

An Analysis on Right to Troll

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Abstract: *There are trolls online. Not the fairytale kind that sits under bridges: we're talking about the mean, nasty individuals who use online anonymity to be cruel, spread their own brand of hate, destroy reputations and products, and generally try to upset and crush as many people and companies as they possibly can. Trolls agitate to start fights between friends or strangers; they torment those struggling with illnesses or with the loss of a loved one, people unsure of their identity or their looks, or any other weakness a troll can find. They disrupt forums with off-topic comments, brag nonstop about themselves, ridicule the thoughts of others or insert controversial comments to disrupt conversations. Trolls spread lies, deceive and cause damage, and they enjoy every minute they can make someone else miserable. They may be obnoxious teens, but more often than not they're seemingly "normal" adults who use internet anonymity to shed their veneer of decency and show their ugly selves. Trolls are basically cyber bullies on steroids-cowards afraid to show their face but nastier and more dedicated than garden-variety bullies. They are often fairly tech savvy, willing to dig up a comment or information from your past to distort, thereby "justifying" their actions.*

Keywords: Right to Troll, Internet, International Scenario, Online defamation

1. Introduction

In Internet slang, a troll is a person who sows discord on the Internet by starting arguments or upsetting people, by posting inflammatory,¹ extraneous, or off-topic messages in an online community such as a newsgroup, forum, chat room, or blog with the deliberate intent of provoking readers into an emotional response² or of otherwise disrupting normal on-topic discussion,³ often for their own amusement. This sense of the word "troll" and its associated verb trolling are associated with Internet discourse, but have been used more widely. Media attention in recent years has equated trolling with online harassment. This paper is to examine the various characteristics of trolling and also about the legal complications that it might lead to.

Objectives of the study:

The objectives of the study were to examine the following,

- To do a detailed study on internet trolling
- To know about the origin, nature and characteristics of internet trolling
- To study on the legal complications that internet trolling might lead to

Hypothesis:

Internet trolling is considered to be a serious act in recent days as the world is getting globalised and computerised, whatever that is been shared over internet is considered to be a serious offence. In India there is no particular law

¹"Definition of troll". Collins English Dictionary.

²"Definition of: trolling". PCMAG.COM (Ziff Davis Publishing Holdings Inc). 2009

³Indiana University: University Information Technology Services (2008-05-05). "What is a troll?". Indiana University Knowledge Base. The Trustees of Indiana University

having the exact provision for internet trolling. Punishments can be given only based on indirect logical deductions from various other laws. In that also there is no stringent punishment for a person who is causing damage to the reputation of others for trolling over internet.

Limitations:

The limitations of the study are,

- Sample size of the study is too small as research is done only for the legal complications in India
- The scope of the research study is also very narrow that the sources from which information is been collected are mostly secondary sources due to time constraints

2. Review of Literature

I Title: Tests to determine reasonable restrictions under Article 19 of the constitution of India

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Abstract: The Fundamental Rights guaranteed by the Constitution of India are not absolute. There are certain restrictions which can be imposed by the state according to the procedure established by law. However, these restrictions must be reasonable and not arbitrary. Article 19 covers these fundamental freedoms as well as the restrictions which can be imposed on these rights. In this paper, all the six freedoms defined in Article 19 and the restrictions are highlighted. Also, all the landmark cases are covered in this paper while dealing with the concept of Reasonable Restrictions. The main focus of this paper is to throw some light on the test to determine the reasonability in the restrictions mentioned in Article 19 of the Constitution of India. Further, in this paper, some light is also thrown as to what constitutes "unreasonable restrictions."

II Title: Legal Consequences of Online Defamation in India

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Abstract: As the use of electronic medium like emails, social networking sites and other discussion groups is increasing day by day to convey our thoughts and information in our daily life; peoples are sharing their views and thoughts via them. Politicians are using them as a way to increase their popularity and propagating their parties as well as these sites is becoming a platform of online defamation. As it is always said that there are two faces of a coin so we can use social media in creating a change in our social life also it can be used as platform to destroy the reputation of anyone. The sting operations and posting the cartoon images of someone can be taken as an example of it. In this project I have tried to cover the online defamation, how they take place and what are its legal consequences in India.

