

GENDER BASED INTERPERSONAL CYBER CRIMES AND THE LGBTQIA+ COMMUNITY

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Abstract

Cyberbullying, cyber violence, online harassment. Although these terms are heard every now and then but the question that still stands unanswered is weather the people using the Internet on a daily basis are aware and sensitised enough of the atrocities and ill effects of such acts. These terms fail to capture the spectrum of violent behaviours that occur in digital spaces and disproportionately affect women, girls and sexual minorities. These terms also do not capture the severity and lasting impacts for the victims/survivors or convey the links between online and offline experiences of violence. The researchers have brought to light an on-line facet of LGBTQIA+ phobia in this article. The article talks about various aspects of gender based interpersonal cyber-crimes committed against LGBTQIA+ community. The article encapsulates empirical and doctrinal data reflecting prejudice against LGBTQIA+ community resulting into cyberbullying behaviour towards the individuals of this community.

KEYWORDS: LGBTQIA+, Interpersonal, Cyber-crime, Cyber-bullying, sensitization, homophobia, transphobia.

Introduction

In today's era of rapid technological advancements, communications and other digital technologies are so integrated in our everyday lives, enabling people to constantly stay connected. While this coming together of the real and the virtual worlds does have its own advantages, it also has certain negative implications for interpersonal relationships. Instances of digital harassment, abuse and several other problematic online behaviors and cyber-crimes are not few. These include passing offensive comments, name calling, targeted harassment,

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verbal abuses and threats, as well as sexual, sexuality based, or gender-based harassment and abuse. Sexuality, sexual and gender-based harassment and abuse refers to harmful and unwanted behavior, either of a sexual nature, or directed at a person based on their sexuality or gender.³

Previous researches on the subject have shown that with regard to interpersonal cyber-crimes, individuals belonging to the LGBTQ+ community and gender minorities have been disproportionately victimized. Studies based in UK and Australia have found that these individuals are prone to experience high rates of intrusive behavior, threats, and verbal abuse, as well as physical and sexual assault.⁴ Such threats being communicated to gender and sexual minorities, creates a hostile environment for them online.

This paper aims to understand plethora of aspects related to the online crime that takes place under the broad umbrella of gender based interpersonal cybercrimes against LGBTQIA+ individuals, “learn about the ways and forms in which it most frequently”⁵ takes place and suggest methods of prevention.

WHAT ARE CYBER CRIMES

A cyber-crime is any illegal act, that involves a computer, computer system, or computer network, i.e., any illegal act for the commission, investigation or prosecution of which, knowledge of computer technology is essential.

Cyber-crimes may be committed by individuals, organizations, or nation states. While the technique used by the perpetrators, and their targets may be same, they may have different motives for committing cyber-crimes, just as in the case of traditional crimes.

³ Anastasia Powell et al, *Digital Harassment and Abuse: Experiences of Sexuality and Gender Minority Adults*, EUROPEAN JOURNAL OF CRIMINOLOGY, (2018), <https://journals.sagepub.com/doi/10.1177/1477370818788006/>

⁴ Sterzing, PR, Ratliff, GA, Gartner, RE, McGeough, BL, Johnson, K C, *Social ecological correlates of polyvictimization among a national sample of transgender, genderqueer, and cisgender sexual minority adolescents*, 67 CHILD ABUSE & NEGLECT, (2017), <https://www.semanticscholar.org/paper/Social-Ecological-Correlates-of-Polyvictimization-a-Sterzing-Ratliff/406326b8b1571ff8a301ede403f6857a1621f4ed/>

⁵ COGAM. Benítez, E. (COORD), *LGBT-phobic Cyberbullying. New forms of intolerance. Madrid: COGAM Education Group* (2016). https://www.ilga-europe.org/sites/default/files/Attachments/es_-_cyberbullying_lgbt-phobic.pdf/

Cyber-crimes differ from traditional crimes in that the commission of cyber-crimes are not limited by geographical or physical boundaries. For example, a person residing in a country can commit a cyber-crime, the victim(s) of which may be resident(s) of one or more other countries, without being physically present in those countries.

Mens-rea in case of cyber-crimes is composed of two elements:

1. Intent to secure access to any program or data held in any computer, computer system, or computer network.
2. The person must know, at the time that he commits the actus reus that the intent is intends to secure is unauthorized.

CLASSIFICATION OF CYBER-CRIMES

Cyber-crimes may be of various kinds, and with the ever-advancing state of science and technology, the threat of development of new kinds of cyber-crimes is constant. Similarly, cyber criminals may be of several kinds, depending on the kind of crimes committed by them. Nevertheless, efforts have been made to categorize cyber-crimes, in order to deal with them effectively.

Cyber-crimes may be of the following types:

1. ***Crimes against Individual*** are crimes committed against individuals and/or their property, examples include, email harassment, cyber stalking, spreading obscene material, unauthorized access or control over computer system, indecent exposure, spoofing via email, fraud, cheating, phishing, identity theft etc.
2. ***Crimes against Organization***, example, possession of unauthorized information, distribution of pirated software, acts of cyber terrorism against a government organization.
3. ***Crimes against Society*** include exposing the youth to indecent content, online gambling, selling illegal objects or materials, online gambling, financial crimes, etc.

In India, the Information technology Act, 2000, classifies certain acts as cyber-crimes. These include damage to a computer, computer system, etc.⁶, tampering with computer's source code

⁶ Section 43, Information Technology Act, 2000 (India)

documents⁷, hacking of a computer system⁸, publishing obscene information in electronic form⁹, publication with intention to defraud¹⁰, etc.

INTERPERSONAL CYBERCRIMES

Interpersonal cybercrimes are crimes that take place through relationships or communications between individuals. They are a range of harmful interpersonal behaviours via the internet, or other electronic media. ‘Harmful behaviour’ can be defined as any behaviour causing emotional, physical or mental distress.¹¹ Admittedly, digital violence, harassment and abuse may not necessarily result in such harm to the subject, ‘harm’ can also mean to include broader societal norms, values, and attitudes.

