

DE JURE NEXUS LAW JOURNAL

Author:

Siddhant Khare

Symbiosis Law School, Noida

1st Year, BA LL.B.

SOCIAL MEDIA VIS-À-VIS RIGHT TO PRIVACY: A CRITICAL ANALYSIS**ABSTRACT -**

In today's world Media is playing a crucial role in everybody's life and connecting us to both the local as well as global level for that matter. Social networking platforms are the most famous these days. These have grown to be the most popular channels for spreading information, specifically about critical societal issues. They have evolved into an important source of information, particularly for the younger generation. As a result, they have a significant impact on young minds. That's where the matter of the right to privacy enters the picture. The right to privacy is a basic right of every Indian citizen, according to the Supreme Court of India, and is derived from Article 21 of the Indian Constitution.

INTRODUCTION-

In this research paper, we will focus on the critical analysis of the right to privacy, as well as the intrusion of social media. It involves the starting scenario of social media platforms like Facebook, Instagram, Twitter, Snapchat etc. There would also be various case laws reflecting the situation based on the topic and tell us about what exactly happened in the past related to it.

SOCIAL MEDIA'S ROLE -

As we know, the media has become an inseparable part of the lives of all people in the world today, having a significant impact on us. This has both beneficial and adverse consequences. The most significant beneficial influence is the simple availability of knowledge at a low cost. We receive information from all over the world in

seconds. In addition, social media allows us to communicate with friends and relatives who may live a long distance away. Staying in touch with our loved ones, as well as the rest of the world, instill a sense of closeness in us from the comfort of our own homes.

When it comes to negative consequences, the list is long. Cell phone addiction, stress, and poor mental health are among the most often addressed topics. This can result in a shift in sleep schedules, a variety of sleep difficulties, and even psychological issues. Another source of worry is the violation of one's right to privacy, which is especially relevant in the case of social media and will be examined more in this article.

THE RISE OF SOCIAL MEDIA AND ITS GROWING INFLUENCE ON YOUTH-

Everyone is on social media, from a thirteen-year-old youngster to a seventy-five-year-old senior person, from a daily wage worker to a software engineer. Social media platforms such as Facebook, Instagram, Twitter, and YouTube have practically every mobile phone in their home. Amongst all of these groups, the youth are the most interested in social media. This participation may have good consequences for individuals, such as simple access to a broad plethora of perspectives, offering an encouraging platform to demonstrate their creativity and skills, and also sharing their thoughts on social, political, or economic concerns. As a result, it may act as a source of empowerment for young people.

With this freedom, everyone has accessibility to a forum where they can share information or express their ideas. However, it should be noted that the free flow of information is not an all-powerful procedure for everyone. This could be a curse for some innocent people who fall victim to the evil intentions of others. Yes, the spread of misleading information, whether deliberate or accidental, has become widespread on social networks. We frequently hear about false claims such as sexual harassment, fraud, and so on, which are used to slander someone. There are also several instances where someone's personal information is made public on the internet.

RIGHT TO PRIVACY-

In its most basic form, privacy is the state of being safe from public intrusion without one's permission. The recognition of the right to privacy as a fundamental right has been a source of debate for the Indian judiciary for many years. Previously, in the cases of **M.P Sharma vs Satish Chandra**¹ and **Kharak Singh vs the State of**

Uttar Pradesh, it was determined that the right to privacy is not a basic right guaranteed by the Indian Constitution.

In an extraordinary and historical decision, **Puttaswamy v. Union of India**², the right to privacy was recognised as a fundamental right, coming fully within the bounds of Articles 14, 19, and 21 of the Indian Constitution. It is especially inherent in the right to life and liberty. It was declared that this is a fundamental and inalienable right that protects every individual's personal information from even state examination. As a result, any act by anyone, including the state, that violates a person's right to privacy is subject to stringent judicial examination.

Moreover, the Supreme Court stressed that, while the right to privacy is now a basic right, it is still susceptible to legitimate constraints. The state must meet three conditions established by the Supreme Court in order to impose these limits.

