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Present Issue :

My Perspective
Justice S. D. Anand (Retd.)

**Legal issues related to use of
social media-internet**
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MY PERSPECTIVE

Justice S. D. Anand (Retd.)

Perfection being a cap befitting only divinity, ‘aberrance’ in functioning of human is natural. Just that its number ought to be found to be restricted to the bare minimal.

The single digit ‘aberrant’ facet pointed out by the insider dignitaries (though controverted by the dignitaries on the other side of the attribution) do not indeed indicate the ideal scenario in the functioning of an adjudicatory dispensation which was conceptualized by the Constitutional documentation to be the repository of faith of the interest of citizens. Nonetheless, those human errors cannot outweigh the noble and competent job done by the Apex and High Court dispensation till date.

It is the **conscientious discharge** of Constitutional duty which earned our representatives a seat at the Hague (International Court of Justice) from time to time.

Washing the little dirty linen in public and at a timing of particular **turning of National history** would not only demean the August Judicial institutions but would also be chaotic from the point of view of the litigant facet which would lose faith in it.

WELCOME ANNOUNCEMENT

**State Judicial Services preparations
Guidance facility**

Finding necessity for guidance for all those preparing for State Judicial Services Competitions Examinations, Paramount Law Consultants Ltd. has decided to help with valuable guidance. Interested persons are welcome.

Legal Audit and Moral Audit Services
Paramount Law Consultants Ltd., Delhi has completed its research and is taking up legal audit and moral audit services for the Corporates.

Subhash Nagpal
Chairman
Paramount Law Consultants Ltd., Delhi

As at the moment, we must trust the wisdom of those authorized to legislate. The unanimity of the **cry for the change** ought to impel us to ponder and ensure the avoidance of the minimal number of human errors too.

However, the restoration of **primacy of judiciary** in the NJAC would be in accord with the foundational principle of independence of judiciary. The views of various dignitaries including legal eagles Soli, Fali and Justice A P Shah (the Chairman of the Law Commission) in the context really deserve priority consideration, nay acceptance.



LEGAL ISSUES RELATED TO USE OF SOCIAL MEDIA-INTERNET

Nishant Ahlawat*
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The trends and facts

As per a report published in India Today i Indian Internet users will surpass the number in the US by the end of this year and around 500 million people will be online by 2018, as per Rajan Anandan, managing director, Google India.

Going by the statistics of various social media platforms like Facebook, Twitter, LinkedIn and Pinterest etc. legal exposure seems to increase every second for internet users. The infographic ii below covers all the latest Social Media facts, figures, numbers and statistics of 2014. Some of the mind-blowing facts are mentioned here:

*“75% of the engagement on a **Facebook** post happens in the first 5 hours.*

*53% of interaction between **Google+** user and a brand is positive.*

*44% of users on **Twitter** have never sent a tweet!*

*84% of women and 50% of men stay active on **Pinterest**.*

*More than 2 users sign-up for **LinkedIn** every second.*

*23% of teens consider **Instagram** as their favourite social network.*

*Weekends are the most popular time to share **Vines**.*

*Number of snaps sent per day on **SnapChat** is 400 Million. (Yeah! that's true)*

*40% of **YouTube** traffic comes from mobile.*

***B2B marketers** using blogs generate 67% more leads. Check out more about lead generation through Social Media.*

From legal perspective:

With such promising trends one thing seems very clear and substantially established, that internet is here to stay. Steep rise in smart phones and mobile internet users further supports this trend.

As a user you might be well aware –read about features and functionality of all such social media /internet platforms that you use. But have you ever thought about how many **legal rights and responsibilities** you exercise with every click you make over internet or how much legal exposure you might attract with a very basic and ignorant act of yours. Such exposure to liabilities could be beyond your imaginations.

Based on general trends of internet usage following are some of the legal issues that a user may face:

Section 354 D of Indian Penal Code

Sending unsolicited messages and friend requests to females-With amendment in Indian Penal Code as per new section 354 D even a basic act of sending message or trying to contact a female over internet /social media can call for security personnel at your door step.

