



Impact of Social Media on Free Speech and the Role of the Judiciary in Balancing Freedom with Regulation

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ABSTRACT

However, it also poses significant challenges to the regulation of content, misinformation, hate speech, and the overall balance between freedom of expression and public order. This research paper examines the impact of social media on free speech, analyses the legal frameworks governing online expression, and explores the judiciary's critical role in striking a balance between freedom and regulation. It evaluates landmark judgments, international perspectives, and proposes recommendations for a balanced approach. The rise of social media has transformed the landscape of self-expression, prompting critical inquiries into the boundaries of free speech in the digital realm. This research investigates the interplay between social media and free speech, with a focus on the judiciary's role in striking a balance between liberty and oversight. Through an examination of pivotal court decisions and legislative frameworks governing online discourse, this study illuminates the delicate tensions between safeguarding individual liberties and mitigating potential harm. By advocating for a thoughtful regulatory approach that protects free speech while confronting issues like hate speech, disinformation, and cyberbullying, this research contributes to the ongoing discussion on the evolution of free speech in the digital age. With the emergence of social media, communication has changed dramatically. Social media also presents serious problems for content regulation, disinformation, hate speech, and maintaining the



general equilibrium between public order and freedom of expression.

1. Introduction:

With the introduction of the Internet, many individuals can now create and distribute more content more readily than ever before in the digital age. As a result, there are numerous new platforms, venues, and chances for the media and general public to exercise their right to free speech. But even though states typically acknowledge. Despite the Internet's potential for economic gain, several states are wary of the increased freedom of speech. The possibility of online organization, mobilization, and other civil and political rights activities worries several states as well. The full enjoyment of rights and the appropriate role of the State in relation to them have thus been challenged by the new opportunities. Social media has become a big part of our lives, allowing us to share our thoughts and ideas with people all over the world. However, it's also raised concerns about the spread of false information, hate speech, and other harmful content. This has led to debates about whether social media should be more regulated, and how this might affect our right to free speech. The judiciary plays a crucial role in balancing these competing interests. Free speech is essential in democratic societies, but social media platforms like Facebook, Twitter, and YouTube have changed the way we communicate. While they offer great opportunities for self-expression, they also pose risks like spreading harmful content and interfering with democratic processes. Supreme court of India played a very effective role in delivering justice regarding exercise of fundamental right to freedom of speech through social media and internet. Whenever, the right was curtailed, Supreme Court always stand by the law and intervene into the Government unreasonable control for protecting the rights of individuals. In this research paper Role of Judiciary into the protection of Fundamental Freedoms are discussed especially with reference to speech through social media.

1. RESEARCH METHODOLOGY: -

This paper primarily adopts a **Doctrinal Legal Research Methodology**, focusing on the systematic analysis of statutes, constitutional provisions, case law, legal commentaries, and secondary literature. It involves examining how existing laws and judicial interpretations shape the regulation of speech on social media platforms.

Sources of Data Primary Sources:

- Constitutional provisions (e.g., Article 19(1)(a) and 19(2) of the Indian Constitution, First Amendment of the U.S. Constitution)



- Statutes (e.g., Information Technology Act, Digital Services Act, Communications Decency Act)
- Landmark judicial decisions (e.g., *Shreya Singhal v. Union of India*, *Anuradha Bhasin v. Union of India*)

Secondary Sources:

- Scholarly Articles from Law Journals
- Books on Constitutional and Cyber law
- Policy papers and Government Reports. News Articles and opinion editorials from reputable sources

2. OBJECTIVES OF THE STUDY: -

1. To understand the meaning of Free Speech and its scope under the Constitutional and Other Laws.
2. To examine the influence of social media platforms on the exercise of free speech in democratic societies.
3. To analyse the legal frameworks that govern online speech and content regulation in India and other key jurisdictions.
4. To evaluate the role of the judiciary in safeguarding constitutional freedoms while addressing harmful or unlawful content on digital platforms.
5. To study landmark judicial decisions that have shaped the interpretation of free speech in the context of the internet and social media.
6. To compare international regulatory approaches toward balancing freedom of expression with social responsibility in the digital space.
7. To identify challenges faced by courts and lawmakers in addressing issues such as misinformation, hate speech, and censorship online.
8. To propose policy recommendations and legal reforms aimed at ensuring a balanced and rights-respecting regulatory ecosystem for social media platforms.

