



Analysis of Freedom of Speech and Expressions on Digital Media Platforms to Cyber Laws in India

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ABSTRACT

Being an important communication tool, Social Media is extensively associated with the daily routine of our individual lives as it has also become a part of our social life allowing people to exercise their rights to free speech and share information and ideas with each other. Although it has many shortcomings and negative effects, it is indestructible because it's additionally a noteworthy instrument for connecting, collaborating, and bringing people together across territorial boundaries. In the last few decades, a growing movement of individuals has been endorsed in the world community for promoting justice, equality, accountability, respect for human rights and reforming the present vicious system, wherein a key role has been contended by using social media platforms. However the receptive misuse of these social media platforms is also increasing day by day, through which number of cyber crimes are being committed easily. That's why the need for cyber laws cannot be denied. Although our national legal framework presents a matrix of some weak legislations jointly referred to as the cyber laws for social media control, because they subsume



modern social media-connected issues, but none of those legislations sit down with it essentially. Therefore, it is mandatory in today's digital era to strengthen cyber laws in respect to the frequent use of various social media platforms and many more for securing the citizens and safeguarding our new young generation from the downside impact of the use of these digital platforms, by which we could protect them from the emerging trends of numerous cyber crimes. This paper is an attempt to analyze the freedom of speech pertaining to social media in relating to cyber laws in India.

I. INTRODUCTION

In this globalization, everyone's palm is equipped with a mobile phone and most of the generation of our country is connected to the internet. The use of the internet is increasing day by day in this digital era and our government is also encouraged by the fast coverage of digitization in respect of all areas. Therefore, most people in this 21st century have been used to the internet through various social media platforms and connected with everyone through computers as well as mobile devices. Without any contemplation, it is acceptable that the use of Social Media has now emerged as an effective part of our daily routine life through which we gather information about this whole world and get connected with our near and dear ones. We are also capable of sharing our views with everyone in this world through which we ensure our fundamental right to free speech or express our thoughts freely. However frequent use of social media platforms via the internet seems a boon, but the inappropriate use of any technology becomes a curse for everyone. So, it becomes close to investigate these laws such as the Information Technology (IT) Act, 2000 etc. Against this plight, the current article humbly pledges a modest examination of the constitutional and legislative control on the right to free speech and expression in relation to social media and the function of cyber laws in making certain systems on inappropriate exercises. However, this sight of picture regarding social media use is not fully explained under Art. 19(1)(a) of our constitution as having the digital approaches of speaking and expressing freely on these platforms, in another sight we forget about the certain restrictions which is also elaborated in this regard under Art. 19(2). So, we can see that freedom of speech pertaining to social media has its own pros and cons as a popular communication tool.

However, the fundamental right to free speech and expression is a cornerstone of our Indian democratic society guaranteed by constitutional provisions of Article 19(1)(a) and carried with certain



limitations or restrictions on several grounds of Article 19(2), enacted by the legislature which prohibits the irresponsible behaviour of the citizen during the use of the right to speak of anyone or publish anything, for example, Air India Employee's Case, Mamta Banerjee's Cartoon Case, and Mumbai Facebook Case etc. With the rapid growth of the internet, social media played an extensive role among the public to engage in various discourses on numerous topics, to share opinions, and to express their views. Therefore, the excessive use of these social media platforms in this big populated country has now become a big challenge by which the applicability of the related laws, i.e. IT Act, Censorship, Copyright etc., has been questioned. This newly found freedom brings complexities, especially concerning the regulations of hate speech online, identity theft, personification, defamation, misinformation and other unlawful acts.

Therefore, the balance between the right to free speech and the need to access any harmful content on these social media platforms is a delicate issue, and it has triggered considerable social and legal debates that the combination of the Constitution should govern, Cyber Laws under the provisions of IT Act and various judicial interpretations or case laws.

