



## SOCIAL AND POLITICAL TROLLS: IS TROLLING PUNISHABLE UNDER INDIAN LAW?

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### ABSTRACT

*Online trolling is often characterized as a deviant behavior with negative impacts on online communities. Trolling behaviors vary by context, with respect to platforms, communities and events or experiences that may trigger instances of trolling. A wide range of motivations triggers online trolling. Trolling events that target stigmatized groups or cause harm are well documented. This paper illustrates the complexity of dealing with socially and politically motivated trolling and the issues involve trolling laws in India.*

**Keywords:** *Trolling, Reasons and types of trolling, Issues involve trolling laws in India*

### INTRODUCTION

In India due to increasing access to technology, free internet plans availability of digital devices cheaply and political support for digital India, the risk of Cyber trolling also magnifies. Social media has given people a platform to air their views but it has also left them vulnerable to slander, character assassination, intimidation and defamation. Supreme Court lawyer Virag Gupta blames the brazenness of trolls on the high threshold of tolerance among web users. “A troll is a person who sows discord on the internet by starting arguments or upsetting people, by posting inflammatory, extraneous or off topic content on a newsgroup, forum, chat room or blog with the deliberate intent of cyber harassment.

The troller has been subject to continuous, intense harassment and verbal assault on online platforms. A number of well-known names such as Barkha Dutt and Shashi Tharoor have faced the same, while others like Gurmehar Kaur actually became well-known due to trolling. Nikhil Ellidiyappa? (which translates to “where are you Nikhil?” in Kannada) is one of the most celebrated phrases that marked the 2019 Lok Sabha elections on and off social media from Karnataka. This popular phrase had been used to troll Nikhil, son of farmer chief

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minister Kumaraswamy. Later on, this phrase was used by rivals to show that Nikhil was nowhere in the race for the Mandya parliamentary constituency, where he was facing a formidable opponent in Sumalatha.<sup>2</sup> Therefore a person who opens an account on social media shall behave in a civilized way and follow the certain rules, so that he can enjoy his right of freedom of speech and expression and at the same time the rights of others such as right to reputation, right to privacy, etc are also protected according to law.

### **Meaning of Trolling**

The word trolling is originated in 1992 and is often used in relation to internet. Trolling means a creation of discord on the internet by using abusive language, likely to quarrel or criticize other with inappropriate language with an intention to gain cheap publicity. A social media troll is a person who intentionally speaks something controversial and tries to get the attention of other user. The hunger for attention is so great in these cases that the troll often uses very vulgar language, abuses in their comments. Many times these comments which were made often were unrelated to the topic.<sup>3</sup>

A troll is a statement delivered by someone deliberately in order to obtain a provoking comment. Basically troll is to be termed as “slang” used by individuals to start an argument or graze someone’s point of view. Sometimes trolls maybe constructed because to have a healthy debate regarding their point of view or just wants to sow the seeds of abuse.<sup>4</sup>

There is no legal definition of a troll, and “troll” can range from lame jokes to harassment. Hate speech and harassment are generally illegal, but the act of “trolling” is not specific enough. The fact that something is called “troll” when it happens on the internet is not relevant to the law, even though the word troll, if well defined, can be used to describe various social internet phenomenon. So the concept of online trolling can be only be made punishable offence when it exceeds the degree of words used or exceeds the limit which cannot be in turn be termed as normal or healthy.<sup>5</sup>

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<sup>2</sup> <https://indianexpress.com/elections/nikhil-ellidiyappa-jd-s-plans-trolls-kumaraswamys-son-puttaraju-film-5723752/>

<sup>3</sup> *Ibid*

<sup>4</sup> Is Trolling Online A Punishable Offence? July 4, 2020 by [Law Corner](http://Law Corner), [https://lawcorner.in/is-trolling-online-a-punishable-offence/\(Visited](https://lawcorner.in/is-trolling-online-a-punishable-offence/(Visited) on 2.2.2021)

<sup>5</sup> *Ibid*



According to study published by University of Manitoba in Canada, the people who get involved in trolling generally have the traits of sadists, narcissist, psychopaths and sadists, who do take pleasure in the sufferings of others.<sup>6</sup>

### **The reasons for online trolling**

There are various reasons which vary from the nature of a person to lack of legal knowledge about the social media, which leads to trolling. Its is not possible to pen down each and every reasons for trolling, however some main reasons have been pointed out, which are as follows:

