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FREEDOM OF SPEECH AND SOCIAL NETWORKING SITES: RIGHTS, RESTRICTIONS AND FUTURE PROSPECTS

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I. ABSTRACT

The use of social media sites like Facebook, WhatsApp, Twitter, Instagram, YouTube, and others to read and share news and information has increased due to advancements in technology. A social network can be created in the virtual world using a variety of online communication channels using social media, which is a mobile and web-based technology. People from different parts of the country can access information posted by users from other parts of the world because of social media technology. Freedom of speech is the unrestricted ability of any person to express ideas and seek, receive, and give information through any means, regardless of boundaries. Every citizen in a democratic nation like India has the freedom to use social media to express themselves and spread information. We can upload something to social media, uplink it, comment on it, like it, share it, etc. because we have this freedom. The freedom of expression offered by these social media platforms is complete or unrestricted, but how are we as internet users using it?

The paper examines how the government can balance censorship or regulation of social networking sites and peoples' freedom of speech and expression. Lastly, the article argues for the importance of changing India's legal framework governing speech restriction on social networking sites. It proposes that the government pass a more balanced hate speech law that balances censorship and citizen rights by reducing the scope of illegal content and providing explicit instructions. Furthermore, it calls for a proactive approach to notification and recording through case management to ensure a democratic system in this area as well.

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II. KEYWORDS

Freedom of speech, social networking sites, hate speech, misinformation, online censorship.

III. INTRODUCTION

There are several valid differences of opinion about social media and how it affects society. The growth of gruesome content, from child abuse to revenge porn, is one of the more concerning aspects of how social media has changed public discourse². Because of this, it's feasible that social media might go from being platforms where any voice can reach an unlimited audience to ones where only a few strong voices can reach a lot of people if these disagreements are used as an excuse to limit freedom of expression.³

For those who wanted to express themselves freely without worrying about being shot at, India was, in large part, a safe haven. Even though Indians have much better personal circumstances than their counterparts in other countries, the image no longer has the same calming and captivating impact on them. For the sake of this debate, we'll also pay particular attention to how so-called cyber regulations, such as Section 66A of the 2000 Information Technology Act, are used to censor speech and limit the freedom of expression on social media sites like Facebook.⁴ It can be difficult to disabuse people of their prejudices, especially when those prejudices have developed into cultural norms that are essential to a society's smooth operation, and this is true of the malapropism used by netizens on occasion. There needs to be a clear distinction made because the limited information available from the demanding sources might occasionally be prohibitive.

IV. IMPACT OF SOCIAL NETWORKING SITES

² Bozzola, Elena, et al. "The Use of Social Media in Children and Adolescents: Scoping Review on the Potential Risks." 19 *International Journal of Environmental Research and Public Health* 16 (2022)

³ The scope of free speech of social media, available at: <http://lexhindustan.com/the-scope-of-free-speech-of-social-media/> (last visited on April 20, 2023)

⁴ India's Misguided War on Social Media, available at: <https://www.worldpoliticsreview.com/for-freedom-of-speech-india-s-social-media-regulations-raise-concerns/> (last visited on April 20, 2023)

Individuals can now use their right to freedom of expression and engage in information and idea exchange through the Internet and social networking sites. Over the past year or two, there has been a noticeable increase in the number of people calling for justice, equality, change, the accountability of the powerful, and respect for human rights. By allowing people to communicate and share information instantaneously and by fostering a sense of solidarity, social networking sites and the internet have frequently played a crucial role in such movements. In the drastically changing media landscape, where the internet and mobile communication take front stage, the United Nations Committee on Human Rights has also attempted to put freedom of opinion and expression into practise⁵. The Committee said that the States should take every necessary step to promote the autonomy of these new media and also enable access to them, describing new media as a worldwide network for exchanging opinions and thoughts that does not necessarily depend on the traditional mass media⁶. Additionally, Article 19(2) of the ICCPR⁷ and Article 19 of the UDHR⁸ both guarantee freedom of speech and expression, including on the internet and in social networking sites. As can be seen, the Indian Constitution and other international laws recognise freedom of speech as well as expression as a basic right, regardless of the media through which it is expressed. And as more people are using social networking sites and the internet to exercise this right, access to these platforms has also been acknowledged as an essential human right.

