfect. So, the imperfectness in the system is exhibited only to explore rules and regulations further in relation to cybercrimes. The constitutional validity of section 66A, 69A and 79(rules) of the information technology act 2008 are upheld once again after the Supreme Court's landmark judgment. The submission of this paper is either to bring amendment in the struck down section or to enact a law and bring unequivocal stringency in the standard of Indian cyber law.

Keywords: inhumanity, cyberbullying, article 19(1),(2), sections 66A; IT Act 2000, ITA Act 2008, cyber laws; conventions

distinguished from traditional bullying in a way that the former requires electronic data transmission and it happens virtually unlike the latter that does not require any technicality but hurt is hurt. Cyberbullying not only isolates the victim, it overwhelms her/his emotional parameters and results in extreme breakdowns. It is a threat that is wanting and is waiting to be dusted off. Cyberbullying does not originate from a single source. There are only two main reasons for cyberbullying others;

1. Revenge
2. Fun motive.

Pranksters generally involve themselves in all such activities to derive pleasure from demotivating others. It can happen to anyone and on anything where there is a communication platform. Speaking of communication, social media has become a giant. And the number of young players in the giant's garden has radically scaled up more than ever before in history!

SHADES OF CYBERBULLYING:

There is a subtle art in anything we do and cyberbullying is no exception where hackers are the masters. There are different types and media which facilitate its propagation. All of the means chiefly relates to electronic data transmission on a communicable platform. Twelve types of cyberbullying are enlisted below¹:

1. Trolls – provocation on media for pleasure from embarrassing the other.

2. Denigration – attacking the reputation of a person by means of reducing his/her moral status.
3. Impersonation – imitating an individual by using a false identity.
4. Cyberstalking – stealthily following up and threatening in the cyberspace
5. Cyber baiting – deliberately mocking a person in an aggressive manner.
6. Exclusion – purposefully isolating an individual from a group.
7. Sexting – sending inappropriate messages in a way to stimulate orgasms
8. Video shamming – intentionally tapping an occurring to threaten or humiliate the person being tapped.
9. Vague booking, sub tweeting – Revealing the victim’s name in a subtle manner to gain popularity.¹
10. Morphing – blending images to form a new one, mostly to shame another user.
11. Google Bombs – these are bombs used by firms to highlight an unrelated website in a search engine to grab attention and to be ranked first.
12. Gaming – adherence to tasks being given by an authority, unethically.

PSYCHOLOGICAL IMPACT OF CYBERBUYLLING:

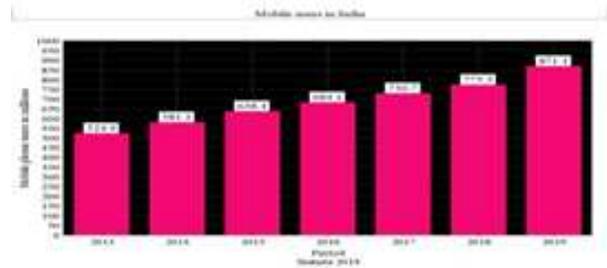
“Prevention is better than cure” – this could be the most suited proverb that adheres to the effects of cyberbullying. Cyber bullying just like any other ill motivated activity damages the emotional parameters of an individual. We all know emotion results in action and action results in emotion. When two of these are highly interdependent on each other, any change in the equilibrium will cause an imbalance in the overall emotional stability. The psychological traumas of cyberbullying are enlisted below²:

- Lowered self-esteem: no matter how brave a person is, his/her esteem will come down when it is struck between anxieties and embarrassments. When they acknowledge their feeling of being disliked by their community, their self esteem radically drops.
- Isolation – Bullied victims often isolate themselves from their circle to escape judgement. They tend to bury themselves in the hours of lamentation for not being able to do anything.
- Unhealthy habits – The victims, to forget their reality, indulge themselves in harmful habits and ruin their entire lives. They resort to narcotic effects to relieve themselves.
- Increased emotional strain - cyberbullying and other similar offences drains the emotional stamina of individuals. It leads to high levels of distress. Figuring a way out of it demands complete cohesion of body and mind.

