



CYBER BULLYING: HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

Over the past two decades, the proliferation of smart phones, instant messaging apps and social media platforms has given rise to cyber bullying, a pressing issue in the digital age. This paper examines the statutory framework for addressing cyber bullying in India, exploring relevant sections of the Information Technology Act, 2000 and the Indian Penal Code, 1860. It underscores the need for stronger legal provisions to combat this growing issue. The Right to Privacy is a fundamental concept in Human Rights principles, safeguarding individuals from unwarranted interference in their personal lives. While not explicitly defined in the Indian Constitution, it has been upheld by the Supreme Court as a derivative right from Article 21 and other Constitutional provisions. The Right to Privacy encompasses various aspects, including informational privacy and bodily integrity. A Human Rights-based approach to cyber bullying is explored, highlighting the fundamental Human Rights that can be violated by such harassment. These rights encompass the right to physical and mental health, fair working conditions, freedom of expression, education and freedom from violence. The United Nations Committee on the Rights of Child underscores the relevance of these rights in the context of cyber bullying. This paper emphasizes the importance of Human Rights perspective in addressing cyber bullying, underlining the responsibilities of individuals and society to promote respect for Human Rights and freedoms and recognizes the integral connection between cyber bullying and the fundamental Human Right to Privacy.

Key Words: Cyber bullying, Privacy, Constitutional Framework, Human Rights based approach, International Perspective, Judicial Pronouncements.

1. INTRODUCTION:

In the recent years technological advancement has touched the unfathomable limits of cyberspace. No doubt the new technology provides great prospects for the development of a global information market, but in doing so it also exposes itself to a range of new criminal activities. The same technology which facilitate multinationals to do their business with more proficiency, also offers some prospects for globally organized criminal networks.¹

So far the word 'cyber' is concerned; it is a prefix that simply stands for 'computer' or computer network', as in cyberspace, the electronic medium in which online communication takes place. The crime committed through this medium is known as 'cyber crime'. It is relatively a new type of crime, which has emerged with an alarming proportion. Because of the easy availability, computers have become modern tools in the hands of white-collar criminals.²

So far the nature of cyber crime is concerned, it is different from the conventional crimes related to persons and property as there is requirement of virtual cyber medium in cyber crimes. Distinguishing it more, cyber crimes have virtually no boundaries due to unfathomable penetration of internet in different parts of world. Such a unique feature of it may affect every country in the world eventually. Moreover, the transnational nature of cyberspace makes it more difficult for the law enforcement agencies to investigate these crimes.³

'Cyber crimes' is an emerging field of criminal liability, which is expanding every day. At present, almost all the human activities are dependent upon the information technology and computer based infrastructure. As such, all these activities are naturally vulnerable to the cyber crimes and nobody can remain immune from the impact of such crimes.⁴

As technology has evolved over the past 20 years, cyber bullying has become an increasingly significant issue. The immense popularity of smart phones, the rise of instant messaging apps, and social media have opened up many ways for cyber bullies to harm their targets.⁵

¹ Charan Deep Samrao, "Cyber Crimes" p.1 para 1.

² Ibid p.3 para 1.

³ Ibid p.4 para 1.

⁴ Ibid p.8 para 2.

⁵ "Cyberbullying Laws in India" Available at: <https://thelawexpress.com/cyberbullying-laws-in-india>. Accessed on 10-10-23.

1.1 CONCEPT AND MEANING OF CYBER BULLYING:

‘Cyber bullying’ is a term first used and defined by Canadian educator ‘Bill Belsey’ around the turn of the millennium. ‘Belsey’ defines it as “the use of information and communication technologies to support deliberate, repeated, and hostile behaviour by an individual or group that is intended to harm others”⁶

Cyber bullying is bullying that occurs on digital devices such as cell phones, computers, and tablets. Cyber bullying can occur online through SMS, text, and apps, or in social media, forums, or gaming where people can view, participate in or share content. Cyber bullying includes sending, posting, or sharing negative, harmful, false, or mean material about someone else. The most common places where cyber bullying occurs is Social media, such as Facebook, Snapchat, Text messaging and messaging apps on mobile or tablet devices, Instant Messaging, Direct Messaging and Online Chatting over the Internet, online forums, chat rooms, and message boards, such as Reddit.⁷ India Ranks 3rd on Global Cyber bullying list⁸.

