



# Freedom of Speech and Expression on Cyberspace: A Critical Evaluation

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## Abstract

The phrase "Freedom of Speech and Expression" refers to the freedom to express one's thoughts, ideas, as well as opinions through writing, speaking, writing, printing, drawing, as well as other mediums. The social freedom to express one's opinions publicly is referred to as the "voice of independence." The terms "freedom of speech" as well as "voice of independence" are commonly used interchangeably to describe any act of information searching, receiving, or sharing that occurs without any restrictions. The capacity to acquire as well as share knowledge is part of the independent voice as well as declaration. Proclamation as well as the independent voice is both necessary for self-satisfaction.

The majority of democratic countries agree that the freedom of speech is a fundamental human right. It is an undeniable fact. However, it's crucial to use caution while using your independent voice. On the one hand, the Internet promotes independence of speech by giving people new platforms for pronouncement. On the other hand, the unrestrained diffusion of information has increased the need for content control, not the least of which is to stop children from accessing potentially harmful materials. If governments agree to establishing reasonable restrictions to guarantee that everyone has access to the internet, the Internet will only be able to fully realise its promise as a tool for exercising the right to free pronouncement. Only in the absence of clear policies as well as action plans can the Internet serve as a tool for technology. The present paper looked at the role of the internet as well as the broader implications of freedom of speech and expression.

**Key Words:** Freedom of Speech and Expression, independence, internet

### • **Introduction:**

Freedom in itself since it is necessary for the full development of a person's identity as well as dignity, natural instinct has a place in the preamble of the Charter as one of the purposes. A person has to be able to speak independently as well as authoritatively in order to realise their full potential. Through voice as well as other forms of communication, the human species has developed a special capacity to express thoughts as well as ideas. Any democracy relies on independent voices as well as public statements. Independence voices as well as pronouncements have existed since the dawn of civilisation. A democracy's Charter ought to prohibit censorship by the legislative or executive branches of government in order to safeguard the idea of free pronouncement. Both elected politicians as well as public officials must be open to criticism at all times in a free democratic society. Any attempt to silence or restrain such criticism is the vilest kind of political censorship.

The right to free speech has existed since the dawn of civilization, but maybe not in the form it does now. In life, intuitive right always prevails. The only aim of government is to protect these rights. Although there are notable exceptions, almost all of the countries with constitutions that academics have examined have as their main objective the preservation as well as advancement of the fundamental right to free speech as well as proclamation.

The internet is now a dynamic medium that we categorise as virtual or cyberspace. In the media, anybody or anything may express themselves by sharing original thoughts or other types of material. They will discuss their own beliefs or those of others, their own history or those of others, their own cultures or those of others, as well as their own life, in order to interfere, influence others to follow their own paths or views, or even merely to distribute knowledge (Jaiswal A. (2015). Today the use of internet is growing, people express many ideas on the social media sites as well as now it become vital pillars of a free civilization as well as is a device of socio-political behavior. Internet plays an inevitable role in today's era of modern technology in generating such culture which is democratic as well as is beyond the political lines. It is now a part of subconscious mind of the people through which the content on internet has huge impact on thinking as well as actions of people in democracy. There is huge information exchange through internet where people share experiences, gather information, discuss on numerous topics. Experiences from various democracies inside the global informed us that the liberty of use of internet involves aspects of autonomy as well as public debate (Bakshi K. Anil (2018). Due to changing of time as well as circumstances today this rights became very much disputed as well as debatable. Now a day's every individual remember their rights as well as forgot their duties. Due to this behavior various problem arose in front of this democratic system. The present paper looked at the role of the internet as well as the broader implications of freedom of speech and expression. This paper tries to study the freedom of speech and expression on cyberspace.

- **Objective of the Paper:**

The major objective of the present study is to study looked at the role of the internet as well as the broader implications of freedom of speech and expression. This paper tries to study the freedom of speech and expression on cyberspace.

- **Internet as a New Communicative Sphere:**

Cyberspace as well as the Internet became new phenomena in European nations at the beginning of the 1990s. Libertarian utopianism shifted its attention to cyberspace, first in prestigious universities as well as research institutes as well as then in society at large. In actuality, the number of communication channels has significantly increased. The addition of email, social media, as well as website pages. There are several communication opportunities provided by this triangle. At the same time, traditional media like radio, television, as well as telephone have all switched to digital (Benedek W. and Kettemann Matthias C. (2013).

The fact that no one institution, commercial, federal, or nonprofit--is in charge of operating the Internet demonstrates its openness. It is technically impossible for one organisation to control the Internet since there is no single repository, centre, or channel for communication. All you need to communicate with people is a computer as well as a modem. These conversations may happen instantly, as well as they can be directed towards a single person, a group of individuals, or the whole planet. Bidirectional communication, in which users act as both speakers as well as listeners, are one of the many communication methods available on the Internet. The following six categories may be used to group the most common tasks:

Publishing information; Information retrieval; One-to-one communication (such as e-mail or chat); One-to-many communication (such as listserv or chat); Many-to-Many communication (such as newsgroups or chat); Real-time remote computer use (such as telnet); Information retrieval from the internet, ftp, as well as gopher; (world wide web).

