

**VIRTUAL FREEDOM - REAL RESTRICTION: UNDER
ARTICLE 19(1)(a)**

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ABSTRACT

The research paper examines the balance between the fundamental right to freedom of speech and expression, under Article 19(1)(a) of the Constitution, and reasonable restrictions as laid down under Indian Law to safeguard public interests, decency, and national security. In an increasingly digital landscape, social media platforms have emerged as a dominant area for expression, spreading misinformation, fraudulent activities, and fake conspiracy theories. This study undertakes a comprehensive analysis of existing constitutional protections, alongside relevant cyber laws and e-commerce regulations. Furthermore, it incorporates real-world statistical data concerning violations under Article 19(1)(a) to critically evaluate current legal frameworks. That effectively preserves the right to free expression while simultaneously protecting vital societal interests in this digital era.

INTRODUCTION

Freedom of speech in India has long been a topic of debate among Indians, dating back to ancient times. During British rule, Indians were not given proper rights and opportunities to speak freely and express their minds. They were also discriminated against based on race, religion, caste, sex, etc.

Later, during the framing of the constitution, the framers included Article 19 (1) (a) as a gift to citizens of India, which describes freedom of speech and expression to enable citizens to express their opinion and to participate in the operation of democracy without any discrimination among people of India. As every coin has two sides framer of constitution were aware providing complete freedom of speech and expression can turn out as a threat to legal system of the country and to prevent the same, they have provided certain restriction to freedom of speech and expression i.e. Article 19(1)(a) under Article 19(2) of the Indian Constitution. It won't be wrong if I say that, during the journey from Ancient India to Modern India,

technological advancements have been at their peak. We are not only the citizens living in the real world but also the citizens of the virtual world. By this I mean users of multiple social media platforms, i.e., Instagram, Facebook, Twitter, YouTube, etc. These social media platforms were made for entertainment purposes, but nowadays they have become an important element of our daily routine, as it is also a source of income, education, and used to provide individuals' human points of view in various areas, for example, political, legal, medical, financial, psychological, etc. With the use of social media, people can express their opinions freely and at the speed of light. This can also create a possibility of spreading hate speech, misinformation, and stirring chaos in the country; hence, creating reasonable restrictions on such freedom should be a necessity for the legislative and judicial bodies.

LEGAL PROVISION

The provisions stated under various laws related to freedom of speech and expression and their restrictions are as follows

CONSTITUTION OF INDIA

Article 19 (1) (a) - It explains the right given to the citizens of India to express their opinion freely without any restriction¹.

Article 19 (2) - As explained in the above Article 19 (1) (a), Article 19 (2) provides the restriction on such freedom and contradicts the idea of complete freedom of speech and expression. Providing complete freedom in the expression of an individual's opinion can lead to disruption in the operation of the law in the country².

The reasonable restriction mentioned in Article 19 (2) to maintain the smooth governing of the country is as follows

Sovereignty and Integrity of India - It prohibits speech or action that undermines the National unity.

Security of State: Restricts any leak of information that can endanger the security of the country.

Relation with Foreign State: To avoid any speech by words (spoken or written) or action that can ruin the friendly relationship with other countries.

¹ Article 19 of Indian Constitution

² Article 19 (2) of Indian Constitution

Public order: To impose such laws and restrictions on certain rights to maintain peace in the country.

Decency or morality: Under decency and morality, there should be equal respect and treatment among the people, whether in the real or virtual world. Morality involves the content shared on social media being truthful and not harming others. This means it should not violate the sentiments of others.

Defamation - It refers to the false statement that damages someone's reputation, and it is mainly of two types -

1. Libel - Written

2. Slander - Oral

This type of defamation spread quickly through social media platforms.

INDIAN PENAL CODE

Under the Indian penal code, there are certain provision that restricts freedom of speech and expression on social media, they are as follows

Section 124A: When an individual utilizes social media to express or represent hatred or disaffection against the government through written or spoken words³.

In the landmark case Kedar Nath Singh V. State of Bihar, 1982 - the Supreme Court ruled that inciting violence or public disorder can be considered as Sedition, and it equally applies to virtual media.

Section 153A & 295A: According to the mentioned section, if a person, through written or spoken words creates enmity among a group of individuals on the grounds of religion, caste, creed, language etc, violates the Right to freedom of speech and expression granted to him under Article 19 (1) (a) of the Indian Constitution. In the virtual world, any content created by an individual on any social media platform that promotes hate speech, communal remarks, or any content that insults any religious belief of an individual or promotes violence is considered under this section, and section 295A, an individual is convicted of online hate speech for outrage religious sentiments.

