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Author Name: Ashwin Singh

LAWS PROTECTING ONLINE JOURNALISM FROM ONLINE HARASSMENT

Abstract:

The internet being a huge network containing various sources of communication, information, etc, was once accessed only by the resource provider, but now in the age of technology, every citizen is given platform to express his views. The Constitution guarantees the right of freedom of speech and expression and such freedom is executed by means of these platforms in the online world. Some of the platforms that use the internet are media institutions. They being the platform between the public and the government cover all aspects that take place in society. By continuing their job they invite the haters of such news. The haters rather than proving the view of the media institution as wrong bring the online source into a child's play. They start to commit all forms of harassment, to the media institutions. More than the institutions the journalists who work get directly affected by the haters. They face both physical and mental pressure due to this criminal act. Yes, posting of abusive content in online though falls under freedom of speech and expression invites the term crime under the exception of the same right guaranteed by the same Indian Constitution. The article below discusses on topics related to laws that exist in protecting the journalists from the offender's act, the extent of the law in protecting, the 1st state in enacting a special statute against the act of online harassment, views of IPI in various fields, and an important note about the famous media person "Mrs. Gauri Lankesh" which made awareness about the importance of some special laws in protecting, journalists.

Keywords:

Online journalism, harassment, media institution, IPC, Maharashtra Bill.

Introduction:

Media is a huge platform connecting the whole world having no territorial boundary has helped in many ways. The recent years have witnessed the change of usage of media in television to computer then to phone, which brings the entire world into our palms. Anything can be performed from any place. Even an event in the remotest areas of the world gets telecasted in the news and other media. Such a powerful force must be handled by some persons on-screen and off-screen for its operation. They are called journalists and the job they perform is known as journalism. For effective implementation of journalism, a platform is required where there are many users, and the media holds such an important place in implementation. The same media also lies between the public and society, public and government, etc. In taking such a position the media acts as a bridge to connect these institutions. Thus, it plays a role in creating awareness and transparency of each group to the other group. No society contains only positives, presence of negative though more or less lies parallel to the positives.

As the media lies between two societies, publishing the pros and cons of one society to the other, making one society transparent to the other attracts aggression towards them. Similar to that of a shield used in the times of war, the journalists present between the media and the aggrieved party gets affected as they attract such aggrieved persons first. Thus, such persons must also be protected from aggression. The result of this aggression either reflects in the journalist's physical life or mental life. Due to the same media being present all over the world, technological harassment on any platform gets published across territories and thus affects mentally. According to Indian Constitution, the Right to life and the Right to live with dignity are guaranteed to all citizens in every situation; similar to that every nation has its own laws to protect the dignity and life of its citizens. Online harassment, which stays popular in the present world, affects any situation; thus special laws governing the journalist and to stop online harassment are a must in the prevailing society.

Provisions in IPC:

Though legal provisions under the Indian Penal Code protect persons, and especially women, from offline harassment, these do not extend to the online sphere. When dealing with other laws in India, the press people (journalists being online or offline) are governed by various laws in India, such as the Press laws, Information Technology Act, etc. Thus the act

of journalists is executed after undergoing various laws but the act of the people who engage in online harassment has no limitations to adhere to.

Move by Maharashtra:

Maharashtra was the first state in India to enact a separate law known as the Maharashtra Media Person and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017¹, and got the assent of the President on 8th November 2019 in considering the prevailing unsecured status of journalists. This Act prohibits the use of violence against any media person and any damage caused by the offenders either to the person or to the media institution, and if such act of violation of the provision takes place, imprisonment, which may extend to a period of 3 years, or a fine of rupees fifty thousand, or both, shall be imposed. The punishment regarding such violation is stated in section 3 of the above Act. The same Act also provides a civil remedy in terms of compensation for the loss caused to the media person and the institution under section 6. The Act also ensures that a police officer who is not below the rank of Deputy Superintendent of police as the criteria of an officer must deal with such a case under section 5. The Act expresses its uniqueness in section 8 by placing a limitation on the media persons and the institutions. Under section 8 the Act also ensures punishment to the media person or the institution if they use the provisions mentioned above to wrongfully benefit themselves by filing a fake complaint. In such a situation, the Act grants the same punishment (imprisonment for 3 years or fine of Rs. 50,000 or both) for the purpose of providing equality and balance. These provisions not only protect journalists from physical assault but also online harassment, because the present world is witnessing the use of social media more than newspaper publishing etc., and adding a comment is more effective than any other publishing method and such comments reach the maximum distance due to the use of the internet.

¹ Maharashtra Media Person and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017 <<http://www.bareactslive.com/MAH/mh862.htm>> accessed on 15 August 2020.