- a. Trolling for fun, the common people often get involved in the trolling just for fun, without realizing its dangerous effects. Commenting on anything just for the fun has become the habit of some people, especially the youngsters. They want to make sarcastic comments, and while doing that they may cross the limits and end up trolling someone,<sup>7</sup>
- b. Trolling out of Boredom or to seek revenge, it may be done out of boredom, or to have amusement, or with an intention to extract revenge. Social media is seen as an instrument of entertainment, and in the name of entertainment the individuals crosses the moral as well as legal limits,
- c. Self assertion, the trolls try to assert through their anonymous identity, what they want to assert, but cannot assert publicly. This is a reflection of mentally weak people, who tend to use harsh words, often end up trolling<sup>8</sup>,
- d. Lack of Legal Knowledge, The trolls believe that when they are trolling, they are exercising their right to speech and expression through their account created on social media. Here there is a point to note, that the trolls, when they troll, assume two things, first is that, they are exercising their right to freedom of speech and expression and the second is that, they own the account which they have created on the social platform,<sup>9</sup>

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<sup>6</sup> <https://www.ijeat.org/wp-content/uploads/papers/v8i5C/E12050585C19.pdf>, (Visited on 5.4.2021)

<sup>7</sup> *Ibid*

Why the Online Trolls Troll , <https://www.psychologytoday.com/us/blog/better-living-technology/201408/why-the-online-trolls-troll>, (Visited on 2.3.2021)

<sup>8</sup> <https://theconversation.com/our-experiments-taught-us-why-people-troll-72798>, (visited on 30.3.2021)

<sup>9</sup> Anyone Can Become a Troll: Causes of Trolling Behavior in Online Discussions, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5791909/>, (Visited on 30.3.2021)



- e. False Assurance of Security, Sometimes the trolls open an account with a different name, and they assume that no one can catch them, as it is impossible to catch them, as they are using other identity,<sup>10</sup>
- f. Frustration or to gain cheap popularity, Sometimes the trolls do trolling either out of frustration or to gain popularity. Significant number of population takes interest in sports or other matters, when the things do not go as per their wish, then people tend to get disappointed and give sharp reactions. The glaring example can be seen where actress *Anushka Sharma* was trolled for failure of *Virat Kohli*.<sup>11</sup>

### Types of Trolling

The Social media troll can be postulated as two sides of the same coin i.e. healthy troll or negative/bleak troll. It can be determined in various ways as follows:

- a. Perceiving of such comments which leads to a disruption of one's identity or character, that's defamation,
- b. Comments those which leads to physical or mental abuse, leads to harassment,
- c. Making of funny memes which do not trigger any of the above said criteria may lead to trolling; which will be resolved by the degree of words, content or language used,

Hence troll could differ from situation to situation. But mostly the statements which creates a conflict on social media is tendered to become famous and leads to display controversial statements on social media.

### Is trolling punishable under Indian Law?

Trolling takes a huge mental or emotional and physical toll on their targets. Trolling may be deployed to distract from real issues. Trolls are also used to influence and enforce rigid cultural and social customs and guidelines which may have no legal force. There are no specific laws against trolling in India. These are the legal provisions which can be clasped in

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<sup>10</sup>Why Do People Troll Online?, <https://www.psychologytoday.com/us/blog/writing-integrity/202008/why-do-people-troll-online>(Visited 31.3.2021)

<sup>11</sup> Inside the Minds of Internet Trolls: A Psychological Analysis, <https://thewire.in/communalism/internet-trolls-psychology>,(31.3.2021)



order to treat online trolling of criminal nature and declare it as a punishable offence, if any act done which falls under these categories.<sup>12</sup>

Now, there is no particular law to deal with trolling directly in India.<sup>13</sup> The Indian laws such as Indian Penal Code (IPC), 1860 and Information Technology (Amendment) Act (IT Act), 2008 account for making trolling as a criminal act and punishable by the law. The following laws do help in dealing with social media trolling:

### ***The Indian Penal Code, 1860***

The Indian Penal Code, 1860 does not define trolling. However, various provisions of the Code read with the Information technology Act, 2000 can be used to fight social and political trolls.

