Chapter III –
Sexual Harassment: Meaning, Definition, Nature, Scope, Elements, Characteristics and Classification: International Aspect

“Woman is the companion of man, gifted with equal mental capacities. She has the right to participate in the minutes details in the activities of man, and she has an equal right of freedom and liberty with him. She is entitled to a supreme place in her own sphere of activity as man is in his. This ought to be the natural condition of things and not as a result only of learning to read and write. By sheer force of a vicious custom, even the most ignorant and worthless men have been enjoying a superiority over woman which they do not deserve and ought not to have. Many of our movements stop halfway because of the condition of our women.”

Mahatma Gandhi.¹

1.1 Position of Women in India: Her Freedom & Principal of Equality

In India Though in 1987, “The Indecent Representation of Women (Prohibition) Act”² was passed, to forbid offensive representation of women through advertisement or in publication, writings, paintings, figures or in any other manner.

But it was only in 1997, in a landmark decision, the Apex Court of India take a strong position against sexual pestering of women in the place of work. The Court also laid down thorough guidelines for prevention and redressing of grievances. The National Commission for Women (NCW) had further convoluted these guidelines into a Code of Conduct for employers.³

In cases involving infringement of human rights, the Courts have got to exploit the resources of the international instruments and conventions however also apply the principals of Natural Justice to any case when there is no inconsistency between the international norms and the domestic law occupying the turf. In number of cases, the Apex Court has completely overlooked the intention and substance of the International Conventions and rules while dealing with the case.

¹ Speeches & Writings of Gandhi, p. 424
² (http://www.wcd.nic.in/dowryprohibitionrules.htm). Retrieved 2006-12-24)
The apex court in *AIR India Corporation vs. A. Rebellow* observed that “the effect that since the respondent did not ‘actually molest’ Miss X but only ‘tried to molest’ her and, therefore, his removal from service was not warranted rebel against realism and lose their sanctity and credibility. In the instant case, the behavior of the respondent did not cease to be outrageous for want of an actual assault or touch by the superior officer. In a case involving charge of sexual harassment or attempt to sexually molest, the Courts are required to examine the broader probabilities of a case and not get swayed by insignificant discrepancies or narrow technicalities or dictionary meaning of the expression ‘molestation’. One must examine the entire material to determine the genuineness of the complaint. The statement of the victim must be appreciated in the background of the entire case. Where the evidence of the victim inspires confidence, as is the position in the instant case, the Courts are obliged to rely on it. Such cases are required to be dealt with great sensitivity. Sympathy in such cases in favour of the superior officer is wholly misplaced and mercy has no relevance.”

Further held that “The High Court overlooked the ground realities and ignored the fact that the conduct of the respondent against the junior female employee, Miss X was wholly against moral sanctions, decency and was offensive to her modesty. Reduction of punishment in a case like is bound to have demoralizing effect on the woman employees and is a retrograde step. There was no justification for the High Court to interfere with the punishment imposed by the departmental authorities. The act of the respondent was unbecoming of good conduct and behavior expected from a superior officer and undoubtedly amounted to sexual harassment of Miss X and the punishment imposed by the appellant, was, thus, commensurate with the gravity of his objectionable behavior and did not warrant any interference by the High Court in exercise of its power of judicial review.”

1.2 Difference between Rape, Molestation & Sexual Harassment

Rape is having sex with someone in a way that they didn’t consent to whereas sexual assault is well assaulting someone in a sexual way, touching them inappropriately, or threatening them in a sexual context. The activities might be physical or verbal with a force. Whereas harassment is a “continuing act for a prolonged manner” whereby saying something inappropriate to someone repeatedly or interacting with them or their belongings and personal space in a way that is inappropriate or uncomfortable to a target. Generally for it to be

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4 *AIR India Corporation vs. A. Rebellow* 1972 (1) SC LLJ 501
harassment the harasser has to ignore requests to stop or when requested to stop, switches to a different target.

Rape, in most jurisdictions, requires penetration of the penis into the vagina, anus or mouth without the legal consent of the victim. Some jurisdictions consider anus and mouth penetration as “sodomy.” On the other hand “Molestation” means using things other than your penis (mouth, hands, and objects) to touch sexual areas of underage children. You cannot molest an adult. “Sexual assault” is the adult version of molestation. Using things other than a penis to touch/penetrate the sexual areas of an adult.