It is undeniable that using social media to express one's freedom of speech and expression is a very effective strategy. However, it is also being used more frequently for illicit purposes, which has strengthened government efforts to restrict social media. While social media misuse necessitates legal filtering, there are real concerns that censorship would inevitably lead to the infringement of people's civil rights.

V. BALANCING FREE SPEECH AND HATE SPEECH

⁵ Freedom of expression and new media, available at: <https://www.ohchr.org/en/stories/2011/08/freedom-expression-and-new-media> (last visited on August 9, 2023)

⁶ *Ibid.*

⁷ The International Covenant on Civil and Political Rights, art. 19(2).

⁸ The Universal Declaration of Human Rights, art. 19.

Today, it has been discovered that the laws governing hate speech are difficult to follow. Due to its conflict with article 19 (freedom of speech and expression), the anti-hate speech statute presents difficulties. In actuality, there is a narrow line drawn by the law between regulation and restriction.

Despite brand-new, stringent rules, there are more and more instances of hate speech every day. In order to stop this, the **Law Commission of India** proposed stricter rules in 2017 in its **267th report**⁹.

The Commission urges the government to enforce existing laws against hate crimes and cautions the government that hate speech is not protected speech. The report makes the argument that provocative hate speech has a terrible impact on people's lives, health, safety, communities, and societal advancement. If left unattended it can negatively affect people's rights and quality of life.

Recommendations made by Law Commission of India in 2017 are as follows¹⁰:

- A new law was written by the commission. By adding additional Sections, the Criminal Law (Amendment) Bill, 2017, strengthens democracy against hate speech.
- The law defined hate speech as any word or phrase used to encourage violence, including those that are written, uttered, displayed, or otherwise brought to a person's attention or awareness.
- Its Section 153C punishes inciting to hatred, and its Section 505A creates a new specific criminal offense for "causing fear, alarm, or provocation of violence in certain cases."
- A violation of Section 153C is punishable by two years in prison, a fine of Rs. 5,000, or both. A violation of Section 505A carries a sentence of one year in prison, a fine of Rs. 5,000, or both.

⁹ Law Commission of India, "267th Report on Hate Speech" (March, 2017)

¹⁰ *Ibid.*

This has resulted in a scenario where there are currently a lot of regulations in place, as well as an overcriminalization of speech-related offences.

It is crucial to alter the current system's framework and begin dealing with hate speech in accordance with the law in order to remove it. Here, we address legality, framework, and areas where we fall short.

The transmission of hate speech on social media is reportedly occurring on a large scale, and as of yet, no clear rules have been created to address this issue, according to Delhi police¹¹. A lawsuit¹² was submitted calling for severe rules against hate speech in order to keep the level of fear and resentment among the populace of the country.

Specific rules have been put in place by social media networks to control hate speech. Regarding YouTube, it is stated plainly that any video that offends someone's reputation due to their age, gender, nationality, disability, ethnicity, race, or religion, or that is based on the content of another, will be taken down on the grounds that it promotes hatred. The higher ups at YouTube recently banned a vlogger's video for encouraging animosity towards other artists. This is not the first time that YouTube has banned a video that offends someone by inciting hatred in the community.

Facebook, a platform that is extremely popular among young people, has policies in place to combat hate speech. According to these policies, any content that spreads hatred and whose motivations aren't apparent will be removed.¹³

Social media relies on a specific kind of team that consists of content moderators, user reporting, and artificial intelligence. Each of them attempts to make sure that their rules about what is appropriate are followed.