Interpersonal cybercrimes can take place in various forms, some of which are:

- (i) Cyber Aggression, i.e., aggression in any form, that occurs virtually, including comments that are mean, socially embarrassing, degrading, or hate based.¹²
- (ii) Cyber Bullying, i.e., online behaviour of such a nature that repeatedly communicates hostile or aggressive messages intended to inflict harm or discomfort unto others, including outing, trickery, impersonation, sending offensive messages, and non-consensual image or text-based communication of sexual nature.¹³
- (iii) Cyber-obsessional pursuit i.e., unwanted pursuit of intimacy via electronic or digital means, through the repeated invasion of a person’s physical or symbolic privacy.¹⁴
- (iv) Cyber-stalking, or repeated unwanted communication, contact, sexual advances, threats of violence/physical harm, that cause a victim to be fearful of their safety.¹⁵

⁷ Section 65, Information Technology Act, 2000 (India)

⁸ Section 66, Information Technology Act, 2000 (India)

⁹ Section 67, Information Technology Act, 2000 (India)

¹⁰ Section 74, Information Technology Act, 2000 (India)

¹¹ Anastasia Powell et al, *Digital Harassment and Abuse: Experiences of Sexuality and Gender Minority Adults*, EUROPEAN JOURNAL OF CRIMINOLOGY, (2018), <https://journals.sagepub.com/doi/10.1177/1477370818788006/>

¹² Shapka, JD, Maghsoudi, R, *Examining the validity and reliability of the cyber-aggression and cyber-victimization scale*, 69 COMPUTERS IN HUMAN BEHAVIOUR 10, 11 (2017), <https://isiarticles.com/bundles/Article/pre/pdf/115818.pdf/>

¹³ Tokunaga, RS, *Following you home from school: A critical review and synthesis of research on cyberbullying victimization*, 26 Computers in Human Behaviour 277, 278 (2010), <https://eclass.uoa.gr/modules/document/file.php/PPP357/Following%20you%20home%20from%20school%20A%20critical%20review%20and%20synthesis%20of%20research.pdf/>

¹⁴ Supra note 8.

¹⁵ Dreßing, H, Bailer, J, Anders, A, Wagner, H, Gallas, C, *Cyberstalking in a large sample of social network users: Prevalence, characteristics, and impact upon victims*, 17 CYBERPSYCHOLOGY, BEHAVIOR, AND SOCIAL NETWORKING 61, 61 (2014), <https://www.cs.vu.nl/~eliens/sg/local/cyber/social-stalking.pdf/>

- (v) Image based sexual abuse i.e., Taking, distributing and/or threatening to distribute a sexual image of a person, without their consent.¹⁶
- (vi) Technology-facilitated sexual violence, i.e., harmful, sexually aggressive or harassing behaviours, perpetrated via digital communication technologies, including sexual aggression and/or coercion, image based sexual abuse, online sexual harassment, and gender or sexuality-based harassment.¹⁷
- (vii) Virtual hate speech, i.e., the posting of any material, which is malicious in nature, with the intent to justify or promote intolerance, hostility, and prejudice towards an individual or group of people.¹⁸

Since the commission of cybercrimes is not limited to physical or territorial boundaries, the scope of who these crimes may be committed against is very wide. There have been a large number of studies targeting young people and children as their subjects, with a focus on cyber bullying. This may be due to the greater vulnerability of the target population, as well as the increase in number of cases where young people have tragically taken their own lives after being subject to harassment online.

However, it is not only the youth that are vulnerable to such crimes. Interpersonal cybercrimes may take place against anyone, including men, women, children, non-binary people, and people of the LGBTQI+ community. This paper is focuses on the gender and sexual minorities as its subjects.

GENDER BASED INTERPERSONAL CYBERCRIME

Cyberbullying, cyber violence, online harassment. Although these terms are heard every now and then but the question that still stands unanswered is weather the people using the Internet on a daily basis are aware and sensitised enough of the atrocities and ill effects of such acts. These terms¹⁹ “fail to capture the spectrum of violent behaviours that occur in digital spaces

¹⁶ Supra note 8.

¹⁷ Woodlock, D (2016) *The abuse of technology in domestic violence and stalking*, 23 VIOLENCE AGAINST WOMEN 584, 586 (2016), <http://marvin.cs.uidaho.edu/Teaching/CS112/domesticAbuseStalking.pdf/>

¹⁸ Awan, I, Zempi, I, *'I will blow your face off' – virtual and physical world anti-Muslim hate crime*, 57 BRITISH JOURNAL OF CRIMINOLOGY 362, 364 (2017), http://irep.ntu.ac.uk/id/eprint/27739/1/5298_Zempi.pdf/

¹⁹ Hinson L, Mueller J, O'Brien-Milne L, Wandera N. *Technology-facilitated gender-based violence: What is it, and how do we measure it?* Washington D.C., International Center for Research on Women, (2018), http://www.svri.org/sites/default/files/attachments/2018-07-24/ICRW_TFGBVMarketing_Brief_v8-Web.pdf/

and disproportionately affect women, girls and sexual minorities. These terms also do not capture the severity and lasting impacts for the victims/survivors or convey the links between online and offline experiences of violence. Without first acknowledging the full range of gender-based violence enacted online or via technology, we will be unsuccessful at preventing it and effectively supporting those who experience it.”

“The *International Centre for Research on Women (ICRW)* has developed a definition of and framework for understanding *technology-facilitated gender-based violence (GBV)* that links previously disconnected harmful behaviours. Connecting the pieces of this puzzle allows us to understand the depth and breadth of this growing public health and human rights issue that compromises the safety and well-being of individuals and negatively impacts communities. ICRW is also researching how gender plays a role in an individual’s vulnerability to technology-facilitated GBV and how it is experienced across a range of contexts globally, where *women, girls and lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals are disproportionately disadvantaged and targeted.*

Technology-facilitated GBV – A Global Definition: *Technology-facilitated GBV is action by one or more people that harms others based on their sexual or gender identity or by enforcing harmful gender norms. This action is carried out using the internet and/or mobile technology and includes stalking, bullying, sexual harassment, defamation, hate speech and exploitation.”*²⁰

PREVIOUS RESEARCHES ON THE SUBJECTS BRING TO LIGHT FOLLOWING CONCLUSIONS:

- **“Technology-facilitated GBV occurs worldwide.** Few studies have estimated the prevalence of online harassment and abuse, but it ranges from roughly 33 percent of

²⁰ Supra Note 17.

respondents in studies from Kenya and South Africa²¹²²²³ to 40 percent of adults in the United States.”²⁴

- **“Technology-facilitated GBV comprises a spectrum of behaviours, including stalking, bullying, sexual harassment, defamation, hate speech and exploitation.** Technology-facilitated GBV may cross into the offline world as well, with victims/survivors experiencing a combination of online and in-person physical, sexual and psychological”²⁵²⁶²⁷²⁸abuse. However, the literature tends to focus exclusively on single incidents, ignoring multiple acts of violence that individuals may experience on and offline and over time.
- **“Women, girls and LGBTI individuals are disproportionately impacted by technology-facilitated GBV”**²⁹

