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Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

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Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

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Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

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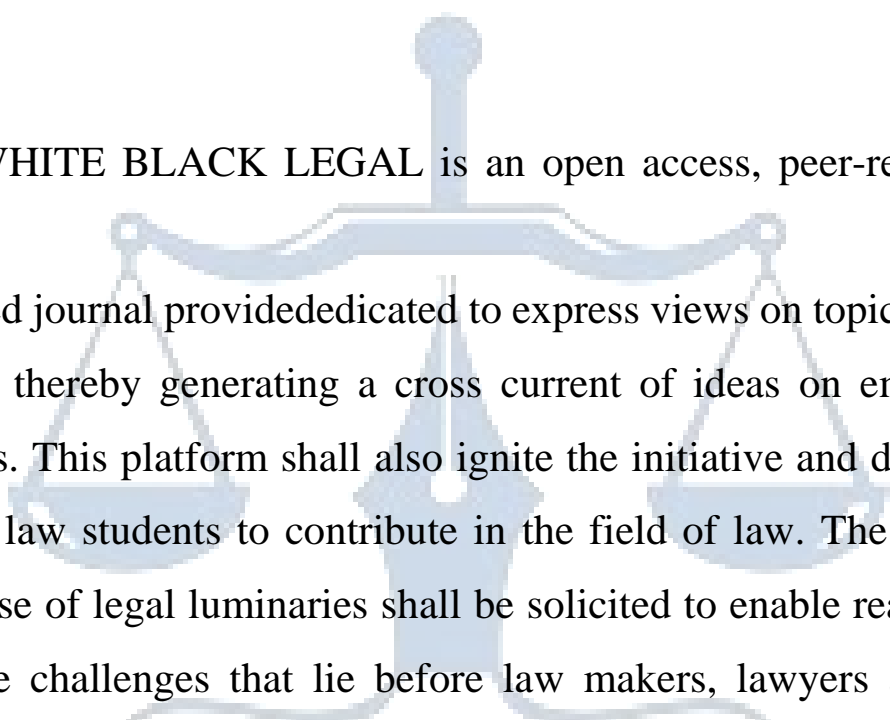


Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE NEED FOR NEW LEGISLATION TO REVAMP AND RESTRUCTURE SOCIAL MEDIA IN INDIA

AUTHORED BY - A. K. GAJENDHRA & A. R. MUHAMMED RAQUIB.

Abstract: -

Social media as the name suggests, is the media for the society where society's welfare to be protected as well as preserved. Social media where the active spot for interaction between people by sharing of information, ideas, pictures etc became the routine aspect for everyone. Social media is the hub of enjoyment. Apart from its various benefits of education, connectivity, awareness, free usage etc, it builds up the structure for deforestation of people's life. The illegal crimes committed in social media which includes the cyber bullying by way of threatening and harassing, cyber stalking, hacking and fraudulent activities, hate speech includes sedition and defamatory statements, online abuses especially to women and children, censorship matters pertaining to restrictions on part with content creators, creation of fake profiles, vacation robberies, indecently representing the women and outraging her modesty, pornography and obscenity material etc. The existing laws of constitution Article 19(1) (a) of freedom of speech and expression, where media flows through it, section 66(a) of IT Act, 2000 of protection for offences created in social media and rendering of punishment, other complementary laws alone cannot protect and safeguard the users of social media which is a multinational dominion. There is a need of the hour for separate legislation in the eyes of the social media apart from existing laws. As the society grows, protection grows, and still with the enforcement of laws. The article delves into the various wrongful activities committed in social media to users, along with contrary laws and suggestion regarding separate Act for social media as for revamping and restructuring as in this highly technology driven world there is a concern for special legislation as to social media. Social media is both a blessing and a curse to society.

Key words:-

Social media, illegal crimes, new legislation, revamping and restructuring, need of hour.

