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# The Defamation in the Internet Age: Cyber Defamation

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## ABSTRACT

*“Every man is entitled to have his reputation preserved inviolate”*

- William Blackstone

*In the 21st century internet communication grows rapidly over the world, people can transmit information and communicative across the boundaries in a faster, easier and inexpensive way. With one click a user can post a message to bulletin board on the web or send a message by email to an enormous number of recipients globally. Defamation laws have developed over several centuries to provide recourse for people whose reputation are or are likely to be harmed by publication of information about them. Theoretically, the objective of defamation law is to balance between protection of person's reputation and freedom of expression. In practically, defamation laws are frequently used as a means of chilling speech. As may of other geographical areas. With both push technologies like email and pull technologies like the web unconstrained and indeed uncontainable by state or national borders. With the proliferation of internet, and its endless freedom to discriminate information of all kind new concerns and interpretation have inevitably arisen about conflicts between the right to speech and right to reputation. The law related to defamation is different from state to state and country to country. In this paper researchers have made an attempt to analyze the meaning and scope of cyber defamation in India, law pertaining to it and jurisdictional concerns.*

**Keywords** – Communication, Cyber Defamation, People, Publication, Reputation

## I. INTRODUCTION

Defamation is relatively a new tort for Indian law. Not many defamation suits were filled in the country until recently and the only ones that were filed by film stars and the rich and the famous, against the media trying to salvage their reputation.

After the media revolution in the country, people became more aware of their rights, the frequency of defamation suits being filled increased rapidly. Recently, there have been a some

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cases where a few journalist have exposed corrupt side of the politicians by discreetly filming a politician with a hidden camera when he was taking a bribe for posing a question in parliament and religious heads directly accepting bribes in order to go ahead and declare something about their religion distorting completely to religion principle they are supposed to uphold and by misuse the authority vested in him . In English common law reputation is clearly protected and is remedied almost in civil law by award of damages after trial by jury<sup>2</sup>

The Indian tort law is taken from British common law and is yet un-codified except for the few areas. Therefore, the existing law relating to the defamation place reasonable restriction on fundamentals rights of freedom of speech and expression guaranteed under Article 19(1)(a) of the constitution. In India Lord Macaulay introduced a law of defamation in 1837. Macaulay recommended that criminal defamation would not be linked to breach of place but justified because an imputation on the courage of an officer in a private letter seen by one or two people vends offence.<sup>3</sup>

Defamation is civil as well as criminal wrong. There is codified criminal law subject; the civil law of defamation is not codified. Defamation under civil law comes under the law of torts but in criminal law the topic is contained in Section 499 to 502 of C, 1860. Punishment for defamation is imprisonment up to two years or fine as per Section 500 of the IPC. In past few years, defamation cases are rapidly increasing in India like anything.

The political leaders are filing defamation cases against each other on frivolous grounds and then cross defamation cases are being filed. There are number of cases filed alongside political leaders like Arvind Kejriwal, Rahul Gandhi, Smriti Irani. This has led to disagreement in media and need to relook into defamation laws of India.

Several deliberate counterfeit statements, either printed or verbal, that problems a person's standing; decreases the respect, regard, or confidence in which a person is held; or induces disapproving, hostile, or disagreeable opinions or feelings against a person.

The ingredients of defamation are-

- (i) Making or Publishing any imputation concerning any person,
- (ii) Such imputation must have been made with the intention to harm with knowledge or having reason to believe that it will harm the reputation of the person concerned.

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<sup>2</sup> SHAKEEL AHMAD & IQBAL UZAIR S.M, "CYBERCRIME AND PREVENTIVE LAWS", An appraisal", Indian Bar Review, Bar Council of India, vol. xlii (2) 2015.

<sup>3</sup> ROUTLEDGE TAYLOR AND FRANCIS GROUP, "COMPARATIVE MEDIA LAW AND ETHICS", New York, 2010.

