
INADEQUACY OF LAWS DEALING WITH REVENGE PORN IN INDIA

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ABSTRACT

Digitalization and technological advancements have created a great impact on mankind. And in recent times, millennials are more inclined towards the virtual world, which turns out to be a boon on one hand, but with the surging crimes in the online space, it has become a ban on the other hand. This development also helps offenders to commit crime using new methods.

On the heels of a failed relationship, one of the many problems that the woman might face is the sharing of intimate information that was privy only to her partner at that time. Revenge porn is the practise of posting and distributing sexually explicit images and videos of an ex-partner on any online platforms to seek revenge after a break up. Perpetrators of this non-consensual pornography deprive the constitutional right of privacy of the victims. This cybercrime deeply impinges upon the sexual privacy of an individual and the majority of victims are women and girls. The victims are often threatened with sexual assaults, real life stalking and harassment thus facing social ostracism and emotional distress. Non-consensual pornography is a form of sexual and psychological abuse and is a serious offence. The present laws do not head on deal with this issue and they do not ensure that the victims get the appropriate remedy. This paper addresses the impact of revenge porn on the lives of the victims and also addresses the lack of appropriate legal response to this issue. This paper also brings out the need for a separate statute to deal with this issue and suggests ways to frame stringent legal framework in India.

Keywords: Revenge porn, cybercrime, lack of remedy, need for separate statute, non-consensual pornography.

INTRODUCTION

With the emergence of technology and the internet, a new form of sexual predation in the world of cybercrime has been put into play. On the heels of failed relationship, women in 21st century are facing a looming danger from their partner in the form of revenge pornography. The perpetrators share or post sexually graphic images or videos of their partner on any social media platform without their consent in order to cause shame, emotional distress and social insecurity. This can be called as “Revenge Porn”, “Non-Consensual pornography” and “cyber rape”. Most victim in these cases may have consented to the recording of private act¹ but not to its distribution.

Several cases of revenge porn have been reported in India and women being the victim suffer from bullying, sexual harassment and rape threats. According to the report on cyber crime in 2018 by National Crime Records Bureau, 4173 cases were filed for transmitting sexually explicit images². In India there is no specific law to deal with the issue of revenge pornography. The accused are usually charged under the Sections of Indian Penal Code, 1860 and Information Technology Act, 2000.

The competence of cyber laws in dealing with this issue is questionable owing to the fact that it is difficult to completely eliminate anything posted on the internet. With regard to distribution of images, the images shared in any website can be accessed from any part of the world. Even if we are able to persuade one website to remove the images or videos, there are high chances that the content might have already been posted by other websites. This article deals with the definition of revenge porn, the harm inflicted upon the victims and also the lack of appropriate legal response to this issue. This article also discusses the inconsistency of legal system in dealing with the cases of revenge porn and concludes with the suggestion to improve the current Indian law.

REVENGE PORN

The Government of UK defines revenge porn under Criminal Justice and Courts Act 2015³ “as

¹ “Private act “includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim’s genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public. Explanation 1, Section 357C of Indian Penal Code 1860 (Ins. by Act 13 of 2013, sec.7) accessed on 01.06.2021.

² National Crime Records Bureau, (Jan. 10, 2021), ncrb.gov.in/en.

³ Criminal Justice and Courts Act 2015 § 33 (2015).

sharing private sexual materials with the intent to cause distress⁴.”

The distribution of sexually explicit images and videos of individuals without their consent is called “revenge porn” or “non-consensual pornography”. This covers all the images or videos obtained without the victim’s consent and also those obtained with victim’s consent usually with the presumption of a confidential relationship. The dissemination of the intimate information is done by many ways, such as sharing the image with others, posting the images or videos with disparaging comments and ultimately posting the images or videos on a porn site without the consent of the victim.

Most times, these images are shared through porn websites just after a relationship ends. The term revenge porn is not limited to the ex-partners seeking revenge but it also includes ‘non-consensual pornography’⁵.

CHALLENGES FACED BY THE VICTIMS:

“I had terrible anxiety and depression when this was all happening, my mental health had completely deteriorated. I was slut-shamed, called names, laughed, pointed at. I felt totally alone⁶” – These are the statements shared by an anonymous victim in the article titled “Surviving revenge porn – 3 Indian women share their experiences“, published by ‘Homegrown’.