Introduction:-

Social media is the media for the active spot for interaction between people's by sharing of information, ideas, images, pictures etc is the routine perspective of life for everyone. Each and everyone is been engaged in the social media networks mainly Instagram, Facebook, WhatsApp, twitter, moj, snapchat etc. The people meet new friends by giving their request to follow and this social media apart from its tremendous benefits also affects the people with severe distractions of crimes and where vulnerable offences are also been committed. The social media as we see today is not the condition before the ancestral years where technology is not been found. We think that crimes can be committed via, in the physical platform only in the before scenario. But when the technology started to take off its plane and grows, the crimes also been increasing and running as clouds in the sky. The people's should be using the media apps with due care, caution, safely and securely, without harming themselves as well as the greater part of the society. The social media should be used for its various advantages provided by it by removing the various negative effects which is been affecting their day – to – day lives. Even with the accelerating laws in India, there is no proper legislation for the social media, there should be a definite law amended for the social media taken into consideration about the offences and violative measures, with the solutions and punishments.

The article looks into the social media as a major framework in today's competitive edge world with its offences and to revamp and restructure a new legislation for the social media where all the rights and liabilities are been protected. The paper also envisages into the existing primary laws for the social media.

“Social media is not a media. The key is to listen, engage and build relationships”.

David Alston ¹.

Social media as the media for people and society: -

India is one of the leading markets on the internet and smart phone growth will stop in the third – largest internet market after China and US and the fastest growing internet market ². We can tell that today's generation youngsters and teenagers are spending most of their time in the internet forums by wasting their precious time, by seeing the reels, shots etc. According to the

¹ David Alston is a historian and independent researcher.

² Dr G. G. Ratnan, “Significance of Social Media and Its Revolution in India”, IJOES, vol 4 issue 3 (2022).

peoples, they think that social media is the main direction for their considering about it's benefits but at the real circumstance, we can view and tell that the social media is an useless tool for the human beings and only can be considered only in their free hours and usage can be done within the stipulated time. This should be used within a peculiar time because considering about it's attractive nature and works according to the mindset which is been prescribed by the people, their interests and perception is well known to the media networking apps.

The benefits of using social media: -

There are numerous benefits envisaged with the usage of social media networking. It creates a good environment for the people as well as it increases the better connection among the people's as well to the society. The social media infiltrated almost every field including education³.

The benefits are: -

- Social media acts as channel for communication: - The social media is tool not just for exchange of information, ideas, thoughts, pictures, but also allows the space for flow of communication. The communication channel is very clear and onset and which can be easily understandable by any person. The communication channel can help in solving problems, finding out new solutions for the problems created, makes the whole communication easily accessible etc. The internet users, the majority of which students are, use social networks mostly to keep it touch with friends, colleagues, peers and family, it is important to explore the possible benefits that such networking tools can offer to modern education⁴. The term social media refers to the use of the internet and mobile technologies to turn information and communication into n interactive channel of communication⁵.
- Social media acts as the tools for engagement: - The networking of social media acts as the tools for engagement. It allows the students, teachers and other people who want to engage in the media platforms. It provides and supports the space where any person can engage and express their own ideas and their freedom provided for it along with. The social media entangles and involves the speedy connection of peoples from different

³ Agus Purwanto , Khaerul Fahmi and Yoyok Cahyono, "The Benefits of Using Social Media in the Learning Process of Students in the Digital Literacy Era and the Education 4.0 Era", JISMA, vol2, no 2 , (2023).

⁴ Praveen Kumar Ganesan and Vasimalai Raja, "Benefits of using social media", 2018.

⁵ Dr. Kaveri Devi Mishra, "Social media revolution – The new digital frontiers of Journalism", Journal of advances in humanities, vol 5 (2017).

areas, cities and places. It's connection is been present in the worldwide view. The engagement can happen via with different media apps and Microsoft Word etc. We can also tell that when the physical world is been a competitive and challenging environment for everyone, the virtual world can be a encouraging platform than that of the physical space which is been provided.

