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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

'CYBERBULLYING: A DIGITAL AGE HECTORING MENACE'- A STUDY WITH REFERENCE TO PRESENT INDIAN LEGAL SCENARIO

AUTHORED BY - SHREYA RAWAT

ABSTRACT

Internet is an inevitable need today. But it certainly is a double-edged sword. Cyberbullying is the dark side of internet which comes along with the package of technological advancement. With the ubiquity of cell phones and computers nowadays, online bullying has become unavoidable and rampant. Recently, there have been many cases related to cyber bullying in India which have not been dealt with properly for the lack of a legislation regarding it. This paper highlights the shocking statistics and incidents of cyber bullying in India, its impact on a person's mental health, while pointing out the Current stance of Indian Judiciary and provisions of existing laws that indirectly cover cyber-crimes or hate speech. The paper is also an attempt to provide potential solutions including Artificial intelligence to tackle the new age digital menace.

Keywords: *Internet, Mental health, Cyber-crimes, Hate speech, Artificial Intelligence*

INTRODUCTION

Cyberbullying refers to bullying that takes place in cyber space, which means virtually. This can occur in any online platform like social media, chat groups, gaming chatrooms and strikingly on educational websites too. Just like actual bullying it is done with the purpose of demeaning, scaring, shaming, threatening or besmirching someone. Cyberbullying includes sending, posting, sharing publicly embarrassing, nude or otherwise degrading pictures or morphing pictures for others to see. It also includes posting personal or negative information or comments, circulating rumours or lies about a person to humiliate or threatening someone to instil fear. Hate speech online based on race, religion, gender, sexual orientation, disability, economic status, political views etc. is also a kind of cyberbullying. These are the most common kinds of online bullying. If we go some steps further there

is impersonation and sexual harassment. A person may pretend to be the someone else or the victim themselves to shame or embarrass the person, by hacking into their account and meddling with their public profile or for catfishing.[1] Harassing someone with sexually coloured remarks or giving rape threats in public platforms is another sort of online hectoring.

Threating over the virtual space may not sound to be very serious but statistics prove the gravity it. In fact, bullying over cyber space can be much more serious as it offers an ability to communicate persistently without any restrictions of time or venue. It prevents the victim from finding relief by avoiding the place which is at least possible in traditional form of bullying. In online world, there is no escape as it is accessible 24*7. It does not let one feel safe even at home. Also, the comments or pictures posted in social media are permanent if not removed and reach to a much larger audience.[2] Victim of bullying can be anyone regardless of age, background, gender, sexual orientation, race or colour but all these traits certainly affect the vulnerability and susceptibility of being a prey. Adolescents[3], women, non-binary individuals, people of colour, members of the queer community or sexual minorities[4] are reported to have faced much more bullying online than other people.

Talking about India specifically, a little while back, scandals like '*Bois locker room*' (Boys locker room) and 'Sulli deals' came to light that shook the nation. The former was an Instagram page where some teenage boys were found sharing morphed images of underage girls of their own schools and having objectionable discussions which included plans of gang-rapes. Sulli deals, on the other hand, was a software application created by some engineering students to defame and troll women by putting their doctored pictures without permission and 'auctioning' them. For this horribly dirt-cheap activity they misused twitter handles of the women.[5]

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[1] The Rise and Consequences of Cyberbullying, *Available at:* https://www.verywellhealth.com/cyberbullying-effects-and-what-to-do-5220584 (last visited on Sept.13,2022)

[2] What is cyberbullying, *Available at*: https://www.stopbullying.gov/cyberbullying/what-is-it (last visited on Sept.13,2022)

[3] Cyberbullying facts and statistics, available at: https://www.comparitech.com/internet-providers/cyberbullying-statistics/#:~:text=A%202018%20Pew%20Research%20study%20found%20that%20a,identified%20politics%20as%20the%20reason%20behind%20the%20incident. (Last updated on Sept.13,2022)

[4] Vincente Llorent, Rosario Ruiz & Izabela Zych, "Bullying and cyberbullying in Minorities: Are they more vulnerable than the majority group?", *Front Psycol (2016)*

[5] Sulli Deals, Bulli Bai and the young and educated hatemongers, Editorial, available at: https://www.thehindu.com/news/national/sulli-deals-bulli-bai-and-the-young-and-educated-hatemongers/article38305009.ece (last updated on Jan. 22,2022)