¹ <https://www.verywellfamily.com/types-of-cyberbullying-460549> ;
<https://blog.securly.com/2018/10/04/the-10-types-of-cyberbullying/>
² <https://thriveglobal.com/stories/the-psychological-effects-of-cyber-bullying/>

STATISTICS:

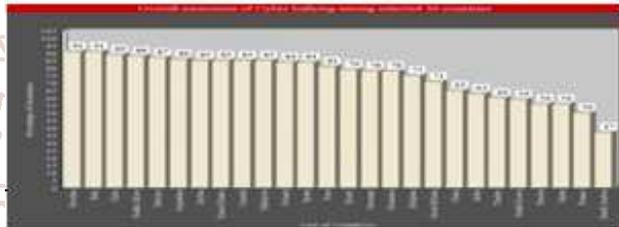
➤ **Mobile users in India:**



To know about the technological involvement of the people, we must know the number of mobile phone users in our country. That number, considering the age group indicates their vulnerability to Cyberbullying. The graph below illustrates it:

India is estimated to have about 871 million mobile phone users³.

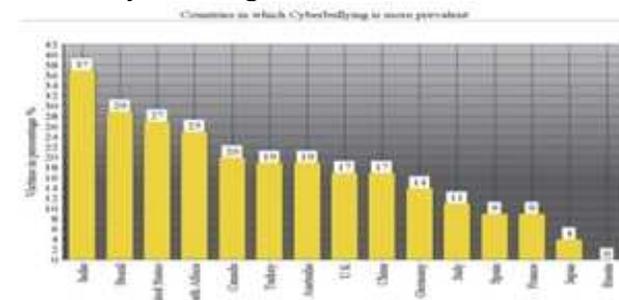
➤ **Countries in which Cyberbullying is more prevalent:**



IPSOS conducted a poll on October 30 ,2018 on Cyberbullying. Nearly one in five parents around the world say that their child has experienced Cyberbullying at least once in 2018. Survey was taken place in 28 countries. Highest instances of Cyberbullying problems were recorded in India i.e. 37% of parents said their Child had encountered it.

It is of no surprise to know the fact that India leads in cyberbullying in recent years. The reason for that has been already discussed in the previous section⁴.

➤ **Publicly knowledge on the issue is the title :**

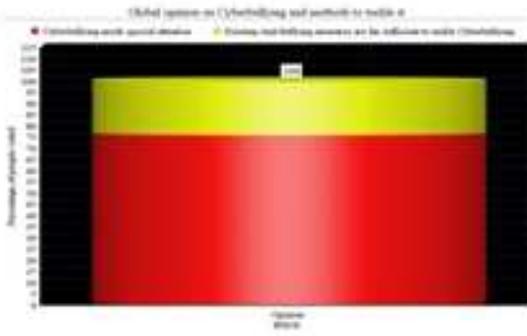


The graph depicts this by considering other countries public’s knowledge on this issue. As per the report of IPSOS as of April 2018, 75% of respondents were aware of Cyber bullying, globally. India ranks 20 according to this survey by

³ <https://www.statista.com/statistics/274658/forecast-of-mobile-phone-users-in-india/>
⁴ <https://www.statista.com/chart/15926/the-share-of-parents-who-say-their-child-has-experienced-cyberbullying/>

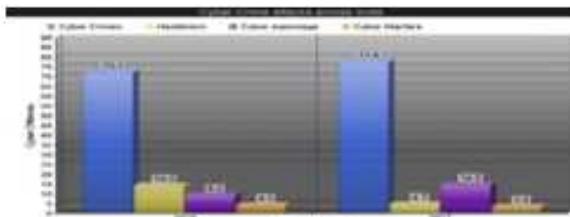
IPSOS. It is really disheartening to be seeing only 63% of people in India are aware of Cyber bullying⁵

➤ **Debate over sufficiency of current cyber laws in force:**



As per IPSOS survey conducted in the month of April 2018 on Cyberbullying and its current methods to tackle this uprising issue, 76% percent of participants thought that Cyber bullying needs special attention as current laws and measures are insufficient and only 24% of participants thought this prevalent issue can be dealt with existing Anti-bullying measures and methods⁶.

➤ **Cyber attacks across India :**



IPSOS released the Share of driving motivation to those Cyber attacks in India for the period 2016 - 2017, in the year 2018. In which, it clearly elucidates the major motivation behind Cyber attacks in India. Cyber crime happened with a share of 72.4 % in the year 2016 and again gained its pace to 77.4 % as of 2017.⁷

INDIAN CYBER LAW:

Indian cyber laws are mainly governed by two acts, namely;

- Information Technology Act 2000
- Information Technology Act 2008

To get a better understanding, let's have a brief look in its history.

