



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Freedom of Speech and Expression on the Internet

Anchal Pandey^a

^aAsian Law College, Noida, India

Received 18 November 2022; *Accepted* 30 November 2022; *Published* 12 December 2022

We all are aware of the biggest communication network is the Internet which connects billions of people. It is also referred to as a network of networks. It was launched around the 1960s for the assistance of the administration. Its value as a prime source of information and transmission has been intensified, nowadays it's a part of our daily lives, In Covid times only the internet was the major source of communication, even for food, medicine, or anything, we can convey ourselves to other people, through the only way of the Internet. Freedom of speech and expression is a fundamental right guaranteed to us by the constitution of India with certain restrictions. The Internet provides us with a huge number of platforms to engage with people around us, but it also contests the right to freedom of speech and expression is being infringed upon. The article will contend that freedom of speech and expression is not an absolute right, it has several restrictions with it. Modern technologies generate modern opportunities to commit a crime, as we are delving more into them, we are at bigger risk than ever before due to the increased number of network connectivity various types of cyber crimes are being committed like phishing, fraud, piracy, cyberpornography, cyber-violence, cyberbullying, cyberstalking. The article will conclude that as the internet has attained crucial importance in our customary lives, it is time for us to take commitment to the protection of ourselves on the internet and also to deal with these types of offenses and beware of the assailants.

Keywords: *freedom of speech, cyber-violence, cyber-bullying, cyber-stalking, piracy.*

INTRODUCTION

The Internet is a vast connection or medium that connects a person to the whole world, by this medium one can share information or communicate with another person anywhere at any time. It has made our life more easier and compatible, we are obsessed with it, as technology is enhancing we are more attracted to them be it in terms of any sector whether education, medicine or business internet has spread its wings, In the recent 2 years, it's importance was like what oxygen is for a human being. The Internet was the sole medium of connection from where we were connected to billions of people through innumerable types of networking site. It has played a huge role in the development of people, as it provides a platform where we can access all networking sites, instant messaging, various social media platforms, and blogging websites, where millions of people can communicate and share their views. It has truly emerged as a global medium for the transmission of information, opinion, and ideas as well as receiving, a person can connect globally through the way the internet.

In this era of digitalization, communication has led to the advancement of the internet as a worldwide communication network encompassing everything from emails to social media, etc. On one place internet provides a platform where freedom of speech and expression can be fully exercised and a person has full right to access the information or impart it, but on the other side flooding of information without any restriction on the content, is spreading negativity or vulgarity in the minds of minor, which is detrimental for their mental health. As they are the future of the nation we have to keep in mind that the excess of anything can be very harmful to us, our future, and our goals. Freedom of speech and expression through the medium of the internet can be an important interest of human rights, On one hand, it plays a significant role in serving justice to needy people, building communities, generate awareness, on the other hand, it can be used to commit a crime.

INTERNET

The Internet is the medium through which people disseminate information, and opinions, it has become a vital source of communication, which connects billions of computers globally through

a worldwide network. It was invented for military assistance around the 1960s¹, then its purpose widened in use among scientists and its use as a mode of communication. It is a global network of computers that are linked together by a worldwide distinctive address Internet protocol (IP). The manner of exchange of information has accelerated gradually with the advancement of the internet and the information exchange has led to enhancement in the living standard of a person. Due to the vast advantages of the internet, we are now more dependent on it. The mode of communication has become much faster through which people can hold a video conference from other another sitting in any place of the world with internet access. It provides us with various platforms to interact with people, there are various social networking through which people can share and access data. The Internet has both positive and negative impacts on society. The development in technology has made our lives easier and faster in every sector use of the internet has manifoldly increased. The Internet is the hub of knowledge, it includes all types of information and details. The Internet is a boon for humanity, with the help of the internet we can access any type of information.