Cyber bullying can be done and is done through differing methods the most general / common modes that are used for cyber bullying are: Flaming, Excluding, Outing, Impersonating⁹, Cyber stalking, Trickery, Trolling¹⁰.

1.2 STATUTORY FRAMEWORK FOR CYBER BULLYING IN INDIA:

Although the rate of cyber bullying is increasing day by day in India, there lies no direct provision dealing with the same. There are some sections of the Information Technology Act,

⁶Surabhi Negi and Sunita Magre, “The E-demon of Cyberbullying among Teens” Available at: <https://www.researchgate.net/publication/346952897>. Accessed on 10-10-23.

⁷ “Cyberbullying Laws in India” Available at: <https://thelawexpress.com/cyberbullying-laws-in-india>. Accessed on 10-10-23.

⁸ Vinita Sharma and Subodh Kesharwani, “Cyberbullying in India’s Capital – Global Journal of Enterprise Information System” DOI: 10.18311/gjeis/2018/22295

⁹ Suryansh Kumar Arora, “Cyberbullying Laws in India” International Journal of Law Management & Humanities.

¹⁰ S. Samundeeswari & Dr.K.Vijaya, “Cyberbullying: Harmful Impact of Technology” International journal of creative research thoughts(ICJRT) ISSN 2320-2882 © 2022 IJCRT | Volume 10, Issue 2 February 2022.

2000 and IPC¹¹, 1860 which deal with the punishment related to cyber bullying, as have been discussed hereunder:

Section 66 A of the Information Technology Act, 2000¹²; Section 66 C of the Information Technology Act, 2000; Sec 66 D of the Information Technology Act, 2000; Sec 66 E of the Information Technology Act, 2000; Section 67 of the Information Technology Act, 2000; Section 67 A of the Information Technology Act, 2000; Sec 67 B of the Information Technology Act, 2000; Section 292 A of the Indian Penal Code, 1860; Section 354 C of the Indian Penal Code, 1860; Section 354 D of the Indian Penal Code, 1860; Section 499 of the Indian Penal Code, 1860; Section 507 of the Indian Penal Code, 1860; Section 509 of the Indian Penal Code, 1860.¹³

2. RIGHT TO PRIVACY:

‘Right to privacy’ is an important concept under the Human Rights principles. Privacy was a part of human life from the beginning of human history.¹⁴ According to *Black’s Law Dictionary*, ‘Right to Privacy’ means “right to be let alone”; the right of a person to be free from any unwarranted interference.¹⁵ According to Moore¹⁶ ‘Privacy’ is a difficult concept to define. It is “a condition or as a moral claim on others to refrain from certain activities”¹⁷

Nowhere in the Constitution expressly defines the concept of Privacy.¹⁸ However, such a right has been culled by the Supreme Court from Art. 21 and several other provisions of the Constitution read with Directive Principles of State Policy¹⁹

¹¹ Indian Penal Code.

¹² Now declared unconstitutional by Supreme Court of India in 2015.

¹³ “Overview of concept of cyber bullying in India” Available at: <https://blog.ipleaders.in/overview-of-concept-of-cyber-bullying-in-india/>. Accessed on 11-10-23.

¹⁴ Elison, L. M. & NettikSimmons, D. (1987). “Right of Privacy” Mont. L. Rev., 48(1), at 1

¹⁵ Qwerty9729 “Legal Analysis of Right To Privacy In India”. Available at: <https://www.legalserviceindia.com/legal/article-676-legal-analysis-of-right-to-privacy-in-india.html>. Accessed on: 11-10-23.

¹⁶ Adam D. Moore has written extensively on privacy and related issues. Dr. Moore is an “Associate Professor in the Information, School at the University of Washington, examines the ethical, legal, and policy issues surrounding intellectual property, privacy, freedom of speech, accountability, and information control.

¹⁷ Ali Alibeigi, et al. “Right to Privacy, A Complicated Concept to Review” Available at: <https://www.researchgate.net/publication/335856643>. Accessed on 11-10-23.