The Information Technology Act was enacted by the parliament on 17th October, 2000. It deals with electronic data interchange, storage of information (E-Commerce) and crimes relating to that. United Nations commission on international trade law prepared a model law on international commercial arbitration titled UNCITRAL,

⁵ <https://www.statista.com/statistics/293192/cyber-bullying-awareness-in-select-countries-worldwide/>

⁶ <https://www.statista.com/statistics/293151/global-opinion-on-severity-of-cyber-bullying-and-current-counter-methods/>

⁷ <https://www.statista.com/statistics/875929/india-share-of-cyber-crime-attacks-by-motivation/>

which guards the length and breadth of the cyber laws. UNCITRAL was established by the United Nations General Assembly. This law applies to whole of India. If a crime encompasses a computer network located in India then harges can be filed even on persons of other nationalities under Indian law. Though the Act originally contained 94 sections, 13 chapters and 4 schedules, it has gone through several amendments. One of its major amendments was the introduction of section 66A which dealt with punishments relating to communication of offensive messages and several other amendments, primarily the establishment of section 69 and provisions relating to child protection and cyber terrorism. The reason behind this major amendment was that the previous Information Technology Act, 2000 did not tackle offences related to abuse, intimidation, insult, annoyance, harassment and likewise. Hence, the government drafted the Information Technology Amended Act 2006 bill, in which Mr. A. Raja, former Minister of Communication and IT added a new section and a sub clause to the Act - Sec 66A, which exclusively deals with offences related to Cyberbullying. The Amended Act was enforced on Dec 22nd 2008, to curb all offences related to cyberbullying. The Protection of Children from Sexual Offences Act 2012 also corresponds to the aforesaid issue and deals with children below 18 years of age. There are 605 special courts setup across the country with respect to this act.

PROCEDURAL ASPECTS:

The procedural aspects of cases related to cyber crimes are another territory that demands attention.

Cyber crime cases are dealt under special courts called the Cyber Tribunals, which was established according to the IT Act 2000. If a person is not satisfied from the orders passed by the Controller or adjudicating officer, he or she may go for an appeal to the Cyber Appellate Court which was constituted in the year 2006 as per section 48(1) of the same IT Act and is situated in the country's capital state, New Delhi. It is vested with powers similar to a civil court under the Civil Procedure Code 1908. Another branch of Cyber Appellate Tribunal was proposed to be established in Bangalore but till date there are no efforts in that direction. In a Country like India, where enormous number of cyber crimes is reported every minute, there accordingly comes a demand for more and more of Cyber Appellate Tribunals to handle and curb this issue. The Chairperson of Cyber Appellate Tribunal, Delhi was left vacant from 2011 and Dr. S.S.Chahar was appointed in the year 2015 by the Government⁸.

Cyber Appellate Tribunal acts as an appellate court to cases handled by the controller of adjudication officer appointed by the Central Government as per section 46 of the Act. Any person who is below the rank of Director to the Government of India or an equivalent officer of a state government, she/he can be appointed as an adjudication officer. There is a separate Cyber Crime Cell⁹ in every state to handle and perform investigations. In addition to that specialized Cyber Crime police stations are constituted in all districts. The Victim or the aggrieved party can go for an appeal to the Cyber Appellate Tribunal within 45 days from the orders

⁸ <https://currentaffairs.gktoday.in/dinesh-sarraf-appointed-chairman-pngrb-12201750547.html>

⁹ <http://www.cybercrimehelpline.com/cyber-crime/cyber-crime-cells/>

passed by the Controller or the Adjudication officer under section 57 of the Act.

INTERNATIONAL CYBERLAWS; IN SELECTED COUNTRIES: United Kingdom:

- Malicious Communications Act 1988 (section 1)
- Communications Act 2007 (section 127)
- Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016
- Computer Misuse Act 1990
 - All the above mentioned acts deal with provisions similar to section 66A of IT Act 2008. It protects the country's citizens against any distressful message.
 - Punishment for the offence in that matter includes a fine of 5000 Euros or 6 years of imprisonment.¹⁰

United States of America:

