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THE CHANGING FACE OF FREE SPEECH: A STUDY OF ARTICLE 19 IN THE DIGITAL AGE IN INDIA

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Abstract

In the digital age, India's narrative of free speech has encountered both evolution and turbulence. Rooted in the democratic ethos, Article 19 of the Indian Constitution safeguards this freedom, reflecting the country's commitment to upholding a citizen's right to express. With the proliferation of online platforms—ranging from social media to news portals—the citizens have found dynamic avenues to articulate their viewpoints. As Nelson Mandela once said, "To be free is not merely to cast off one's chains but to live in a way that respects and enhances the freedom of others." However, this freedom has its pitfalls in the digital realm: the rapid dissemination of misinformation and the perils of divisive rhetoric. This research delves into the protective umbrella of Article 19 of the Constitution, emphasizing its pivotal role in safeguarding expression. The current landscape necessitates a balance, a careful navigation between the unrestricted flow of opinions and the dangers of digital misinformation. Issues of censorship, both governmental and self-imposed, further complicate this balance. As the world envisages the future of India's digital discourse, it becomes paramount to ensure that the sanctity of free speech, as championed by Article 19, is preserved, yet responsibly exercised. Conclusively, the paper underscores the imperative of navigating the nuanced balance between unbridled digital expression and the responsibilities accompanying it, all through the lens of Article 19.

Keywords: Article 19, Digital media, Free Speech, Freedom of Expression, Hate Speech, Public Discourse.

Introduction

The digital revolution has reshaped our understanding of free speech, blending the lines between safeguarded expressions and hate-driven rhetoric. Indeed, while recognizing free speech as a cornerstone of human rights, there's an undeniable push globally towards curating and filtering digital content to preserve societal harmony. *As Mahatma Gandhi once said, "Freedom is not worth having if it does not include the freedom to make mistakes."* India, with its constitutional backbone in Article 19, ensures the sanctity of speech and expression, vital threads in the fabric of its democracy.[2] But, as the digital realm burgeons, a spider web of challenges emerges. The digital canvas, graced by the brush strokes of social media, online journalism, and myriad platforms, not only magnifies voices but, occasionally, amplifies discord and misinformation. The dicey situations of online intimidation and cyber mischief further cloud our perception of unhindered speech. Across borders, nations grapple with the conundrum of harmonizing liberty with digital responsibility. A significant stride was witnessed in this democratic system and digital dynamism recently with the Digital Personal Data Protection Act. With the onset of new regulatory decrees, digital giants found themselves obliged to appoint specific officers and act swiftly upon flagged

1. LLM Student, The West Bengal National University of Juridical Sciences (NUJS), Kolkata, West Bengal.
2. Jyoti Panday, *Freedom of Expression in a Digital Age: Effective Research, Policy Formation and the Development of Regulatory Frameworks in South Asia,* The Centre for Internet and Society, (Feb. 16, 2023, 10:00 AM), https://cis-india.org/internet-governance/events/freedom-of-expression-in-digital-age.

detrimental content. [3] This narrative is a testament to the age-old tussle of freedom and responsibility, where the plot thickens in the digital era. The country administration's measures to oversee online platforms have been met with considerable scrutiny. Yet, one cannot overlook the pivotal equilibrium between the uninhibited expression of thought and essential governance. As one ventures into the heart of democracy, the freedom of speech surfaces as a cornerstone, echoing the voices of countless citizens who embrace it as their inalienable right. But as the digital winds of change sweep across the nation, they bring with them a wave of content, some of which can stain the very fabric of society with hate and discord.[4] Navigating this online expanse, the task of delineating boundaries around what is detrimental becomes daunting. This conundrum has ignited an international discourse, threading conversations from tea stalls in Mumbai to academic halls in New Delhi. How does one honor the revered tenets of free expression while ensuring the digital alleys remain free from toxicity? It isn't just about safeguarding an essential democratic right; it's about crafting an environment where this right flourishes without casting shadows.[5]

