

**AN ANALYSIS OF THE ARTICLE 19 (1) (A) AND ARTICLE 19 (2) OF
THE INDIAN CONSTITUTION AND DISTORTING FORM OF
FREEDOM OF SPEECH AND EXPRESSION IN THE ERA OF SOCIAL
MEDIA IN INDIA**

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ABSTRACT

The present research study focused the gist of the right to freedom of speech and expression guaranteed by Indian Constitution to the nationals of India and but false, unconstitutional, unethical social media expressions are distorting the form of freedom of speech & expression, which is guaranteed in the Indian Constitution. This is also important for other countries' nationals to know as human rights whatever it freedom of speech and expression or other rights are rudimentary for human development and set up a democratic rule to use rights for society's development and individual development as well and maintain this freedom even in the era of social media. No doubt, each democratic countries is enjoying such rights guaranteed by their constitutions for their sake and for the health democratic rule, however, some countries are struggling yet for getting democratic rule and human rights where human rights including freedom of speech and expression can be applied but they are facing challenging from open freedom of social media expression by unethical, anti-nation and anti-social elements under the guise of right to freedom. However, much world organization always stressed on the fundamental rights of humans including freedom of speech and expression and free Press under the same. Democracy can thrive not only under the vigilant eye of legislature, but also under the care and guidance of public opinion, laws required as per the need of time and the Popular Press/Media, and the Press is par excellence, the vehicle

through which opinion can become articulate. It is to be noted that every freedom is not unlimited but there are some restrictions for the good of the society, security of the nation, law and order and public welfare. In Digital Era in India, the freedom of speech and expression have both confrontation. However, Indian Constitution ensures the guarantee of safeguard the rights of freedom of Indian. Now social media platforms are taking place from news portal to online platforms in which masses are spreading their own ideas and thoughts for dynamic ways. But in this digital era, there is also loss to the real freedom of speech & expression as fast spreading false news and unethical and unconstitutional things are becoming a danger to the purity of the freedom of speech and expression and entwining divisive forces to damage the unity and peace of the Indian nation. The present research study found that after reasonable restrictions on the freedom of speech and expression on the ground of unethical and false propaganda, digital media platforms are distorting the form of the freedom of speech and expression in the name of right to freedom of speech and expression and Central Government should protect the unrestricted flow and digital wrong information as there is required careful navigation, sensor the wrong issues and required a balance in the freedom of speech & expression and digital or social media expression in the era of digital social media.

KEYWORDS: Article 19 (1) a, Article 19 (2), Indian Constitution, Freedom of Speech, Freedom of Expression, Freedom of Press, Reasonable restrictions, important Cases.

INTRODUCTION

As citizens of India, all citizens have rudimentary rights. So in this context, fundamental rights to Indian citizens have enshrined in the Constitution of India under Part-3rd of the constitution. It is naturally that these rudimentary rights that all humans get right from birth. So no single person, organization or State may subtract these from all humans. **Basically, there are six fundamental rights such as:** (1) The right to equality (Articles 14-18), (2) The right to freedom (Articles 19-22), and (3) The right against exploitation (Articles 23 and 24), (4) The right to freedom of religion (Articles 25-28), (5) Educational and cultural rights (Articles 29 and 30) and (6) The right to constitutional remedies (Article 32). In this paper, you will go through Article 19 of the Indian Constitution deeply as it deals with six fundamental freedoms, which all media professionals or general citizens of India must acknowledge. Article 19 is very important Article and most significant constitutes the basic freedoms' Article 19(1) of Indian Constitution, subject to the power of the State to enforce

restrictions on the exercise of certain rights, grants those constitutional rights. Thus, the object of the Article was to protect these rights from State interference other than in the lawful exercise of its power to regulate private rights in the public interest.

Origin of Freedom of Speech & Expression: The notion of freedom of speech had originated a long time ago as it was first introduced by the Greeks. Greeks used the term “**Parrhesia**” which means ‘**free speech** or **to speak frankly**’. This term first described in the fifth-century B.C. and nations such as England and France have consumed a lot of time to follow and adopt this freedom as a right. The famous ‘English Bill of Rights, 1689 adopted Freedom of Speech as a Constitutional Right, and it is still in use and effect. Ahead, similarly, at the time of the **French Revolution in 1789**, the French had adopted the ‘**Declaration of the Rights of Man and of Citizens**’. Next, the UN General Assembly adopted the **Universal Declaration of Human Rights** on 10th December, 1948, and under Article 19 of Indian Constitution which recognized the Freedom of Speech and Expression as one of the human rights.

Freedom of Speech and Expression help an individual to attain self-fulfillment Freedom of Speech and Expression is birth natural right of humans. Freedom of Speech and Expression is rudimentary elements of a healthy democracy. Freedom of Speech and Expression right is also originated from earlier times by various thinkers and made overarching decisions by legal issues in the context of freedom of speech and expression. It strengthens the capacity of an individual in participating in decision-making. It provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change for the sake of democracy, rule of law and individual benefits. Fair treatment of conveying messages, ideas, thoughts through verbal, written communication, or other various print and electronic media and digital media or social media for the sake of mankind and healthy democratic rule, and perk up media professionals for true, balanced, unbiased and true media reporting under the laws of media & Ethics and follow the real gist of the right of freedom of speech and expression. Social media revolution has reshaped the understanding of the modern men with free speech with safeguard expression and blended hate speech, whereas freedom of speech and expressions are considered the cornerstone of the human rights but content in social media should be societal and cordial by filtering the social media content and follow the media ethics and laws as well. However, there is scope for amend mistakes but hatred expression has no room. Father of the nation Mahatma Gandhi was also agreed to the freedom of speech and expression but not agreed to the hatred thoughts under the cover of right to freedom. In

the Indian Constitution, Article 19 is the backbone of the Indian Constitution as it ensures the sanctity of speech and expression. As online platforms and myriad social media platforms are increasing, more challenges are also emerging in the form of intimidation, fake news and misinformation. Not only it, multifaceted cyber mischiefs, fraud, uncontrolled comments and backhanded speeches have been becoming a barrier in the way of true freedom of speech in the name of right to freedom of speech. Such repulsion comments and baseless speeches are crossing the limitations of the right of freedom of speech and expression and India is grappling with this challenge of too much liberty which is fatal for the harmony of India. So the way freedom of speech and expression is being misused through social media at present time, it seems to be creating more problems than solutions in India. In fact, a large part of the society is connected to social media including organizations and governments, due to which the sentiments of the society are being presented on this propaganda system without any control. It is true that due to the views expressed on social media, dangerous situation have been created in many places. Riots have also taken place and an atmosphere of opposition to the country has also been seen. In such a situation, the question is that today masses are expressing their views while suffering from many types of prejudices, which in some way or the other is widening the gap of social inequality. Social media is indeed the most appropriate medium to present one's views but while presenting our views, we should keep in mind that our words or comments are not harming anyone or violating the human rights and constitutional rights as well. If people cannot be a part of the solution, then people are actually the problem. The similar situation is seen on social media. People are seen trying to make this problem bigger. What is people's own role in ending that problem, this should also be thought about. Otherwise, if we keep expressing only the problem, then who will provide the solution. We have to come forward in the direction of the solution otherwise politics in India will go continue to spread the politics of hatred and divide the people into different sections for political gain by using the freedom of speech and expression on any issue. Social media a powerful medium to express the opinion of the society. When it is called media, then it definitely comes under the category of the fourth pillar of democracy. We must definitely think that whatever measures can be taken towards strengthening democracy, should be taken. For this, one should express his/her views on social media but the kind of views people are facing on social media today, sometimes it seems as if these are the guides of the judiciary and the governments.

Review of Literature

Freedom of Speech & Expression in India: John Milton says that “give me the liberty to know, to argue freely, and to utter according to conscience, above all liberties”.

The above quote by **John Milton** clearly depicts the gist of freedom of speech. John Milton opined and argued that without human freedom there would be no growth and development in science, law, and social, economic, political or in any other field. According to John Milton, human freedom means free discussion of opinion, argument and liberty of thought, ideas and expression.

