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LEGAL FRAMEWORK FOR SOCIAL MEDIA IN INDIA

-ALMAS WAFI KHAN

"Information with a click of a button can inspire millions or mislead millions. As we upload information on social media, we are not just spreading information; we are spreading information with liability."

We live in the 21st century, where social media has emerged as one of the most powerful forces globally. The world's leading social media platforms include Instagram, Facebook, X (formerly Twitter), YouTube, WhatsApp and LinkedIn. As India is home to one of the largest user bases of internet users globally, it has also grown exponentially and created a lot of problems, including spreading misinformation, promoting cyberbullying, hate speech, identity theft, online fraud, violations of privacy and promotion of unlawful content, among others.

Social media offers an unprecedented platform for creativity, innovation and freedom of expression, but also presents some serious legal and ethical challenges. To ensure that digital platforms offer space for constructive dialogue rather than being abused and misused for sharing misinformation, India came up with a legal framework to govern online activities while upholding individual rights to free speech given by the Constitution. However, the true challenge lies in striking the right balance to respect freedom of speech and punish responsible authors for the harm they do when they express their views in their posts and comments.

- **THE INFORMATION TECHNOLOGY ACT, 2000: THE BEGINNING OF CYBER LAW**

The Indian legal framework governing digital communication is the Information Technology Act, 2000 (IT Act)¹, which was enacted to support India's e-commerce sector. Gradually, the IT bill became India's cyber law.

Some sections directly address social media as far as this act is considered. These include sections dealing with computer-related offences, like under Section 66 of the I.T. Act, Identity theft or cheating by personation by using a computer resource, as addressed under Sections 66C and 66D of the I.T. Act. These sections are most popularly invoked when there are Fake Social media profiles, phishing attacks, money lure, and online impersonation cases take place.

¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E), Gazette of India, Extraordinary, pt. II, sec. 3(i) (Feb. 25, 2021).

In addition, the Act punishes the act of publishing or transmitting obscene and sexually explicit content via means of an electronic device and therefore covers crimes where a perpetrator wishes to seek revenge on their former partner and posts obscene content concerning the said person or shares private content, for that matter. The IT Act, while being introduced to the legal ambit more than two decades ago, continues to serve as the law for governing the misconduct committed on digital spaces of India.

- **CONSTITUTIONAL PROTECTION: FREEDOM OF SPEECH WITH REASONABLE RESTRICTIONS**

Under Article 19(1)(a) of the Constitution of India, every citizen is entitled to free speech. This right is exercised by citizens via social media very much in today's times, and social media has emerged as one of the most important avenues for the same. This is in part because people use digital platforms to discuss their opinions, understand the political current events surrounding issues we care about, send messages and communicate actions for social causes, and partake in a democratic discourse.

However, free speech has limits. Article 19(2) gives the State power to impose reasonable restrictions in exercise of rights conferred by sub-clause (a) of clause (1), on grounds only of India's sovereignty and integrity, the security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation or incitement to an offence.

- ***SHREYA SINGHAL V. UNION OF INDIA (2015): THE LANDMARK CASE***

The landmark case of Shreya Singhal Vs Union of India is the most celebrated case of IT law².

Section 66A of the Information Technology Act made it an offence to send “offensive” or “annoying” messages through electronic communication. But because the wording was pretty vague and kind of ambiguous, the provision was actually used a lot, not just rarely, to arrest people for sharing or posting opinions on social media.

The Apex court, i.e., the Supreme Court, struck down Section 66A as unconstitutional because it violated freedom of speech (Article 19(1)(a) of the Indian Constitution). It stated that limits on freedom of speech have to be clear and reasonable.

This judgment acknowledged that the government can regulate unlawful content but cannot stop criticism just because it is controversial.

- **THE WAY FORWARD**

A digital ecosystem cannot be built by law itself. Effective governance needs collaboration between social media and government, civil society, as well as educational institutions. It is a platform that serves the purpose of how people act, and not a matter of a mere rulebook

² Shreya Singhal v. Union of India, (2015) 5 S.C.C. 1 (India)

Digital literacy helps citizens to be held responsible for their online conduct, privacy protection, and cyber safety. Social Media should provide safeguarding measures for the users, and also users need to be aware that everything they share has legal consequences. Social Media platforms are used to create awareness regarding any sort of misinformation.

- **CONCLUSION**

The revolution of social media has empowered democratic participation and opened up scope for learning, any sort of business enhancement as well as promoting social changes. Social media, hence, is governed by the Information Technology Act, 2000; The Digital Personal Data Protection Act, 2023; The Information Technology Rules, 2021; and the Constitutional Frameworks. These laws are responsible for providing basic rights and freedoms to any individual, protecting their safety.

Today, technology is growing rapidly, and the law, on the other hand, needs time to evolve and grow. Personal rights, accountability of platforms and online access must be protected. Hence, in the end, it can be stated that a developed country is not judged only by its law but also by the safe digital space where freedom and accountability serve the purpose of 2 sides of the same coin.