Revenge porn is not just for vengeance or revenge against ex-lovers, it is also used as a tool for blackmailing, stalking, and sexual harassment. Commonly, intimate images are shared on social media platforms such as Facebook, twitter or any other pornographic websites. The widespread usage of the internet makes it easy for these contents to be shared immediately on numerous websites by various users, thus making it difficult to hunt down the offender behind the digital screen. Due to these contents being reposted on a variety of platforms, the victims are victimised again and again.

In an interview with revenge porn victims, one of the victims revealed that she was publicly

⁴ Revenge Porn: be aware b4 you share, GOV.UK (Feb. 12, 2015), <https://www.gov.uk/government/publications/revenge-porn-be-aware-b4-you-share>. (Last accessed on 12.10.2021)

⁵ Taryn Pahigian, Ending the Revenge Porn Epidemic: The Anti-Revenge Porn Act, 30 J.C.R. & Econ. Dev. 105 (2017).

⁶ Sara Hussain, HOMEGROWN (2018), <https://homegrown.co.in/article/803204/surviving-revenge-porn-3-indian-women-share-their-experience> (last visited on 04. 06. 2021).

humiliated by the police officers by being judgemental and asking frequent questions about being in relationship with a man even before getting married⁷. Particularly, female officers disregarded her pain and misery by commenting that “You will party, have fun, spread filth and the next day you will come crying⁸”. Further, another victim in the same interview stated that she was unable to express her difficulties to her parents that lead to extreme anxiety and depression⁹. The stories of Annemarie Chiarini (advocated for criminalizing revenge porn) and Jessica Logan (victim of revenge porn who committed suicide) have shedded light on the sufferings of the victims from Post Traumatic Stress Disorder, humiliation, anxiety, breach of trust, privacy, etc¹⁰. Once the images or videos are disseminated electronically, the victim falls into deep psychological trauma, which leads to suicide attempts in certain cases. The victims are blamed, socially stigmatised and their character is questioned for sharing their intimate images and videos.

According to Sophie Maddocks, the term ‘revenge pornography’ fails to convey the scope and intensity of the injury. It is a victim blaming phrase that has the potential to misdirect government policies and misinform the public¹¹. As an alternative, feminist scholars have recommended the term “image-based sexual abuse.”

Due to the prevalence of victim shaming by the society and the harassment fostered by victim blaming, the victims hesitate to seek help from police or lawyers, fearing that they may be judged or criticised for sharing the intimate photos or videos in the first place. Further, the victims are reluctant to file complaints as these complaints may be heard and lodged by male police officers and in such cases, the victims are required to submit their private photos or videos to the male police officers. The 2010 cyber-crime report, states that only 35% of women report their victimisation¹². Advocate Bivas Chatterjee, the Public Prosecutor in State of West Bengal vs Animesh Boxi, says that 98% of cyber-crime victims do not even complain, as the victims, who are generally women, are afraid of being identified and labelled in society. As a

⁷ Supra note 4.

⁸ Ibid.

⁹ Ibid.

¹⁰ Mudasir Kamal & William J Newman, Revenge Pornography: Mental Health Implications and Related Legislation, 44 Journal of the American Academy of Psychiatry and the Law Online (2016), <http://jaapl.org/content/44/3/359#ref-15> (Last visited on 12.10.2021).

¹¹ Sophie Maddocks (2018) From Non-consensual Pornography to Image-based Sexual Abuse: Charting the Course of a Problem with Many Names, Australian Feminist Studies, 33:97, 345-361, DOI: 10.1080/08164649.2018.1542592 (last visited on 03.06.2021),

¹² Revenge porn: How it destroys lives--and how to deal with the menace, Times Now (Feb. 6, 2020), <https://www.timesnownews.com/mirror-now/in-focus/article/revenge-porn-how-it-destroys-lives-and-how-to-deal-with-the-menace/550397> (last visited on 02.06.2021).

result, in addition to legal and logistical challenges, the absence of reporting of such cases has an adverse impact on criminal prosecution.

Often, the offender along with posting the data, leaves an additional identification and address for contact which enables others to stalk, abuse and victimise the victim continuously. This act of publicly revealing or publishing private information about someone especially as a form of punishment or revenge is called doxxing¹³. Disseminating the revenge porn images or videos along with the personal information of the victim drastically aggravates the victim's sufferings. It is quite upsetting that there is no particular legal provision in India that deals with doxxing.