EVOLUTION

The Internet was invented around the 1960s with the creation of the ARPANET for the assistance of the military to share confidential information. It is contemplated to be the first known group of interconnected networks also known as the Internet which is connected to another computer by cables, satellites, etc. It was invented under the US department of defense to resist nuclear invasion. There are mainly two types of networks LAN (Local Area Network) and WAN (Wireless Area Network). Internet use becomes more prominent around the 1990s when there has been a dramatic rise in the number of internet users.

In the 1980s National Science Foundation (NSF) started to work on networks that will be efficient for academic and engineering research, the working of NSFnet, ARPANET, and other networks together results in the Internet. The expansion of the internet has reformed and reshaped our

¹ Dionysia Lemonaki, 'A Brief History of the Internet - Who Invented It, How it Works, and How it Became the Web We Use Today' (*Free Code Camp*, 17 November 2020) <<https://www.freecodecamp.org/news/brief-history-of-the-internet/>> accessed 15 November 2022

lives. It has proved to be a powerful source whether in terms of providing information or communication or as a medium of entertainment.

IMPORTANCE

The Internet has contributed a significant role in our daily lives, nowadays we are dependent on the internet for our daily life activities. It plays a chief role in economic development and social development. With the notable advancement in technology, the importance of the internet has intensified over time. It is mainly because of its numerous advantages it reduces the stress related to work and it is used to document records in computer files which was a herculean task for people before the advent of the internet, Internet has completely revamped our system, our functioning structure, presently internet is an integral part of our daily lives, we can't imagine a day without the Internet. We are heavily reliant on the Internet for the services rendered by their platforms messenger etc.

Today the rise of the internet brings into the world how online resemblance has influenced social relations. It extricates us from all geographical barriers and connects us to the person, innovations on daily basis have transformed our lives into elegant ones. The internet is an efficient tool for compiling information at a large level, it has enhanced the level of education, and anyone can gather inexhaustible information for researching that one might require.

The innovation of the internet proved to be a productive source in various sectors. It has made communication easier and faster. The sectors where the internet has been asserted to be a blessing are:

Business: The Business sector has prospered with the advent of the internet, all the transactions have been made online through online shopping sites, online banking, and so on. It has contributed a lot in the sector by saving time and enabling widespread participation from all over the world. The online working mode is flexible and effective, it is automated to online structured platforms which save rigorous labor and provides efficiency.

Education: The internet is also known as the encyclopedia of information, it's been a blessing for students to research and learn through the medium of the internet. It has flipped around our reality, we have witnessed this in covid times when the whole world was struggling in the

pandemic, and the internet was the sole medium through which education was imparted by various online platforms.

Communication: The communication sector has been influenced by the invention of the internet. Conferences and meetings at the worldwide level can be attended online mode through the way of video calls. Social media platforms like WhatsApp, Facebook, etc. help us to engage with any person from any corner of the world by the way of text, voice, etc. Through their use, we can share our views and opinions in public. It has helped and improved many facets of our lives in general.

Economic growth has been enhanced by the internet it has led to expansion in trade, and the formation of policies through online marketing which enables wider access to people to access goods. It has also been a medium of entertainment, we can access various to various OTT platforms like Netflix, and Amazon for our refreshments.

FREEDOM OF SPEECH AND EXPRESSION

Everyone has the right to freedom to express themselves, and their viewpoint in front of others. Freedom of speech and expression is guaranteed to us by Article 19 (1)(a) in Part III of the Indian constitution. It can't be infringed as it is a fundamental right of every citizen of India, this right empowers citizens of India to express their statements and views freely, and it also includes the right to access information (RTI act). Freedom of speech and expression is supposed to be a natural right guaranteed to us by birth, an essential right, it connotes a wide meaning with it which lies from the preamble of the constitution where a solemn resolve is made to ensure the liberty of thought of expression to all its citizens.

Not only Indian Constitution ascertained freedom of speech but also international statutes such as **Article 19** of the **Universal Declaration of Human Rights (UDHR)** (declared on 10th December 1948), **Article 10²** of the **European Convention on Human Rights and Fundamental Freedoms**, **Article 19³** of the **International Covenant on civil and political rights**, etc.