Another, **Justice Louis Brandies** had made a vigorous statement on the freedom of speech in the context of the U.S Constitution in the case of **Whitney vs. California**. This statement/judgement was:

“Those who won our independence believed that courage is the secret of liberty and liberty is the secret of happiness. These people believed that freedom to think, freedom to speak and freedom to assemble willfully for discussion is futile, disgruntled and of no avail. But the public discussion is a political duty and it should be the fundamental principle of the government of America.

Meaning of Freedom of Speech & Expression: Have you ever thought what the meaning of freedom of speech and expression is? Simply, the right to express one’s own ideas, thoughts and opinions freely through writing, printing, picture, gestures, audio-visual, spoken words or any other mode is the gist of freedom of speech and expression. Freedom of speech and expression includes and inducts the expression of one’s ideas through visible representations such as gestures, signs, and other means of the communicable medium whatever it print media, electronic media or social media. It also inducts the right to propagate or disseminate one’s views or ideas through all types of media or through any other traditional communication channels.

This right applies that ‘Freedom of the Press’ is also included in this lot of right, and in this context, free propagation and dissemination of ideas and thoughts is the imperative objective and this may be done through the Press or any other platform of mass communication. These two freedoms of ‘**Freedom of Speech** and **Freedom of Expression**’ have their own overarching qualifications.

As per the Article 19 of the ‘**International Covenant on Civil and Political Rights**’ (ICCPR), the freedom to pursue, receive, and dissemination information and all kinds of ideas, thoughts irrespective of boundaries, either orally or in the form of writing, print, art or audio-visual mode through any other media of their choice or taste are included in the Right to Freedom of Speech and Expression.

Article 19 (1) of the Indian Constitution: Now get on the topic, in the context of India, the **Freedom of Speech and Expression** is granted and provided by **Article 19 (1) (a)** of the Indian Constitution, which is available and procured only to the citizens of India and no procured to the foreign nationals. Freedom of speech under Article 19(1) (a) includes the right to express one’s views through any medium (Print media, electronic media and other various tools of communication) as mentioned above, which can be by way of writing, speaking, gesture or in any other form of mass communication. Freedom of Speech and Expression also includes the rights of communication/ conveying messages, information and the right to propagate or publish or disseminate one’s opinion or ideas.

In Indian Constitution, the right to Freedom of Speech and Expression, guaranteed by Indian Constitution to the nationals of India, is regarded as one of the most rudimentary elements of a healthy and strong democracy because it allows and permits citizens to participate in the social and political process of a country very actively to maintain a true democratic rule.

Importance of Freedom of Speech & Expression: It was well said by **Cicero**, a Roman politician as well as a lawyer that “*The people’s good is the highest law*”. The manner in which this can be achieved can be inferred from Indian constitutional provisions, which demonstrate that if a person raises his/her voice against any evil then everybody will listen to the voice and stand against that evil to revocation it out from its root.

Let us have an example of this: compare the past when women were not allowed to vote with the present day elections. Now women are allowed to vote. How does this happen? It happens because of the right of free speech and expression in Indian Constitution. The right to free speech and expression has that power through which it can break any type of giant brick wall that comes in its way.

Other rights that allow or help Indian society develop and progress are supported by freedom of speech and expression which is also a fundamental human right, and this freedom of

speech and expression have always been important throughout history as it facilitates many changes, one of which is the French revolution.

Freedom of speech and expression not only inducts the right to express what one thinks but it also includes listening to others. When a person expresses his/her opinion, it only carries the intrinsic value of that opinion and being silent on that opinion is an injustice to the rudimentary human rights.

Union of India Vs. Naveen Jindal and Article 19

Facts: The respondent Naveen Jindal was not allowed to hoist the national flag at the office premise of his factory by government officials on the ground that it was not permissible under the Flag Code of India.

Judgment: What the judgement decreed by the court of law in this case filed by Naveen Jindal? Know it in this case context; the high court held that the restrictions that the Flag Code imposed on citizens of India on hoisting the National Flag of India were not permissible under clause (2) of Article 19 of the Indian Constitution. The court has also stated in its judgement that displaying a flag is an expression of pride as well as an expression of genuine enthusiasm and it can only be restricted in accordance with what has been prescribed in the Constitution of India, otherwise, the restriction would discourage the citizens or Indian nationals from identifying with the flag of the country.

Virendra Vs. The State of Punjab and Article 19

Facts: Serious communal tension had arisen in the State of Punjab between the Hindus and the Akali Sikhs because of the question of partition of the State on linguistic and communal premises. There were two petitioners and both were from different newspapers. Their newspapers' policy was to support the 'Save Hindi Agitation'. A notification was passed by the Home Ministry office under the impugned Act prohibiting the publication and printing of any material relating to the 'Save Hindi Agitation'. Both the petitioners filed a complaint alleging that the **Punjab Special Powers (Press) Act, 1956** passed by the State Legislature was unconstitutional.

Judgment: The court held that Section 2 of Article 19 of the impugned Act did not merely impose restrictions but imposed a total prohibition against the exercise of the right of freedom of speech and expression, making the same a violation of the right guaranteed by the Constitutional provision.

Sakal Papers Vs. Union of India

Facts: In this case, the petitioner was the owner of a private limited company, ‘**Sakal**’, which published daily and weekly newspapers in Marathi. This newspaper used to play a leading part in the dissemination of news and in shaping public opinion. The petitioner claimed that his net circulation of newspaper copies in Maharashtra and Karnataka on weekdays was 52,000 and on Sunday it was 56,000. However, the Central Government passed the Newspaper (Price and Page) Act, 1956, later, the Daily Newspapers (Price and Page) Order, 1960. Because of that order, the government fixed the maximum number of pages that could be published by the newspapers. So the petitioner filed a case challenging the constitutionality and constitution provision of that Act.

Judgment: The court held that Section 3(1) of the Act was unconstitutional and also an order made under the same would be unconstitutional.

Elements for the Right to Freedom of Speech & Expression

The main elements for the Right to Freedom of Speech and Expression are as follows:

- This right is available only to a citizen of India and not to the person of other nationalities i.e., foreign nationals.
- The freedom of speech under Article 19(1) (a) of the Indian constitution includes the right to express oneself through any medium, such as in words of writing, printing, gesture, etc.
- This right is not absolute, which means that the government has the right to make laws and to impose reasonable restrictions in the interest of sovereignty and integrity of India, friendly relations with foreign States, the security of the State, public order, decency, morality, defamation and contempt of court and incitement to an offence.
- Such a right ought to be implemented as much by the action of the State as by its inaction. Thus, failure on the part of the State to guarantee the Freedom of Right and Expression to all its citizens would also constitute a violation of Article 19(1) (a) of the Indian constitution.

Freedom of the Press: “Our liberty depends on the freedom of the Press, and that cannot be limited without being lost” is stated by **Thomas Jefferson** to define the importance of the Freedom of the Press.

To maintain and preserve the democratic way of life it is inevitable that people should have the freedom to express their feelings, ideas, and thoughts, and to make their views known to people at large. Freedom of speech includes propagation or disseminate of one's views through print media, electronic media or any other communication channels like social media, digital media subject to reasonable restrictions imposed under Article 19 (2) of the Indian Constitution.

Even though the Freedom of the Press is not mentioned in Article 19 of the Indian Constitution, yet it has been a part of Freedom of Speech and Expression as considered by judges of the Supreme Court through decided cases.

You know, in the leading case of **Romesh Thapar vs. The State of Madras**, it has been decided and decreed by the Supreme Court that freedom of the Press is a natural part of freedom of Speech and Expression.

Why Freedom of the Press is Important in the Indian Context? An American lawyer and free Press advocate **Trevor Timm** have interpreted that "*An independent Press is one of the important pillars of democracy of any democratic nation*". Freedom of the Press has always been a bulwark/rampart against the secret government, against tyranny and against authoritarianism rule. The Press has a greater role in showing the real face of political parties, administration, government and also any type of incident that has been adjourned or snubbed the truth and compressed reality and cannot be seen by the common people.

