



Cyber Stalking: Technological Form of Sexual Harassment

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ABSTRACT: Cyber stalking or cyber bullying tends to direct form of online harassment which involves the unwanted mails, unwarranted messages which consisted with nature of abusive or obscene etc. indirectly, this activity defined as spamming or easily to say 'computer viruses'. It has given rise extent to media interest and public concern. This article states regarding the cases against the legal measures to deal with sexual harassment in form of technical ability. Over the years, these online transactions as well as abusive conversations have been increasingly transpiring at an accelerated rate. It has become a serious and companionable issue, due to lack of social awareness, as we analyses during research on this article. Well our main focus to research on this emerging topic is to create awareness and to prevent an innocent person who non-intentionally or mistakenly follows absurdity conducted in form of techno-ability. As we ourselves faced many challenges to not become the part of victimization, as there is no specific law of stalking. By taking scenario regarding police complaints in India, Police condition is not up to the mark because of bribery, due to this conditions, ordinary people suffers a lot, who are victims of such offence as. Also If We go through the United states police, then we came to know that police refusing to take complaint on grounds that: Lack of specific proof in context of allegation. In Fact, stalking could not only be able to victimize the women, But also to any person whether, a men, women or even a transgender. This article has mentioned the comparative analyse of practicing cyber stalking between age and gender of victim, also gives productive recommendations on reforming the internet safety education and other means relied in techno-ability. Conclusively, this paper elucidated guidelines for what does cyber bullying or stalking constitute or what does not, also analyses the growing threats of online sexual harassment in this technological era.

Keywords: Sexual Harassment, Cyber bullying or stalking, Online Harassment, Abuse of technology, Unwarranted, Computer viruses.

Abbreviations: IT, Information Technology; Vs., Versus; FBI, Federal Bureau of Investigation; IRC, Internet Relay Chat; IPC, Indian penal Code; CRPC, Criminal Procedure Code.

I. INTRODUCTION

Stalking or bullying is quite a well-known remarkable situation surrounding celebrity grew. But our research analyses that there are more than 80 percent victims are 'ordinary people'. It is referred as willful conduct of accused as a continuing offence of harassment, built against the expressed desire of another individual and it causes individual to sensate distress which include threat, unlawful apprehension and harassment. Especially women are more familiar than men, to this problem of stalking in actual life. Legal elements of stalking include a course of conduct like watching, follow person, appearing at where person resides or place of work, making unwarranted phone calls, letters or emails, unsolicited virtual conduct, vandalizing a person's property, etc. Stalking is to be considered as mature conduct but a recent crime [1]. In recent years, it has been recognised that cyber stalking or cyber bullying is significant social problem. There is no clear definition of what stalking constitutes or who the offender or victims

are likely to be. It is a problem; where a woman suffers allot then men with in real life which occurred by means of techno-ability.

II. MATERIALS AND METHODS

A. Cyber Stalking

The phenomenon of stalking emerged in the USA in the 80s [2]. In the beginning it concerned people who would be constantly monitored by the media due to their popularity. Stars also became victims of their own fame because of their fans' obsession, they would be followed and harasses in various ways. Marilyn Pilon defines stalking as a deliberate, malicious and repeated following a person and bothering thereof [3].

Cyber-stalking can be defined as threatening behavior. It is basically done with an intention to criminally victimize a person. Cyber stalking could be a comparatively new development, with the untraceable distance of technology by means of exaggerated convenience of global computer networks. This untraceable distance of technology services act as a

driving force for offender to conduct crime as online sexual harassment or stalking. Through this kind, offenders do misuse the technology services. The stalking is not only stopping with one person but also extends to the family and friends of the victim. Here the stalker uses the information and communication medium to pursue, track or harass or threaten one or more individuals which may also repeat.

B. How abuse of technology occur in terms of sexual assault, cyber stalking or bullying and in domestic violence

Here research scenario mentioned to illustrate specific abuse tactics and dynamics, that how abusers create power and control on people especially women [4].