Regarding the hostility that has been growing on social media, new guidelines have been established. The government can now direct the authorities to remove the post and all user information within 24 hours so that legal action can be taken against the

¹¹ Hate speech continues on social media, India, available at: <https://theprint.in/judiciary/hate-speech-continues-on-social-media-ex-rss-ideologue-moves-hc-against-facebook-twitter/379017/> (last visited on April 21, 2023)

¹² K.N. Govindacharya v. Union of India, 2013 SCC OnLine Del 6563

¹³ Facebook Community Standards, available at: <https://transparency.fb.com/en-gb/policies/community-standards/> (last visited on April 21, 2023)

person. It is difficult to put an end to hateful speech when it relates to leaders who either intentionally or unintentionally disseminate hatred through their speeches, which leads to riots and harm to humanity, despite the fact that social media platforms like Facebook, YouTube, and Twitter, among others, have taken adequate steps to prevent the hatred by providing certain guidelines.

Due to its intellectual nature, hate speech is a topic of discussion. It is particularly challenging to distinguish between hate speech and healthy speech because both are regarded as protected speech under article 19 of the constitution. Because hateful language can be used in various ways, it is challenging to criminalise it in accordance with IPC rules and regulations. As a result, it is challenging to prove hate speech accusations in court.

VI. REGULATIONS AND CENSORSHIP ON SOCIAL MEDIA

The freedom that social media offers to its users is the main issue that it raises. Freedom by alone is not a problem; rather, the issue arises when users abuse it. A user of social media has the freedom to share anything on any of the platforms without thinking about the implications of doing so. The author of the post may not be aware of the potential harm it could do to other people's feelings. Depending on the topic, it can offend a particular group of people.

Section 66A of the Information Technology Act was declared illegal by the Supreme Court in the case of *Shreya Singhal v. Union of India*¹⁴. The Supreme Court's decision to strike down Section 66A of the Information Technology Act (IT Act) as unconstitutional shows us that, with the right kind of conviction, it is feasible to recognise the value of free speech as a stand-alone principle within our wider constitutional framework. This should give us hope that we can now successfully combat the toxic censorship culture that permeates the Indian state.¹⁵

¹⁴ (2013) 12 SCC 73

¹⁵ The judgment that silenced Section 66A, India, available at: <https://www.thehindu.com/opinion/lead/the-judgment-that-silenced-section-66a/article7032656.ece> (last visited on April 22, 2023)

Shreya Singhal's case is one of the finest examples of political pressure on censorship in India because the police's arrest was motivated by political pressure. As a result, the Supreme Court stated in its decision to overturn Section 66A that the law has the potential to censor all forms of communication over the Internet because it makes no differentiation between "mere talk or advocacy of a specific viewpoint, which may be irritating or inconvenient or extremely offensive to some. *Common Cause (a registered society) v. UOI*¹⁶ and *Rajeev Chandrashekhar v. UOI*¹⁷ are two more lawsuits that called into question the legality of section 66A.

A. SECTION 66A STRUCK DOWN BUT WHAT ABOUT 69A?

Content can be blocked by the government under Section 69A if it poses a threat to India's security, sovereignty, integrity, or defence. Practise shows that guidelines provided by the government need to be accurate (leading to the blocking of entire domains and websites), have appropriate oversight and accountability procedures, etc.

- In **response to an RTI** in 2011, the Centre for Internet Society stated that the government of India has blacklisted eleven websites using the 69 B, which had recently been amended.¹⁸
- In the *Jadavpur University Case*¹⁹, Ambikesh Mahapatra of the university and Subrata Sengupta were detained on April 12 at midnight by East Jadavpur Police for sending mocking emails to others who were members of the New Garia Cooperative Housing Society²⁰ that featured the chief minister and union minister Mukul Roy in a scene from Satyajit Ray's film "Sonar Kella" A Jadavpur University lecturer and his neighbour were harassed and arrested three years ago for disseminating a caricature that made fun of state leader

¹⁶ *Common Cause (A Regd. Society) vs. Union of India and Anr.*, AIR 2018 SC 1665

