



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

The Internet And Its Impact On Freedom Of Speech

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The cornerstone of every democratic society in existence is freedom of speech. At its core, free speech is the ability to communicate openly and to receive information from others. It is regarded as the main requirement for autonomy. It is regarded as the "mother" of all other freedoms and one of the most important civil liberties that is shielded from restriction or repression by the government¹. This fundamental right to freedom of speech and expression is guaranteed by Article 19(1)(a) of the Indian Constitution. Article 19 of the Universal Declaration of Human Rights (UDHR) defines freedom of expression as a human right, and the International Covenant on Civil and Political Rights (ICCPR) states that the right to free speech is recognised under international human rights law. Since the right of freedom of expression is not unqualified, certain restrictions are placed on it under Article 19(2). Nevertheless, law is the only means of restricting the right to free expression. Within the scope of this freedom is the ability to publish, market, and spread information.

Meaning and extent of freedom of speech :

Only Indian citizens are granted the right to free speech under Article 19(1)(a); alien nationals are not granted this protection. Freedom of speech and expression is the ability to openly express one's ideas and opinions through writing, art, publications, graphics, or any other medium. Therefore, it includes expressing one's ideas, emotions, beliefs, and thoughts through any kind of visual presentation or communication medium, including signs, gestures, symbols, and the like. A free person is entitled to the rights specified in Article 19 of the Indian Constitution.

It is important to note that the right to receive and transmit information has been included in the expanded definition of the right to free speech under Article 19(1)(a). The Supreme Court ruled in **State of Uttar Pradesh v. Raj Narain** that every person has the right to free expression and the freedom to receive and disseminate information on matters of public concern under Article 19(1)(a) of the Constitution. **Secretary, Ministry of Information and Broadcasting, Govt. of India v. Cricket Association of Bengal** states that the freedom to gather and disseminate information is protected by Article 19(1)(a) of the Indian Constitution. Every individual can effectively disseminate and receive information through the print medium.

A History of Conflict: India's Battle for Free Speech

India's quest for independence is closely linked to the country's fight for free expression. Suppression of dissent was a hallmark of colonial control; the British Raj used censorship and severe fines to stifle anyone who disagreed with their way of doing things. Still, there was a strong opposition spirit. Early nationalists such as Mahatma Gandhi were instrumental in opposing the colonial power's restrictions on free speech because they promoted peaceful civil disobedience and freedom of speech.

In the case of **Maneka Gandhi v. Union of India**, Justice Bhagwati emphasised the value of free speech, stating that a democratic society is predicated on unrestricted discussion, debate, and open dialogue because it serves as the only "corrective of government action" that keeps the democratic framework in mind. Given that democracy is governed "of the people, by the people, and for the people," it follows that every citizen has the right to participate in democratic processes. Additionally, it is imperative that public issues be debated freely and without restriction in order to enable every citizen to exercise his right to vote responsibly.

In a democracy, the rights to free speech and expression provide opportunities for open discourse. In order to influence public opinion on social, political, and economic concerns, free speech is essential. The Supreme Court has construed the right to free speech, the equality clause, and the protection of life and liberty with adequate volition since the 1950s. Referred to as "a natural right," "fundamental human right," and other words. The right to free speech includes the ability to spread ideas other than one's own. It also includes the freedom to broadcast or print the opinions of others; without this freedom, the press would ultimately be left out.

The Digital Tapestry: Examining How the Internet Affects the Legal System

One of the greatest innovations of the modern period, the internet has completely changed the way we interact, communicate, study, work, and live. It has revolutionised industries, connected individuals worldwide, and democratised access to information in almost every facet of our lives. Wide-ranging and significant are the effects of the internet, ranging from the quick dissemination of knowledge to the emergence of digital businesses.

