

FREEDOM OF SPEECH AND EXPRESSION VS SOCIAL MEDIA VIOLATIONS

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ABSTRACT

Due to advancement of technology, people tend to use social media like Facebook, WhatsApp, Twitter, Instagram, YouTube, etc. to read and share news and information. Social media is defined as a mobile- and web-based technology to create a social network in the virtual world through a collection of online communication channels. Social media technology made the world smaller because people from one part of the country can access information shared by a user from another. Freedom of expression is the right of every individual to hold opinions without interference and to seek, receive and impart information and ideas through any media—regardless of frontiers. In a democratic country like India, each and every citizen has the right to express and impart information through social media. Because we enjoy this freedom, we can upload, uplink, comment, like, share, etc. through social media. These social media sites provide complete or absolute freedom of expression; but as netizens how are we using it? This paper reviews the freedom of speech and expression and related violations through social media.

Keywords: Freedom of speech and expression, Government, Policies, Restrictions, Violations, Social media

I. INTRODUCTION

Concerning social media and its impact on society, there are a number of legitimate differences of opinion. When it comes to the way social media has transformed public conversation, the proliferation of horrific material ranging from child abuse to revenge porn is one of the more alarming elements. As a result, if these disputes are exploited as a pretext to restrict freedom of expression, it is possible that social media may transition from platforms that allow limitless voices to reach infinite audiences into platforms where just a few powerful voices can reach large numbers of people (Singh, 2019).

To a large extent, India served as a safe haven for anyone who wished to express themselves freely without fear of being fired at. In spite of the fact that their personal situation is significantly superior to that of their counterparts in other nations, the image has lost its relaxing and mesmerising effect on Indians. For the sake of this discussion, I'm primarily referring to the application of so-called cyber laws, such as Section 66A of the 2000 Information Technology Act, to restrict freedom of expression and speech on social media platforms, such as Facebook (Jones, 2021).

II. SOCIAL MEDIA

Technologies for sharing and discussing material, such as those based on the internet and mobile phones, predominate on social media platforms. There are many other methods to communicate oneself through the medium of the internet: through writing, photographs, videos, and music, to name just a few examples. By using web-based entertainment, which incorporates electronic and versatile advancements, changing correspondence into an intuitive dialog is conceivable (Singh, 2019).

It is alluded to as "virtual entertainment" on the web and portable stages that permit people and associations to impart progressively and trade client created content. In the expressions of Andreas Kaplan and Michael Haenlein, "virtual entertainment" is portrayed as "a bunch of web put together applications that grow with respect to the calculated and mechanical underpinnings of Web 2.0, and that permit the creation and sharing of client produced content." "Web 2.0" stages are Internet stages that take into account client investment and are alluded to accordingly. In the field of web-based entertainment, "client created content" alludes to all of the manners by which clients might speak with each other and share data. As indicated by the Organization for Economic Cooperation and Development, content that is named "client delivered" should satisfy three exact models:

1. To begin with, it should be made available to the general public via a publicly accessible website or on a private social networking site.
2. In terms of creativity, it necessitates the least amount of work.
3. It's "made outside of professional procedures and practises." '

Social Media may likewise be utilized related to cell phones, which is alluded to as versatile virtual entertainment. Versatile web-based entertainment contrasts from conventional virtual entertainment in that it adds new perspectives like the client's current (area awareness) and the time delay among sending and getting messages since it is worked on cell phones, portable web-based entertainment (time-responsiveness) (Singh, 2019).

III. FREEDOM OF SPEECH AND EXPRESSION

Despite where they reside for sure they do, each individual has the option to unreservedly communicate their thoughts in any medium and across any boundary unafraid of counter, like dangers or abuse. This is regularly perceived as obvious. Articulation and show of thoughts are ensured under the Constitution (Barak-Erez & Scharia, 2011).

Freedom of expression is a complex right. Considering that Freedom of expression isn't free and accompanies a variety of commitments, the law might take into consideration certain restrictions on how it very well may be utilized.