The fundamental rights to life with human dignity, to equality, and to work in one’s chosen profession or trade, naturally include protection from sexual pestering. It is absolutely the position that the Constitution guarantees fundamental freedoms to women.

Article 23 of Constitution of India – “prohibits traffic in human beings and forced labour”. Article 24 of Constitution of India – “protects children and enjoins that no child below the age of 14 years will be employed to work in any factory or mine or hazardous employment.” It may also be noticed that Article 51-A (e) of Constitution of India – “provides that it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women.”

The State’s role is not merely reactive to arrest and punish the offenders for their crimes; its responsibility is also to avert the commission of any offense to the best of its capability. It is the responsibility of State, to provide a safe environment, at all times, for women, who comprise half the nation’s inhabitants; and failure in discharging this public obligation renders it responsible for the lapse.

The Preamble of the Constitution of India guarantees “social, economic and political justice which, in the view of the Committee, would include gender justice, liberty of thought, expression, belief, faith and worship; equality of status and opportunity that would again reinforce the theory of equality; while fraternity enjoins citizens to treat each other with respect and dignity, regardless of gender. The right to be protected from sexual harassment and sexual assault is, therefore, guaranteed by the Constitution, and is one of the pillars on which the very construct of ‘gender justice stands’.”

The International Labour Organization has recently announced the convention on home-based employees is an innovative step in many ways. It is of enormous implication for the majority of personnel in developing countries, organizations engaged in the abolition of poverty,

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5 (Constitution of India, Article 21)
whether they are non-governmental organizations, academic institutions or the government. Getting this Convention passed by the International Labour Organization was an odyssey of about 15 years or more for organizations, particularly women’s organizations working with women workers like SEWA. It is an enormously enlightening example of how micro knowledge; the understanding of an issue that comes at the local level can be gradually and firmly through public education, taken all the way up to a global debate. It reveals the significance of what is called international networking and the eventually what can be called lobbying. It required understanding, information, at a specialist level to prevail over the conceptual obstacles. This required marshaling together information about the different forms or modes of work and relationships with ‘employers’ that was experienced by home based workers, North and South. It meant reviewing various other forms of laws like contract law and seeing their limitations apart from their diversity.

The other ‘mobilization’ that was required was to gradually spread the idea through the networks of unions all over the world. A Melbourne conference of the International Federation of Trade Unions (ICFTU), a Canadian conference elsewhere. Each of these gatherings of unions became a space for lobbying for the home-based worker and a very determined group of women worldwide whether they were Australians, Canadians, Malaysians, and Indians etc. took it up as their flag. It was this consolidation of power within the national and international unions that gradually got translated into a vanguard of the trade union movement.

A law like that of the new ILO convention, which commands governments, labour ministries, now, to look after the worker, can be a remarkable switch for unionization and it is known that without unionization, whether it is along sectors, products or along gender lines, the efforts to maintain on a right or security of work, and on a fair wage apart from all the other protective laws such as against mishap or other treachery of agreement, can never be implemented.

Before 1997, women experiencing sexual pestering at workplace had to lodge a complaint under Section 354 of the Indian Penal Code that deals with the unlawful assault of women to outrage women’s modesty, and Section 509 that punishes an individual or individuals for using a remark, sign or act intended to abuse the modesty of a woman. These sections left the interpretation of ‘outraging women’s modesty’ to the judgment of the police officer. The whole scenario changed in 1997 with the introduction of Vishaka guidelines.6

6 Vishaka and others v Sttae of Rajasthan & Ors on 13 August 1997. Supreme Court of India-241
It has been held by the Supreme Court that “it shall be the duty of the employer to prevent the commission of sexual harassment and to provide the procedures for the resolution and prosecution of acts of sexual harassment by taking all the steps required.”

Every employer is duty bounded to ensure to provide the minimum standards for maintaining safe working environment, as enunciated in Vishaka1. Further, there is a natural right to safe working environment to any worker, and if a safe working environment is not provided, the worker is entitled to claim that there was a fundamental breach of contract. But, since the breach of a contract gives a right to the employee to terminate the contract7.

