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GENDER BASED CYBER-CRIMESS VIS-A-VIS GENDER EQUALITY: A HUMAN RIGHTS PERSPECTIVE

Dr. Arvindeka Chaudhary*

“Feminism has never been about getting a job for one woman. It's about making life more fair for women everywhere. It's not about a piece of the existing pie; there are too many of us for that. It's about baking a new pie.”

Gloria Steinem

1. PROLOGUE

Human beings are rational beings. They by virtue of their being human possess certain basic and inalienable rights which are commonly known as human rights. Since these rights belong to them because of their very existence, they become operative by their birth. Human Rights, being the birth right, are, therefore, inherent in all individuals irrespective of their caste, creed, religion, sex and nationality. These rights are essential for all the individuals as they are consonant with their freedom and dignity and necessity and are conducive to physical, moral, social and spiritual welfare. They are also necessary as they create an environment in which people can develop their full potential and lead productive and creative lives in accordance with their needs and provide suitable conditions for the material and moral uplift of the people¹. These rights cannot be subjected to even any sort of amendment.

‘Human Rights’ is a generic term and it embraces civil rights, civil liberties and social, economic and cultural rights. It is therefore difficult to give a precise definition of the term ‘Human Rights’. It can be however said that these are the rights which no one can be deprived without a grave affront to justice². Human Rights occupy a significant place in United Nations Charter. Preamble reaffirms faith in fundamental Human Rights and the dignity and worth of human person and equal rights of men and women.

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¹ H.O. Agarwal, *Human Rights*, Central Law Publications, Allahabad, 2010, p 2.

² Maurice Cranston quoted in L.J. Macfarlane, *The Theory and Practice of Human Rights*, 1985, p 7.

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Human Rights have been recognized as legal rights, Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally adopted by General Assembly on December 9, 1998 laid down under Article 2 Para 1 that each state has the prime responsibility and duty to protect, promote and implement all Human Rights.

It cannot be denied that in the present times where we talk about Human Rights, equality and justice, there exists certain groups of human beings which either by nature or because of deep-rooted customs are weak and vulnerable, such as child, women, disabled persons, aged persons, migrant workers or persons belonging to a particular race. They being human beings do possess Human Rights and fundamental freedoms. But their rights are frequently violated by dominant section of society³. Women quite often become tranquil victim. Time and again women are not treated as human beings and in such circumstances question of their basic rights does not even arise.

Advancement of rights of women has been the concern of world community since the end of Second World War and there are various provisions incorporated in different Human Rights instruments which provide for the protection and advancement of rights of women. However, there is a striking contrast between what is required and what is actually happening; from advocating the rights of women we all entered in the era of computers where gender based cyber-crimes increased by leaps and bounds. The internet came with the promise of a wealth of opportunities. But what was supposed to be a great equalizer has deepened gender-based inequities to an extent that 31 years after inventing the World Wide Web, in March 2020, Tim Berners Lee declared, “The web is not working for girls and women.” This is because gender-based abuse on the internet – in the form of sexual harassment, trolling, messages threatening rape and murder, or leaking private pictures and videos without consent – have become rampant.⁴The growing number of internet users every day coupled and with the access of the internet becoming easier and simpler day by day coupled with the malicious intentions of some

³ H.O. Agarwal, 113.

⁴ Retrieved from <https://yourstory.com/herstory/2020/10/crisis-internet-safety-women-social-media-cybercrime> last visited on March 17, 2020

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of the people who use this advancement as a tool to target the vulnerable, has led to the sharp increase in rate of cyber offences against women. The offender has the liberty to sit behind the computer screen and target anyone anonymously⁵.