Section 499: According to this section, if any individual makes any publication to harm

³ Section 124 A of IPC, 1860

anyone's reputation, they will be punished under this section, and it is known as defamation.

In the era of social media, any information or any opinion spreads quickly and it can damage anyone's reputation easily, allegations without proof or any false review can constitute defamation.

INFORMATION TECHNOLOGY ACT, 2000

In India, Cyber laws and E-commerce law are governed by the Information Technology Act, 2000. The main objective of this act is to provide legal provisions related to electronic transactions while addressing laws for cyber crimes. Few sections under this Act can come under the purview of social media, concerning restrictions to freedom of speech and expression are as follows:-

Section 69A- This section states that if any information circulated in virtual space can threaten the national security of the following - or sovereignty, or public order, then the central government has the power to block public access to that online information⁴.

Section 66 A- This Section is known as the most controversial section in the IT Act 2000. Under section 66 A If anyone sends any information through a computer or any communication device which is grossly offensive, false, dangerous, insulting, injury, hateful etc by which another person feels annoyed or inconvenienced is punishable with 3 years of imprisonment or fine.

Section 66 A was criticised and was in debate for the non-clarity of the terms Annoyance, Inconvenience, and grossly offensive⁵.

In the Landmark case of Shreya Singhal v. Union of India (2015) Section 66 A was struck down and declared as unconstitutional as it violates Freedom of Speech and Expression under Article 19 1 (a) of the Indian Constitution, and it also failed the test of reasonable restriction under Article 19 (2) of the Indian Constitution.

INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE RULE, 2021

This Code aims to prevent misuse of social media platforms from harmful content or false information circulated on social platforms. If any such kind of false information or harmful

⁴ Section 69A of The Information Technology Act, 2000

⁵ Section 66A in The Information Technology Act, 2000

content is circulated, then it is the duty of appointed compliance officers under this act to strike down the content from social platforms within 24 hours of the complaint.

FREEDOM OF SPEECH UNDER ARTICLE 19 1 (A) AND ITS APPLICATION TO SOCIAL MEDIA PLATFORMS

Social Media is a creation of IT technology. The first social media platform was Six Degrees, which was launched in 1997. Later, other social media platforms like Facebook, YouTube, Twitter, Instagram, etc came into existence. These platforms were created to communicate with other human beings in E-space. With time and the advancement of technology, major companies in all fields were moving from the net to the internet, and after 2019, COVID-19, the use of social media and other e-commerce platforms is at its peak. These media are nothing but a source of entertainment, education, work, promotions, and also here people express their views on topics and provide an exchange of information freely of their interest.

The major types of social media are as follows: -

Social Media Networks: - under these platforms, like Facebook, Instagram, Snapchat, TikTok, and YouTube covers where individuals can share their videos and photos.

Discussion Forums: - Under these platforms, like Reddit, Quora, and Digg is covered in which the conversations are related to specific topics.

Blogging and Publishing: - In these kinds of platforms, people share their writing works in the form of articles or Blogs.

Messaging Apps: - It contains platforms like WhatsApp, Telegram etc, where communication is made between individual to individuals as a form of chats.

As social media is a kind of virtual World for the citizens where they are exchanging their views and also exercising their freedom freely, it has to be governed by law so that no one can violate any other person's right in Rem.

Under Indian Constitution Article 19 1 (a) provides freedom of speech and expression to all the citizens of the country to express their view with certain restriction provided in Article 19 (2) of the Constitution and this freedom and restriction also applies to Social Media has it is a platform where individuals post, speak their views on various topics like political, social, legal etc. and if any misleading statement or any ambiguous speech comes and spread on internet it can create serious tension in the country and world so to maintain the balance of freedom and

restriction in the country Article 19 (1) a freedom of speech and expression is limited to the extent it doesn't effort the Public order, morality, or national security in any manner.

LEGAL AND SOCIAL GROUNDS FOR LIMITING SPEECH ON SOCIAL MEDIA

Social media is not limited to one country; it is a worldwide network where all the citizens of different countries are registered as users. That means different types of content, information, and culture will meet in social platforms, and the information and content will spread quickly in space.

Also, people use social media as a source of getting popular by making content in different fields and provide updates in their own way on any incident occurring in the country or world. Features like post promotion, advertisements, and sponsored help in getting views and reach. It also helps with getting account reach, which helps to spread the content to a large audience.

So, it won't be wrong to say that for getting reach and views many times people just post or repost the content without checking the authenticity of the content whether the news or information is correct or not and by doing this it promotes false information and misleading conduct by the user of social media and the consequences of this directly impact the mental health, privacy and wellbeing of the citizens or individuals.