Crimes against women are an egregious infringement of several human rights demanding severe penalty with the prevention to avoid similar crimes in future by the likeminded citizens. The unwanted sexual advances, requests for sexual favours, and other visual, verbal or physical demeanor of a sexual character amount to sexual harassment when:

- It is implicitly or explicitly suggested that the surrender to or rejection of the behavior will be a reason in academic or employment decisions or evaluations, or authorization to take part in a University activity; or
- The demeanor has the reason or consequence of unreasonably intrusive with an individual’s academic or work performance or creating an intimidating or unfriendly academic, work or student living atmosphere.

To determine what constitutes the immoral act of sexual pestering depends upon the definite facts and the perspective in which the conduct had occurred. The wrongful act of sexual pestering may take many forms-subtle and indirect, or deliberate and obvious. For instance, It may be conducted towards an individual of the opposite sex or the same sex.

- It may have occurred between peers or between individuals in a hierarchical relationship
- It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or work performance.
- It may consist of repeated actions or may even arise from a single incident if sufficiently egregious.

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7 Gayatri Balaswamy Vs. ISG Novasoft Technologies Ltd. 2014 (4) L.L.N 691 (Mad. HC)
2. General Duties of Employer

The certain duties to each employer. These include

(a) Providing a safe working environment:

A person can give good output only if he/she is economically as well as socially satisfied and has been provided a healthy and a protective environment. Thus for the employer to get those outputs from an employee required to provide these facilities. It becomes its utmost duty to give protection to its employees. Vishakha Guidelines have made it mandatory specially in case of working women in each establishment to provide safe and secure environment. Even in India though the Central Government has brought in central enactments but in different states different state rules have also been attested to the same.

(b) Constituting an Internal Complaints Committee and conspicuously displaying the order constituting the Committee:

The present Act is not gender neutral; it only deals with complaints of sexual pesterling of employee at workplace, therefore the grievance to be considered under the Act are of a distressed woman against a respondent. It does not cover cases of sexual harassment of man at workplace, where the respondent can be man or woman. Most enterprises desire to have a gender neutral policy on sexual harassment at workplace. Also enterprises need to ensure that the members of the Internal Complaints Committee are appointed as per the Act.

The Prevention of Workplace Sexual Harassment Act requires an employer to set up an ‘internal complaints committee’ ("ICC") at each location, of an organization, to hear and redress grievances pertaining to sexual harassment. It shall consist of means two people who will investigate complaints of alleged sexual harassment and make recommendations for resolution to management. The ICC shall deal with all cases that have been escalated from the workplace. The ICC shall be headed by a Woman and Woman members shall not be less than half of the total members in the ICC who are direct employees of the Company. The employer shall nominate an outsider member, amongst Non-Governmental Organizations or associations committed to cause a woman or a person familiar with the issues relating to sexual harassment. Framing of policy is not sufficient it’s duly execution is important as well. A strong guidelines clearly prohibiting harassment, including an explanation of corrective consequences that will be applied.
(c) **Undertaking Awareness workshops and training curriculum at usual period for sensitizing workforce;** “Education is important for everyone, but it is especially significant for girls and women. This is true not only because education is an entry point to other opportunities, but also because the educational achievements of women can have ripple effects within the family and across generations. Investing in girls’ education is one of the most effective ways to reduce poverty.” Education does not mean only school or graduation, it also includes the education:

i) To understand what constitutes the wrong of sexual harassment and what does not
ii) To have a self defence knowledge
iii) To be awarded as to no or zero tolerance policy
iv) To know the right steps to be taken without harming anyone
v) Knowledge to stop someone at first instance
vi) To give training to instruct workforce on the subject of harassment and at regular intervals tell again of your strong wish to maintain a harassment free place of work.
vii) To have manifold possibility in place for making an in-house grievance and frequently inform employees about the complaint course of action. A “victim friendly” complaint practice give confidence to employees to come forward, is receptive to their condition, stresses the need for privacy and ensures that retribution will not occur, whatever the investigation result is.

(d) **Providing assistance during an inquiry;**

The Internal Complaints Committee has the similar authority as are vested in a civil court under the Code of Civil Procedure, 1908 with reference to summoning presence of any person and probing the person under oath and production of documents. The Internal Complaints Committee needs to ensure that the enquiry is completed within three months. Thus, it becomes the duty of the principal employer to ensure and make available the assistance and guidance as and when required to resolve the matter in a justified and lawful manner. Make sure that every grievance is taken sincerely. It

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8 The University’s policy on Sexual Assault (see Guide Memo 23.3, Sexual Assault, (http://adminguide.stanford.edu/23_3.pdf) may also apply when sexual harassment involves physical contact. (see Article Administrative Guide Memo 23.2, Stanford University, dated 15.12.2008)
is necessary that the employer act in appropriate manner. Initiate an investigation without delay and take suitable remedial action as soon as possible.