¹⁷ *Rajeev Chandrashekhar V. Union Of India* [W.P.(C) No. 23 Of 2013]

¹⁸ DIT's Response to RTI on Website Blocking, India, available at: <https://cis-india.org/internet-governance/blog/rti-response-dit-blocking> (last visited on April 23, 2023)

¹⁹ *Ambikesh Mahapatra v. State of West Bengal*, W.P. No. 33241 (W) of 2013

²⁰ Cartoon row: Rights panel wants Rs 50K compensation for Jadavpur University, The Times of India, available at: <https://timesofindia.indiatimes.com/city/kolkata/Cartoon-row-Rights-panel-wants-Rs-50K-compensation-for-Jadavpur-University-professor/articleshow/15484693.cms> (last visited on April 24, 2023)

Mamata Banerjee, and the Calcutta High Court ordered the West Bengal government to pay them Re 50,000.²¹

- **The 2017 Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules**, created under the antiquated Telegraph Act of 1885, allow the federal and state governments the authority to halt internet access without regard for accountability or transparency.²²
- **The 2017 India Freedom Report**, released in May by media watchdog The Hoot, noted "an overall impression of reducing liberty not experienced in recent years" and listed 54 reported attacks on journalists, at least three instances of television news channels being banned, 45 internet shutdowns, and 45 sedition cases against both individuals and organisations between January 2016 and April 2017.²³

These types of cases demonstrate unequivocally that, despite the Constitution's guarantee of the right to freedom of speech and expression, if you write, draw, or express something on social media or on any other public platform that is offensive to a wealthy and powerful political organisation or person, you will be put in jail. Although we thought of ourselves to be a democratic nation, that is not how things actually are. Politicians and political parties are limiting democracy's essential core through censorship while hiding behind the cover of law and order. We believe that laws and regulations are vital; otherwise, India would devolve into anarchy. However, they shouldn't be influenced by political or personal interests. There must be a rule of law.

B. OTHER PROVISIONS IMPOSING RESTRICTIONS ON CERTAIN CONTENTS:

²¹ Cartoon row: HC asks Bengal to pay compensation to Jadavpur professor, Hindustan Times, India, *available at*: <https://www.hindustantimes.com/india/cartoon-row-hc-asks-bengal-to-pay-compensation-to-jadavpur-professor/story-uEQUOFS5sanT2KoqG0VvwO.html> (last visited on April 24, 2023)

²² India's internet shutdown rules are encouraging online censorship, SCROLL.IN, *available at*: <https://scroll.in/article/885573/indias-internet-shutdown-rules-are-encouraging-online-censorship> (last visited on April 24, 2023)

²³ Is free speech under threat in Modi's India?, Al-Jazeera, *available at*: <https://www.aljazeera.com/features/2017/8/3/is-free-speech-under-threat-in-modis-india> (last visited on April 24, 2023)

Apart from the IT Act, 2000, there are other provisions which also imposes restrictions/censorship on certain content or publications.

- **Code of Criminal Procedure (Cr.P.C.):** Section 95 of the Code of Criminal Procedure (Cr.P.C.) permits confiscation of specific publications and content. If a newspaper, book, or other printed material—regardless of where it was published—contains any information that the State Government deems detrimental to the state, it is punishable by an official notification issued by the State Government under this section. A magistrate might thereafter give warrants to look for "objectionable" publications.

For instance, a newspaper published, contains abusive remarks concerning obligation of a member of dalit community and such assertion causes disharmony or feelings of enmity or hatred or ill-will between members and other persons in the society, shall be punished with imprisonment which may extend to three years, or with fine, or with both²⁴. It can be enforced as the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or other document may be or may be reasonably suspected to be.