2. GENDER BASED CYBER-CRIMESS: MEANING

Gender based violence is violence targeted at individuals or groups on the basis of their gender. While research suggests that a significant proportion of women worldwide will at some point in their lives experience Gender based violence, the extent to which men and boys are affected is unknown. An associated form of violence is Violence against Women and Girls, which is directed specifically at females. Gender based violence is often divided into two interlinked categories, interpersonal and structural/institutional violence. Interpersonal violence refers to an act of economic, sexual, psychological or other violence perpetrated by an individual against another individual. Structural/institutional violence refers to 'any form of structural inequality or institutional discrimination that maintains a person in a subordinate position, whether physical or ideological, to other people within her family, household or community'. Both types involve the prioritization of hegemonic masculinities above the rights of other gendered identities, including women's⁶.

The relations between gender and crime are deep, persistent and paradoxical. Gender has been recognized as one of the most important factors that play a significant role in dealing with different kinds of crimes within criminal justice systems. It has long been considered that men and women differ in their offence rates and patterns and in their victimization experiences⁷. Gender-based violence is a phenomenon deeply rooted in gender inequality, and continues to be one of the most notable human rights violations within all societies. Gender-based violence is violence directed against a person because of their gender. Both women and

⁵Shreyaa Mohanty, "Cyber-crime against Women: What Do The Indian Laws Say?" available at <https://www.probono-india.in/blog-detail.php?id=118> last visited on March 17, 2020

⁶ Retrieved from <https://gsdrc.org/topic-guides/gender/gender-based-violence/> accessed on April 19, 2020

⁷ Retrieved from 'Relations Between Gender and Crime' (Lawteacher.net, April 2020)

<<https://www.lawteacher.net/free-law-essays/criminology/relations-between-gender-and-crime.php?vref=1>> accessed on April 19, 2020

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men experience gender-based violence but the majority of victims are women and girls. Gender-based violence and violence against women are terms that are often used interchangeably as it has been widely acknowledged that most gender-based violence is inflicted on women and girls, by men. However, using the 'gender-based' aspect is important as it highlights the fact that many forms of violence against women are rooted in power inequalities between women and men. The terms are used interchangeably⁸. Gender-based violence can impact anyone regardless of their geographical location, socio-economic background, race, religion, sexuality, or gender identity. While women and girls are the most at risk and the most affected by gender-based violence, boys, men, and sexual and gender minorities also experience gender-based violence. Gender-based violence can have serious physical, mental, economic, and social repercussions⁹.

Gender-based violence disproportionately affects girls and women. Gender-based violence has been described by the World Health Organization as a global public health problem of epidemic proportions and a fundamental violation of human rights¹⁰. Violence against girls online is a growing issue. As an increasing share of our lives is spent online, we're also seeing harassment and abuse take new forms in the online space. Plan International's research shows that just as in the offline world, harassment and bullying online is gendered. While many young people struggle with the pressures of social media, compared to their male peers, girls online are facing more threats of sexual violence, more comments about their appearance and behavior, and are more often told not to speak out and have an opinion.

Violence and harassment are being used, both incidentally and strategically, to silence the voices of girls and women, and to limit their engagement in political debates online. This activity mirrors concerning behaviors towards women negotiating political spaces. In a recent global survey it was found that almost half of women in politics have faced serious abuse, including

⁸ Retrieved from <https://eige.europa.eu/gender-based-violence/what-is-gender-based-violence> last visited on March 18, 2020

⁹ Meghan Ott, "Series: What Does That Mean? Gender Based Violence", available at <https://www.womenforwomen.org/blogs/series-what-does-mean-gender-based-violence> last visited on March 18, 2020

¹⁰ Retrieved from <https://plan-international.org/ending-violence/gbv-gender-based-violence> last visited on March 18, 2020

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threats of murder, rape and assault. One fifth said they had been subjected to sexual violence. The threats that girls and young women face when navigating the online space are real. However, our response must not be to limit girls' online voice, agency and freedom – protection should not mean exclusion¹¹.