The employer must steer clear of making credibility decision or reaching conclusions before you have collect the facts, even if you think you “know” the parties concerned and have an “idea” about what occurred. They must keep in mind that there is a wide range of sympathy toward harassing conduct. Keep in mind, the “eye of the beholder” is what significant, not is what you or other co-workers might find personally unpleasant and be attentive that it is not just young, “attractive” females who are sexually beleaguered. They must keep lines of communication open. Make sure the complaining member of staff is conversant of your efforts to correct any harassing conduct and of your wish to be quickly informed if problems continue or if retribution occurs. Finally, the manager or owner must understand that he is “at risk” anytime you have an intimate association with a subordinate, even though your present relationship is not harassing and may not affect employment decisions. Policies that control social contact between supervisors and subordinates, including requirements that such contact be disclosed by supervisors, are within an employer’s rights under the Fair Employment Law.

2.1 Duties in regard to online/ Cyber Harassment

2.1.1 Types of Cyber Harassment Offences

- **Cyber stalking-Nature and scope.** Stalking generally involves harassing or threatening behavior that an individual engages in repeatedly, such as following a person, appearing at a person’s home or place of business, making harassing phone calls, leaving written messages or objects, or vandalizing a person’s property. Most stalking laws require that the perpetrator make a credible threat of violence against the victim; others include threats against the victim’s immediate family; and still other require only that the alleged stalker’s course of conduct constitute an implied threat. Many stalkers-online off-line are motivated by a desire to exert control over their victims and engage in similar types of behavior to accomplish this end.

   In many cases, the cyber stalker and the victim had a prior relationship, and the cyber stalking beings when the victim attempts to break off the relationship. A cyber stalker can easily locate private information about a potential victim with a few mouse clicks or key strokes.

   The ease of use and non-confrontational, impersonal, and sometimes anonymous nature of Internet communications may remove disincentives to cyber stalking. Whereas a potential
stalker may be unwilling or unable to confront a victim in person or on the telephone, he or she may have little hesitation sending harassing or threatening electronic communications to a victim.

Cyber stalking can be defined as the repeated acts harassment or threatening behavior of the cyber criminal towards the victim by using internet services. Stalking in General terms can be referred to as the repeated acts of harassment targeting the victim such as following the victim, making harassing phone calls, kills the victims pet, vandalizing victims property, leaving written measures or objects.

Cyber stalking can take many ways. Unsolicited e-mail, including hate, obscene, or threatening mail, is probably one of the most common forms of harassment.

Stalking is a willful conduct involving repeated or continuing harassment of another that actually causes the victim intimated and threatened, for such purposes internet is used to pursue, harass or contact another in unsolicited fashion.

- **Online harassment-Connotations and implications.**- Stalking is a particular form of harassment. Cyber stalking is a virtual or electronic form of physical stalking.\(^9\) have explained the online harassment as under :-

Harassment on the Internet can take a variety of guises. A direct form of Internet harassment may involve the sending of unwanted e-mails which are abusive, threatening or obscene from one person to another it may involve electronic sabotage, in the form of sending the victim hundreds or thousands of junk e-mail messages (the activity known as “spanning”) or sending computer viruses. Indirect forms of harassment may involve a cyberstalker impersonating his or her victim online and sending abusive e-mails or fraudulent spams in the victim’s name. Victims maybe subscribed without their permission to a number of mailing lists with the result that they receive hundreds of unwanted e-mails every day.

The real fear, however, is that offensive and threatening behavior that originates online will escalate into “real-life” stalking. If the name of the victim is known to the stalker, then it is relatively easy to find out further personal details such as the victim’s address and telephone number.

Internet technology creates possibilities for anonymous communications and hence for anonymous cyber stalking. The identity of a cyber stalker may, therefore, not be revealed or

\(^9\) Cyberstalking could be in various forms as per Louis Ellison and Yaman Akdeniz in their articles cyber stalking, the Regulation of Harassment on the Internet Page. 27, published in the Criminal Law Review, 1998,
found. The fluidity of identity on the internet has been described as one of its chief attractions. The internet facilitates experimentation with different identities, users may adopt an online persona which bears little if any resemblance to his or her real identity.