The issue of defamation vis-à-vis the news media requires careful consideration. On the one hand, instances of fake sting operations or trial by media give credence to allegations of irresponsible journalism. On the other, threats of legal action with punitive damages under the laws of defamation lead to a ‘chilling effect’ on the publication of free and independent news articles and puts undue pressure on journalists and publishing houses. Any change to the laws on defamation in India must balance these two considerations.<sup>4</sup>

Currently, civil defamation is dealt with under the law of torts whereas criminal defamation is an offence under Section 499 of the Indian Penal Code. A journalist has no special status under defamation laws in India. Although the press enjoys the freedom of speech and expression under Article 19(1) (a) of the Indian Constitution, defamation is a ground for a reasonable restriction to this freedom under Article 19 (2).

Demands have been made in the past by entities such as the Editors’ Guild of India, to decriminalize defamation as it pertains to journalists. The proposal has been noted by the Law Ministry as well. In 2003, the newspaper *The Hindu* mounted an unsuccessful challenge in the Supreme Court against the use of the criminal code for defamation, on the ground that it violates the press freedom guaranteed by the Constitution. Therefore, a comprehensive review of laws regulating the media must consider the question of defamation laws as well.

## **II. MEANING AND CONCEPT OF DEFAMATION**

Not all torts result in bodily harm. Some cause harm to a person’s reputation instead. Defamation is the general tort that encompasses the statements that damage one’s reputation. Under the Indian penal code and hills made no difference between the spoken and written defamation and it include both slander and libel.<sup>5</sup>

Defamation is a legal term which refers to any statement made by a person; whether written or spoken that causes damage to another’s person’s character or good name.

Defamation can be understood as the intentional infringement of other person’s right to his reputation. It is the intentional and wrongful publication of words or behavior concerning another person, which has the effect of injuring that person’s status, good name reputation in society.<sup>6</sup>

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<sup>4</sup> HARISH KUMAR, “LAW OF DEFAMATION IN INDIA”, INTERNATIONAL JOURNAL OF INSTITUTIONAL & INDUSTRIAL.

<sup>5</sup> MEHROTRA, “MEHROTRA’S COMMENTARY ON LAW OF DEFAMATION (DAMAGES) and MALICIOUS PROSECUTION”, DELHI LAW HOUSE, DELHI 11 (5<sup>TH</sup> ed. 2002).

<sup>6</sup> SHAKEEL AHMAD & IQBAL UZAIR S.M, “CYBERCRIME AND PREVENTIVE LAWS”, An appraisal”, Indian Bar Review, Bar Council of India, 69 (vol. xlii (2) 2015).

According to chambers twentieth century Dictionary: “Defamation is the act of defaming; defame means to take away or destroy the good fame or reputation; to speak evil of; to charge falsely or to asperse.”

Underhill’s defines Defamation as: “The publication of a false and defamatory statement concerning another without just cause or excuse, whereby he suffers injury to his reputation.”

According to Winfield: “It is a publication of the two statement which tends to lower a person in the estimation of right-thinking members of society generally or which tends to make them shun or avoid that person”

While explaining his definition Winfield said that “tending to shun or avoid” is must for false imputation against a person of insanity or insolvency is defamation though rather than exciting hatred or contempt, it would raise sympathy in the minds of reasonable man who would intended to shun his society. A statement which damages a man in his reputation in relation to his profession, trade or office or business may be defamatory. For instance, the imputation of some quality which is essential to the successful carrying on his office or business such as want of ability, incompetence and of course dishonest or fraudulent conduct.<sup>7</sup>

Injurious statements which do not reflect on a person’s reputation are not defamatory but may be actionable.<sup>8</sup>

If the defamatory statement is printed or broadcast over the media, it is libel and if only oral statement is made, then it is called slander. Damage for slander may be limited to actual (special) damage unless there is malice. Some statement such as accusation of having committed crime, having a feared disease or being unable to perform one’s occupation is called libel per se.<sup>9</sup>

### **Libel and Slander**

Defamation could take one of the two forms: libel or slander. Libel consists in the publication of a defamatory statement expressed in some permanent form, for instance by writing, printing, pictures, statue, waxwork, effigy etc. Where, on the other hand, defamation is oral or by gestures or in some other transient form, it constitutes the tort of slander.<sup>10</sup>

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<sup>7</sup> TUMER V. METRO GOLDWYN, MAYER PICTURE “MEHROTRA’S COMMENTARY ON LAW OF DEFAMATION (DAMAGES) and MALICIOUS PROSECUTION” 449 (2d ed. 1950).