The internet is a huge and dynamic digital environment that has permeated every part of our lives and had a significant impact on many facets of society, including the legal system. The internet has a profound impact on many facets of the legal system, from transforming communication and information access to stimulating new business ventures and creating fresh legal obstacles. The complex link between the internet and the law is examined in this dissertation, along with its varied effects on different legal fields, difficulties it poses, and potential to influence legal practice in the future.

The Rise of E-Commerce and Its Legal Consequences in the Digital Marketplace:

The era of e-commerce has been ushered in by the internet, revolutionising the buying and selling of goods and services. The emergence of this digital economy has prompted the creation of new legal frameworks governing consumer protection, intellectual property rights, and online transactions. To maintain fair competition, consumer protection, and safe online transactions, legal considerations pertaining to data privacy, cybersecurity, and jurisdiction in cross-border transactions must be carefully taken into account.

Additionally, the internet has made it easier for disruptive technology and new business models to develop, which has put the current legal frameworks under pressure. Traditional licensing and regulatory institutions are under scrutiny due to the sharing economy, which is facilitated by platforms such as Airbnb and Uber. Similar difficulties are faced by legal systems as a result of the decentralised character and potential for financial instability of cryptocurrencies. The aforementioned changes demand an ongoing conversation between the legal system and technology developments in order to guarantee a flexible and dynamic legal framework that protects fundamental legal principles while promoting innovation.

Beyond Boundaries: The Internet and the Globalised Legal System

Geographical boundaries are no longer as distinct because of the internet, which has made the legal system more integrated and worldwide. For legal practitioners, this offers opportunities as well as difficulties. On the one hand, lawyers may work together internationally thanks to the internet, sharing resources and knowledge across national boundaries. Online legal research tools can facilitate information sharing by giving users access to international legal databases, which improves legal research capabilities.

Nevertheless, more global cooperation necessitates negotiating several legal frameworks. International legal skills and careful deliberation are necessary when dealing with issues related to international jurisdiction, conflict of laws, and execution of foreign judgements. In addition, international collaboration is required to create efficient legal frameworks and handle cybercrime and hate speech concerns on a worldwide basis.

The Modern Environment: Rights Of Speech in the Digital Age

The development of social media and the internet has completely changed how people communicate in India. With the use of these platforms, people may express themselves to a large audience directly and get around the gatekeepers of traditional media. Nonetheless, the regulation of material faces additional difficulties as a result of this increased flexibility. There are now worries about hate speech on the internet, false information, and the possibility of social media being used maliciously.

The Internet has enormous development potential, which is acknowledged by the freedom of expression on it. It not only offers a previously unheard-of amount of information and knowledge resources, but it also creates new obstacles and chances for engagement and expression. The Internet and all other developing media platforms should be subject to the principles of freedom of expression and human rights, since they will promote progress, democracy, and discourse. Additionally, these platforms should be open to both genders without any kind of discrimination.

The Indian government has implemented laws such as the Information Technology Act (2000) in an effort to address these issues. Authorities may now remove anything they deem dangerous or offensive thanks to this act. The measure has, however, also sparked worries about possible overreach by the government and the violation of the right to free speech. India's task is to create a legal framework that preserves the fundamental ideas of free speech while addressing the justifiable worries about internet material.

Effect of the IT Rules, 2021

The recently released Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 have sparked a great deal of controversy and public outcry. Most people believe that these rules violate the right to free speech and expression on multiple grounds, most notably because they violate that right. By means of these regulations, the government has taken control over OTT (over-the-top) platforms that display films and audiovisual content produced by internet content providers, in addition to the platforms that display news and current affairs content.

The administration argues that these regulations were necessary in light of the growing number of complaints about offensive and hurtful content that was posted on these platforms. Examples of such content include violent scenes, nudity, obscenity, indecent depictions of women, and information about child sex abuse. Furthermore, there was stuff that offended people's religious feelings. There was no strong grievance redressal system in place before these regulations to properly handle the concerns of the general public.