Pseudonymity is achieved by simple forgoing or “spoofing” on e-mail header so as to create an online digital persona. For example, slice can create a new persona for her online participation in USENET discussion groups with an e-mail address such as Billy-kid @ Compuserve.com rather than using her real email address, alice @ Compuserve.com. Impersonation of other users may also be possible by faking the header of an e-mail message to make it appear as if it originates from the victim’s account. Anonymous on the Internet can be achieved by using an anonymous re-mailer. Re-mailers are computer services which cloak the identity of users who send messages through them by stripping all identifying information from an e-mail and assigning a random replacement header.

When messages are sent from a troll anonymous re-mailer, the header information is set either to a deliberately misleading address, or to randomly generated characters. There is no record of the connection between the sending address and the destination address. For greater security, many users programme messages to pass through fire to twenty re-mailers before the message arrives at its final destination. This technique, known as chaning, assures greater security than sending through a single re-mailer. Even, if some remailers keep sector records of their transactions, a single honest re-mailing system will protect the user.

- **Offence of voyeurism and stalking.** - The offence of voyeurism and stalking have been inserted in I.P.C. as Sections 354-C and 354-D respectively, vide, Criminal Law (Amendment) Act, 2013, as under-

  (i) **Voyeurism.** “Whoever watches, or captures the image of, a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.”

  (ii) **Stalking.** (1) “Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, e-mail or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear
of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking: Provided that the course of conduct will not amount to talking if the person who pursued it shows: - (i)That it was pursued for the purpose of preventing or detecting crime and the person accused of talking had been entrusted with the responsibility of prevention and detection of crime by the state; or (ii)That it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or (iii) That in the particular circumstances the pursuit of the course of conduct was reasonable. (2)Whoever commits the offence of stalking shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.”

- **Harassment**.- Whereas contend may be offensive in a non-specific way, harassment directs obscenities and derogatory comments at specific individuals focusing for example on gender, race, religion, nationality, sexual orientation. This offence occurs in chat rooms, through newsgroups and by sending hate e-mail to interested parties.

Although harassment is not defined, Section 7 states that it includes causing alarm or distress, and conduct is defined as including speech in all its form. In **DPP v. Collins**¹⁰, the defendant repeatedly telephoned the offices of his MP on a wide range of political matters. In conversations with employees at the office and on messages left on the telephone answering machine, he used racist terms to show the frustration he felt at the way in which his affairs were being handled. No one was personally offended, but the staff became depressed. Charged under Section 127(1) Communications Act, 2003, the magistrates found that the terms were offensive but that a reasonable person would not find them grossly offensive.

Michael Keith-Smith became the first person to win damages from an individual internet user after she accused him of being a ‘sex offender’ and ‘racist’ blogger’ on a Yahoo! Discussion site. She also claimed that his wife was a prostitute. The High Court judge decided that Tracy Williams, of Oldham, was “particularly abusive” and “her statements demonstrated that she had no intention of stopping her libelous and defamatory behavior.”

**Cyber stalking - It’s methodology.** - The working method of cyber stalkers are as under:

(i) Collect all personal information about the victim such as name, family background, telephone numbers of residence and work place, daily routine of the victim, address of residence and place of work, date of birth etc. If the stalker is one of the

¹⁰ (2006) 1WLR 308
acquaintances of the victim he can easily get this information. If stalker is a stranger to victim, he collects the information from the internet resources such as various profiles, the victim may have filled in while opening the chat or e-mail account or while signing an account with some website.

(ii) The stalker may post this information on any website related to sex-services or dating services, posing as if the victim is posting this information and invite the people to call the victim on her telephone number to have sexual services. Stalker even uses very filthy and obscene language to invite the interested persons.

- Gender inequality. - The devaluation of women and social domination of men still continues to prevail in India.

  Women are usually viewed as dowry burdens, the weaker gender, and worthy of a lower social status compared to men. This has led to social and economic problems.

  One of the main concerns is that the declining sex ratio, which was brought to attention in 2001, as the sex ratio hit as low as 927 to 1000 men. (2010), Trends in Sex Ratio at Birth and Estimates of Girls Missing at Birth in India, New Delhi: United Nations Population Fund-India. Other issues can include abuse of women’s human rights and unequal opportunities given in education, employments or the rights to be born.