ANONYMITY- THE STRENGTH OF CYBER SPACE

The strength of cyber space is anonymity. Facelessness possible in the online world can turn even the meekest persons into bullies. Internet has created opportunities to become unconscionable under the garb of anonymity. The online environment let people say harsh words without the risk of getting recognized. It does not require the physical strength or in person contact and provides the freedom of harassing someone without having to actually face them. Cyberbullying and self-esteem issues have found to be significantly related.[6] Many bullies online are people who have low self-esteem and empathy issues. Virtual space gives them the opportunity to be as vicious as they want. In a study, 72% claimed that they had never been caught.[7]

Content creators and budding businesses face hate online all the time. People from made up profiles hurl abuses at them instead of constructive criticism. Celebrated business author Tim Denning in one of his blogs writes "Number 1 reason people decide not to become content creators is because of bullies."[8] Recently, an Indian female stand-up comedian was backlashed for her performance that included her personal views. She later started getting tons of rape threats.[9] Ironically, she apologised in the end out of fear. Similar threats were casted towards an Indian female journalist for her political views.[10] There are several shameful cases ranging from contact number of women journalists being shared on hooking up websites to false rumours being spread about them and their family, from body shaming and misogynistic comments to the audacity of death threats.[11]

Online bullying culture under the disguise of unknown accounts has been taken to another level by

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[6] G. Brewer & J. Kerslake "Cyberbullying, Self-esteem, empathy and loneliness", *Computers in Human Behaviour*, Vol.48, 255-260 (2015)

[7] Sixty Cyberbullying statistics, available at: https://comparecamp.com/cyberbullying-statistics/ (last visited on Sept.14, 2022)

[8] No one talks about the bullying content creators face, *available at:* https://timdenning.com/no-one-talks-about-the-shocking-bullying-content-creators-face/ (last visited on Sept. 14, 2022)

[9] Comedian Agrima Joshua gets rape threats for joke on Chhatrapati Shivaji, NCW seeks action, *available at:* https://www.newindianexpress.com/entertainment/hindi/2020/jul/12/comedian-agrima-joshua-gets-rape-threats-for-joke-on-chhatrapati-shivaji-ncw-seeks-action--2168719.html (last updated on Sept.8, 2020)

[10] Mumbai journalist gets rape threats and over 20,000 abusive tweets, registers FIR, *available at:* https://indianexpress.com/article/cities/mumbai/mumbai-journalist-rape-threats-abusive-tweets-registers-fir-7749958/ , (last updated on Jan. 31,2022)

[11] Female journalists abused online with threats of killing and rape, *available at:* https://www.theguardian.com/media/greenslade/2015/aug/28/online-abuse-of-female-journalists-is-also-a-threat-to-press-freedom, (last visited Sept.15, 2022)

some perpetrators. Spine chilling video games like the 'Blue Whale Challenge' or 'Momo suicide challenge'[12] have made headlines in the recent past at the international level. Both these games target youngsters. Players complete different self-harming or dark tasks and then end up killing themselves.[13] The sadistic minds behind these objectionable games still remain untraced.

Shockingly, during the lockdown period due to COVID pandemic, there were several cases of students harassing their teachers during online lectures. Even the most highly educated teachers and professors were struggling being novice to the technology. Some students were reported to be using obnoxious language after logging in with fake user IDs.[14] There were incidents of spamming with obscene content by unknown accounts which resulted in suspension of classes at many places. To be sure, all this shows the dangerous potential of anonymous feature of the internet.

IMPACTS OF CYBERBULLYING

The emotional and physical impacts of online bullying are far-reaching. Online bullying can be detrimental to the victims, leaving them depressed, scared and traumatized. It may cause a number of mental health issues like anxiety disorders in the long run, affect their performance at academics and at work front. Victims of online bullying can experience a range of negative emotions like fear, anger, sadness and shame. Cyberbullying also undermines self-esteem of a person. Victims are likely to skip work, school or avoid friends. Such victims tend to isolate themselves to avoid feeling of embarrassment. It may also push them into the pits of alcoholism and drugs. Beyond ruined mental health, psychosomatic disorders may take place.[15]Feelings of stress and anxiety can cause physical issues such as insomnia, gastrointestinal problems, headaches, weight changes and likewise.[16] All these often lead to fatal results.

