DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume I Issue VII is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis
EDITORIAL TEAM

EDITORS

Ms. Ezhiloviya S.P.
Nalsar Passout

Ms. Priya Singh
West Bengal National University of Juridical Science

Mr. Ritesh Kumar
Nalsar Passout

Mrs. Pooja Kothari
Practicing Advocate

Dr. Shweta Dhand
Assistant Professor

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Quarterly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.
A CRITICAL STUDY ON CYBERSTALKING AND ITS
LEGAL PROVISION IN INDIA

Author: Treesa Manjila

ABSTRACT
The Internet has touched every aspect of human life, bringing easement in connecting people around the globe and has also made data available to huge sections of the society on a click with the fingertip and with the advancement, came unforeseen banes of cyber offenses. Cyberstalking, cyberbullying, spoofing, phishing, credit card frauds are a few to name the possible cyber offenses and many are still not predictable. Cyberspace is being taken up by a new form of crime that includes a repetitive attempt by one person to contact another thereby causing a sense of threat in the mind of such other person. This emerging crime is popularly known as cyberstalking. In this paper, I have attempted to deal with the issue of cyberstalking which is a newly coined phenomenon. Firstly, to discuss the need for internet security of each individual and its importance and the different security threats and issues of cyberstalking and to propound some suggestions on measures required to bring down cyberstalking and how the challenges and vulnerabilities under the subject can be tackled and narrowed. The paper aims to analyse Cyber Stalking & the Impact of its Legislative provisions in India and also how to Report Cyber-Stalking in India and the scope of the paper is to understand what is the Virtual Reality of Cyberstalking in India, the paper also deals with discussions on what are the negative effects of cyberstalking on the society and why the cybercrimes are more powerful in India and how the Case of Cyber Stalking is dealt with in the Indian Laws then, the paper focuses on the legislative provisions as are mentioned in the Information Technology Act, 2000; and Indian Penal Code, 1860. There shall be an explanation as to how these provisions are related to cyberstalking and the shortcoming in these provisions is highlighted and Finally, the paper will give the concluding remarks followed by some suggestions and preventive action that one could take as “Prevention is better than cure”.

INTRODUCTION
Stalking is any repeated and unfortunate contact with you that makes you feel hazardous. You can be trailed by an outcast; nonetheless, most stalkers are people you know even an individual associate. Stalking may weaken or get savage as time goes on. Stalking may moreover be a
sign of a severe relationship. Someone who is stalking you may sabotage your security by clearly saying they need to hurt you. A couple of stalkers disturb you with less bargaining yet unfortunate contact. The use of development to follow, sometimes called Cyberstalking, incorporates using the Internet, email, or other electronic correspondences to follow someone. Stalking is illegal. Cyber Stalking is stalking or badgering completed over the web. It may target people, gatherings, or even associations and can take various structures including criticism, maligning, and dangers. Intentions might be to control or scare the person in question or to accumulate data for use in different violations, similar to wholesale fraud or disconnected stalking.¹ While fault shouldn't be put on Cyberstalking casualties, the current online scene fits making obvious objectives. For instance, these days, numerous web-based media clients barely care about freely posting individual data, sharing their sentiments and want, distributing family photographs and the sky is the limit from there.² Cyber Stalking as referenced, Cyberstalking can take a wide range of structures, however, in the broadest sense, it is stalking or badgering that happens through online channels, for example, web-based media, discussions, or email. It is ordinarily arranged and supported throughout some undefined time frame. Instances of Cyberstalking can regularly start as apparently innocuous associations. Once in a while, particularly toward the start, a couple of unusual or maybe unsavoury messages may even interest you. Be that as it may, in the event that they become precise, it gets irritating and, in any event, alarming.³ For instance, on the off chance that you have gotten a couple of negative remarks on Facebook and Instagram, it might agitate or bother you, yet right now Cyberstalking yet. For certain individuals, for example, semi-big names searching for consideration, negative remarks are really invited. In any case, when you begin accepting undesirable and irritating messages over and over and feel annoyed, at that point the line has likely been crossed. Cyberstalkers may threaten casualties by sending disagreeable messages deliberately, maybe even a few times each day. It is particularly terrifying when such messages come from various records oversaw by a similar individual. It is presumably a smart thought to report this to both the site proprietors and law authorization organizations. Cyberstalking doesn’t need to include direct correspondence, and a few casualties may not understand they are being followed on the web. Culprits can screen casualties through different strategies and utilize the data assembled for wrongdoings like wholesale fraud. Sometimes, the line between the internet and genuine

