



DEFAMATION: LIBEL VS. SLANDER IN DAILY LIFE

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Defamation is a fundamental area of tort law that seeks to protect an individual's reputation from harm due to a false statement. Defamation can generally be classified into two categories: libel and slander. Although they both involve false statements that cause harm, the form and consequences involved differ significantly. Understanding the distinction between the two in everyday life is critical because, typically, traditional distinctions have been less clear in our digital lives.

DEFINITION OF DEFAMATION

Defamation is any statement, spoken or otherwise, that harms the reputation of another person without any lawful excuse. For a statement to be regarded as defamation, it must be false, published to a 3rd party, and must be capable of diminishing the person harmed before the opinion of right-thinking members of society.¹

LIBEL VS. SLANDER FOR DEFAMATION

Libel: Libel refers to defamation that is in a permanent form, typically writing, print, or digital media. This includes blogs, newspapers, magazines, books, and, to an increasing extent, social media. Because libel exists in a permanent form, it is presumed to cause a greater degree of harm, and the plaintiff need not prove actual damages.² Courts tend to presume harm to reputation for libel, so the plaintiff does not need to prove actual damages to recover.

In *D.P. Chaudhary v. Kumari Manjulata*,³ the Rajasthan High Court ruled that a newspaper article accusing a young girl of eloping was considered defamatory because it harmed her social reputation. Similarly, in *Godfrey v. Demon Internet Ltd.*,⁴ an English court found that an

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¹ Ratanlal & Dhirajlal, *The Law of Torts*, 27th ED., LexisNexis.

² *Dixon v. Holden*, (1869) LR 7 Eq 488.

³ *D.P. Chaudhary v. Kumari Manjulata*, AIR 1997 Raj 170.

⁴ *Godfrey v. Demon Internet Limited*, [1999] EWHC QB 244.

Internet Service Provider could be held liable for allowing defamatory statements to remain on an Internet site, thereby extending the principles of libel to digital media. These cases show that the written word, published in some format, remains arguably more harmful because of the breadth of distribution and permanence of the issue.

Slander: Slander is considered degradation of character in its temporary form, most often in the form of speech. Unlike libel, slander usually must prove damages, with some exceptions, including accusations of a crime, contagious illness, or occupational dishonesty.⁵

In *Thorley v. Lord Kerry*,⁶ the court explained that all defamation is “actionable,” but the distinction of slander vs. libel affects the solution of whether the words caused reputational harm. There are slanderous imputations recognised by the Indian court as well. In *Ram Jethmalani v. Subramanian Swamy*,⁷ when an advocate orally accused another advocate of corruption, the accusations were found to be defamatory, demonstrating that oral words can cause reputational harm, warranting intervention.

CONSEQUENCES IN EVERYDAY LIFE

Slender anecdotes can occur in the work-related gossip, spirited disputes, or ordinary exchanges where someone falsely accuses someone else of wrongdoing. The emergence of the digital arena has, in a sense, brought libel into a new forum; an online review, misconduct tweet, or viral post can lead to permanent consequences for a person's reputation and may cause even more consequential harm than traditional slander; for instance, a baseless allegation of fraud can spread instantaneously and remain permanently attached to a person's ID, causing irreparable reputational harm and significant economic damages.

Suppose the spoken word is recorded and reposted through YouTube, WhatsApp, and/or podcasting. In that case, they begin to have depth and, in a sense, become permanent impressions of a spoken word, as the spoken word ceases to be slander if it has been recorded or circulated through some medium--arguably distinguishing a spoken word from libel.

Individual Everyday Implications: The real-world implications of libel and slander in everyday life include –

⁵ Slander per se categories recognized in cases such as *Morrison v. Ritchie & Co.* (1902) 4 F 645.

⁶ *Thorley v. Lord Kerry*, (1812) 4 Taunt 355.

⁷ *Ram Jethmalani v. Subramanian Swamy*, 2006 (88) DRJ 667.

Professional Impairment: Loss of job or business opportunities due to a false claim.

Social Impairment: Broken relationships, ostracism, loss of respect in the community, etc.

Legal Exposure: An individual may be civilly sued for damages or criminally charged with, for example, an IPC section under Sections 499-500.⁸

Communal Restraint: Generalises reluctance to communicate freely, especially in online forums, due to fear of legal consequences.