- **Social Media Means :**

At first glance, internet-based mobile phone devices comprise social media for interacting, sharing and discussing information with one another which means it is used as a communication tool among people by using words, pictures, films, music etc. and turned into a massive interaction with using the advanced web-based technologies and tele-communications.

II. RIGHT TO FREEDOM OF SPEECH & EXPRESSIONS

According to the International Covenant on Civil and Political Rights (ICCPR) and Article 19 of the Indian Constitution, the right to freedom of speech and expression is a basic one. According to Article 19(1)(a) of the constitution, it is legally enforceable against the state; however, Article 19(2) specifies acceptable limitations. The right promotes open discourse without fear of censorship by allowing Indian citizens to freely express their ideas and opinions through speaking, writing, print, art, and other media.

Under the provision of ICCPR : Two important points are highlighted in Article 19 of the ICCPR;

- 1) Every person is entitled to openly express their thoughts.
- 2) Without regard to geography, everyone is free to express themselves, including by looking for, receiving, and disseminating information or ideas via any means.



Nonetheless, the ICCPR's Article 19(3) permits limitations on this right to :

- a) Honor other people's rights and reputations.
- b) Preserve morals, public health, public order, or national security.

Under the provision of Indian Constitution : However, every citizen has the right to free speech and expression under Article 19(1)(a) of the Indian Constitution. But, Article 19(2) presents the restrictions on it in some conditions as :

- a) India's integrity and sovereignty;
- b) State Security;
- c) Cordial ties with other nations;
- d) Law and order;
- e) Morality or Decency;
- f) Contempt of Court;
- g) Defamation;
- h) Incitement to commit a crime.

Essentially, the fundamental right to free speech is weighed against obligations and responsibilities to make sure it doesn't hurt other people or disturb social harmony.

These restrictions prevent the misuse of free speech, particularly when it may harm national security, and social or moral values such as defamation, social peace etc. Article 21 of our constitution encompasses the multi-dimensional approaches wherein the Supreme Court of India has significantly played an important role in interpreting the scope of this fundamental right through passing the various historical landmark judgements. It is paradoxical that many Indians were safeguarded from Cyber Surveillance PRISM, not due to robust protection against the violation of privacy, but rather because they are not yet online. It illustrates that, even presently, the majority of Indian people lack adequate internet access and capabilities to safeguard against any malfeasance. However, as of now, neither the Indian populace nor the Indian Government have been able to manage this situation under control.

III. ADVANTAGES OF SOCIAL MEDIA IN TERMS OF HAVING THE RIGHT TO FREE SPEECH AND EXPRESSION :



In the present situation, the fast-paced Internet has provided a forum through various social media platforms to express and discuss their thought & emotions like anger, grief, love etc. easily. With the rapid rise of using these various social media platforms such as FB, Twitter, Whatsapp and Insta etc. have given individuals unprecedented power to express their opinions to a global audience. It has also been identified as the most diverse source of original expression of speech among persons of all ages. Therefore, Social media has now become a popular life style not only for sharing pictures, emojis, thoughts, ideas, beliefs and reviews, but also for exercising the right to free speech & expression to the amplest. However, this led to challenges in regulating content that might be defamatory, harmful, or illegal.

Today, everyone can create a free social media account for which people are accepting it rapidly and want to be part of this social media to get knowledge of all the spheres of life and national or international issues with a single click by which every person becomes more aware and informed globally, and it has also assisted in choosing the appropriate government for public welfare. In this era, it has also succeeded in influencing our legal system and demanding human rights issues on various platforms. Social media is one of the platforms through which people can positively influence the opinions of others. It is the widest form to collect the opinions of the people on the various major and minor issues for the welfare of the society in a few seconds which can help to create better policies for the upliftment of the society as well as to make the various governmental or non-governmental policies.