- Social media acts as a great place for collaboration: - The word collaboration means working together, jointly as a team, with the purpose a achieving a given goal or a task which is been assigned. The collaboration between the school students, the college students, the business people will ensure that there is been a better connection created between them. If these people work in a collaboration they will understand their individual pros and cons, their ups and downs, their learnings and what mistakes they have to overcome and rectify. This allows each and every individual to understand about their self and their outcomes from the given work. The social media has helped each and every one to work in collaboration which ensures the leadership qualities possessed, better connectivity and proper management facilities that can be provided.
- Social media acts as a correct place in case for education: - The social media in the case of education sector provides proper connotative framework for the students and the people to learn. It provides with the answers that is been required, the teaching materials from various places around the whole world, it provides for doing a certified course in the online space and avoidance of going to physical institutions, it teaches the people and also provides the guidelines for the people to study by way of giving lectures in the typed format, it also provides for the video lectures in the social media apps especially the Instagram, Facebook, twitter, WhatsApp, YouTube etc where the people can learn easily without no confusion and with better understanding , it also provides for the online books, online magazines and online materials without any kind of time restrictions which is been involved and it can also be available in the free or with the way of subscription with the less amount of fees which can be easily accessible by all levels of the people. For ex: - byjus, vedantu etc. By these ways the education sector can be easily promoted via in the social media where both the media also grows also with the same phase with the maintaining of the education levels of the country.
- Social media acts as a marketer in the case of business development :- The social media helps in the promoting of the products by the way of advertising in the media platforms and by in the way of putting adds, by the way of postures and images, by the way of

marketing for the products. The social media apps involves in the awareness and branding for the products. This increases not only the products growth and attachment of business and products, but also speeds the customer satisfaction, according to the preferences adopted by the customer their taste and preferences are given dual and main importance. It also increases the growth of the business and the company, it increases the profits for the business and thus makes the company to sustain in the stable society which is exposed to competition rich market place to have the courage to fight with other competitors.

- Social media acts as information seeker and provider: - The social media involves in the process of sending information at a fast speed. The information or the news obtained in the ancient days of living is been done through the way of post which takes more time to reach to other person whether in the case of the emergency also. In the modern lifestyle of living, the social media is been available for spreading the information to everyone via in the apps, through the television channels with the help of the news channels etc. This helps the people to understand about the current scenario of their life and what has been happened in their surroundings, knowing about each and every information increases the people's mentality and physical levels. With the help of the social media information is been made available easily.

Crimes committed in the social media: -

There are various crimes which is been committed in the media networks apart from its various benefits provided. The crimes committed in the social media provides for the most harmful, dangerous, vulnerable and with the offences which is been amounting to the heinous in the nature. The crimes committed which affects not only the individual people but also affects the greater and larger amount of public and the society in the whole at the large stretch.

The various types of crimes committed includes:-

- Cyber – bullying:- Cyber bullying is as dangerous as it gives bullies the ability to embarrass anyone they want in public at any hour of the day, using multiple different types of the technology⁶. The multiple types including revealing the secret information about someone, removing anyone without their own consent, harassing them badly, bullying with the help of sending of the anonymous messages. The cyber

⁶ Bandana Pandey and Shalini Sharma, "Prevalence of Cyber Bullying on Social Media: A Review", research gate(2022) .

bullying in the case of the social media is been spreading like the forest fires. Hurting anybody or bullying anybody wantedly with the main intention of targeting that person comes under the preview of cyber bullying. The cyber bullying is mainly been affected by the women's and the children's. The cyber bullying involves with the great force of threatening, harming, involved in the activities related to the torture, beating, other forces of the external pressure which is been used. This force of doing the harmful activities in the cyber i.e. in the internet forums in an increasing concern for everyone. Each and everyone have to very careful while dealing with the cyber bullying. There should be the preventive measures laid down for the effective control both from the case of the centre and the state government. There should be preventive measures which should be laid down immediately which is been protecting the people from these kinds of illegal activities by framing of new kinds of legislations and punishing the offenders who are been responsible for the committing of the bullying. The bullying by way of threatening in the media platforms with the usage of fake profiles and by introduction as a nice person to others is been accelerating nowadays in the modern times with the more advent usage of the media networks.

- Hacking and fraudulent activities: - There has been an increase in the committing of the hacking and fraudulent activities with the combination of cheating activity. The activity of hacking involves in the social media platforms hacking happens by way of seizing anybody's products without their own consent. Hacking involves of hacking of money, jewels, hacking of property, hacking which is pertaining to the house, land, building, hacking in the social media Or other apps by the way of the controlling which is done by the person who have been hacked it. Hacking in the mobile phones by the stealing of information, stealing of data, supply pr sending of wrong data and by sending of pin code in the messages, also involves the direct hacking of phones completely. There should be a complaint lodged in the respect of fraudulent activities to the police where the involvement of the cyber security comes into the major play of providing the major solutions which is been needed. The fraudenr activities for ex:- where one person calling another person and asking for information in the bank accounts to tell them about the account number provided, or to tell the information about the their secret information. There should be strict laws applied for this and proper legal awareness to be created to the society where people will understand how they need to be safe and secure during these

types of the situations or the circumstances which is arising personally to them. The act of doing fraudulent transactions is mostly happening in the cyber virtual areas with the help of the cheating type of people who formed as a group and involved in cheating activities. This happens in each and every area, place, city, district etc.