- a. Section 354A of IPC deals with sexual harassment where a person who posts any unwanted comments is liable to be punished for a period of one year in jail and fine. Posting pornographic content unacceptable by a woman, demanding any sexual favors on social media can be punished for three years and/or fine,<sup>14</sup>
- b. Section 354C of IPC is for spying where a person clicks pictures or take videos of a woman during a private act and broadcasts the same,<sup>15</sup>
- c. Section 354D of IPC is for online stalking and keeps check through internet and electronic communication can be punished for a period of three years in jail with a fine while repeat offenders are punished for a period of five years imprisonment with fine,<sup>16</sup>
- d. Section 509 of IPC is for punishing a person with for three years behind bars with fine for outraging the modesty of a woman by posting sexual/unwanted pictures or videos or comments,<sup>17</sup>

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<sup>12</sup> online trolls beware, these are the laws that could be used against you

<https://indianexpress.com/article/india/online-trolls-beware-these-are-the-laws-that-could-be-used-against-you-500863>,(visited on 16.2.2021)

<sup>13</sup> *Ibid.*

<sup>14</sup> Is trolling punishable under indian law or not ?, <https://www.pathlegal.in/is-trolling-punishable-under-indian-law-or-not---blog-2383513#:~:text=indian%20penal%20code%2c1860,year%20in%20jail%20and%20fine>.(visited on 30.3.2021)

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid*

<sup>17</sup> *Ibid*



- e. Section 499 of IPC can punish a person for defamation of an individual if the person publishes remarks, signs, visible representations, images, and videos to be viewed by the public on social media or in any other manner,<sup>18</sup>
- f. Section 507 of IPC is for those persons who, in disguise, threaten to harm another person purposely and such persons can be imprisoned for two years,<sup>19</sup>

### ***The Information Technology (Amendment ) Act, 2008***

- a. Section 66 (A) of the Information Technology Act, 2000 contained provisions for internet trolls who posted ‘offensive content’ online,
- b. Section 66E of the Information Technology Act deals with such a person who intentionally captures images or videos of sexual parts of another person without her consent and publishes such through print or electronic form and such a person can be punished for a period of three years in jail with a fine of Rs. 2Lakh,<sup>20</sup>
- c. Section 67 of the Information Technology Act is for a person who publishes any sexually offensive content on the internet can be imprisoned for a period of three years and a fine of Rs. 10 Lakh while for repeat offenders, same fine and a period of seven years in jail,
- d. Sexually explicit content under the Information Technology Act, transmitting of images or prohibited content of women is punishable,

On December 28, 2017 a man was held for trolling actor Parvathy on social media after she filed a complaint to a cyber cell in Kochi a day before. The trolling began when the actor took to [Face book](#) and Twitter to criticise the misogynistic and sexist dialogues used in 2016 Malayalam film Kasaba. Although the Supreme Court struck down Section 66A (Punishment for sending offensive messages through communication service) of the Information Technology Act in 2015, protecting the freedom of speech and expression of Indian citizens, there exists laws in India which protect people from becoming victims of online harassment.

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<sup>18</sup> *Ibid*

<sup>19</sup> *Ibid*

<sup>20</sup> <https://www.news18.com/news/tech/understanding-cyber-laws-in-india-and-how-you-can-report-online-bullying-2614017.html>(visited on 19.2.2021)



Not all laws mention the term “internet” explicitly, except provisions under Information Technology Act, 2008, but nevertheless it can be interpreted in cases where a person is subjected to harassment on social media platforms or on email. The much-debated provisions under the Indian Penal Code criminalizing sexual harassment were amended in 2013 and additions were therefore made to Section 354 (Assault or criminal force to woman with intent to outrage her modesty).<sup>21</sup>

#### How to lodge a complaint against trolling

Cyber crime, including trolling, has no jurisdiction. Any cyber crime can be reported to the cyber crime units of a city, irrespective of the place where the offence is committed. If a person has anything to report, he needs to try and identify his closest Cyber Crime Cell. He can also try to contact a well known cyber crime lawyer who can help him to file a complaint either at a cell, or online.<sup>22</sup>