- There are various codes of United States of America that corresponds to this title.
- 18 USA CODE 875 talks about interstate communication. Sub section (c) of the code says, a person who attempts to transmit any information which imposes the threat of being kidnapped or injury to another then that act of the person is awarded with a punishment of fine amount or imprisonment up to 2 years or both. Subsection (d) of the code addresses the injury issue and also includes injury to the reputation of a person or the deceased and other accusations of crime. The punishment here is for two years or imposition of fine or both.
- 18U.S.CODE § 2251 talks about Sexual exploitation of Children.
- 18U.S.CODE § 2252A explains Certain activities relating to material constituting child pornography
- 18U.S.CODE § 1466A is about Obscene visual representation of sexual abuse of children
- 18U.S.CODE § 2252C deals with Misleading words or digit images on the internet
- There are a number of anti-bullying policies taken up by the country; Anti discrimination and freedom from bullying and harassment (staff) - Governing Policy, Anti discrimination and freedom from bullying and harassment (Students) procedures etc.
- Computer fraud and abuse Act 1984; in the case of United States v. Lori Drew on cyber bullying, legislators in Missouri, at the urging of the public and Meier's parents, passed "Megan's Law", primarily aimed at the crime of a person aged 21 bullying a person aged below 18. In addition to all that, the universities have adopted policies and procedures according to The Student Grievance Resolution policy.¹¹

China:

- In the year 2016, China enforced the Cybersecurity Law 2016, which uplifts the cyber security issue and offers protection against it. The important ones are highlighted below:
- Article 12 guarantees lawful network circulation in the country on a condition that there is no endangerment of national security at any cost, it includes cyber bullying implicitly.

¹⁰ <https://cis-india.org/internet-governance/blog/breaking-down-section-66-a-of-the-it-act>

¹¹ [https://cis-india.org/internet-governance/blog/breaking-down-section-66-a-of-the-it-;](https://cis-india.org/internet-governance/blog/breaking-down-section-66-a-of-the-it-)

- Article 13 focuses on providing healthy network environment for minors by prohibiting exploitation of networks.
- According to Article 46, all individuals and organizations must shoulder responsibility for their use of websites. Any unlawful activity resulting in fraud is strictly forbidden.¹²

Philippines:

- The republican Act No. 10175 which is also called as the Cybercrime Prevention Act of 2012 address legal issues concerning online interactions and the Internet.
- The chief cybercrime offenses included in the Act are: cyber squatting, cybersex, child pornography, identity theft, illegal access to data and libel.
- The anti-bullying act of 2013 cyberbullying is part of it but does not cover adults.
- Various other provisions of the cyber crime law such as libel and identity theft are there for that purpose.¹³

Singapore:

- To make acts of cyber bullying and online harassment a criminal offence, the parliament of Singapore had framed a statute - The Protection from Harassment Act 2014.¹⁴
- At present, The Protection from Harassment 2019 Bill is at the table.
- Singapore's Law Minister, Mr. Shanmugam, said that the standards of justifiable behavior should be alike in both the physical and metaphysical spheres.¹⁵

World laws evidently enumerate the various significant steps taken by the government in their respective countries to deter cyber bullying. It is a long run process and the countries are working for it. Now, the need of the hour is to fix a level that would be considered as the benchmark hereafter. And what is more disreputable to a country which stands out in everything but lacks behind in this avenue? What can be and what should be done are discussed in the upcoming section.

CURRENT LEGAL POSITION:

Albert Einstein quoted our technological development by pointing out our discovery of numerals without which scientific endowments would have never found a way, with such pride and prestige; we did not fail to maintain a system that deserves real appreciation. There are several anti bullying sections in the Information Technology Act 2000 and 2008, from which the relevant ones are cited below:

- Section 66A: offensive messages.¹⁶
- Section 66C: Using password of another person or identity theft.
- Section 66D: Impersonating by using computer resource
- Section 66E : Publishing private images of others

¹² <https://blog.ipleaders.in/cyber-security-laws-india-china-comparison/amp/>

¹³ <https://asksonnie.info/cyber-bullying-philippines/>

¹⁴ <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/protection-from-harassment-act-in-force.html>

¹⁵ <https://www.mlaw.gov.sg/news/parliamentary-speeches-and-responses/2R-by-minister-on-protection-from-harassment-act.html>

¹⁶ Section 66A has been struck down

- Section 67: Publishing obscene information in an electronic platform.
- Section 67A: Publishing images containing sexual acts.
- Section 67B: Publishing child porn or predated children online.
- Section 69: Blocking rules.
- Section 71: Misrepresentation.
- Section 79: Intermediary Guidelines.