What earlier used to be an act of Romeos to convince their Juliets can surely lead you to jail. As per the said provision to follow a woman and contact, or attempt to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitor the use by a woman of the internet, email or any other form of electronic communication you may be punishable with an Imprisonment for not less than one year but which may extend to three years, and shall also be liable to fine.

There are exceptions to this section which include such act being in course of preventing or detecting a crime authorized by State or in compliance of certain law or was reasonable and justified.

Unauthorized use

Unauthorized use of [copyrighted](#)-protected works- You like to play latest tracks and movies available on internet that too for free, think again! It seems quite trendy and simple but carrying any such **pirated media** stored on your mobile devices, storage devices, laptops or discs can lead you to jail. Copyright-protected works, such as text, videos, music, photographs, and source code, are often copied from another location and used on a social media website without the authorization of the content owner.

Ideal way is to seek permission before using material that appears to be a copyright-protected work. In some cases you may be charged for a license fee, but that fee will certainly be less costly than an infringement lawsuit. Some content, though, is

available for public use without express permission, such as open source code but it may also require you to give credit of the original work to the content author, so read all license terms and conditions carefully.

Unauthorized use of Trademarks-

Unauthorized use of third party trademarks on a social media- internet site may lead to legal liability for trademark infringement, dilution or unfair competition. In some circumstances, it may be permitted as “fair use” to refer to a company and its product or service in a product review, blog, or status posting, it is barred or restricted to use the trademarks of others to create a false impression of endorsement, affiliation or sponsorship.

In-fact websites such as Google and Facebook have sophisticated infringement reporting policies whereby a trademark owner can prevent another party from adopting its mark as a username or the like.

Disclosure of Confidential Information-Unintentionally or ignorantly confidential information, such as trade secrets, may be disclosed by an employee, a consultant or other party with knowledge on popular social media websites or via blogs, chat rooms, and anonymous blog comments. Such disclosure of trade secrets, in particular, can result in the loss of intellectual property rights in the confidential materials.

In addition, some websites purport to claim ownership of userposted information, such as comments to a story. Ideally employers should also be pro-active in crafting effective and proper policies to take control of employee usage and minimize losses with such exposures.

Defamation Issues –

Dynamic and real time expression is something that makes social media attractive and information sharing swift, however it has another perspective to it. Any such expression made or shared without identifying its correctness and base can also lead to criminal and civil liabilities. Prosecution under Information Technology Act based on social media posts is a controversial topic of Indian legal debates. Best practices is to avoid making or sharing any statement that could be defamatory.

E-Discovery -

While the rules and practices of investigations and following litigation generally lag behind the actual technology employed, discoverable information in electronic form beyond the usual emails and scanned documents such as tweets and Facebook posts and likes are an integral part of evidence in today’s investigations. While these messages are often shorter than traditional emails, they create problems precisely because they are shorter and thus require more explanation.

Companies with electronic document retention policies must ensure that these communications are also explicitly included as corporate property.

Jobs and Employment –

HR departments of companies review the Facebook, LinkedIn, and other social media pages of both job candidates and current employees. While this practice can be useful to help make hiring decisions, companies must ensure that their hiring and retention practices do not unlawfully discriminate based on information available through such candidates' and employees' social media pages. In addition, professional social media sites such as LinkedIn offer the opportunity for people to write recommendations for others in their networks. Any such recommendation must be thought after for avoiding any future liabilities or issues such as firing an employee while you have given him/her a positive recommendation on social media.

Exposure of Privacy and Personal information –

Personal privacy is an integral part of right to life under the constitution of India. While there are various professions such as that of a medical, legal professionals or service providers who have direct access to very personal information of their patients/clients and customers. Even a single act of revelation of any such personal information on social media or in a blog post or comment could lead to huge liabilities. Such professionals and service providers should have effective policies implemented to avoid exposures in form of huge liabilities.

To conclude

To conclude, social networking and internet is a very powerful and strong platform providing new set of tools which individuals, professionals and companies can use to their fullest utility, but as always, there are exposures. However with right set of policies implemented and proactive legal guidance platform of social media and internet can be used in most effective manner with minimal exposure.

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