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[12] Return of 'Momo suicide challenge' sparks fear in the minds of parents, *available at:* https://www.foxnews.com/tech/momo-suicide-challenge-sparks-fear-among-parents (last visited Sept.15, 2022)
[13] Tamil Nadu Blue whale victim told his friends he'd survive, *available at:* https://timesofindia.indiatimes.com/city/madurai/tamil-nadu-blue-whale-victim-told-friends-hed-survive/articleshow/60318002.cms (last visited on Sept.15, 2022)
[14] Cyber Bullying: A new challenge with online classes, *available at:* https://www.socialmediamatters.in/cyber-bullying-a-new-challenge-with-online-classes, last visited on Sept. 14,2022
[15] Jiameng Li, Yedong Wu & Theresa Hesketh (2022), Internet use and Cyberbullying: Impacts on psychosocial and psychosomatic wellbeing among Chinese Adolescents, Computers in Human Behaviour, Vol.138
[16] What are the effects of cyberbullying, *available at:* https://usa.kaspersky.com/resource-center/preemptive-safety/cyberbullying-effects, last visited on Sept. 13,2022

Cyberbullying has gone beyond petty insults to 'doxing' which means digging out personal information of someone and publishing it online. Publicly distorted reputation can lead to obstacles in career and admissions. Revealed personal life has the power to ruin the social and professional life of a person. One baseless rumour can tarnish someone's image for a lifetime. Cyberbullying cannot be brushed off as juvenile or non-serious as it can have destructive impact on real lives and businesses.[17] The dangerous trait of internet is that there is no end to it. Information, whether right or wrong spreads like wildfire. People often do not verify a news and share it. With multiple shares like these, one little information spreads without restrictions in no time. Also, as sped arrow does not come back, information fed to the internet never gets permanently deleted. Activities carried out by an internet user leaves digital footprints which later on can be used to harass the user.[18]

One more fact about online bullying is that not only the victim but his whole family suffers. The state of mind of the victim often affects the relationship with family members. The bullied person, particularly children resort to isolation, often have conflicts with family and keeps an irritated and agitated behaviour. Parents and older siblings of targets often experience feelings of failure and helplessness not being able to protect their child. It has been reported that parents also feel physical illness when they learn about bullying that their child is facing.[19]

Victims of bullying in cyber space have reported higher rate of depression than victims of traditional bullying. One major reason for this is the inability to identify their online harasser.[20] It also increases the risk of thoughts of suicide and attempts independent of physical bullying. A study has found that adolescents who are cyberbullied are 4 times more likely to report thoughts of suicide than their counterparts.[21] In the past years, several suicides have been reported of people who have been bitterly bullied. Cyberbullying was so unbearable for some that taking their own life was evidently a better

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[17] Cyberbullying's impact on online reputation, *available at:* https://www.erase.com/cyberbullyings-impact-on-online-reputation/ (last visited on Sept.14,2022)
[18] The digital footprint can be a source for cyber-attack or cyber bullying, *available at:* https://www.aliter.com/en/news/the-digital-footprint-can-be-a-source-for-cyber-attack-or-cyber-bullying (last visited on Sept. 14,2022)
[19] Sherry Gordon, 6 ways bullying impacts the family, available at: https://www.verywellfamily.com/how-bullying-impacts-the-family-460805 (last updated on Nov.15, 2020)
[20] Nansel Wang, T. R., & Iannotti, R. J. (2011) Cyber and Traditional Bullying: Differential Association with Depression. *Journal of Adolescent Health,* 48(4), 415–417 (2011)
[21] What are the effects of cyberbullying, available at: https://usa.kaspersky.com/resource-center/preemptive-safety/cyberbullying-effects

option for them than living under the torment. If an activity is taking toll on lives, it is indeed grave. Nothing more needs to be proved.

SHOCKING STATISTICS

Research carried out by the renowned global computer security software company McAfee revealed that 85% of Indian children reported being cyberbullied which is the highest in the world. The rate of children involved in cyberbullying in India is also double the global average. It has also been found that Indian Children experience the worst forms of bullying online ranging from racism to sexual harassment to threats of physical harm. [22]