²¹ African Development Bank Group. *Minding the gaps: identifying strategies to address gender-based cyberviolence in Kenya.* (2016), https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Policy_Brief_on_Gender_Based_Cyber_Violence_in_Kenya.pdf/

²² Burton P, Mutongwizo T. *Inescapable violence: Cyber bullying and electronic violence against young people in South Africa*, Centre for Justice and Crime Prevention, 8: 1-12, (2009), https://www.researchgate.net/publication/317226235_Inescapable_violence_Cyber_bullying_and_electronic_violence_against_young_people_in_South_Africa/

²³ De Lange M, von Solms R. An e-Safety educational framework in South Africa. *In Southern Africa Telecoms and Network Applications Conference (SATNAC).* 2012, <http://repository.uwc.ac.za/bitstream/handle/10566/5251/Om%20and%20Tucker%202018%20SATNAC%20.pdf?sequence=1&isAllowed=y/>

²⁴ Duggan M. Online Harassment. *Pew Research Center.* 2014. <http://www.pewinternet.org/2014/10/22/online-harassment/>

²⁵ Ojanen TT, Boonmongkon P, Samakkeekarom R, Samoh N, Cholratana M, Guadamuz TE., *Connections between online harassment and offline violence among youth in Central Thailand. Child abuse & neglect*, 44: 159-69 (2015), <https://pubmed.ncbi.nlm.nih.gov/25913812/>

²⁶ Temple JR, Choi HJ, Brem M, Wolford-Clevenger C, Stuart GL, Peskin MF, Elmquist J., *The temporal association between traditional and cyber dating abuse among adolescents*, *Journal of youth and adolescence*, 45(2): 340-9 (2016), <https://pubmed.ncbi.nlm.nih.gov/26525389/>

²⁷ Yahner J, Dank M, Zweig JM, Lachman P. *The co-occurrence of physical and cyber dating violence and bullying among teens*, *Journal of interpersonal violence*, 30(7): 1079-89 (2015), <https://journals.sagepub.com/doi/10.1177/0886260514540324/>

²⁸ Zweig JM, Dank M, Yahner J, Lachman P. *The rate of cyber dating abuse among teens and how it relates to other forms of teen dating violence*, *Journal of youth and adolescence*, 42(7): 1063-77 (2013), https://www.researchgate.net/publication/235629905_The_Rate_of_Cyber_Dating_Abuse_Among_Teens_and_How_It_Relates_to_Other_Forms_of_Teen_Dating_Violence/

²⁹ Duggan M. Online Harassment. *Pew Research Center* (2014), <http://www.pewinternet.org/2014/10/22/online-harassment/>

- **“The violence is often sexual.** Perpetrators threaten sexual violence or disparage appearance and sexual desirability.”³⁰
- **“Technology-facilitated GBV can have severe impacts on victims/survivors.** Impacts include emotional distress, loss of status, decreased productivity and suicide.”³²
- **“Overall, there are few interventions that specifically address technology-facilitated GBV.** While there are promising interventions out there, they are mostly small- scale and untested. Even fewer interventions aim to *prevent* technology-facilitated GBV. The solutions that do exist tend to focus on supporting victims/survivors to report and document their experiences and on connecting them to community and institutional support services. Other programs are designed to support local initiatives and grassroots movements to raise awareness of the issue.”³³
- **“Technology-facilitated GBV is a nascent field.** Terminology, definitions and measures are still inconsistent. Terms like cyber violence, cyber aggression, digital abuse and online victimization are used interchangeably, making it difficult to differentiate between them and measure them.”³⁴

ONLINE ANTI LGBTQIA+ HATE CRIMES

Social equality is a notion that covers plethora of aspects and does not have an exhaustive definition, it is a state of affairs in which all the people have the same status, including civil rights, freedom of expression and other such rights. Social equality suggests that equality is foremost about relationships and interactions between people, rather than being primarily about distribution.³⁵ It is pretty clear that only awarding equal rights and status to people does not satisfy their hunger of social recognition, people should have social relationships with others

³⁰ Citron DK. *Law's expressive value in combating cyber gender harassment*, Michigan law review, 373-415 (2009), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1300&context=mlr/>

³¹ Mantilla K. *Gendertrolling: How Misogyny Went Viral*. ABC-CLIO.(2015), <https://publisher.abc-clio.com/9781440833182/>

³² Bauman S, Toomey RB, Walker JL. *Associations among bullying, cyberbullying, and suicide in high school students*, JOA 36(2): 341-50 (2013), https://www.researchgate.net/publication/234697282_Associations_among_bullying_cyberbullying_and_suicide_in_high_school_students/

³³ Hinson L, Mueller J, O'Brien-Milne L, Wandera N, *Technology-facilitated gender-based violence: What is it, and how do we measure it?* Washington D.C., International Center for Research on Women (2018).

³⁴ Supra Note 31.

³⁵ *Fourie Carina*, Schuppert Fabian, Wallimann- Helmer, Ivo; *Social Equality: On what it means to be equal*, NY: Oxford University Press (2015), <https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780199331109.001.0001/acprof-9780199331109/>

and moreover should be socially accepted. Be it the poor or a rich everybody seeks social respect absence of which makes one's life miserable. Similarly the LGBTQIA+community struggles for such social recognition, respect and acceptance. LGBTQIA+includes lesbian, gay, bisexual, transgender and queer. This community faces social challenges at a daily basis and struggles to mark their presence respectable.

Sexuality forms the fundamental part of a person's identity. Sex is Nothing but a cultural translation that translates to "gender" and is perceived to adhere to a series of rules, values, traits and behaviours that are acquired and transmitted through socialisation, especially within the family and social setup. Family and the society within which an individual is raised have very important roles within cyberbullying, as they have a basic function to ensure the security of adolescents and other young people, along with the police and legal system. Furthermore, they are basic agents in their socialisation, a process by which people become aware of their rules, values, attitudes and beliefs. All of these, help them form their identity and acquire certain roles within society.

Prejudice against LGBTQIA+ community and gender stereotypes are two primary grounds for cyberbullying behaviour toward LGBT students. These hate crimes are primarily driven by the idea of a sexual/gender deviant to be a choice, intrinsically wrong, unnatural and unacceptable in the society.