- **CBFC:** A statutory organisation operating under the Cinematography Act of 1952 is the Central Bureau of Film Certification (CBFC). It controls how publicly available movies are to be interpreted. The broadcasters are required to abide by the rules under the "Programme Code and Advertisement Code" to follow the certification that is supplied by the CBFC, which uses a system of pre-certification of films²⁵. It allows for categorisation into the four following

²⁴ The Indian Penal Code, 1860, s. 153B

²⁵ About Us, Central Board of Film Certification, *available at*: <https://www.cbfcindia.gov.in/cbfcAdmin/about.php> (last visited on August 9, 2023)

groups, i.e., a category of the unlimited exhibition is denoted by the prefix "U." Except for youngsters under the age of 12, "UA" denotes a category of unrestricted exhibition. "A" denotes the type of display that is only allowed for adults. The suffix "S" designates a group of movies that are only available to a particular demographic²⁶.

- **Press Council of India:** It was created by the Press Council Act of 1978 and serves as a statutory and quasi-judicial authority. It controls what enters the media domain and serves as the press's self-regulatory organisation.²⁷ This organisation emphasises the necessity for media professionals and journalists to practise self-regulation and serves as a watchdog on media content, in general, to determine whether it violates media ethics and the needs of the public²⁸.
- **Social Media Platforms and the New IT Rules, 2021²⁹:** Because social networking sites have grown so quickly and because they were not previously explicitly monitored or under the direct supervision of any government body, censorship of them has become an increasingly important issue in India. Currently, social media usage is governed by the Information and Technology Act, 2000, and in particular, Sections 67A, 67B, 67C, and 69A contain the specific regulatory provisions.
- **IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021³⁰:** These were preceded by changes made to the "Allocation of Business Rules" under the IT Act, 2000, which brought digital and online media, which includes OTT (Over The Top) platforms such as Amazon, Netflix, and Hotstar, under the jurisdiction of the Ministry of Information & Broadcasting (I&B),

²⁶ Abhirup Bhadra, "Central Board Of Film Certification, Controversy's

And Indian Cinema" 7 *International Journal of Novel Research and Development* 1606 (2022)

²⁷ Press Council of India, available at: <https://www.presscouncil.nic.in/#> (last visited on April 24, 2023)

²⁸ Complaints U/S 13, Press Council of India, <https://www.presscouncil.nic.in/ComplaintsUS13Procedure.aspx> (last visited on August 9, 2023)

²⁹ New IT Rules and Social Media, Drishti IAS, available at: <https://www.drishtiiias.com/daily-updates/daily-news-editorials/new-it-rules-and-social-media> (last visited on April 24, 2023)

³⁰ MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY NOTIFICATION, New Delhi - G.S.R. 139(E), February 25, 2021 (also available at: <https://mib.gov.in/sites/default/files/IT%28Intermediary%20Guidelines%20and%20Digital%20Media%20Ethics%20Code%29%20Rules%2C%202021%20English.pdf>)

Government of India. These changes also covered news, current affairs content, audiovisual programming, and digital and online media.

New compliance and redressal methods are included in the IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021, which are put in place following this modification. These processes apply to social media, OTT, digital news, and even messaging apps (like WhatsApp and Viber).

VII. CONTROVERSIES CONCERNING ONLINE FREEDOM OF SPEECH AND EXPRESSION

Every other day, there is a media flurry about the political and administrative shortcomings in India, where disputes are like a family affair. However, rather than producing any beneficial effects, the majority of these conflicts only serve to increase pointless sensitisation. The right to free speech and expression online has been a topic of discussion and controversy before, but it didn't receive the attention it deserved until a few cases involved prominent individuals. Among the significant controversies that had an effect were:

A. TVF MEDIA CONTROVERSY REGARDING VULGAR AND OBSCENE MATERIAL IN WEB SERIES³¹:

The complainant alleged that the aforementioned web series contained filthy and obscene content and showed women in indecent forms. The petitioner was also the owner/manager of the well-known YouTube channel known as "Timeliners," where inappropriate content had been broadcasted and released for consumption by the general public without any indication that the content was intended for adult audiences only³². TVF argued that they had a fundamental right to freedom of speech and expression and that if the complainant did not like the content, he or she may not view it, which might violate Article 19(1)(a) of the Indian Constitution³³. The court ruled that it is important to take seriously instances of vulgar language use, including

³¹ TVF Media Labs (P) Ltd. v. State (NCT of Delhi), 2023 SCC OnLine Del 1382

³² Id. at Para 4

³³ Id. at Para 40

the use of curse words and offensive language, in areas of public discourse and on social media sites that are accessible to young children. Students may face discipline for using or speaking in obscene terms in places like schools, offices, etc., but the government must also control profanity that is disseminated in a way that could be considered indecent speech³⁴.

