

FREEDOM OF SPEECH AND EXPRESSION IN INDIA

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ABSTRACT

Freedom of speech and expression is guaranteed as a fundamental right to the citizens of India. Diversity in India is based on religion, caste, languages etc needs this freedom of speech and expression to express their views, opinions, feelings to each other which will increase unity. India is the world's largest democracy and to maintain democratic values this freedom is necessary. People through the preamble of the constitution declared themselves the liberty of thought and expression. Article 19(1) (a) guarantee freedom of speech and expression with the restrictions under Article 19(2) of the constitution. There are various aspects of freedom of speech and expression like the right to know, freedom of commercial speech, right to broadcast etc. Here, the author will discuss freedom of the press and hate speech in India. Press is one of the pillars of democracy and so its freedom is necessary, impact and restrictions on this freedom will be discussed by the author. Hate speech means the thoughts, views, opinions delivered by various politicians, legislators and other prominent or order public which creates distress or conflicts in society. Hate speech is now becoming a great weapon to spread conflicts between people who belong to a different association, religion and beliefs. Social media are emerging as a platform to deliver hate speech. Government should implement strict laws regarding hate speech in India otherwise it will hinder democratic values. Freedom of speech and expression is also recognised by various International conventions as a basic human right. In a complex society like India freedom of speech and expression is like a tool to connect society and maintain unity.

INTRODUCTION

Man is a social animal and through speech and expression conveys his thoughts, feelings, sentiments etc in society to each other. The right to speech and expression is one of the basic features of a democratic country where people have the right to freely express their thoughts and feelings. India by the constitution provided its citizens with the right to Freedom of Speech and expression as a fundamental right. The people of Indian declared in the Preamble of the constitution, where they resolve to secure all citizens' liberty of thought and expression. Article 19(1) (a) says that “all citizens shall have the right to Freedom of speech

and expression". Freedom of Speech and expression means the right to express one's own opinions by writing, words of mouth, pictures, painting or any other mode. Freedom of speech and expression includes not only expressing one's ideas or opinions but also includes the right to propagate or publish the opinions or ideas of other people or a community. This right of Freedom of speech and expression is granted only to the citizens of India and not to an alien or a foreigner. A company or corporation also cannot claim this right as they are not a legal or natural person.

The freedom of speech and expression is exercisable not only in India but also outside as there is no geographical limit to this freedom. In *Maneka Gandhi v Union of India*¹, the question was raised that how the fundamental right could be intended to operate outside India as the state cannot protect this right outside its territory; the Supreme Court rejected this contention and held that the right to freedom of speech and expression has no geographical limitations. This right provides freedom to express his opinion or ideas not only in India but also outside.

FREEDOM OF PRESS

Press is one of the pillars of democracy and hence plays an important role in the proper functioning of democracy. Freedom of the press is not expressly mentioned in the constitution but it is implicit in the right to Freedom of speech and expression. Democracy can only prevail in any country when there is freedom of the press to express the opinion of the public in the wider picture. The press always expresses the opinions of the public about the government or any policy or working of government, on the other hand, the press is also used to convey the ideas or policies of government to the public. The expression of freedom of the press means protection from the interference of any authority in the name of public interest in the content as it will hinder the democratic belief. The freedom of the press is the heart of political and social interactions.

In today's society where there are various political and social issues, the press plays an important role in connecting the people from each other. It helps to know what is happening in society and measures taken by the government to tackle these problems. Press presents the reality of any matter or issues in front of the society and helps them to choose better for

¹ AIR 1978 SC 597

themselves, thus enriching the democratic values. In the era of this pandemic of covid-19, when there was lockdown all over India, the press help people to tackle the situation by giving information regarding the situation and measures taken by the government in battling the pandemic. The press always plays an important role in every situation from the freedom struggle to these pandemic days by connecting the society.

Freedom of the press cannot be restrained by the government or any other authority except by the constitution or bye-laws. But nowadays, we can see some external interference in the press, like it is used by the government to propagate its political agenda. When government implement any law or scheme or agenda, the press is used by the government to express only the positive side and not the real one. According to the recent report of the World Press, Freedom Index India ranked 142 among 180 countries. The Indian press is considered bad in various publications. As we know press or media is a pillar of democracy so its freedom from any influence is necessary, whether it is from the government or any other body. Article 19(2) of the Indian constitution imposes some limitations on the freedom of the press.

HATE SPEECH IN INDIA

Hate speech is not defined in Indian laws, but free and responsible speech is guaranteed under the constitution as a fundamental right to the public. Laws also ensure that the liberty of free speech should not be against the principles of a diverse country like India. Hate speech is a statement delivered by various politicians, legislators, writers and so on in their speech and writing. In a country like India where people belong to different castes, classes, religions, languages etc the hate speech poses a great challenge. Hate speech has always been a debate in India, especially on social media's platforms. These hate speeches are in debate mostly during the time of elections or the judgments of landmark cases. Candidates during the elections generally made hate speech against other political parties and their candidates. Hate speech is an expression that causes distress and offends one group of people toward another based on their beliefs and associations. The purpose of free speech is to strengthen democracy but when this freedom of speech creates chaos and distress it harms democracy. In *Pravasi Bhalai Sangathan v Union of India*², the Supreme Court on the prayer that the state should take action against those who make hate speech held that the court cannot go

² AIR 2014 SC 1591

beyond the existing laws to penalise hate speech. The court held that the implementation of existing laws could solve the problems of hate speech to a greater extent.