  The key factor driving gender inequality is the preference for boys. This is because boys are deemed to be more useful than girls. Boys are given the exclusive rights to inherit the family name and properties and they are viewed as additional status for their family. Not only that, they are also believed to have a higher economic utility as they can provide additional labor in agriculture. Another factor is that of religious practices, which can only be performed by males for their parents’ afterlife. All these factors make sons more attractive. Moreover, expensive dowry of daughters further discourages parents from having daughters. Thus, a combination of factors has shaped the imbalanced view of sexes.

- Sexism in India.-It refers to preferential treatment arising out a prejudice based on one gender or sex in India. Biasness and violent behavior against women is prevalent, and sexual pestering at the workplace and lack of education continue to be identified as major problems

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11 (Kalyani Menon-Sen.A.K.Shiva Kumar (2001))
Some men’s advocacy groups have complained that the Government discriminates against men through the use of overly aggressive laws designed to protect women\(^{12}\) and by other socio-economic methods that favour females, such as lower taxes and higher benefits. \(^{13}\)

These benefits are argued to be necessary to redress the historic and continuing wealth imbalance between the genders. \(^{14}\)

In view of the above, and the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at work places, we lay down the guidelines and norms specified hereinafter for due observance at all workplaces or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Article 32 of the Constitution for enforcement of the fundamental rights and it is further emphasized that this would be treated as the law declared by this Court under Article 141 of the Constitution.

- **Cyber harassment.** City crime is a global phenomenon. The World Web allows users to circulate content in the form of text, images, videos and sounds. However, the means that enables the free flow of information and ideas over long distances also has given birth to crimes against mankind and eventually against women which has resulted into major threat to the security of women.

The cyber crime is a crime committed through modern means of communication like computer and internet. These crimes are called ‘white-collar crimes’ and can be committed from any place of the Globe and can give effect anywhere in the Globe within fraction of seconds. It results into public damage/grievous personal hurt/defamation/loss of character etc. It is the only crime which has no boundaries and may affect every country.

Cyber crime has been defined as the act of cheating, distributing, altering, stealing, misusing and destroying information through the computer manipulation of Cyberspace; without the use of physical force against the will or the interests of the victim. Cyber crime can even be defined as unlawful act wherein the computer is either tool or target or both\(^{15}\). The computer is generally used as a tool in carrying out criminal activities like financial crimes, sale of illegal article, pornography, online gambling, intellectual property crime, e-mail

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\(^{12}\) (Pro-women laws being misused (http://articles.timesofindia.indiatimes.com/2008-06-26/india/27748230_1_section_498a-domestic-violence-law-dowry-prohibition-act))

\(^{13}\) (Women paying less income tax than men (http://www.v.-krishnan-and-company.com/tax_rates_in_India.html#Women)).

\(^{14}\) (Girls gain extra points in admissions (http://articleis.timesofindia.indiatimes.com/2008-12-07/delhi/2790576_1_girls_child_nursery_admission_boys)).

\(^{15}\) (Nagpal R-what is cyber crime).
spoofing, forgery, cyber defamation, cyber stalking etc. The computer may however be target
for unlawful acts such as unauthorized access to computer/computer system/computer
networks, theft of information contained in the electronic forms, e-mail bombing, data dialing.
Trojan attacks, internet time thefts, web jacking etc.

The cyber crimes are committed against Individuals, as well as Nation. Cyber Crimes
against individual affects the individual’s person. It has been observed that women figure is
soft and significant by as targets of cyber-crimes. Amongst the various cyber crimes committed
against women main crimes are identified and can be enlisted as under:-

(1) Harassment through e-mails.
(2) Cyber-Stalking
(3) Cyber-Pornography
(4) Defamation
(5) Morphing
(6) E-mail spoofing

Types of Online Harassments which might result into Sexual Harassment on the principle of
“Quid Pro Quo” and “Hostile Work Environment”:-

(I) **Harassment through e-mails** is a very similar to harassing
through letters and includes blackmailing, threatening, bullying and even
cheating via mail Harassments are similar to the letter harassment but creates
problems quite often when posted from fake IDs.

(II) **Cyber-stalking**.- It is one of the most talked about net crimes in
the Global World. Cyber stalking involves following a person’s movements
across the posting messages (sometimes threatening) on the bulletin boards
frequently by the victim with e-mails etc. The main targets in this kind of crime
are females, children, emotionally weak or unstable etc.