1. Sentimental or Meaty Abuse: In this kind of abuse, situation may arise that putting down using technology. Framing of technology to threat or abiding you as technology dependent.

2. Disjunction: An abuser figures out victim's hidden location. Consume technology to harm your reputation professionally as well as personally. Unwanted messages or emails consist with nature of abuse or obscene.

3. Criminal force or threat: The main essentials of this abuse are making threat or danger via unwarranted mails, messages or sending of inappropriate website links and information. Locate information on blogs or websites with intent to imitate in order to deceive.

4. Abuse in context of Profitability: This kind of abuse is transpiring in an accelerated rate by framing or following online financial profitable accounts. It can diminish your ratings of credits, loans by personating of fraudulent practice.

5. Using advantage and unjust treatment: It plays a very significant role by pretending something to make you feel stupid and not fit to understand easily or anxious of technology.

6. Taking advantage of others: This abuse can be use as optional category by taking advantage of other people such as children, friends or family to harass and place devices to get information of their account details through means of techno-ability.

7. Stalking or bullying and Intimidating: Lastly, this kind of abuse occurs as observing or reporting by using technology. Changing files or device settings in secret way and diminishing the technological items or denoting gadgets. Contacting you continuously another kind of abuse may occur by Minimizing, denying, blaming.

These all mentioned above points state as abuse tactic. As our research study shows that stalking or bullying is often an indication of other ways of violence. Whereas 81 percent of women are stalked by former husband or with their cohabitating partner, as physically assaulted. Study also shows that 31 percent of women were sexually assaulted. 76 percentages of women are murdered due to increasing of stalking conduct by their intimate partner and almost 85 percentages of women, was attempt to murder in context of stalking. 89 percent of femicide victims who had been physically assaulted before their murder and 54 percent of femicide victims reported of stalking to the police and few of them committed suicide, but no any immediate action arises. And it is increasing day by day; offenders are taking benefits of untraceable distance of technology, mo any immediate action of branch cell due to which women's conditions is becoming cork with continuing days.

C. Selected forms of stalking via information technology

The data above show the frequency of occurrences of particular forms of persecution. The number of acts that are of a psychological, abusive nature as well as the clear per cent of the persistent bothering using physical abuse, touching, grabbing, assault and rape or a rape attempt is an alarming phenomenon.

Table 1.

	In General	Men	Women
Frequent, dead, obscene phone calls	463	178	286
Unwanted letters, e-mails, text messages	346	144	202
Ordering unwanted goods or services at victim's expense	63	28	35
Taking photos without consent	135	65	70
Putting photos or comments on the Internet	70	34	36

The study's results also showed the application of selected methods of stalking in the context of gender, the female gender constituting a majority. The most often applied method, probably the most available one, is the persecution using a mobile phone. We should also pay attention to the aspect of the dangers that result from the cyberspace because of the email use and the anonymity of the web, which cause a delegation for the need of conducting a separate research on the phenomenon of stalking [5].

Since 2009, Italy has considered that cyber stalking or cyber bullying is a criminal offence which is specifically mentioned in article 612 bis, 2009 of Penal code. The substantive law states that : "Provided the act isn't

recognized as a additional serious crime, it's a criminal offence, punishable with imprisonment starting from six months up to four years, to unceasingly threaten or harass another person to such an extent on cause a heavy, continual state of hysteria or worry, or to in still within the victim(s) a impelled worry for his/her own safety or for the security of relatives or other persons joined to the victim(s) by virtue of kinship or emotional relationship or to force the victim(s) to vary his/her living habits", occurred in Italian system, the online conduct of defaming a victim or his/her reputation, falsely personating as identity, and hacking in terms of bad faith are thought-about an extension of stalking [6].