¹⁸ Bandita Das, Jayanta Boruah, “Right To Privacy And Data Protection Under Indian Legal Regime”

The 'Right to Privacy' in Indian Jurisprudence can be traced back to the late 1800s when it was upheld by the British local court that the privacy of a pardanashin woman²⁰ to go to her balcony without any fear of anyone gazing at her from the neighborhood.²¹

'Right to Privacy' is not only conceded nationally, but also internationally under various Conventions. 'Right to Privacy', being a dynamic concept is incorporated under provisions of various legislations and also embraces various aspects.²²

2.1 THE CONSTITUTIONAL AND STATUTORY FRAMEWORK FOR RIGHT TO PRIVACY IN INDIA:

The 'Right to Privacy' is a fundamental right recognized by the Indian Constitution. In India, the 'Right to Privacy' was initially recognized as an intrinsic part of the *Right to Life and Personal Liberty* guaranteed under Article 21 of the Constitution. However, in August 2017, the Supreme Court of India in the landmark case of Justice K. S. Puttaswamy (Retd.) v. Union of India²³ declared that the right to privacy is a standalone fundamental right under the Constitution, which encompasses various facets of privacy such as informational privacy, bodily integrity, and decisional autonomy²⁴

In India, the pieces of legislation that deal with data protection in the present context are *Information Technology Act, 2000, Indian Contract Act, 1872, Intellectual Property Laws, Credit Information Companies Regulation Act, 2015*.²⁵

¹⁹ M.P. Jain, "Indian Constitutional Law of India" (7th edition, 2014) page no. 1168

²⁰ A Pardanashin woman is one who observes complete reclusion because of the custom of the particular community to which she belongs.

²¹ "Judicial interpretation of data protection and privacy in India" Available at: <https://blog.ipleaders.in/judicial-interpretation-of-data-protection-and-privacy-in-india/>. Accessed on 11-10-23.

²² Qwerty9729, "Legal Analysis of Right to Privacy in India" Available at: <https://www.legalserviceindia.com/legal/article-676-legal-analysis-of-right-to-privacy-in-india.html>. Accessed on 11-10-23.

²³ (2017) 10 SCC 1.

²⁴ "Right to Privacy under Indian Constitution" Available at: <https://sociallawstoday.com/right-to-privacy-under-the-indian-constitution/#:~:text=The%20Supreme%20Court%20held%20that%20the%20Right%20to%20Privacy>. Accessed on 11-10-23.

²⁵ Bandita Das, Jayanta Boruah, "Right To Privacy And Data Protection Under Indian Legal Regimes"

3. CYBERBULLYING AND RIGHT TO PRIVACY: HUMAN RIGHTS PERSPECTIVE

Everyone has the right to be respected, safe and free from violence, harassment and bullying. A life free from violence and from cruel, degrading and inhuman treatment is a fundamental human right.²⁶

Cyber bullying can lead to the violation of various Human Rights which include:

- **The highest attainable standard of physical and mental health**²⁷

Bullying can impact negatively on your physical and mental health causing harm in the form of physical injuries, stress-related illnesses, depression and other health issues.

- **Work and fair working conditions.**²⁸ Bullying can lead to higher absenteeism from the workplace, poor or reduced performance and an unsafe working environment.

- **Freedom of expression and to hold opinions without interference.**²⁹ Bullying can impact on your freedom to express feelings or opinions as you no longer feel safe to do so.

- A child or young person's **right to leisure and play.**³⁰ Bullying often occurs where children and young people play and socialise such as in school playgrounds and on social networking sites. All children have the right to participate in leisure activities in a safe environment. The *United Nations Committee on the Rights of the Child*, in its report on Australia's compliance with the *Convention on the Rights of the Child, 1989* raised concerns about bullying and the importance of protecting children and young people

²⁶ See for example, *Universal Declaration of Human Rights (UNDHR)*, GA Resolution 217A (III), UN Doc A/810,1948, art 5; *International Covenant on Civil and Political Rights (ICCPR)*,1966, art 7; *CRC*,1989, art 19. *Convention on the Rights of Persons with Disabilities*, 2006, art 16; Committee on the Elimination of Discrimination Against Women, *General Recommendation No. 19 – Violence Against Women* (1992), paras 4, 17, 14; Committee on the Rights of the Child, *General Comment no. 13- Article 19: The right of the child to freedom from all forms of violence*, UN Doc CRC/C/GC/13 (2011) para 12. At http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en_AUV.doc (viewed 21 september 2023); *UDHR*,1948, art 7; *ICCPR*, 1966, arts 7, 26.

²⁷ *UDHR GA Resolution 217A (III)*, UN Doc A/810 (1948), art 25; *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, 1966, art 12(1); *CRC*,1989, art 24

²⁸ *UDHR GA Resolution 217A (III)*, UN Doc A/810 (1948), art 23; *ICESCR* arts 6 and 7.

