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EXPLORING THE JUSTIFICATION FOR RESTRICTING FREEDOM OF SPEECH IN DEMOCRATIC SOCIETIES.

AUTHORED BY: AFSAR AHAMED.N

Abstract

The debate over the restriction of freedom of speech in democratic societies remains a contentious issue, with proponents arguing for necessary limitations in the face of harm or societal disruption, while opponents advocate for the preservation of unfettered expression as a cornerstone of democracy. This paper delves into the nuanced justifications for restricting freedom of speech within democratic frameworks, considering factors such as hate speech, incitement to violence, and the protection of vulnerable communities. Through an examination of legal precedents, philosophical arguments, and reputed online sources. This paper aims to provide a comprehensive understanding of the necessity and importance of freedom of speech and restrictions of it at same-time. In context of India freedom of speech is mentioned as Fundamental Right under Article 19 of Indian constitution but at same time Article 19(2), restricts the Freedom of Speech. These constraints are in the interests of: Safety, The sovereignty and integrity of the country, friendly ties with other countries, Security of the public, Decency or morals, Voicing Hate, Defamation, Disobedience of court.

Keywords: freedom of speech, democratic societies, limitations, hate speech, incitement to violence, vulnerable communities.

1. Introduction
2. Methodology

The methodology comprises of Scholarly articles, books, legal precedents, online sources analysis. By employing this methodological framework, this study aims to offer a comprehensive understanding of the necessity, ethical considerations, and practical implications of restricting freedom of speech in democratic societies.

A. Statement of Problems.

Research questions.

1. What are the primary justifications for restricting freedom of speech in democratic societies?
2. What is the scope of freedom of speech ?
3. How do courts and judicial bodies interpret and apply legal standards regarding freedom of speech, particularly in cases involving speech restrictions?

B. Hypothesis.

Based on a thorough review of scholarly literature, legal precedents, and online sources, it is hypothesised that, while freedom of speech is recognised as a fundamental right in democratic societies, there are justifiable circumstances under which limitations on this freedom are required to protect individual rights, prevent harm, and promote the greater good of society. This hypothesis contends that a nuanced approach to speech regulation, balancing the values of free expression with the need to address hate speech, incitement to violence, and the protection of vulnerable communities, is required for a healthy and inclusive democratic discourse. Furthermore, it is anticipated that the efficiency of speech limitations in attaining these goals will differ depending on the legal, cultural, and sociopolitical context in which they are implemented.

C. Objectives.

1. The purpose of this research is to demonstrate the importance of restraining freedom of speech in democratic country like India in order to protect individual rights, promote social peace, and prevent harm to individuals or society as a whole.
2. Evaluate the detrimental impact of unrestricted speech on people, groups, and society as a whole. Understand how unrestrained speech may cause social harm, using case studies that demonstrate the real-world impact on public safety, social cohesiveness, and democratic values.
3. Examine the legal principles and standards governing freedom of speech within different legal frameworks, including constitutional provisions, statutory laws, and judicial precedents. Understand the factors and considerations that courts take into account when adjudicating cases involving speech restrictions.

D. Relevance and Significance of the study

Relevance

This research tackles important issues related to absolute freedom of speech, providing information on the importance of restriction on freedom of speech. It offers useful information for students, teachers and lawyers

Significance

This study offers valuable insights into the significance of freedom of speech, its limitations, and the legal frameworks governing speech restrictions. By examining how courts interpret and apply these standards, the study provides critical information for lawyers, students, policymakers, and the general public. This study contributes to fostering a deeper appreciation for the importance of freedom of speech in democratic society like India and provides practical guidance for those tasked with shaping legal and policy frameworks that govern speech.

E. sources of data

This research paper relies on doctrinal and secondary sources, with a significant significance on online resources. The doctrinal source also include international conventions. In addition to this, secondary sources such as online articles, reports, and statistics were also utilized. Online platforms, database, and websites of reputable organisations were also a major source.

F. Discussions and findings

A) What are the primary justifications for restricting freedom of speech in democratic societies?