Moreover, the justifications for the government's authority to impose such orders and the acceptable limitations on what content is allowed on these platforms are not made explicit. Because of this uncertainty, the free speech of users of these platforms is left vulnerable to the whims of the government. Any communication that the government even slightly interprets as disparaging them can be quickly labelled as "hate speech" or "fake news."

In a nation of more than 100 crore people, press freedom is crucial, particularly when it comes to criticising the government and averting authoritarianism. The rules aim to "regulate" this freedom while claiming to protect the sensibilities and traditions of the people of India. However, by placing such nebulous restrictions on such a wide range of categories, it appears more like a form of censorship that will stifle the right to free speech and expression. These over-the-top platforms and middlemen must portray some concerns because doing so raises awareness of certain realities and social injustices that can only be stopped by spreading them among the general public.

The IT Act's provisions for internet-based free expression

According to Section 66A of the Information Technology Act, 2000, using a computer resource or communication device to transmit "grossly offensive" or "menacing" information is illegal. Furthermore, the aforementioned article prohibited the persistent dissemination of false information with the intent to cause inconvenience, danger, obstruction, insult, injury, criminal intimidation, promote hatred, enmity, or ill will. Furthermore, sending a "electronic mail message" with the intention of upsetting the recipient or misleading them about the communication's origins is prohibited by Section 66A.

Due to the Section's vague and capricious language, a number of innocent online expressions—such as political humour and commentary—have been the subject of criminal prosecutions. This has resulted in widespread exploitation of both personal and political communication. Sections 66A and 79 of the IT Act, along with any regulations enacted in compliance with the Act, placed internet intermediaries under a stringent liability regime.

IMPORTANCE OF THE INTERNET IN UPHOLDING THE RIGHT TO INFORMATION :

The Supreme Court of India rendered a landmark decision in the Anuradha Bhasin case, addressing whether the government's internet shutdown and movement restrictions in the State of Kashmir violated the fundamental right to freedom of speech and expression. The court also questioned the legality of the internet shutdown in light of this right, taking into account the restrictions outlined in Article 19(2).

The court listed Article 19(2), which addresses "reasonable restrictions" that may be placed on the right to free speech and expression, as well as how this right is inextricably linked to the right to information. The main conclusion of the court's ruling in the aforementioned case was that everyone has the right to exercise their freedom of speech and expression, and that constraints on that right may even go so far as to outright forbid it.

If the state were to completely forbid people from using their right to free speech, they would need to take great care to make sure that this prohibition does not unduly restrict free speech and that there are no less effective options available. The Court created the proportionality test to help the government assess the limits before enacting them in the future.

The court further emphasised in its ruling that the freedom of expression guaranteed by Article 19 extended to the internet, and that a total shutdown of the same would have a detrimental impact on the circulation of free speech and expression. Online expression is one of the primary sources of information diffusion.

Impact of internet on right of freedom of speech:

People can now communicate their opinions with others by using social media platforms, blogs, and online forums that have been made possible by the Internet. This has made it possible for new concepts to emerge and for knowledge on any subject to proliferate. Furthermore, the Internet has made it feasible to discuss contentious subjects, something that was not previously conceivable. All things considered, free expression has been greatly impacted by the Internet. It has made it possible for people to speak their minds and express themselves without worrying about censorship or retaliation. This has made it possible for new concepts to emerge, knowledge to be disseminated, and contentious issues to be discussed.

More avenues for self-expression and information access have been made possible by the internet. People may now communicate with each other, express their thoughts, and obtain knowledge that was previously inaccessible thanks to the internet.

For media professionals such as journalists, the internet has become an indispensable tool. Bloggers and citizen journalists can share their viewpoints on the internet, which also gives journalists the opportunity to report on topics that might not otherwise receive attention.

The freedom of speech on the internet must be respected by governments. For the purpose of limiting information flow or stifling dissent, governments shouldn't employ internet censorship or surveillance.

It is the duty of private businesses offering internet services to uphold human rights. In addition to taking action to make sure that their services aren't utilised to support censorship or monitoring, businesses can refuse to participate in human rights abuses.