"Sissy-phobia" is "defined as the rejection of people who do not fulfil conventional gender stereotypes associated with their biological sex."³⁶ It stands to be a major cause behind "cyberbullying towards LGBT people. This suggests that, just as with non-virtual LGBT-phobic bullying (COGAM, 2016)", stereotypical mindsets and confusion between the concepts of gender and sexual identity are the underlying cause of the LGBTQIA+-phobic behaviour of some cyberbullies. "LGBT biases are connected to the overstepping of gender roles, and share a sexist conception about sexuality, which is reflected in students who bully. Individuals that come out of the closet suffer more LGBT-phobic attacks than those who do not."³⁷

³⁶ COGAM. Benítez, E. (COORD), *LGBT-phobic Cyberbullying. New forms of intolerance. Madrid: COGAM Education Group* (2016). https://www.ilga-europe.org/sites/default/files/Attachments/es_-_cyberbullying_lgbt-phobic.pdf

³⁷ Supra Note 34.

“Moreover its one’s own perception and motivation that matters, If one thinks that one was targeted because of one’s actual or perceived sexual orientation or gender identity, then such a crime shall be recorded as hate crime.”³⁸

FORMS AND MEANS OF CYBER CRIMES FACED BY LGBTQIA

Messages with insulting content are the form of LGBT-phobic cyberbullying. And it is mostly followed by humiliating, derogatory and denigrating photographs or images. In certain cases. humiliating and inappropriate impersonation of the victims also takes place and a video filled with such denigration is set out to be viral over such public platforms. Forms of LGBT-phobic cyberbullying can also be combined, and one person can be victim to several of them. The mediums most commonly used by LGBT-phobic cyberbullies are social networks such as (Facebook, Reddit, Instagram, Twitter, etc.), followed by instant messaging applications (WhatsApp, Line, Telegram, Messenger, Skype, Kik, and Ask), blogs (Instagram, Tumblr, Pinterest, etc.), video websites (YouTube, Google videos, etc.), and to a lesser extent, phone calls and text messages. Bullies use in many cases a combination of mediums to perpetrate LGBT-phobic attacks on the Internet.”³⁹

Examples:

- Trying to damage one’s reputation by making false comments.
- Accusing one of things they haven’t done.
- Tricking other people into threatening someone.
- Identity theft.
- Setting up profiles in the victim’s name.
- Electronic sabotage.
- Doxing: publishing personal information about you (including sexual videos and photos, which is sometimes called ‘revenge porn’).
- Cyber-stalking.
- Blackmail.
- Encouraging other people to be abusive or violent towards groups of people etc.

³⁸ Galop, <https://www.galop.org.uk/what-is-online-anti-lgbt-hate-speech-and-hate-crime/>

³⁹ Supra Note 3.

ONLINE PLATFORM POLICIES AGAINST CYBERBULLYING

It's an undeniable fact that most of instances of cyber bullying happens on social media and other Internet intermediaries that offer messaging services. Most of these platforms allow open conversations for various purposes such as: gaming, dating etc. There are certain dating platforms which are specially LGBTQIA+ centric and even these platforms in most cases are not able to protect their customers from cyber bullying in some of the other shape or form. Although most of these platforms prohibit cyber bullying in some way or the other by mentioning it in their terms and conditions clause. but then the pitfall still remains because most of these online platforms are known for not being able to effectively back these policies. As a result of which victims find it difficult to report offensive behaviour and seek remedy.

Ironically, despite having public policies that stand against cyber bullying irrespective of the identity of an individual, some of these platforms themselves have been accused of discriminatory behaviour at several instances. For instance, reports suggest that some queer content through “shadow bans.” These bans don't remove images but instead strategically hide them from users. The recently popularized video creation and sharing platform, Tik-Tok, has also been accused of censoring LGBTQIA+ content.”⁴⁰

That being said, some related excerpts from the terms and conditions clause of popular platforms has been provided:

Facebook

“Do not target private adults (who must self-report) or any private minors or involuntary minor public figures with claims about romantic involvement, sexual orientation or gender identity.”

Twitter

“You may not promote violence against or directly attack or threaten other people on the basis of race, ethnicity, national origin, caste, sexual orientation, gender, gender identity, religious affiliation, age, disability, or serious disease. We also do not allow accounts whose primary purpose is inciting harm towards others on the basis of these categories.”

Instagram

“Respect other members of the Instagram community.” : which basically signifies the idea of being unacceptable of content including threats , hate speeches and any content that

⁴⁰Aimee O'Driscoll, *LGBTQ Cyberbullying: A guide for parents and educators*, COMPARITECH (May 22, 2020), <https://www.comparitech.com/blog/vpn-privacy/lgbtq-cyberbullying/>

disseminates ideas of hatred , disrespect , degradation, harassments to an individual based on their ethnicity , national origin , sexual orientation, gender identity, religious beliefs etc.

SURVEY CONDUCTED

The researchers conducted a remote survey where the data collected has been utilised to understand a pattern in the gender based interpersonal cybercrimes committed against gender and sexual minorities on the internet, define the online spaces where such cyber bullying takes place, and learn about the ways and forms in which it most frequently takes place.

The method of data collection used for the paper was a questionnaire. It was a survey consisting of a mix of closed-ended and open ended questions and a space at the end for students to give opinions or comment on their personal experience. It was the posted on various LGBTQIA+ spaces online, and was open for members of the community to be a part of. The questionnaire consisted of bot, open and closed ended questions, and a space for the respondents to share the experiences which the questionnaire failed to cover.

In the survey conducted, 55.6% of the respondents identified as cisgender females. The remaining respondents were equally divided as being gender-fluid, transgender males, transgender females, and cisgender males, out of which 88.9% identify as being a part of the LGBTQIA+ community. Specifically, the majority of the respondents identify as either bisexual or heterosexual (28.6 % each). The remaining respondents identified as either pansexuals, homosexuals, or asexuals (14.3% each).

A majority of the respondents actively use social media (88.9%), out of which 55.6% are open about their gender identity and/or sexual orientation, on their social media handles. Unsurprisingly, a similar percentage of respondents have been subject to offensive remarks/behaviours from others over their sexual orientation and/or gender identity, while 44.4% have not. This may be due to a number of factors, like not being open about their gender identity and/or sexual orientation online. 77.8% of the respondents have not received threats online because of being a part of the LGBTQIA+ community, but 66.7% have been subject to LGBTQ phobia. This is surprising, since whereas only 55.6% of the respondents are open about their gender identity and/or sexual orientation online, 66.7% have still been subject to LGBTQ+ phobia. This goes on to show that the bias against the community is not only directed

towards people who are known to be a part of the community, but offensive remarks and comments are also thrown about generally, for anyone who cares to read/listen to these remarks, leading to discomfort and bullying of members of the community despite not being out yet.

As stated above, there are various types of cyber-crimes that can be faced by these individuals. The survey showed that 50% of the respondents have faced sexuality based cyber-crimes, while 16.7% have been swindled and a similar number have been subject to sexual offences and interpersonal cybercrimes.