*The following steps you need to take:*<sup>23</sup>

- a. Submit an application letter addressing the chief of the cyber crime investigation cell,
- b. State your facts with your name, address and contact number,
- c. Attach or annex documents according to the type of cyber crime, against which you are reporting your complaint,
- d. Attach a copy or screenshot of the profile or content that you are objecting to,
- e. Fix a screenshot of the URL, linking the offensive content,
- f. Add hard and soft copies of the content,
- g. You can submit the soft copy in a CD-R,

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<sup>21</sup> <https://indianexpress.com/article/india/online-trolls-beware-these-are-the-laws-that-could-be-used-against-you-5008637/>(visited on 26.1.2021)

<sup>22</sup> Where and how to file a complaint against online trolling, <https://citizenmatters.in/complaint-against-online-trolling-cyber-crime-guide-7172>,(Visited on 31.3.2021)

<sup>23</sup> *Ibid*



If a person not able to find a cyber cell in his locality, he can file an FIR in his local police station. Any police station can file an FIR if a person face any hurdles in filing an FIR, he can contact the commissioner or judicial magistrate of your city.

A few sections under the Information Technology Act 2000 or the Indian Penal Code ,may be pertinent to your complaint. You may even want to discuss these with your lawyer to figure out your best chances of redress,<sup>24</sup>

- a. Section 67: Publishing or transmitting obscene material electronically<sup>25</sup>,
- b. Section 67A: Publishing or transmitting sexually explicit content in electronic form,<sup>26</sup>
- c. Sec. 66E: Violating privacy by publishing a visual image of anyone in print or electronic form can be punished with three years imprisonment or Rs 2 lakh fine,<sup>27</sup>
- d. Section 509 IPC: Any word, gesture or act that would insult a woman's modesty. It could imprison the guilty offender to paying a fine and three years of imprisonment,<sup>28</sup>
- e. Section 499 IPC: Defamatory messages transmitted through e-mail, or visible representations publicizing imputation of a woman in order to harm her. Also includes remarks on social media, obscene images or videos for public view. It could make a person liable to imprisonment of two years,<sup>29</sup>
- f. Section 292A IPC: Indecent or scurrilous content intending to blackmail<sup>30</sup>,
- g. Section 354 D IPC: Stalking. Trying to contact a woman to foster personal interaction and monitoring her through Internet, email or other electronic communication would be an offence under Section 354D IPC. One-time offence can be punishable for three years. Committing it twice would be punishable for five years. The offender would have to pay a fine in both cases,<sup>31</sup>

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<sup>24</sup> *Ibid*

<sup>25</sup> Section 67 of The Information Technology Act 2000.

<sup>26</sup> Section 67A of The Information Technology Act, 2000

<sup>27</sup> Section 66E of The Information Technology Act 2000

<sup>28</sup> Section 509 of The Indian Penal Code

<sup>29</sup> Section 499 of The Indian Penal Code

<sup>30</sup> Section 292 of The Indian Penal Code

<sup>31</sup> Section 354D of The Indian Penal Code





- h. Sec 354 A IPC: Making sexually-coloured remarks, guilty of the offence of sexual harassment. Punishment could be a year's imprisonment or fine. Else, posting or messaging content related to pornography could attract three years imprisonment and fine,<sup>32</sup>
- i. Section 503: If a woman is threatened by anyone who wants to alarm or harm her reputation, he or she would invite two years or imprisonment,<sup>33</sup>
- j. Sec. 507: Intimidation through anonymous means. This too is punishable for two years.<sup>34</sup>

## Conclusion

The lack of proper laws against trolling in India might cost us in the future. Trolling is the new age digital wrongdoing and trolls are the new age of lawbreakers on the cyberspace, who gets the incredible savage joy to spread this online wrongdoing of condescension. However, people can feel safe to some extent to which laws are provided till the date but there have been healthy discussions about social media trolling in the Parliament. As per various legal provisions provided under Indian Penal code and Information Technology (amendment) Act 2000, online trolling has been termed as a criminal act and can be punished under these laws if all criteria fulfilled. The law regulating cyberspace in India has been enacted, but it lacks any operational manual of how to conduct an investigation relating to trolls. A standard operating procedures is required to prevent ambiguity.

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<sup>32</sup> Section 354A of The Indian Penal Code

<sup>33</sup> Section 503 of The Indian Penal Code

<sup>34</sup> <https://citizenmatters.in/complaint-against-online-trolling-cyber-crime-guide-7172>, (Visited on 25.3.2021)