42 % of Indian children were reported having faced racist bullying online that is 14 % more than the average around the world of 28%. Some other kinds of bullying experienced by children include spreading of false rumours (39%), exclusion from groups (35%) and abusive name-calling (34%). It has also been found that on almost all social media apps youngsters are the most targeted in India. Other than racism, extreme kinds of cyberbullying cases have also been recorded including trolling (36%), sexual harassment (30%), threat of personal damage (28 %), personal attacks (29%), and doxing (23 %), all of these are almost twice as prevalent as the global average.[23]
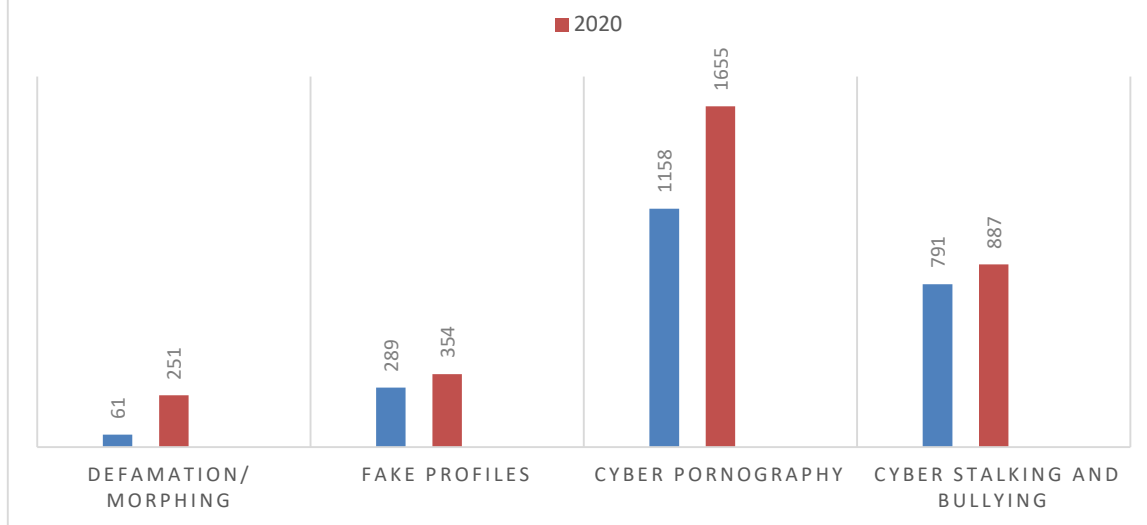
The number of cybercrimes around the world are increasing at a rapid pace. Particularly in India, if we go by the records of National Crime records Bureau, the rate of crimes in virtual space is shooting up every passing day. Total cybercrimes reported in India in the year 2019 were 44735. In the year 2020 it went up to 50035. In every sub category of cybercrime, numbers have soared. As an example, we can see the rise of number of cybercrimes against women in just two years based on data provided by NCRB for year 2019 and year 2020.

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[22]Media Fact Sheet, Cyberbullying Pulse Survey, *available at* https://www.mcafee.com/content/dam/consumer/en-in/docs/fact-sheets/fs-cyberbullying-in-plain-sight-2022-india.pdf?id=privacy&culture=nl-nl (last visited on Sept. 13, 2022)

[23] ibid

CYBER HARASSMENT AND BULLYING AGAINST WOMEN IN 2019 AND 2020

■ 2020

Category	2019	2020
DEFAMATION/MORPHING	61	251
FAKE PROFILES	289	354
CYBER PORNOGRAPHY	1158	1655
CYBER STALKING AND BULLYING	791	887

Moreover, As COVID hit the world, people got stuck in their homes. This made people spend most of their time online and incidentally exposed to online bullies. As a result, in some places of the world cyberbullying went up to 70% of the normal times.[24]

There are numerous suicides reported globally as a result of online trolling lately. While some were harassed by cuss words, some demeaned in social media hate groups, some even blackmailed for money and threatened with death. Most of suicide post online bullying cases involve teenagers trolled by their fellow students either for their looks, dressing, academic performance or sexuality. For instance, in 2019, a teenage student was outed by his classmates as bisexual took his life. The former did not plan to come out before everyone but his texts were made viral by a classmate. It was a cruel case of doxing.[25] Similarly, a twelve-year-old girl in US committed suicide for being continuously harassed by her own classmates over social media for her physical appearance.[26] Adults too have not been spared by this nuisance. A woman, mother of three children committed suicide after being

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[24] Research shows rise in cyberbullying during COVID 19 Pandemic, *available at:* https://www.verywellfamily.com/cyberbullying-increasing-during-global-pandemic-4845901 (last updated on Aug.1,2020)

[25] Emily. S. Rueb, "A teenager kills himself after being outed as bisexual" *The New York Times, Sept.30, 2019*

[26] Cyberbullying on the rise in US, *available at https://www.foxnews.com/health/cyberbullying-all-american-little-girl-suicide (last visited on Sept. 15, 2022)*

bullied on TikTok, a mobile based application and entertainment platform.[27] An Indian man mercilessly ridiculed over the same application for cross dressing took the same step.[28] These are just few of the swarming cases. The situation is worse.