On the internet, the right to free speech is not inalienable. Speech that incites violence, hate speech, or child pornography are examples of speech that may be legally restricted.

In general, Article 19 holds that the internet may be a formidable instrument for advancing information access and freedom of expression, but that this potential can only be realised if public institutions and private businesses respect human rights and maintain the values of free speech.

POSITIVE IMPACT :

The world's ability to freely speak and express oneself has been significantly impacted by the internet. More people than ever before can now express their thoughts, opinions, and beliefs thanks to it. Others may now access global ideas and information through the internet, which empowers them to establish their own perspectives and have meaningful conversations with like-minded others. As a result, there is now a greater diversity of opinions, facilitating a more inclusive and transparent conversation on significant issues.

People may now access a multitude of previously unobtainable information thanks to the internet, which helps them make well-informed decisions on significant issues. Ultimately, the internet has made it possible for people to communicate with one another and share their opinions in a safe and secure setting by creating virtual communities and networks. Globally, there has been a rise in the freedom of speech and expression due to all of these factors.

NEGATIVE IMPACT :

The freedom of speech and expression on the internet has changed significantly in recent years. Governments, companies, and other entities have been progressively limiting access to specific kinds of content and enacting laws that restrict people's freedom of speech. The main reasons for doing this are to safeguard national security and stop hate speech and terrorist propaganda from spreading. However, it has also been employed to stifle opposition to political ideologies and government policies, as well as to censor information that would otherwise be available to the public and aid in their decision-making. The freedom of expression on the internet has also been further restricted by online censorship and the manipulation of online discussions by algorithms and artificial intelligence.

The potential for fostering digital literacy initiatives and promoting fact-checking mechanisms to combat misinformation :

Initiatives to promote digital literacy and fact-checking systems are essential in the fight against misleading data in India, where cultural biases and a lack of digital literacy are the main causes of the fake news epidemic. To address this issue, the Indian government has launched several initiatives, including the Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA), that strives to render six crore rural households digitally literate by giving them accessibility to electronic devices, internet connectivity, and digital literacy training. The Digital India campaign also aims to transform India into a knowledge economy and society powered by technology.

Non-governmental organisations and publications have also taken action to encourage digital literacy and fact-checking, in addition to government activities. Teens are trained in fact-checking through initiatives like the Teen Fact-Checking Network (TFNC), a MediaWise project in collaboration with Boom, an Indian fact-checking website. TFCN instructs teens between the ages of 13 and 19 in Hindi and English on how to recognise false information, conduct research, digitally verify information, produce videos, and write fact checks. The programme is aimed at high school and middle school pupils.

Another effort is Sach ke Saathi, a fact-checking project of Jagran News Media and an initiative of Vishwas News, which gives the technologically vulnerable the ability to recognise and validate material. FactShala is a literacy in the media initiative by InterNews and Google that uses a multi-stakeholder approach to train rural communities in India. By working with journalists, fact-checkers, and community radio stations, the initiative equips rural communities with critical information literacy and media literacy.

A grassroots initiative called the Digital Empowerment Foundation (DEF) aims to establish rural hyper-local fact-checking tools. One such tool is a WhatsApp tip line that community radio stations can use to report any falsehoods. A trial programme in the USA called Twitter's Birdwatch allows users to flag tweets that might be deceptive. It could be modified for the Indian setting.

Verify Kiya Kya is a fact-checking project by Quint media house WebQoof. It is available on the company's official YouTube channel and offers video lessons about fact-checking and avoiding fake news. Sathyameva Jayathe was introduced by the Kerala government in order to educate the use of technology literacy in classrooms. Since its start in 2018 in collaboration with Google, DataLeads, Boomlive, and Internews, the Google News Initiatives India Training Network has educated over 38,000 reporters, media educators, journalism students, and fact-checkers through more than 750 seminars conducted in more than ten languages.