²⁹ *UDHR GA Resolution 217A (III)*, UN Doc A/810 (1948), art 19; *ICCPR*,1966, art 19.

³⁰ *CRC*, 1989, art 31

from exposure to violence, racism and pornography through mobile phones and other technologies, including the internet³¹

- **The right to education** because it can make you feel unsafe and unwelcome at school and impact on how well you do³²
- **The right to be free from violence** whether mental, emotional or physical.³³

While the rights above are not a comprehensive list, they indicate the range of rights that can be violated by bullying.³⁴

Article 19 of the UNCRC, 1989 makes it clear that children and young people have the basic Human Right to dignity. This means they have the right to be protected from violence, just like everybody else.³⁵

The United Nations Committee on the Rights of the Child has stated that Article 19 applies to: “Psychological bullying and hazing by adults or other children, including via information and communication technologies (ICTs) such as mobile phones and the Internet (known as ‘cyber bullying’).³⁶

Just as all people are entitled to enjoy all Human Rights, they also have responsibilities to respect the rights of others. *The Universal Declaration of Human Rights, 1948* calls on every individual

³¹ They have also encouraged Australia to develop programmes and strategies to use mobile technology, media advertisements and the internet to raise awareness among both children and parents on information and material injurious to the well-being of children. Committee on the Rights of the Child: *Concluding Observations, Australia*, UN Doc CRC/C/15/Add.268 (20 October 2005) paras 33-34.

³² *UDHR GA Resolution 217A (III)*, UN Doc A/810 (1948), art 26; *ICESCR*, 1966, art 13(1); *CRC*, 1989, art 29; Committee on the Rights of the Child, *General Comment no. 1- The Aims of Education*, (2001) art 29 (1) para 8.

³³ *UDHR*, 1948, art 5; *ICCPR*, 1966, art 7; *CRC*, 1989, art, 19; Committee on the Elimination of All forms of Discrimination Against Women, *Violence Against Women, General Recommendation No. 12* eighth session, (1989) notes that violence directed against a woman because she is a woman or violence that affects women disproportionately is discrimination.

³⁴ “*Cyber bullying, human rights and by standers*” Available at: <https://humanrights.gov.au/our-work/commission-general/cyberbullying-human-rights-and-bystanders-0>. Accessed on 12-10-23.

³⁵ UNCRC Simplified Articles. Available at: <https://www.cypcs.org.uk/rights/uncrc/articles/article-19/#:~:text=Article%2019%20of%20the%20UNCRC%20says%20that%20if%20someone%20uses,be%20investigated%20by%20the%20authorities>. Accessed on 12-10-23.

³⁶ See Committee on the Rights of the Child, General comment No.13 (2011), The right of the child to freedom from all forms of violence, p. 10, 18 April 2011. “Hazing” refers to rituals and other activities involving harassment, violence or humiliation which are used as a way of initiating a person into a group.

in society to promote respect for Human Rights and freedoms.³⁷ This is because bullying is everyone's problem. Key Human Rights treaties also note that individuals have duties to one another and to their community, and have a responsibility to strive for the promotion and observance of human rights.³⁸

The '*Right to Privacy*' is indeed considered a fundamental Human Right. It is recognized and protected by various international agreements and legal frameworks, including *Universal Declaration of Human Rights (UDHR), 1948* and the *International Covenant on Civil and Political Rights (ICCPR), 1966*. These documents affirm the importance of protecting individual's privacy from unwarranted interference. Thus, Cyber bullying ultimately affects right to privacy, a Human Right.

Taking a Human Rights approach to tackling bullying allows us to identify and address the harm to a victim's rights and encourage all of us to respect the rights of others.³⁹

4. INTERNATIONAL PERSPECTIVE OF CYBER BULLYING AND PRIVACY:

4.1 U.S.A⁴⁰:

There are various civil remedies that could be used to address cyber bullying in the *United States*. Depending on the type of cyber bullying situation involved, a victim could bring a civil suit against his or her cyber bully or cyber bullies for *civil defamation, invasion of privacy, or Intentional Infliction of Emotional Distress*.

Under *Invasion of privacy*, it is possible to bring this type of action when there is an: (a) unreasonable intrusion upon the seclusion of another; (b) appropriation of the other's name or

³⁷ *UDHR GA Resolution 217A (III)*, UN Doc A/810 (1948), preamble.