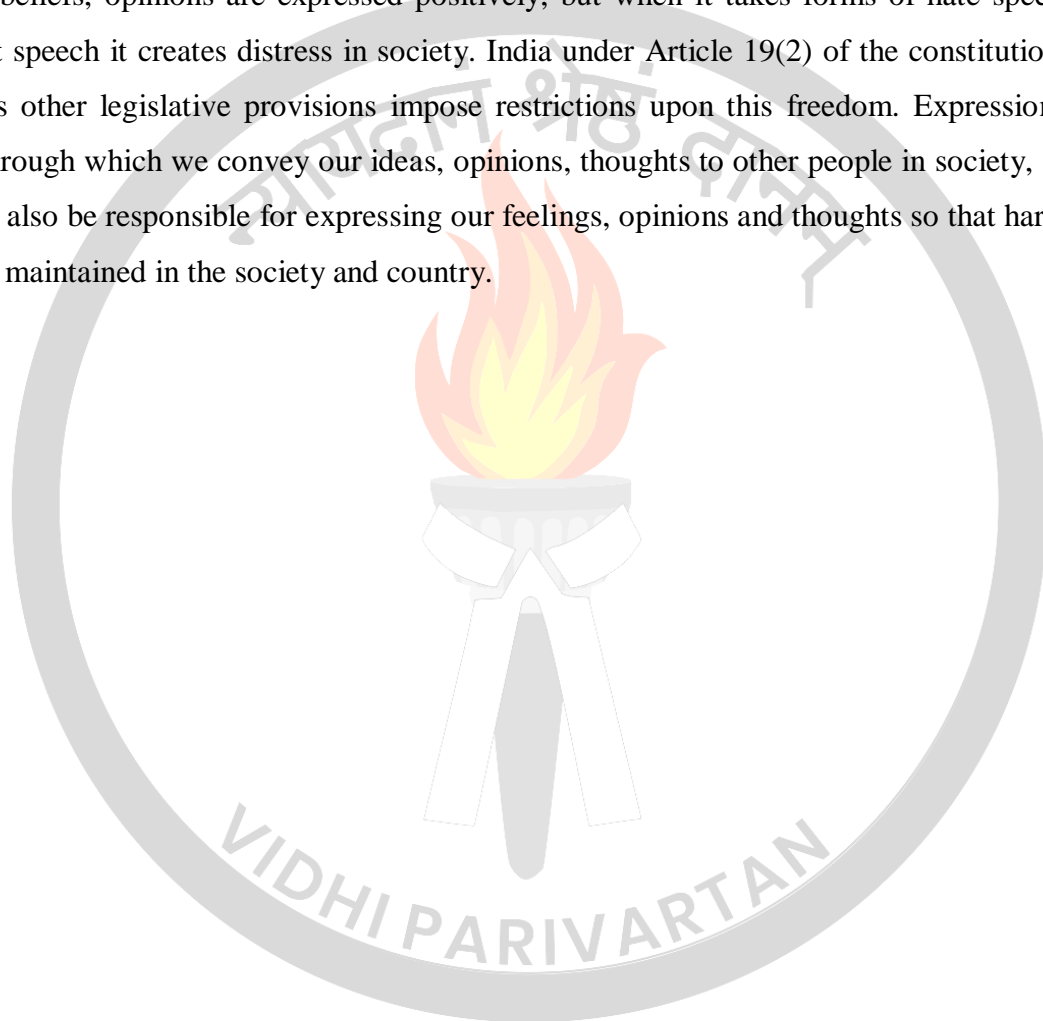
In this age social media which are created with the purpose to connect people around the world are being used as a medium to create distress or conflict through hate speech. Whenever any debatable topic whether it is social, political or legal arises in-country people use social media to spread hate among society. Some social media platforms made rules to control these activities like Instagram launches features in the app to tackle hate speech, Facebook made changes for reducing hate speech in the news feed contents. The election commission of India made rules of conduct for political parties that no party or candidate shall include in any activities which can create conflict, hatred, differences or cause tension between different religions, communities, caste, creed or associations, in other words, no hate speech. Hate speech given by candidates participating in the election can influence election results which ultimately hinder democratic principles. In today's era hate speech are becoming a weapon that is used to create conflict and hatred among people at a mass level. Social media is spreading hate speech among society at a very vast rate. The Indian government have taken measures to stop hate speech on social media like the government can order to suspend the account of the person who made hate speech on his post within twenty-four hours and can ask for the details of the person to take action against him. Recently in the year, 2021 the government made new rules to restrict hate speech or fake messages on various social media platforms.

CONCLUSION

Freedom of speech and expression in the present complex society provide freedom to the people to express their feelings and expression in the society and help them to connect. It is one of the fundamental rights given under the constitution, and we can approach the court in case of a violation. Article 19 (1) (a) talks about freedom of speech and expression and have certain restrictions mentioned in Article 19 (2) in the constitution. Democracy is a form of government that is of the people, by the people and for the people and people can only participate in this form of government when they have the right to freely express their opinion and feelings. India is a diverse country where people belong to a different religion, caste, class; languages etc, freedom of speech and expression become more important in this diversity. This freedom of speech and expression is guaranteed and proposed under various International conventions. Different countries are recognizing this right in their country to

make better administration. Various prominent writer or thinkers like John Milton talked about the freedom of speech and expression that give people the liberty to express and utter their feelings above any other liberty.

But the right to freedom of speech and expression need restrictions at the same time because it can create conflicts in society. Freedom of speech and expression is beneficial when the ideas, beliefs, opinions are expressed positively, but when it takes forms of hate speech or violent speech it creates distress in society. India under Article 19(2) of the constitution and various other legislative provisions impose restrictions upon this freedom. Expression is a way through which we convey our ideas, opinions, thoughts to other people in society, so we should also be responsible for expressing our feelings, opinions and thoughts so that harmony can be maintained in the society and country.



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