<sup>8</sup> MEHROTRA, “MEHROTRA’S COMMENTARY ON LAW OF DEFAMATION (DAMAGES) and MALICIOUS PROSECUTION”, DELHI LAW HOUSE, DELHI 12 (5<sup>TH</sup> ed. 2002).

<sup>9</sup> Section 499 of IPC (27may2019), <http://www.dictionary.law.com>.

<sup>10</sup> MADHAVI GORADIA DIVA, “FACETS OF MEDIA LAW”, EASTERN BOOK COMPANY, LUCKNOW, 85 (1<sup>ST</sup> ed. 2006).

**In Monson v. Tussands Ltd.**<sup>11</sup> the distinction was explained thus:

Libels are generally in writing or printing, but this is not necessary; the defamatory matter may be conveyed in some other permanent form. For instance, a statue, caricature, an effigy, chalk marks on a wall, signs or pictures may constitute a libel.

Later in, **Youssoff v. Metro Goldwyn-Meyer Pictures Ltd.**<sup>12</sup> it was suggested that in addition to the test of permanence, the communication must also be visual. In this case, the question arose as to whether film pictures accompanied by speech could amount to libel. The court concluded that while there was no doubt that the visual aspect, being permanent in nature would constitute libel, the audio portion would also qualify as libel, not independently, but only because it was part of 'one complex, common exhibition' being 'ancillary' to the visual image.

Under Indian Law, both libel and slander constitute criminal offences under Section 499 of the Indian Penal Code, 1860.

In India, we need not over-emphasize the distinction between libel and slander since the common law rule that slander is not actionable per se has not been adopted by our courts. In India, both libel and slander are actionable in a civil court without proof of special damage.<sup>18</sup> Also, Section 499 of Indian Penal Code, 1860 makes no distinction between written and spoken words and both libel and slander are capable of constituting criminal offences.<sup>19</sup> In cases of slander, the actual words used by the accused may be reproduced where the statement is brief. But where the defamatory statement is long, it would be technical to insist that the actual words spoken be reproduced verbatim.<sup>13</sup>

### III. CONCEPT OF CYBER DEFAMATION

In the present era, the concept of defamation has been changed. The offence of defamation has committed by technological means. Now, the internet becomes the place, where people can indulge into criminal activities, cyber defamation is a growing tool in social media. The life of a common man has been changed wonderfully with the invention of internet; it has provided a medium for people worldwide to internet with that brought the world closer to every man who has access to it. Anything and everything is possible via the medium of internet, social networking, entertainment, shopping, job hunt, and recruitment etc. all.

The common use of internet has also provided a new face to the crime and also a new medium to the bad elements to commit crime. Cyber defamation in India is fresh concept but the

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<sup>11</sup> (1894) 1 QB 671, P. 692.

<sup>12</sup> (1934) 50 TLR 581 (CA).

<sup>13</sup> BALRAJ KHANNA V. MOTI RAM, (1971) 3 SCC 399.

traditional definition of the term is defamation of a person through a new and a potential medium. The term defamation can be understood to define the injury that incurred to the reputation of a person in the eyes of a third person. This so-called injury can be done by verbally, written, by signs or visible representations. The intention of the person, who defamed someone by making defamatory statement, must be to lower the reputation of that person in the eyes of the general public. Cyber defamation is made with two words cyber & defamation. The cyber word is related to the computer. The crime which committed by using the computer either as a tool or object falls within the definition of cybercrime. Cyberspace is a technical term used for the electronic medium of computer networks under which online communication take place. Cyber law is the law that governs the crimes committed within the cyberspace.