Chapterisation:

Chapter 1: Troll-Meaning, Usage, Origin and Etymology:

Application of the term troll is subjective. Some readers may characterize a post as trolling, while others may regard the same post as a legitimate contribution to the discussion, even if controversial. Like any pejorative term, it can be used as an ad hominem attack, suggesting a negative motivation. Regardless of the circumstances, controversial posts may attract a particularly strong response from those unfamiliar with the robust dialogue found in some online, rather than physical, communities. Experienced participants in online forums know that the most effective way to discourage a troll is usually to ignore it, because responding tends to encourage trolls to continue disruptive posts-hence the often-seen warning: "Please do not feed the trolls". The "trollface" is an image occasionally used to indicate trolling in Internet culture.⁴ At times, the word can be abused to refer to anyone with controversial opinions they disagree with. Such usages goes against the ordinary meaning of troll in multiple ways. Most importantly, trolls don't actually believe the controversial views they claim. Farhad Manjoo criticises this view, noting that if the person really is trolling, they are a lot more intelligent than their critics would believe.⁵

There are competing theories of where and when troll was first used in Internet slang, with numerous unattested accounts of BBS and UseNet origins in the early 1980s or before. The English noun troll in the standard sense of ugly dwarf or giant dates to 1610 and comes from the Old Norse word troll meaning giant or demon.⁶ The word evokes the trolls of Scandinavian folklore and children's tales: antisocial, quarrelsome and slow-witted creatures

which make life difficult for travellers.⁷ In modern English usage, trolling may describe the fishing technique of slowly dragging a lure or baited hook from a moving boat⁸ whereas trawling describes the generally commercial act of dragging a fishing net. Early non-Internet slang use of trolling can be found in the military: by 1972 the term trolling for MiGs was documented in use by US Navy pilots in Vietnam. It referred to use of ". . . decoys, with the mission of drawing. . . fire away. . ."⁹

The contemporary use of the term is alleged to have appeared on the Internet in the late 1980s,¹⁰ but the earliest known attestation according to the Oxford English Dictionary is in 1992. Another claim sets the origin in Usenet in the early 1990s as in the phrase "trolling for newbies", as used in alt. folklore. urban (AFU).¹¹ Commonly, what is meant is a relatively gentle inside joke by veteran users, presenting questions or topics that had been so overdone that only a new user would respond to them earnestly. For example, a veteran of the group might make a post on the common misconception that glass flows over time. Long-time readers would both recognize the poster's name and know that the topic had been discussed a lot, but new subscribers to the group would not realize, and would thus respond. These types of trolls served as a practice to identify group insiders. This definition of trolling, considerably narrower than the modern understanding of the term, was considered a positive contribution.¹² One of the most notorious AFU trolls, David Mikkelson, went on to create the urban folklore website Snopes.com.

By the late 1990s, alt. folklore. urban had such heavy traffic and participation that trolling of this sort was frowned upon. Others expanded the term to include the practice of playing a seriously misinformed or deluded user, even in newsgroups where one was not a regular; these were often attempts at humour rather than provocation. In such contexts, the noun troll usually referred to an act of trolling—or to the resulting discussion—rather than to the author.

Chapter 2: Characteristics of trolling:

Early incidents of trolling¹³ were considered to be the same as flaming, but this has changed with modern usage

⁷"Trolls. Who are they?".unknown.

⁸"troll". Merriam-Webster Online Dictionary. 2010.

⁹John Saar (February 4, 1972). "Carrier War". Life.

¹⁰Schwartz, Mattathias (2008-08-03). "The Trolls Among Us". The New York Times. pp. MM24

¹¹Miller, Mark S. (1990-02-08). "FOADTAD". Newsgroup: alt.flame.Usenet: 131460 @sun.Eng.Sun.COM.. Just go die in your sleep you mindless flatulent troll.

¹²Zotti, Ed; et al. (2000-04-14). "What is a troll?". The Straight Dope. Retrieved 2009-03-24. To be fair, not all trolls are slimeballs. On some message boards, veteran posters with a mischievous bent occasionally go 'newbie trolling.'

¹³StevanHarnad (1987/2011) "Sky-Writing, Or, When Man First Met Troll" The Atlantic

by the news media to refer to the creation of any content that targets another person.¹⁴ The Internet dictionary NetLingo suggests there are four grades of trolling: playtime trolling, tactical trolling, strategic trolling, and domination trolling.¹⁵ The relationship between trolling and flaming was observed in open-access forums in California, on a series of modem-linked computers. CommuniTree was begun in 1978 but was closed in 1982 when accessed by high school teenagers, becoming a ground for trashing and abuse. Some psychologists have suggested that flaming would be caused by de-individualization or decreased self-evaluation: the anonymity of online postings would lead to disinhibition amongst individuals.¹⁶ Others have suggested that although flaming and trolling is often unpleasant, it may be a form of normative behaviour that expresses the social identity of a certain user group.¹⁷ According to Tom Postmes, a professor of social and organisational psychology at the universities of Exeter, England, and Groningen, The Netherlands, and the author of *Individuality and the Group*, who has studied online behavior for 20 years, "Trolls aspire to violence, to the level of trouble they can cause in an environment. They want it to kick off. They want to promote antipathetic emotions of disgust and outrage, which morbidly gives them a sense of pleasure."