D. Forms of cyber bullying or stalking

As cyber stalking is a very broad concept, it cannot be defined in a straight statement. Legislators is facing too much difficulties to define stalking statement in contextualize in different set of activities conduct. We must say cyber stalking is indirectly proportional to the untraceable technology era. As more the advancement of technology, there will be more occurrence of cyber crime.

Cyber bullying or stalking occurred in various ways which include [7]:

1. Awkwardness, mortification and online sexual harassment
2. Looting money and other economic control
3. Harassing the family and friends
4. Directing the employer to isolate the victim
5. Usage of scare tactics

The main objective of cyber stalkers is to harm the person or to cause injury to person's reputation in social sites by taking advantage of untraceable distance namely abuse of technology or can say misuse of technology.

Ways of bullying or stalking

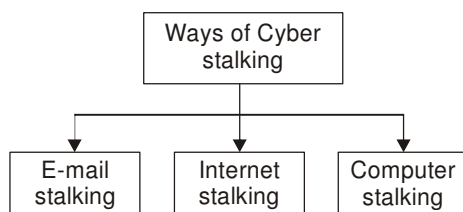


Fig. 1.

Firstly, an e-mail stalking act as driving force in popular ways of Cyber stalking. It is done by stalker by communicating with the victim via e-mail or a phone. It is a surveillance of the victim in the real world. The sent e-mails are to a bother the victim. They may contain obscene, threatening or hateful content. If the frequency of such acts is high and the way of their sending indicates the will of intimidation they can be therefore diagnosed as disturbing behaviour which can be categorized as stalking [8].

Another method of cyber harassment is Online stalking through computer networks. It states that the stalker may use or hold the worldwide network in a versatile way in order to slander and put at risk his victim. Here, stalking is practiced in a public space (e.g. on chats, social networks) [9] and not in a private one (e.g. electronic mail). Though, despite the fact that the acts causing emotional distress are punishable they are not considered to be as dangerous as physical assault [10]. Computer stalking is also a way of practicing cyber stalking. In this case, the stalker gains access to the victim's computer via Internet. Thereby he has access to all data stored on the hard drive and external drives. Therefore he can fully control the victim. The stalker takes control over the victim's computer the moment they access the Internet.

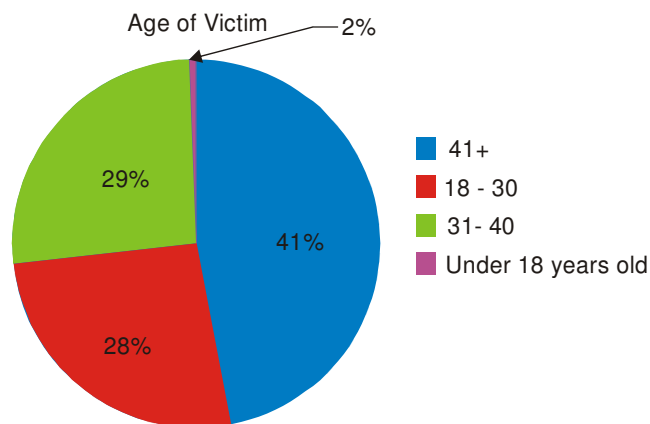


Fig. 2. Age of Victim [12].

What follows from this data is that cyber stalkers harass adults and that the group is not uniform when it comes to age. The victims who are 31 years old and older are the biggest group of people harassed in virtual space. People between 18 and 30 years old are also a big group of cyber stalker's victims.

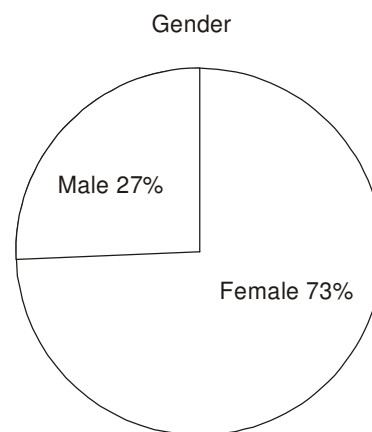


Fig. 3. Gender of Victim [11].