VICTIM'S CURRENT LEGAL REMEDIES:

Every single day, revenge porn cases are in surge in India. Unlike the UK, India does not have a particular provision that deals exclusively and extensively with cases related to 'revenge porn'. However, various provisions under multiple Acts helps in prosecuting the perpetrator and providing justice to the victims.

The Indian Penal Code, 1860:

The following provisions are applied in revenge porn cases. They are **Section 292** - (Distribution or circulation of obscene material) **Section 354** (Assault or criminal force on a woman with the intent to outrage her modesty), **Section 354A** (Unwelcomed physical contact, explicit sexual overtures and favours and passing on sexually coloured remarks), **Section 354C** (Any man who watches, captures or disseminates the pictures or videos of women involved in sexual activity, without her consent or knowledge), **Section 406** (An act intended to commit criminal breach of trust), **Section 499** (An act done with the intention or reason to defame or harm the reputation or character of an individual), **Section 506** (An act intended to commit criminal intimidation) and **Section 509** (An act intended to insult the modesty of a woman).

The Information Technology Act, 2000:

The related provisions are **Section 66E** (*Violation of Privacy*: Publishing or transmitting (in electronic form) private intimate pictures of an individual intentionally, without their consent or knowledge), **Section 67 & 67A** (Punishment for publishing or transmitting obscene material

¹³ "Dox." Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/dox> accessed 7 Jun. 2021.

involving explicit sexual act in electronic form) and **Section 72** (Breach of confidentiality and privacy).

The Indecent Representation of Women (Prohibition) Act, 1986

Along with the aforementioned statutes, the Indecent Representation of Woman (Prohibition) Act, 1986 also aids in prohibition of indecent representation of women by means of advertisement, publication, writings, paintings, figures and any other means with certain exceptions.

LOOPHOLES IN THE EXISTING LAWS

Here are several statutes and provisions dealing with cases related to revenge porn. However, with the technological advancements and digitalisation at its peak, there are no adequate laws to combat the increase in crimes with respect to ‘non-consensual or revenge pornography’. Further, there are also severe drawbacks in the existing laws in India.

The Indian Penal Code, 1860:

Section - 354C¹⁴ and Section – 509¹⁵ of the Indian Penal Code, 1860, addresses man as a perpetrator, but there are chances for a person irrespective of their gender committing the crime. Hence these provisions lack gender neutrality and considering the current cyber scenario; both provisions are gender – biased to be precise.

The Information Technology Act, 2000:

¹⁴ Section 354C of Indian Penal Code 1860 (Ins. by Act 13 of 2013, sec.7) “any man who 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 or disseminates such image 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”.

¹⁵ Section 509 of the Indian Penal Code, 1860. “whoever intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, [shall be punished with simple imprisonment for a term which may extend to three years, and also with fine]”

In Section – 67¹⁶ and Section – 67A¹⁷, there is no issue with respect to gender bias or lack of gender neutrality.

1. But, since the aforementioned provisions state that “whoever publishes or transmits or causes to be published or transmitted”, the victim also stands the chance of being possibly prosecuted and punished for doing the same alongside with the offender, depending on the facts and circumstances by whom and how was it captured or transmitted in the first place.
2. Since the terms ‘obscene material’ and ‘sexually explicit images’ are not defined in the Act, there is no particular yardstick to measure the extent of applicability and the exact difference between both the terms. Further, Section 67 is classified as bailable offence but the offence under Section 67A is treated as a non bailable offence. This proves that the legislation did not take the dissemination of obscene materials as seriously as it did with the dissemination of sexually explicit images¹⁸.

The Indecent Representation of Women (Prohibition) Act, 1986:

1. The scope of this Act doesn’t cater to the needs of the current digital world with the advancement in technologies.
2. The entirety of this Act, must be reconsidered according to the current facts and circumstances.

JUDICIAL APPROACH:

¹⁶ The Information Technology Act, 2000, § 67 (Ministry of Law, Justice and Company Affairs (Legislative Department) 2000), “whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to two three years and with fine which may extend to five lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees”.