There are some grounds on which freedom of speech and expression is limited in the virtual world are as follows: -

Cyberbullying and Harassment- In social media, cyberbullying is one of the most important aspects for which restrictions are imposed. When any person shows aggressive behavior or harms any other person or threats by the ways of Hateful Comments, Trolling, Body Shaming, Spreading False Rumors, Revenge Porn or Image bases abuse, threatening in Dm's or posts, Impersonation of fake accounts etc. to prevent these kind social behavior social media censor comes into play which monitor such kind of behavior and false representation in virtual world.

There are certain legal provisions that also protect the victim from cyberbullying and harassment, i.e., under the IT Act 2000, Section 67 provides punishment for online obscene material, Section 66E provides privacy through images, and Section 72 provides provisions regarding breach of confidentiality and privacy.

The Indian Penal Code also provides a few provisions related to cyberbullying and harassment

as follows: -

Section 354 D talks about Cyberstalking, Section 507 talks about criminal intimidation through anonymous communications, and Section 509 talks about Words or gestures intended to insult a woman's modesty.

Misleading and disinformation: - In today's era, social media controls the minds of human beings, which sometimes turns into a disbalance of peace in the country as people do not check the source and event of news and information, whether it's true in nature or it has been fabricated.

It has been observed that a few false news and rumors are intentionally spread to trigger violence, riots and panic in the country so, it is important to censor the source and conduct of event to examine the authenticity of the information and if it finds to be wrong or fabricated it should be blocked for public access under section 69 A of IT Act 2000 and if it goes against the restrictions under Article 19 (2) the content should be struck down.

National Security: - The security of a nation has always been a primary concern, whether it's connected to social media or not, but with the immense growth of social media it's easy for groups or gangs running with the motive to create destruction in the nation using social media platforms. Social Media can be used to spread terrorist propaganda, share military secrets, anti-national slogans content etc.

If any such content is regulated on social media platforms, it should be blocked to public access, and any posts related to such an event should be removed. In certain cases, the government also temporarily shuts down internet access if it seems fit.

Morality and Decency:- In social media platform there are all age groups of people are present and use these platforms for their entertainment, so the decency in posting and uploading content should be maintained any content which is vulgar, offensive, abusive, obscene or sexually explicit comes under the purview of blocking from public access and the user can be banned for certain period of time if not maintained the guidelines and rule of social media platform to publish content.

CENSORING ON SOCIAL MEDIA

Censorship refers to the restriction of content posted on social media platforms by various authorities in India. It is one of the exceptions to Article 19 (1) (a) of the Freedom of speech

and expression given to the citizens of India, provided under Article 19 (2) - stating reasonable restrictions on Freedom of speech and expression. The censorship of the content posted on social media platforms doesn't go through pre-screening and is restricted only after it has been posted on social media, and if any of its data is not appropriate according to the authority regulating it, the entire post or part of it can be censored through post publication regulation. As in today's world, the use of social media platforms has become a massive part of everyone's life, hence spreading of misinformation, hate speech, and defamatory statements etc has also been a major problem. So, the reasonable restriction under Article 19 (2) to avoid spreading such misguiding information that can disrupt the peace and harmony of society, various censorship boards are responsible for carrying out the duties in India⁶.

Censorship acts as a blocking agent of misinformation that is available on various social media platforms, for example, Facebook, Twitter, Instagram, etc. The restriction of the data on these social media platforms can be carried out by the social media platform itself, government authorities, or by any user of the social media platform who finds the particular post offensive by triggering and reporting the said post on the digital platform. The censorship can be applied to various content of social media, like videos, photos, comments, user accounts or hashtags, etc. The basic aim is to prevent the spread of any content that spreads hate speech or misinformation. There are various types of censorship on social media, they are as follows:

1. Government policies: The authorities formed by the government under the various governing laws of India to restrict the flow of misinformation through social media platforms by way of censorship, which can be a threat to the national security, peace and well being of the citizens on the India under reasonable restrictions laid under Article 19 (2) on the Indian Constitution.
2. Social Media Platform Policies: To have a user market in a particular country, the social media platform company has to follow the governing laws of that specific country. To avoid inappropriate data from circulating on the digital platform, the companies holding these platforms have a certain set of rules and regulations on the content posted via Social media. If any user breaches such standard rules, the content post will be taken down from the social media platforms.
3. Automated Filtering System: The digital media platform companies highly rely on the AI

⁶ Samvardhan & Astha Srivastava, *Internet Freedom in India: A Study of Censorship and Regulation*, *Indian Journal Legal Review*, Volume 5, Issue 4, 2025. <https://ijlr.iledu.in/wp-content/uploads/2025/04/V5I495.pdf>

automation tools to filter out any content that is not suitable for posting on social media platforms.