Evolution of Free Speech in India

While history has celebrated its existence, the journey of Article 19 resonates with the flow of our country's evolving societal fabric. As a citizen, one is often immersed in a world of boundless expression, and understanding the nuances of this Article is akin to charting the path of one's academic freedom.[6] Article 19, introduced in the nascent stages of our nation's formation in 1950, unfurled the flag of free expression, encompassing the liberty to assemble serenely without the shadows of weaponry. But freedom, as grand as it sounds, always bore the weight of responsibility. The ideal of unbridled liberty had its checks to ensure the symphony of public order, ethics, and national security remained undisturbed.[7]

With time, as the nation matured and the voices of its citizens evolved, Article 19 too underwent a metamorphosis. The tapestry of its text got richer, with subclauses weaving in, offering clearer interpretations and fortified protections. The 1971 constitutional amendment stands as a testament to this evolution, with Article 19(1) (a) illuminating the sanctity of a free press. In a nation bustling with myriad narratives, recognizing the press's autonomy was akin to valuing the ink that writes the tales of democracy the journey did not halt here. As the new millennium dawned, another leaf was added to the annals of Article 19 with the introduction of Article 19(1) (g). Recognizing the freedom to delve into any professional realm or economic pursuit, it echoed the aspirations of a generation driven by innovation and digital aspirations. In a world progressively moving towards a digital age, the embrace of internet accessibility as an economic right mirrored the foresight of a nation readying its youth for tomorrow. Digital platforms have, in many ways, democratized information. They aren't just instruments for communication; they are catalysts for mobilizing public sentiment. Of late, the Indian corridors of power have viewed the digital realm with an eye of caution. Triggered by instances of digital discord, calls for a regulated digital landscape have grown louder. But, this has simultaneously birthed a plea for transparency. After all, when a curtailment brushes against a fundamental right, it demands scrutiny. [8]

Article 19 has not remained static; it's a living entity that has evolved in response to our country's sociopolitical narrative. While it underscores the pivotal role of free speech in fostering a vibrant democracy, it also acknowledges the need for prudence. The democratic dance is intricate, where the steps of unfettered expres-

3. Social Media and Freedom of Speech and Expression, https://legalserviceindia.com/legal/article-426-social-mediaand-freedom-of-speech-and-expression.html (last visited Feb 16, 2023).
4. Rachit Garg, *Freedom of Speech and Expression in the Digital Era,* Ipleaders (Feb 16, 2023, 11:00 AM), https://blog.ipleaders.in/ freedom-speech-expression-digital-era/.
5. *Supra* note 2.
6. Index on Censorship, https://www.indexoncensorship.org/2013/01/india-conference-index/ (last visited Feb 16, 2023).
7. Meity, https://www.meity.gov.in/writereaddata/files/Intermediary_Guidelines_and_Digital_Media_Ethics_Code_Rules-2021.pdf (last visited Feb 16, 2023).
8. Sneha Mahawar, *Article 19 of the Indian Constitution,* Ipleaders (Feb 16, 2023, 11:00PM), https://blog.ipleaders.in/article-19-indian-constitution/.

sion must sometimes be paired with those of restraint. The challenge lies not just in upholding the sanctity of this right but ensuring its practice doesn't fracture the societal mosaic. In this balancing act, the onus lies with policymakers to ensure that the scales don't tip too heavily on one side, compromising the very ideals our constitution venerates. Imagine a student, passionate about acquiring knowledge in this vast nation, every turn of a page reminiscent of the tapping on a digital screen, every scribble mirroring a tweet or post. The student's unquenchable thirst for knowledge resonates deeply with the essence of Article 19: the pivotal right to freedom of speech and expression. Just as digital media has rejuvenated our conversations and involvements in the country's governance, much like the student's academic journey, sometimes fraught with the need for discipline, moderation, and even restraint, Article 19 acknowledges that absolute freedom of speech is a myth. There are paths in the academic world that demand careful treading, books that need a sensitive approach, and debates that require moderation. Such is the dance between freedom and restriction in Article 19, where maintaining public peace, morality, or national security sometimes requires a curtailment of this sacrosanct right.[9]