- Hate speech: - In the social media apps, talking about someone or damaging the reputation of someone is been posted, where its been spreading fast and the connectivity is been passed out very quickly and easily where everyone can view and see the information. The hate speech includes with the spoken or the written content, which harms or intended to harm the people, reputation of the people been destroyed. For ex: - the hate speech given by the person incharge in the state government towards the minister in Central government by the usage of bad words, abusing him badly. The hate speech includes the sedition and the defamatory statements. Sedition means whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites, or attempts to excite disaffection towards, the government established by law in India, shall be punished with imprisonment of life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine⁷. So the sedition can also in the online platform towards the government and punishment as a remedy should be imposed. Defamation means, whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person⁸. The defamation can be categorized or been separated into two types, of which first comes the libel where the defamatory statements can happen by way of the written one, which is in the type of the printed format, the second comes about the slander, where the defamatory statement happens by way of spoken words, gestures etc. The defamation is a punishable offence and whoever tries to defame anybody in the virtual platform will be punished. Both the form of the hate speeches of defamation and sedition in the social media networking apps are increasing and there is a need

⁷ Section 124-A, sedition, indian penal code, 1860.

⁸ Section 499,defamation, indian penal code, 1860.

for new separate amendment instituted under the preview of the social media legislation by the parliament of India.

- Online abuses including abuses to women and children: - The online abuses and cheating activities especially happening by targeting the way towards the innocent children and women. The women's and children's are been affected more by the way of online abuses. There were been sexually exploited, tortured and been harassed in the online platforms. The activity of online abuses happens via in the social media apps. For ex:- when the women or a teenager has an account in the social media apps, they can get fake profiles, where these innocent people also accepts their request and these people in the back screen present in the fake profiles plays an intensive game targeting these people and for their benefit they will treat these innocent faces as mere the slaves for themselves.
- Censorship matters pertaining to content creators: - A content creator looking to monetize is driven by two imperatives that work as strategic advantages for their commercial activities: authenticity and entrepreneurial spirit⁹. The content creators gained it's major widespread in the modern world of living. The content creators make their choice of the content and publishes or uploads the same in the social media platforms. These people need the proper certificate of commencing with the censorship matters pertaining to them. They should act with the proper content and to create the good awareness in the society should be their main aim and the goal. They should be possessing with the what type of video content they are uploading, the advantages and disadvantages of the particular topic of the video content, whether it affects the society should be present in their mind. The video which is been uploaded in the social media apps should not be aggressive, harmful, sensitive etc and it should have the protection for both the people as well as to the content creators in the society.
- Creation of fake profiles: - There has been the creation of fake profiles in the social media apps. The fake profiles which is been created which affects each and every people from using the social media apps. For ex: - many people are creating the fake profiles in the Instagram app on with other name and pictures used, by this fake profiles these people are trying to cheat others by way of behaving and talking

⁹ Arturo Arriagada, "You need at least one picture daily if not you're dead: content creators and platform evolution in the social media ecology", research gate (2020).

in a good manner, by way of the fraudulent activities committed, by the way of hacking activities which is been flexible enough to the person making the fake profile. The fake profiles been created where their stands the safety and the security to be maintained by all the other people. There should be proper awareness which should be created regarding the atrocities done by the fake profiles to the people.

