

The Impact of Social Media on Criminal Investigation

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Abstract: This paper primarily discussed about the impact of Social Media on Criminal investigation and its legal implications. This paper gave answer to the question as how social media platforms are affecting Criminal investigations, Criminal justice. This article gave the Conclusion on Whether the Social Media is a tool of crime our platform for justice? Despite the spectacular nature of crime reporting, it is a sensitive topic. Relationship between Social Media and Criminal law are examined in this paper. This paper gave the conclusion on whether the social media is a tools of crime or platform for justice? This paper primarily talks about the crimes related to social media in India. It elaborates the ways to defend the accused against social media criminal charges. This paper further discussed about the admissibility of E-Evidence in Indian courts and the evidentiary value of social media posts. further more, this article evaluates the role of law enforcement in detecting and averting cyber-crime committed through the use of social media.

Keywords: Social Media, Criminal Investigation, cyber-crime.

INTRODUCTION

"The Internet gave us access to everything; but is also gave everything access to us." - James Veitch

In this fast-moving world, every citizen is involved in social media platforms, like whatsapp, youtube, instagram or facebook, some of its uses are virtuous while some are corrupt. Social media can be defined as interactive computer-mediated technologies via virtual communities and social networking sites that simplify the creating and sharing of ideas, information, opinions, carrier interests and other types of expression.

As criminals used social media to commit crime, in the same way social media and technology also used for preventing, protecting and investigating the crime.

As social media witnessed huge crowd on their different platforms which share content and information on a large extent and this led to the emergence of fake news, content and forgets about their upcoming outcomes.¹

Social Media Related Crimes

Cyber Bulling

It means to harass, embarrass, threaten or target another individual with the use of technology. It includes photos, videos, messages or contents that are posted to hurt or upset someone.

Cyber Defamation

It basically means if any person intentionally or deliberately publish false statements about another individual on cyber space to defame or injure the reputation of that individual.

Email Phishing

It means when recipient is tricked by the malicious emails sends or design by the attacker for falling them into a scam.

Burglary via Social Networking

In this criminals search social media for a target for burglary. Most of the uses post their personal information or activities on social media but this led reverse effect on them because criminal use that information for themselves and it will help them for burglary.

Fake/Impersonating Profile

In this fake profile is created in any platform and make rumors and post objectionable photos and videos of the victim in the social media to defame them and for their own enjoyment with women.

Social Media Trial

Social media trial is an intrusion and an ethical breach. It has become a trend that social media platform the function of the judiciary of investigating the truth.² The judiciary system has the key responsibility to provide justice to society in stipulated time.

Impact on Society & Legal System

Social media trial not only interferes with the administration of justice; but also propagates a false message to society. The society starts forming their opinions based on their own notions rather than relying on the judiciary.

Social media is a very powerful medium that affects and molds public opinion. The most famous example is the KM NANAVATI case,

¹ <https://www.latrobe.edu.au/nest/social-media>

² www.lawteacher.net

where the public opinion affected the conviction of the accused.

Article 19(1)(a) of the constitution of India³ guarantees freedom of speech and expression and Article 19 (2) allows for reasonable restrictions to be imposed by law for the purpose of 'contempt of court' including Article 19(2) does not apply to 'administration of justice', but interference in the administration of justice is specifically referred to as contempt in the definition of criminal contempt in section 2 of the contempt of courts Act, 1971 and section 3 thereof.

Landmark Cases

- The Supreme Court in A.K. Gopalan V/s Noorden (1969)⁴ held that a publication which is made after the 'arrest' of a person amounts to contempt if it is biased to the suspect.
- In Shushil Sharma V/s The State (Delhi Administration) and Ors, the Delhi High Court held that the conviction should be based, if any, on record facts and not on media reporting.
- In Saibal Kumar B.K.V. Sen & Anr. the supreme court held that no comparison existed between a media trial and a court-run trial. The right to fair trial is the absolute right of each citizen within India's territorial boundaries vide Article 14 and Article 20, Article 21 & 22 of the constitution.

Right to Fair Trial

The right to a fair trial is a significant right deriving from Article 21 of the constitution r/w Article 14.⁵

The trial is conducted by an impartial tribunal or uninfluenced by newspaper dictation. Democracy demands fair play and transparency and if these are curtailed then the very concept of democracy is at stake.

Evidentiary Value of Social Media Posts

Criminal procedure jurisprudence explains the evidentiary value that social media posts carry. Since 2000 in India, we have formed separate division of cyber-space crime investigation along with a separate legislation which is called the Information Technology Act, 2000.⁶

The screening process involved in the admission of all online articles, messages and posts for its admissibility remains the same as detailed in section 22 A of the Indian Evidence Act.

The impact of Social Media on Crime Investigation

Posting videos and images of crime scenes and arrests, as well as updates on ongoing investigations, are common occurrences on social media.⁷

Numerous social media Networks openly cooperate with law enforcement to expose such "protected" material without the need for a court order. As a result, prosecutors may conduct a search of your social media accounts for evidence of criminal activity and connections to criminal investigations

Along with disseminating information that helps them catch criminals, police agencies are now obtaining subpoenas to read personal messages in order to conduct investigations.

Social media is now being used to identify suspects, obtain tips on criminal activities, locate missing persons and follow organised crime.

Depending upon the gravity of the charges against any person, information posted on social media sites may or may not be admissible in court.

Laws for Social Media

- **Constitution of India-** A state cannot curtail the right to freedom of speech and expression that is guaranteed to every person under Article 19(1)(a), but these freedom are subject to reasonable restrictions.
- **Information Technology Act, 2002 (IT Act)** :- Section 66A of the IT Act is focused completely on the social media contents and regulates it. It forbids the transmission of any video, audio or text messages that is offensive. However, in 2015, the supreme court struck down section 66A of the IT Act in Shreya Singhal V/s UOI, upholding the right to free speech in modern times.
- **Indecent Representation of Women (Prohibition) Act, 1986⁸** :- Obscene images of girls can be illegally circulated or published

³ The Constitution of India Bare Act.

⁴ SCC 734

⁵ The Constitution of India - Bare Act.

⁶ The Information Technology Act, 2000. Bare Act.

⁷ www.legalserviceinindia.com

⁸ The Indecent Representation of Women (Prohibition) Act, 1986 - Bare Act - Allahabad Law Publication.

and is punishable under section 3 and 4 of the Indecent Representation of Women Act, 1986.

- **Indian Penal Code, 1860 (IPC)** - Any person violative of the above laws should be dealt with the provisions of IPC like section 295A, Section 153A, Section 499, Section 509, Section 506, Section 124A, Section 500.

CONCLUSION AND SUGGESTIONS

At last, it is concluded that social media is bone or boon for everyone as it helps to connect with their loved one but on the other hand some of its users became the victim of cyber-attacks.

'Media' is the fourth pillar of democracy. It is the media's obligation to educate the public and not become the victim of cyber-crimes themselves.

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Furthermore, a proper legal framework is needed and a separate act should be introduced which will deal with crimes related to social media.

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