But even with these best attempts, fact-checking is a labour-intensive and time-consuming operation, and algorithms tend to encourage sensationalism, which makes it challenging for researchers to continue keeping up with the amount of false information that gets spread. Furthermore, India's poor literacy rates contribute to

the ecology of false information and divisive propaganda, making it challenging to counteract disinformation without addressing the underlying reasons of digital illiteracy.

In India, disinformation is a complex problem impacted by the population's diversity, disparities in educational attainment, and the nation's quickening pace of digitization. Particularly on social media platforms, false information has proliferated, with disinformation and theories of conspiracy spreading quickly. In comparison to the worldwide median of 23%, 28% of Indian social networking site users reported having come across fake news, according to a 2017 Pew Research Centre survey. Effective countermeasures are necessary since misinformation has been connected to cases of rioting, healthcare scares, and electoral manipulation.

The Persistent Function of a Civil Society in Encouraging Conscientious Conversation:

Programmes for Teaching Media Literacy: Civil society organisations can lead media literacy campaigns, giving people the tools they need to critically navigate the internet. This involves instructing consumers on how to evaluate the reliability of internet sources, spot possible biases, and distinguish between false information and deceptive techniques.

Assisting Independent Fact-Checking Initiatives: The public may be taught how to recognise reliable information sources, internet material can be verified, and disinformation efforts can be stopped before they become viral by collaborating with independent fact-checking organisations.

Encouraging Online Civility Campaigns: One way to promote a more civil online environment is to develop and distribute standards for online communication etiquette that place an emphasis on polite conversation and promote empathy for opposing views. In order to encourage users to participate in positive online conversations, platforms can collaborate with civil society organisations to create and publicise these rules.

Supporting Governmental Reforms: Civil society may be a vital asset in pushing for laws that protect free speech, enhance user safety, and guarantee accountability and transparency in the moderation of online content. For this to happen, coalitions need to be formed with a variety of stakeholders, such as media outlets, technological firms, and human rights organisations.

Encouraging Journalists and Impartial Voices: A robust democracy depends on an impartial and independent press. In particular in nations where press freedom is restricted, civil society organisations can support independent bloggers and journalists whose work can be essential for encouraging open discourse and holding powerful actors accountable.

International Cooperation: Since the internet cuts across national boundaries, it is essential that nations work together to establish best practices for the moderation of online material. This cooperation can take the shape

of developing global standards for what constitutes unlawful content, encouraging information exchanges between law enforcement, and supporting coordinated campaigns to counter hate speech on the internet and terrorist propaganda.

suggestions for changes to the law, guidelines for content management, and the part civil society plays in encouraging appropriate online conversation :

In India, the proliferation of hate speech and disinformation on digital platforms calls for the implementation of best practices in content moderation, legislative reforms, and the active participation of civil society in fostering constructive online conversation. A step in the right direction is the Digital India Act 2023 (DIA), which attempts to control internet content, set up procedures for removing illegal or harmful content, and hold intermediaries responsible for such content. To guarantee that internet platforms are held accountable for the information they contain, legislative measures are needed. Consumer protection, electronically signed documents, online dispute resolution, electronic contracts, and intermediaries' liability are all topics that the DIA will cover. Finding a balance between defending the right to free expression and making sure that online platforms don't allow content that propagates false information, violence, or hatred.

AI-driven and human-driven methods should be combined in content moderation best practices. While artificial intelligence (AI) techniques are able to indicate possible infractions, genuine moderators ought to be trained to recognise and delete hazardous content. Clear user rules and an appeals procedure for moderation judgements should be part of an accountable and transparent process for content moderation. In order to encourage appropriate internet conversation, civil society plays a critical role. In order to hold internet platforms accountable and to push for stricter content moderation regulations, civil society organisations can be extremely effective. In order to increase public understanding of the value of technological proficiency and appropriate online conduct, they can also launch public education initiatives.