It is the Press who revealed and exposed the income of a **Kachori wala** (in U.P., Aligarh) previous years and also exposed the face of some imposter/ **dhongi** type monks/*babas* such as Ram Rahim and many other imposters. It is the media who have the power to aware and provoke masses against a political party by exposing or revealing their truth. Media is used to measure the checks and balances in a democracy.

In the case of **Indian Express newspaper vs. Union of India**, it was held that the Press plays a crucial role in the democracy machinery. The courts of law have a duty to uphold the freedom of the Press and invalidate all laws and administrative actions and government decisions as well that would pill that freedom.

An important aspect to be noted is that the Freedom of the Press has been specifically mentioned in the United States' Constitution, (Article 7) while it is a mere inference made by

Courts in the Indian context, which explains the possible variation or multifaceted in the adjudication of disputes relating to this right to freedom of speech and expression in both jurisdictions.

What are the Elements of Freedom of the Press?

There are three rudimentary elements of Freedom of the Press and these are as follows:

- Freedom of access to all types of source of information or dissemination
- Publication freedom, and
- Circulation/dissemination freedom

What is the Reason behind the Degradation of Freedom of the Press?

In the beginning phase of Freedom of the Press, the views of Jawaharlal Nehru, the former Prime Minister of India, regarding Press was that Nehru wanted the Press free from all evils and also free from all forms of precarious/ danger involved in the wrongful use of that freedom. But Indira Gandhi, the former Prime Minister of India, had opposite or conflicting views in comparison to Jawaharlal Nehru. Indira Gandhi didn't have much faith and trust in the Press and her misconceptions and bloomers were first expressed when she was addressing the International Press Institute Assembly in New Delhi on November 15, 1996, when she accused the Press for mass publicity to the students' unrest or disorder in the country.

As you experience or observe through various media coverage that the Press has been losing its importance day by day in the country as many politicians leverage or take advantages of the Press to win an election or for their self-interest by giving rise to conflict amongst the masses. You, perhaps, observed that many a time, Freedom of the Press has been suppressed by the legislature. There was a case in this context of that condition, **Sakal Paper v. Union of India**, in which, the daily newspapers (Price and Page) Order, 1960, fixed the number of pages and the size of the pages which a newspaper could publish. It was held that it violated the Freedom of the Press and was not a reasonable restriction under Article 19(2) as mentioned in the Indian Constitution.

Freedom of Commercial Speech: The current judicial position of commercial speech in India is that it can be seen as a part of freedom of speech and expression with reasonable restrictions given or guaranteed under Article 19(2) of the Indian Constitution.

Are we having the Freedom to Advertise? The Freedom of Speech and Expression under Article 19(1) (a) of the Constitution of India has been granted to every citizen of India. Various judicial pronouncements or judgments have aggrandized the compass of Freedom of Speech and Expression. Now it includes such as follows:

- Right to acquire and disseminate information, ideas, thoughts.
- The right to communicate through any media, in the form of an advertisement, movie, speech, etc.
- Right to free debate and open discussion.
- Freedom of Press.
- Freedom to be informed.
- Right to remain silent.

It means we all the Indian citizens have the right to advertise. One step more to understand that in the case of **Tata Press Limited vs. Mahanagar Telephone Nagar Limited**, the Supreme Court of India decreed that commercial speech or commercial advertisement is also a part of Freedom of Speech, which could be restrained only within the boundary of Article 19(2) of the Indian Constitution.

Right to Broadcast: The generalization of Freedom of Speech and Expression has progressed to rope in limits all available means of expression, thoughts, ideas and communication due to the development in information technology and other mass media technology, and this incorporates broadcast media, electronic media and various other types of mass media.

To understand this gist of right to broadcast, in the case of **Odyssey Communication (P) Ltd. vs. Lokvidayan Sanghatana**, the Supreme Court of India decreed that the right of the Indian citizens to display or show films on State TV channels such as Doordarshan came under the frame of Fundamental Rights guaranteed under Article 19 of the Indian Constitution.

Right to Information Act, 2005: Right to Information is a healthy right, which also keeps the right to know or to receive information is one of the aspects of Freedom of Speech and Expression. Freedom to receive information is also incorporated in the Freedom of Speech and Expression through various Supreme Court decrees or judgments. Right to Information Act, 2005, this especially describes about the right of the Indian citizens to ask for information from the government officials and governmental departments.

Rights of Voters to Know about their Candidates: In other case of **Union of India vs. Association for Democratic Reforms**, it has been held that the amended Electoral Reform Law passed by the Parliament of India was unconstitutional as it violated the right of the Indian citizens to know under Article 19(1) (a) of the Indian constitution.

Right to Criticize: In a monarchy system, the king is supreme, powerful and masses are his subjects as masses are under the control of the king. But in democratic system of rule, monarchy has no place neither there is no king nor anyone supreme. In this democratic system like ours (India), the people of India are supreme and the State authority is a servant of the people of India. Indian people have right to criticize but within the ambit of law and order and constitution for fair and square purpose. To illuminate this, in **Kedar Nath Singh vs. the State of Bihar** case, the Supreme Court of India decreed that sheer criticism of the government is not treason unless this criticism leads to provoking of violence or breach of public law & order. The same case of Manipur, where a media person named Kishore Chand Wangkhem was charged for criticizing the Chief Minister of the State of Manipur under the National Security Act. In the court trial, Kishore Wangkhem was released when court found that the citizen of India has the right to criticize under Article 19 (1) (a) of the Indian Constitution.

In the same another case of **S. Rangarajan vs. P. Jagjivan Ram**, it was decreed by the court that everyone has got the right through the Indian constitution to form his/her opinion, ideas, thoughts on any issue of general concern.

Right to Express beyond Boundaries: The expanding development in technology or the revolution in information and communication technology and spreading the web of electronic media has slashed the gap of transnational barriers in mass communication or in other way we can say that technology has ebb this obstruction for some extent. Technology has made the transmission and sharing of information possible, even to other parts of the world within a few seconds. In other case of **Maneka Gandhi vs. Union of India**, the Supreme Court of India analyzed whether Article 19(1) (a) of the Indian Constitution is buoyed to the Indian Territory or within India, and finally the court decreed that the Freedom of Speech and Expression is not buoyed to the national boundaries of India.

Right Not to Speak: Right not to speak has also been roped in Freedom of Speech and Expression. This right highlighted among the masses of India after the judgment in the

leading case of **Bijoe Emmanuel vs. the State of Kerala**. In other words, this case is also known as the 'National Anthem case.' The case was concerned with three students who were expelled by the school authority on deny to sing the National Anthem of India.

However, those students stood from their seats in respect to national anthem, when the national anthem was playing. The validity of the expulsion of the students was challenged before the Kerala High Court. The court held that the expulsion of students on the ground that it was their fundamental duty to sing the national anthem was upheld.

Ahead, on a further appeal by the students before the Supreme Court of India, it held that the students had not committed any offence under the Prevention of Insult to National Honor Act, 1971. Also, there was no law through which their fundamental rights under Article 19(1) (a) of the Indian Constitution could be abridged. And also it was held that expulsion of the students from school violated the right of freedom not to speak under Article 19(1) (a).

There are some of the important cases pertaining to the Freedom of Speech and Expression is as follows:

People's Union for Civil Liberties Vs. Union of India: This case People's Union for Civil Liberties v. Union of India challenged the validity of the Section 5 (2) of the **Indian Telegraph Act, 1885**, which stated that if there happened any public emergency, or any emergency in the interest of public safety, the Central Government of India or the State Government or any other officials are authorized to take temporary possession of any telegraph, from the side of the government. Two conditions are observed while dealing with this case such as the occurrence of public emergency and in the interest of public safety. For the application of the provisions of Section 5(2), these two conditions are the sine qua non. If any of these two conditions are not present, the government has no right to exercise its powers under the aforesaid Section.

