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FREE SPEECH IN VIRTUAL WORLD & THE CONSTITUTION OF INDIA.

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INTRODUCTION

Freedom of speech and expression is an integral part of democracy and one of the most important fundamental rights. In a democratic country like India, democracy can be said to be correct & complete only when there is people's participation by understanding and expressing their opinion. Freedom of speech allows the people to express their opinion freely without fear of reprisal. And their rights have been protected by our Constitution of India under **Article 19(1)(a)** which stated that all citizens shall have the right to freedom of speech and expression and it not only includes word of mouth but also speech by way of writing, painting, movies, banners, placards etc. But this right is not an absolute right it is subjected to certain reasonable restrictions under **Article 19(2)** such as in the interest of National security, sovereignty and integrity of the country, friendly relations with foreign countries, public order, decency or morality, defamation, contempt of court. These restrictions are imposed to ensure that people exercise their right properly with utmost care and caution. And the landmark decisions in this regard include **Romesh thapper v. State of Madras**, (1950) AIR 124, wherein the Apex Court decided on the reasonable restriction and held that no expansive restrictions can be imposed on freedom of speech and expression.

Further in **Anuradha Bhasin v. Union of India**, (2019) SCC Online SC 1725, the issue was regarding the blockade of internet by the Government in Kashmir, whether it amounts to violate Article 19(1)(a) and whether such restriction is reasonable restriction under Article 19(2). In this the Supreme Court held that restriction can be imposed by the Government but it should be such that the freedom is not misused or effect the national security or public order in such a gravity.

VIRTUAL SPACE

We all know that today we live in a virtual world or the so called digital era. These digital developments have increased or widened the scope of freedom of speech & expression. Now any person can express their opinion from any part of the world through any social media

platform. And there are a lot of social media platforms like face book, YouTube, Instagram, twitter etc. Social medias can be defined as any web or mobile based platform that enables an individual or agency to communicate interactively and enables exchange of content and it includes social networking platforms, Blogs, vlogs, wikis, social news, media sharing etc.

The advancement in technologies definitely brought advantages where every single individual can express his ideas to the whole world without fear but however it also have certain drawbacks like hate speech, cyber bullying and cyber crimes. The right to freedom of speech & expressions is not limited to offline activities but extended to virtual world as well. In *Shreya Singhal v. Union of India* (2013) 12 SCC 73, Supreme Court held that right to freedom of speech & expression includes right to receive and import information through any medium including internet.

CHALLENGES CAUSED BY SOCIAL MEDIA ON FREEDOM OF SPEECH AND EXPRESSION

The virtual world has posed a new challenge for exercising the right of free speech. One of such challenge is hate speech. Hate speech is speech that is intended to offend, insult or humiliate a person or group of people on the basis of their age, race, religion, caste, gender, sexual orientation etc. Today we can see that people are disseminating hate speech through social media platform. Though hate speech is a criminal offence under I P C section 153A, 295A, 298, 505(2) etc. Social media also increased the rate of cyber crimes like cyber bullying, harassing, spreading false information. It is difficult to regulate and control the vast amount of information that is shared online.

Apart from the reasonable restrictions under the constitution of India there are also certain other provisions under the IT Act to ensure that this freedom is not misused in the virtual world.

INFORMATION TECHNOLOGY ACT, 2000

Apart from those provided in the Indian Constitution there are certain other restrictions imposed by the IT Act 2000 ensuring that freedom of speech and expression is not misused in the digital world.

Section 66A of the Information Technology Act was inserted by the Information Technology

(amendment) Act of 2008, which provides punishment for sending offensive messages through communication channels.

Any person who sends, by means of a computer, resources or a communication device,

- a) Any information that is grossly offensive or has a menacing character,
- b) Any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or communication device,
- c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such message shall be punishable with imprisonment for a term which may extend to three years and with fine.

The words is in section 66A such as grossly offensive or has menacing, causing annoyance, inconvenience, damages, obstruction, insult, injury, criminal intimidation enmity, hatred or ill will etc. has not been clearly defined.

Several petitions were filed stating that this provision violates Article 19(1)(a) and was finally declared as unconstitutional by the Apex court in **Shreya Singhal v. UOI** (2013) 12 SCC 73.

Section 69A

Under this section the government has the power to block online content that threatens national security, public order or incite violence.

Section 79

This section deals with the liability of the intermediaries to observe due diligence and promptly remove illegal content.

Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

Through these rules, the government has brought OTT (over-the-top) platforms showcasing films and audio-visual programs published by online content providers as well as the platforms which showcase news and current affairs content on them under its wing.

These rules created a lot of controversy from the public on the ground that it is violative of freedom of speech and expression.

Digital India Bill, 2023

Recently a proposal had been made by the Government of India for replacing the Information Technology Act, 2000 with the new Digital India Bill. This new bill proposed to ensure openness safety, trust and accountability in the digital platforms and to ensure proper and timely grievance redressal. It also requires KYC verification. Since digital intermediaries like digital media, gaming, OTT, AI, Blockchain are increasing day by day the current rules and regulations are insufficient to cater the cyber related issues.

CONCLUSION

It is true that digital era has made the freedom of speech and expression more complete as it provides opportunity for everyone to express their opinions through social media platforms but there should be reasonable restrictions as well so that such freedom should not be misused. Currently even though there are provisions under the IT Act there is no proper enforcement of such provisions because of lack of clarity in various provisions. There should be proper legal framework for upholding the right to free speech without misuse.

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