The echoing voices of landmark case laws, like the *Shreya Singhal v. Union of India* and others, reverberate in the corners of our legal consciousness, pushing us to reflect on the significance of this balance. These restraints, like those cautionary notes in a classroom or corrections on a student's paper, have ignited fervent dialogues about their implications and validity. However, what remains unwavering is the commitment to the essence of Article 19. In the heart of every Indian, much like our resilient citizen, lies the indomitable spirit to voice opinions, share knowledge, and contribute towards the greater good. As the world of academia evolves with research, technology, and nuanced perspectives, so does the landscape of Article 19, consistently threading the fine line between unbridled freedom and necessary restraint. It remains a testament to India's dedication to preserving the voice of its people while ensuring the tapestry of its democracy remains unblemished. Thus, as an Indian citizen, traverses through the corridors of academia, the essence of Article 19 is not just in its words but in its spirit. It stands as a beacon, guiding the thoughts, aspirations, and voices of countless citizens, all the while evolving, much like the nation it serves. [10]

Digital Media and the Freedom of Speech: Challenges and Opportunities

While digital media platforms, ranging from social media sites to news portals, empower citizens to speak, they also open a Pandora's Box of problems like hate speech and misinformation. The boon of digital media in our country is its democratizing effect. Not only does it provide a platform for the marginalized, but it also makes information readily accessible. Small-town youths have become digital influencers, and urban intellectuals are increasingly taking to Twitter (now X) and blogs to dissect politics, society, and even international relations. In doing so, they reshape narratives, challenge established norms, and in essence, exercise their democratic right to speak freely. [11]

However, every coin has two sides, and this unrestricted accessibility has its drawbacks. *Dr. Ambedkar's cautionary words, "Constitutional morality is not a natural sentiment. It has to be cultivated,"* resonate when one considers the propagation of hate speech and false information. Without checks, digital media can cultivate not just constitutional morality but constitutional immorality. Instances abound where misinformation has fuelled communal violence, eroding the very democratic fabric these platforms aim to uphold. Herein lies the crux of the challenge: how to regulate the medium without stifling the message? Platforms that curate and censor content have come under the scanner for opaque and arbitrary decision-making. What is considered 'harmful' is often subjective and can be exploited to stifle dissent. Furthermore, this leads to a phenomenon of self-censorship among users who become increasingly wary of the penalties of overstepping ill-defined boundaries, inadvertently suppressing the pluralistic opinions that should be a cornerstone of democratic life. On one hand, digital platforms have birthed a renais-

9. D. N. Banerjee, *Some aspects of our fundamental rights: Article 19*, 11 The Indian Journal of Political Science 26 (1950).
10. Indian Constitutional Law and Philosophy, https://indconlawphil.wordpress.com/tag/192/ (last visited Feb 16, 2023).
11. *Supra note* 2.

sance of public discourse, democratically empowering the voiceless, including the propagation of movements like "Me Too." Concurrently, the diverse narrative fostered by online news portals quashes the monolithic perspectives that traditional media often unwittingly perpetuate. It is as *Jawaharlal Nehru emphasized, "Crises and deadlocks when they occur have at least this advantage that they force us to think."* It's under such digital enlightenment that communities separated by geographic vastness or social stratification find an egalitarian square for discussion. Yet, there lurks an unsettling underbelly.[12] Just as digital media has enabled freedom, it has also harnessed the capability for the anarchic dissemination of hate speech, propaganda, and misinformation. *B. R. Ambedkar's caution that, "I like the religion that teaches liberty, equality, and fraternity,"* takes a different contour when digital liberty is unshackled to an extent that it threatens social equality and communal fraternity. Therefore, the dialectic is clear. Effective regulation of digital media is not merely an option but an imperative. Striking a judicious balance between the Gandhian freedom to err and the Ambedkarian caution against exploiting liberty can ensure a holistic utilization of digital media. It necessitates an agile regulatory framework that could both safeguard the freedom of speech and pre-empt digital misdemeanors. *To paraphrase Rabindranath Tagore, the objective is to let the mind be without fear, navigating through the digital alleys of thoughts, where words emanate from the depth of truth*. Thus, as one embraces the digital era's promise and peril, it becomes not just relevant but vital to forge pathways that retain democratic sanctities while fostering digital egalitarianism.[13]

Balancing Free Speech and Digital Media in the Digital Age

With over 700 million internet users, today India stands as a colossus in the digital world, fuelling public discourse through various online platforms. Article 19 of the Constitution embodies this spirit, granting every citizen the liberty of speech and expression, inclusive of digital platforms. But, alas, the double-edged sword of freedom is evident; it also has Article 19(2), permitting the state to impose 'reasonable restrictions' on free speech under certain circumstances.[14]