In addition to being a moral problem, the use of profanity requires societal solutions. However, when the content is shared via social media, the sheer substantial influence of electronic media and its ability to reach individuals of all ages will undoubtedly draw the focus of the court, law enforcement, and legislative authorities who will then attempt to regulate it. One cannot support the uncontrolled, unbridled freedom of vulgar, indecent, and indecent speech and expression via web series without classifying the same.

B. POLITICAL CARTOONS: SEDITION CHARGES LED TO ARREST OF ANTI-CORRUPTION CARTOONIST ASEEM TRIVEDI

Free speech activist Aseem Trivedi was detained by Mumbai police in 2011 in a case involving the censoring of online information. After receiving a report against him from Mumbai-based NGO legal advisor Amit Katarnayea, the arrest was made. He allegedly posted cartoons mocking the Parliament and the corruption in the government apparatus to both his Facebook page and website. A short while afterwards, the imitation spread quickly on additional social networking sites. The national anthem was shown with wolves in place of lions with the tagline "*Wolfs with the Sign of Danger*" and *Bhrashtameva Jayate* in place of *Satyameva Jayate*³⁵ in Trivedi's cartoons, according to folklore. The parliament was also allegedly portrayed as a gigantic commode (national toilet). The insulting artwork allegedly painted a negative picture of the Parliament and the National Emblem. According to the complainant, offensive and derogatory cartoons were also posted on social networking sites,

³⁴ Id. at Para 30

³⁵ Anti-corruption cartoonist Aseem Trivedi arrested on sedition charges, India Today, *available at*: <https://www.indiatoday.in/india/story/anti-corruption-cartoonist-aseem-trivedi-arrested-on-sedition-charges-115575-2012-09-08> (last visited on April 25, 2023)

hurting national sentiments. According to Sections 124-A³⁶ of the Penal Code from 1860, Section 66(A) of the IT Act³⁷, and Section 2 of the Prevention of Insults to National Honour Act³⁸, Aseem Trivedi was charged with sedition. People protested heavily all over the country in the aftermath, and the Bombay High Court ultimately ruled that his cartoons did not incite violence but rather just represented displeasure at the government apparatus. Every citizen of the nation has the right to openly and harshly oppose the actions of the government, and sedition charges can only be brought against someone if they promote violence against the government.

C. AIB CONTROVERSY

The contentious "AIB Roast" video was removed from YouTube in another well-known instance of internet content restriction. Arjun Kapoor, Ranveer Singh, and Karan Johar performed at a roast comedy show put on by AIB in Mumbai. Only on YouTube, the show was posted and quickly became popular. As a result, it attracted widespread condemnation from many segments of society. According to several reports, the programme contained offensive language and swear words. Akhilesh Tiwari, the president of a Mumbai-based Brahman Ekta Seva Sanstha, lodged a complaint against a number of famous people. Allegations have been made that they made disrespectful and abusive comments to the crowd as well as to other performers and audience members.³⁹ The show's organisers were named in a FIR filed by Mumbai police. The FIR was filed in accordance with Section 15 of the Environment Protection Act, Sections 34, 294, 509, and 120-B of the Penal Code from 1860, and Sections 66-A and 67 of the Information Technology Act from 2000⁴⁰. A number of Christian organisations also complained that the programme made offensive jokes against Catholics and made numerous religious remarks. The AIB Team afterwards expressed their regret to the Christian community for any offence taken to their religious beliefs.