Drawbacks of the law in Maharashtra²:

The Act initially has only a few noticeable drawbacks in determining the punishment. Hurt or grievous hurt has severe punishments in IPC, apart from such acts IPC contains all possible definitions of crimes against a person or an institute, but this act contains a civil remedy or a punishment of 3 years of imprisonment or a fine. This common punishment brings all sorts of crimes mentioned under the IPC into a single basket treating all crimes equally. Hurt differs from grievous, assault, battery, sexual assault, other horrible attacks, each has a different level of punishment. However the Act that is passed in Maharashtra at an overview fixes a punishment of 3 years or a fine, or a civil remedy mentioned above. Thus in any of the situations, either of the laws gets suppressed by the other. Meanwhile, if there is a situation of the Maharashtra Media Law standing over IPC for a serious crime, the criminal may undergo this lighter punishment rather than undergoing serious punishments mentioned in IPC for his serious crime. Thus, improvements in certain aspects may create strong support for the sustainability of the act. Though Media persons are not a special class of people, the job they undertake makes their profession a risky profession and requires some laws that run parallel with other statutes prevailing. Though the Act has some drawbacks, it has taken a necessary first step in implementing laws for protecting journalists and thus paved the way for other states to travel in such a path by enacting similar laws. The law, when introduced, was welcomed by various organizations such as The National Union of Journalists, India (NUJI), The International Federation of Journalists (IFJ), and many more.

Guarantee by the Constitution:

The Indian Constitution guarantees certain basic rights to its citizen; among such rights, right to freedom of speech and expression is mostly utilized by the media. These people execute such right in the right path and the users who deserve the right to information join hands together to create awareness related to serious crimes and scams. As these journals are directly involved in collecting information, the users get hidden behind them. Executing the right to freedom of speech and expression requires some knowledge for expressing the views

² Geeta Seshu, Maharashtra's new law has significant omissions < <http://asu.thehoot.org/media-watch/law-and-policy/maharashtras-new-law-has-significant-omissions-10038>> accessed on 22 August 2020.

on particular issues. Such knowledge is the output of the work done by social media and journalists. Similarly, everyone is aware of the right to life discussed under the same fundamental rights, creating awareness, and giving knowledge about the current running issue should not be a reason for grabbing the fundamental rights. Yes, at times the right to life and living with dignity is grabbed away by some of the offenders having a political background or some other. At the same time making laws alone cannot be a way for protecting the rights of the journalists, another hand which works equally to the field of a journalist is the social media, laws in such field can also help the journalist to provide the right news at the right time.

Information Technology Act:

Internet having no boundaries, is maintained in an orderly structure by the usage of Information Technology Act, 2000. The act at present has some control over the journalists and at the same time over people who engage in the act of harassing the journalists online. One of the provisions is section 67 of the IT Act, which deals with publication of obscene data in the electronic form (online) which also comes under harassment, voyeurism, etc. when viewed related to immediate punishment for online harassment both the acts (the Information Technology Act, and the Indian Penal Code) reduces its speed in immediate protection to the victimized journalists and punishment to the person who committed harassment. As the medium comes to be online the implementation of much stronger laws is required.

Suggestions from the IPI:

As discussed above, implementing laws alone cannot protect journalists from harassment, but social media (the digital world) should also be monitored in such a way that it controls the danger. But in the meantime, enhancing both is a critical task in India because the steps that are taken to initiate the two things mentioned above should not affect the right to freedom of speech and expression. Banning the comment section can stop online harassment, but on the other hand, it curtails the right of the citizen to express his views, which directly leads to a derogation of the freedom of speech. With the objective of preparing such an environment where the right is used, and harassment is also prevented, the International Press Institute (IPI) organized a session namely “Shields up! Protection against online harassment of

journalists, bloggers, citizen reporters” in San Francisco from March 30th to April 1st of 2016³. The panelists recommended various steps in each area, considering the protection of the journalists from harassment because physical harassment affects them once, online harassment creates a path for mental disturbance and affects them for a long time, both forming risk.

Controls in Media Platforms:

Allowing the users to free control over the feed of posts and comments they view, along with giving them the access to block or mute the content present in their news feed may be two viable alternatives. These privileges do not affect the right to expression and at the same time, makes the person commenting visible to all. This visibility is even more important in this day and age because the present digital world witnesses significant occurrences of hacking and cybercrime.

Making the process of reporting more user-friendly helps the victims approach redress mechanisms easily. Similarly, framing new laws to control the online harassment and revising it periodically keeps it under control, because the cyber world witnesses growth regularly.

Many websites and services require social media accounts for logging in; such requirements can be used as a tool for harassment against the victim and must be changed.

Role of Media Institutions:

The first task of the media institutions is to counsel their journalists who were once a victim of online harassment. As mentioned above, online harassment largely affects the victim mentally. Such a disturbed state leads their path to disaster thus providing counseling and legal support to the victimized journalists would minimize the psychosocial consequences.

The media can conduct a process of educating the users on best commenting practices, which actually stands as a huge burden and a hard task to be completed, but is not an impossible event. Surveilling the articles and blogs and controlling the abusive comments would require a large amount of resources. Following the policy and providing an option of

³ Recommendations on protecting journalists from online harassment <<https://ipi.media/recommendations-on-protecting-journalists-bloggers-from-online-harassment/>> accessed on 22 August 2020.

“Think Twice” would remind the person posting the abusive comment to stop such acts. Additionally, limiting the period of time, and word limit to post a comment would reduce quick harassment.