LEGAL FRAMEWORK IN INDIA AND JUDICIAL STANCE

India at present has no specific law to deal with the issue of cyberbullying. And as ever, the courts are concerned more than the legislature on the new legal problem budding in the society. They have pointed out the lack of a proper deterrent to deal with this hazard. In *Shibani Barik v. State of Odisha[29]* the High Court of Odisha stated "*of late, Cyber bullying activity has reared its ugly head and swept away so many innocent lives; India lacks specialized law to address Cyberbullying*".

The courts have also come up with new terminology 'online sexual harassment' taking the matters of online bullying through sexual remarks in all seriousness. In *Majeesh K. Mathhew v. State of Kerala (2018)* the High court of Kerala held that making sexually explicit comments against a woman on social media amounts to online sexual harassment.[30]

For now, cyber bullies are charged with a number of provisions under the *Indian Penal Code*, *1860* and *the Information Technology Act, 2000*. Following are the provisions applied in such case:

Section 67 of the IT Act provides the punishment in case of publishing or transmitting any obscene matter in electronic form. This includes publishing any revealing or something that arouses prurient interest would be punished with three-years imprisonment and five lakh rupees fine (both maximum) While, in case of subsequent conviction this may go up to five years imprisonment or ten lakh rupees fine.

Section 67 A of the same Act introduced by Amendment Act 2008 punishes in case of publishing any sexually explicit content in electronic form. In case of committing this crime, a person may be

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[27] Mother of three believed to have committed suicide after alleged cyberbullying, *available at:* https://www.msn.com/en-my/news/national/mother-of-three-believed-to-have-committed-suicide-after-alleged-cyber-bullying/ar-AA10oxpB (last visited on Sept.15, 2022)

[28] HT correspondent, "24-year-old commits suicide after being bullied for dressing up as a woman", *Hindustan Times*, Oct. 19, 2018

[29] Shibani Barik v. State of Odisha, 2020, BLAPL NO. 915/2020

[30] Online sexual harassment : Kerala HC ruling a good start but govt. needs to hold intermediaries accountable, *available at:* https://www.firstpost.com/india/online-sexual-harassment-kerala-hc-ruling-a-good-start-but-govt-needs-to-hold-internet-intermediaries-accountable-4774621.html (last visited Sept. 15, 2022)

imprisoned up to five years including fine up to ten lakh rupees. In case of repetition, one may be imprisoned up to 7 years.

Section 66 E of the Act can be applied in case of violation of privacy which includes capturing, transmitting or publishing naked pictures or private parts of someone in (printed or) electronic form, thus violating the privacy of that person. It imposes three years imprisonment or a fine of two lakh rupees (maximum) or both.

Section 67 B of the Act punishes the persons publishing sexually explicit pictures of minors or creates, browses, transmits, downloads digital images of minors in indecent acts. The imprisonment can be of five years with ten lakh rupees fine while repeating the crime may land a person in jail for 7 years.

Section 72 of IT Act has also been used in cases of online bullying at times. It provides for penalty if someone breaches the confidentiality by publicly disclosing someone's information, document or an electronic record after securing access. It may result in imprisonment of two years or one lakh rupees fine or both the punishments.

While all these provisions have some reference to electronic communication, there are some provisions from IPC that are applied irrespective of the fact that it does not mention 'electronic' word anywhere.

Section 503 of IPC defines the crime of intimidating someone by threatening to cause injury to his person or property or reputation to cause him to do or prohibit from doing something. For which, the person is charged under *Section 506* of IPC which imposes two years imprisonment or only fine or both the punishments. Other than these, Section 354 A[31], 354 D[32], 500[33] and 509[34] of IPC are utilized out of which Section 354 D actually refers to internet activities and 500 (defined under Section 499) punishes 'publishing' any imputation.

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[31] Sexual harassment and punishment for sexual harassment
[32] Stalking
[33] Punishment for defamation
[34] Word, gesture or act insulting the modesty of a woman

Many of the provisions applied in the current times in seem overlapping consisting of almost similar statements. However, none of them properly cover all the aspects of cyberbullying.