Because of the increased use of this online platform, Social media has become a new resource to support an individual's economy, provide new dimensions to business entities, and generate a support system for advertising new start-ups. As a result, Social media has succeeded to create an unlimited opportunities for an individual with the use of limited resources by which an individual can promote or sell any products through the use of this technological era and can open the wings to fly on his own. So, we can see that the modest social media platform has now become dominated from our home to business, shopping to enjoyment, education to politics and life to death as being a social status. Therefore, the key challenge for the Indian legal framework is to ensure that restrictions on speech in the digital realm are necessary, reasonable, and proportionate, while upholding the principles of free speech and expressions simultaneously.

IV. DISADVANTAGES OF SOCIAL MEDIA IN TERMS OF HAVING THE RIGHT TO FREE SPEECH AND EXPRESSION :



Although the Internet has been very advantageous in bringing people together and creating a forum to interact with each other, it has also been used as an illusive and malafied means by a few people. The misuse of social media has steadily increased over the last several years. Although we have the freedom to share our thoughts or opinions, we are not permitted to express those things or words that offend, threaten, or insult anyone on the basis of any race, caste, religion, colour, disability etc. However, some people are constantly used to this ill-motive utilization of social media platforms due to which various types of problems are increasing rapidly such as hate speeches, harassment, online bullying, pornography, cyber fraud, impersonation, ransomware, sextortion, online drug trafficking and cyber defamation etc. Memes and trolls are occasionally used to gain popularity, which sometimes can be advantageous or detrimental. The excessive use of social media platforms also affects psychological problems among all ages. Social media has contained various knowledgeable aspects in all spheres, but the children who are used to these platforms are inhabitate the multiple health issues and psychological complexities.

V. ROLE OF THE GOVERNMENT TO REGULATE THE SOCIAL MEDIA CHANNELS

Because of the extensive potential and limitless reach of the Internet, it made the foundation of contemporary society. To date, governments throughout the world have also attempted to keep the information safe under various pretexts. All governments are cautiously trying to regulate the immense power of social media to deliver or disseminate information to the public. Furthermore, social media has taken an important significance in the functioning of worldwide democracies since it is so helpful in the collecting the information and sharing the knowledge or opinions. Despite the geographical limitations, everyone can connect with each other via internet and social media platforms. Therefore, today it is not important to be present physically in person on any protest that remains the power of any protest becomes unaffected. Due to this, every government want to control the internet and seek to censor social media.

Apart from its exponential benefits, the Internet can also be misused which justifies the state to regulate online material or content for the welfare of the people. Numerous social media platforms make it easy to commit several cyber crimes such as defamation, breach of privacy, stalking, hacking, racist remarks, incitement of offences, and many others. If once offensive or objectionable content is posted, consequently it spreads quickly which becomes very difficult to restrain. Therefore, there is an unobjectionable need to regulate the state policy on these social media platforms and the limitations of the internet use.



VI. ROLE OF SOCIAL MEDIA PLATFORMS : REGULATIONS AND SELF-GOVERNANCE

As intermediaries, all social media platforms play a crucial part in regulating the content in their digital spaces. However the Indian legal system enforces certain restrictions on those platforms, but also these platforms have imposed their community guidelines and policies that govern the user's behaviour.

- **Algorithms and Content Moderation :** One of the important tools used by platforms to regulate speech is content moderation, often powered by AI algorithms which are designed for detecting and removing harmful content, but it is carried on with some flaws and raised concerns about biased algorithm, lack of transparency and overreaching in removing content.
- **Accountability and Transparency :** Significant transparency obligations have been imposed on digital media under the various provisions of Intermediary Guidelines Rules 2021 and instruct them to maintain complaint records, to publish compliance reports and their content moderation tools or decisions. However, it has been raised some critics argue as an excessive governmental oversight and infringement of freedom of Social Media platforms or free speeches or expressions.