A reference to "freedom of expression" has existed essentially from the Greek Athenian period, which started over 2400 a long time back and proceeds right up 'til today. The following is a rundown of probably the most generally acknowledged meanings of opportunity of articulation, which are broadly viewed as overall guidelines (Buyse, 2014):

- Individuals have a fundamental right to freedom of opinion and expression, which incorporates the ability to communicate one's thoughts through any medium and without regard to public lines.
- The option to uninhibitedly offer one's viewpoints unafraid of being aggrieved should be ensured to everybody." "The opportunity to look for, obtain, and spread data and thoughts of various sorts regardless of boundaries, whether verbally, recorded as a hard copy or on paper, in imaginative structure, or by some other method for his decision" is ensured to each person under the Universal Declaration of Human Rights.

Article 19 (1) (a) of the Indian Constitution likewise gives the right to " freedom of speech and expression" to all residents of the country. Talking, composing, distributing, capturing, or participating in some other sort of visual or verbal articulation are totally safeguarded under the right to opportunity of articulation. Additionally, free discourse rules protect the perspectives of other people who have contradicting sees (Raza, 2016).

Any demonstration of looking for, getting, or delivering data or thoughts, no matter what the media through which it is done, falls under the umbrella term " freedom of speech and expression." To John Milton's psyche, opportunity of articulation is a multi-layered right that includes not just the ability to communicate or circle data and thoughts, yet in addition the option to look for, get and send data, in addition to other things.

IV. RESTRICTIONS AND LAWS ON FREEDOM OF SPEECH AND EXPRESSION

Freedom of expression doesn't give residents a permit to talk or distribute without outcomes. It's anything but a wide open that safeguards everybody from repercussions regardless of how they decide to utilize words (Cohen-Almagor, 2017). For the accompanying reasons, Article 19(3) of the ICCPR sets restrictions:

- For the purpose of others' freedoms and notorieties
- To shield public safety, or public request, or general wellbeing or ethical quality.

Under Article 19(2) of the Indian Constitution, the assembly is allowed to embrace regulation that limit the option to free discourse and articulation for the accompanying grounds: psychological oppression (Yasmeen & Alastair, 2021).

- India's independence and integrity
- The safety and security of the country
- Good connections with other countries
- Maintaining law and order in society
- Morality or decency
- Disobedience to a court order
- Incitement to commit a criminal offence

Numerous components under India's supposed "digital regulations" can be used to look for solution for infringement of privileges in the internet, the web, and online entertainment, regardless of the way that there is no specific rule overseeing virtual entertainment. Coming up next are the pertinent resolutions and arrangements (Behera, 2017):

- a) The Act contains punishments for PC related offenses that can likewise be submitted through online entertainment, incorporating altering PC source code, submitting PC related offenses recorded in Section 43, sending hostile messages through correspondence administrations, wholesale fraud, cheating by personation utilizing PC assets, disregarding security, and digital illegal intimidation.
- b) A mandate for capture, observing, or unscrambling of any data communicated through a PC asset might be given by the Central or State Governments to safeguard India's power or respectability, the guard of the country, the security of its residents, agreeable relations with outside nations, public request, and the anticipation of any cognizable offense from being submitted under Section 69.
- c) Under Section 69A, the public authority can restrict general society from getting to any happy through any PC asset for similar reasons as Section 69A forbids free to any material.
- d) The central government can give orders approving any office to screen and gather information on PC traffic in light of a legitimate concern for network safety under Section 69B of the United States Code.
- e) Section 79 of the Criminal Code gives that mediators can be considered responsible. Under Section 66A of the Information Technology Act of 2000, a middle person isn't answerable for any data, information, or correspondence interface connecting with an outsider that is made accessible or facilitated by him.