As we know that the present era is internet era, the social media on web become a most crucial society under which the whole world is connected. Many people have started using internet more as a various issues. The use of social media has bought a revolution not only in the Indian sphere but all across the world.

The politicians are using these mediums to reach out to masses. Stars are using these as a medium to connect to their fans and well-wishers. In order to set politically, they create controversies on these media. Internet has many pros and cons, on one side it. Internet provide to society a platform under which one can convey their thoughts, get involved in discussions, and review a product, a movie, a song and even a person. On the flip side it acquired us with goons who commit cyber defamation. If an email containing a defamatory material about some person is sent to another or some defamatory images or caption is published against a person on website and if it is done with intention to cause harm to reputation of a person against whom the material has been published, it commits to cyber defamatory.

#### **IV. INDIAN LEGAL PROVISIONS REGARDING CYBER DEFAMATION**

Cyber defamation is a new concept in India. It is considered as one of the species of cybercrime in order to deal with this crime. In present there is not any separate law which directly associated to cyber defamation. In India, in order to deal with this issue of online defamation, the traditional law relating to defamation may also apply to cyber defamation. In India defamation law is divided into two parts civil and criminal. There is not specific statute which deals with civil defamation. The law of torts which is also a part of common law may apply in this regard. The criminal defamation is defined under Indian Penal Code 1860.

Some Sections of Information Technology Act are also deal with such emerging issue. In defense of the criminal law of defamation, the government of India has recently articulated its

concern over the creation of new offence. Through an affidavit filed by the Ministry of Home Affairs in *Subramanian Swamy v. Union of India*<sup>14</sup>, it has argued that civil remedies are not sufficient for dealing with the offence of defamation because they are more time-consuming than criminal remedies, and it effective only if plaintiff has financially capable of full compensation to victim. While the extension of the current defamation framework to internet raises multiple interpretative concerns. In the absence of Internet-specific guidelines, Indian courts have ruled on jurisdictional concerns, the meaning of publication on the Internet, the grant of interim injunctions due to the possibility of irreversible harm to reputations. Additionally, the lack of legislative attention to the application of defamation law to the internet has led to the emergence of undesirable trends, such as Strategic Lawsuits against Public Participation (SLAPPs).

## V. INTERMEDIARY LIABILITY UNDER INFORMATION TECHNOLOGY ACT, 2000

In Cyber Defamation case there is a possibility of many defendants as many people's active and passive role is involved in publication of a defamatory message as a mere facilitator or a publisher. These intermediaries include Website Owners, Website Hosts, and Employer's on behalf of their employees and Internet Service Providers (ISPs).<sup>15</sup>

Section 2(1) (w) in The Information Technology Act, 2000 provide a definition of intermediary *"Intermediary, with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record to that message."*

The original IT Act created a safe harbor for intermediaries from liability arising out of third-party defamatory content. This above written definition appeared to limit the safe harbor provisions solely to network service providers, and was widely criticized for not providing clarity as to which entities could claim to be intermediaries. Moreover, the immunity as provided under the Act was limited only to offences specified by the IT Act, which resulted in intermediaries being subjected to tortuous liability and having to face prosecution under Section 499 of the IPC for hosting the defamatory content. The Government of India recognized the need to address these issues with the original IT Act, and appointed an expert committee to recommend amendments to the Act.

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<sup>14</sup> AIR 2016 SSC 2728 (INDIA).

<sup>15</sup> K.JAISHANKAR PH.D & NATTIRONEL PH.D, "FIRST INTERNATIONAL CONFERENCE OF THE SOUTH ASIAN SOCIETY OF CRIMINOLOGY AND VICTIMOLOGY 119 (SASCV,2011) (6<sup>TH</sup> May 2020 ) <http://books.google.co.in> .

