

SOCIAL MEDIA AND LEGAL IMPLICATIONS IN INDIA

Dr.G. Adinarayana

Associate Professor, PG Department of Law

Sri Venkateswara University, Tirupati, Andhra Pradesh-517502

E-Mail: gujjala.adinarayana@gmail.com

Mobile No.9441387344

Introduction

Rapid technological advancement has produced a new cyber world. Information technology has made it easier for users to access and keep their personal data. Unfortunately, this has led to the misuse of this technology, resulting in domestic and international cybercrimes. Social networking has become essential to our lives. It changed our life by letting us create and share material with friends. We used to trust newspapers, TV, and radio. Users can now produce and share material with thousands of others thanks to social media. Social media implies user-centered, shared engagement. Social media facilitates or enhances human network webs that improve social connectedness. Social media uses the internet and mobile devices to share and exchange information. Technology, communications, and social interaction enable the exchange of ideas through text, images, moving images, and music. Social media attracts all ages, especially youth, because it lets them express themselves and discuss topics.

Different types of social media include Facebook, Instagram, Twitter, etc. Blogs, Vlogs, Social news, etc. make it accessible. Social media helps people stay current, stay connected with friends, family, and relatives, find information, bank, and do other things that make job easier. Social networking has several risks despite its benefits. People's replacement of face-to-face interaction with social media is the issue. Thinking you might miss out online may affect your mental health. This can also lead to more online time than offline. Any overuse can bring problems, not just social media.

International social media laws:

Germany has a law called Germany's NetzDG that requires them to remove illegal information within 24 hours and provide updates. If the content is not removed, they must pay a 5 million euro punishment per person and 50 million euro per company. Facebook was fined July 2019.

European Union—They focus on terror videos and fine users heavily if they don't remove them within one hour. EU's General Data Protection Regulations govern how firms and social media platforms utilise people's data. Member states must incorporate these standards into their laws by 2021.

Australia—it passed the Sharing of Abhorrent Violent Material Act in 2019, which carries a 3-year prison and 10% of global turnover as penalty. The Enhancing Online Safety Act was passed in 2015 to force social media companies to remove harassing and abusive posts or face fines of up to 525,000 Australian Dollars for companies and 105,000 for individuals.

Russia- Russia passed a bill in November 2019 to cut Internet connectivity in emergencies. According to their data law, they must store Russian data domestically. They also barred LinkedIn and punished Facebook for not complying with these guidelines and not disclosing their intention to comply.

China-Twitter, Google, and WhatsApp are restricted in China. They offer services through Weibo, Baidu, and Wechat. End of January 2019, China's Cyberspace Administration closed 733 websites and 9,382 mobile apps. They have cyber police that monitor social media for politically sensitive messages.

Indian Social Media Laws

Knowledge is readily available in our technologically evolved world. Since the media is so important, India has many media regulations and codes. Regulation is crucial because it is one of the developing industries and serves the public and national interest.

Information Technology Act

Section 66(a):

This clause states that anyone who transmits an inflammatory message by any means of communication that is specially meant to annoy, disseminate hatred, or criminally intimidate shall be penalised with imprisonment for up to three years and a fine.

Section 69(a):

This section states that the government has the power to limit or stop public access to any information that violates its policies and outlines the process for doing so. Whoever violates this provision will be imprisoned for up to seven years and fined.

Constitution of India

Citizens of India have basic rights under the constitution. These rights defend their essential life interest and provide recourse if violated. Free press/media is not specifically mentioned in Article 19 of the Indian constitution, but it flows from Article 19(a), which guarantees freedom of speech and expression. Dr. Ambedkar said, "Press freedom is essential for political liberty." Freedom is insecure when folks cannot openly communicate their opinions to each other. Freedom of expression is the foundation of free society and the means to maintain liberty.

"Free expression is unique among liberties". No clause specifically addresses press freedom, but it is included in free speech and expression. The press enjoys the same freedom and rights as citizens under freedom of speech and expression. Under article 19(a), journalists and editors can claim free speech and expression like any other citizen. As the Indian Press Commission correctly states, democracy cannot be safeguarded alone by the legislature; the people's opinion important, and what better channel than media/press?

Indian Penal Code

The Indian Penal Code is the country's criminal code. A comprehensive code, it covers all essential criminal law subjects. Anyone who breaks the following laws will face IPC charges.

- Section 295A¹
- Section 153A²
- Section 499³
- Section 505
- Section 509⁴
- Section 124A⁵

Other Laws

Anti- SLAPP – The statute gives protection to the defendants for suits relating to frivolous offences that bring to the exercise of free speech.

Laws under the Americans with Disabilities Act⁶– The Act is prevalent in the United States encourages and builds protection for disabled people and subsequently prohibits discrimination.

Computer fraud and abuse act as common-law trespass tort in the virtual world- There are acts of real property trespass even in the virtual world. Thus, this common law of torts helps to provide remedy and compensation for the victim.

¹ Section 295A: Intentional defamation of religion or beliefs.

² Section 153A: Promoting animosity among groups based on race, religion, etc.