VII. CYBER LAWS CONCERNING THE USE OF VARIOUS SOCIAL MEDIA PLATFORMS AS HAVING THE RIGHT TO FREE SPEECH AND EXPRESSIONS :

Even Today, there is no particular legislative enactment in India that could manage these numerous digital or social media platforms such as Facebook, WhatsApp, Twitter, Instagram, YouTube, Pinterest, LinkedIn etc. However, our government has regulated some weak cyber laws in India to review the facets of any infringement of rights in the cyber world which is listed as under :

- The underlying law governing cyber activity is the Information Technology Act Of 2000.
- Rules of 2009 (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information; and Procedure and Safeguards of Interception, Monitoring and Decryption of Information; and Procedure and Safeguards for Blocking for Access of Information by Public address information blocking, decryption, monitoring, and interception.
- Regulation of reasonable security practices, 2011 focuses on safely managing private and sensitive data.
- Guidelines for intermediaries 2011 and 2021 rules specify the duties that intermediaries, such as social media platforms, have when it comes to handling user data and content.



- The 2019 Data Protection Bill offers a framework for protecting privacy and personal information.

Data Protection Bill 2019 : Primarily it deals with the protection of personal data, and also addresses the issues concerning the freedom of expression and the right to privacy in sharing data on numerous social media platforms. It will also have a substantial impact on online speech which is currently under political consideration.

Intermediary Liability Rules 2021 : The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules were introduced by the Indian Government in 2021 which impose more strict regulations on intermediaries, including social media platforms such as :

- On receiving a court order or government directives, intermediaries are required to remove unlawful or illegal content within 36 hours.
- These platforms must use the automated version for identifying and removing certain types of prohibited content, such as child porn etc.
- Platforms must appoint grievance redressal officers to handle complaints from users.
- Social media platforms must publish monthly compliance reports.

Despite criticism for their shortcomings, these laws collectively seek to safeguard digital rights and regulate cyber economy. Therefore, these rules have sparked significant debate on their potential to stifle free speech and impose excessive governmental control over online platforms.

VIII. FREEDOM OF SPEECH PERTAINING TO SOCIAL MEDIA IN RELATING TO CYBER LAWS IN INDIA : NEW CHALLENGES AT PRESENT SCENERIO

In present scenario, there is very thin line which clarifies the limits regarding the freedom of speech of an individual without the breach of someone's freedom and dignity. So, it is a big challenge to demonstrate the constitutional and legislative restrictions of the freedom to the people as a duty while using these social media channels. Because the definition of objectionable content varies from person to person, therefore, the exercise of one's freedom of speech and expression on social media may result in invasion of Privacy and Defamation.

So, the scope of using these platforms impacted the others' rights in limitless areas. And on the other hand, these online social networking channels are being regulated by the national and international business entities for getting the profit on global level on which no particular legislation has worked



properly. Due to which the data theft, identity impersonation are the normal things in today's culture by which the cyber criminals has been activated their malicious acts without any hesitation of being caught. Media trial is also a new phrase arises in relating to social media by which the judicial and administrative approaches has been trying to abrogate. However, government regulation is legitimate as long as it protects people's interest, whether individually and collectively. The problem arises when regulation becomes censorship, infringing civil rights such as freedom of speech and expression.

- **Misinformation and Hate Speech** : One of the most pressing challenges in regulating online speech on social media is the proliferation of hate speech and misinformation. The sheer volume of the material posted on platforms daily makes it difficult to monitor and remove harmful speeches effectively. Furthermore, automated systems also often fail to distinguish between legitimate free expressions and unlawful speeches.
- **Trolling and Defamation** : Social media has also become a breeding ground for online harassment, and trolling. Indian defamation laws apply to these online speech in both civil or criminal ways, but prosecuting defamation cases in the digital space remains complex due to the anonymous nature of online speeches and its jurisdictional issues.
- **Impact on Public Order** : As seen in several incidents of online content leading to real-world violence, Social media can also exacerbate communal tensions and disrupt public order. However, the government has increasingly used its powers under the IT Act to block content and suspend internet services in such cases, but unfortunately this has also been criticized for restricting freedom of speech excessively.