¹⁷ The Information Technology Act, 2000, § 67A (Ministry of Law, Justice and Company Affairs (Legislative Department) 2000), “whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees”.

¹⁸ Shivam Goel, 'Revenge porn', 'Doxxing' and 'Downstream Distribution': Need for comprehensive legislation in India, Latest laws (June 24, 2020), https://www.latestlaws.com/articles/revenge-porn-doxxing-and-downstream-distribution-need-for-comprehensive-legislation-in-india/#_ftnref9 accessed on 05.06.2021.

State of West Bengal v. Animesh Boxi¹⁹.

This case has a historic significance as it is the first conviction with respect to ‘revenge porn’ in India. Animesh Boxi, an engineering student was sentenced to 5 years imprisonment along with fine of Rs.9000. The district court of West Bengal found Animesh boxi guilty of uploading intimate photos and videos of his ex-lover on a porn website. He was convicted under Sections 354A (sexual harassment), 354C (voyeurism), 354D (stalking) and 509 (criminal intimidation) of the Indian Penal Code, 1860 and Sections 66C (identity theft), 66E (violation of privacy), 67 (transmitting obscene material) and 67A (transmitting sexually explicit material online) of the Information Technology Act, 2000. The court emphasised the necessity of recognising ‘revenge porn’ as an offence and held that when sexually explicit images are transmitted online without the person’s consent, the accused is guilty of the offence ‘revenge porn’²⁰. The court rejected Boxi’s allegation that sexual harassment, voyeurism and stalking did not result in any physical injury and stated that injury to victim’s reputation was sufficient to fall within the ambit of ‘injury’ under Section 44 of IPC²¹. The court suggested that the State government has to treat the victims as rape survivors and stressed on the importance of compensating the victims.

Subhranshu Rout @ Gugul vs State of Odisha²²

The court has addressed the social media user’s ‘right to be forgotten’ for the first time in this case. It has also noted that the law was silent on the remedy for victims of revenge porn. The brief fact of this case is that the accused and the victim were in a relationship for one year. The accused went to the victim’s house and took advantage of the fact that she was alone and committed rape. He also recorded the terrible incident on his mobile phone. Further, the accused threatened to kill the victim and also share the recorded video and photos. When the victim informed this incident to her parents, the accused uploaded all the videos and photos in the fake Facebook ID created in the name of the victim.

¹⁹ State of West Bengal vs Animesh Boxi, C.R.M. No.11806 of 2017, G.R.1587/17.

²⁰ Shivam Goel, Revenge porn, 'Doxxing' and 'Downstream Distribution': Need for comprehensive legislation in India, Latest laws (June 21, 2020), https://www.latestlaws.com/articles/revenge-porn-doxxing-and-downstream-distribution-need-for-comprehensive-legislation-in-india/#_ftnref9 accessed on 05.06.2021.

²¹ State of West Bengal v. Boxi, Global freedom of expression https://www.latestlaws.com/articles/revenge-porn-doxxing-and-downstream-distribution-need-for-comprehensive-legislation-in-india/#_ftnref9 accessed on 05.06.2021.

²² Subhranshu Rout @ Gugul vs State Of Odisha 2020 SCC Online Ori 878, See, Subhranshu Rout @ Gugul vs State Of Odisha on 23 November, 2020, Indiankanoon <https://indiankanoon.org/doc/6266786/> accessed on 07.06.2021.

Justice K.S. Panigrahi observed that under the current Criminal Justice System in India, the statutes prescribe strong penal action for such heinous crimes. But, the right of the victim, particularly, the right of privacy which is an integral part of Article 21 (right to life) as prescribed in *K.S. Puttasamy* case²³, and also which is directly linked with her right to get the offensive videos and images deleted still remain unresolved. The 'right to be forgotten', which governs the manner in which the personal data can be collected, processed and erased, is recognised under the General Data Protection Regulation (GDPR), Europe's digital privacy law. However, In India, the concept of 'right to be forgotten' is yet to be recognised.

Justice K.S. Panigrahi also stated that if the right to be forgotten is not recognised in this present case, any accused will surreptitiously outrage the modesty of a woman and misuse the same in cyber space without intervention²⁴. Hence, in these cases, the victim herself or the prosecution may seek appropriate orders to erase the objectionable post from the public platform irrespective of ongoing criminal process²⁵.