DISCLAIMER: Questions related to personal identity such as name nationality age etc. Were excluded from the questionnaire in order to create a safe , comfortable and judgment free environment for the subjects of the survey.

THE QUESTIONS ASKED FETCHED THE FOLLOWING RESULTS:

- **GENDER**



Fig. 1

37.5% of the respondents identify as cisgender females and the other 37.5% identify as cisgender males. The remaining respondents were equally divided as being gender-fluid, transgender males, transgender females, and cisgender males.

- **ARE YOU A PART OF LGBTQIA+ COMMUNITY?**

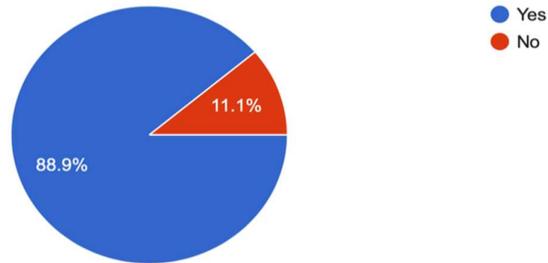


Fig. 2

88.9% of the respondents identify as a part of the LGBTQIA+ community.

- **SEXUAL ORIENTATION**

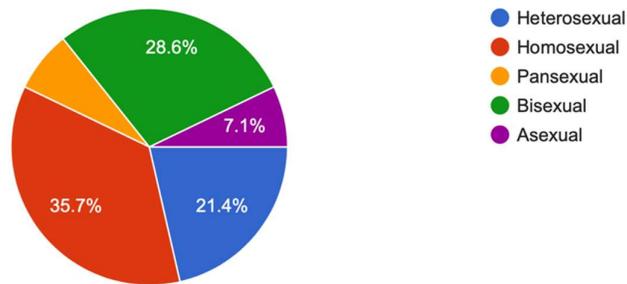


Fig. 3

The majority of the respondents identify as either bisexual or homosexual (28.6 % each and 35.7% respectively). The remaining respondents were identified as either pansexuals, heterosexuals, or asexuals.

- **DO YOU USE SOCIAL MEDIA?**

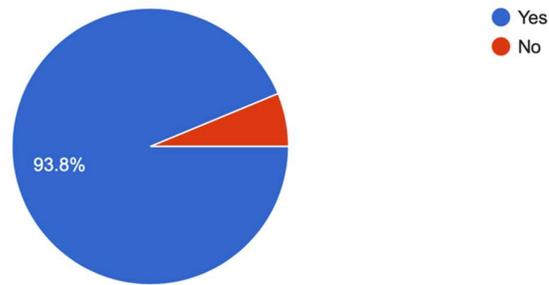


Fig. 5
The majority of people reported to be actively using social media.

- **ARE YOU OPEN ABOUT YOUR GENDER IDENTITY OR SEXUAL ORIENTATION ON YOUR SOCIAL MEDIA HANDLES?**

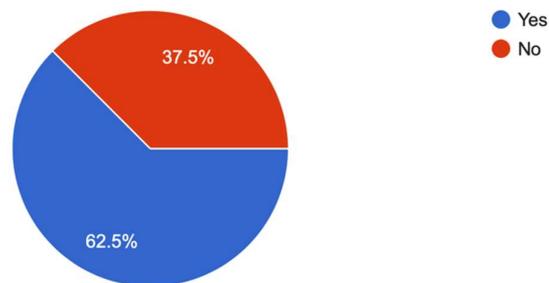


Fig. 6
62.5% of the respondents are open about their sexual orientation and/or gender identity on their social media handles while 37.5% are more private about it.

- **HAVE YOU EVER BEEN OFFENDED BY SOMEONE OVER YOUR SEXUALITY/GENDER OVER THE INTERNET/SOCIAL MEDIA?**

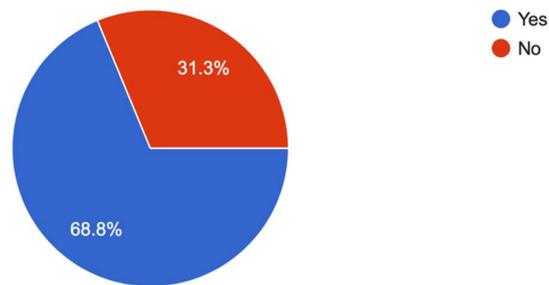


Fig. 7

Similarly, the same number of people have been subject to offensive remarks/behaviours from others over their sexual orientation and/or gender identity, while 31.3% have not. This may be because these people are not open about the same on their social media profiles or if they are open about the same, might have private profiles which limits the audience to this information.

- **HAVE YOU EVER RECEIVED THREATS OF HARM OVER INTERNET/SOCIAL MEDIA BECAUSE OF BEING A PART OF LGBTQIA+ COMMUNITY?**

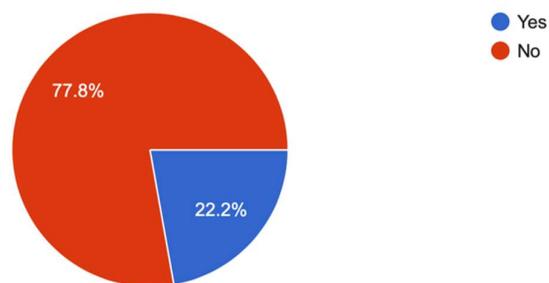


Fig. 8

77.8% of the respondents have not received threats online because of being a part of the LGBTQIA+ community, while 22.2% have.

- **HAVE YOU EVER BEEN SUBJECT TO LGBTQIA+ PHOBIA OVER THE INTERNET/SOCIAL MEDIA?**

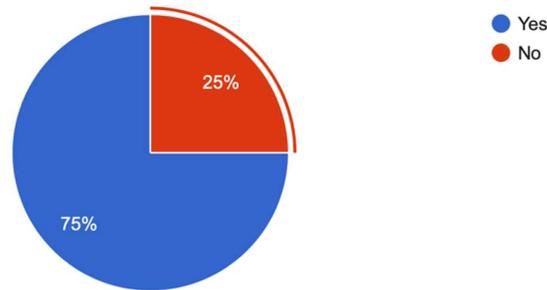


Fig. 9
75% of the respondents have been subject to LGBTQIA+phobia. This is surprising, since whereas only 62.5% of the respondents are open about their gender identity and/or sexual orientation online, 75% have still been subject to LGBTQ+ phobia. This goes on to show that the bias against the community is not only directed towards people who are known to be a part of the community, but offensive remarks and comments are also thrown about generally, for anyone who cares to read/listen to these remarks, leading to discomfort and bullying of members of the community despite not being out yet.