LANDMARK CASES UNRAVELING THE DIFFERENCE BETWEEN LIBEL AND SLANDER

D.P. Chaudhary v. Kumari Manjulata: Facts: A Hindi newspaper published false information, claiming a 17-year-old girl eloped with a boy.

Issue: The determination of whether that publication is libel in the absence of proof of actual harm.

Conclusion: The Rajasthan High Court deemed the report libel because a permanent, written publication is presumed to injure a person's reputation.⁹

Godfrey v. Demon Internet Ltd.: Facts: A defamatory message about the claim was posted on an online bulletin board hosted by an Internet Service Provider.

Issue: The question of whether online postings can be libellous.

Conclusion: The court found the ISP liable, claiming that internet postings can be libellous since online publications are permanent and public in nature.¹⁰

Ram Jethmalani v. Subramanian Swamy (2006 (88) DRJ 667): Facts: Dr Subramanian Swamy made oral allegations of corruption against senior advocate Ram Jethmalani.

Issue: The question of whether oral imputations of corruption are slander.

⁸ Indian Penal Code, 1860.

⁹ D.P. Chaudhary v. Kumari Manjulata, AIR 1997 Raj 170.

¹⁰ Godfrey v. Demon Internet Ltd., [1999] EWHC QB 244.

Conclusion: The Delhi High Court found the comments defamatory and that oral words could injure one's professional reputation

THE VANISHING LINE IN THE DIGITAL WORLD

As technology continues to advance, we see a greater and greater blurring of the line between traditional libel and slander. Words that are spoken, then recorded and spread elsewhere, are given permanence, and those same words may be considered libel as a result.

In the case of *McManus v. Beckham*,¹¹ oral statements made by Victoria Beckham related to the legitimacy of signed autographed items at a shop were slander, but the court established that those statements led to direct and quantifiable loss of business. In today's world, if statements such as the one made by Beckham took place while being recorded and then posted online, the quoted statement would likely be treated as libel based on the permanence of the spoken words.

Podcasts, YouTube videos, live streaming and recorded interviews illustrate the idea of also being sourced from spoken words to written circulars, while also showing how quickly spoken words can transition into libel. This is significant to people more broadly as well, as an ordinary conversation becomes a legal risk based on recording and redistribution.

LEGAL FRAMEWORK IN INDIA

Defamation is recognised as both a civil wrong and a criminal offence in India. Sections 499–500 of the Indian Penal Code, 1860¹² state that defamation applies to spoken and written statements and does not make a clear distinction between libel and slander. Nevertheless, the courts in India typically look towards English common law in how they interpret these principles.

In the case of *Subramanian Swamy v. Union of India*,¹³ the Supreme Court upheld the constitutionality of criminal defamation, noting that safeguarding individual dignity is part of the right to life under Article 21 of the Constitution. Opponents contend that the criminalisation

¹¹ *McManus v. Beckham*, [2002] 1 WLR 2982.

¹² Indian Penal Code, 1860.

¹³ *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.

of defamation stifles free speech. However, the Court acknowledged the social interest in reputation and dignity. So, in the context of daily Indian life:

- False posting on social media (libel) and defamatory remarks at public or political gatherings (slander) could lead to liability.
- The affected parties can seek damages in tort and sue in the criminal capacity under the IPC.¹⁴
- There is no formal statutory difference between libel and slander, and as such, they are generally treated together under “defamation.”

DIFFERENCES BETWEEN LIBEL AND SLANDER

The material difference between libel and slander relates to:

Property Name	Libel	Slander
Medium	Written or recorded (articles, posts)	Spoken
Permanence Status	Permanent, easily preserved	Temporary
Proof of Harm	General damages are often presumed	Special damages are often required.
Example	False blog post, tweet, or review	False rumour or verbal accusation

DEFENCES OF DEFAMATION IN LAW: DOCTRINAL AND COMPARATIVE APPROACHES

The area of defamation law tries to adequately mediate conflicting goals. These fundamental purposes include protecting the reputation of persons and institutions who may be the subject of a defamatory statement, along with the right to free speech. At the same time, once society recognises that defamatory statements can do significant harm to individuals and institutions, the law provides for several defences which protect defendants in the appropriate case. In such

¹⁴ Indian Penal Code, 1860.

a way, the law ensures that legitimate criticism, reporting in the public interest, and fair comment are not suppressed under the threat of a defamation suit.