Hamdard Dawakhana vs. Union of India: Under this case challenged the validity of the **Drugs and Magic Remedies (Objectionable Advertisements) Act, 1956**, on the ground of restriction that it took away or curtailed this freedom of speech and expression. The Supreme Court of India decreed that an advertisement is a form of speech only if every advertisement is held to be dealing with commerce and trade and not for propagating any evil idea.

Abbas vs. Union of India: This is the first case in which the issue of the prior-censorship of films came into consideration by the Supreme Court of India. The petitioner's film was not given 'U' Certificate so he challenged the validity of censorship of film under the criteria as it violated his fundamental rights of Freedom of Speech and Expression. The Supreme Court of India, however, decreed that the motion picture moves emotions more deeply than any other form of art. Hence pre-censorship was valid and was justified under Article 19(2).

A researcher **Aqa Raja** also mentioned in his research paper '**Freedom of Speech and Expression" as a Fundamental Right in India and the Test of Constitutional Regulations: The Constitutional Perspective**' that Part III of the Indian Constitution ensures a comprehensive range of judicially enforceable fundamental rights that align closely with the civil and political rights outlined in the International Covenant on Civil and Political Rights, 1966 (ICCPR). Article 19(1) (a) of the Constitution enshrines the right to freedom of speech and expression as a fundamental right. However, this freedom, similar to other fundamental rights protected by the Indian Constitution, is not without limitations. It may be curtailed if three specific and independent conditions are met.

Another researcher **Neha Gadgala** writes in her research paper '**Freedom of Speech and Expression Versus Hate Speech in India: A Critical Analysis**' that responsible communication is essential to the functioning of democracy and is protected under Article 19 of the Constitution. A significant challenge facing the judiciary and the principle of freedom of expression is to ensure that this freedom is not misused to harm any individual or marginalized group within society. In a diverse nation like India, characterized by various castes, religions, and languages, this challenge is particularly pronounced. Article 19(2) of the Constitution provides all Indian citizens with the right to freedom of speech and expression, albeit with certain restrictions. These limitations pertain to the sovereignty and integrity of India, national security, maintaining friendly relations with foreign nations, public order, decency or morality, as well as issues related to contempt of court, defamation, or incitement to violence. Notably, hate speech is not explicitly defined in any Indian legislation.

Researchers **Koshti Vaishali Ramcharan & Dr. Chetna Bujad** write in their research work '**A study of Social Media and freedom of speech and expression**' that in contemporary society, social media plays a pivotal role in our lives, serving as a prominent medium for interaction and the dissemination of information to others. Notable examples of social media platforms include Facebook, Twitter, Google+, Wikipedia, LinkedIn, Reddit, and Pinterest.

The concept of democracy is inherently linked to the principles of freedom of speech and expression. Currently, social media stands out as a widely recognized platform for sharing information, thereby establishing a direct connection between social media and the exercise of freedom of speech and expression in the exchange of thoughts and opinions.

Shishir Tiwari & Gitanjali, Ghosh write in their research work ‘**Social Media and Freedom of Speech and Expression: Challenges before the Indian Law**’ that social media has evolved into an integral part of our daily existence. Nearly everyone maintains a presence on these platforms. While there are numerous drawbacks and negative consequences associated with social media, it is important to recognize its significant role as a powerful medium for connection, collaboration, and the unification of individuals across geographical boundaries. Furthermore, social media serves as an essential communication tool that enables individuals to assert their right to freedom of expression and to share information and ideas. Over the past year, there has been a notable global movement advocating for change, justice, equality, accountability among the powerful, and the protection of human rights, exemplified by events such as the Arab Spring Revolution, where the Internet and social media have been instrumental.

Grounds of Restrictions

It is imperative to secure the Freedom of Speech and Expression in a democratic country like India, and also important to restrict this freedom in some extent to maintain social order otherwise some people might misuse this freedom of Speech and Expression. There are some restrictions imposed through Clause (2) of Article 19 of the Indian Constitution on Freedom of Speech and Expression on certain grounds. In the context Indian Constitution interprets that Article 19 (2) of the Indian Constitution states that “nothing in sub-clause (a) of clause (1) shall affect the operation of the existing law, neither can it prevent the State from making any law, in so far as such type of law imposes reasonable restrictions on the exercise of the right bestowed by the said sub-clause in the interests of the sovereignty and integrity of India, public order, friendly relations with foreign States or nations, the security of the State (India), decency or morality or in relation to contempt of court, defamation or incitement to an offence”.

The ground for restriction is as follows

Security of the State

Article 19(2) of the Indian Constitution enforces reasonable restrictions on the Freedom of Speech and Expression in the interest of the State/ India and for the sake of the public order. The term '**Security of the State**' should be differentiated or distinguished from '**Public Order**' as security of the State includes an exacerbated form of public order. For example, waging war against the State, rebellion, riots, insurrection, any emergency, etc., the term '**Security of the State**' in Article 19 (2) does not only mean danger to the security of the entire country but it also implies danger or imperil to the security of a part of States or threat to a part of States.

Friendly relations with a foreign state

Next, this ground of restriction on Freedom of Speech and Express was added through the **Constitutional First Amendment, 1951**. The chief objective behind adding this provision or restriction was to forbid exorbitant derogatory propaganda against a foreign-friendly State, which could hazard the maintenance of good relations between India, and that State or nation. If the Freedom of Speech and Expression badgering or disturbs the friendly relations of India with foreign States, the government of India has the right to impose a reasonable restriction.

Public order

This ground of restriction was also created through the Constitutional First Amendment, 1951. A situation had arisen in the case of **Romesh Thapar** by the Supreme Court and to meet that fettle, this ground of restriction had been added and created in the constitution of India. Here also the word '**Public Order**' describes the sense of public safety, public peace, and peace of the community. In the case of **Om Prakash vs. Emperor**, it has been interpreted by the judge that anything that disturbs public peace can be remarked to disturb public order automatically. There is also an exam or test which determines whether an act affects law and order or public order.

Decency and Morality

The wording or communication should be sweet and fine when one express or share his/her feelings, thoughts or ideas with others so that it could not affect the morals of the society. In this context, the Constitution of India has considered this view and created this ground of restriction in the Constitution of India. That is why on the ground of decency/fine/sweetness and morality, Sections 292 to 294 of the Indian Penal Code, 1860 imposes an example of a

restriction on the Freedom of Speech and Expression. However these words have the capacity of a bigger meaning as these have no fixed meaning as it varies from society to society, community to community and depending upon the morals and ethics of the contemporary society.

Contempt of Court

In a democratic country like India, here the judiciary plays a crucial role in governing or decreeing a country in a peaceful manner so in such types of situation it is important to respect the judiciary and its order or decrees. What impedes the administrative law and how does anything interfere with justice? As know through the Indian Constitution, there is a limitation in a judicial proceeding and anything that curtails its freedom leads to impeding of the administrative law and also anything can interfere with the decision of justice.

In brief, Contempt of Court can be defined in two categories – (1) Civil Contempt and (2) Criminal Contempt. Contempt of court has also been defined in Section 2 (a) of the Contempt of Court Act, 1971. In the beginning, ‘truth’ was not a defense under Contempt of Court but in 2006 an amendment was created to add ‘truth’ as a defense. In the **Indirect Tax Practitioners Association vs. R.K. Jain Case**, the court of law has decreed that ‘truth’ which is based on the facts should be allowed as a valid defense.

Elements or essential needed to establish contempt:

- Making of a valid court order.
- The respondent should have knowledge of that court order.
- The respondent should have the ability to render compliance.
- Intentionally or willfully disobey the order.

Defamation

Article 19 (2) of the Indian Constitution prohibits any person from making any statement that defames or attacks the reputation of another person. One who gets the freedom of any type provided by Indian Constitution should not misuse that freedom or any freedom to hurt or affect the reputation or status of another person. Simply, a statement by one that injures the reputation of a person results in defamation or comes under defamation. So in this context, the right to free speech is also not qualified. It means no hurt any person’s reputation which is protected under Article 21 of the Indian Constitution as Article 21 secures two rights i.e. right to life and right to personal liberty/privacy.