4. Self-Censorship: The user of the digital media, if any content is found by them that is offensive and hurts their sentiments as a whole, can report through a social media platform about such and post or article, and if found it appropriate according to the user's request, such a post can be censored by the digital media platform. Sometimes even the user, influencer, or creator can themselves delete their post, which can hurt the sentiments of the public in general and can cause legal liability for such obscene content.

Censorship on social media platforms is a complex balance of protecting the freedom of speech and expression and still maintaining reasonable restrictions to keep peace and harmony in the country.

CASE STUDY

In social media, news and content spread like fire, and people have different opinions and views on the content. Many times, to get views and reach on social platforms, people edit and remix the content according to them, which can set the content on fire for people's empathy.

The Authors have researched some real-life cases in which individuals have been arrested or provided notice to remove their content, also to seek an apology from the public on social media. These types of content usually create an imbalance of freedom of speech and expression in the virtual world.

The cases are as follows: -

Case no 1: -

An Instagram influencer named Sharmishta Panoli was arrested for posting her views on Instagram, which hurt the religious sentiments of the people, and for this, an FIR was filed against her, and she was arrested for a 14-day Judicial Custody⁷.

Case no 2: -

In this case, the Mumbai Central cyber cell arrested two males from North India for doing cyber

⁷ [Instagram influencer Sharmishta Panoli arrested for communal post, The Hindu, June 01, 2025 06:44 am.
https://www.thehindu.com/news/national/west-bengal/instagram-influencer-sharmishta-panoli-arrested-for-communal-post-sent-to-14-days-judicial-custody/article69644240.ece](https://www.thehindu.com/news/national/west-bengal/instagram-influencer-sharmishta-panoli-arrested-for-communal-post-sent-to-14-days-judicial-custody/article69644240.ece)

fraud targeting an elderly woman of age 71 from Dadar - Matunga area in the name of Digital Arrest. In the present case, the elder woman was forced to transfer the amount of Rs 4.82 Cr. The accused represented themselves as the officers of Telecom Regulatory Authority of India and accused her that her content number was involved in child abduction and molestation, the lady denied the involvement and she was asked to attend the video call via WhatsApp wearing a white saree and their fake court room was performed and she was told to transfer Rs 4.82 Cr to avoid the arrest. Later, she heard the same kind of cases in the news and then reported her complaint to the cyber cell ⁸.

Case no 3: -

In the present case all around 14 FIRs were lodged in the state of Gujarat for uploading anti-national and morale-breaking content related to Operation Sindoor launched by the Indian armed forces. A Person named Mithilesh Amin, age 52, was arrested by cyber police for spreading false, misleading, and anti-national posts on social media.

In Savli town in Gujarat, a man aged 63 years of age was arrested for insulting PM Modi and insulting the Indian Flag ⁹.

In Surat city, a businessman named Dipen Parmar was arrested for posting misleading messages and videos on a Facebook page called Jago India. And many more similar cases were filed in the state of Gujarat.

Apart from these cases there are a bunch of similar cases which are happening in virtual space and to protect social communities online and offline from getting their feelings and sentiments hurt, the freedom of speech and expression is limited to certain extent were it violation the reasonable restriction under Article 19 (2) of Indian Constitution and other legal enactment.

PREVENTIVE MEASURES

In today's world, the use of social media has become a crucial part of everyone's life. People consume various information daily via the use of different social media platforms like

⁸ Ahmed Ali, 71 - yr old warned of digital arrest for molestation, duped of 4.82cr, The Times of India, April 19, 2025 22:28 IST <https://timesofindia.indiatimes.com/city/mumbai/71-yr-old-warned-of-digital-arrest-for-molestation-duped-of-4-82cr/articleshow/120437977.cms>

⁹ Four more arrested for provocative social media messages, The Times of India, May 13, 2025 00:08 IST <https://timesofindia.indiatimes.com/city/vadodara/four-more-arrested-for-provocative-social-media-messages/articleshow/121119436.cms>

WhatsApp, YouTube, Instagram, etc. The main question lies in whether the information consumed by the user is completely reliable and doesn't spread misinformation that can create chaos in the country. To keep in check, the content on social media is not affecting any human sentiments, creating chaos between communities based on language, religion, caste, etc, there have to be certain restrictions on the content uploaded online.