Out of the above mentioned sections, three sections, namely; section 66A, 69 and 79 were upheld for testing its constitutional validity in the case, *Shreya Singhal V Union of India*¹⁷. On 24 March 2015, the Supreme Court delivered a judgment striking down section 66A on the basis that it violated article 19 (1) & (2) and was held unconstitutional and read down section 69 and 79. The reasons for the above judgment were:

- Section 66A reads “any person who by means of a computer or communication device sends any information that is: grossly offensive; false and meant for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will; meant to deceive or mislead the recipient about the origin of such messages, etc., shall be punishable with imprisonment up to three years and with fine.”
- From the section it is very clear that there’s ambiguity in the terms used. Words such as: *false, annoyance, inconvenience, danger, obstruction, insult, injury, enmity, hatred or ill will* can take the colour of any meaning. It is very broad in its nature. There’s no specification with respect to whom it has to be applied, whether to a person of reasonable prudence or not and the position of the victim.
- It lacks ‘one to one basis’ which has been finely enumerated under section 20(b) of the Indian Post Office Act and United Kingdom’s Malicious Communications Act 1988.¹⁸
- This section was put to gross misuse by the ministries since anything and everything was possible to bring under its canopy.
- One of the very famous instances that happened with regard to this section was - two girls were arrested under the same section for the reason that one of the girls posted something that caused insult to a politician and the other girl had merely liked the post. This created a buzz in the field.
- A social activist, Ms. Shreya Singal filed public interest litigation for striking down section 66A and the judgment came out in their favor.
- The court made it clear that exceptions to article 19(1)(a) are not attracted because the terms used were too vague and the act was redundant. Redundancy happens to be there as a result of existing laws that are similar to the said provision.
- In another case - *Sharat Babu Digumarti V Government of NCT*¹⁹, the honourable Supreme Court elucidated the limitation of section 67 of the IT Act 2000. Section 67 and 67B deals with the offences related to publishing it transmitting obscene material including depiction of

children in sexual explicit acts in any electronic form. Here, again the meanings of the words contained in the definition were vague. It required a specific definition to comprehend it’s contextual meaning. Also this section comes into force when there’s an active publication of obscene material. It does not relate to the intentional aspect of the crime doer. This section can be justified only when the publication happens for the purpose of art, science and literature, religion oriented or any other objects of general concern.

- In *Sri. Tajinser Pal Singh Bagga v. State of Karnataka*²⁰, (14th July, 2016) the Victim was mass trolled in Social Media, abused her on the basis of her caste and religion. Cited that she is from a down trodden society and deserved to be humiliated. The Victim was cyber bullied and she charged them under Section 3(i)(x) of the SC/ST Act and section 66A of the IT Act 2008 which was a boon to the Victims of Cyberbullying but she was not able to exercise Section 66A as it was struck down by the Supreme Court in *Shreya Singal vs. U.O.I*²¹ case and thereby the Karnataka High Court dismissed her petition as the complaint lacked the basic ingredients. In the end, justice was not delivered to her.

Discussion and Advocacy are two distinct words but section 66A reads it together, which is one of the reasons for it, is declared unconstitutional. Hence, currently there is no law which would award punishments directly for cyberbullying. However, on March 19 2018, Mr. Vijaita Singh stated that the government had created a panel to frame new strict laws on online hate speech and also offences relating to cyberbullying. This will be further explained in the later part of our discussion.

CAMPAIGNS AND MOVEMENTS:

Sometimes, a crime can outweigh a law which promised protection of rights to citizens. This infringement caused by a crime must be piped down for the purpose of betterment. Therefore, in addition to the legislation of laws and enactments, we also have various campaigns and movements representing the same cause – cyberbullying. Few of them are listed below:

- UNICEF on September 22, 2016 submitted a report on Child Online Protection in India with regards to issues related to sexting, online grooming, etc. It created awareness among the public about Cyberbullying and its hazardous nature.²²
- *BreakthroughIndia*, an organization, with the support of youngsters started a campaign titled *#Bemysafespace* to fight online abuse against adolescents and children in Delhi on July 2016.²³
- UNESCO is planning to launch a new campaign on Cyberbullying which was reported during the International Symposium in School Violence and

¹⁷ AIR 2015 SC 1523

¹⁸ <https://cis-india.org/internet-governance/blog/breaking-down-section-66-a-of-the-it-act>