- **IF 'YES', WHAT TYPE OF CYBERCRIME WAS COMMITTED AGAINST YOU**

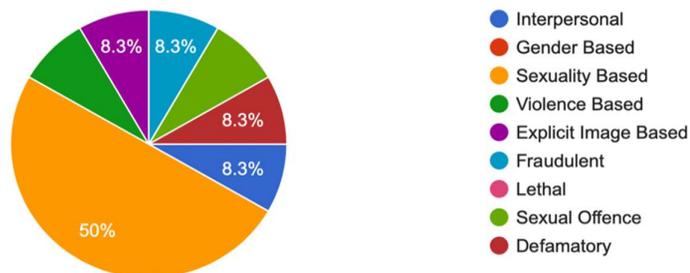


Fig. 10

As stated above, there are various types of cyber-crimes that can be faced by these individuals. The survey showed that 50% of the respondents have faced sexuality based cyber-crimes, while 8.3% have been swindled and a similar number have been subject to sexual offences and interpersonal cyber-crimes.

- **RESPONSE GIVEN BY SUBJECTS OF SURVEY SHOW HOW LGBTQIA+ PHOBIA IS A FACTOR THAT EXPLAINS ONLINE BULLYING AND OTHER OFFENCES COMMITTED AGAINST THEM:**

When asked about other such experiences faced on social media platforms, responses included instances of being blocked by childhood friends on social media due to the respondent's gender identity, being blackmailed and receiving threats of being outed by potential partners on dating apps, offensive name calling, abuses being hurled etc.

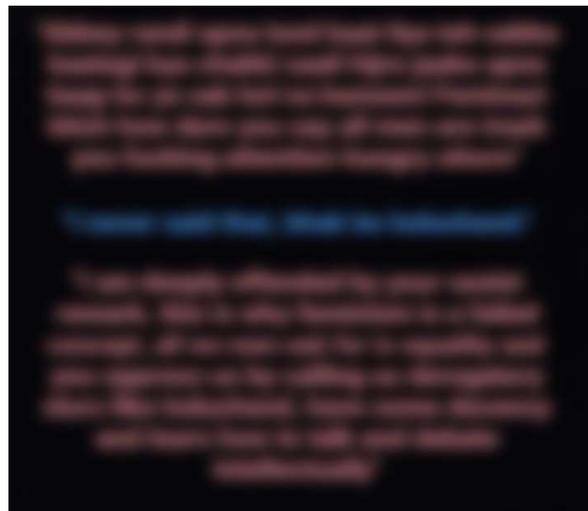
SECONDARY EVIDENCES FROM SOCIAL MEDIA:

- ***Trinetra Haldar Gummaraju*** Is a 23 year old transwoman who is a medical student who recently concluded her MBBS degree and is now interning at Kasturba Medical Hospital in Manipal. Trinetra had several challenges in her way in achieving the identity, body and soul of a woman. As hard as it is to imagine a life of a human who perceives themselves as someone who's born in a wrong body, Trinetra had her share of hardships which were much more than that. It took a long time for her to convince her parents for accepting her for who she was and it was followed by the second battle which was convincing her own self and her family to undergo the Gender Confirmation Surgery. She later joined several support groups which not only helped her through her physical transition but also to some extent relieved the mental agony she was going through. Trinetra on her social media has several times addressed the issue of acceptability of a trans doctor in the medical fraternity. Trinetra is also a famous Vlogger However, recently she shared a very empowering post

revealing her life journey. Her powerful Instagram post read, “Ch*kka, tr*nny, f*ggot, m*ttha, k*jja, and countless other titles were awarded. This day forward it’s ‘Doctor’.”⁴¹

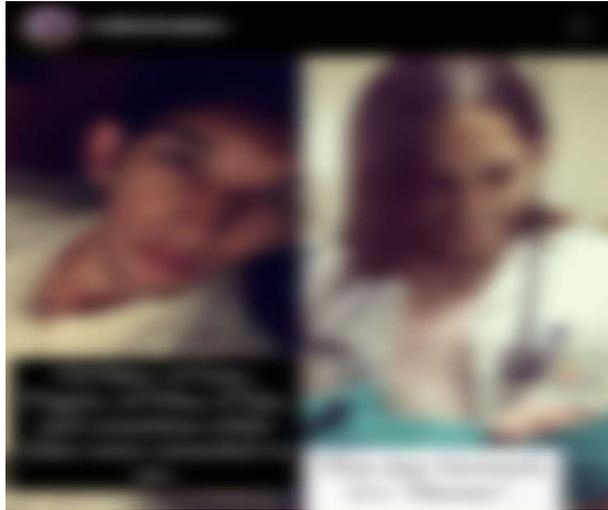


<https://www.instagram.com/p/CDLhaqojXHn/?igshid=tzsp0idrxjk6/>.



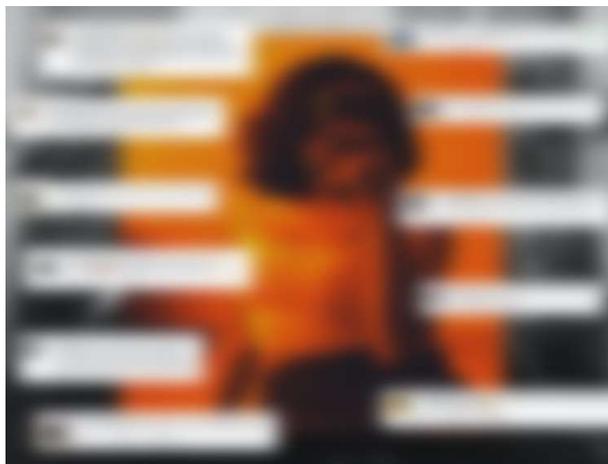
<https://www.instagram.com/p/CAFQEA6DyIk/?igshid=zekar5up09g0/>.

⁴¹ Rajshree Seal, *Against All Odds: The Inspirational Journey of Karnataka’s First Trans-woman Doctor*, INDIA.COM (November 29, 2020, 5:04 PM) <https://www.india.com/viral/karnatakas-first-trans-woman-doctor-trinetra-haldar-gummaraju-shares-inspirational-journey-against-all-odds-4231464/>



https://www.instagram.com/p/CG-c_ODj5CU/?igshid=dkgkjl6vyrj/

- **Prakriti Soni** is another 20 year old internet personality who is a student at Christ University whose preferred gender pronouns are she/her and identifies as transgender woman.