As mentioned in Article 10 of the International human right convention 1988, protection of rights to uphold your opinions, Indeed, it protects the right to freedom of expression, including the right to hold beliefs without interference. However, this privilege is not absolute and is subject to reasonable limitations indicated in the covenant. These restrictions are required to defend a variety of interests, including national security, public order, public health or morals, and the rights and reputations of others¹. For example, restrictions on free expression may be deemed

¹ Article 10: Freedom of expression | EHRC. (n.d.). <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-10-freedom-expression>

necessary if the expression constitutes a genuine threat to national security or public order, such as incitement to violence or terrorist attacks. Similarly, communication that incites discrimination, hostility, or violence against persons or groups because of their race, religion, ethnicity, or other protected characteristics may be restricted in order to maintain public peace and social harmony.

And as also mentioned in Article 19 of international convention of civil and political rights, 1. Everyone has the right to hold opinions without interference 2. Everyone has the right to freedom of expression, which includes the freedom to seek, receive, and impart information and ideas of all types, regardless of boundaries, verbally, in writing or in print, in the form of art, or by any other means of his choice. But how ever mentioned sub-clause 3. It may thus be subject to some limitations, but these shall only be those provided by law and necessary: (a) To respect the rights and reputations of others; (b) To defend national security, public order, public health, or morality².

In democratic nation like India the freedom of speech and expression is given to its citizens in Article 19(1)(a) of the Indian Constitution, which goes like (1. All citizens shall have right a. to freedom of speech and expression.) but at same time the freedom of speech is also limited with sub-clause 2 of Indian constitution for the sovereignty and integrity of the country, security of State, friendly relations with foreign nations, public order, decency or morality, or in relation to contempt of court, defamation or incitement to offence³, the ⁴limitations of freedom of speech is alike or similar to the international convention's as mentioned above. The first amendment to the Indian Constitution increased the scope of restrictions under Article 19(2) in response to the Supreme Court's findings in the instances of Romesh Thappar and Brij Bhushan.⁵

In the Romesh Thappar case, the State's ban on the circulation of a magazine, purportedly on the

² International Covenant on Civil and Political Rights. (n.d.). OHCHR. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=Everyone%20shall%20have%20the%20right,other%20media%20of%20his%20choice>.

³ (Tejaswini kaushal). A Bird's Eye View of the Right to Freedom of Speech and Expression in India Articles – Manupatra. (cited on 25.04.2024.) <https://articles.manupatra.com/article-details/A-Bird-s-Eye-View-of-the-Right-to-Freedom-of-Speech-and-Expression-in-India>

⁴ (Akhilesh pallalamari) why is freedom of speech restricted in india (cited on 25.4.2024.) <https://thediomat.com/2022/10/why-is-free-speech-limited-in-india/>

⁵ (Disha) Policy, V. C. F. L. (2023, March 17). Article 19(2) and 'Public Order.' Vidhi Centre for Legal Policy. (cited on 25.04.2024) <https://vidhilegalpolicy.in/blog/article-192-and-public-order/#:~:text='Reasonable%20restrictions'%20as%20outlined%20in,or%20incitement%20to%20an%20offence>.

grounds of public safety and public order, was deemed unconstitutional by the Court. Similarly, in the Brij Bhushan case, the Court intervened to prevent the government from implementing pre-censorship measures on a journal in the name of maintaining public order.⁶ These legal setbacks for the government prompted amendments to the Constitution of India, specifically targeting the freedoms guaranteed under Article 19(1). The first amendment was introduced as a response to these court rulings, aiming to place limitations on certain fundamental rights, including the right to freedom of speech and expression, in the interest of public order and security.⁷ Overall, these legal developments underscored the tension between individual freedoms and the government's authority to impose restrictions in the name of public welfare. The amendments to the constitution reflected attempts to strike a balance between protecting civil liberties and maintaining social stability in a rapidly evolving political landscape.

B) What is the scope of freedom of speech in India?