The significance of the IT Act extends beyond the requirements of its individual parts as well as contributes to laying the groundwork for subsequent regulatory measures taken by the State. This has two functions, the first of which serves as a basic anchor for any discussions on Internet regulation by the Indian State in light of "cyber-crime"

prevention as well as concerns about national security. The second, as well as maybe more significant, way it functions in this respect is as a parent legislation, a kind of foundational document, for a collection of subsidiary formal regulations established by various State agencies regarding issues of Internet content control as well as surveillance interception. In doing so, it serves as giving legislative approval for the development of these regulatory standards as well as procedures, in the same way as in legal systems like India, subordinate lawmaking is expected to follow from a parent legislation. Because this executive-produced subordinate lawmaking is of a regulatory character as well as affects both Article 19(1)(a) as well as Article 21 rights, sorting out this link is essential (Rajya Sabha Secretariat, 79th 'Report on the Information Technology Bill, 1999). Only a law approved by a legislature or an executive order resulting from a law may put the primary limitations on the independent voice as well as proclamation. Thus, it would seem logically necessary to determine whether such executive notifications as well as other subordinate lawmaking actually connect to their parent statutes in a legally clear manner, as they would otherwise not fall within the class of restrictions imposed by the constitution that are acceptable by the State.

- **Internet as a tool of Voice of independence as well as Pronouncement:**

These liberties' current legal status developed along with various international as well as constitutional principles. Examples include the First Amendment of the United States Constitution, Article 5 of the German Constitution, Article 20 of the Spanish Constitution, Article 21 of the Italian Constitution, as well as Article 20 of the International Covenant on Civil as well as Political Rights at the international level (International Covenant on Civil and Political Rights (ICCPR)). Both individual as well as institutional liberty have two components. Both the general consensus as well as people's subjective ability depends on them. The Internet does not advise any adjustments to this dual dimension since constitutional guarantees cannot be jeopardised depending on the means of conveyance. Rosenfeld's three arguments for these rights are the need for democratic self-government, the need of the public to seek the truth (as Stuart Mill emphasised in the marketplace of ideas), as well as the individual right to free speech. Both the first as well as the last of these assertions have a strong link to the right to information freedom (John Stuart Mill, 1859). The term "Internet governance" broadly refers to the "design as well as management of the technological infrastructure essential to maintain the Internet operating as well as the legislation of substantive regulations surrounding these technologies," as well as it is an understudied field of study. This viewpoint focuses on who controls as well as administers the Internet. The technical architecture is composed of a multitude of protocols, standards, as well as systems that are crucial yet challenging for the average Internet user to comprehend since they also represent "social problems of power as well as authority" in addition to a number of scientific advancements. It's crucial to remember that both public as well as private mediators fall under the umbrella of "governance." Legal professionals began to raise academic issues over aspects of Internet infrastructure, privacy, as well as speech control during the public Internet's rapid growth in the 1990s. One of many people sounding the alarm was Lawrence Lessig (1998, p. 3), who said that cyberspace "had the potential to be the reverse of a zone of freedom." The phrase "code is law," made popular by Lessig in 2000, not only highlighted the political motivations behind decisions regarding Internet infrastructure as well as the potential for governmental limitations on free speech thru the new technology, but it also demonstrated the existence of other interests, namely private (Lessig, L. (2000).

- **Court Cases as well as Analysis:**

As part of the ongoing litigation of **Kanhaiya Kumar v. State of NCT of Delhi**, students from Jawaharlal Nehru University held a memorial service for 2013 hanged Parliament attack prisoner Afzal Guru. The event was a lyrical, artistic, as well as musical protest against Afzal Guru's death by law. According to reports, students who were demonstrating could be heard yelling anti-Indian slurs. As a result, many students were charged with violating Sections 124-A, 120-B, as well as 34. Kanhaiya Kumar, the president of the university's students union, was imprisoned after being accused of making obscenities that were "anti-national." Given that the police investigation was still in its early stages as well as it was unclear precisely what role Kanhaiya Kumar had in the demonstration, the Delhi High Court granted him bail.

In the case of **Indian Express Newspapers v. Union of India**, the Supreme Court of India found that Article 19 of the Indian Constitution included the phrase "freedom of the press" (1). (a). Under the guise of the public interest, no limitations on freedom of the press may be imposed. Therefore, upholding press freedom as well as invalidating any legislation or other government acts that do so in violation of the Constitution are fundamental duties of judges. When a newspaper is prohibited from expressing its own opinions on a hot issue or when a magazine is subjected to pre-censorship, press freedom is likewise constrained.

The Delhi High Court made it plain that supporting a certain set of people's cause cannot be characterised as anti-national as well as does not involve inciting public disturbance in **Priya Parameswaran Pillai v. Union of India & Others (2015)**.