<https://www.instagram.com/p/CNSW884DJpy/?igshid=1lssvnhalif7r/>

CYBER-BULLYING AND MENTAL HEALTH

Any act done with the intent of degrading the dignity of a fellow human being is by its very nature responsible to affect the self-esteem, confidence and all the different aspects of mental health adversely, be it a physical act or within the cyberspace. Cyberbullying has the potential to cause more devastating repercussions than the other traditional forms of violence because of its wider reach among the audiences, mass distribution of denigrating data and the weapon of anonymity that technology today is capable of providing. Recent studies have shown that cyberbullying can result in emotional distress, depression, anxiety, and suicidality.^{42,43,44}

Cyberbullying causes depression and suicidal ideation among children and adults. Therefore, it is associated with negative mental and psychological repercussions in children and youths, which makes it serious public health concern. Internet has become such an inevitably eminent part of an individual's life today that despite the amount of power it holds due to its pervasive nature, the use of it can still not be deterred let alone stopped completely. Despite the amount of benefits and opportunities that has been enabled by mobile technologies, it has also been a concern about the dramatically growing rate of harmful and problematic online activities. It involves deliberate actions of malice and harassment against youth and children. People who identify themselves as part of the LGBTQIA+ plus community are already fighting various battles on personal and professional level. Cyber-bullying behaviour driven by for beyond hatred towards the LGBTQIA+ not only adds to the miseries of such individuals but also substantially deteriorates their mental health situation. This results in creating vulnerable, extremely sensitive individuals with low self-esteem, frequently questioned self-worth, suicidal ideations, socially withdrawn individualism, passive aggressive behaviour.⁴⁵

PUNISHMENT FOR INTERPERSONAL CYBER-CRIMES IN INDIA

⁴² Beran, T., & Li, Q, *The relationship between cyberbullying and school bullying*. *Journal of Student Wellbeing*, 1(2),15–33(2007),

https://www.researchgate.net/publication/237505515_The_Relationship_between_Cyberbullying_and_School_Bullying/

⁴³ Ybarra, M. L., Mitchell, K. J., Wolak, J., & Finkelhor, D. *Examining characteristics and associated distress related to internet harassment: Findings from the second youth internet safety survey*, *Pediatrics*, 118(4), e1169–e1177 (2006), <https://pubmed.ncbi.nlm.nih.gov/17015505/>

⁴⁴ Goebert, D., Else, I., Matsu, C. *et al. The Impact of Cyberbullying on Substance Use and Mental Health in a Multiethnic Sample*. *Matern Child Health*, J 15, 1282–1286 (2011), <https://link.springer.com/article/10.1007/s10995-010-0672-x/>

⁴⁵ Choi, Weston, & Temple, 2016 H. Choi, R. Weston, J. Temple, *A three-step latent class analysis to identify how different patterns of teen dating violence and psychosocial factors influence mental health*, *Journal of Youth and Adolescence*, 46 (4), (2016), <https://pubmed.ncbi.nlm.nih.gov/27709405/>

The term 'interpersonal cyber-crime' has not been defined in any statute or rule book in India. However, as stated above, the *Information Technology Act, 2000*, does classify certain acts as cyber-crimes, some of which are interpersonal in nature. Laws penalising such crimes can be found in various statutes and regulations. The Information Technology Act, 2000 and Indian Penal Code, 1860, penalise some of such crimes. Relevant provisions of the same have been discussed below.

Identity theft and Cheating by Personation- A person is said to cheat by personation, if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is, irrespective of whether the individual impersonated is a real or imaginary person.⁴⁶ The IT Act, 2000, prescribes imprisonment of either description for a term which may extend to three years, and also fine which may extend to rupees one lakh, for dishonestly or fraudulently making use of electronic signature, password, or unique identification number of any other person.⁴⁷ Section 66-D of the Act provides the same punishment to any person who, by means of any communication device or computer resource cheats by personation.

Cheating by personation is also made punishable under Section 419 of IPC, with imprisonment of either description, which may extend to three years, or with fine, or both.

Violation of Privacy- Section 66-E of the IT Act prescribed punishment for any person who, intentionally or knowingly, captures, publishes, or transmits the image of the private area of any person, without his or her consent, under circumstances violating the privacy of that person. The prescribed punishment under this section is imprisonment of either description which may extend to three years, or with fine not exceeding two lakh rupees, or both.

Obscenity- Punishment for publishing or transmitting obscene material in electronic form, for publishing or transmitting of material containing sexually explicit act etc, in electronic form, and for publishing or transmitting of material depicting children in sexually explicit act etc in electronic form, are provided in Sections 67, 67A and 67B of the IT Act, respectively. Under Section 67 of the Act, the prescribed punishment is imprisonment of either description for a

⁴⁶ Section 416, Indian Penal Code, 1860 (India).

⁴⁷ Section 66-C, Information Technology Act, 2000 (India).

period which may extend to a period of three years, and with fine which may extend to five lakh rupees, and upon second or subsequent conviction, imprisonment of either description which may extend to five years, with fine which may extend to ten lakh rupees. Section 67A and 67B prescribe, upon the first conviction, imprisonment of either description for a term which may extend to ten years, accompanied with fine which may extend to ten lakh rupees, and upon second or subsequent conviction, imprisonment of either description which may extend to seven years, and also with fine which may extend to rupees ten lakh.

Offences of a similar nature are also made punishable under the Indian Penal Code punishes any person, who, inter alia, distributes, publicly exhibits, or brings into circulation, in any manner whatsoever, any obscene drawing, painting, representation, etc, or any other obscene object, shall, upon first conviction, be punishable with imprisonment of either description, which may extend to two years, and with fine which may extend to Rs two thousand, and upon second or subsequent conviction, with imprisonment of either description which may extend to five years, with a fine which may extend to rupees five thousand.⁴⁸

Cyber Stalking- Section 354-D of the Indian Penal Code recognizes stalking as an offence, which also includes cyber stalking. The section states that any person who commits the offence of stalking shall be punished, on first conviction, with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and upon second or subsequent conviction, be punished with imprisonment of either description which may extend to five years and shall also be liable to fine. However, protection under this section is only available to women, meaning men belonging to the LGBTQ+ community, and transgender people shall not be able to seek protection under this section.

CONCLUSION

- LGBT-phobic cyberbullying has become a new and specific form of hatred and intolerance on the Internet.
- LGBT-phobic bullying on the Internet is a complex phenomenon in which both- people close to victims and complete strangers may be involved.

⁴⁸ Section 292, Indian Penal Code, 1860 (India).