Incitement to an Offence

This ground of restriction was also created by the Indian **Constitutional First Amendment Act, 1951**. It is cleared by this Act that Freedom of Speech and Expression does not incorporate the right to incite people or a person to commit an offence. The word ‘offence’ has been interpreted in details under Section 40 of the **Indian Penal Code, 1860**. Any type of offence takes place in two ways such as by the commission of an Act and by the omission of an Act.

Sovereignty & Integrity of India

To preserve the sovereignty and integrity of a State is the major duty of a ruling government. This ground has been created by the Indian under Constitution **Sixteenth Amendment Act, 1963**.

To sum up, on the above study analysis, it can be produce a grand total that grounds carried in Article 19 (2) of the Indian Constitution depict that all grounds of case decrees by court of law or amendments added in Indian Constitution are implicated with the national interest or in the interest of the society or law and public order.

Research Analysis Gap

After review the previous literature on the present topic, it is found that right of freedom of speech & expression is mentioned clearly in the Indian Constitution with reasonable restrictions on this right for achieving democratic objectives of the Indian Constitution towards healthy and safe communication among the masses of India; and many previous cases in this context have been come in front of the judiciary to make democratic balance under the right of freedom of speech & expression and controlled the too much freedom of this right in order to avoid the violation of privacy, security and law & order, while now in the context of social media age, the analysis of this right of freedom of speech & expression is more required to analysis in the researches to aware and educate masses on this right to justify it as per the Constitution of India and draw the attention of the policy makers to make laws pertaining to the social media which is a daily demands of the modern users but there is no strong law until the right freedom of speech and expression not amended to deter the misuse of social media under the guise of the right of freedom of speech and expression guaranteed by the Indian Constitution to the citizens of India.

Significance of the Study

The present research study has its value and impact to furnish the analysis gap in further researches and gives a direction to the policy makers to make laws or amendment in the right of freedom of speech & expression in purview of the use of social media platforms by the masses to retain the true meaning and use of this right not to distort the freedom of speech & express and violation of one's freedom of speech & expression and respect to everyone's rights under law.

Conceptual Frame Work

Some variables or affairs of misuse of social media to distorting the form/face of freedom of speech & expression in India has been described below

This section aims to highlight important controversies involving free speech , underlined complex tasks of synergy, individual & freedom with collective welfare in a versatile and fast change digital era.

1. *Madhya Pradesh High Court Banned the Live Streaming of Court Hearing:*

In its interim order, the division bench of Chief Justice Suresh Kumar Kait and Justice has banned the live streaming of Court hearings from being edited and uploaded on social media. A bench of Chief Justice Suresh Kumar Kaith and Justice Vivek Jain has issued notices to the Central and State Governments, the Ministry of Information & Broadcasting, and various social media platforms, Meta Platform, YouTube, X and others and directed them to submit their replies in this regard. In the petition filed by Damoh resident social activist Dr. Vijay Bajaj, it was said that some rules were made for live streaming of judicial proceedings in Madhya Pradesh High Court. There is a clear provision in these rules that all copyrights of live streaming are with the High Court. Under these rules, arbitrary use, sharing translation or uploading of live streaming on any platform is prohibited. Despite this, in violation of the prescribed rules, live streaming clippings are being edited and uploaded on many internet media platforms to gain economic benefits. Memes and shorts of the orders of the High Court are made and indecent and objectionable comments are made on judges, advocates and government officials. Relief was sought in the petition that the money earned by the internet media by misusing the High Court live streaming should be recovered. Apart from this, the clippings uploaded on social media should be deleted. The division bench has issued the above orders after hearing the petition. Advocate Mukesh Kumar Agarwal and Advocate Utkarsh Agarwal had pleaded on behalf of the petitioner.

2. Kerala High Court: Derogatory Posts on Social Media Amount to Defamation, Effective Law Needed:

The Kerala High Court said that- there is no doubt that **Section 499 of the Indian Penal Code (IPC)** will apply to defamation through social media platforms including Facebook, which will come under the cyber defamation title, because under Section 499 of the IPC, it is provided that whoever makes or publishes any imputation about a person by words spoken or intended to be read or by signs or visual depictions with the aim of causing harm or knowing or having reason to believe that such imputation will harm the reputation of that person. If we believe the news published in October 2023, a petitioner who had a previous enmity with the complainant published/ uploaded videos, scripts, messages etc. through social media platforms with the intention of hurting his dignity. Not only this, the petitioner also sent two postcards to the father of complainant, in which it was said that his daughter got pregnant twice and also had an abortion twice, apart from this it was also alleged that the petitioner posted her pictures on Facebook to defame her, so the petitioner was accused of committing a punishable offense under Section 509 of the IPC and Section 120 (O) of the Kerala Police Act.

In view of the facts of this case, the court said that - apart from the Facebook post, the petitioner is responsible for sending two abusive postcards to the complainant's father under Section 509 of the IPC and Section 120 (W) of the KP Act. In view of the lack of law to deal with abusive social media posts, Justice A Badruddin said that Section 499 of the IPC is a non-cognizable offense, he emphasized the need for a comprehensive law, which makes such crimes cognizable, as well as gives severe punishment. In this case, the court refused to quash the proceedings and said that prima facie material exists for which a case should be filed.

3. Delhi High Court sentenced a lawyer to 4 months imprisonment for sending derogatory comments to the judge in the chat box:

The Delhi High Court has convicted a lawyer of criminal contempt. The High Court sentenced him to four months in jail for lowering and defaming the dignity of the Court through derogatory comments against the judges. A bench of Justice Pratibha M. Singh and Justice Amit Sharma held the lawyer guilty of using reprehensible and derogatory language. The bench said that the lawyer's comments were clearly contemptuous of judicial officers, High Court judges and the court. The High Court said that the contemnor has no respect for the courts and the entire judicial system. He has not tendered any apology and his entire

conduct is merely an attempt to malign and defame the courts. Such conduct on the part of the contemnor cannot go unpunished, especially on the part of someone who is qualified as an advocate. The bench said that the lawyer neither apologized nor expressed any remorse for his conduct.

Considering the above, the filing of 30 to 40 complaints by the contemnor against judicial officers, police officers and judges of this Court clearly shows that his intention is to scandalize the Court as well as to lower the dignity and authority of the Court, the bench said. While refusing to suspend the lawyer's sentence, the bench noted the low standard of arguments presented by him in the contempt petition and also noted the contempt campaign being launched against the courts in general and several judges in particular.

4. *Dhruv Rathee's troubles increased: Delhi court sent summons to YouTuber:*

Delhi's Saket Court issued summons to Dhruv Rathee in a defamation case filed by BJP leader Suresh Nakhua against YouTuber Dhruv Rath. The court issued summons to YouTuber Dhruv Rathee in a defamation case filed by Bharatiya Janata Party (BJP) leader Suresh Karamshi Nakhua after Rathee allegedly called him a "violent and abusive" troll. District Judge Gunjan Gupta of Saket Court passed the order. The court also issued notice to Rath on Nakhua's plea for interim relief. Advocates Raghav Awasthi and Mukesh Sharma appeared for Nakhua. Rathee had uploaded a video titled My Reply to Godi YouTuber Elvish Yadav on his YouTube channel on July 7, 2024. Nakhua, the BJP's Mumbai unit spokesperson, had alleged that Rathee called him part of a 'violent and abusive troll' but the allegations are without any 'logic or reason' and tend to damage his reputation.

According to a Bar and Bench report, Delhi's Saket Court issued summons to Rathee on July 19. The case was heard by District Judge Gunjan Gupta. BJP leader Suresh Nakhua has called Dhruv Rathee a liar and alleged that Rathee called him a 'violent and abusive troll'. This was done to tarnish his reputation. Dhruv Rathee is a famous YouTuber and he has more than 23 million subscribers on YouTube. Dhruv Rathee makes videos on issues like social, political and environment. He often remains in the news for these videos. His videos go viral. Some people also accuse him of making one-sided videos.