The challenge lies in the application of these restrictions, which can often tilt towards stifling dissent, rather than protecting the integrity of the nation. As *Dr. B.R. Ambedkar emphasized, "Rights are protected not by law but by the moral and ethical fiber of society."* To ensure this delicate equilibrium, judicial oversight becomes indispensable. The Supreme Court has reiterated that restrictions must pass the 'reasonableness test,' a doctrine that assesses whether the limitations are essential and proportionate to the intended aim. Especially in the digital world, where virality is a click away, the law must adapt to ensure that restrictions are as minimal as possible while serving a legitimate public interest. Social media platforms have often been in the eye of the storm, accused of proliferating fake news, hate speech, and even inciting violence. As *Jawaharlal Nehru noted, "The only alternative to coexistence is co-destruction."* In such instances, restrictions could be deemed necessary. However, the application must be judicious and cautious to prevent undermining democracy.[15]

"In the end, we will remember not the words of our enemies, but the silence of our friends," cautioned Martin Luther King Jr. This statement resonates profoundly when one ponders the delicate balance between free speech and the management of digital media in the Digital Age. It's akin to walking a tightrope suspended between two skyscrapers — one labeled "Freedom of Speech" and the other, 'Digital Responsibility'. A fall towards either side could lead to dystopia: either an Orwellian world where speech is brutally suppressed or a chaotic realm where misinformation runs. To sum up, In conclusion, a nuanced interpretation of constitu-

12. Sang Ah Lee, Matthis Claudel, Ibaa Alburai and Qiaoyan Tian, *Current Challenges to Media Freedom in India,* CFOM, (Feb 16, 2023, 11:00PM), https://cfom.org.uk/wp-content/uploads/2017/08/Student-Comp-2016-17-Final-India-case-study.pdf.
13. May Chidiac and Mireille Chidiac El Hajj, *Digital Media and Freedom of Expression: Experiences, Challenges, Resolutions,* 17 Global Media Journal 1, 4 (2019).
14. Civilsdaily, https://www.civilsdaily.com/ news/social-media/ (last visited Feb 16, 2023).
15. Aleena Rose Jose and Anagha O, *Freedom of Speech and Expression and Social Media: An Exigency for Balancing,* 2 Indian Journal of Integrated Research in Law 1, 6 (2022).

tional rights, coupled with an accountable and transparent regulatory framework, can indeed forge a balanced relationship between free speech and digital media in the digital age. Following this complex yet possible path has the potential to set a global standard, offering a model that safeguards democratic ethos while nurturing digital innovation.[16]

Notable Cases of Free Speech Controversies in India

This segment aims to shed light on significant controversies involving free speech, underlining the intricate task of harmonizing individual liberties with collective welfare in a multifaceted and swiftly transforming digital arena.

1. The Emergency and Press Censorship (1975-1977)

Indira Gandhi stands as a cautionary tale on the fragility of free speech. This episode, cloaked in the rationale of national security and public order, brutally muzzled the press. Journalists found themselves behind bars, influential newspapers were either shuttered or coerced into self-censorship, and media houses became targets of intimidation. The tyranny of the time lent itself to a chilling effect on dissent and critique, stifling the fundamental democratic essence. The Indian judiciary, often seen as the guardian of civil liberties, was not entirely immune to the pressures of the Emergency. However, the years following the Emergency saw a judiciary committed to restoring faith in constitutional protections. Justice P.N. Bhagwati famously noted, *"If the journalists are forcibly silenced, the role of judiciary would be reduced to a nullity"* This statement encapsulates the symbiotic relationship between a free press and a functioning judiciary, each buttressing the other in safeguarding democratic values. What makes this era a cornerstone in discussions on free speech is its demonstration of how swiftly a democracy can skid into authoritarianism when free speech is compromised. The press, often termed the 'Fourth Estate,' serves as a sentinel of democracy. In the modern digital age, where social media has increasingly become the new battleground for free speech, the lessons from the Emergency become even more pertinent. The proliferation of online platforms means news and opinions disseminate swiftly, but it also poses a danger of misuse. The government, while protecting against such misuse, must tread carefully to avoid reviving the ghosts of the 1970s.[17]