Trolls can be costly in several ways. A troll can disrupt the discussion on a newsgroup, disseminate bad advice, and damage the feeling of trust in the newsgroup community. Furthermore, in a group that has become sensitized to trolling—where the rate of deception is high—many honestly naïve questions may be quickly rejected as trollings. This can be quite off-putting to the new user who upon venturing a first posting is immediately bombarded with angry accusations. Even if the accusation is unfounded, being branded a troll is quite damaging to one's online reputation. In an effort to reduce uncivil behaviour by increasing accountability, many web sites now require commenter to register their names and e-mail addresses.¹⁸

Chapter 3: Nature of trolling-International Perspective:

¹⁴Bishop, Jonathan (2014). Representations of 'trolls' in mass media communication: A review of media-texts and moral panics relating to 'internet trolling.' *International Journal of Web Based Communities* 10(1), 7-24.

¹⁵Troll (aka Trolling)". Netlingo.com. 1994–2011. Retrieved 2011-11-21. In general, to "troll" means to allure, to fish, to entice or to bait. Internet trolls are people who fish for other people's confidence and, once found, exploit it. Trolls vary in nature.

¹⁶Adams, Tim (24 July 2011). "How the internet created an age of rage". London: *The Guardian* (The Observer).

¹⁷M. Lea, T. O'Shea, P. Fung and R. Spears (1992). "Flaming' in Computer-Mediated Communication: observation, explanations, implications". *Contexts of Computer-Mediated Communication*: 89–112.

¹⁸J. Zhao, Where Anonymity Breeds Contempt, *NY Times*, 29 Nov 2010.

Investigative journalist SharylAttkisson is one of several in the media who has reported on the increasing trend for organizations to utilize trolls to manipulate public opinion as part and parcel of an Astroturfing initiative. Teams of sponsored trolls swarm a site to overwhelm any honest discourse and denigrate any who disagree with them.¹⁹ A 2012 Pew Center on the States presentation on Effective Messaging included two examples of social media posts by a recently launched "rapid response team" dedicated to promoting fluoridation of community water supplies. That same presentation also emphasized changing the topic of conversation as a winning strategy.²⁰

A 2016 study for the NATO Strategic Communications Centre of Excellence (NATO StratCom COE) on hybrid warfare notes that the Russian military intervention in Ukraine demonstrated how fake identities and accounts were used to disseminate narratives through social media, blogs, and web commentaries in order to manipulate, harass, or deceive opponents.²¹ The NATO report describes that a "Wikipedia troll" uses a type of message design where a troll does not add "emotional value" to reliable "essentially true" information in re-posts, but presents it "in the wrong context, intending the audience to draw false conclusions."

Even among people who are "emotionally immune to aggressive messages" and apolitical, "training in critical thinking" is needed, according to the NATO report, because "they have relatively blind trust in Wikipedia sources and are not able to filter information that comes from platforms they consider authoritative." While Russian-language hybrid trolls use the Wikipedia troll message design to promote anti-Western sentiment in comments, they "mostly attack aggressively to maintain emotional attachment to issues covered in articles."

A concern troll is a false flag pseudonym created by a user whose actual point of view is opposed to the one that the troll claims to hold. The concern troll posts in Web forums devoted to its declared point of view and attempts to sway the group's actions or opinions while claiming to share their goals, but with professed "concerns". The goal is to sow fear, uncertainty and doubt within the group.²²

Chapter 4: Legal aspects of trolling:

The internet is a medium where free speech cannot be controlled, the anonymity and depths mean that policing

¹⁹Attkisson, Sharyl (2014). *Stonewalled: My Fight For the Truth Against the Forces of Obstruction, Intimidation and Harassment in Obama's Washington*. Harper.

²⁰National Network for Oral Health Access (1 Oct 2012). "Effective Messaging: Fluoridation & the Dental Workforce" (PDF). The Pew Center on the States.

²¹Spruds, Andris; Rožukalne, Anda; et al. (n.d.). "Internet Trolling as a hybrid warfare tool: the case of Latvia". *stratcomcoe.org*. Riga, LV: NATO Strategic Communications Centre of Excellence (published 2016-01-28). Archived from the original on 2016-01-28.