V. FREEDOM OF SPEECH AND SOCIAL MEDIA

Individuals have the ability to freely express themselves and share their opinions with the rest of the world thanks to the Internet and social media. Globally, there has been an increasing movement in favour of reform, justice, equality, the accountability of the powerful and the respect for human rights in the previous year or two (Jones, 2021). As a result of the ease with which individuals may connect and exchange information on the Internet and through social media, the Internet and social media have played an essential role in many of these movements. The United Nations Human Rights Committee has also sought to put the idea of freedom of expression into practise in the modern media environment, which is dominated by the internet and mobile devices, but has encountered difficulties (Kaplan & Haenlein, 2010). Considering that the Internet has emerged as an international network for the exchange of ideas and perspectives that is not dependent on traditional mass media, the Committee recommended that governments make all necessary efforts to ensure that these new media remain independent while also ensuring that their citizens have access to them. Article 19 of the Universal Declaration of Human Rights and Article 19(2) of the International Covenant on Civil and Political Rights both guarantee the right to freedom of speech, and this protection applies to the internet and social media platforms as well. According to India's Constitution and other international accords, freedoms of expression, including the

right to free speech, are recognised as fundamental rights, independent of the media through which they are delivered. Additionally, access to the internet and social media as a venue for exercising one's basic human right has been recognised as a fundamental human right (Tandon, 2011).

Until recently, governments throughout the world utilised a variety of justifications to keep the general public in the dark about their activities. Attempts are being made by governments to exert control over social media, which they regard as a concern due to its enormous capacity for disseminating information to the general public. With its limitless potential and wide-ranging reach, the Internet has established itself as the cornerstone of modern civilisation. Throughout history, it has played an important part in the functioning of democracies all over the world, owing to its value in storing and spreading information and ideas. People from all over the world are now able to connect thanks to the internet and social media platforms such as Facebook and Twitter. However, despite the fact that not everyone is there, the protest's strength remains undiminished. Consequently, it is evident why governments all over the globe are attempting to restrict the internet's use and accessibility (Tiwari & Ghosh, 2018).

In addition to its beneficial function, the Internet is prone to abuse, which supports the government's control of online information in the interests of the general public, as stated in the Constitution. There are a variety of cyber-crimes that may be easily done through social media, including defamation and invasion of privacy, as well as the incitement of crimes and racist comments. Once such obnoxious material is released, it spreads swiftly and is very hard to contain or prevent. The government's control of social media is therefore vital in this context.

People's needs, both individually and collectively, can be met by government authority as long as it serves the interests of the people. In this case, the government begins censoring, which means that it begins restricting people's civil rights, such as their freedom of expression. But despite the fact that protections are in place, states are more likely than not to go above and beyond in some way, even if the magnitude ranges from one state to another (Roy, 2015).

The battle between the government and social media companies is intensifying in India, which has more than 600 million internet users and is the largest market for Google and Facebook in terms of number of users (Jones, 2021).

It appears that the Indian government is growing increasingly illiberal in its control of social media. According to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, the government's efforts to address social media platform problems in India are codified in the rules themselves. Fake news, unbalanced representations of women, and violent language are just a few of the troubling issues that the new rules attempt to address in greater detail. Notification of illegal content to the government is permitted, however social media services are required to take reasonable steps to ensure that their platforms do not include illegal information. News and current affairs publications must also adhere to a code of ethics and be subject to government control, in addition to the above. It must also be possible for the government to track down the senders of private communications on social media platforms where doing so is necessary to defend national security or combat criminal activity on those platforms (Jones, 2021).

The limitations have been heavily criticised both in India and throughout the world as a result of this. As a result of the widespread use of social media sites such as Facebook, there are at least two significant human rights issues (Graciyal & Viswam, 2018).

Initial restrictions on permissible content are more stringent than the exceptions to freedom of expression permitted by international law and India's constitution; in addition, government's discretion to declare information unlawful raises the possibility of political debate becoming unacceptably censored, regardless of which government or political party is in power (Byrd, 2016).

The government's demand that service providers decode messages in order to identify their originators, which is what the government wants, may be an invasion of privacy as well. Under the standards, social media platforms, as well as other forms of digital communication, are the topic of heated debate and disagreement. According to Indian digital media organisations, "the administration having the whole authority to regulate the content of news portals or publications would constitute a direct attack

on the constitutional system as well as democracy itself (Chandra, 2017). Legal action has been brought against the new regulations' application to digital news sites, with The Wire serving as the lead plaintiff.

VI. CONCLUSION

It goes without saying that using social media as a means to exercise one's right to free expression and expression is a good idea. Due to the growing number of instances of social media platforms being exploited for illegal reasons, governments all over the globe have moved to tighten their controls over what individuals may say on them. Despite widespread support for legislative control over social media, legitimate concerns have been raised about the possibility of human rights violations as a result of such restrictions.