As result inspired by the European E-Commerce Directive, and expert committee's recommendations, the Information Technology Act, 2000 has amended in 2008, and thus new Act expands the definition of "intermediary" to include online intermediaries, and also enhance intermediary immunity to laws and offences beyond the IT Act. The current definition of intermediary is expansive, and includes "telecom service providers, network service providers, Internet Service Providers, web hosting service providers, search engines, online payment sites, online auction sites, online market places and cyber cafes."

## **VI. LEGAL PROVISIONS REGARDING IMMUNITY OF INTERMEDIARIES FROM LIABILITY UNDER IT ACT (AMENDMENT), 2008**

Section 79 of IT Act exempts Intermediaries from Liable in Certain Cases. The Section read as:

Clause 1: Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third-party information, data, or communication link made available or hosted by him.

Clause 2: The provisions of sub-section (1) shall apply if—

(a) The function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hasted; or

(b) The intermediary does not—

(i) Initiate the transmission,

(ii) Select the receiver of the transmission, and

(iii) Select or modify the information contained in the transmission;

(c) The intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

Clause 3: The provisions of sub-section (1) shall not apply if—

(a) The intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) Upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the

intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.<sup>16</sup>

## **VII. INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES) RULES, 2011**

In 2011, the Government of India notified the enactment of the Information Technology (Intermediary Guidelines) Rules, 2011. These Guidelines were enacted through Section 87(2) (zg), read with Section 79 of the IT Act. The Guidelines specify a list of categories of unlawful content, including material that is blasphemous, defamatory, obscene, pornographic, libelous, invasive of another's privacy, hateful, racially or ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatsoever.

Under such rule it is a duty of the intermediary, on whose computer system the information is stored or hosted or published, he would know itself or brought to actual knowledge by an affected person in writing or through email signed with electronic signature about any objectionable content as mentioned under Section 3 of the rules. He has to take action within six hours work with user or owner of such information which is banned.

Moreover, intermediary has a duty to preserve such information at least ninety days for investigation purposes.

The intermediary shall take all due care to secure its computer information and resource by follow the reasonable security practices and procedures as prescribed in the Information Technology (Reasonable security practices and procedures and sensitive personal Information) Rules, 2011.

The intermediary has under the obligation under which he has to publish on its website the name of the Grievance Officer and his contact details as well as mechanism under which users or any victim violation of rule 3 can notify their complaints against such access or usage of computer resource of the intermediary. The Grievance Officer shall redress the complaints within one month from the date of receipt of complaint.<sup>17</sup>

## **VIII. AMBIT OF SECTION 79 OF INFORMATION TECHNOLOGY ACT. 2000**

As we read above that Section 79 of IT Act protect the online intermediaries from liability under IT Act itself and does not mention any obligation upon the ISPs liability under any other

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<sup>16</sup> JYOTI RATTAN, "BHARAT'S CYBER LAWS & INFORMATION TECHNOLOGY," New Delhi 264 (2d ed 2011).

<sup>17</sup> (8<sup>th</sup> may 2020)[http://duty.gov.in/sites/upload-fiels/Gsr314-10511\(1\).pdf](http://duty.gov.in/sites/upload-fiels/Gsr314-10511(1).pdf) .

Acts whether civil or criminal. If we take the wordings of the Section in literal sense under this Act it shall mean extending immunity from civil liability for acts falling under any of the sub-sections of Section 43 of chapter IX reveal that barring a few, most of the contraventions and offences listed therein are individual acts and ISPs have less or no role to play in the commission of the crime, futile to talk of their liabilities under it. The most relevant provision, under which ISP can seek protection of are Section 67, and Section 79, which dealing with publishing of information which is obscene in electronic form. Under this one may infer that Section 79 aims at giving limited immunity to the intermediaries only under IT Act and not from liabilities arising under other statutes. That apparently was not the intention of the legislature as the scope of Section 79 will be very narrow. Thus, the intention of the legislature is to provide immunity to online intermediaries through Section 79 it may be extended by the defense to the offence of defamation and to another criminal offence with liability.<sup>18</sup>