The Victims of revenge porn are not only adult women but also children, especially teenage girls within the age group of 16 to 18. The first case of teen revenge porn was reported in 2001. A 16-year Delhi school boy created a porn website and posted pornographic images of his classmates and teachers. The reports suggest that he did it as revenge to the girls who teased him. The boy was charged under section 67 of the Information Technology Act and later he was released on bail by Juvenile court²⁶.

Avinsh Bajaj vs State (NCT) of Delhi²⁷

A 17 year old student of Delhi Public School was caught circulating the obscene video of his

²³ Hugh Tomlinson QC, Case Law, India: Puttaswamy v Union of India, Supreme Court recognises a constitutional right to privacy in a landmark judgment Hugh Tomlinson QC, Inform's Blog (Sept. 4, 2017), [https://inform.org/2017/09/04/case-law-india-puttaswamy-v-union-of-india-supreme-court-recognises-a-constitutional-right-to-privacy-in-a-landmark-judgment-hugh-tomlinson-qc/#:~:text=On%2024%20August%202017%2C%20a%20nine%20judge%20bench,privacy%20is%20a%20constitutionally%20protected%20right%20in%20India](https://inform.org/2017/09/04/case-law-india-puttaswamy-v-union-of-india-supreme-court-recognises-a-constitutional-right-to-privacy-in-a-landmark-judgment-hugh-tomlinson-qc/#:~:text=On%2024%20August%202017%2C%20a%20nine%20judge%20bench,privacy%20is%20a%20constitutionally%20protected%20right%20in%20India.). accessed on 05.06.2021.

²⁴ Dhananjay Mahapatra, Need right to be forgotten to fight revenge porn: HC, The Times of India (Nov. 24, 2020), <https://timesofindia.indiatimes.com/india/hc-bats-for-victims-right-to-be-forgotten/articleshow/79378100.cms> accessed on 04.06.2021

²⁵ Subhranshu Rout @ Gugul vs State Of Odisha 2020 SCC Online Ori 878, See, Subhranshu Rout @ Gugul vs State Of Odisha on 23 November, 2020, Indiankanoon <https://indiankanoon.org/doc/6266786/> accessed on 05.06.2021.

²⁶ See Times Internet Network Confusion prevails over tackling cyber crime, May 22, 2001 <http://timesofindia.indiatimes.com/city/pune/Confusion-prevails-over-tackling-cyber-crime/articleshow/409953300.cms> 05.06.2021.

²⁷ Avnish Bajaj v. State, available at <http://www.indiankanoon.org/doc/309722/> accessed on 05.06.2021

classmates. Ravi Raj, a student of IIT Kharagpur, sold this pornographic video titled 'DPS Girls having fun' through the website www.bazee.com. Though the website has safety filters it failed to detect this listing. Hence, the Metropolitan Magistrate took cognizance of this matter and filed charges against Avnish Bajaj; the MD of Bazee.com, Ravi Raj, Sharat Digumarti; Senior Manager under section 67 of Information Technology Act and Sections 292 and 294 of Indian Penal Code. The Delhi High Court held that Indian Penal Code did not accept the concept of automatic criminal accountability for a company's MD, Hence he was not held liable under Sections 292 and 294 of the Indian Penal Code and permitted prosecution under Section 85 along with Section 67 of Information Technology Act. There was no news regarding the prosecution of the 17 year old boy except he was suspended from the school.

RE: Prajwala letter dates 18.02.15 videos of sexual violence and recommendations

A suo moto writ petition was admitted by Supreme Court based on a letter by NGO Prajwala enclosing two rape clips that is disseminated and circulated on the internet. Prajwala NGO pleaded the court to stop the widespread distribution of rape videos using the smartphone application WhatsApp. The Supreme Court ordered a CBI investigation to discover and apprehend the rape suspects who are clearly visible in the footage. The Supreme Court also ordered Government to finalise a 'Standard Operating Procedure' for cyber police portals who are responsible for handling complaints regarding child pornography, child sexual abuse material, rape, gang rape videos and obscene content²⁸.