³⁸ *ICCPR*, 1966, preamble; *ICESCR*, 1966, preamble.

³⁹ "*Cyber bullying, human rights and bystanders*" Available at: <https://humanrights.gov.au/our-work/commission-general/cyberbullying-human-rights-and-bystanders-0>. Accessed on 12-10-23.

⁴⁰ United States of America.

likeness; (c) unreasonable publicity given to the other's private life; or (d) publicity that places the other in a false light before the public.⁴¹

4.2 NEW ZEALAND:

The Privacy Act:

The *Privacy Act* operates around a series of privacy principles, set out in Section 6 of the Act, relating to the collection, storage, security, access, retention and disclosure of personal Information by “agencies.”⁴² When information is held by a private agency, Sec. 67of the Act states “any person may make a complaint to the Commissioner” regarding an interference with their privacy, including breaches of the privacy principles.⁴³ There is no age requirement to make a complaint, and an adult can complain on behalf of a child.⁴⁴

Privacy Torts:

The tort of ‘Breach of Privacy’ could be employed against revenge porn cyber bullying. It requires: (1) the existence of facts in respect of which there is a reasonable expectation of privacy and (2) publicity given to those private facts that would be considered highly offensive to an objective reasonable person.⁴⁵

4.3 COLUMBIA:

Columbia has incorporated first generation Human Rights into its domestic legislation, such as human dignity, good name, honor, and privacy. These fundamental norms become the first guarantees against cyber bullying.

⁴¹ Juan M, Acevedo García, “*Intentional Infliction Of Emotional Distress Torts As The Best Legal Option For Victims: When Cyberbullying Conduct Falls Through The Cracks Of The U.S. Criminal Law System*”

⁴² Privacy Act 1993, sec. 2 states that “agencies” include “any person or body of persons.”

⁴³ Section 66(1) (a).

⁴⁴ Section 67(1).

⁴⁵ *Hosking v Runting* [2005] 1 NZLR 1(CA)at[117].

Five principles support the protection of the *Right to Privacy*. The *principle of freedom* states that the personal data of an individual may only be recorded or disclosed with the free, prior, express, or tacit consent of the holder unless the legal system imposes an obligation to disclose such information to fulfill a constitutionally legitimate objective. (...) The *principle of purpose* states that it must be expressed in the requirement to submit the collection and disclosure of data for the realization of a constitutionally legitimate purpose which prevents forcing citizens to disclose intimate data about their personal life without support in the Constitutional Text that legitimizes the release of part of their interiority for the benefit of the community. The *principle of necessity* states that the personal information to be disclosed is strictly limited to that which is related to the purpose of the disclosure. Thus, the recording and disclosure of data that exceeds the constitutionally legitimate purpose are prohibited. In addition, the *principle of truthfulness* states that it is required that the personal data that may be disclosed correspond to real situations; therefore, the disclosure of false or erroneous data is prohibited. Finally, the *principle of completeness* states that the information to be disclosed must be provided in full. In this way, it prevents the recording and disclosure of partial, incomplete, or fractioned data. (Constitutional Court Ruling T-787, 2004, Para.129).

The five principles set forth in Ruling T-787 of 2004 entirely lead to the protection of the Right to Privacy when cyber bullying occurs.⁴⁶

4.4 CANADA:

Canada recognizes the concept of '*privacy tort*'. In the highly-publicized decision of **Doe v. N.D.**, the *Ontario court* recently granted a victim of cyber bullying significant damages, to compensate her for the serious emotional and reputational harm she suffered in the hands of the defendant.

In his decision, *Justice Stinson* found that the defendant had committed the *tort of Invasion of Privacy*, or more specifically, "*Public Disclosure of Private Facts*". His finding essentially

⁴⁶ Arrieta-López, Milton y Carrasquilla-Díaz, Laura, "*Bullying and Cyberbullying: A Legal and Public Policy Perspective in Colombia*"

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2135-2151.

expanded the limited *tort of Invasion of Privacy* to cover situations where the defendant makes information regarding the plaintiff public, in a manner that is “highly offensive to a reasonable person”. This is the first reported case where such a claim was granted in Canada (the claim already exists in the U.S.)⁴⁷

5. CYBER BULLYING AND RIGHT TO PRIVACY: JUDICIAL RESPONSE

*Megan Meier’s Case (U.S. Vs. Lori Drew)*⁴⁸:

