Stalking - Part II

Click here for Part I

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What is the issue?

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- Despite the rising number of cases, the conversation on sexual violence in India continues to be centred on rape.
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- Other trivialised forms of violence against women essentially need discussions and legislations for protecting the complete rights of women.
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What are the flaws in the laws?

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- Following the public outrage after the Nirbhaya gang rape case in 2012, the **Criminal Law (Amendment) Act, 2013** came into force.
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- It expanded the scope of rape, penalised voyeurism and eve-teasing and also defined and recognised stalking as a standalone offence.
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- Under this, Section 354-D of the IPC makes both **physical and electronic stalking** an offence.
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- Two provisions in this regard has to be noted –
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1. Under **subsection 1**, the intention of the perpetrator is irrelevant as long as the woman in question “has clearly expressed her disinterest”.
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2. **Subsection 2** criminalises the monitoring of a woman’s online behaviour.

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- There is an opinion that subsection 2 has the potential to be used arbitrarily.
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- Verma Committee draft stated that online monitoring should amount to stalking only when it results “in a fear of violence or serious alarm or distress in the mind” of the victim.
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- Further, there are three **exceptions** to the offence if the conduct was:
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i. pursued for prevention or detection of crime by a person authorised to do so.
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ii. pursued under any law.
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iii. reasonable and justified in the circumstances.
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- Here, exception iii seems to be vague, and it can prove to be an escape clause given that stalking is culturally normalised.
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- Such loose drafting leaves **scope for misinterpretation** and subsequent denial of justice to the victim.
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What should be done?

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- Stalking and eve-teasing are not given the same importance as other “grave” forms of sexual violence such as rape.
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- These are often normalised, romanticised and encouraged especially in **popular culture** such as the Indian cinema.
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- But offences such as stalking, voyeurism and eve-teasing deprive women of their fundamental right to occupy public space without fear.
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- The perception that violence against women must necessarily involve some form of bodily harm should definitely change not only with the law but also with the society.
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Source: The Hindu

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