3. IMPACT OF SOCIAL MEDIA ON FREE SPEECH: -

These days, social media is a highly powerful tool for greatly influencing people's thoughts. Free expression is being impacted by social media in both positive and harmful ways. Social media platforms give people a worldwide forum to voice their thoughts, opinions, and complaints without frequently going through the gatekeepers of traditional media. Social media facilitates rapid access to and sharing of a variety of opinions, promoting democratic knowledge and involvement. Social media makes it possible



for protests and social movements to be organized quickly, giving underrepresented groups the ability to demand change and raise awareness. These are a few extremely beneficial social media impact strategies. However, social media is also having a detrimental effect on free expression. On social media, free expression can occasionally result in the dissemination of harmful content, hate speech, and misleading information that could incite discrimination or violence. Platforms frequently face accusations of bias, censorship, or uneven enforcement as a result of their inability to strike a balance between the need to regulate harmful content and the right to free expression. By intimidating or stifling dissent, corporate and governmental social media surveillance can endanger free expression. Filter bubbles produced by algorithms can increase societal division by limiting exposure to opposing viewpoints.

The U.S. Supreme Court has increasingly adopted a strict interpretation of the Free Speech Clause to invalidate regulations related to campaign finance, health care warnings, tax disclosures, collective bargaining, and consumer protections. Historical context is often reduced to a simple slogan that the majority references but rarely examines in depth. This lack of subtlety expands the Court's power to issue rigid rules that undermine the ability of legislatures to carry out their traditional governmental roles. Judges would be better served by adopting a more balanced and less absolute method when determining whether laws place direct or indirect restrictions on speech. The protections afforded to speech should depend on its importance to political self-determination, personal growth, or the sharing of information. Additionally, the extent of speech protection should be weighed against government interests, available alternatives for speakers, how well the law achieves its goals, and relevant historical context. Complex algorithms are used by social media companies to determine what information consumers see. Sensational or emotionally charged content typically receives more attention because these algorithms frequently place a higher priority on involvement. This can quietly influence the marketplace of ideas by promoting extreme or divisive viewpoints and excluding moderate or nuanced perspectives, so skewing public conversation. Social media anonymity shields activists and whistleblowers under oppressive governments, but it can also encourage careless conduct like trolling, cyberbullying, and harassment. A crucial and unsolved problem is striking a balance between guaranteeing accountability and preserving anonymous speech.

After the development of social media, free speech is exercisable by the individuals in real sense. Now, one can communicate to number of localities instantly at the same time. But it is very bad in law if the same is not regulated by due process to law as well. Hon'ble Supreme Court in many landmark judgments provide relief to the aggrieved individuals by delivering rule in favour of protection of freedom of speech.



4. ROLE OF JUDICIARY IN BALANCING THE INTEREST

The judiciary plays a pivotal role in interpreting constitutional rights in the digital age. Its progressive judgments, such as *Shreya Singhal* and *Anuradha Bhasin*, affirm that freedom of speech cannot be unduly curtailed, even in the context of online content. This reinforces the judiciary's responsibility in ensuring rights are protected, while also addressing emerging threats.

The Court underlined that Article 19(1)(a) of the Indian Constitution guarantees the fundamental right to free speech. To prevent violating this freedom, any legislation that limits free expression must be reasonable and well-defined. Because of its ambiguous language, which left people unsure of what speech was forbidden and resulted in unwarranted limitations on free speech, Section 66A failed this test. The Court noted how social media platforms have developed into essential tools for political debate, social activity, and the expression of differing viewpoints, acknowledging their emergence as crucial forums for public conversation. Social media is a public space where democracy flourishes, not just a private one. Therefore, speech limitations on these platforms need to be examined very carefully. The Court said that any limitations on free expression, especially on social media, had to be specific. This means that regulations shouldn't unduly restrict lawful speech; instead, they should clearly state what behaviour is prohibited and only target specific, justifiable harms, such hate speech or encouragement to violence. Section 66A and other overbroad regulations run the risk of stifling legitimate dissent, satire, and criticism—all of which are essential to a robust democracy.