The availability of free e-mail and website space, the anonymity provided by these chat
rooms and forums contributes to the increase of cyber crimes/cyber stalking.

(III) **Cyber-pornography**.-It is another threat to the female netizens.
This generally includes pornographic websites, pornographic magazines
produced using computer (to publish and print the material) and the internet to
download and transmit pornography pictures, photos, writings etc.
Internet has provided a medium for the facilitation of crimes like pornography. Cyber porn is widespread. It has become rampant on the internet. It is very difficult to regulate as the concept of morality differs from country to country. Cyber pornography is spoiling the young generation of our country.

(IV) **Cyber defamation**.- The law of defamation is another issue, which arises frequently on the Internet. Defamatory statements can be made on the internet through online messages, e-mails, bulletin boards, chart etc. Cyber defamation happens when defamation taken place with the help of computers or internet. For example: someone publishing defamatory statement of another on a website or sends e-mails containing defamatory information to near and dear ones of that person.

(V) **Morphing**.- It is editing the original picture by unauthorized user or fake identity. Generally in this category of crime, female’s pictures are downloaded by fake users and again repost on websites by creating fake profiles after editing it.

(VI) **E-mail spoofing**.- A spoofed e-mail is one which misrepresents its origin. It show its origin to be different from which actually it originate. E-mail spoofing is the practice of changing one’s name in e-mail so that it looks like the e-mail came from other. The intention is misrepresentation.

### 2.1.2 Safety measures To be Adopted

The safety measures can be enlisted as under:-

1. One important safety measures is to treat your e-mail address as important private data like a phone number or address and only give it to the people you know and trust online. Even the information regarding your bank account number or any other financial information should not be disclosed to the new person and should not be circulated through internet or mobile.

2. It is always better to have a spam-filter for your e-mail. Spam is junk mail delivered through e-mail which may sometimes contains viruses or adult content that is vulgar and inappropriate.

3. You should be aware of all the requests for personal information if asked for any reason if you are storing personal or private information on your computer. Never provide any such information.
(4) Protect your children from online dangers. Parents should teach their children to follow the common sense ‘rules of the road’ for the internet.

(5) Passwords: One should always use Password. A password prevents the entry of intruders. Even the ‘Pass Phrases’ which are used in place of password provides your security. If possible, keep changing your password and it should also not be given or disclosed to near ones.

(6) Firewalls: Firewalls creates a ‘wall’ of protection between a network and possible intruders.(Gary H.Anthes, Oct.17,1994, at 14.) It prevents information from existing on entering a firms computer or LAN and the Internet. If it is properly figured, it filters all the electronic data packets sent to it from the LAN and the outside connection will pass on only verified electronic data packets.

(7) Encryption: it is kind of safety system in which data is accepted only often decrypt. It refers to any algorithm applied to an electronic record that converts plaintext into cipher text, rendering it meanings for all except the one who has a key to decrypt it. This technology is used for securing Internet trans actions.\textsuperscript{16}

(8) Digital Signature : Digital Signatures safeguard information and prevent it from falsification on alteration. These digital signature help in signer authentication, document authentication affirmative acts signifying a signature and efficiency.

Women are prone to disclose the personal information and are in habit of giving personal details. Therefore, they are required to work with safeguards when are sitting on the computer and using it.

2.1.3 Legal Protection.-

There are some provisions in IT Act, 2000 relating to cyber crime and offences against women in India.

(a) For tampering with computer source documents.
(b) For hacking with computer system
(c) For publishing information which is obscene in electronic form
(d) For access to protect system.
(e) For breach of confidentiality and privacy.
(f) For publication for fraudulent purpose.

But all these provisions one not sufficient and needs to be modified. However, these provisions do not mention any crime specifically as against women and children. Under no

section in IT Act, 2000, obscenity-personal viewing is an offence. And nowhere cyber stalking, morphing and e-mail spoofing are mentioned as cyber offences. Further, the shadow areas in procedure are regarding jurisdiction and loss of evidence. Lack of cyber army and cyber savvy Judges are other lacunae.\(^{17}\) Judiciary plays vital role in sharpening enactments according to the order of the day. Similarly, the threats approaching towards the netizens must be communicated to the public at large and more particularly to women. Cyber Awareness programme must be carried out in the society.

\(^{17}\) (Brue Schneies, Applied Cryptography 273-74 (1994) Computer.)