## **IX. REGULATIONS FOR ISPS AND ONLINE INTERMEDIARIES**

Indian law distinguishes between internet service providers (ISPs) and online intermediaries. The reason is that ISP, such as telecommunication service providers and network service providers require a license from the Government to operate in India. That's why; Government can make these licenses contingent on ISPs preventing the transmission of objectionable, defamatory, obscene, or intellectual property infringing materials, and may hold them liable when such material is transmitted. Moreover, the ISPs are under the duty to track such communications and trace and block those which are ill-will content or constitute a nuisance. On the flip side, the online intermediaries are not same as of ISP. They do not provide by the government same ruling and regulation regarding licensing and another scheme. They rarely have offices in India. Although online intermediaries are exempted from such limitations, but they still have to satisfy the requirements of Section 79 to avail them of immunity from hosting defamatory content.<sup>19</sup>

## **X. JURISDICTIONAL ISSUE**

The essence of the internet is borderless. Once a user posts a message on website or newsgroup, every internet user all over the world can read it. For instance, if a person from US, post a defamatory message in Dubai hosted forum against a company from china and the forum is usually visited by many UK internet users, then where should the plaintiff i.e. the company of

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<sup>18</sup>(8<sup>th</sup> may 2020) [http://14.139.60.114:8080/jspui/bitstream/123456789/12812/1/004\\_Liability%20of%20Online%20Intermediaries\\_Emerging%20Trends%20\(155-178\).pdf](http://14.139.60.114:8080/jspui/bitstream/123456789/12812/1/004_Liability%20of%20Online%20Intermediaries_Emerging%20Trends%20(155-178).pdf).

<sup>19</sup> (8<sup>th</sup> may 2020) <https://www.law.uw.edu/media/1397/india-intermediary-liability-of-isps-defamation.pdf> .

China can sue the person? Is the jurisdiction valid to another country? This is a problem which needs to be tackled in the traffic speedy internet world.

Resolving jurisdiction concern since material posted on the Internet can be accessed in multiple jurisdictions; courts are frequently faced with the dilemma of whether or not to rule on material which is available within their jurisdiction but originally published elsewhere. As a result, currently countries have increasingly begun to punish speakers beyond their borders. India does not currently have any guidelines which allow the courts to exercise jurisdiction over foreign publications. And in the case of domestic publications, it has in favor of a liberal approach to jurisdiction based on access to the defamatory material. Delhi High Court found in Frank Finn's Case, that cause of action had arisen in Delhi although technically publication only took place in Mumbai, by virtue of the fact that the material was available on the Internet. Section 19 of the CPC permits such an interpretation because it allows plaintiffs to sue either;

1. Where the wrong was done or
2. Where the defendant "resides, or carries his business, or personally works for gain
3. If the wrong is considered to be done in any jurisdiction where online content can be accessed, this will lead to uncertainty for defendants as to the jurisdictions in which they may be called upon to defend themselves.<sup>20</sup>

In the international concerns these matters are automatically magnified. The representatives of intergovernmental bodies have said that "jurisdiction in legal cases relating to Internet content should be restricted to States in which the author is resident or to which the content is specifically directed; jurisdiction should not be established simply because the content has been downloaded in certain locations."

In India, Sections 15 to 20 of the Civil Procedure Code, 1908, Section 177 to 188 of the Criminal Procedure Code, 1973 deal with civil and criminal jurisdiction respectively. Jurisdiction in India broadly is of three types:

- (1) Pecuniary jurisdiction
- (2) Subject matter jurisdiction
- (3) Territorial jurisdiction<sup>151</sup>

Section 75 in Information Technology Act, 2000 provide that  
Act to apply for offence or contravention committed outside India. -

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<sup>20</sup> (10<sup>th</sup> may 2020) <http://www.abstract.xlibix.info/as-juristic/2747613-6.pdf>.