² European Convention on Human Rights and Fundamental Freedoms 1950, art. 10

³ International Covenant on civil and political rights 1966, art. 19

ARTICLE 19

Indian constitution guarantees the freedom of speech and expression to all citizens, irrespective of caste, creed, or gender by the Constitution of India, Art. 19 (1)(a)⁴ free propagation of ideas is the main aim of the right, and it is ensured by freedom of broadcasting, circulation or publication. Freedom of Speech and expression signifies the right to convey one's own beliefs and viewpoints freely by word of mouth, printing, writing in form of pictures, or any other manner. It thus entails the articulation of one's belief through any medium of communication or visible presentation, such as indications and signs.

The right to free speech is not absolute. It does not mean freedom to hurt another's status which is safeguarded under **Article 21**.⁵ This right is, however not absolute and it authorizes the state to impose reasonable restrictions by article (19)²⁶ in the concern of sovereignty of India, security of the state, friendly relation with the state, morality, obscenity, contempt of court, defamation, public order, incitement to an offense. Freedom of the press is also implied in this article, which includes freedom of broadcasting, freedom of publication, freedom of circulation, and freedom against pre-censorship.

LANDMARK JUDGEMENTS

In the case of *Romila Thapar v State of Madras*⁷ SC held that freedom of the press is a part of freedom of speech and expression. Patanjali Sastri, J, correctly observed that “*Freedom of Speech and Press lay at the foundation of all democratic organizations, for without free political discussion, no public education, so essential for the proper functioning of the process of Government, is possible.*”

Another case in which dissemination of commercial information was challenged before the court, *Tata Press Ltd. v Mahanagar Telephone Nigam Ltd.*⁸ where the Supreme Court held that a marketable promotion or commercial speech was also a part of the freedom of speech and expression, which can be hindered the reasonable restrictions defined under Article 19(2).

⁴ Constitution of India 1950, art. 19(1)(a)

⁵ Constitution of India 1950, art. 21

⁶ Constitution of India 1950, art. 19(2)

⁷ *Romila Thapar v State of Madras* (1950) SCR 594

⁸ *Tata Press Ltd. v Mahanagar Telephone Nigam Ltd.* (1995) SCC (5) 139

Supreme Court held that advertisement, which is no more than a commercial bargain, is anyhow communication of information observing the product publicized.

IN UHR

Article 19 of the Universal Declaration of Human Rights 1948, declares that everyone has the right to freedom of opinion and expression, this right also includes the liberty to express opinions without any interference and to seek, obtain and impart any information and idea through any media, regardless of frontiers. This right empowers people they can use the internet for receiving an e-mail, sending them, posting a blog, or even reporting, for personal purposes, or it could be used for scientific or cultural work. It assists as a tool for authorities, for promoting their policies and services, or for any politically encompassed work. All kinds of transmissions traditionally operated through various mediums of media can be utilized on the Internet.

FREEDOM OF SPEECH AND EXPRESSION IN CYBERSPACE

Cyberspace⁹ is the platform through which everyone can access, and express their views and share their opinion with the rest of the world. Freedom of speech and expression is a fundamental right, which is guaranteed to us by the constitution of India and it gives freedom to citizens of India to express their opinion and ideas in any form verbally or in writing, or by publishing them. It is a widespread network of computers that facilitates online transmission, it enables users to share information and beliefs, interact and communicate, gaming streaming, involve in conferences, handle business-related matters, and other numerous activities. Social media platforms have become a vital source of communication, people can connect and exchange their views within a minute. In previous years, we have witnessed a huge number of protests which have been supported by people for justice, and equality through various platforms like hashtags trending on Twitter, and posts on Instagram in the support of the truth.