- **Vacation robberies:-** The vacation robberies are the robberies who tries to the steal the products or any goods from the house or any other place where there is an absence in the case of the owner, when the owner is not present in the place where he is been staying. In that case the vacation robberies goes to the owners place and do the activity of stealing. These robberies are called by the name of vacation, where their stealing work is been based on the vacation purposes and not present at all the times. For ex:- say if a thief who waits to watches the condition of house for more than three months and realizes and comes to the decision by watching that the owner will go in the holiday time for vacation, so according to the thief we can steal the products that he want from the house without the consent and in the absence of the owner who is been incharge of the particular house.
- **Pornography:-** Gender, morale, culture and sexual expressions have made it further sensitive ¹⁰. The pornography where the base material is been related with the sex arises the major concern in these days. In the today's world in the media platforms there were large people who were gathered for seeing the porn videos, they were addicted towards it, they are also interested in that. With that the there were also many offences arising from the this.

Existing laws for the social media: -

- **The Constitution of India: -** The right to freedom of speech and expression¹¹. There has been rights granted fir each and every citizen with the rights conferred under Constitution of freedom of speech and expression. In this part under this there are also reasonable restrictions which is been laid down with the rights that have been provided. The right to media flows through the concept of the right to freedom of speech and expression. The right to media includes about the social media, the fourth pillar of the media with the general heading that is been provided. With the

¹⁰. S.S. Nathawat, "Pornography in Contemporary Life", GJRA, vol 6 issue 7 (2017).

¹¹ Article 19(1)(a), Constitution of India,

main law which is been provided under the indian Constitution lays down as the most fundamental and basic rights to media. The right to media cannot be revoked by anyone and by anytime with the subject to the restrictions provided under the same clause.

- Information technology Act, 2000:- Punishment for sending offensive messages through communication service etc, any person who sends , by means of computer resource or a communication device,
 - a) any information that is grossly offensive or has menacing character; or
 - b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device;
 - c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages, shall be punishable with imprisonment for a term which may extend to three years and with fine ¹².
- Indecent representation of women (prohibition) Act, 1986:- Prohibition of advertisements containing indecent representation of women, No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form ¹³. Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women, No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form:
Provided that nothing in this section shall apply to—
 - (a) any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure—
 - (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure is in the interest of science, literature, art, or

¹² Section 66a, Information technology Act, 2000.

¹³ Section 3, Indecent representation of women (Prohibition) Act, 1986.

learning or other objects of general concern; or

(ii) which is kept or used bona fide for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in—

(i) any ancient monument within the meaning of the Ancient Monument and Archaeological Sites and Remains Act, 1958 (24 of 1958); or

(ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose;

(c) any film in respect of which the provisions of Part II of the Cinematograph Act, 1952 (37 of 1952), will be applicable ¹⁴.

The need of the hour for new legislation in the eyes of the social media:-

There arises the need of the time and the hour for the new legislation to be adopted for the separate social media considering about its various offences committed and disadvantages it possess. The social media should be enacted and have a separate legislation where all the types of the offences can be tackled and punished, where the legislation in itself has punishment as well as the remedies for the violation and enforcement of the social media. The Act of social media should include about the various offences, the remedies, regarding the social media apps, and how each and every one especially the women and children need to be very careful and cautious while using the social media. The President needs to give assent for this Act by the way of the majority of its seats in the election's in both the houses of the Parliament. This needs to be come in force for the protection and the welfare of the society, also for the development and the growth of the social media apps and the technology which is been associated with it.

Report by NCRB on the cyber crimes: -

The crime committed in the social media is been on the rise and it is increasing as due to the technological advancement and with new path way of the artificial intelligence. The offenders found new way of committing crimes around the circle of cyber crime which revokes everyone from women to the children ruining their overall life cycle. The crime rate where on the rise from 3.9 in 2021 to 4.8 in the year 2022, cases of cyber crime reported on the surge of 24.4% totalling 65,893 cases from 52,974 cases in the year 2021, cyber frauds committed in the social

¹⁴ Section 4, Indecent representation of women(prohibition) Act, 1986.

media accounted for 64.8% of the registered cases, which followed by extortion of 5.5% and the sexual exploitation of 5.2%¹⁵.

Conclusion:-

I am concluding the paper by saying that the modern generation and the future generation people want the social media engagement and it works to them very well. But considering about the various offences, there is a need of the hour for the enactment of the social media legislation. The laws created under the social media should play a major role in transforming and creating new potential for the people, by transforming the society into the more viable and security standards for the people.

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¹⁵ Report of the NCRB (National Crime Records Bureau) for the year 2021 to 2022 on the various types of crimes committed in India.