³ Section 499, anyone who makes a defamatory comment in writing or verbally to harm someone's reputation bears legal consequences.

⁴ Section 509: Disrespecting women's modesty.

⁵ Section 124A: Sedition refers to a criminal conduct that incites resistance and could bring down the government.

⁶Americans with Disabilities Act 1990

Digital Millennium Copyright Act⁷– The Copyright Act brings the right to protect the work of authorship and sets out exclusionary rights with the help of such Act and provides limits to the liability of service providers.

Children online privacy protection Act (COPRA)⁸– As the name suggests, the following Act provides a certain limit to the collection of personal information of children under 13 years of age.

Federal Trade Commission- The Act covers the unfair trade policies around the world in e-commerce as well as in the real world. It permits investigations for such policies to punish those who avail.

Lanham Act⁹ – It is simply an Act that protects trademarks and service marks.

National Labor Relations Act¹⁰ – Each worker/employee must be provided with better working conditions in his/her workplace. Thus, this Act guarantees the rights of the employee to engage and participate in the activities that concern working in a safe and healthy workspace.¹¹

Landmark Judgments

1. Union of India v. ShreyaSinghal¹²

The Information Technology Act's provisions 66(a) and 69(a) were challenged for violating Article 19(1)(a) and Article 14 of the Indian constitution. The court ruled there is no understandable Intelligible Differentia. The internet is the same as other media for information. According to this landmark ruling, section 66(a) of the IT act infringed freedom of speech and expression under article 19(1)(a) of the constitution and was not rescued by article 19(2), which establishes reasonable restrictions. Sc claims section 66(a)'s wording are open-ended, ambiguous, and constitutionally imprecise. This section violates free speech, dissent, and knowledge. The court stated that this act had "no proximate relationship to public order" and failed the "clear and present danger test," a US doctrine that asks whether words are hazardous and will cause mayhem the government can avoid. This is about proximity and degree.

2. ArnabManoranjanGoswami v. Maharashtra¹³

A republic media network journalist was sued for defamation for questioning “a member of the Congress in reference to India’s COVID-19 testing methods and the regrettable killing of three persons [including two priests] in Palghar on April 16, 2020” “provocatively”. Opponents maintained that free speech cannot protect statements encouraging racial or social conflict. He defended his views by arguing they were unlikely to incite communal unrest.

Importance of Social media laws needed in India

India considers media the fourth pillar of democracy. Since the legislature, executive, and judiciary follow India's regulatory system. India lacks press controls, despite their importance. The constitution does not specifically include media, although article 19(1)(a) freedom of speech and expression does.

In a technology-driven world where information travels quickly and is unaffected by distance, the media must be constructive. False reports can harm society, cause riots, and incite hatred. In India, where many cultures and religions coexist, the media must tell the truth and not politicise stories to gain popularity. It is important to have reasonable restrictions that prevent media personnel from inciting hatred and communal conflict while protecting their freedom of speech and expression.

The Indian government made changes to the rules and laws about social media intermediaries in February 2021.

⁷Digital Millennium Copyright Act 1998

⁸Children Online Privacy Protection Act 1986

⁹ Lanham Act 1946

¹⁰ Lanham Act 1946

¹¹National Labor Relations Act 1935

¹² AIR 2015 SC 1523

¹³2020 SCC OnLine SC 964

- According to these rules, social media sites must hire a "grievance officer" who will handle complaints about material that is illegal.
- The rules also say that social media sites have to set up a way to make sure that their users are who they say they are.
- Also, social media sites must have a way to get rid of material that is considered illegal.
- The new rules also say that social media sites have to give information about where illegal texts come from.

Changes to social media laws recently

Indian companies that use social media will be affected by the new rules for social media middlemen in a big way. The rules say that social media sites have to follow Indian laws about online material, which might be different from laws in other countries. Companies that run social media sites could also be sued if they don't follow the new rules. Some civil rights groups and social media companies have said that the new rules are too broad and unclear. Some people are also worried about how the rules will affect privacy and free speech.

The latest controversy on Twitter

Twitter got into a fight with the Indian government in February 2021 over the new rules and laws that affected social media. The Indian government asked Twitter to delete a number of tweets that were about the farmers' protest that was still going on in India. It took Twitter a while to agree with the government's request because it didn't think the tweets broke its rules. But the Indian government said Twitter was breaking Indian law and promised to sue. In the end, Twitter did what the government asked and took down the tweets.

People have different ideas about how social media companies should regulate online content writing services because of the issue. Some people said that social media companies should be more open about their rules on content, while others said that online speech shouldn't be controlled by the government.

Media is regulated by many laws in India. Regulation is crucial because it serves the public and national interest as a developing industry. Every law considers the law, the economy, and psychology because laws are meant to benefit people. Because the media is one of the fastest-growing industries, concerns are growing about the need for a single legal framework for all media.

Conclusion

Modern technology has expanded social media use considerably. According to a study, consumers spend 142 minutes a day on social media on average. With the rise of social media, it is essential to establish a specialized legislative framework to control it, protect users from abuse, and prevent cyberbullying. Finally, we might add that "social media is both a blessing and a curse."