In India, defamation is classified as both a civil and criminal wrong, which now exists as part of the IPC, 1860, sections 499-500. Similarly categorised defences to defamation exist in other common law jurisdictions, such as the UK and the USA, though different thresholds exist, and therefore different tests apply.

Key Defences to Defamation

1. Truth / Justification

- **Principle:** A true statement, even if harmful to an individual's reputation, is not defamatory if published in the public interest.
- **Indian Position:** Section 499 IPC¹⁵ states that truth is only a defence if it is for the public good.
- **Case Law:** In *Chaman Lal v. State of Punjab*,¹⁶ the Supreme Court of India upheld that truth must be shown to be a complete defence if stated for the public good.

2. Fair Comment / Opinion

- **Principle:** Statements of opinion, especially about public issues, are protected as long as they are fair and based on facts.
- **Illustration:** Criticising a film, book, or public policy is allowed if the comment is honest and not driven by ill will.
- **Case Law:** *Tata Sons Ltd. v. Greenpeace International*¹⁷ reaffirmed that fair criticism and parody, if not malicious, are valid defences in India.

3. Privilege (Absolute and Qualified)

- **Absolute Privilege:** Some situations provide complete immunity, even if the statement is false or harmful, for example, parliamentary proceedings (Article 105, Indian Constitution),¹⁸ judicial proceedings, or official government communications.

¹⁵ Indian Penal Code, 1860.

¹⁶ *Chaman Lal v. State of Punjab*, AIR 190 SC 1372.

¹⁷ *Tata Sons Ltd. V. Greenpeace International*, (2011) 178 DLT 705.

¹⁸ Constitution of India, Art. 105.

- **Qualified Privilege:** This protects statements made in good faith when the speaker has a duty or interest to share the information, and the recipient has a duty or interest to receive it (e.g., employment references). However, ill will can invalidate this defence.
- **Case Law:** In *Sukh Ram v. Arun Shourie*,¹⁹ qualified privilege was addressed in relation to media reporting.

4. Consent

- **Principle:** If the person allegedly defamed agreed to the publication of the statement, no defamation claim can be made.

5. Innocent Dissemination, Intermediary Defence

- **Principle:** Booksellers, libraries, or online intermediaries are not responsible if they were unaware of defamatory material and acted as simple distributors.
- **Case Law:** *Godfrey v. Demon Internet Ltd.*²⁰ established liability for online intermediaries that knowingly let defamatory content remain. In India, *Shreya Singhal v. Union of India*²¹ clarified that intermediaries are protected if they follow takedown rules.

6. Apology and Amends

- **Principle:** In some places, a prompt apology and correction can lessen damages or act as a partial defence.
- **Example:** Under the UK Defamation Act, 1996, an “offer of amends” can lower liability.

COMPARATIVE PERSPECTIVE

- **India:** Requires truth to be for the “public good” (IPC Sec499)²²
- **UK:** The Defamation Act, 2013 simplified defences into “truth,” “honest opinion,” and “publication on a matter of public interest.”
- **USA:** Stronger protections for free speech. Public officials must prove actual malice, meaning knowledge of falsity or reckless disregard, as established in *New York Times Co. v. Sullivan*.²³

¹⁹ *Sukh Ram v. Arun Shourie*, 1999 Cri LJ 611 (Delhi HC).

²⁰ *Godfrey v. Demon Internet Ltd.*, [1999] EWHC QB 244.

²¹ *Shreya Singhal v. Union of India*, (2015) 5SCC 1.

²² Indian Penal Code, 1860.

²³ *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

CONCLUSION

Defences against defamation law protect the idea that free expression should not be limited by the fear of lawsuits, as long as that expression is truthful, fair, or privileged. In today's digital age, these defences are even more important because online platforms can increase the risk of reputational harm while highlighting the need for strong free speech. Courts need to keep adjusting these rules to find the right balance between accountability and freedom. The difference between libel and slander, though traditional, is essential for understanding how defamation works in law and society. Everyday life is full of situations where spoken or written words can unfairly hurt reputations. With the growth of digital platforms, libel has become more common, but slander is still significant in personal and professional situations. In the end, the law aims to balance protecting reputations with maintaining the right to free speech.