In India, the concept of freedom of speech has been interpreted broadly, encompassing a wide range of rights and activities. It includes not only the freedom to express oneself verbally but also extends to various actions and forms of expression. For instance, freedom of speech in India encompasses the right to remain silent if they choose, as part of their freedom of expression. Moreover, freedom of speech in India includes the right to express opinions and viewpoints on matters of public interest. Furthermore, the right to know and acquire information is considered integral to freedom of speech in India. Citizens have the right to access information about the government's actions, policies, and decisions, as well as the antecedents of candidates standing for election. This transparency and access to information are essential for promoting accountability and informed decision-making in a democracy. Freedom of the media is also considered a crucial component of freedom of speech in India. The media plays a vital role in disseminating information, fostering public debate, and holding those in power accountable. Journalists and media organizations are afforded certain protections to operate independently and report freely on matters of public interest. Overall, freedom of speech in India is construed broadly, encompassing a spectrum of rights and activities that contribute to a robust democratic culture characterized by open dialogue, transparency, and accountability. We will be looking at this concept with help of case laws.⁸

⁶ *Romesh Thappar case*, (cited on 25.04.2024), AIR 1950 SC 124,

⁷ *Brij Bhushan*, (cited on 25.04.2024) (1950) SCR 605.

⁸ Global Freedom of Expression Columbia University (02.05.2002)(cited on 26.04.2024) <https://globalfreedomofexpression.columbia.edu/cases/union-india-uoj-v-respondent-association-democratic-reforms-another-peoples-union-civil-liberties-pucl-another-v-union-india-uoj->

b.1 The right to remain silence

In the Indian Constitution, freedom of speech is enshrined in Article 19(1). However, there has always been a question as to whether the *right to remain silent falls* within the ambit of Article 19 of our Indian Constitution. Which was later seen in the case *Bijoe Emmanuel v the State of Kerala (1986) 3 SCC 615..* This case, also known as the National Anthem case, featured the expulsion of three students by their school officials for refusing to sing the National Anthem. However, as the national anthem was performed, the youngsters stood respectfully from their seats. The validity of the students expulsion was contested in the Kerala High Court. The court declared students' expulsion on the grounds that singing the national anthem was a fundamental responsibility.

However, after the students filed a second appeal, the Supreme Court ruled that they had not violated the Prevention of Insult to National Honour Act, 1971. In addition, there was no law that could limit their fundamental rights under Article 19(1)(a) of the Indian Constitution. It was also determined that removal of minors from school violated Article 19(1)(a)'s right to silence.⁹

b.2 Right to express opinions

The right to express opinions through publications, newspapers, and other forms of media is recognized as a crucial aspect of freedom of speech under Article 19(1)(a) of the Indian Constitution. This fundamental right ensures that individuals have the liberty to disseminate information, express viewpoints, and engage in public discourse without undue interference from the government. However, this right is not absolute and may be subject to certain restrictions under specific circumstances, but however the restrictions should be justified unjustified restrictions are held to be void, lets delve into this topic in detail with help of few case laws.

Sakal papers v. union of India In the case, the petitioner, the proprietor of the private limited business 'Sakal', which produced daily and weekly newspapers in Marathi, challenged the legality of the Newspaper (Price and Page) Act of 1956 and the following Daily Newspapers (Price and Page) Order of 1960. These limitations limited the maximum amount of pages newspapers may publish. The petitioner said that these limits violated their freedom of speech and expression, especially as their publications played an important role in disseminating news and forming

[another/#:~:text=Case%20Summary%20and%20Outcome,criminal%20records%2C%20and%20educational%20background.](#)

⁹*Bijoe Emmanuel v state of Kerala* (All India report) (last cited on 26.04.2024)1987 AIR 748

public opinion in Maharashtra and Karnataka. The court held that Section 3(1) of the Act and any directives issued under it were unlawful. This ruling supported the notion that, while the government may have valid reasons for regulating the newspaper sector, any limits imposed must be fair and balanced. The court recognised the importance of the press in a democratic society and affirmed newspapers' right to choose the format, content, and distribution of their publications without government interference.¹⁰ This case highlighted the importance of free speech in maintaining a functional democratic state.¹¹