2. The Taslima Nasrin Controversy (1994)

In 1994, the case involving Bangladeshi author Taslima Nasrin, known for her novel "Lajja", offered a litmus test for the Indian democracy's commitment to the freedom of speech enshrined in Article 19 of the Constitution. "Lajja" portrayed the plight of Hindu minorities in Bangladesh, and Nasrin found herself at the intersection of the rage of religious fundamentalists and the Indian judicial system. Islamic radicals accused her of blasphemy and clamored for her immediate arrest and deportation. Responding to the uproar, the Indian government slapped a case against Nasrin under Section 295A of the Indian Penal Code, a law that criminalizes any "deliberate and malicious acts intended to outrage religious feelings". This legal operation was not merely an administrative formality but triggered a wider debate on free speech. The conundrum touched upon by this case can be encapsulated in the words of Justice S. Rajendra Babu, *"It cannot be ignored that India is a country with vast disparities in language, culture, and religion, and unwarranted subversion of sincerely held beliefs could be potentially disastrous"* What makes the Taslima Nasrin controversy particularly instructive is how it exposes the high-wire act of balancing individual liberties and societal well-being in a multi-religious, multi-cultural society like India. The state had to walk a fine line between safeguarding Nasrin's right to express her ideas while also ensuring it did not ignite communal discord. While critics argue that the action against Nasrin demonstrated the government's propensity to yield to the demands of religious fundamentalists, others contend it was a necessary step to preserve social stability. The incident brings into sharp focus the perpetual tension in Indian society between the intellectual freedoms guaranteed by the Constitution and the government's responsibility to ensure these free-

16. Nishant Kumar, *"Internet Freedom", Social Media and Indian Democracy: Prospects and Challenges,* 76 The Indian Journal of Political Science 135 (2015).

17. Dr Jhumur Ghosh, *Indira Gandhi's Call of Emergency and Press Censorship In India: The Ethical Parameters Revisited,* 7 Global Media Journal – Indian Edition 1, 9 (2016).

doms do not endanger public harmony.[18] In the words of Justice J.S. Verma, *"Freedom of expression cannot be absolute or transcend constitutional limitations and must be exercised in a manner that it does not conflict with other individuals or groups' equally significant freedoms."*

3. The M.F. Husain Controversy (2006)

The M.F. Husain Controversy of 2006 remains one of the country's most poignant legal confrontations surrounding the contours of artistic freedom and free speech. Maqbool Fida Husain, a pioneer of Indian art, found himself involved in a pool of litigations and social unrest for his renditions of Hindu gods and goddesses, perceived by some as derogatory. Spearheaded by various right-wing organizations, the rowdy opposition against Husain precipitated a slew of legal proceedings against him, culminating in his self-imposed exile from the country he had long considered home. This case provokes several substantial deliberations; chiefly among them is the question of how far artistic freedom can, or should, extend. Another axis of this debate revolves around the state's responsibility to shield creative liberties. The government's seeming inertia in Husain's case led many to question its commitment to safeguarding artistic freedom. After all, should not the government act as the custodian of a free creative atmosphere, especially when a globally recognized artist like Husain becomes a target for having expressed his artistic vision? Justice K.S. Radhakrishnan once said, *"A society that does not respect its artists, is doomed to desolation"*. Yet, the government's role becomes even more convoluted in a pluralistic society like India, where sensitivities are as diverse as the nation itself. Here, the state is not merely a referee but also an arbiter of public morale. A balance must be struck between promoting free artistic expression and quelling social disharmony. [19]

4. The JNU Sedition Case (2016)

In February 2016, the placid campus of Jawaharlal Nehru University, New Delhi, transformed into a cauldron of socio-political tumult, setting the stage for one of modern India's most controversial episodes concerning free speech and nationalism. At the heart of the uproar were students, most notably the then JNU Students Union president Kanhaiya Kumar, who found themselves in the judicial crosshairs for allegedly chanting anti-India slogans during a university event. Arrested under the archaic and often-criticized sedition laws, which find their roots in colonial rule, the defendants ignited a nationwide discourse on the legitimacy and scope of such laws in contemporary India.[20] The public reaction was multi-colored, comprising vocal protests and counter-protests. As former Supreme Court Justice Rohinton Fali Nariman once noted, *"Speech may be silenced for the sake of freedom; we may have to put up with noise to ensure one's freedom of speech"*. The pertinence of this statement was felt as multiple legal, political, and academic circles wrestled with the question: Can the quelling of dissent, masked as patriotism, be justified? The case still pendulously hangs in the court's corridors, a testament to the juridical muddle that complicates the unfettering of free speech from the chains of sedition. Thus, it underscores the pressing need for a judicial overhaul of antiquated legislation that was once employed by colonizers to subjugate but now is paradoxically used in a democracy to sometimes put an end to its very essence.[21]