In the case of *Shreya Singhal v Union of India*¹⁰ Supreme Court of India was faced with certain specific challenges concerning the fundamental right to freedom of speech and expression posed

⁹ Anil Kumar Singh, 'The complexities of freedom of speech and expression in cyberspace in digital India' (2018) 5(8) International Journal of Emerging Technologies and Innovative Research <<http://www.jetir.org/papers/JETIR1808817.pdf>> accessed 15 November 2022

¹⁰ *Shreya Singhal v Union of India* Writ Petition (Criminal) No. 167/2012

by cyberspace. In this case, the Supreme Court knocked down Sec. 66A of Information Technology Act 2000 on the ground of ambiguity, that it violates the right of freedom of speech and expression on the Internet. Section 66A of The IT Act is which laid down criminal liability upon an individual who conveys an objectionable message or email on any social media platform or internet.

In the year 2016, UNHRC declared the right to the internet as one of the basic Human Rights. In the case of *Fahima Shirin v State of Kerala*, it was decided by HC that access to the internet is a significant part of education and that the use of Cyber net was granted legal status in Part III i.e. Fundamental rights under Article 21 of the Indian constitution. Right to privacy is a misconception under cyberspace, how much we comply with the privacy policy, despite this, there are certain discrepancies and violations of privacy for sure.

The Internet has both pros and cons in cyberspace, In a recent case, concerning child protection laws concerning certain specific legislation, a child pornographic website was brought down, which was a milestone achievement in the field of cyberspace. But on the other hand, various types of offenses like cyberbullying, and cyber harassment is committed.

CYBER CRIMES AND LAWS

Cybercrime is a crime or criminal form of activity, which is directly linked to the use of computers and the internet for some illegal purpose, likewise illegal intrusion into the computer system or database of anyone, theft of stored online data, hacking, piracy, phishing, cyberstalking, fraud or cyber warfare, etc. Any offense in which a computer is used for executing that crime.

The development and advancement of the internet have increased the challenge of cybercrimes, now in every platform, there is a risk subject to the privacy of an individual, people today are majorly dependent on the internet for any type of work like online transactions, communication of confidential information, etc. Nowadays, there is a threat regarding national security, terrorists and cybercriminals make use of these technologies to intervene in another Country's defense networks and retrieve information and make use of them, always have a suspicion of leakage of personal information by ways of hacking, hackers intrude in your profile and hack

into your account and collect whatever data they want to collect, spamming and phishing can also be harmful to people.

For the regulation of these crimes, cyber laws were made, which cover the legal aspects which concern any activities related to the use of the internet or Cyberspace. Cyber law is used to deal with all the legal problems happening in Cyberspace. Cyberlaw¹¹ includes elements of various laws like intellectual property, contracts, data protection laws, secrecy, and freedom of speech and expression. There are various laws enacted by the government of India to regulate malicious activities on the internet that interfere with other personal enjoyment of rights.

- ***Information Technology Act 2000***

This law was the first law enacted by the government for cybersecurity, It was passed by Act No.21 of 2000, which got assets of the president on 9 June and was made effective from 17 October 2000. It was formulated to perceive electronic records and online/electronic files to get legal recognition. Its main objective was:

- To give legal commendation to digital signatures accepted as a legal signature to approve pacts in online mode.
- To grant legal commendation for holding accounting books in the online form by banks as well as other institutions, and also aid in curbing illicit cyber activities with due assiduousness.
- For the protection of privacy of an individual in the online form and deterring cyber crimes.
- To provide legal recognition to all the transactions in the online form.

The IT laws in India don't merely verify digital signatures but also procure for the authentication of the records, which have also been ratified and created from digital signatures. There is a condition in the statute to constitute a committee for the assistance of the central government and controller i.e. Cyber Regulations. Advisory Committee. The nature of the IT Act even relates

¹¹ Joon-Yeoul Oh & Rick A. Aukerman , 'Freedom Of Speech And Censorship In The Internet' (2013) 17(4) International Journal of Management & Information Systems
<<https://clutejournals.com/index.php/IJMIS/article/view/8101>> accessed 15 November 2022

to online crimes or offenses that are committed outside India. There is further an outlay to shape the Controller of Certifying Authorities which permits and supervises the working of the Certifying Authorities.