Skand Bajpai v. Union of India²⁹

Two students from Bharati Vidyapeeth New Law College, Pune, have filed a Public Interest Litigation to enact laws regarding the regulation of social media access of minors and to build up an efficient profile verification mechanism. The 3 Judge bench of SA Bobde, CJ, AS Bopanna and V. Ramasubramanian has issued notice directing the government for the formulation of laws to combat the sale and circulation of obscene and pornographic materials such as Child Sexual Abuse Material (CSAM), rape and revenge porn on social media

²⁸ Devika Sharma, Child Pornography-Child Sexual Abuse Material| Standard Operating Procedure for cyber portal-handling complaints finalised: SC, SCC Online (Oct. 24, 2018), <https://www.scconline.com/blog/post/2018/10/24/child-pornography-child-sexual-abuse-material-standard-operating-procedure-for-cyber-portal-handling-complaints-finalised-sc/> accessed on 06.06.2021.

²⁹ Prachi Bhardwaj, SC issues notice in plea seeking regulation of social media profile verification; minors access and circulation of obscene material. Read what the PIL states, SCC Online blog (Oct. 31, 2020), <https://www.scconline.com/blog/post/2018/10/24/child-pornography-child-sexual-abuse-material-standard-operating-procedure-for-cyber-portal-handling-complaints-finalised-sc/> accessed on 06.06.2021.

platforms³⁰.

SUGGESTIONS:

1. Various states in USA such as California, New Jersey, etc and also some countries like UK, Japan have already implemented laws related to 'revenge porn'. India must also concentrate on enacting an exclusive legislation to deal with this issue. In UK, Revenge Porn is a specific offence under Section 33 of Criminal Justice and Courts Act, 2015. The person who disclosed the private sexual photos or videos to cause distress is punishable with fine or imprisonment upto 2 years³¹. The essential criteria to invoke this Section is to prove lack of consent and intention to cause harm. The drawback of Section 33 is that the publishers of the incriminating content can escape from the liability if the intention is not proved. The perpetrators are punishable for other offences associated with revenge porn such as voyeurism (Sexual offences Act), blackmailing (Theft Act, 1968), stalking (Protection of Harassment Act 1997), sending explicit communication to cause harm (Malicious Communications Act, 1988) under the respective Acts. The victims can claim damages under civil law for breach of privacy, harassment and emotional distress (tort law), copyright infringement. The victims can also seek injunction to remove the images or videos from the internet. The British viewpoint on revenge porn is distinct, as evidenced by its classification as a sexual offence in the Criminal Justice and Courts Act 2015. The UK legislation introduces a variety of infringements within scope of revenge porn such as non-consensual sharing of explicit photos or videos of people engaging in sexual act, images or videos exposing the private parts of the person or depicting the individual in a sexual way³². This provision ensures that it can be applied in a much broader field to deal with revenge porn. In India, there are a variety of legislations available for the victims to charge the perpetrator for the offences associated with revenge porn such as voyeurism, stalking, transmitting sexually explicit images, etc. In order to effectively encounter the offences related to revenge porn, India must adopt the view of UK's legislation and enact a specific and robust legal framework with stringent penal action.

³⁰ Prachi Bhardwaj, SC issues notice in plea seeking regulation of social media profile verification; minors access and circulation of obscene material. Read what the PIL states, SCC Online blog (Oct. 31, 2020), <https://www.scconline.com/blog/post/2018/10/24/child-pornography-child-sexual-abuse-material-standard-operating-procedure-for-cyber-portal-handling-complaints-finalised-sc/> accessed on 06.06.2021.

³¹ Criminal Justice and Courts Act 2015 § 33 (2015).

³² The Legal Implications and Remedies Concerning Revenge Porn and Fake Porn: A Common Law Perspective, SpringerLink (May 9, 2020), doi.org/10.1007/s12119-020-09738-0, accessed on 10.10.2021.

