Chapter 17

Revenge Porn Against Women and the Applicability of Therapeutic Jurisprudence: A Comparative Analysis of Regulations in India, Pakistan, and Bangladesh

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ABSTRACT

It must be noted that the modern legal history of India, Pakistan and Bangladesh may show that all these three countries have framed their penal laws from colonial British Penal laws which was the governing law of the Indian peninsula in pre-independence era (prior to 1947). As such, the present criminal laws of these countries including those dealing with violence against women (including physical and online) may have similar features. This chapter argues that South Asian countries including India, Bangladesh, and Pakistan do not have focused laws on dealing with the issue of revenge porn targeting women. Further, the socio-economic conditions of these countries being quite the similar, it may be noted that women victims of revenge porn may neither prefer to seek police help due to fear of reputation damage. This chapter therefore aims to research as whether the application of Therapeutic Jurisprudence in such cases may benefit the victims.

INTRODUCTION

The recently published Report by the United Nations Broadband Commission for Digital Development Working Group pointed out that cyber violence against women and girls (Cyber VAWG) is a growing phenomenon all over the world. The UN Broadband Commission explained the term cyber violence against women and girls as including hate speech (publishing a blasphemous libel), hacking (intercepting private communications), identity theft, online stalking (criminal harassment) and uttering threats. It can entail convincing a target to end their lives (counselling suicide or advocating genocide). It also

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stated that “the Internet also facilitates other forms of violence against girls and women including trafficking and sex trade. Not only does commercialized sex on the Internet drive the demand for the sex industry overall, it also allows traffickers to use the legal aspects of commercial sex on the Internet as a cover for illegal activities.”

Prior to this explanation, this author in her earlier monograph titled “Cyber Crime and the Victimization of Women: Laws, Rights, and Regulations.” (Halder & Jaishankar, 2011), defined the term “cyber crime against women” as “Crimes targeted against women with a motive to intentionally harm the victim psychologically and physically, using modern telecommunication networks such as internet and mobile phones”. The operational definition provided by Halder and Jaishankar (2011) of the term “Cyber crimes against women” may show the different types of crimes that may be included in this definition: the operational definition says “Cyber crimes against women are:

Crimes done through and/or with the help of telecommunication and information technology, that are committed against women inclusive of all age group and such crimes

- Can be either sexual or non sexual in character;
- Include online crimes like hacking, morphing, spoofing, obscene publication, cyber stalking, cyber pornography, internet voyeurism, forceful invasion of privacy, cyber defamation, cyber bullying, e-mail harassment, cyber blackmailing and threatening, emotional cheating by impersonation in the internet and intimate partner violence through internet and abetment of such offences;
- May not be contended to economic cyber crimes like severe phishing or identity theft;
- Done with a criminal motive of intentionally harming the reputation of the victim or causing physical harm to the victim either directly or indirectly;
- The offender and the victim may or may not have prior emotional involvement;
- Includes those cyber behaviors which leave the victim traumatized, shocked, even socially secluded and may also cause physical harm;
- Can be done by male or even female perpetrator; however, the targeted victim group is adult women. (Halder & Jaishankar, 2011)

As it may be seen, the 2015 explanation provided by the UN Broadband Commission of the term “Cyber Violence against women” is quite similar to that of the 2011 functional definition of the term “Cyber crime against women” as provided by Halder and Jaishankar. Hence considering that the term “cyber crime against women” as defined by Halder & Jaishankar (2011) may include the inherent meaning of cyber VAWG as has been used in the UN Broadband Report, the term “cyber crime against women” is used in this chapter as inclusive of both the connotations. As the operational definition and explanations above suggest, the online violence targeting women may include several interpersonal cyber crimes including cyber stalking, cyber sexual defamation, morphing, creation of fake avatars (Halder, 2013) for revenge etc. The last of these crimes, i.e., creation of fake avatars for revenge, may include several other offences including hacking personal computers or mobile phones or social media accounts, unauthorisedly accessing digital data, copyright violation regarding personal photographs, creation, production and distribution of sexually explicit materials or obscene materials online, digital defamation etc.

As the UN Broadband Commission report shows, revenge porn has become one of the major patterns of online violence against women in the world, especially in India, Pakistan and Bangladesh where internet penetration is higher but awareness about cyber safety and cyber etiquette among men and women is
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