b.3 Right to know information

The right to be informed is an essential component of freedom of speech and expression, as recognised by many Supreme Court decisions in India. Individuals have the right to seek and receive information, which is critical in promoting openness, accountability, and informed decision-making in a democratic society. The Right to Information Act of 2005 enhances this idea by officially recognising people's right to obtain information from government personnel. This important act grants citizens access to government archives and papers, encouraging transparency and accountability in governance. The RTI Act improves democratic processes and encourages individuals to take an active role in public affairs by making information more accessible. Another question of law that arises by this is does right to know information is also a part of Article 19(1)(a) of Indian constitution we can know answer for this question with the help of a case law *Union of Indai v association for democratic reforms (1996) 2 SCC 752* In a significant ruling, the Supreme Court of India upheld a High Court order directing the Election Commission to procure and disclose to the public comprehensive background information regarding candidates contesting elections. This information encompassed details about candidates' assets, criminal records, educational qualifications, and other relevant background data.¹² The Court's decision underscores the importance of transparency and accountability in the electoral process. By mandating the disclosure of crucial information about candidates, the judiciary aims to empower voters to make informed decisions during elections. Providing access to candidates' background information enables voters to assess their suitability for public office and hold them accountable for their actions and credentials. Moreover, this ruling aligns with the broader principles of democratic governance, wherein transparency and citizen participation are

¹⁰ *Sakal papers v union of India* (All India Report), (last cited on 26.04.2024) AIR 1962 SC 305

¹¹ Uditia (leagal service India E- journal), (last cited on 26.04.2024) [https://www.legalserviceindia.com/legal/article-3036-case-comment-sakal-papers-ltd-v-s-the-union-of-india.html#:~:text=Sakal%20Papers%20\(P\)%20Ltd.,India%20\(AIR%201962%20SC%20305\)](https://www.legalserviceindia.com/legal/article-3036-case-comment-sakal-papers-ltd-v-s-the-union-of-india.html#:~:text=Sakal%20Papers%20(P)%20Ltd.,India%20(AIR%201962%20SC%20305))

¹² *Union of Indai v association for democratic reforms* Supreme court report, 2002 (3) SCR 294

essential pillars. By ensuring transparency in electoral contests, the judiciary plays a pivotal role in strengthening democratic institutions and fostering public trust in the electoral process. The Supreme Court's affirmation of the High Court order reflects a commitment to promoting transparency, accountability, and integrity in the electoral system, thereby safeguarding the foundational principles of democracy in India.¹³

By overall citation of case laws, we can see that the Right to freedom of speech is not a narrow perspective but it is a broader term, that will be interpreted based circumstances and situations.

C) How do courts and judicial bodies interpret and apply legal standards regarding freedom of speech, particularly in cases involving speech restrictions?

In determining the reasonableness or constitutionality of restrictions on freedom of speech and expression, courts consider various factors to strike a balance between individual liberties and societal interests. Some key factors that courts typically interpret are explained in this paper

In the context of preserving freedom of speech in India, it is essential to implement reasonable restrictions. However, the concept of reasonableness varies depending on the specific circumstances of each case. To understand the application of the reasonableness test, we can examine several case laws that provide insights into how courts determine the reasonableness of speech restrictions. Let's explore some of these case laws.

C.A. The grounds for restrictions

c.a.1 Article 19(2) of Indian Constitution states that, nothing mentioned in Article 19(1)(a) shall affect the existing laws, nor prevent state from making laws, *but it also says* law can only impose reasonable restrictions in the interest of the sovereignty and integrity of state, public order, friendly relations with foreign states, the security of the state, decency or morality or contempt of court, or degrading one's dignity of false factors.

c.a.1 Decency and morality

The grounds of decency and morality serve as valid justifications for imposing restrictions on freedom of speech and expression. Under certain circumstances, actions or speech that are deemed indecent or contrary to prevailing moral standards may be subject to

