



Right to Speech with Special Reference with Internet Censorship

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Freedom of Speech and Expression is indispensable in a democracy. The Freedom of Speech and of the press lay at the foundation of all democratic organisations, for without free political discussion no public education, so essential for the proper functioning of the process of government.

Article 19 (1) (a) says that all citizens shall have the right to freedom of speech and expression. But this right is to limitations imposed under Article 19 (2) which empower the state to put 'reasonable' restrictions on the following grounds, e.g., security of the state, friendly relationship with foreign states, public order, decency and morality, contempt of court, defamation, incitement to offence and integrity and sovereignty of India. The freedom of speech and expression includes liberty to propagation or publish the views of other people, otherwise this freedom would not include the freedom of press. But what is important to understand is that this fundamental right is not absolute. Absolute individual rights cannot be guaranteed by any modern state. An organised society is the precondition of civil liberties. There cannot be any right which is injurious to the community as a whole. From the actual world to the virtual world the law is everywhere. In actuality we are governed by various rules and regulations which are declared by the government. Similarly, in the virtual world also the government can restrict the degree of certain rights for the general welfare, one of such restrictions is INTERNET CENSORSHIP. But the main question is that: Does censorship violate freedom of Speech which is the major fundamental right of an individual?

WHAT IS INTERNET CENSORSHIP?

Sometimes when we open any website in the browser we found something like “ *hey, you are not authorised to access this web page, this page is blocked on the orders of the department of Telecom etc,*”

What is the meaning of these lines? All these lines are known as Censorship Notice. It means that it is an act of removal or suppression of ideas, information, that are circulated among the people within a society. In the simple language, censorship refers to the examination of books, periodicals, plays, films, television and radio programs, news reports and other communicative media for the purpose of altering or suppressing parts thought to be objectionable or offensive. In a country where internet censorship is practiced, a simple social media post or picture against any person in power could be enough for an arrest warrant to be issued. But can this Censorship violate our fundamental right of speech? This is the point of controversy because censorship is restricting the right of expressing general views, when freedom of speech is restricted, people will be afraid of speaking out about evil practices in society.

The Concept of Censorship under Indian Constitution :-

The concept of censorship is a part of our Constitution, the Censorship on various matters like Journalism, Film Censorship, Internet Censorship, Banning entry and circulation of journals, etc, are clearly mentioned in our constitution. According to Supreme Court in the case of **Brij Bhushan VS State of Delhi AIR 1950**, the court struck down the order: held - The impositions of pre-censorship of a journal is a restriction on the liberty of the press which is an essential part of the freedom of speech and expression declared by Article 19(1)(a). Similarly, prohibiting a newspaper from publication of its own views or the views of correspondents about the burning topic of the day is a serious encroachment on the valuable right of freedom of speech and expression.

Same in the case of **K.A Abbas VS Union of India AIR 1971**, the court held that pre-censorship of films was justified under Article 19(2) on the ground that films have to be treated separately from other forms of art and expression.

Restrictions on freedom of speech and expression can only be imposed on grounds mentioned in Article 19(2) of the constitution. A law which authorised imposition of restrictions on grounds of “public safety” or the “maintenance of public order” falls outside the scope of authorized restrictions under clause (2) and is void and unconstitutional.

Legal Policies Framed Around Controlling The Freedom of Internet

Using the Internet and social media is very common in this modern world, it is a place where you can express your views, opinions by posting pictures and messages, and for worldwide connections over the internet which we call the Freedom of Internet. But this freedom is restricted by the government, the reason behind this restriction is that due to unlimited access to any content on these platforms, children are being exposed to content not suitable for their age which is harming their values and culture. According to one view “access to the internet should be considered a basic Human Right” while the other view is that “censorship should exist in some form on the Internet”.

On 29th June of 2020, the Indian Ministry of Electronic and IT released a press note, announcing that it had banned 59 mobile applications based out of china (Chinese App), under Section 69A of the Information Technology Act 2000, why did the government do this? The answer is that this order was prompted by national security concerns arising from china's data sharing law that requires companies of chinese origin to share the data collected by them with chinese intelligence agencies.

Websites like collegehumor.com, dowrycalculator.com, pornhub.com, etc had been blocked by the government because all those websites were creating content which was affecting the moral values of the society. The regulations that allow the government to block websites have a rule that explicitly says that all such orders will be confidential in Section 69A and Section 79 of the IT Act. the government and courts can pass orders to ISPs to block certain websites which are against the welfare state.

In the **dowrycalculator.com case**, the court held that Section 69A of the IT Act allows the government to block websites based on national security and Section 79 can allow the government to balance an order if it relates to any term like reasonable restrictions under Article 19 of the constitution. dowrycalculator.com was a satirical website, which explains how much to ask for dowry from your potential bride essentially it will help to practice dowry which is socially evil and prohibited by law. Internet censorship has been pressed upon repeatedly by the Indian government. A recent survey by the market data company disclosed that over 57% of Indians also prefer censorship of internet platforms. Now the social media platforms like facebook, twitter stressing on the fact that any form of regulations would be a threat to free speech. OTT platforms like Netflix, Hotstar, Voot, etc, have expressed their views that the initiative would set a dangerous precedent for restricting freedom of speech and expression.

Restriction to cover both within and outside permissible limits-

In the case of **Shreya singhal VS Union of India AIR 2015**, Section 66A and Section 69A of the Information Technology Act were challenged on the ground of violating Article 19 (1) (a) and Article 14 of the constitution. Section 66A provides punishment for sending offensive messages by any person by means of a computer resource or a communication device.

Any information grossly offensive or menacing character; or any information knowingly to be false, for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation

Enmity, hatred or ill will, persistently by making use of such computer resources or a communication device; or any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages.

In the case of **Dr, Ram Manohar Lohia VS State of Bihar, AIR 1966**, it was held that the contention of the government was that Section 66A could be supported under the heads of public order, defamation, incitement, to an offence, decency or morality.

This section does not violate any of the fundamental rights, it is unconstitutional on the ground that it takes within its sweep protected speech that is innocent in nature and is liable therefore to have a chilling effect on free speech. It purports to authorise restrictions on fundamental rights contained in Article 19(1) (a) in a language wide enough to cover restrictions both within and outside constitutionally permissible legislative action under Article 19 (2). No part of section is severable and therefore section as a whole is unconstitutional but section 69A was held to be constitutionally valid because blocking can only be restored to where the central government is satisfied that it is necessary to do so. From the above discussion we can understand that internet censorship is not unconstitutional; it is just a limitation to protect society from the annoyance.

Under Section 69A (1), the central government or any of its officers specially authorised by it in this behalf on being satisfied that it is necessary or expedient so to do, any agency of the government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or posted in any computer resources. The internet as compared to other mediums of communication gives an individual a platform which requires very little or no payment to air his views, something posted on a site or website travels like lightning and can reach millions of people all over the world.

Conclusion

In the new normal world, the Internet is being the most essential part of our daily life. In this era where staying at home may save you from the great pandemic which is spreading continuously in the world at large, the internet and other technology is the only source of communication.

But because of high misuses of the internet the government has restricted the area of the internet with the help of various statutory laws and that is the Internet Censorship but these laws are being criticised to prohibit the freedom of expressing the story in its truest form. Although these laws are criticised by the online platforms these laws are not unconstitutional at all, the fact is that not every Internet platform is restricted but only all those which are against the moral values of the public policy and creates a bad influence on society are subject of restriction by the government.