The Indian government abolished Jammu & Kashmir's special status under Article 370 of the Constitution in August 2019. After that, the government implemented a protracted and widespread internet shutdown in the area, which prevented people from using mobile data or the internet for several months. In a democratic nation, this was one of the longest internet outages. In the Supreme Court, Kashmiri journalist Anuradha Bhasin and others contested these internet restrictions, claiming that the shutdown infringed upon fundamental rights, such as the freedom of speech and expression protected by Article 19(1)(a) of the Constitution. The Court acknowledged that the fundamental right to free speech and expression can no longer be exercised without the use of the internet. Communication, information sharing, education, and involvement in public discourse are all made easier by internet access. Thus, the freedom of speech and the ability to access the internet are strongly related. Owns are not warranted. The Court emphasized that the government must periodically assess whether such restrictions are necessary and remove them as soon as things get better.



The Court underlined that autonomy, freedom of choice, and human dignity all depend on privacy. It acknowledged that people had the right to manage their communications, personal data, and public persona. This idea is particularly relevant to social media, as users exchange private information, ideas, and images as well as participate in discussions that reveal details about their personal life. The ruling emphasized the risks associated with capricious or overbearing government monitoring. According to the Court, every invasion of someone's privacy must be supported by explicit legislation, be required, reasonable, and subject to impartial review. For users of social media, this means that corporate or governmental surveillance of online activity must respect individuals' right to privacy and be strictly monitored to avoid personal information being misused. A major component of the Court's ruling was informational privacy, or the right to regulate the gathering, use, and sharing of personal information. The verdict called for protecting user data from unlawful access or exploitation by third parties, including social media businesses, given the massive volumes of data collected on social media, including location, preferences, contacts, and behavior. The Court emphasized that people must meaningfully consent to the collection and use of their personal data. Because of this, people want social media companies to be open and honest about their data practices and to have users' informed consent so they know how their data is handled. The Court also noted that privacy rights are not absolute and must be balanced with other interests, such as freedom of speech or public safety. This balancing act is crucial in social media contexts where privacy concerns can conflict with the need to prevent misinformation, hate speech, or crime.

The Supreme Court discussed the extent and bounds of the basic right to freedom of speech and expression protected by Article 19(1)(a) of the Indian Constitution in *Balwant Singh v. State of Punjab* (1995). Although essential, the Court reiterated that this freedom is subject to reasonable limitations, especially in order to preserve public order and avoid inciting hatred or violence. The ruling made clear that communication that incites violence or communal discord and endangers the peace of the community is not protected by the right to free expression. The Court made a clear distinction between speech that incites violence and beliefs that are hurtful or unpopular. It ruled that speech that clearly and immediately endangers public peace must be suppressed, but that communication that simply hurts feelings or offends sensibilities cannot be restricted. This distinction is essential for striking a balance between the state's obligation to maintain peace and security and the right of the individual to express themselves. Any restriction must be reasonable and necessary to prevent harm or public unrest, according to the Court's application of the proportionality and necessity test. Even though the case was before social media, its ideas are still relevant today. The ruling upholds the notion that reasonable limitations on the right to free



speech on digital platforms are equally applicable in order to prevent hate speech, incitement to violence, and other damaging content that can disturb the peace. Thus, this decision established the foundation for controlling hate speech in all platforms, including social media, where there is a high risk of hatred or violence spreading quickly. The Supreme Court held that restrictions on speech must be reasonable and not arbitrary, a principle crucial in moderating social media content without stifling free expression.