¹³ *Union of Indai v association for democratic reforms* (Supreme court cases) (1996) 2 SCC 752 (cited on 26.04.2024)

legal restrictions. Sections 292, 293, and 294 of the Indian Penal Code (IPC) ¹⁴ provide definitions of indecency and prescribe penalties for offenses related to obscenity and immoral acts. These legal provisions aim to maintain public morality, uphold social norms, and protect vulnerable individuals from exposure to harmful or offensive content. By defining and regulating indecent or non-moral acts, the law seeks to strike a balance between the right to freedom of speech and expression and the broader societal interests in promoting decency and morality. It is important to note that while freedom of speech is a fundamental right, it is not absolute and may be subject to reasonable restrictions, including those based on considerations of decency and morality.¹⁵

c.a.2. Defamation

Article 19(2) of the Indian Constitution provides for limitations on freedom of speech and expression, particularly concerning defamation. This provision aims to prevent individuals from making statements that harm the reputation of another person. Defamation occurs when a statement injures the reputation of an individual, leading to damage or harm. While the right to free speech is fundamental, it is not absolute. It does not grant individuals the freedom to misuse their speech to tarnish or negatively impact the reputation or status of others. Such actions can violate the rights of individuals to dignity and privacy, which are protected under Article 21 of the Indian Constitution.

Therefore, while individuals have the right to express themselves freely, they must do so responsibly and within the boundaries of the law.¹⁶ Freedom of speech should not be used as a pretext to engage in defamation or harm others' reputations unjustly. Upholding the dignity and rights of individuals is essential in a democratic society, where the exercise of rights should not infringe upon the rights of others.

Let's explore some of these case laws.

Case laws which shows unreasonable restrictions will be held void *Indian Express Newspapers (Bombay) Private Ltd. v. Union of India (1985) 2 S.C.R. 287*

¹⁴ Indian Penal Code, 1860, Act No 45 (Pg No.127-129) (cited on.26.04.2024) <https://www.indiacode.nic.in/bitstream/123456789/4219/1/THE-INDIAN-PENAL-CODE-1860.pdf>

¹⁵ M.P. Jain, Indian Constitutional Law 8th Edition, Pg No. 1053-1057.

¹⁶ What is defamation? - Free Speech, Rights and Responsibilities. (2022, June 8). Free Speech, Rights and Responsibilities.(cited on 26.04.2024) <https://uwm.edu/free-speech-rights-responsibilities/faqs/what-is-defamation/#:~:text=Defamation%20occurs%20if%20you%20make.limited%20in%20multiple%20respects%20th ough.>

On December 6, 1984, the Supreme Court of India heard a petition filed by newspaper firms and their employees, causing the federal government to reexamine its taxation policy for newspapers. The petitioners claimed that the introduction of import charges was unjustly increasing newspaper costs and limiting distribution, infringing on the basic right to free speech and expression. While affirming the government's right to tax newspapers, the Court emphasised the significance of ensuring that such taxation does not unnecessarily burden this critical freedom¹⁷. However, due to a lack of clear information from either party about the size of the tax burden, the Court directed the government to reconsider its tax policy. It reaffirmed that any restrictions on freedom of speech and expression that go beyond those permitted by Article 19(2) of the Indian Constitution would be unlawful.¹⁸

Similarly, In the case of *Secretary, Ministry of Information & Broadcasting, Govt. of India v. Bengal Cricket Association*, 1995 AIR 1236, (1995) 2 SCC 161 the court emphasized that restrictions on free speech can only be imposed within the parameters defined under Article 19(2) of the Indian Constitution.¹⁹

In furtherance to this, in the case of *Ramila Maidan Incident v. Home Secretary, Union of India* [2012] 4 S.C.R. 971, ²⁰the court reiterated that any restrictions imposed on fundamental rights must be reasonable and directly related to the provisions outlined in Article 19(2) of the Indian Constitution.²¹

G. Conclusions

Certainly! In democratic societies, the issue of restricting freedom of speech is multifaceted. While individuals are entitled to express themselves freely, this entitlement is not without limitations. Legal frameworks, such as Article 19(2) of the Indian

¹⁷ *Indian Express Newspapers (Bombay) Private Ltd. v. Union of India* - Global Freedom of Expression. (2023, November 2). Global Freedom of Expression. (cited on 26.04.2024) <https://globalfreedomofexpression.columbia.edu/cases/indian-express-newspapers-bombay-private-ltd-v-union-of-india/>