Some legislative changes that India may enact to encourage appropriate online conversation :

To guarantee that the problem of damaging speech and misinformation is adequately addressed, the government should first tighten the current IT Act. This can be accomplished by enacting laws that make social media companies responsible for the material they host. These laws should include measures to remove harmful or unlawful content and to penalise noncompliance.

Second, a regulatory body overseeing and monitoring social media networks ought to be established by the government. This body ought to be able to enforce rules, levy penalties, and suspend or cancel the licences of platforms that don't follow the rules. In order to counter false information, the regulating body should also be in charge of supporting programmes for digital literacy and fact-checking systems.

Third, laws requiring social media companies to give users straightforward details about their content control procedures and rules should be introduced by the government. This involves informing users about the moderation decision-making process, the standards under which content is eliminated, and the evaluation and review procedures.

Fourth, a legislative framework for safeguarding private information and identity should be established by the government. This entails enacting laws limiting the use of private information for specific marketing and other commercial objectives, as well as requiring online social networking platforms to gain user agreement before collecting and utilising personal data.

Fifth, the government ought to support civil society groups in their efforts to advance appropriate online conversation. This can be accomplished by giving money and support to projects that advance fact-checking, digital literacy, and the creation of substitute platforms that put an emphasis on responsible discourse and free speech.

Guidelines for content moderation should be implemented by social media companies in addition to these statutory measures. This entails identifying and removing harmful content using an amalgamation of both human and AI-driven methods, informing users in a clear and understandable manner about social media moderation processes and regulations, and putting in place strong appeal procedures for moderation decisions.

Privacy and personal data protection have to be a top priority for social media companies as well. This entails getting user consent prior to collecting and processing personal data, restricting the use of private information for other commercial reasons, such as targeted advertising, and giving consumers transparent and understandable information about how their data is collected and used.

In addition, civil society organisations should be involved in encouraging appropriate online conversation. This entails promoting stricter guidelines for content regulation and keeping social media companies responsible for their deeds. Campaigns for public education can also be launched by civil society organisations to emphasise the value of knowledge of technology and appropriate online conduct.

Conclusion :

It takes skill to build a thriving online public space that strikes a balance between the frequently incompatible demands of free expression and fundamental social norms. It calls for a sophisticated comprehension of the digital environment as well as a dedication to ongoing communication and cooperation amongst all parties concerned. In order to accomplish these aims, this essay examines the difficulties involved and emphasises the necessity of continued participation by governments, IT corporations, civic society as a whole and the general population.

References:

Anuradha Bhasin v. Union of India, (2020) 3 SCC 637.

Basu, Soumyadeep. "The Chilling Effect of India's Internet Shutdowns." *The Diplomat*, 18 Jan. 2020, thediplomat.com/2020/01/the-chilling-effect-of-indias-internet-shutdowns/.

Benkler, Yochai. "A Free Irresponsible Press: Wikileaks and the Battle over the Soul of the Networked Fourth Estate." *Harvard Civil Rights-Civil Liberties Law Review*, vol. 46, 2011, pp. 311–397.

Berman, Jillian, and Ethan Zuckerman. "The Promise and Peril of the Internet for Democracy." *Journal of Democracy*, vol. 30, no. 2, 2019, pp. 52–66.

Bhatia, Gautam. *The Transformative Constitution: A Radical Biography in Nine Acts*. HarperCollins India, 2019.

Bhushan, Bharat. "India's Internet Shutdowns Threaten Freedom of Expression." *The Wire*, 10 Jan. 2020, thewire.in/tech/india-internet-shutdowns-freedom-of-expression.

Blevins, Jeffrey L., and Michael Barney. "Social Media and the Paradox of Algorithmic Curation: Facebook, News Media, and the Free Speech Crisis." *Social Media + Society*, vol. 4, no. 3, 2018, pp. 1–11.

Caplan, Robyn, et al. "Lexicon of Lies: Terms for Problematic Information." *Data & Society*, 9 Aug. 2018, datasociety.net/library/lexicon-of-lies/.