Due to psychological aspects, social media has become a popular venue for expressing one's thoughts. Elections in India, an illiberal democracy, are based on citizen ballots, but the transfer of power, the realization of promises, the realization of promises, and the betterment of public welfare through legal means are unclear and frequently lacking in transparency. As a result, people have always had opinions and discussions, but they were traditionally suppressed or ignored owing to fear or a lack of power.

In 2011, Aseem Trivedi established the cartoons against corruption campaign to support the 'India Against Corruption Movement'. He made cartoons and posted them on a website. He also displayed his work at the MMRDA field in Mumbai during Anna Hazare's hunger strike. However, the Mumbai Crime Branch suspended his website in Dec.'2011, citing 'defamatory and derogatory cartoons'. This



incident demonstrated how social media has become a crucial instrument for people to voice their thoughts, organize protests, and join in discussions, thereby exercising their freedom of speech.

In some recent years, we have seen significant movements emerge online and gain worldwide traction. One such movement was ‘Black Lives Matter’, which began as a hashtag and soon went globally. It provoked extensive debate about racism and need to eliminate it. Another famous example was Agrima Joshua, a stand-up comedian who received anger for a joke on Shivaji Maharaj. The matter became more serious after a Gujarati man publicly threatened her with rape on YouTube. The online community united to defend her and denounce the threat. Within 24 hrs., the vadodra police apprehended the individual, demonstrating the power of social media in supporting justice and free expression.

IX. JUDICIAL INTERPRETATIONS AND LEADING CASE LAWS

Indian Courts have been at the forefront of balancing the freedom of speech with the need for regulation in the online digital world.

- **Shreya Singhal vs. UOI (2015)** : In this leading case, Supreme Court took a strong stand in favor of protecting online speech, but subsequent cases have shown a more nuanced approach towards it. This case was tackled with Sec. 66A of IT Act and declared unconstitutional as it was found to be vague and excessively broad in restricting free speech on the internet. The judgement significantly impacted how speeches on social media platforms are regulated in India.
- **KS Puttaswamy vs. UOI (2017)** : In this landmark case, Supreme Court decided the right to privacy as a fundamental right under Article 21 which inculcated the implications on the online speeches, as it recognized the need to balance the individual rights of privacy with having the freedom of expressions.
- **Facebook Oversight Case (2020)** : In this judgement, Supreme Court recognized the need to balance the freedom of online speeches with the emerging responsibilities of Social Media Platforms for preventing the harmful content from digital spaces. And the courts called to emphasize the role of these online platforms in shaping public discourse.

X. INTERNATIONAL NORMS AND REGULATIONS



Countries like EU, UK, US and others have also developed their own legal framework for regulating the online speeches with the varying degrees of emphasis on free expressions of any individual and content regulations. Therefore, it is also mandatory to view the international approaches and practices in the context of free speeches and expressions on the internet to regulate the Social Media Platforms in India.

US Community Decency Act (Section 230) : The US provides broad immunity to intermediaries under the provisions of this act.

XI. CONCLUSION AND SUGGESTIONS

It is clearly seen that now-a-days social media is most popular and effective means to exercise the freedom of speech for an individual. But there are certain issues with using these online platforms which can affect the other's freedom, while on the other side it is also being used increasingly by the cyber criminals without having the fear of physical presence. An analysis of an existing cyber laws reveals that the government wields unaccountable and enormous power in case of cyber security. Even still, preventing the misuse of social media is insufficient. However, such cyber laws are neither appropriate nor adequate in India. Therefore, the misuse of social media should be contemplated with a new dimensions in which the awareness to the safest use of the social media would be initiated by the Government and to develop a separate legal system for preventing the misuse of these online platforms in which the technical cyber experts or authorities to look into all the facets of the appropriate use of social media. And do recommend a suitable method of regulation that does not jeopardize citizens' civil rights.