In this paper, the relation between Article 19 (1) (a) of the Indian Constitution, i.e, Freedom of speech and expression, and its restriction, with a particular focus on the controversial content posted on various social media platforms, is being discussed.

The preventive measure that can help to avoid the posting and spreading of controversial content that is being posted on social media is as follows: -

1. Digital Media Content Regulation - Having reasonable restrictions on the content posted online via various social media platforms has been one of the important issues concerning today's growing digital era. Under Article 19 (1) (a) of the Indian Constitution, the guarantee of freedom of speech and expression is not absolute, as it comes with restrictions under Article 19 (2) of the Indian Constitution, which include Morality, Public order, and National security.

To maintain national peace and security by preventing any harm that can be caused due to misinformation, hate speech, or defamatory content, it is essential to establish a strong legal framework in the country by the government. Also, to form a regulatory board to monitor and frame the guidelines for all the creators on the digital media platform. A balanced approach should always be proposed - one that combines legislation, independent regulatory authority, and society involvement to ensure that digital expression remains free, responsible, and within the bounds of constitutional limits.

2. Social Media Platform Liability: The liability of the social media platform plays an important role in maintaining the balance between the freedom of speech and expression mentioned in Article 19 (1) (a) and its reasonable restriction under Article 19 (2) of the Indian Constitution. Currently, social media platforms like YouTube are not held legally liable under the Information Technology Act for the content uploaded by the users of social media as long as they comply with the due diligence requirement. This rule was initially designed when these platforms were mere startups. However, now it has evolved into one of the leading social media platforms with users all over the world, with an advanced algorithm, so there has been an argument to amend the policies for these digital

platforms.

It is now a necessity to gradually impose a liability model for the social media platform related to the content posted via those media. According to these, the social media platform will be held accountable for publishing controversial content through their tools, especially in cases involving misinformation, hate speech, or content that violates any laws. This would align legal responsibility with the current scale and influence of such platforms.

3. **Protection of Children:** One of the major impacts of misinformation, hate speech, and controversial content on social media is on children. Children are particularly sensitive towards the content they consume daily through social media, such as cyberbullying, violence, misinformation, etc. To address such a problem, there should be a strict age verification tool on social media platforms. For instance, in Australia, there is a regulatory framework that prohibits children below the age of 16 from creating a social media account. It is one of the examples that can be adopted in India. The motive is not to intrude into any private individual's life, but to have reasonable restrictions to maintain peace and harmony in the country, and to place responsibility on social media platforms.
4. **International Regulation** - The use of social media is not limited to the boundaries of a particular state or country; anyone can operate, comment, and share content from anywhere in the world. Hence, monitoring the content circulating on social media is a responsibility of each country. Every country has its own set of laws to keep in control of the misuse of social media applications and the content that is shared on these platforms. A few examples are as follows:
 - A. **United Kingdom** - The Online Safety Act 2023 makes it a legal duty for internet companies to protect people from illegal content, like hate speech or child abuse material.
 - B. **United States of America** - The Communications Decency Act, social media platforms are usually not held responsible for what user's post. This means they aren't legally blamed for user-generated content.
 - C. **Australia** - The Online Safety Act puts strong limits in place to protect young people. It restricts access to harmful content for users under 18 and even bans children under 16 from creating social media accounts.

5. Balance between Free Speech and Responsibility - As the freedom of speech and expression is one of the fundamental rights of every citizen, it also comes with various fundamental duties, one of which is to maintain peace and harmony in the country by following the law and order states under various Acts. Recently, there have been many incidents that have caused misuse of the right to freedom of speech and expression on social media platforms, where unregulated content has led to the spread of hate, defamation, and rising legal disputes. Recognising these growing issues, it is important to emphasize the importance of self-regulation by individuals and advise citizens to be mindful of their digital expressions of content to avoid state-imposed restrictions.

CONCLUSION

Though this paper authors have attempted to explain the restriction of freedom of speech and expression in connection with social media. As freedom of speech and expression is the ultimate right provided to Indian citizens under the framework of Article 19 (1) (a) of the Indian Constitution, with certain restrictions under Article 19 (2) and the same applies to social media platforms, whenever any misleading, fraudulent or any harmful content is posted on social media in form of any video, image, blogs, post etc It is the duty of government, censoring authority to strike down the particular content which harms the sentiments of citizens or instigate any riot, protest etc in the country.

It is necessary to have reasonable restrictions on freedom of speech and expression in the virtual world, not only to protect the rights of the citizens but also to maintain Law and order, harmony, Sovereignty, Integrity, and friendly relations with cross-border countries.