5. The Padmaavat Controversy (2018)

In 2018, Sanjay Leela Bhansali's cinematic creation "Padmaavat" found itself embroiled in a maelstrom of public dissent, spearheaded by the Karni Sena and sections of the Rajput community. The critics argued that the film misconstrued historical narratives and tar-

18. Habiba Zaman, *The Taslima Nasrin Controversy and Feminism In Bangladesh: A Geo-Political and Transnational Perspective,* 23 Atlantis: Critical Studies in Gender, Culture and Social Justice 42 (1999).

19. Times of India, https://timesofindia.indiatimes.com/india/mf-husain-a-casualty-of-his-one-painting/articleshow/8795317.cms (last visited Apr 30, 2023).

20. S.L.A., *Does Section 124-A, I.P.C. Contravene Article 19(1)(a) of the Constitution?,* 1 Journal of the Indian Law Institute 185, 189 (1958).

21. The Wire, https://thewire.in/law/jnu-sedition-case-umar-khalid-kanhaiya-kumar-delhi-court (last visited Apr 30, 2023).

nished the dignity of the revered Rajput queen, Padmavati. The uproar transcended verbal protests, morphing into acts of violence, threats targeted at the cast, and fervent appeals for the film's prohibition. Although the Central Board of Film Certification approved the movie for release, multiple state governments endeavored to impose a ban, invoking concerns about maintaining law and order. The episode brought into stark relief the convoluted dynamics between artistic license, historical accuracy, and societal equilibrium. The ultimate arbiter, the Supreme Court of India, stepped in to assert the primacy of freedom of expression, placing the onus of preserving public tranquillity on state governments.22

6. The Citizenship Amendment Act Protests (2019-2020)

In December 2019, India witnessed a significant political development: the government ratified the Citizenship Amendment Act. This legislative move evoked widespread national protests. Critics contended that the law compromised India's secular ethos, arguing it harbored biases against specific religious and ethnic groups. In response to the escalating tensions, the government employed several measures to quell the dissent. These included enforcing curfews, suspending internet connectivity, and detaining activists and protesters under charges like sedition and incitement of violence. This state-led suppression of the anti-CAA demonstrations raised grave apprehensions regarding the government's dedication to preserving fundamental democratic rights, notably the freedoms of speech and peaceful assembly. The manner in which the government reacted to the protests therefore not only brings the controversial nature of the CAA itself into the spotlight but also calls into question the state of democratic freedoms in contemporary India.[23]

7. The Arrest of Comedian Munawar Faruqui (2021)

In January 2021, Munawar Faruqui, a prominent Indian stand-up comedian, found himself under arrest, facing accusations of having insulted religious sentiments. The alleged offense involved humor targeting Hindu gods during a live act. Arrested alongside five associates, Faruqui was charged under Section 295A of the Indian Penal Code. Intriguingly, there was no corroborative video footage to back the allegations. This event ignited a fervent discussion about the boundaries of comedy and satire in India's multi-faceted society. Moreover, it brought into focus the potential for misuse of legal frameworks to stifle freedom of expression. Although the Supreme Court granted him interim bail in the following month, the incident underscored the intricate challenges that artists and comedians confront when exercising their free speech rights. [24]

8. The IT Rules 2021 and Digital Media Regulation

In February 2021, the Indian authorities unveiled the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules. The regulations are designed to oversee digital news media and OTT streaming services, ostensibly with the objective of curtailing the dissemination of disinformation and safeguarding users from injurious content. However, the regulations have encountered strong opposition. Critics contend that the new guidelines endow the government with disproportionate authority to suppress and manipulate digital content, thereby jeopardizing the principles of free expression and creative innovation. Numerous digital media enterprises, along with civil society bodies, have legally questioned the constitutional validity of these rules, thereby casting a shadow over the future of unfettered speech in the burgeoning digital realm.