Advice to Journalists:

Similar to the security forces, the field of journalism also has some inherent risks, and with the chances of harassment being on one side, the mindset to face such harassment is a must. Though the law has the power to control it cannot eradicate such ills from society. Receiving proper training on addressing the attacks either online or physically may protect the journalists from potential harm. Putting up with the harassment is inadvisable but practice to face such tragedy may help in controlling the harassment. Educating the journalists about the usage of digital security standards is a must in preventing journalists from being victimised. Protecting personal data from others requires some knowledge.

The UN:

The UN is one of the leading organizations, which holds all nations together and connects every nation to each other in solving and facing any crisis that they might face. The UN has played a role in protecting the journalists also and suggested some methods and modes to implement. World Press Freedom Day is celebrated on May 3 of every year and on November 2 the International Day to End Impunity for Crimes against Journalists is observed in order to create awareness among the users and other people about online harassment and educate them in certain fields such as the Think Twice Policy, etc. Promoting The safety of journalists both in online and offline discussions is promoted in meetings related to the World Summit on the Information Society.

Role by Government:

The only step that a government can take is implementing some laws and practicing it. Thus, enacting laws that hold its position in controlling the harassment either physically or through online must fall in line with the international standards because such laws must not affect the rights of the other persons and at the same time must protect the journalists, that is, the rights to speech must be balanced with protection of privacy. Executing due care in complaints related to online harassment protects the victims.

Steps Practiced Till Date:

Some countries, including India, follow the method of removing offensive posts or comments that may lead to harassment. The Australian government contains a provision in its laws that give power to the e-safety commissioner who now operates a complaint and removal notice process in relation to the sharing of the past without the consent of the party. The Japanese government in a further step has made provisions for identifying and punishing the person who posted such content. The Australian government also passed a draft regarding the protection of journalists and conducted a survey among the people in the year 2019 and started to develop the legislature to stop cyber-harassment with the suggestions of the people. England took the step of educating the police force regarding the process of processing a complaint related to online harassment and in conjunction with this started to frame laws to control it. The responsibility of controlling such crimes not only lies with the government but also with the media person because they act as a bridge between the government and the public. Thus the media institutions in India can also take steps similar to that of Finland's media companies, which came together in order to raise funds to support the targeted journalists and to stand against the person committing such crime.

Gauri Lankesh:

Gauri Lankesh was a well-known journalist who worked as an editor in the Lankesh Patrika. She was known for writing pieces critical of right-wing Hindu extremism. She was strong in her views of the status of Hindu women and commented that Hinduism was not a religion but a system of hierarchy in a society where women are treated as second class creatures. She was a media luminary and was also known for dealing with freedom of the press.

In the year 2008, she published an article called "Darodegilada BJP galu", which criticized the BJP leaders Pralhad Joshi, Umesh Dushi Shivanand Bhat, and Venkatesh Mestry regarding the issue where the leaders had cheated a jeweler of Rs. 100,000. Consequentially, she was filled under defamation suits. In the proceedings of the case, she failed to produce the documents supporting the content of the article. The Second Judicial Magistrate First Class concluded the judgment and imposed a fine of Rs. 5000 along with a total fine of Rs. 10000. The court also granted imprisonment of 6 months but granted bail at a later time. She was shot dead in the year 2017 by an unknown assailant, and the news created awareness among the public and the journalists about the lack of safety of the journalists. Harassment

that can be faced creates fewer problems, but serious harassment which leads the life into risk of sustainability forces the government to enact suitable laws for immediate action to the victim and the offender. Similar to that of Mrs. Gauri Lankesh there is numerous case that is filled or not filled. According to the report in December 2019, there were a total of 40 journalists who got killed and 198 journalists went through serious attacks in India in the last five years. Though the number seems to be small it provokes the other journalists to quit their job. Thus we can conclude that the implementation of laws alone cannot protect the journalists, but the awareness among the public may reduce the level of harassment. Laws are important for the efficient functioning of the task of the journalists without fear, but they should no way be superior to all.

References:

- 1) Maharashtra Media Person and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017
<<http://www.bareactslive.com/MAH/mh862.htm>> accessed on 15 August 2020.
- 2) Geeta Seshu, Maharashtra's new law has significant omissions <
<http://asu.thehoot.org/media-watch/law-and-policy/maharashtras-new-law-has-significant-omissions-10038>> accessed on 22 August 2020.
- 3) Recommendations on protecting journalists from online harassment
<<https://ipi.media/recommendations-on-protecting-journalists-bloggers-from-online-harassment/>> accessed on 22 August 2020.
- 4) Laws Protecting Journalists from Online Harassment: Finland
<<https://www.loc.gov/law/help/protecting-journalists/finland.php>> accessed on 23 August 2020.
- 5) Ms. Heena Keswani, Bharati Law Review - CYBER STALKING: A CRITICAL STUDY <<http://docs.manupatra.in/newsline/articles/Upload/455C1055-C2B6-4839-82AC-5AB08CBA7489.pdf>> accessed on 23 August 2020.