5. *RG Kar Case: Hearing on the matter of objectionable social media post on the victim, High Court sought report from CBI:*

The court said that the copies of the objectionable posts provided by the petitioner contained

obscene comments along with the photograph of the victim, which are not acceptable to any member of the society.

There is nationwide outrage over the alleged rape and murder of a trainee doctor in West Bengal. The uproar continues in the state. The situation remains tense. Amidst all this, the Calcutta High Court on Thursday ordered the CBI to submit a report by September 18, 2024. It has sought a report regarding the inflammatory posts on social media in the RG Kar case. The petitioner has prayed in the PIL that the CBI be directed to investigate cybercrimes in connection with the unfortunate and brutal incident. The court said that the copies of the objectionable posts provided by the petitioner contained obscene comments along with the photograph of the victim, which are not acceptable to any member of the society. The court asked Additional Solicitor General Ashok Kumar Chakravarty, representing the central agency, if he could find a way to block such posts. A division bench headed by Chief Justice T. S. Sivagnanam directed the Joint Director, CBI (Central Bureau Investigation), Kolkata to look into the grievance expressed by the petitioner on the issue of such objectionable social media posts. The bench headed by Justice Bhattacharya directed the Joint Director of CBI or any other competent officer to file a report in this regard by September 18, 2024. The matter will be heard again along with other petitions related to the rape-murder of the doctor. After the order was written, Chakraborty submitted before the court that the CBI does not have a separate wing to investigate such cybercrimes. He said that the state police has a special unit to monitor such cases and the Cyber Crime Branch of the West Bengal government should also be directed to file a separate report. The court said that it would consider the request on the next date of hearing.

6. *A Man Who Wrote Woman's Mobile Number on Toilet Wall in Bengaluru*

The Karnataka High Court said that causing physical harm to a woman is an altogether different matter and attracts a variety of offences for the same but intruding into her privacy and personal integrity causes serious psychological harm which sometimes hurts more than physical harm as it stains the soul. Justice M. Nagaprasanna made the observation while dismissing a petition filed by Alla Baksha Patel alias A.B Patel of Chitradurga town, questioning the charge sheet filed against him for intrusion into privacy and outraging the modesty of a woman. The charge sheet accused him of writing the mobile number of a woman employee of the health department on the walls of the men's toilet at KSRTC Terminal-1 at Majestic in Bengaluru and calling her a 'call girl', causing mental trauma to her

as she received innumerable calls. Additional State Public Prosecutor B. N. Jagadeesh vehemently argued that the charge sheet clearly held the petitioner guilty of writing on the walls and hence, he must face the trial to come out clean. "There is no need to emphasize that sexual violence against a woman is not only an inhuman act but also a violation of the right to privacy of the woman which cannot be justified in any manner. It causes the woman to undergo a traumatic experience. Therefore, such cases brought before the court need to be dealt with strictly. The court said, therefore, any indecent or obscene comment made against a woman by way of gesture, writing or speaking would undoubtedly amount to an insult to the dignity of the woman." When such cases are brought before this court and sought to be dismissed, they must be dealt with strictly. The petitioner involved one of the elements of such insult by writing on the wall. The court said, therefore, he cannot escape by making such derogatory comments on a woman in public.

Controversial Comments and Statement of Politicians on Social Media in India and Violation of Freedom of Speech & Expression

Controversial comments and statements made by politicians on social media in India can be a complex issue, and whether it constitutes a violation of freedom of speech is a topic of ongoing debate. Controversial comments and statements of many Indian politicians remark on social media can spread misinformation and hate speech, and divisive content, potentially harming individuals, communities, and society. This raises concerns about the impact on democracy, public discourse, and the well-being of the Indian citizens.

Rahul Gandhi: The leader of the Indian National Congress (INC) and Member of Parliament. Some of his statements and allegations have been fact-checked and found to be incorrect or misleading.

Amit Shah: The Home Minister of India and leader of the Bharatiya Janata Party (BJP). Some of his statements and claims have been disputed by the media and opposition parties.

Mamata Banerjee: Chief Minister of West Bengal and leader of the Trinamool Congress (TMC). Some of her statements and claims have been disputed by the media and opposition parties. These names are only examples, and it does not mean that these politicians always make false or misleading statements.

Freedom of Speech Considerations: Freedom of speech is a fundamental right, but not absolute. Governments and social media platforms must balance free expression with the need to regulate harmful content. The challenge lies in distinguishing between legitimate political speech and harmful or hateful social media content. In India, the intersection of social media, politics, and free speech is particularly complex. The country has diverse population, vibrant democracy, and rapidly evolving online landscape create challenges for regulating online or social media content.

Some Key Concerns- Misinformation and Disinformation

Spread of false information that can influence public opinion and undermine trust in institutions.

Hate Speech: Hate speech that promotes violence, discrimination, or hostility against individuals or groups based on factors like religion, caste, or ethnicity.

Divisive Content: Diverse content that seeks to polarize society, often along communal or ideological lines.

Regulatory Efforts

To address these concerns, the Indian government introduced regulations, such as the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. These rules aim to curb harmful content and ensure accountability from social media platforms.

Ongoing Debates: The regulation of online content remains a contentious issue, with ongoing debates about censorship that censorship regulations may infringe upon freedom of speech and stifle legitimate political discourse.

Social Media Platform Accountability

Demands for social media platforms to take greater responsibility for moderating content and addressing harmful speech. Ultimately, finding the right balance between free speech and content regulation is crucial to maintaining a healthy democracy and protecting citizens' rights.

Cross the Line of Freedom of Speech & Expression

Free speech in India has sunk into a perilous abyss and steadily falling Press freedom indices underscore the dangers of crossing a line that is becoming increasingly contentious as it is

said in other report of judiciary. The first four months of 2024 in India have already seen at least 134 instances of free speech violations, with journalists, academics, YouTubers and students being among those affected, the Free Speech Collective organization also reported in this context. The collective tracks and categorizes free speech violations and provides support to those face such violations, its website says. The Free Speech Collective organization released a report titled ‘Crossing The Line: 18th Lok Sabha Elections and Free Speech In India’, in which it listed free speech violations so far in 2024 Lok Sabha Election and categorized them into sections like arrests, censorship, and ‘lawfare’, a word that is a blend of law and warfare and that is used to refer to the use of the judicial system against one’s opponents.

In its recent report, the Free Speech Collective has documented 36 arrests, 36 instances of censorship, 24 cases of internet regulation, 13 attacks, and seven occurrences of lawfare in 2024. The report highlights that Australian journalist Avani Dias and French journalist Vanessa Dougnac were either compelled to leave India or faced untenable conditions for their stay. Since January, five journalists have been arrested, and 34 have experienced attacks. Additionally, six other journalists, including Gautam Navlakha, Prabir Purkayastha, and Aasif Sultan, remain in custody as of Wednesday. Among those attacked is Nikhil Wagle, who faced threats after criticizing Prime Minister Narendra Modi and BJP leader L.K. Advani, as well as Sanjay Kanera, a photojournalist assaulted by a mob in Haldwani, Uttarakhand. The report also addresses issues of internet shutdowns and censorship, noting the blocking of the Hindutva Watch and India Hate Lab websites, along with the suspension of 177 social media accounts during this year's farmers' protests. Other reported violations of free speech include the government-mandated closure of Bolta Hindustan’s YouTube channel, the removal of an article by Caravan magazine regarding allegations of military torture in Kashmir, and the suspension of Ramadas Sivanandan from the Tata Institute of Social Sciences for participating in a protest against the Modi administration. Furthermore, it mentions an incident involving a Mumbai school principal who was reportedly pressured to resign due to posts she had liked on X (formerly Twitter).

Reports indicate that the principal, Parveen Shaikh, was requested to resign following allegations of being anti-Hindu, supporting Hamas, and endorsing “Islamist Umar Khalid,” as inferred from her likes on X. The collective stated in its report, “Free speech in India has descended into a precarious state, and the declining indices of press freedom highlight the

risks associated with navigating an increasingly contentious landscape.” Furthermore, it noted, “The documented evidence regarding free speech issues clearly illustrates that while openly biased segments of the dominant media propagate a dangerously divisive agenda without consequence, independent media encounters punitive measures and struggles for visibility.”