¹⁹ (2016) SCC Online SC 1464

²⁰

<http://judgmenthck.kar.nic.in/judgmentsdsp/handle/123456789/125698>

²¹ Supra 18

²² <http://unicef.in/PressReleases/418/UNICEF-India-launches-the-first-comprehensive-report-on-Child-Online>

²³ <https://inbreakthrough.org/be-my-safe-space/>

Bullying at the Institute of School Violence Prevention on January 2017.²⁴

- UNESCO's Institute of Information Technology brought up the discussion of Cyberbullying among youths at the *VKontakte Hackathon competition*, a widely recognized coding competition. It also produced a report stating that 12% of youths between 9 to 16 years of age were victims of Cyberbullying attacks across the world.²⁵
- A number of harassment cases are recorded everyday, to constraint its recordings, the country came up with a campaign under the hashtag *#MeToo*. Now, to check on cyberbullying, another campaign comes forth under the hashtag *#HelpMeWCD* (Help Me, Women and Child Development ministry)²⁶
- In the Case of *Sanjay Govindhe Dhandhe vs. ICICI Bank*²⁷, the adjudicating officer - Sh. Rajesh Aggarwal, who was also the Principal Secretary of IT Government of Maharashtra suggested to devise a telephonic helpline for offences related to Cyber Crimes so that they can report the offences instantly and thereby can be traced much faster than usual and in addition to that the time gap for the offender to tamper his evidence will be shortened, which if constituted will immensely help the Victims of Cyber crimes.
- Two Cyberbullying cases were filed in the year 2006, where two young women were harassed by posting obscene materials on Social media and the Judgment for that act was the acquittal of the accused in both the cases in the year 2013. The reason for their acquittal was the failure of the prosecution to submit any electronic evidence. Cyber Security and law expert Advocate, Mr. Prashant Mali, whose firm represented those two women, stated that there is a huge lacunae in collecting and producing electronic evidence to the Court of law by the Police Authorities. They need to enhance their modes of investigating cyber offences from their very own traditional way of producing IP address and call data records as the only electronic evidence to new methods of investigation. As a result of that the offenders will find no means to escape.²⁸

CONVENTIONS AND TREATIES:

On 23rd November in the year 2001, council of Europe in Budapest, signed The Global Cyber Law Database. It is one of the most inclusive and authoritative sources for Cyber laws around the world that contributes to this database.

Treaties:

A maximum number of our social media platforms and search engines run according to the law of United States because they have got their service providers (ISP) there. There are of course, Indian ISP's but it is reported by our authorities that they don't offer much support like the United States. To make any foreign ISP to cooperate with the

²⁴ <https://en.unesco.org/news/new-unesco-report-school-violence-and-bullying-be-released-international-symposium-issue>

²⁵ <https://iite.unesco.org/news/639342/>

²⁶ <https://2017.yuvasaisagar.com/tag/internet>

²⁷ <https://www.scribd.com/document/202096942/Final-Order-Case-30-Sanjay-Dhande-vs-ICICI-Bank-Ors-Sign>

²⁸

<https://timesofindia.indiatimes.com/city/mumbai/Cyber-bullying-cases-end-in-acquittals/articleshow/23677287.cms>

Indian law is a herculean task. They will not disclose or facilitate any information relating to cyber crimes on the grounds that it would be contrary to their laws. To avoid this fuss, India signed Mutual Legal Assistance Treaties with other countries to join hands for cooperation in times of cyber crisis.

Briefly, An MLAT is an agreement between two or more countries for gathering and exchanging information to enforce public or criminal laws. India has signed MLAT with 40 countries. This is perhaps the first time where Germany has refused to sign the treaty on grounds of the death penalty provision.

Treaties between the Republic of India and the respective country on Mutual Legal Assistance in criminal matters²⁹:

- Australia in 2011, Azerbaijan in 2013, Bahrain in 2005, Bangladesh in 2011, Belarus in 2006, Bosnia-Herzegovina in 2010, Bulgaria in 2008, Canada in 1998, Egypt in 2009, France in 2005, Hong Kong in 2009, Iran in 2010, Indonesia in 2011, Israel in 2015, Kazakhstan in 2000, Kyrgyz Republic in 2014, Kuwait in 2007, Malaysia in 2012, Mauritius in 2006, Mexico in 2009, Mongolia in 2004, Myanmar in 2010, Russia in 2000, Singapore in 2005, South Africa in 2005, Spain in 2007, Sri Lanka in 2010, Switzerland in 1989, Sultanate of Oman in 2015, Tajikistan in 2003, Thailand in 2004, Turkey in 1993, Ukraine in 2003, United Arab Emirates in 2000, United Kingdom in 1995, United States of America in 2005, Uzbekistan in 2001, Vietnam in 2008.