Megan Meier was a 13-year-old girl who had attended the Immaculate Conception Middle School in Dardenne Prairie, Missouri. She took her own life shortly before her 14th birthday as a result of what was deemed bullying taking place over the Internet or Cyber-Bullying. Megan Meier is considered to be amongst the first cases of suicide resulting from Cyber-Bullying in the United States of America. However, in contrast to a large majority of Cyber-Bullying cases that has followed Meier’s case, in which the bullying is typically undertaken by fellow peers and classmates, Lori Drew, who was the parent of a fellow student, was charged with masterminding the bullying of Megan Meier.⁴⁹

In instant case, Megan believed she was interacting with a peer when, in fact, she was interacting with an adult who used deceit to gain Megan's trust.

In summary, Megan Meier's case highlights the intersection of online privacy, deception, and cyber bullying, underscoring the need for a safer and more ethical online environment. It is a reminder of the potential harm that can result from online interactions and the importance of addressing these issues to protect individuals' privacy, emotional well-being, and overall safety in the digital age.

⁴⁷Maanit Zemel, “*The new privacy tort – Another victory for victims of cyberbullying*” Available at: <https://blog.firstreference.com/the-new-privacy-tort-another-victory-for-victims-of-cyberbullying/>. Accessed on 19- 10-23.

⁴⁸ 259 F.R.D. 449 (C.D. Cal. 2009)

⁴⁹ B.S. Shivashankar and Aswathy Rajan, “*A Critical Analysis of Cyber Bullying in India-with Special Reference to Bullying in College*” International Journal of Pure and Applied Mathematics Volume 119 No. 17 2018, 1811-1822 ISSN: 1314-3395 (on-line version) url: <http://www.acadpubl.eu/hub/>

Ryan Halligan Case:

The newly found friend returned to being a bully and used the information to start a rumor that Ryan was gay. The taunting continued into the summer of 2003, although Ryan thought that he had struck a friendship with a pretty, popular girl through AOL Instant Messenger (AIM). Instead, he later learned that the girl and her friends thought it would be funny to make Ryan think the girl liked him and use it to have him share more personally embarrassing material—which was copied and pasted into AIM exchanges with her friends. On October 7, 2003, Ryan hanged himself in the family bathroom. After his son's death, John discovered a folder filled with IM exchanges throughout that summer that made him realize "that technology was being utilized as weapons far more effective and reaching [than] the simple ones we had as kids."

There were no criminal charges filed following Ryan's death because no criminal law applied to the circumstances. Seven months after Ryan's death, Vermont's Bully Prevention Law (ACT 117) was signed into law by Governor Jim Douglas. John Halligan also authored Vermont's Suicide Prevention Law (ACT 114), which passed unchanged in April 2006.⁵⁰

In this case, the newly found friend used personal information about Ryan to start a rumor that he is gay. This involves an invasion of Ryan's privacy by using sensitive information against him. It leads to bullying and taunting, causing significant emotional distress.

The use of AIM to taunt, manipulate, and share personal information without consent is a form of cyber bullying. It's an invasion of privacy in an online context.

Air Force Bal Bharti School Case:

An Indian incidents revolving around cyber pornography include the Air Force Balbharati School case. In the first case of this kind, the Delhi Police Cyber Crime Cell registered a case under section 67 of the IT act, 2000. A student of the Air Force Balbharati School, New Delhi,

⁵⁰ "Legal remedies available against online bullying" Available at: <https://blog.ipleaders.in/legal-remedies-available-online-bullying/#:~:text=In%20the%20case%20of%20Shibani,and%20children%20from%20being%20bullied.>

was teased by all his classmates for having a pockmarked face. He decided to get back at his tormentors. He created a website at the URL <http://www.amazing-gents.8m.net>. The website was hosted by him on free web space. It was dedicated to Air Force Bal Bharti School and contained text material. On this site, lucid, explicit, sexual details were given about various “sexy” girls and teachers of the school. Girls and teachers were also classified on the basis of their physical attributes and perceived sexual preferences. The website also became an adult boys’ joke amongst students. This continued for sometime till one day, one of the boys told a girl, “featured” on the site, about it. The father of the girl, being an Air Force officer, registered a case under section 67 of the IT Act, 2000 with the Delhi Police Cyber Crime Cell. The police picked up the concerned student and kept him at Timarpur (Delhi) juvenile home. It was almost after one week that the juvenile board granted bail to the 16- year-old student.