The above data clearly shows that in more than 70 per cent of cases women are the victims of cyber stalkers. It is because most of the stalkers are men. Women become the object of harassment, nagging and sending messages of erotic and obscene content. Women report this type of crime more often than men.

Current research study: On base our findings on two instant topics as sexual harassment and cyber bullying or stalking, preliminary statement of these instincts was developed for recent analyse study and define as any gender whether male, female or others received unwarranted emails, comments or unwanted messages or phone calls which causes psychological discomfort such as sensation of beyond comfort zone, an awkwardness or lack of privacy or safety. This statements is conclusively result of research analyse study of online sexual harassment and cyber stalking through means of techno-ability as Internet [12].

E. Few cases regarding position of women in the cyber ERA

1. Leading case of Manish Kathuria as [13]: It was the first case which was reported against cyber stalking or bullying in India and this case turned amendment to the Information Technology Act in 2008. This case is involved in stalking of a woman named Ritu Kohli. Where Kathuria followed through online source to Kohli on a chat social website and used to abuse her by obscene language, also transfer her number to various people. After that she got unwarranted obscene phone calls at timings of night, continuing three days. After this situation, women were forced to lodge complaint at Delhi police and complaint was made and police traced IP addresses and arrested Kathuria under section 509 of the Penal Code. Due to this case only, section 66-A was introduced in 2008. As now, cases are being reported under this prescribed section as opposed to section 509 of the Penal Code, as was the case where a student belongs to Delhi University was arrested for stalking women from Goa by creating fake Performa by means of social networking sites.

2. Karan Girotra vs. State & another [14]: This case reaches the judiciary on cyber stalking. Case deal with the women, Shivani Saxena, her marriage was not perfectly consummated and filed for a divorce by mutual consent accordingly to Hindu marriage act, 1955. After that, she came across to Karan Girotra through online chatting on the Internet and proposes for marriage. On the pretext of introducing her to his family, Girotra invited Saxena to his house, and tries to drug her and sexually assaulted her and which was successfully done. Girotra started sending her obscene pictures from the night she was assaulted. He started extorting her to circulate obscene picture if she refuses to marry him. Saxena lodged a complaint under Section 66-A IT Act. On the ground of obscene and nude pictures of Shivani which was circulated by Girotra. This act requires a serious custodial interrogation.

Court observed that there is an occurrence of filing FIR by Shivani and she had consented to sexual intercourse and also decided to file complaint against Girotra, only on ground when he refused to marry her. This leading case highlights the mark of Indian judiciary regarding case of cyber stalking or bullying.

3. A recent case of Vinu Priya [15]: In leading case, victim age was 21 year old and completed her B.sc course, graduated in streams of chemistry. On appearing of first photograph on 23 June, she immediately told her guardians and filed a complaint with the cybercrime branch. But the police have not taken this case seriously. Lack of interest was there of police. Lack of investigation was performed by police investigating team. After that, again obscene photograph was posted on social media on 26 June and Investigating officer has assumed that she only must have send these obscene pictures. After observing all these situations in society, she killed herself on 27 June.

4. Landmark case as of President Pranab Mukharjee's daughter stalking [16]: When Daughter of President Pranab Mukherjee, Sharmistha Mukherjee, she was allegedly harassed by a man and posted sexually explicit messages/ unwarranted messages on her (FB) facebook page. After this, his daughter filed a

complaint in cybercrime cell of Delhi police. She decided to speak up against these kinds of people those who try to harass girls by way of social networking sites so that no other victims come across.

5. Case of Cassidy stalking [17]: Cassidy in U.S.A was stalked by Jared James Abrahams, who was a higher secondary friend of Cassidy. Cassidy's friend hacked the Cassidy's laptop, due to which James taken all nude photos of Cassidy and started uploading in social networking sites. After all this happen, it was immediately informed to (FBI) Federal Bureau of Investigation and eventually they found the culprit.