5. INTERNET SHUTDOWN AND ITS IMPACT ON EXERCISE OF FREEDOM OF SPEECH

Usually used by governments or authorities during times of political upheaval, protests, or security concerns, an internet shutdown is a purposeful interruption of internet services. These shutdowns can be either partial (blocking mobile internet or social media sites) or entire (completely cutting off access to the internet). Particularly when it comes to exercising the right to free speech and expression, the internet is an essential communication tool. Shutdowns block access to this site, effectively stifling voices and preventing people from exchanging news, ideas, or planning group activities. Article 19(1)(a) of the Indian Constitution guarantees the right to free speech. In the 2020 case of *Anuradha Bhasin v. Union of India*, the Supreme Court declared that this freedom includes the right to use the internet. Blocking websites (or certain parts of websites) and purposefully disrupting or shutting down the Internet are two methods of censoring or restricting information. In addition, a few of nations require content removal, which is different from blocking, filtering, or restricting connectivity. It has to do with the problem of Internet middlemen that is covered later in this section. These severe limitations on the right to free speech, which includes the right to knowledge, must pass the three-part test in order to be justified. Internet shutdowns severely hamper the exercise of freedom of speech by cutting off the primary digital platform for communication in today's world. In order to protect democratic rights, legal frameworks and court rulings increasingly acknowledge that any restrictions must be open, necessary, reasonable, and subject to review.

6. FINDING AND RECOMMENDATIONS

Finding

1. **Societal Media as a Double-Edged Sword:** By offering previously unheard-of chances for expression, political activism, and societal awareness, social media platforms have transformed free speech. But they also make it possible for bad content, hate speech, and false information to proliferate quickly, upsetting social harmony and public order.
2. **Judiciary as a Balancing Force:** By guaranteeing that limitations are reasonable, targeted, and appropriate, courts—especially the Supreme Court of India—have been instrumental in defending the



fundamental right to free speech online. Important rulings such as Shreya Singhal and Anuradha Bhasin confirm that internet and digital communication are covered under the right to free speech.

3. **Legal Ambiguity Causes Overreach:** Laws like Section 66A of the IT Act were overturned because they were too broad and ambiguous, resulting in the arbitrary restriction of free speech. Legislation must be explicit and unambiguous in order to safeguard free speech and stop abuse by the government.
4. **Internet Shutdowns Violating Democratic Principles:** Extended or capricious internet shutdowns severely restrict the freedom of expression and information access, hence compromising democratic procedures and public engagement. The judiciary has underlined how important it is that these actions be reasonable, proportionate, and periodically reviewed.
5. **Free speech and privacy are related:**
Social media users will be significantly impacted by the Supreme Court's recognition of privacy as a basic right, particularly in terms of protecting against illegal surveillance and data misuse, which indirectly affects the right to free speech.
6. **Regulating online content still presents difficulties** because of the intricate social media algorithms, anonymity, and worldwide reach, which make it difficult to strike a balance between protecting people from damage and allowing free speech. The laws in place now are unable to keep up with the rapid advancements in technology.
7. **Social media has significantly transformed the landscape of free speech**, empowering individuals but also facilitating new forms of abuse and manipulation.
8. **While legal provisions in democratic countries aim to safeguard online expression**, there is often a lack of clarity and consistency in enforcement mechanisms.
9. **The judiciary has emerged as a crucial actor in protecting digital rights and guiding regulatory balance**, particularly through landmark judgments.
10. **Global approaches vary widely**, indicating that regulation must be tailored to specific political, legal, and cultural contexts.
11. **There is a growing need for legal systems to adapt to the fast-changing technological environment**, especially regarding platform accountability and misinformation control.

Recommendation

1. **Enact Clear and Specific Laws:** To prevent uncertainty and safeguard free speech, governments should create laws regulating online speech that are precise, well-defined, and consistent with constitutional principles.



2. **Create Transparent Regulatory Mechanisms:** To prevent arbitrary censorship, regulatory agencies in charge of digital material should function clearly, guarantee due process, and offer channels for appeal against content removal or restrictions.
3. **Judicial Oversight on Restrictions:** In order to uphold constitutional protections, courts must keep examining government limitations on internet access and online communication to make sure they are appropriate, necessary, and time-bound.
4. **Encourage Digital Literacy and Combat Misinformation:** To assist people in critically evaluating online content and to stop the spread of hate speech and false information without resorting to harsh censorship, governments and civil society organizations should fund digital literacy initiatives.
5. **Protect Privacy and Data Rights:** To safeguard users' informational privacy, which is necessary for unrestricted and fearless expression, data protection regulations should be strengthened and social media businesses should be held to meaningful consent standards.
6. **Limit Internet Shutdowns as a Last Resort:** To reduce their negative effects on free expression and democracy, internet shutdowns should only be implemented in dire circumstances with a clear rationale, for a brief period of time, and subject to frequent court review.

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