Here the creation of a website containing explicit sexual details about specific individuals (girls and teachers of the school) violates their privacy. It publicly discloses intimate information about these individuals without their consent. Ultimately, violating their Right to Privacy.

Shibani Barik V. The State Of Odisha (2020):

The Court observed that cyber bullying was on the rise through Tik Tok and it emphasized the importance of strict regulation to protect the youngsters and children from being bullied.⁵¹ As cyber bullying not only compromises the victim's online privacy but can also have real-world safety implications.

Ritu Kohli Case:

The Delhi Police has registered India’s First Case of Cyber stalking in 2001 where a lady named Ritu Kohli complained that a person who was using her identity to chat over the Internet at the website www.mirc.com was also deliberately giving her telephone number to other chatters

⁵¹Ibid.

encouraging them to call Ritu Kohli at odd hours. As a result of which, Mrs. Kohli received an estimate of 40 calls, national as well as international, during odd hours within 3days. A case was registered under section 509 of the Indian Penal Code (Word, gesture or act intended to insult the modesty of a woman).⁵²

Here, the impersonator not only used Ritu Kohli's identity but also intentionally shared her telephone number with other users, encouraging them to call her at odd hours. This act of harassment and invasion of privacy resulted in Mrs. Kohli receiving a large number of unsolicited calls, both national and international, disrupting her personal life and peace of mind.

Rittika Sharma's Case:

Rittika Sharma, who was a student in a reputed Delhi school was stalked by a facebook friend whom she unfriended months ago and whom she gave all her information including residential address, school address and even cell phone number. She told her brother regarding this and her brother filed a complaint against this. After this incident Delhi police organized awareness programs where all the students were told not to send their personal details to any stranger⁵³

In this case, Rittika had shared personal information such as her residential address, school address, and cell phone number with the stalker. This is a breach of her Right to privacy because she likely shared this information in good faith, and it was misused by the stalker for malicious purposes.

⁵² B.S. Shivashankar and Aswathy Rajan, "A Critical Analysis of Cyber Bullying in India-with Special Reference to Bullying in College" International Journal of Pure and Applied Mathematics Volume 119 No. 17 2018, 1811-1822

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⁵³ Adrita "Cyber Bullying: A Disregarded Issue In India" Available at: <https://www.legalserviceindia.com/legal/article-2358-cyber-bullying-a-disregarded-issue-in-india.html>. Accessed on 12-10-23.

CONCLUSION:

In conclusion, the issue of cyber bullying is a growing concern in today's digital age. With the widespread use of information technology and online platforms, individuals are increasingly vulnerable to the harmful effects of cyber bullying. This issue not only affects personal well-being but also has Legal and Human Rights implications. In India, there are existing legal provisions within the Information Technology Act, 2000, and the Indian Penal Code, 1860 that address various aspects of cyber bullying. However, there is a need for more comprehensive and effective legislation to effectively combat cyber bullying in the country and protecting the rights of victim including Right to Privacy. On the other hand, the Right to Privacy is a fundamental Human Right recognized and protected internationally. In India, this right was affirmed by the Supreme Court in a landmark decision of *K. S. Puttaswamy (Retd.) v. Union of India* encompassing various aspects of privacy. Protecting privacy is crucial in the context of cyber bullying, as it can impact an individual's mental and physical health, freedom of expression, right to education, and more. The clue from human rights-based approach to address cyber bullying allows us to understand the harm it can cause to the victim's rights and emphasizes the importance of respecting the rights of others. Moreover, it places a collective responsibility on society to promote and uphold Human Rights. Looking at how other countries address cyber bullying and privacy, the United States offers civil remedies, such as defamation and invasion of privacy claims, against cyber bullies. New Zealand has a Privacy Act and privacy torts that allow victims to seek recourse. In Colombia, the Right to Privacy is protected through five key principles: *principle of freedom, the principle of purpose, the principle of necessity, the principle of truthfulness and the principle of completeness* while Canada has recognized the concept of 'privacy tort' to address cyber bullying cases. Same way law should be incorporated in India. In light of the international scenario, it is essential for India to consider a more comprehensive legal framework for addressing cyber bullying and safeguarding the Right to Privacy. This would ensure that individuals are protected from the harmful effects of cyber bullying while upholding their fundamental Human Rights. Additionally, public awareness campaigns in colleges, schools and public departments through educational initiatives can play a vital role in combating cyber bullying and fostering a more respectful and safe online environment.