WAYS TO TACKLE

To get handle of the issue of cyberbullying, both prevention and cure should be ensured by all. Everyone from the origin (internet/ technology provider) to the receiving end (victim) needs to work to end this menace.

1. *What can be done by the technology companies: (Use of AI)*

To tackle the challenge posed by technology, technology itself can be used. Tech companies can use Machine learning and Artificial Intelligence to solve the problem created in the cyber world. Technology companies should strive to develop effective digital interventions that can help protecting people from being victim to cyberbullying.

A method called 'Ensemble learning' can be used. 'Ensemble Learning' recognizes pattern of term terms and lingos used by bullies can be used to automatically detect the harsh words[35] and altogether rejecting them. Genetic algorithms can be used to figure out offensive images mixed with words that may be used by bullies. If the abusive words are detected and deleted in the very beginning, the data will not get published on the internet. This can nip the evil in the bud.

2. *By Social Media platforms*:   As a service provider of wide audience the social media applications and websites need to be very cautious as they help in forming perspectives for many. These applications need to be vigilant as to any racist, sexist or discriminatory posts and remove them from the internet. It is expected by the social media platforms to outrightly block accounts that are found spamming frequently. Along with this, frequent campaigns to condemn online bullying should be carried out through social media itself. Awareness drives must be conducted to teach tools such as the one to report unethical posts.

3. *By Policymakers:* Strong legislation that specifically deals with cyber safety and prohibits cyberbullying needs to be designed. Strict penalties should be imposed to deter any further

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[35] Shakhambari, Raj Joshua Samuel& Anantha Babu. S., Smart Cyberbullying detection with Machine Learning, *Lecture Notes in Electrical Engineering* (2022)

criminals. Hate speech should not be taken lightly. Legislature should also make internet intermediaries accountable to an extent so that they do their part more responsibly.

4. By schools and workplaces: Schools and workplaces have often been alleged to not take the matter of bullying seriously. It is crucial for schools and offices to count online scuffles among their students or workers as their own devoir. They are not to brush off the problem as external but take responsibility. Schools must promote healthy behaviour and empathy among students to avoid any such instances.

5. *By the parents:* Parents need to keep an eye over the digital habits of their children, limit the use of technology. They should look out for indications of any change in children's behaviour. In case of any such incident, they should be supportive and should report the matter to concerned authorities. If the child is the perpetrator himself, parents need to make them realize their mistake and take accurate steps. Sometimes violent children do certain activities to gain the attention of parents. So, it is also important that parents spend time with their kids to build a caring atmosphere.

6. *By the victims*: Last but not the least, the person facing cyber bullying of any age needs to be open to sharing with their loved ones. In case of threats or misuse of pictures, the victim must reach out to cyber police or helplines available online. It is also suggested that evidences of harassment must be kept.

CONCLUSION

We live in a digital world, surrounded by technology all the time. It is something that runs and connects the world now. Digital space has taken over real life. Evils of real life have creeped into virtual space and in even more dangerous form. Sadly, the virtual world that is supposed to get people closer is making people isolated and depressed in their real lives. One silly joke or random opinion sharing sometimes turn into chain of hateful comments these days. Mistreating people on the basis of their natural traits or harassing someone for keeping certain viewpoints has become so common that now, we do not even notice unless we actually hear someone taking a big step like killing oneself.

Social media has damaged the mental and physical health of many. Online bullying has become an international health concern.

People are taking out frustration and stress of personal failures in cyber space. It has become an unhealthy place. Mankind which should be supporting each other is fighting mentally, verbally and digitally, without moving a leg. People are making troll videos, laughing and mocking at others. Each one of us are judging one another harshly. Everyone wants an upper hand, wishes to be dominant and destroy others. As already examined above, it is harming families and making people alone. Disrespecting people, hurting others has become easy as a cake.

The pace at which this problem is growing, it has become crucial for parents and schools to pay attention to this problem. The statistics presented shows that the problem that we all must have been neglecting till now cannot be ignored more. It also becomes important for the policymakers and technology geniuses to collaborate with researchers and psychiatrists who can understand what triggers the minds of bullies and persons who cruelly troll people online, so that a smart technologies and strong legislations can be carved out.

With all said and discussed, we can safely conclude that the laws we have today are not enough. Clearly, there is need for a new legislation so that our criminal system can act according to the need of the changing times. Its high time to make people understand that freedom of speech is not absolute and one cannot go on harassing others from behind computer screen without any fear.