¹⁸ *Indian Express Newspapers (Bombay) Private Ltd. v. Union of India* (1985) 2 S.C.R. 287 (cited on 26.04.2024)

¹⁹ *Ministry of Information & Broadcasting, Govt. of India v. Bengal Cricket Association*, (cited on 26.04.2024), (1995) 2 SCC 161

²⁰ *India of Ramila Maidan Incident v. Home Secretary, Union of India* [2012] 4 S.C.R. 971 (cited on 26.04.2024)

²¹ Advay vora supreme court observations (23rd june 2023) (cited on 26.04.2024)

<https://www.scoobserver.in/reports/restrictions-on-public-officials-freedom-of-speech-judgement-summary/>

Constitution, delineate permissible grounds for curtailing freedom of speech, including considerations like national security, public order, and decency. However, the interpretation and application of these standards by courts are pivotal in striking a delicate balance between safeguarding individual liberties and addressing broader societal concerns.

Courts play a crucial role in interpreting and applying legal standards regarding freedom of speech. They navigate through complex legal principles and precedent to determine the reasonableness of speech restrictions, ensuring that fundamental rights are upheld while also safeguarding the interests of society as a whole. For instance, landmark cases like *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India* (1985) underscore the judiciary's commitment to preserving free speech within reasonable limits.

In essence, the judiciary acts as a guardian of democratic values, ensuring that freedom of speech remains a cornerstone of democratic societies while also recognizing the need for responsible governance and societal harmony. Through thoughtful interpretation and application of legal standards, courts play a pivotal role in navigating the intricate balance between individual freedoms and societal interests.

H. Reason for the study

The study aims to provide a comprehensive understanding of the complexities surrounding freedom of speech, particularly in democratic societies like India. By examining legal standards, court interpretations, and real-world case examples, the study seeks to shed light on the justification for restricting freedom of speech, the scope of this fundamental right, and how courts navigate speech restrictions. Ultimately, the goal is to contribute to informed policymaking, legal scholarship, and public discourse on this vital aspect of democratic governance.

I. References

1. Article 10: Freedom of expression | EHRC. (n.d.). <https://www.equalityhumanrights.com/human-rights/human-rights-act/article-10-freedom-expression>
2. International Covenant on Civil and Political Rights. (n.d.). OHCHR. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international->

- 752 (cited on 26.04.2024)
14. Indian Penal Code, 1860, Act No 45 (Pg No.127-129) (cited on.26.04.2024)
<https://www.indiacode.nic.in/bitstream/123456789/4219/1/THE-INDIAN-PENAL-CODE-1860.pdf>
 15. M.P. Jain, Indian Constitutional Law 8th Edition, Pg No. 1053-1057.
 16. What is defamation? - Free Speech, Rights and Responsibilities. (2022, June 8). Free Speech, Rights and Responsibilities.(cited on 26.04.2024) <https://uwm.edu/free-speech-rights-responsibilities/faqs/what-is-defamation/#:~:text=Defamation%20occurs%20if%20you%20make,limited%20in%20multiple%20respects%20though.>
 17. Indian Express Newspapers (Bombay) Private Ltd. v. Union of India - Global Freedom of Expression. (2023, November 2). Global Freedom of Expression. (cited on 26.04.2024) <https://globalfreedomofexpression.columbia.edu/cases/indian-express-newspapers-bombay-private-ltd-v-union-of-india/>
 18. Indian Express Newspapers (Bombay) Private Ltd. v. Union of India (1985) 2 S.C.R. 287 (cited on 26.04.2024)
 19. Ministry of Information & Broadcasting, Govt. of India v. Bengal Cricket Association, (cited on 26.04.2024), (1995) 2 SCC 161
 20. India of Ramila Maidan Incident v. Home Secretary, Union of India [2012] 4 S.C.R. 971 (cited on 26.04.2024)
 21. Advay vora supreme court observations (23rd june 2023) (cited on 26.04.2024)
<https://www.scobserver.in/reports/restrictions-on-public-officials-freedom-of-speech-judgement-summary/>