¹ Leroy McFarlane & Paul Bocij, Cyberstalking: The Technology of Hate, 76 POLICE JOURNAL 204 (2003).
can get obscured. Aggressors can gather your own information, contact your companions, and endeavour to badger you disconnected. Instances of Cyber Stalking are sending undesirable, startling, or vulgar messages, instant messages, or texts (IMs), badgering or undermining you via online media, stalking your PC and web use, utilizing innovation, for example, GPS to follow where you are.

THE CYBERCRIMES ARE MORE POWERFUL IN INDIA AND HOW THE CASE OF CYBERSTALKING ARE DEALT WITHIN THE INDIAN LAWS

Cyber Stalking is genuine wrongdoing, a kind of offense submitted by the people known as the stalkers. There are numerous arguments recorded against those people by the casualty consistently in India. In India the arguments which are recorded against those stalkers are significantly announced by the females, almost about 60% of females get deceived. The following is significantly seen in the two conditions of India; Firstly, Maharashtra with 1,399 cases which had a higher number of following. Besides, Delhi with around 1130 arguments is recorded against the following. The Cyber Stalking cases are managed in India by the:
1. Information technology act 2000.
2. The criminal law (amendment) act 2013.

LEGAL PROVISIONS ON CYBER STALKING AND ONLINE HARASSMENT

Punishment for cyber following and online badgering under the Indian Penal Code is Section 354 D of the Indian Penal Code which was added by the Criminal Law (Amendment) Act 2013 explicitly banishes the demonstration of following as Whoever follows an individual and contacts, or endeavours to contact such individual to cultivate individual collaboration consistently, in spite of an obvious sign of lack of engagement by such individual, or whoever screens the utilization by an individual of the Internet, email or some other type of electronic correspondence, or watches or spies on an individual in a way that outcomes in dread of viciousness or genuine alert or pain in the psyche of such individual, or meddles with the

---

4 P. Duggal, India’s first Cyberstalking Case- Some Cyberlaw Perspectives, http://cyberlaws.net/cyberindia/2CYBER27.htm (May 13, 2017, 8:55PM)
psychological tranquillity of such individual, carries out the offense of following.\(^6\) The casualty can likewise moreover document an instance of maligning (Section 499, IPC) against the wrongdoer. The segment has rescued those demonstrations of the following which are performed to forestall and recognizing wrongdoing by an individual who has been depended on with such obligation by the state. Likewise, cases where seeking after such direct was sensible or where the individual was approved under any demonstration can't imply the offense of following.

- **Section 354A of IPC** rebuffs offense of lewd behaviour with 3 years of detainment or potentially fine.

- **Section 354C** condemns the offense of Voyeurism. It is characterized as the demonstration of catching the picture of a lady taking part in a private demonstration, or potentially dispersing said picture, without her assent. The part endorses 3 years of detainment for the main conviction and 7 years of detainment on the second conviction alongside the fine.

- **Section 503** rebuffs criminal terrorizing as dangers made to any individual with injury to her standing, either to make alert her or to roll out her improvement her strategy with respect to anything she would some way or another do/not do. The offenses under S. 499 and S. 503 are culpable with detainment which may stretch out to two years, as well as a fine.

- **Section 509 of IPC** acts the hero on the off chance that somebody is continually pestering you with a deprecatory boisterous attack in view of your sex. The segment gives that any individual who expresses any word or makes any stable or motion, proposing that such word, sound, or motion be heard or seen by a lady and affront her humility, will be rebuffed with one-year detainment and additionally fine.\(^7\)

- **Section 507** rebuffs criminal terrorizing by an unknown correspondence with a term which may reach out to two years of detainment. Vindictive posting of pictures or recordings of assault casualties is culpable with detainment which may reach out to two years and fine under segment 228a of IPC.