22. Padmaavat: Why a Bollywood epic has sparked fierce protests, BBC News, Nov. 21, 2017, https://www.bbc.com/news/world-asia-india-42048512 (last visited Apr 30, 2023).
23. The Economic Times, https://economictimes.indiatimes.com/news/politics-and-nation/protests-against-the-citizenship-amendment-act-caa-are-back-in-northeast-india-after-a-lull/articleshow/93631625.cms?from=mdr (last visited Apr 30, 2023).
24. Hindustan Times, https://www.hindustantimes.com/india-news/why-comedian-munawar-faruqui-was-arrested-a-timeline-101611823703715.html (last visited Apr 30, 2023).

The highlighted cases underscore the intricate task of preserving the freedom of speech, in a nation characterized by its rich diversity and pluralistic ethos. The act of striking a balance between the unassailable right to freedom of expression and the societal imperatives of communal harmony, reverence for religious beliefs, and national security considerations have been the subject of contentious debates and legal verdicts.[25]

This compels an enduring discourse to judiciously safeguard this cornerstone right while concurrently addressing the genuine concerns germinating from a multifaceted society.

The Impact of Censorship on Free Speech in the Digital Age

The constriction of free expression due to censorship in today's digital landscape constitutes a matter of considerable concern. Censorship manifests itself in various forms—be it state-imposed restrictions, social media platform policies, or voluntary self-censorship by individuals. The government has employed censorship measures during politically volatile periods. Notably, in 2017, it prohibited the use of several social media channels in the state of Jammu and Kashmir amid local unrest, thereby blocking access to platforms like Facebook, Twitter (now X), and YouTube. In an age defined by digital interaction, the threat to free speech posed by censorship becomes increasingly salient. While such measures can serve to curtail hate speech or prevent the dissemination of harmful content, they also carry the risk of inhibiting open discourse and marginalizing divergent views. [26] Government censorship, one of the most prevalent forms, provides the state with a powerful tool to regulate the information ecosystem. In our country, such control is often exerted over platforms like Twitter, Facebook, and YouTube, particularly in times of social or political tension. This curtailment has significant repercussions for free speech, limiting the scope for citizens to voice their perspectives and engage in constructive dialogue. Another nuanced form of censorship manifesting in this digital epoch is self-censorship. As individuals become more conscious of the possible repercussions of expressing specific opinions, they opt for self-censorship to elude adverse outcomes. This self-imposed limitation not only stifles individual free speech but also negatively impacts the collective dialogue by reducing the range of opinions in circulation. The dynamics between censorship and free speech in the digital landscape are multifaceted. While censorship can serve to inhibit hate speech and other damaging content, thereby offering social benefits, it can also hamper free expression and smother vibrant debate. Censorship's chilling effect is not confined to overt actions; even its latent presence can induce self-censorship, narrowing the gamut of opinions and thereby diminishing society's capacity for meaningful dialogue.[27]

The Future of Free Speech in the Digital Age

Digital platforms have democratized public engagement, granting marginalized communities a voice and thereby fostering a more inclusive democratic landscape. Likewise, the digital realm has become a fertile ground for citizen-led journalism and activism. Yet, this proliferation of digital channels has also unleashed new quandaries such as the propagation of hate speech and disinformation. Thus, the question of balancing freedom of expression with values like privacy and public safety becomes imperative. Analysing these evolving dynamics, it becomes evident that multiple factors will inform the future of free speech within the digital realm. A pivotal aspect will be the reformation of legal frameworks to suit the intricacies brought forth by the digital age. Given that the existing legal corpus predominantly rooted in the Constitution, is ill-equipped to grapple with these digital-age dilemmas, newly crafted regulations will be essential. These laws must serve to both preserve free expression and mitigate the risks associated with misleading or harmful online content. Furthermore, the government's role will be invaluable in safeguarding and nurturing free

25. PRS Legislative Research, https://prsindia.org/billtrack/the-information-technology-intermediary-guidelines-and-digital-media-ethics-code-rules-2021 (last visited Apr 30, 2023).

26. Alexia Skok, *End the Wave of Digital Censorship in India,* Access Now (Jun. 10, 2023 10:04 AM), https://www.accessnow.org/ end-the-wave-of-digital-censorship-in-india/.