Various sections that deal with some cybercrime are sections 43 and 66 of the IT Act which penalizes several activities varying from hacking into a computer system, data theft, initiating and dissipating viruses through computer networks, damaging computers or computer programs, destroying any computer system or computer network, denying authorized personnel access to a computer system, destroying information residing in a computer, etc. Punishment violation of this section is imprisonment of up to 3 years or a fine or Rs. 5,00,000 (Rupees five lac) or both. Sections 67, 67A, and 67B of the IT Act prescribe punishment for publishing or transmitting, in electronic form: (i) obscene material; (ii) material containing the sexually explicit act, etc.; and (iii) material depicting children in the sexually explicit act, etc. respectively, it deals with obscenity.

IT Act, 2000 went through two amendments in the year 2008 which were rendered about the laws on cybercrime - by way of the IT Act, 2008. They were enforced at the inception of 2009 to bolster the cybersecurity laws, the changes included in the Information Technology Act, of 2008 were the change in the connotation of some terms such as communication devices, whereas stringent regulations have been enforced, but the sweep in the pandemic, has made an intense growth in the use of online transaction mode, which has led to dominant in the fraud cases.

With the emergence of social media as a common platform for everyone to disseminate and express their views, the Government has to certain new rules to regulate social media and OTT (over-the-top) platforms.

SUGGESTIONS

Criticism is a necessity in today's world which not only benefits society but also mold public opinion. Every policy which is being implemented by the government should be openly discussed and debated, because for the people there is a need to spread awareness among the public and there is a need to make people think their voice is important and should speak because the very dissenting opinion may lead to either shifting the previous stand as the opinion

procures for discussions, or may also lead to boosting the stand as opinion in strengthening the rationale. In the context of the state's influence over the Internet, the Internet should be freed from such constraints. As is the case, in repressive countries such as China and Tunisia where the protection of state prominence and state secrets are needlessly restricted freedom.

There is a necessity for the considerable difference between speech that violates the rights of others and harms them and speech that is within the capacity of the right to freedom of expression. Government should reconsider its legal provisions and aspire for active and positive techniques rather than a negative approach, since, as is often the case, hate speech deficits in several aspects like understanding and justification. States and all other stakeholders, especially human rights organizations, and other organizations should participate in an active role in elevating public perception of importance, advantage, etc. The predominant predilection with service providers and inclination towards commercial interests establishing the panorama are imperiling the fundamental rights of citizens. The Internet is both a commercial realm and also a public forum of communication here and law, not unsteady action by isolated companions, must conserve the latter. The only possible means to assure clarity, responsibility, and representative legality.

Technology is always a double-edged sword and can be used for both good and bad motive, especially in a civilization that is heavily reliant upon technology, offense based on the electronic form will tend to arise and due to that law-breaking are bound to intensify and lawmakers have to go far behind them, opposed to the imitators, to keep them at nook. The technological complexity needed to be modified according to new techniques exceeding conventional schemes of scrutiny. In most cases, data are encrypted, making it troublesome for police administrations to get the contents of the communication.

CONCLUSION

The misuse of freedom of speech and expression is a worldwide phenomenon that violates all legal, social, and technical aspects, this matter needs to be undertaken and should be globally acceptable. India should be reasonably acceptable in technical terms so that it has its servers and it does not have to depend upon foreign servers and Foreign Service providers. India should

aspire hard for technological advancement, to make it self-sufficient to be able to preserve its citizens against the misuse of cyberspace. There should be some convenient law e.g. Cyber Justice system or cyber Law of India incorporating civil and criminal aspects, procedural as well as substantive law for procuring suitable protection for the information of users.

Thus, it should be the persistent endeavor of the government, rulers, and lawmakers to assure that technology evolves in a prosperous way and is being used for both legal and conscientious business growth and not for perpetrating offenses. Concerning effective state responsibilities, it is time for the states not only to regard themselves with the security of teenagers but also in general concern themselves with the optimistic freedom of expression on the Internet. An individual's right to voluntarily impart and receive information within a formal pattern must be conserved from confidential parties' restrictions and their information.