1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

2) For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

Cyber space is a wide platform which provides people with the opportunity to express their views, but should not use this opportunity to disrepute someone. There have been many instances where people have tarnished the reputation of others through their views or abusive comments. There should be regulations posed the service provider or the bulletin board providers. These intermediaries should have strict policies against people who post vulgar or abusive comments.<sup>21</sup>

Besides this people should be aware of their limits, they should refrain themselves from making any personal or abusive comment on a public forum. When we enter the cyberspace there is a basic etiquette everyone needs to follow that is to maintain sanity in the cyberspace.

## **XI. CONCLUSION**

Way back in nineties, only few people were able to log on to Internet globally. As of now, millions of people are hooked up to surf the net. This is a cause to express criminal tendencies than before. Cybercrime has emerged as a major challenge for the enforcement agencies and with younger generation using the internet and other online technology.

Cybercrime has emerged as a major challenge for law enforcement agencies and with younger generation using the internet and other online technology extensively for staying in connect with all day-to-day work and entertainment, which all are valuable. Criminals are step ahead with spread of computer and internet. Justice T.S. Thakur, who has been appointed as chief Justice of India, while addressing the Conference on Cybercrimes in 2015, which are based on Cybercrime, Cyber laws and Cyber Security, he said that there might be a possibility that the internet would have been used in coordinating the Paris terror attacks. Expressing concern over growing instances of cybercrime, that there is a need to create an agency to formulate laws and have recommendations for the judiciary on this subject. In online defamation internet or computer is use to publish any defamatory material to harm the reputation of another person. Cyber defamation not merely affects the welfare of a community but as whole this type of

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<sup>21</sup> JYOTI RATTAN, "BHARAT'S CYBER LAWS & INFORMATION TECHNOLOGY "New Delhi 302 (2d ed 2011).

defamation also affects the economy of country depending on the victim against whom the defamatory statement is published and also depends on the information which is published.

## **XII. SUGGESTIONS & RECOMMENDATIONS**

To curb the evil of cyber defamation, there is a need of strong legislation. Currently in India, there is not any law, which specifically deals with offence of cyber defamation. Cyber defamation is still within the preview of traditional defamation.

A sound judicial system is the back bone for preserving the law and order in the society. The fact is that, the cybercrimes is of technical nature. Many judges and lawyer required sound cyber law training in order to understand the computer related crime. This there need of law is to appropriate the difference between mere “computerization and cyber law literacy.

The principle of less content control, less liability that is being followed in India is faulty one. The intermediary can takedown the content only after receiving actual knowledge from a court order or being notified by the appropriate government or its agency, which required a lot of time to proceed, due to which online malicious content still be remained on the sites which could damage the reputation of victim at large scale. This Section should be re-considered by the legislation and the principle of more content control, less liability should be accepted, which would give an opportunity to the ISP to remove the defamatory material expeditiously.

There are no specific guidelines related to jurisdictional issue on cyber defamation. Because of global nature of internet, uniform law related to jurisdiction should be applied all over the world and cyber space should be treated as separate jurisdiction since internet allows transactions between persons of various jurisdiction, an international agreement is required for any regulation governing defamation over the internet.

Many crimes related to social networking sites involving presentation, defamation and anti-national activities has been reported these days. Although, there is cyber law in India in the form of Information Technology Act, 2000, yet there are no dedicated social networking laws in India. It is also suggested that government should frame social media policy in order to mentor the crime in these platforms. It is suggested by department of Information Technology that these should be the framework and guidelines for use of social media for government organizations.

There is no dedicated cyber security law in India, although in 2013. The government of Indian passed the national cyber security policy, but the government did not implement it in proper way because, it requires both technological expertise and legal compliances, which are lacking

in the country. It is suggested that in spite of IT act which has its drawback such as lack of privacy, lack of civil liberties protection, there should be dedicated cyber security law and its implementation should be proper keeping in mind contemporary cyber security threats.

The cyber security awareness in India must be further improved and spread, so that various stakeholders can also effectively take part to the implementation of cyber security initiative of Indian Government.

Prevention is always better than care, it is duty of the government and other authorities to spread knowledge among the people about cybercrimes, Seminars and awareness program should be conducted any personal information to stranger via email or while chatting and also avoid sending any photograph to strangers.

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