27. Anadolu Ajans, https://www.aa.com.tr/en/asia-pacific/-excessiveregulations-censorship-affect-digital-freedom-in-india-/2531512 (last visited Feb 16, 2023).

speech while balancing it against other societal imperatives like security and privacy. Recent governmental initiatives, including the advent of new laws and technology for Internet governance, are indicative of this ongoing commitment. However, it's not just the government's prerogative; individuals, organizations, and the broader civil society are indispensable stakeholders in this journey. By advocating for apt policies, fostering public cognizance around free speech issues, and proactive actions against harmful content, these actors can significantly contribute to defining the future landscape of free speech and digital media.[28]

In the evolving digital landscape, there is an urgent need for multi-faceted strategies to sustain harmony between free speech and the digital medium. Firstly, regulatory frameworks must be innovated to specifically counter the challenges introduced by the digital era, such as hate speech, disinformation, and content that jeopardizes public safety. Advancements in technology can assist in the real-time monitoring and regulation of such content.

Secondly, civil society has a critical role to play in bolstering free speech while defending the constitutional rights of individuals. This could involve crafting new digital platforms and educational tools that raise awareness and provide information about the importance of free speech and its limitations. Furthermore, cultivating partnerships between the government, civil society, and other vested interests can reinforce the collective responsibility of preserving free speech.

Lastly, the future of free speech in the digital realm will undoubtedly necessitate continuous dialogue and cooperation among all key stakeholders—government agencies, civil society organizations, media establishments, and the citizens. Through such synergistic efforts, it becomes viable to achieve an equilibrium between free expression and the complex dynamics of digital media, ensuring that the rights of citizens remain protected in the digital era. [29]

Conclusion and Suggestions

In our country, where "Unity in Diversity" isn't just a catchphrase but a foundational ethos, the role of free speech becomes even more pertinent, echoing Voltaire's sentiment, *"I disapprove of what you say, but I will defend the death your right to say it"*. Article 19 of the Constitution has long fortified this pillar of democracy, but the digital age is putting new stresses on this constitutional safeguard. The ubiquity of digital platforms has democratized discourse to an unprecedented degree, facilitating vibrant public discussions and individual expression. However, this democratization has a darker underside, replete with disinformation, hate speech, and digital toxicity. While technology has expanded the avenues for free speech, it has also provided a breeding ground for its abuse. The conundrum, then, lies in navigating these digital waters without capsizing the boat of free expression.

To effectively uplift the freedom of speech in digital spaces the following recommendations may be taken into consideration:

i. One potent measure would be to heighten media literacy. Teaching the population to critically evaluate information can counteract the spread of fake news.

ii. Additionally, fostering responsible digital citizenship will not only enhance the quality of online discourse but will also create a culture of accountability.

iii. Censorship, which can range from governmental oversight to self-imposed restrictions by social media platforms, is another tightrope to walk. Draconian measures can be a slippery slope towards authoritarianism. Quoting Jawaharlal Nehru, *"To safeguard democracy, the people must have a keen sense of independence, self-respect, and their oneness"*.

iv. Future policy formulation needs to adopt a multi-stakeholder approach, incorporating the government, the judiciary, civil society, and the technology platforms themselves. Regulatory strategies must be both robust and flexible to adapt to the ever-evolving digital milieu.

v. Transparency and accountability, in particular, need to be the cornerstones of social media plat-

28. Rajbir Singh Dalal, *Fundamental Rights Enshrined in Indian Constitution Provisions and Practices*, 70 The Indian Journal of Political Science 779 (2009).

29. Jack Balkin, The Future of Free Expression in a Digital Age, 36 Pepperdine Law Review 427, 432 (2012).

forms. An increasingly networked society cannot afford to live in an ideological warehouse. Open, respectful dialogue across digital platforms can help bridge these gaps.

To sum up, the true essence of a democratic India lies in the balance of individual liberties with collective responsibilities. While it's tempting to regard free speech as an uncompromising pillar of democracy, it must harmonize with other democratic values in this digital era. Through carefully crafted regulations, media literacy, and collective governance, India has the potential not just to navigate but to thrive in this digital conundrum. Ensuring this delicate balance is not just the duty but the democratic imperative of the world's largest democracy.

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