³⁶ Indian Penal Code, 1860, S. 124-A, (1860).

³⁷ The Information Technology Act, S. 66(A), (2000).

³⁸ Prevention Of Insults To Nation Honour Act, S. 2, (1971).

³⁹ Maharashtra govt to probe AIB comedy show after complaints over obscenity, Hindustan Times, *available at*: <https://www.hindustantimes.com/entertainment/maharashtra-govt-to-probe-aib-comedy-show-after-complaints-over-obscenity/story-mSjdlh0GOT328WLFpOaaM.html> (last visited on April 25, 2023)

⁴⁰ Johar gets interim relief in AIB Roast case, The Hindu, *available at*: <https://www.thehindu.com/news/national/other-states/Johar-gets-interim-relief-in-AIB-Roast-case/article60387368.ece> (last visited on April 25, 2023)

The show was based on a notion from the west, where similar shows are fairly common and accepted with good humour, and the content that was posted carried all the necessary warnings that it contained adult content. It was also stated that the action against the show demonstrated the irrational limitations placed on online freedom of speech and expression. Every citizen has the right to free expression in a democracy, as well as the ability to select from the wide range of internet content.

D. COMMENTS AGAINST BAL THACKERAY: GIRLS ARRESTED FOR QUESTIONING MUMBAI SHUTDOWN ON FACEBOOK.

The incident following the passing of Bal Thackeray on November 17, 2012, was a seminal case that raised the question of online free speech. Shaheen Dhada and Renu Srinivasan, two young girls from Palghar district, were detained by Mumbai police following the filing of an FIR by a Shiv Sena activist. One of the girls had questioned the city's complete shutdown for Shiv Sena leader Bal Thackeray's funeral on Facebook. "Thousands of people pass away every day," the Post reported. But the world continues to advance. only because one politician died naturally. Everyone becomes insane... Respect is not something that is handed out or even coerced. Mumbai closes down today out of fear, not out of respect."⁴¹ It was said that this message damaged peoples' religious feelings and that it was abusive. A second girl, Renu, who had only "liked" the post, was also detained⁴². According to reports, both of them were placed in judicial prison for 14 days after being charged with violating Sections 66(a) of the Information Technology Act of 2000 and 295(a) of the IPC (for allegedly hurting religious emotions). Later, it was discovered that the girls had been erroneously charged with violating Section 295(a) of the IPC because their posting only offended a specific set of people, not the religious emotions of the general public. Following the citywide protest and the filing of a court petition, the girls were eventually released after a few days. A specific set of people were offended by the

⁴¹ Section 66A: 21 petitions that changed the system, Indian Express, *available at*:

<https://indianexpress.com/article/india/india-others/sec-66a-21-individuals-who-changed-the-system-2325682/>
(last visited on April 25, 2023)

⁴² 21-year-old girl held for Facebook post questioning Mumbai's 'Bal Thackeray shutdown', The Times of India, *available at*:
http://timesofindia.indiatimes.com/articleshow/17276979.cms?utm_source=contentofinterest&utm_medium=txt&utm_campaign=cppst (last visited on April 25, 2023)

girl's post. Our right to free speech and expression is guaranteed by Article 19(a) of the Indian Constitution. As a safety valve, several limitations have been placed on this privilege in order to prevent people from abusing their freedom. But it has frequently been seen that these constraints have been abused while ostensibly protecting the public interest and preserving peace.

The Supreme Court struck down Section 66-A of the Information Technology Act of 2000, which had allowed for the arrest of numerous people for posting material that was "allegedly objectionable and offensive" on social media⁴³, in response to a number of past controversies as well as the ruling in the Bal Thackeray case already mentioned. Law student Shreya Singhal filed the first PIL on this subject, requesting that Section 66-A of the Act be amended.