6. United States vs. Jakes baker [18]: This case deals with publishing of sexually explicit obscene material by Abraham Jacob, who was a student of Michigan University under stream of the pseudonym 'Jake Baker'. As baker posted stories on social networking sites with titled "alt.sex.stories" describing the torture, rape of women and as a result, a complaint was lodged against Baker under the Interstate communications Act.

F. Challenges

1. There is no any specific law of stalking. Its scope is very limited in India as compared to abroad side such as U.S.A.

2. No any effective extradition laws are there in India.

3. By taking scenario regarding police complaints, Police condition is not up to the mark because of bribery, due to this conditions poor girls suffers a lot, who are victims of such offence as stalking or If stalker is billionaire or having strong relation with political party's son, then there is no any strict or immediate action by the side of police.

4. If We go through the United states police, then we came to know that police refusing to take complaint on grounds that: Lack of specific proof in context of that harasser was actually indicating this particular victim, or harasser is practicing right to speech.

5. The loop holes of the law acquitted the stalker easily.

6. Low deterrent effect from the stalker's side

III. RESULTS AND DISCUSSION

A. Conception of law in international scenario

1. Law of United Kingdom: If we talk in context of other countries such as UK law then scenario states that stalking or bullying is not so specific criminal offence. United Kingdom recognized various laws of bullying as 'Protection from Harassment Act, 1997'; especially it is exercisable of repeated actions. Other Act such as communication Acts 2003, malicious communication Act 1988, which covers electronic and obscene communications

2. Law of United States: It recognizes as the federal law under the 'Megan Meier cyber bullying Prevention Act'. Megan Meier case is to be considered as first case of suicide resulting from cyber stalking in United States of America.

3. European law: According to current scenario regarding European law, it is being stated to issue of cyber stalking or bullying.

4. International perspective: Well to this perspective, it recognized as Human Rights Commission, United Nations and UNICEF, all are coordinated approach from governments around the world.

Anti-stalking legislation – Till 2005, there are 44 states that have enacted laws of cyber staking or bullying including sexual harassments laws as 'National conference of state legislatures 2006'. If a person does violation of cyber stalking laws, then he will be liable for fine, may extend up to \$250,000.

5. Comparative Jurisdictions: Most other countries regimes give proper guidelines regarding data protection that where it going to be put and by whom i.e., the greater standards of sensitive personal data. It imposes clearly restrictions regarding manner of data collection, storage, access, protection, collection, retention as well as destruction of data. Also, it gets aware of knowledge requirements and procedures to people as where the data is going to be held on them. At last, it provides the safeguards and imposes such penalties for abuse of such techniques or breaches of any of principles regarding this matter.

B. Legal remedy to deal with cyber crimes

In order to know what the punishment for Cyber is stalking we have to look up to what the punishment for real world is stalking. The legal Regime of stalking is classified in as the civil remedy and the criminal remedy. The major remedy for cyber stalking is provided under section 66A, 66E and 72 read with section 72A of (IT) Information Technology act, 2000.

1. Recognition of the civil remedy in law of tort:

Well, the tort law also states various remedy as one of prescribed as injunction, which is to be applied as the civil remedy for the victims of stalking against the stalker. In Civil Procedure Code of 1908, temporary injunction is being followed and further injunctions the Specific Relief Act of 1963 is being followed.

It is enough to prove occurrence of any injury, damage to property or harm or any apprehended damage, to grant temporary injunction. There are substantial kind such as apprehended damage and irreparable injury. A mere possibility arises to bring civil action against stalker, only if there is an occurrence of trespass, nuisance etc. which are the offences against the tort law. This condition act as driving force to allow victim to sue offender for occurrence of any damage made by him or any sensational harm or his/her reputation, etc.