In order to prevent social media from becoming a source of conflict, regulation rather than restriction should be implemented. However, India's present cyber law is neither appropriate nor sufficient. When it comes to cyberspace security, an assessment of current IT rules indicates that the government has unaccountable and tremendous jurisdiction, according to the findings. However, simply monitoring social media abuse isn't enough to prevent it from occurring. As a result, a specific piece of legislation is required to regulate social media.

With this in mind, the government should establish a committee of technical professionals to investigate all of the many aspects of social media usage and misuse in order to provide recommendations on how to regulate it without jeopardising individuals' civil rights.

In India, the government has a real reason to be concerned about the effect of social media on the country's society. Social media platforms should also be held accountable for the harms they produce, and rules should be established for how they should conduct themselves on the internet. There is a narrow line to walk between adhering to one's values and being shunned from the lucrative markets through which private firms must venture. While it is possible to assume that today's social media site CEOs are apolitical for the sake of argument, this cannot be assumed of future CEOs. Furthermore, any action done by social media platforms during a political disagreement between the government and opposition parties would be viewed as partisan by the public at large.

REFERENCES

1. Barak-Erez, D. & Scharia, D. (2011). Freedom of Speech, Support for Terrorism, and the Challenge of Global Constitutional Law. *Harvard National Security Journal*, 2(1), 1-30.
2. Behera, S. (2017). Freedom of Speech and Expression in 21st Century. Retrieved from <http://magazines.odisha.gov.in/Orissareview/2017/August/engpdf/36-41.pdf>
3. Buyse, A. (2014). Dangerous Expressions: The ECHR, Violence and Free Speech. *International and Comparative Law Quarterly*, 63(2), 491-503.
4. Byrd, G. (2016). Does Freedom of Speech Exist on Social Media? Retrieved from <http://www.loyola.edu/academics/emerging-media/blog/2016/freedom-of-speech-on-social-media>
5. Chandra, R. (2017). Free Speech on Social Media May Not Be Civil But Let Us Not Use the Law to Curb It. Retrieved from <http://thewire.in/125581/free-speech-social-media>
6. Cohen-Almagor, R. (2017). Balancing Freedom of Expression and Social Responsibility on the Internet. *Philosophia*, 45, 973-985.
7. Graciyal, G. & Viswam, D. (2018). Freedom of Expression in Social Media: A Political Perspective. *International Journal of Multidisciplinary*, 3(1), 110-113.
8. Jones, K. (2021). India's Misguided War on Social Media. Retrieved from <https://www.worldpoliticsreview.com/articles/29695/for-freedom-of-speech-india-s-social-media-regulations-raise-concerns>
9. Kaplan, A. & Haenlein, M. (2010). Users of the World, Unite! The Challenges and Opportunities of Social Media. *Business Horizons*, 53, 59-68.

10. Raza, A. (2016). Freedom of Speech and Expression' as a Fundamental Right in India and the Test of Constitutional Regulations: The Constitutional Perspective. *Indian Bar Review*, 11(2), 87-110.
11. Roy, D. (2015). Social Media—The New Weapon in Indian Democracy. *International Journal of Interdisciplinary and Multidisciplinary Studies*, 2(7), 49–54.
12. Singh, R. (2019). The scope of free speech of social media. Retrieved from <http://lexhindustan.com/the-scope-of-free-speech-of-social-media/>
13. Tandon, R. (2011). Policing the Web: Free Speech under Attack. Retrieved from <http://lawyersupdate.co.in/LU/7/65.asp>
14. Tiwari, S. & Ghosh, G. (2018). Social Media and Freedom of Speech and Expression: Challenges before the Indian law. Retrieved from <https://www.researchgate.net/publication/328476554>
15. Yasmeen, A. & Alastair, S. (2021). Restrictions on internet free speech are getting tighter all over the world. Retrieved from <http://www.businessinsider.com/r-proposals-to-curb-online-speech-viewed-as-threat-to-open-internet-2016-6?IR=T>