²²Cox, Ana Marie (2006-12-16). "Making Mischief on the Web". *TIME*. Retrieved 2009-03-24.

the web is an almost unobtainable notion. There are many out there that believe the internet should not be policed at all, as it is the most powerful breakthrough in the battle to have our voices heard, but what happens when the medium is abused?

With more and more people sharing the intimate details of their personal and professional lives through social media, an interesting debate is looming over the boundaries of free speech. This includes whether the legal implications are sufficient and do we need to change our thinking in terms of how we use social media.

Thought the stand of freedom of speech and expression can be taken by these people who develop the trolls because the Constitution of India provides the right to freedom, given in articles 19, 20, 21 and 22, with the view of guaranteeing individual rights that were considered vital by the framers of the constitution. The right to freedom in Article 19 guarantees the Freedom of speech and expression, as one of its six freedoms.²³ Further in a landmark judgement of the case *Maneka Gandhi v. Union of India*,²⁴ the Supreme Court held that the freedom of speech and expression has no geographical limitation and it carries with it the right of a citizen to gather information and to exchange thought with others not only in India but abroad also.

However under Indian law, the freedom of speech and of the press do not confer an absolute right to express one's thoughts freely. Clause (2) of Article 19 of the Indian constitution enables the legislature to impose certain restrictions on free speech. It also involves restricting for the benefit of security of the state, public order, friendly relations with foreign states, decency and morality which is a valid ground to limit the freedom of people creating internet trolls.

Also according to the English Law, sedition embraces all the practices whether by word or writing which are calculated to disturb the tranquillity of the State and lead an ignorant person to subvert the Government.²⁵ Basic criticism of the government is not seen as sedition unless the Government believes that it was calculated to undermine the respect for the government in such a way so as to make people cease to obey it.²⁶ Section 124A of the Indian Penal Code defines the offence of sedition as follows: "Sedition. 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 for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine". In *KedarNath v. State of Bihar* (AIR 1962 SC 955), the court

upheld the constitutional validity of the Section 124A of I. P. C and also upheld the view taken in *Niharendu's* case.

Further the person can also be held liable under defamation. According to the Constitution of India, the fundamental right to free speech (Article 19) is subject to reasonable restrictions. Accordingly, for the purpose of criminal defamation, "reasonable restrictions" are defined in Section 499 of Indian Penal Code, 1860.²⁷ This section defines Defamation and provides valid exceptions when a statement is not considered to be Defamation. It says that Defamation takes place "by words either spoken or intended to be read, or by signs or by visible representations, to make or publish 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."²⁸ In India, a defamation case can be filed under either criminal law or civil law or Cyber Crime Law, together or in sequence. The punishment for Defamation is a simple imprisonment for up to two years or with fine or with both.²⁹

Apart from these, as trolling is done over internet which eventually means a crime committed under the scope of cyber space. So, the person can also be held liable under the provisions of the Information Technology Act 2000.

3. Conclusion

In this paper, the objective is to set out an ostensive-inferential framework for analysing the trolling practice. Trolling allows users to engage in behaviours they would otherwise be reluctant to carry out in face-to-face interactions. Literature on trolling has emphasised the sociological implications of a troll's actions, rather than studying the complex intention and planning embedded in the act. The troll achieves his desired outcome, making the recipient seems foolish for reacting viscerally to such an obvious or foolish troll, by projecting an informative intent using a stimulus. This act coerces the recipient into not recognising the high-order intention of the troll. A third party in the form of an audience, because of prior experience or other situational factors, can recognise both the informative and high-order intentions of the troll and, therefore, does not produce the response that the troll had intended. Thus in this paper we have discussed in detail about the various aspects of trolling, its nature, origin, characteristics and also the legal complications it might lead to. Trolling is considered to be a serious act because whatever been said in internet is not written in pencil, it is considered to be penned in ink that is never erasable.

²³Constitution of India-Part III Article 19 Fundamental Rights.

²⁴AIR 1978 SC 597.

²⁵R. v. Salliven, (1868) 11 Cox Cases 55

²⁶Niharendra v. Emperor, AIR 1942 FC 22

²⁷Swamy, Subramanian (Sep 21, 2004). "Defamation litigation: a survivor's kit". The Hindu. Archived from the original on 22 Jul 2013

²⁸"IPC @ Bombay High Court" (PDF). Archived from the original (PDF) on 2010-12-14.

²⁹"IPC @ punjabrevenue.nic.in". Archived from the original on 19 Oct 2012.