This remedy seems to be apt to handle stalking instances but this remedy is only civil in nature and has a few disadvantages:

- These remedies are costly.
- The stalker is to be known as cyber stalking has the character of anonymity of the stalker.
- The burden of proof will be entirely on the victim.

This is the reason as abovementioned points accelerated to the victims to go in principles of criminal remedies to seek such solutions for arising issues.

2. Recognition of Criminal Remedy in India Penal Code (IPC), 1860:

The punishment for the offence of stalking is mentioned in section 354D(1) of the Penal Code, 1860 deals with sexual harassment, stalking, and include harassment via electronic communication and it provides a punishment of not less than 1 year and which can be extended to 3 years and may also liable for a fine as discretion by competent court. As stalking can also cause grievous bodily harm and the stalker is voluntarily and intentionally causing grievous hurt or

simple hurt, it is punishable accordingly in respect of section 323, 325 of the Penal Code, 1860. According to section 321, it states that whosoever does any act with intention of causing hurt or having full knowledge that is likely to cause hurt to any person, thus it is said to be voluntarily cause hurt' to such person [19].

Whereas section 322 of Penal code, state that accused intend to cause grievous hurt or having knowledge that is likely to cause grievous hurt, only if such grievous hurt ensures, is said to be 'voluntary causing grievous hurt [20].

So, section 321 and 322 of Indian Penal Code has to be satisfied to convict a person under section 323 and 325 for causing hurt which is voluntary in action for a stalking incident. An elucidation of Assault in sense of technical and Penal code is "any act by which a person intentionally or recklessly causes another person to apprehend immediate and unlawful personal violence". So, a stalker can force a person to do an unlawful act by the way of threatening which does amounts to assault. So, it is punishable accordingly in respect of section 351 of Penal code [21].

In Indian Penal code, 1860, section 268 states that 'a person is guilty of public nuisance, who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public, obstruction, danger, or annoyance to the person who may have occasion to use any public right' . According to Section 354A, making a physical contact and involvement of explicit sexual overt act, showing pornography and demanding sexual favors [22].

Whereas Section 509 talks regarding word, sound or gesture this is intended to insult the women modesty. Section 499 of Penal code, states about defamation as by doing publication by visible representations of an imputation concerning women, when done with intention to harm or to cause injury to her reputation or having full knowledge that such act is likely to cause harm her reputation.

3. Prescription of Remedy recognised in (IT) Information Technology Act, 2000:

According to Information technology act, 2000, section 67 speaks about prohibition and punishment of imprisonment up to three years, also with fine for first conviction and for second conviction, it is up to five years, also with fine, only in context of the publication, transmission or causing of transmission of obscene content.

Whereas section 66 deals in violation of principles of individual privacy. This section states that if there is any capturing, publishing or transmitting the image of a private area of any person men, women or other, without any consent, under such circumstances it is punishable with imprisonment up to three years and also liable to fine.

C. Preventive measures/Recommendations

The Preventive Measures to be taken from not becoming a victim of cyber stalking and from the stalker are as follows:

1. The major clue in cyber stalking is that the stalker pusher the victim to give away information on personal life anyway away from the net.
2. We should not share any personal info or any personal data in anywhere in social networking sites or

also nor to any stranger including email or online chats platform.

3. We should use our real name or any nickname as the screen name or in user ID.

4. We should be careful in meeting a person who got in acquaintance with us online.

5. We must make sure that the Internet Relay Chat (IRC) is having an acceptable principles policy against cyber stalking or bullying.

6. Learn the newly emerging technologies.

7. Web browsing should be done anonymously as the network providers share the search information to another network provider.

8. If we are receiving continuous anonymous messages or unwanted contact, we must make sure we don't receive those contact again by blocking the user.

