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INTERNET'S IMPACT ON THE DUE PROCESS OF LAW

The concept of Due Process originated in English Common Law. The rule that individuals shall not be deprived of life, liberty, or property without notice and an opportunity to defend themselves predates written constitutions and was widely accepted in England.¹ The Doctrine of Due Process of Law is a constitutional guarantee that prevents government from arbitrary, unreasonable, and capricious use of power on citizens.²

INTERNET'S INFLUENCE ON LEGAL SYSTEM

Using social media such as Facebook, Twitter, Instagram has become the vital part of millions of people. Legal system in India is also affected by the fast-growing number of internet users.

Amid the pandemic the court proceedings shifted to online mode considering the social distancing. Internet has made the access to information easy even in the legal matters. E-filing of cases is encouraged more in present days.

In this internet generation, court often come across digital evidence such as screenshots, call logs, chat history in civil as well as criminal cases where court faces challenges with respect to admissibility of such evidences. Issues with respect to admissibility of digital evidences in India is governed by the Information Technology Act of 2000. Countries like India where Right to Privacy is considered as one of the fundamental rights, court often faces dilemma in accepting the evidences from social media. Here, court must achieve the balance between right to privacy and admissibility of evidence. In this digital age, cases especially high profiled cases often face social media trials where to ensure fair trial the lawyers and the parties involved in cases must restrain themselves from such discussion on social media platforms to ensure fair trial. The access to justice has been made easier with the help of

¹ Sugandha Passi, Due Process of law Vs Procedure established by Law, V5, International Journal of Legal Accounts and Allied issues, 188, 189, 2019, <https://thelawbrigade.com/wp-content/uploads/2019/09/Sugandha-1.pdf>

² Kanishk Vyas, Doctrine of Due Process of Law, Law wallet (Jan 24, 2024, 6:58am) https://lawwallet.in/doctrine-of-due-process-of-law/#google_vignette

internet. The internet has proven itself to be the boon during the lockdown period when without it the court would have been shut. Online legal proceedings have seemed to be less cost and time consuming when in comparison with the traditional legal proceedings and therefore said to be accelerating legal proceedings.

CHALLENGES IMPOSED BY INTERNET ON LEGAL SYSTEM

One of the main challenges of cyber law is the need to adapt to rapidly changing technological developments. The internet and digital technologies are constantly evolving, and this creates new challenges for ensuring due process of law and protecting individual rights and freedoms. As a result, cyber law must be flexible and adaptable.³

However, the internet has posed a significant challenge to the traditional notions of due process of law. One of the key challenges is the difficulty of identifying and prosecuting cybercriminals. Cybercriminals can operate from anywhere in the world, and they can use sophisticated techniques to cover their tracks. Hence it is difficult for law enforcement agencies to gather evidence and bring cybercriminals to justice.⁴

Internet nowadays has become a platform to spread false news, hatred, framing and defaming people which leads to harassment of people. Cyberbullying and digital abuse is increasing day by day where such activities harm a person's reputation which may lead to physical as well as self-harm.

To address these, the legal system has had to adapt to the realities of the digital age. This has led to the development of new laws and regulations that govern online activity. For example, the US has passed laws such as the Computer Fraud and Abuse Act, which criminalizes a wide range of cybercrimes, including hacking, identity theft, and phishing. Perhaps in cyber law is the use of digital evidence in legal proceedings. Digital evidence includes any information that is stored electronically, such as emails, text messages, and social media posts. This type of evidence can be used in both criminal and civil cases, and it has become increasingly important in the digital age. Yet, the use of digital evidence has also raised

³ Sumona saha, Impact of Internet on Due Process Of Law In The 21st Century: An Introduction To Cyberlaw, Journal of Legal Research and Judicial Services, (Jan 25, 2024, 7:28pm)

<https://ilrjs.com/impact-of-internet-on-due-process-of-law-in-the-21st-century/>

⁴ Ibid

concerns about privacy and data protection. Individuals have a right to privacy, and this right extends to their digital communications and activities. Therefore, there are strict rules governing the collection, use and disclosure of digital evidence in legal proceedings.⁵

INTRODUCTION OF E- COURT SYSTEM IN INDIA

With the evolving technology around the world, Indian court system evolved along with it and thus introduced E- court system in India.

As on 04.07.2022, there are 20 Virtual Courts in 16 States / UTs viz. Delhi (2), Haryana, Tamil Nadu, Karnataka, Kerala (2), Maharashtra (2), Assam, Chhattisgarh, Jammu and Kashmir (2), Uttar Pradesh, Odisha, Meghalaya, Himachal Pradesh, Madhya Pradesh, Tripura, and West Bengal to try traffic offences. Virtual Court can be administered by a Judge over a virtual electronic platform whose jurisdiction may extend to the entire State and function 24X7. These courts have heard more than 1.69 crore cases and realised Rs. 271 crore in fines. Delhi High Court has recently started 34 Digital Courts to hear cheque bounce cases under the Section 138 NI Act.⁶

In India 'N' number of Supreme Court, High Court as well as District Court cases have been heard. This system has made easier for Lawyers to access their case status and along with this, E- filing system enables online submission of vakalatnama, payment of fees, penalties, etc., online.

eSewa Kendras have also been established to make justice delivery inclusive and to mitigate handicaps caused by digital divide, eSewa Kendras have been rolled out to provide e-filing services to lawyers and litigants. As on 30.04.2022, 500 eSewa Kendras have been made functional under 26 High Courts. A Nyay Kaushal Centre started in Nagpur to provide all e-facilities.⁷

⁵ Ibid

⁶ Press Information Bureau, Government of India, Ministry of Law and Justice
<https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1848737#:~:text=2022%2C%20there%20are%20%20Virtual,Bengal%20to%20try%20traffic%20offences.> (Jan 28, 2024, 1:19pm)

⁷ Ibid

CONCLUSION

Internet is that sword to legal system which has sharp end both ways. It has both appositive and negative impact on the due process of law. Internet has proved useful to the due process of law but with increasing number of the faceless people all over the internet, it has caused more problems than the positive use. Indian legal system should evolve in such a way that even the negative aspects of internet towards due process of law should turn positive.