All of these treaties didn't turn out the way it was expected to be. There were multiple complications in all levels.

BETTER UPGRADATION IN THE CURRENT LEGAL POSITION:

It is true that we have several provisions that offers punishments to crimes committed in the cyber space. We have also come up with various campaigns and movements with a motto to curb cyber related offences. Our country has signed enormous number of treaties and Memorandums Of understanding with different countries to secure protection to us. But now, the question is – Did all of the above said measures actually reduce the percentage of cyberbullying in our country? And unsurprisingly, the answer is a big NO! We don't have provisions that would punish for attempt of cyberbullying or cyberbullying itself. We have got a provision that punishes people for the commission of the offence. And there's a big difference between the two. Let's look into an illustration for better understanding.

Illustration:

- A threatens B that he would post a personal picture of B's on a social media platform. B gets tensed and is provoked to suicidal attempts. This is in short called cyberbullying. Section 66A of the IT Act 2008 guaranteed this protection against these kinds of instances. Now, that it has been struck down there is no law in its place. A posts a personal picture of B (without threatening, without bullying) and B attempts to commit suicide. In this case, we have a law (section 66E of IT Act 2008) that actually protects B unlike the aforesaid.

- There are two parts to an act of a person; one wants to do something, a try. And the second is actually doing something, commission of an act.

²⁹ <https://www.mea.gov.in/locmlatcriminal.htm>

Keeping this difference in mind, we have no law that can function in this sphere, at present. Section 66A of the IT Act 2008 violated article 19(1)(a) only because its wordings were vague. If that was defined then, we could have reduced the percentage of cyberbullying in our country now. But that didn't turn out to be a good solution back in days. We have only two feasible options before us:

- To amend section 66A and bring back into force.
- To enact a new provision that would stringently monitor cyberbullying.

We saw the cyber laws of other countries which left us spellbound on emphasizing its administrative process. For instance, China - they have got laws to strictly use real name of the user on any online platform to increase credibility and to trace down offenders. After all, the framers of our constitution had examined the constitutions of the world and had carefully combined the best laws to mould our noble constitution. Similarly, drawing inspiration from the Chinese ministry, we can implement the same in our country. In the case of *S.Raju Aiyer v. Jawaharlal Nehru University*³⁰ (23rd of August, 2013), the Appellant was employed as personal assistant and the Complainant was an assistant professor at Jawaharlal Nehru University. The Appellant made frequent phone calls, harassed unnecessarily and sent emails consisting of vulgar and filthy graphic contents, he also directly asked for oral sexual favours. The highlight of this case is that the complainant opted to charge him under Gender sensitization against Sexual harassment (GSCASH) rules constituted by the Jawaharlal Nehru University committee similar to what was done in the case of *Vishakha vs. State of Rajasthan*³¹ and not opting for any other provisions or statutes laid down by our Indian constitution which is such a definite disgrace to the Indian Government. Now, the question here is - When a university is capable of drafting flawless rules then what is the impediment that prevents our Indian law makers to draft at least similar rules to render justice?

We cannot label our heterogeneity as bar to this.

CONCLUSION:

Not all of us know the pain of being bullied, but as humans we can attempt to understand their suffering. In this technical world, we don't need a magical wand or a mantra because everything is in our fingertips. A click can either make or break a person's life. Traditional bullying can at least be checked to some extent by constant monitoring but a check on cyberbullying is not as easy as how modern technology seems to be. Children are easily vulnerable to comments that points out their attitude, figure or anything that relates to their circle. This phenomenon does not necessarily stick to children. Even adults fall a prey to such occurrences. We know how complicated and sensitive our brain is, complexity and sensitivity must be dealt hand in hand or else the consequences can be disastrous. They say "Time heals everything" but a hit on our psychological feature can turn the tables down and healing can be left as a question mark. Cyberbullying is gift from hell. It is wrapped in glitter papers and is decorated with ribbons, looks good and interesting but once we step in we cannot find our way out. Beware! Spot cyberbullying and stop cyberbullying!

³⁰ <http://lobis.nic.in/ddir/dhc/VJM/judgement/23-03-2013/VJM13032013CW25412011.pdf>

³¹ AIR 1997 SC 3011