Due to disappointing performance during IPL cricket match (Indian Premier League), cricketer Mahendra Singh Dhoni’s five year old daughter Jiva was threatened on social media platform. When the megastar was in Lilavati hospital for treatment, objectionable posts were made about him on social media platform spreading confusion. On 29th July, Amitabh Bachchan was so hurt by this that he expressed his pain like this – “If I write to my followers to kill you, you will be left with nothing.” Both these examples are important amidst the questions being raised about freedom of expression. Kerala government amended the Police Act and added 118A and made provision of 5 years imprisonment and up to 10 thousand fine for objectionable posts on children and women. However, due to heavy opposition, within just 72 hours, Kerala government said that it will not implement this amendment for now. The BJP there went to the High Court against this amendment. It is just a coincidence that when the BJP there was knocking on the legal doors in protest against the Kerala government, the BJP government of Uttar Pradesh took steps to curb social media. Questions have been raised on several arrests. Not only this, now has the central government also started keeping a watch on the digital media platforms.

Social and digital media are important in the era of crisis and technology

In today’s era of crisis and technology, the importance of social media has increased a lot. Be it online payment or shopping, online education of children during the transition period or work from home, the net has kept everyone connected. In such a situation, the use of mobile has proved to be a big tool for overcoming the crisis as well as technology in every hand. With a package of just five hundred-thousand rupees on this tool, the world is in the palm of the hand, i.e. net-to-connect, without leaving the threshold of the house. During this connectivity, on an average, one ton of sound is heard on the mobile every minute, i.e. WhatsApp messages, Facebook notifications. If you notice, in this notification, on an average 90-95 out of hundred are useless messages. Many messages with bitterness against Gandhi, Godse, Savarkar, Hindi-Urdu, Hindu-Muslim or a particular religion. Ceasefire (the practice of forwarding) of these messages for one’s own purpose. This attitude makes social media

antisocial. E-garbage with bitterness is spread indiscriminately on Facebook, WhatsApp group, Twitter. These increase animosity. And this is where the government's concern begins.

Government's surveillance of digital media

Now the central government has also monitored digital media. Online news, films and web series are now under the Ministry of Information and Broadcasting. The Ministry of Information and Technology (IT) will now keep an eye not only on technology but also on content. The Central government of India has empowered the Director of the National Cyber Coordination Center (NCCC) in the Ministry of Information and Technology (IT) to issue instructions to block online content. Under the provisions of Section 69 and 69A of the IT Act, instructions can be given to block any information that affects the defense, integrity, sovereignty of the country.

What does the law say?

In 2015, the Supreme Court declared Section 66A of the Information Technology Act (IT Act) unconstitutional, which does not give arbitrary right to arrest anyone. If we look at the context of Kerala, 118D has been repealed before 118A. But recently, while hearing a case, the Supreme Court of India had also said that the thing that has been misused the most in recent times is freedom of expression. The Supreme Court of India even told the Central Government of India that there is a dire need for guidelines regarding social media so that those who give misleading information can be identified and action can be taken against them. The court expressed concern that the situation is such that even our privacy is not safe, freedom of expression should not be used to sow the seeds of hatred. In such a situation, if the governments are also getting worried, then the concern is justified, whether it is the '*Lal Salaam*' ('*Lal Salaam*' is a Urdu or Hindi phrase meaning 'Red Salute' as it is a revolutionary greeting used primarily in socialist & communist lobby and this phrase symbolizes solidarity, political commitment and support for leftist ideologies or leftist government often associated with workers' movements and other revolutionary movements) government of Kerala or the BJP-ruled saffron governments or the Central Government of India.

Recently, Twitter also made a mistake regarding Ladakh LAC. On WhatsApp groups, even unknowingly, people push forward a controversial post to such an extent that the social fabric is disturbed. In such a situation, if the initiative of government monitoring is being taken, then why so much hue and cry over it. The kind of content being served on social media in

the name of freedom of expression, is most of disturbing. Then the kind of language used is even more condemnable and worrying.

Objective of the Study

- (a) To study the freedom of speech & expression is being misused by anti-social and anti-nation forces in India under the cover of right to freedom of speech & expression in social media platforms & controversial comments and controversial speeches among the masses.
- (b) To study freedom does not mean that you can say whatever comes to your mind and attack one's privacy, spread unrest, damage the unity & peace of India, violate the Constitution of India and judiciary.
- (c) To study freedom of speech & expression get within some restrictions as it has limitations to maintain the balance in the form of respect the freedom of all, respect the fundamental rights of all and sustain the peace & unity of the nation India under the law, but anti-social and anti-nation forces are being involved to violate the freedom of speech & expression even after knowing the freedom of speech & expression and restrictions on it for violation of this right of freedom of speech & expression.

Questionnaire

1. Is it being misused the right of freedom of speech & expression by anti-social and anti-nation forces in India under the cover of right to freedom of speech & expression in social media platforms?
2. Does it mean to whatever comes to your mind and attack one's privacy, spread unrest, damage the unity & peace of India, violate the Constitution of India and judiciary under the cover of right to freedom of speech & expression in social media platforms?

Hypothesis of the Study

- (a) There is being misused of the right of freedom of speech & expression in India in social media platforms.
- (b) Freedom of speech & expression does not mean violate the Constitution, judiciary, and attack on one's privacy and spread unrest, damage the unity & peace of India.
- (c) Restrictions on freedom of speech & expression are eventually necessary to control the anti-social, anti-nation powers and maintain law & order for the security of the nation, constitution and peace and unity.

Research Methodology

5 Hate Speeches and tweets of Indian leaders of ruling party, 5 Hate Speeches and tweets of Indian Leaders of opposition parties, 5 cases of misuse of social media platforms in the Courts published in newspapers, magazines and electronic media related to violation of freedom of speech & expression through social media tools, subsumed 7 old cases in the Supreme Court of India and judgments on them by Supreme Court of India regarding the freedom of speech & expression to know the real meaning of the right of freedom of speech & expression and restrictions on freedom of speech & expression in case it becomes fatal to the freedom of speech & expression, nation, community or privacy or other constitutional and human rights. Moreover, views of 5 media experts, views of 5 law experts, and views of the 5 social media companies' officials and views of 50 common people, who use social media are covered in the research study.

Data Collection Tools

For the present study, the secondary data in the form of the cases in the judiciary (High Courts & Supreme Court of India) in the context of violation of freedom of speech & expression through different social media are observed, police reports and news published in newspapers regarding misuse of the right of freedom of speech & expression in social media platforms, and for the primary data collection, interviews of media experts, law experts and collected the views of the officials of social media companies on misuse of social media tools in the name of right to freedom of speech & expression are subsumed, while the hate speeches made by some Indian leaders are collected as secondary data.

Table-1: Action taken against the Website Links, which spread hatred and fake news/fake information during 2017, 2018 & 2019.

2017	2018	2019
1385, 257 fake news	2799 fake news	3635 fake news

Table-2: Violation of Freedom of Speech & Expression in India during the Months- January, February, March, April, 2024 (Indian Parliament released a report titled 'Crossing The Line: 18th Lok Sabha Elections and Free Speech in India')

Sr. No.	January	February	March	April
Attacks	01	01	01	01
Arrests	18	22	02	0
Harassment	0	01	0	0
Internet Control		22	01	01
Law-fare	05	02	0	0
Threats	02	02	0	01

Table-3: In Major States of India, Number of Fake News Propagation Offences Reported across India in 2022

Uttar Pradesh	36
Madhya Pradesh	15
Bihar	2
Maharashtra	23
Andhra Pradesh	15
West Bengal	10
Rajasthan	5
Telangana	81
Assam	3
Tamil Nadu	37
Gujarat	01
Manipur	01

RESULTS AND FINDINGS

As the results & findings of the present research study found that the meaning of freedom of speech & expression of every individual is connected to multifaceted social media -platforms such as Facebook, Twitter, X, WhatsApp, Instagram, Snapchat, Messenger, YouTube, etc. Even Facebook has admitted that in this quarter, on an average, 10-11 posts out of 10,000 were hate-mongering which also proved correct as per the present research study. The study found that on an average, out of every 100 posts on different major social media platforms, 5 are important and informative, 95% are either fake or infected, or hatred posts or controversial post on any topic. Such kind of content in the context of India is being served on social media in the name of freedom of speech & expression, which is a violation of this right under too much freedom of speech & expression.

