

Laws



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Relating to Sextortion



LAWS RELATING TO SEXTORTION

Life without internet does not seem like a possibility any more. This holds more in the trying times like these, when most of us are confined within our houses forced to lead a normal life or a semblance of it. From accessing our emails, posting updates on social media, reading the news, purchasing supplies or to just use Whatsapp, none of our everyday activity is possible without the internet. With numerous transactions and vast amount of data being exchanged regularly, there is a high risk of sensitive information being leaked. One such crime that involves sensitive information in the hands of the wrong person is Sextortion. According to the Delhi cyber crime police¹, the perpetrator hacks into the computer of the victim and keeps a track on their activities and browsing history. Supposing the victim visits a porn site, the hacker collects all data of that user and then threatens to publish it to the public if the demanded sum/ favour is not granted.

Sextortion can also find its roots from corruption², wherein the person in the place of authority or power demands sexual favour from the subordinate. The Ministry of Home Affairs has stated that, "Online Sextortion³ occurs when someone threatens to distribute private and sensitive material using an electronic medium if he/ she does not provide images of a sexual nature, sexual favours, or money." In India, we still do not have a law that deals specifically with the crime of Sextortion. However, the Indian Penal Code defines Extortion⁴ as "Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

Both the genders of the society are susceptible to the crimes of Sextortion. Further, according to the National Crime Records Bureau in 2016, the number of cybercrime cases pertaining to sexual exploitation and outraging the modesty of a woman were 686 and 569, respectively. Though 829 people were arrested for transmission of sexually explicit content, charge sheets were filed only against 484⁵. Women particularly seem to be vulnerable to the crimes of Sextortion. The National

¹ 'Number of Extortion cases on rise: Police', 05 February, 2020, <https://www.outlookindia.com/newscroll/number-of-sextortion-cases-on-rise-police/1727102>

² "How to curb sextortion, violence against women – Amaechi", Punch, Nigeria July 2, 2012.

³ <https://cybercrime.gov.in/Webform/CrimeCatDes.aspx>.

⁴ Section.383, The Indian Penal Code, 1860.

⁵ 'Of sextortion, laws, and what victims of this crime can do', April 27, 2018, <https://www.thehindubusinessline.com/news/national/of-sextortion-laws-and-what-victims-of-this-crime-can-do/article23726557.ece>.

Commission for Women (NCW) has seen a stark rise in complaints of Sextortion, which has doubled during the recent lockdown due to COVID – 19 than the numbers recorded in February and March⁶.

In India the following laws govern sexual abuse:

- i. The Protection of Women from Domestic Violence Act, 2005⁷, this law was enacted to provide recourse to women suffering from domestic abuse;
- ii. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁸, this act provides protection to woman against sexual harassment at workplace.
- iii. Section 354 (A to D) of the Indian Penal Code 1860⁹, lays down punishments for different types of sexual offenses.
- iv. Section 376(2)¹⁰ talks about rape due to abuse of authority in specific situations¹¹.
- v. Section 108(1)(i)(a) of the Criminal Procedure Code, 1973¹² has been amended to give the victim the power to contact the magistrate and file a complaint directly to the magistrate about the circulation of obscene material.
- vi. The Protection of Children from Sexual Offences Act, 2012¹³, is aimed to tackle issues of sexual exploitation of children.
- vii. Information Technology Act, 2000 also cover certain sexual offences dealing with cyber-crime¹⁴.

In the International scenario there are a few countries that have understood the necessity to have a law that curbs and punishes crimes related to Sextortion. The Criminal Codes of the Federation of Bosnia and Herzegovina have specified the offense of ‘Sexual Intercourse by Abuse of Position¹⁵’. The Philippine Anti-Rape Law of 1997 covers rape by means of ‘grave abuse of authority¹⁶’ and the

⁶ ‘Cyber Crime against Women Spike under COVID 19 Lockdown’, 4 May, 2020, <https://theswaddle.com/cybercrime-cases-against-women-spike-under-covid19-lockdown/>.

⁷ The Protection of Women from Domestic Violence Act, 2005.

⁸ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

⁹ Section.354 (a), 354 (b), 354 (c), 354 (d), The Indian Penal Code, 1860 (Act 45 of 1860).

¹⁰ Section 376(2), The Indian Penal Code, 1860.

¹¹ Section.376 (2), The Indian Penal Code, 1860.

¹² Section 108(1)(i)(a) of the Criminal Procedure Code, 1973.

¹³ The Protection of Children from Sexual Offences Act, 2012.

¹⁴ Section. 66, 66e, 67A, 67B, The Information Technology Act, 2000.

¹⁵ Art. 205(1), The Criminal Code of the Federation of Bosnia and Herzegovina, 2003.

¹⁶ Article 266-A(1)(c) Republic Act No. 8353, The Anti Rape Law of 1997.

Tanzania Sexual Offences Special Provisions Act of 1998¹⁷ applies to a person ‘who takes advantage of his official position’ to commit rape. The United States of America has enacted ‘Workhouse Statute’¹⁸ which addresses the crime of Sextortion which occurs interstate.

It is essential to have a law that specifically tackles the crime of Sextortion and crimes related to it. It is important to understand that the crimes of Sextortion are not just limited to the internet but are also identified occurring in relationships of employment, education, family, etc. If the crime of Sextortion is not defined and the sanctions are not expressly laid out, it is difficult to charge the perpetrator and hold them accountable. It also necessary to have dedicated personnel and trained officers who are able to trace, track and nab the criminal, and simultaneously be able to offer the right kind help to the victims.

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¹⁷ Article 131(a) The Sexual Offences Special Provisions Act, 1998.

¹⁸ ‘Cyber Sextortion and International Justice’, Benjamin Wittes, 48 Geo. J. Int’l L. 941 (2017).