2. A gender-neutral approach without gender-biased provisions have to be made with regard to the existing statutes and as well as in the upcoming legislations.
3. The most crucial parts of non-consensual pornographies are 'downstream distribution' and 'doxing'.
 - a. Whereas, in 'downstream distribution' the particular private data is being reshared, reposted and downloaded multiple times by third parties other than the original offender. And in 'doxing' the private identifiable information of victims are shared publicly without their consent or permission, which has the effect of repeated virtual rape on the victims. So, it's high time that we focus on including sharing intimate information as a sexual offence and increase the scope of criminal law to prevent the aftermath of revenge porn cases and make them cognizable to try them as 'warrant cases'.
4. The law must prioritise victim compensation. Victims of revenge pornography suffer inexorably and are mocked by the society. The victim's right to privacy which is recognised as a fundamental right and integral part of right to life and liberty (Article 21), in K.S.Puttaswamy case³³, is severely affected. Hence, there must be a legal provision to address the adequate compensation that has to be provided to the victims.
5. It is very important to conduct forensic analysis on electronic evidence and devices to ensure its authenticity. The uncertainty about the authenticity of these electronic evidences and devices makes it difficult for the court to rely upon such evidences. Hence, it is necessary for establishing a specialized forensic unit to investigate and analyse the electronic evidence³⁴. The High Court of Calcutta³⁵, recently stated that there is an urgent need to train the police force in the areas of storage, collection, reception and analysis and production of electronic evidence.

³³ Hugh Tomlinson QC, Case Law, India: Puttaswamy v Union of India, Supreme Court recognises a constitutional right to privacy in a landmark judgment Hugh Tomlinson QC, Inform's Blog (Sept. 4, 2017), <https://inform.org/2017/09/04/case-law-india-puttaswamy-v-union-of-india-supreme-court-recognises-a-constitutional-right-to-privacy-in-a-landmark-judgment-hugh-tomlinson-qc/#:~:text=On%2024%20August%202017%2C%20a%20nine%20judge%20bench,privacy%20is%20a%20constitutionally%20protected%20right%20in%20India>, accessed on 05.06.2021.

³⁴ Shivam Goel, Revenge porn', 'Doxxing' and 'Downstream Distribution': Need for comprehensive legislation in India, Latest laws (June 21, 2020), https://www.latestlaws.com/articles/revenge-porn-doxxing-and-downstream-distribution-need-for-comprehensive-legislation-in-india/#_ftnref9 accessed on 05.06.2021.

³⁵ Subhendu Nath vs State of West Bengal, C.R.M. No. 650/ 2019.

6. The Ministry of Law and Justice, on recommendation of B.N.Srikrishna Committee has included the 'right to be forgotten' as a statutory right in Personal Data Protection Bill, 2018. This right is currently unavailable under India's current data privacy framework. This right to be forgotten as said by Justice S.K.Panigrahi in *Subhranshu Rout @ Gugul vs State of Odisha*, has to be enforced as a right in rem in cases of revenge porn³⁶.
7. The Copyright Act protects original dramatic, literary, musical and artistic works, cinematograph films and sound recording³⁷. Victims may be able to use copyright law to their advantage, especially if the content is a selfie. They may be able to get such information taken down by claiming a copyright violation. While Indian copyright law currently does not provide any recourse to victims of revenge pornography, several victims in the United States have successfully used their copyright to have such photos removed. India must also make reforms to its copyright laws to allow victims to remove such offensive photographs and videos from online sites.

CONCLUSION:

Revenge porn is a very serious issue that warrants a separate statute for itself. Presently, several provisions from IT Act and IPC have been used in India to proceed against the perpetrators to convict them but such perusal of different provisions under various laws is not a viable course of action. None of the existing laws deal specifically and substantially with the problem of revenge porn. Thus, multiplication of laws creates confusion and ambiguity regarding the application and hence conviction in these cases becomes highly improbable.

The enormous growth of the internet and the access to every information has become a threat to privacy. With the increase in revenge porn crimes, there needs to be an encouraging environment for the victims to come forward and report the crimes in an already tabooed society with all the societal pressure and social stigma. Though the existing laws in India are trying to combat the rise in cases related to 'revenge porn' every single day, they are not adequate enough in dealing with the entirety of the issue. To deal with all these perpetuating problems, an exclusive and extensive statute, with gender neutrality and detailed definitions, solely dealing with 'revenge porn' had to be enacted.

³⁶ Dhananjay Mahapatra, Need right to be forgotten to fight revenge porn: HC, *The Times of India* (Nov. 24, 2020), <https://timesofindia.indiatimes.com/india/hc-bats-for-victims-right-to-be-forgotten/articleshow/79378100.cms> accessed on 06.06.2021.

³⁷ Parul Srivastava, India: Copyright Infringement, *mondaq* (June 16, 2020), <https://www.mondaq.com/india/copyright/953334/copyright-infringement> accessed on 07.06.2021.