---


The Information Technology Act, 2008, The IT Act of 2008 doesn't straightforwardly manage the offense of following. Segment 72 of the Act is utilized to manage the offense of following which peruses as follows: Any individual who, incompatible of any of the forces presented under this Act, rules or guidelines made there under, has tied down admittance to any electronic record, book, register, correspondence, data, archive or other material without the assent of the individual concerned Discloses such electronic record, book, register, correspondence, data, report or other material to some other individual will be rebuffed with detainment for a term which may stretch out to two years, or with fine which may reach out to one lakh rupees, or with both. Segment 67 denies and rebuffs with detainment stretching out as long as three years and fine for the primary conviction and to five years and fine upon a second conviction, the distribution, transmission, and causing of transmission of profane substance. Segment 67A has winnowed out an exceptional class called material containing a sexually unequivocal act.\(^8\) The distribution, transmission, or causing of transmission of such material is culpable with detainment stretching out as long as five years and fine for the first conviction and to seven years and fine upon a second conviction.

**CASES OF CYBERSTALKING**

Seema Khanna (name changed), a representative with a consulate in New Delhi, realizes that web surfing would prompt an attack on her security. In an evident instance of the cyber following, Khanna (32) got a progression of messages from a man asking her to one or the other posture naked for him or pay Rs 1 lakh to him. In her protest to Delhi Police, the lady said she began getting these sends in the third seven day stretch of November. The denounced compromised Khanna that he would put her transformed pictures in plain view at sex sites, alongside her phone number and address. He additionally purportedly took steps to set up these photos in her neighbourhood in southwest Delhi. At first, she overlooked the sends, however soon she began accepting letters through the post, rehashing a similar danger. She had to report the issue to the police," said an official with cyber wrongdoing cell That, notwithstanding, was not the finish of her trial. The denounced sent the lady her photos. The lady asserted these were similar photos which she had kept in her mail envelope. The police said the charge had hacked her email secret key which empowered him to get to the photos. In the Vinupriya case, the casualty was a 21-year-old understudy from Salem who had completed her BSc in science. An

---

\(^8\) Vijay Mukhi and Karan Gokani, Observations on the Proposed Amendments to the IT Act 2000, AIAI.
individual had posted transformed naked and semi-naked photos of Vinupriya on Facebook. On June 23, 2016, when the primary disgusting photo showed up, she educated her folks, who at that point stopped a protest with the Cyber Crime Cell. The police, either deficient with regards to the analytical abilities to follow the cause of the photo or lacking interest, disclosed to Vinupriya’s father that they would grab the guilty party in about fourteen days. On June 26, another indecent photo was posted on Facebook, leaving Vinupriya damaged. The examining official accepted that she more likely than not sent those photos to somebody and now they were being posted, maybe by an abandoned sweetheart. The scrutinizing of Vinupriya was thusly. It embarrassed her and on June 27, she hanged herself. To forestall being a survivor of cyber wrongdoing, an individual ought to rapidly make a move against the crook. She should submit a question to the Cyber Crime Investigation Cell, a part of the Criminal Investigation Department. These cells exist in Delhi, Mumbai, Chandigarh, Hyderabad, Bengaluru, Gurgaon, Pune, Lucknow, and other significant urban communities. As ladies are predominantly survivors of this wrongdoing, it is important to improve the insightful system for cyber violations. At that point just will ladies have a sense of security and engaged.

CONCLUSION

Ritu Kohli’s case is one of the few cases that came into the limelight. There are thousands of cyberstalking cases taking place in the nation, but only a few cases are lodged as a complaint. Due to threatening and fear of getting abused in society half of the victims accept the incident as a nightmare and try to move on. Cyberstalking is covered under various approaches such as personal intervention, strategies, and legislative provisions to various flaws. In the 21st century, technological exploitation has increased in comparison to physical exploitation. With no proper safeguards, it is increasing every day at a double rate. According to Working to Halt Online Abuse an organization working since 1997 to fight against online harassment, in the year 2011, 305 cases of cyberstalking took place. Also, very few people are aware of the legal aspect of cyberstalking. Very few people even know that something called cyberstalking even exists. Folks need to get education regarding online abuse. It is one of the major steps by which an end can be availed to this heinous crime.

10 Vijay Mukhi and Karan Gokani, Observations on the Proposed Amendments to the IT Act 2000, AIAI.
REFERENCES


8. Divij Joshi, India’s Criminal Law Amendment to include Cyberstalking, Harassment, and Voyeurism, CIS, (2013).