- The exponential increase in the number of social media intermediaries and other kinds of internet intermediaries that are set in place are providing growing access to ITC devices and software which is thereby responsible for the increase in percentage of victims who claim to have witnessed LGBT- phobic cyber bullying. With internet being the inevitably most pertinent need of today, the access of it is available to anyone and everyone who is able to afford an ITC device or any other device that facilitates communication and use of internet.
- Moreover, committing crime in a physical world might be perceived as more intimidating than committing a crime of similar nature over the internet which automatically increases the rate of cyber-crimes.
- Since the sample size is relatively smaller than the overall members of the community, the incidents of interpersonal cyber-crimes against the community may be much more frequent than what the results indicate.
- 75% of the respondents have been subject to queer phobia in the online space, despite a much lesser number being open about them being a part of the LGBTQIA+ community.
- The survey reveals that the most common kind of cybercrime faced by the community is sexual in nature, whereas 8.3% of the respondents reveal having been swindled and a similar number have been subject to defamatory and interpersonal cyber-crimes. 8.4% of the respondents have been subject to each- sexual and violence-based cybercrimes.
- Insufficiency of information and training, and lack of apathy on the part of authorities towards such issues contribute to the victims being reluctant in reporting such cases.

RECOMMENDATIONS

Based on the results and conclusions presented in this report, the researchers find it pertinent to propose certain general measures to curb this form of hate and intolerance against the LGBT+ community on the Internet:

- It is rightly said that education and basic life learning starts from home which thereby makes it one of the preliminary duties of a parent to be consciously aware and sensitive about anything and everything that happens in their child's life. Although there's a high probability that the youth be it teenagers or adults are less likely to inform their parents about any instances of bullying that they might have faced. The best way parents can offer support to their child is by creating a safe and judgement free environment for them to

come out of the closet and be comfortable enough to talk about their instances of victimization.

- Secondly, in case the victim is open about the incident in their domestic environment, the parent or the guardian should avoid complete restriction of internet use. It is understandable to think that limiting internet usage would lessen the chances of potential victimization. No matter how much sense this argument makes, it's still not the ideal way to go. Depriving the child of the opportunity to navigate the online world would also deprive them of gaining exposure, building friendships, meeting like-minded people across the globe. Thereby, would add redundancy to an overall development of youth, especially for LGBTQIA+ individuals.
- A leading argument in most discourses of similar nature is that in order to avoid being subjected to interpersonal cyber-crimes, the queer folk should limit the people who are made aware of their sexuality and/or gender identity, meaning, the social media profiles should be set to the *private* setting, instead of *public*. This argument is based on the opinion that this setting would enable the person to make sure that only trusted individuals are able to get access to such information. However, this prevention strategy not only holds the victims accountable for their own victimization to a great extent but also puts the undue burden of prevention of interpersonal cyber-crimes on the victims themselves, rather than the institutions that should be responsible for the same. Not only does this strategy condone victim blaming, by implying that an offence took place because the victim failed to prevent it, it also restricts their freedom of speech and expression granted by the Constitution of India. It puts a duty on the queer community to not be their true selves fully, in order to protect themselves from being subject to cyber-crimes. Therefore, rather than promoting this strategy for prevention of interpersonal cyber-crimes, the real recommendation should be for the law makers to create such strict mechanisms that ensure prompt punishment to such offenders and create a safe online space for everyone, irrespective of their gender identity and sexual orientation. Despite the existence of laws punishing such crimes, the concerned authorities should be educated and trained to make the reporting of such acts a comfortable and safe process for the victims.
- Gender neutral laws are the need of the hour. Laws, especially laws relating to sexual offences, should be made gender neutral. With transgenders being recognised as a legal gender identity, and the decriminalisation of homosexuality, it is high time for the legislature to realize and acknowledge that such offences can be committed by people of

all genders, and against people of all genders. Protection against cyber stalking under Section 354-D is only available to women. This means that if the offence is committed against a person of any other gender, whether belonging to the LGBTQ+ community or not, the perpetrator shall not be punishable under this section. Similarly, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, includes any form of sexual harassment at workplace, when it is subjected to a woman. The idea that only women can be subjected to such offences needs to change.

- Adjusting one's privacy settings of different Internet forums would also prove beneficial in dodging potential cyber victimization. Thus, it becomes the duty of the parents or guardians, academic administration, media forces and the legal system to lay more stress over the necessity of education in the field of cyberspace to ensure safety and security of one and all present in the society including the LGBTQIA+ community which is undoubtedly one of the most targeted mass of individuals for any form of crime, be it in person or over the internet.
- In the light of the directives that were put forth by the *Hon'ble Madras High Court* on June 7th, 2021 in a judgment rendered by *Justice N Anand Venkatesh*, the educational institutions, judiciary, police and prison authorities and physical and mental health professionals were all directed to develop sensitised regimes in order to provide effective assistance today LGBTQIA+ community across the country.⁴⁹

The judgment entailed responsibilities like sensitisation of parents, students on issues of LGBTQIA+ community in order to ensure supportive domestic environment. The court also directed for necessary amendments to policies and resources in order to be inclusive of LGBTQIA+ community in all spheres of educational life, be it creating gender neutral restrooms, appointing counselors, setting up a grievance redressal mechanism and provide effective solutions for LGBTQIA+ grievances.

The court also recommended the judicial officers of all levels to coordinate with various NGOs across the country and raise awareness and support for this community. It also suggested for the police and prison authorities to take up programs that could sensitise

⁴⁹ S Sushma v Commissioner of Police, 2021 (India)

individuals within the police fraternity and outside it about the offences that take place against the LGBTQIA+ community and take steps prevention and protection of the same.

Physical and mental health professionals were endowed with the responsibility to conduct campaigns and awareness programs to educate people on subjects of gender , sexuality and promote acceptance of diversity. A ban was imposed on any sort of medical practice, therapy or any attempt to “cure” or “alter” the sexual orientation of an individual in order to fit them in the heteronormative blanket of the society.

- Finally yet importantly the various LGBTQIA+ rights assistance websites, social media groups should take the responsibility of ensuring security of these individuals as well as others sharing the platform from any potential instance of cybercrime, in their own hands. For example, the LGBT Subreddit, LGBTQIA+ Facebook page, LGBT-India Instagram page etc. should sensitise people over the appropriateness of the content, differences between offensive and inquisitive comments and also schemes and redressal mechanisms that these platforms provide for this purpose.

However repetitive the term “*sensitization*” may sound, it still remains the most challenging aspect to achieve and once achieved would prove to be the most logical and efficient method to reach our goals of building a life full of dignity for the LGBTQIA+ community in and outside India.