Analysis of Quantity Data: On an average, out of every 100 posts on social media, five are important and informative, whereas 90% are either fake or infected. The meaning of this freedom of expression is that today every person is connected to at least two-four WhatsApp groups. There is also a connection with Facebook. Now even Facebook has admitted that in this quarter, on an average, 10-11 posts out of ten thousand were hate-mongering. Facebook makes arrangements to control such posts on its own. It removes posts or blocks those who repeatedly post such posts. But this action is minor. Facebook has had to face the parliamentary committee many times.

On an average, five out of every hundred posts, tweets, comments on social media are important and informative, while 90% are either fake or infected. These fake news spread like wildfire. Their infection infects the society more than corona. According to the information

given in the last Session of Parliament in the mirror of statistics, action was taken against 7819 website links and social media accounts spreading lies and hatred in the country. Out of these, 1385 websites, webpages and social media accounts were closed in 2017, 2799 in 2018 and 3635 in 2019. According to the data of the National Crime Bureau, 257 fake news cases were registered in 2017. Madhya Pradesh has the highest number of cases at 138, followed by U.P. with 32, Kerala with 18 and Jammu & Kashmir with 4. In Jammu & Kashmir, where internet ban was common, communication systems are now being developed through a network of optical fibers. This is important for the development of Kashmir as well as from a strategic point of view. According to a statistic, there are 16 crore Whatsapp users and 15 crore Facebook users in the country. About 74 crore people use the internet in India. In such a situation, the concern about social and digital media is justified. Allover it is proved that misuse of the social media under the cover of freedom of speech & expression right guaranteed by the Indian Constitution is eventually becoming a danger to this right of freedom of speech and expression until it is not amended and make social media related strong law to maintain the freedom of speech and expression in democratic way to all the citizens of India, otherwise in the guise of this right the anti-social elements, anti-nation forces and rogue social media users will be a fatal danger both to the constitution of India and innocent masses.

Analysis Qualitative Data: Masses have mixed opinions about the misuse of social media and freedom of speech and expression. Some said that social media can be a platform for positive change but it can also be used to spread harmful content. It can be a powerful tool for social change or change in every field if it is used positively. It can be democratize access to information and knowledge but there is no guarantee of authenticity of the content disseminated to the audiences. There is no gatekeeping and control over social media users as negative users spread misinformation, commit cybercrimes, spread hate speech, and conspiracy among the masses. Many people said that government should establish a committee to investigate social media misuse and enforcement of new national media policy and amend in the right of free speech and expression but regulations should not hinder freedom of speech and expression if it is positively used. Some said it is need of the time to make laws related to the use of social media to save the right of freedom of speech and expression.

Validation of the Hypothesis

- (a) After the findings or results of the study, it validated that here is being misused of the right of freedom of speech & expression in India in social media platforms.
- (b) It validated that freedom of speech & expression does not mean violate the Constitution, judiciary, and attack on one's privacy and spread unrest, damage the unity & peace of India.
- (c) It validated that restrictions on freedom of speech & expression are eventually necessary to control the anti-social, anti-nation powers and maintain law & order for the security of the nation, constitution and peace and unity.

CONCLUSION

The Indian Constitution provides one of the rudimentary guarantees to the citizens of India and Freedom of Speech and Expression is also in this line of fundamental rights as it is an important fundamental right through which or under which the other scopes of freedom or areas of freedom of the Press, right to information (RTI Act, 2005, commercial information, right to not speak and right to criticize, etc., evolved. At present world scenario of fastest information technology, digital, globalization and social media, the right to Freedom of Speech and Express does not confined to only the freedom to express or interpret one's ideas, thoughts or views through words by traditional ways of mass media but it has also roped in plethora vehicles or means of mass communication to express one's views, thoughts and ideas. No right is restriction free in the security of the State, public good, maintaining law and order and respect of one's privacy and reputation.

Conclusion and Suggestions

There is strong requirement of Laxman Rekha/boundary line in the right of freedom of speech & expression in all types of media platforms including mainstream media and digital social media platforms in order to respect everyone's privacy and freedom of speech & expression towards the healthy democratic set up and candid human relations among the masses towards real human development communication.

Now when we are talking about social media, it is obvious that this is also a kind of media, which is connected to the common people apart from professional journalists. We common people also have the responsibility to control the wind that flows in this media via media. We users also have to draw a Laxman Rekha/boundary line for ourselves. We have to be responsible. Now many private institutions have also set standards for their employees' activity on social media. There is a system for government employees and the army and they

are also warned repeatedly. Will we ever be able to fulfil our responsibility by ignoring useless hate posts? By reacting to such posts or forwarding them, we become partners in hatred, even if unknowingly. Have you ever thought that these seeds of hatred would come back to our homes and families? Children would be doing online classes, family members would be working from home. Their mobiles would ring and in front of us is the same useless message of hatred. In such a situation, instead of fearing the hammer of the court, the stick of law and making noise about them, we will have to be responsible ourselves. Instead of relying on government law amendments, we will have to draw and decide our own Laxman Rekha/boundary line ('Laxman Rekha' a line drawn by Laxmana the younger brother of Lord Rama in the forest around his dwelling or hut to protect his sister-in-law goddess Sita while Laxmana was away searching for his brother Lord Rama in the forest) Because Almighty does not break the thread of love, it will not be joined again if it is broken, if joined, it will have a knot.

In India, where 'unity in diversity' is not just a slogan but a basic ethos and role Of free speech becomes even more relevant and echoing. Article 19 of the Constitution of India is strong but its violation and wrong use is a major challenge for the Indian democracy and social media/digital media is putting new pressures on this constitutional right of freedom of speech & expression. However, this democratization has a darker side filled with misinformation, hate speech, and social/ digital media toxicity.

The following recommendations can be considered to effectively enhance freedom of expression in digital spaces:

1. One powerful remedy would like to happen to increase media literacy. Teaching people to critically evaluate information can help prevent the spread of fake news.
2. Additionally , promoting responsible digital citizenship will not only improve the quality of online communications but will also develop a culture of accountability.
3. Censorship , who be able to category from government surveillance to self-imposed restrictions by social media platforms , there is a more difficult path to tread. Harsh measures can be a slippery slope towards dictatorship. Quoting Jawaharlal Nehru, "To safeguard democracy, the people must have a deep sense of freedom, self - respect and their unity."
4. Future Policy Formulation Requirements to adopt a multi-stakeholder approach , involved government , judiciary , citizen society , and technical platform self. Regulatory strategies

must be robust and flexible to adapt to the constantly evolving digital environment.

5. Amendment required in the right of freedom of speech & expression and bring social media communication under strong law to save the right of freedom of speech and expression.

Transparency and accountability are especially needed to happen cornerstone of social media platforms. One speed network society cannot tolerate it. Open , respectful dialogue on digital platforms can help bridge these gaps.

In nutshell, it is true that Indian Constitution was framed to make democratic balance between individual liberty and collective responsibilities of everyone for maintaining and respect for democratic values through fundamental rights imparted to every citizen. While it is tempting to think of freedom of expression as an inviolable pillar of democracy, in this digital age it must be harmonized with other democratic values. Through carefully crafted rules, media literacy is the strength of the modern democracy in the era of digital media to follow the real meaning of the right of freedom of speech & expression, otherwise too much freedom with non-restriction on this right would be fatal for the societal, economic, political, mass cultural objectives and unity of the nation. Ensuring this delicate balance of the right of freedom of speech & expression is not only a duty but also a democratic imperative of the world's largest democracy.

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