3. CYBER-CRIMESS AGAINST WOMEN

Cyber-crime is a global phenomenon. Broadly speaking the crime associated with advent of information or cyberspace is referred as cyber-crime. Cyber-crime is a specialized branch of criminal law which deals with the ideology of crime through digital mode¹². Some of the major cyber-crimes against women are as follows:

3.1 Cyber Blackmailing and Cyber Bullying: The NCRB 2017 Report says that 16.19% of the total cyber-crimes cases reported came under these 3 categories. A survey conducted by FemisimIndia.com on 500 female online users shows that 58% of them had faced cyber bullying/harassment, including harassment via email. Cyber bullying is when a person uses electronic means or the internet for transmitting, distributing, posting 'any' sensitive material concerning someone with an intention to harass/humiliate/shame that individual.

Cyber Blackmailing means stealthily gaining or tracking someone's information without their knowledge and then circulating, distributing or publishing sensitive content, private images or videos, or obscene morphed photographs or threatening to do so with a motive behind it being either vengeance or illegal monetary demands.

3.2 Cyber Defamation: Cyber defamation is when someone circulates/publishes some defamatory statement or material about someone via internet or electronic means. The offender can be booked under S.499 and S.500 of Indian Penal Code for up to 2 years of imprisonment and fine in case of defamation. Women are usually faced with sexual remarks or statements which are defamatory and hampers their reputation in both online and offline space. Certain provisions of the "Indecent Representation of Women Act" also deal with such matters.

¹¹ Retrieved from <https://plan-international.org/node/15589/> last visited on March 18, 2020

¹² R. K. Suri and T. N. Chhabra, *Cyber-crime*, Pentagon Press: New Delhi, 2002, p 38.

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3.3 Morphing: Morphing includes, when an illegitimate user gets access to a person's photo, edits it and then re-uploads it on a different website, under a fake profile mostly with a malicious intention to either deprave the reputation of the woman or humiliate and embarrass her. The offender usually edits the photo of the victim by attaching a photo of a naked woman so as to defame her and deprave her character.

3.4 Cyber Pornography: Cyber pornography is when the cyberspace is used to create, publish, transfer or circulate pornographic material. Revenge Porn is when a person willingly publishes, circulates, distributes or prints any obscene or sexually explicit material without the consent of the person either to shame the victim or to lower his reputation. The motive behind is vengeance. In a study conducted by CCRI it was found that 90% of the revenge porn victims in their survey were women¹³.

4. INTERLINKAGES BETWEEN CYBER-CRIMESS AND POLITICS

There are many privacy concerns surrounding cybercrime when sensitive information is intercepted and leaked to the public, legally or otherwise. Some of that information may include data about military deployments, internal government communications, and even private data about high-value individuals. Cybercrime is not confined to individuals alone. Internationally, both governmental and non-state actors engage in cybercrimes, including espionage, financial theft, and other cross-border crimes. Cybercrimes crossing international borders and involving the actions of at least one nation-state is sometimes referred to as cyber warfare.

In 2018, a study by Center for Strategic and International Studies (CSIS), in partnership with McAfee, a leading cyber security firm concludes that close to \$600 billion, nearly one percent of global GDP, is lost to cybercrime each year. The tactics, targets and even modus operandi of political cybercriminals may be similar in nature. As government services go digital, criminals are using different strategies for fraudulent claims and thefts. The factors behind cyber attacks are mentioned below:

¹³Shreyaa Mohanty, "Cyber-crime against Women: What Do The Indian Laws Say?" available at <https://www.probono-india.in/blog-detail.php?id=118> last visited on March 17, 2020

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- To seek commercial gain by hacking banks and financial institutions.
- To attack critical assets of a nation.
- To penetrate into both corporate and military data servers to obtain plans and intelligence.
- To hack sites to virally communicate a message for some specific campaign related to politics and society.

5. EPILOGUE

It would not be wrong to state that today some of women have achieved heights and the credit for the same goes to their families that didn't cut their wings instead supported them in flying high. However, it cannot be ignored at the same time; many women have suffered a lot because of denial of their basic human rights. So, there is a need for effective implementation of existing programmes and introduction of new regime to protect and aid women in flourishing.