It was claimed that Section 66-A violates the right to free speech and expression inexcusably, arbitrarily, and disproportionately and upsets the harmony between such rights and the legitimate limitations placed on such rights. Additionally, it was claimed that the Section's extraordinarily broad definitions enable for arbitrary interpretations by law enforcement organisations. The majority of the phrases used in the Section lack precise definitions and are ambiguous in nature. In its ruling, the Supreme Court stated that the freedom of speech and expression is a fundamental principle of the Constitution's utmost importance and that the Penal Code of 1860 does not criminalise merely causing inconvenience, annoyance, danger, or having a menacing character or being grossly offensive.

Despite the fact that Section 66-A has been repealed, there are still a number of significant sections in numerous laws that limit people's freedom of speech and have a similar impact.

This was seen in the most current instance involving an Indian novelist named Shobha De who had challenged the BJP Government's proposal to mandate the screening of

⁴³ SC strikes down 'draconian' Section 66A, *The Hindu*, available at: <https://www.thehindu.com/news/national/supreme-court-strikes-down-section-66-a-of-the-it-act-finds-it-unconstitutional/article61470585.ece> (last visited on April 26, 2023)

Marathi movies at multiplexes during prime time on Twitter⁴⁴. The Legislative Assembly, the Marathi language, and its cuisine were allegedly insulted by her. In the Maharashtra assembly, a Shiv Sena MLA requested an apology from Shobha De and submitted a breach of privilege motion against her⁴⁵. Therefore, it may also be concluded in light of such recent acts that the right to online freedom of speech and expression has not received its fair share of priority and is still bound by the constraints imposed by other laws.

VIII. CONCLUSION AND SUGGESTIONS

In conclusion, it is appropriate to state that the internet and social networking sites have significantly impacted the Indian democratic system. The democratic environment in India has been significantly impacted by the internet, from the expression of political opinions on social media platforms like Twitter to the use of social media by political parties for online campaigning. The only challenge is creating measures that prevent the platforms from being exploited negatively to disseminate disinformation or hatred. Here are a few suggestions in connection with that:

- **The need for a balanced law is urgent:** Censorship laws must strike a balance between upholding the impartiality of broadcasting as well as information dissemination on the one side and preserving the flexibility of art, expression, free speech, and artistic creativity on the other.
- There must be clear guidelines requiring authorities to prove a genuine threat to national security. National security must also be defined and there must be room for differing opinions. This is crucial when it comes to laws pertaining to terrorism since there is frequently little openness when it comes to the creation of new authorities.

⁴⁴ Shiv Sena upset over Shobhaa De's tweets, seeks action, *The Hindu*, available at: <https://www.thehindu.com/news/cities/mumbai/Shiv-Sena-moves-privilege-motion-against-Shobhaa-De-for-tweet-on-Marathi-movies/article60143263.ece> (last visited on April 26, 2023)

⁴⁵ Supreme Court stays privilege motion against columnist Shobhaa De, *The Indian Express*, available at: <https://indianexpress.com/article/india/india-others/sc-stays-privilege-motion-against-shobha-de/> (last visited on April 26, 2023)

- **Self-control is required to some extent:** Even if it is governed by the state, any system of control over information in a free society will require some level of self-regulation. Alternatives are unworkable and incompatible with ideologies.
- **Proactive Approach:** Case management should take a proactive approach to notification and documentation. The present system of accountability only functions when local and national media organisations' needs and those of a democratic society coincide, which cannot be ensured.

One may say that it is a two-edged sword after doing study on the freedom of speech and expression and social networking platforms. In order to preserve the right, which is a crucial element of any democracy, restrictions must be lifted in light of the growing usage and influence of social media and the internet. It is crucial that the liberalization be done with considerable caution, nevertheless, given the difficulties associated with granting such a privilege and a balanced approach should be taken in disputes of rights and censorship. The recent amendments in Information and Technology Act have resulted in some relaxation, but India still has a long way to go before its citizens may fully exercise their right to free speech and expression online. Many disputes relating to conflict between freedom of speech and social media restrictions which have been resolved by the courts with some suggestions should be taken into account by authorities and the recommendations given in the paper hereinabove.