9. We must save all the communications for a future use. We should not edit or alter them anyway.

10. We must have the filtering option being on to block messages or emails or user ID which is having offensive words.

11. We must contact or give information to the local police regarding the cyber stalking situation with all possible information, data and records we can provide.

Not only these above points, there are more recommendations to follow such as community awareness, uniformity in legislation to define stalking or bullying, up gradation of criminal laws, must be provisions of training for police or cyber branch, protection of victims and witnesses, special cell for stalking in police station and victim support center, etc., but the main problem is peoples do not obey with all these abovementioned preventive measures and this is big reason that they suffered as victim in stalking or bullying.

IV. CONCLUSION

Through this paper the researcher has made a menial analysis on what are stalking and the legislative remedies towards it, preventive measures to be taken to avoid being stalked in the cyber world. Our research article concluded that it is responsibility of ever men to protect women and to prevent women from occurrence of crime. The change arises within them only, and then only ideology of coming generation will be improved too. As "the thief has to change him and then only the level of theft will be reduced" enforcement of law to prevent crime against women will not be up to the mark or not be effective unless change arises in ideology of peoples. Without changing in ideology, enforcement or amendment in law does not give any full remedy. Even today also women are not empowered. They cannot do all the work as like men due to lack to safety for women at all in society and there is no empowerment for women. There is no freedom, liberty. As Gandhi Ji said, "when the women walk freely at midnight without any fear then only it considers as freedom".

Even in today's life, every individual who uses or consume Internet have faces some sort of harassment and such harassment include monetary fraud, hacking, staking or bullying, defaming reputation, violations of principles of copyright etc. Further, the courts have limited the scope of gender sexual harassment rather has sexual harassment in work place. As there is not

any balance of convenience regarding this concept, court must also give privilege to online gender sexual harassment. If this will happen continuously then all people in society will surrounded by chain of cyber stalking in this technological era.

V. FUTURE SCOPE

After analyzing all these above cases, it seems as women's conditions are very dangerous in society and question arises that why stalking is done especially on women? Even men also use the Internet, online sites. Every time women face injustice in all forms. As constitution of India talks about equality that both men and women are same, also both has a full liberty in rights to accessing of internet. Again, obstruction occurs in accessing the internet that's the right is enforced but what about the protection? If women use social media or any networking sites then they will be stalked by someone. If this is going to be happen then what is the benefit to use of these rights as declared by constitution of India? There is no any protection for women in society as well as in online social networking sites.

We can take an example of nirbhaya case, no any protection was executed. Even many cases occur before nirbhaya case but no any productive execution arises except provision inserted in Indian Penal Code, 1860 that stalking will be considered as an offence. If any serious crime happened against women then only laws are created [23].

A. Position of India in terms of cyber stalking

With the current scenario, India is not update regarding cyber stalking or bullying in its specific legislation. After the incident of Nirbhaya rape case, the general legislation has put various amendments in criminal law as in (IPC) Indian Penal Code, (CRPC) Criminal procedure code, (IT) Information technology Act. In 2013, Justice J.S. Varma committee had played a great role in execution of incorporating the various laws in criminal area such as 354A, 354B, 354C and 354D which deals with stalking of women. But these laws and amendments are limited due to lack any provision for stalking of men or transgender. And there is no law, if stalker is foreigner as there are no effective extradition laws. It is to be noted that these stalking or bullying issues of responsibility act trigger as secondary victimization.

1. Right to privacy vs. freedom of speech and expression: Our constitution of India declares that every citizen has freedom of speech and expression but person cannot misuse this Article 19(2) by way of stalking through social networking sites. It is mostly done against women.

Most essential right for the individual is 'right to privacy' and it should be existed because it plays significant role to keep safely privacy of any individual from the offender who use to do abuse of technology by taking advantage of untraceable distance of technology. Especially right to privacy is very important for women, according to current researches. A woman has full right to life and dignity. No any person can violates the modesty of women i.e., right to dignity [24] or harming women's reputation.

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