THE INFLUENCE OF SOCIAL MEDIA ON THE RIGHT TO PRIVACY-

Social media is essentially a type of internet-based communication. When it was founded, its primary purpose was to establish a global virtual kinship network. Instagram, Facebook, and WhatsApp are some of the most popular social networking platforms. Until the 1990s, users of these social networking sites were unaffected. This was the birth of cybercrime.

We give away a lot of our personal information, whether on purpose or unintentionally. We are the ones who give up our personal information online, whether we like it or not. This can be accomplished by registering for Amazon Prime, Facebook, and Instagram, among other services. One-third of web users admit to knowing nothing about their personal information that is exposed online. The availability of vast amounts of cyber information on the internet has created new legal difficulties for which sufficient legislation has yet to be enacted.

¹ M.P. Sharma v. Satish Chandra (AIR 1954 SC 300)

² K.S. Puttaswamy and Ors. v. Union of India and Ors [W.P.(C). No. 494/2012]

It also does not end with not saving your passwords online or not disclosing any of your personal information online. Much more is disseminated throughout cyberspace, spanning from the individuals you are linked with on social media to your purchasing habits, to the frequency with which you visit certain websites, and so on.

If you do not safeguard your personal information from cyber hackers, the consequences might be severe. These can range from stealing your social security benefits to submitting compensation claims with your identities and using your names to make financial transactions in their name, as well as utilizing your credentials to make fake passports, PAN cards, and so on. More crucially, incidents involving sexual predators, cyberstalking, defamation, and identity theft have come to light.

IN INDIA, THERE ARE LAWS GOVERNING SOCIAL MEDIA AND PRIVACY-

India's laws governing social media and privacy are clearly weak. When it comes to drafting laws in this area, the Indian judiciary and legislature have fallen far short of expectations. Some rules and legislation have been enacted, all of which are largely concerned with defamation.

In **Kharak Singh v State of UP**³, often known as the PUCL case, it was determined that phone tapping constitutes a violation of privacy. Applying this logic, it is reasonable to conclude that WhatsApp's sharing of information with Facebook following its update is a clear violation of its users' security.

Let us now turn our attention to the **Information and Technology Act of 2000**⁴. In this statute, the concept of privacy is understood in a fairly liberal and traditional sense. The act of knowingly sending images of a person's private parts without his consent is a violation of Section 66E of this act. Section 79 of this statute makes no mention of social media. This section states that if a person writes or uploads anything insulting to another, the channel on which it is posted, such as Twitter or Facebook, is not accountable for such person's actions.

This notion, however, has changed over time; in the instance of Shreya Singhal, it was held that it is Facebook's responsibility to remove any inappropriate information submitted by them. After receiving complaints about the same, Facebook must take action at its discretion. One thing to keep in mind is the growing popularity of meme culture. Memes of famous people with nasty comments and comparisons can be safely classified as a violation of their privacy. It is critical to put a stop to such tragedies.

³ Kharak Singh v. State of Uttar Pradesh (AIR 1963 SC 1295)

⁴ The Information Technology Act, 2000 (also known as ITA-2000, or the IT Act)

Constitutional rights were intended to address the interaction between the state and individuals. This paradigm, however, has undergone significant alteration as a result of India's privatization boom. Many activities that were historically linked with the state have been taken over by private enterprises. Our forefathers, on the other hand, constructed laws in accordance with the nation's situation at the time. As a result of these changes, private actors executing state-like behaviors are subject to the same constitutional scrutiny. In the current case, the contract between two social networking services, WhatsApp and Facebook, was contested by private parties, both of whom invoked the aforementioned philosophy.

CONCLUSION-

It is possible to infer that considerable work remains to be done in the area of the intersection of social media and the right to privacy. There is an urgent need for the creation of a one-of-a-kind and detailed law governing this sector. Also, the current act, the Information and Technology Act of 2000, has to be expanded to address issues of privacy and social media in greater depth. Most crucially, this Act will include a broader definition of privacy. There is also a need for efficient execution of Supreme Court of India directions issued in various instances involving privacy and social media.