Contrary to common belief, Article 19(2) of the constitution does not define the terms "anti-national" or "national interest," according to the high court. In its February decision, the Delhi High Court eased Pillai's travel limitations, judge Rajiv Shakhder noted:

- Why should the state limit someone's freedom if they operate within the bounds of the laws that the government has passed is the question.
- A foundational aspect of democracy is individual liberty... As long as they do not violate the law, people should be allowed to live their life as they see proper. One of the numerous liberties granted to a person is the right to free speech as well as pronouncement, which includes the right to criticise as well as disagree (i.e., a citizen). Even though personal criticism is unpleasant, it cannot be avoided.
- Many civil rights activists believe that it is their civic duty to alert the government to any contradictions in its developmental plans. Although the State may not share the opinions of civil rights campaigners, this cannot be a good enough reason to repress dissent. The defendants thus lacked justification for issuing a LOC qua the petitioner. The decision to detain the petitioner at the airport on January 11, 2015, in my opinion, was illegal because it violated Ms. Pillai's foundational rights under Article 21 as well as 19(1)(a).

**Disha A. Ravi toolkit Case (No. 420/2021 in FIR No. 49/2021):** Disha Ravi's A very well-known case was the Toolkit case, which included the freedom of speech on social media in India as well as throughout the world. Disha Ravi, a 22-year-old student as well as climate activist from Bengaluru, was imprisoned for her part in distributing the Toolkit, a digital resource created as well as circulated during the farmers' protests even against Farmers Bills in 2020. She was accused of offences covered by a number of sections of the Indian Penal Code, such as: promoting hatred between different groups on the basis of religion, race, location of birth, place of residence, language, etc., as well as acting in a way that is harmful to preserving unity; 124A - Sedition with 120B - Criminal conspiracy.

The toolkit was initially tweeted by Thunberg on Wednesday night, but she later took it down as well as uploaded a "updated toolkit" on Thursday, claiming the first was out of date. The out-of-date newspaper advertised support for the January 26 tractor rally as well as details on upcoming online as well as street protests. The most current evidence indicates that the creators of the toolkit have become the subject of a FIR by Delhi police. According to preliminary research, the "Poetic Justice Foundation," a pro-Khalistani organisation, seems to have created the toolkit in question, according to Special Commissioner of Police (CP) Praveer Ranjan on Thursday. In reaction to the present farmers' uprising, the booklet is considered as proof of a worldwide plot to malign both India as well as the federal government. Greta Thunberg unintentionally shared a Google document known as a "toolkit" on February 5. Although she eventually removed the tweet, it was still in the news. The Delhi police have asked Google as well as other major social media companies to make information on the kits available as soon as it becomes public knowledge. For the toolkit, email addresses, URLs, as well as social media accounts were found. According to the Delhi police, the inquiry showed that certain pro-Khalistani individuals were actively involved in sowing instability throughout the country. The Delhi police claim that Disha Ravi participated in the investigation as the "Editor of the Toolkit Google

Doc." She is now charged with being a "key conspirator" who took part in both the document's preparation as well as distribution. According to Delhi police, Disha Ravi as well as Greta Thunberg reportedly exchanged the equipment. After being imprisoned in Bengaluru for allegedly modifying a social media toolkit on the current farmer protest against three agricultural laws, climate activist Disha Ravi was granted bail by a Delhi court. Here, it's critical that everyone understand as well as the court's procedures as well as its decision about free speech as well as dissent: The judge granted the bail, stating that the allegations of sedition against Ravi were "scarce" as well as "sketchy" as well as that people could not be imprisoned only because they disagreed with a decision made by the government. Activists claim that the toolkit is a benign resource used by social media campaigns for planning as well as strategy. In every democratic country, the court said, the people serve as the conscience of the government, as well as they cannot be imprisoned for just disagreeing with it. Inciting racial hate, according to the court, is not a legal offence. Different points of view, disagreement, divergence, dissent, as well as even disapproval are acknowledged by the court as legitimate means of fostering objectivity in governmental acts. It went on to say that a robust as well as functioning democracy is undoubtedly characterised by an educated as well as assertive citizenry as opposed to one that is indifferent or subservient. The court dismissed the police's argument, holding that it could not be inferred from Ravi's association with individuals who opposed agricultural regulations on stage that she supported separatist ideology or violent conduct. They cannot be imprisoned only because they disagree with the policies of the government, he said. The court determined that the right to dissent is protected by Article 19 of the Charter. The freedom to seek a global audience is part of the declaration's definition of the independent voice as well as proclamation. The court ruled that there are no geographical restrictions on engagement. As long as they are legal, a person has the fundamental right to employ the greatest communication technologies, allowing them access to a large audience.

### • Conclusion:

The internet is now a dynamic medium that we categorise as virtual or cyberspace. In the media, anybody or anything may express themselves by sharing original thoughts or other types of material. They will discuss their own beliefs or those of others, their own history or those of others, their own cultures or those of others, as well as their own life, in order to interfere, influence others to follow their own paths or views, or even merely to distribute knowledge. In order to tell the rest of the world about some fascinating news or history that are most important to them, someone might divulge information, the facts of materials like videos, photos, as well as voice recordings. Since the information is freely accessible, millions of individuals may access it at any time as well as from any location. As a consequence, whether positive or negative, it will have an effect on other individuals, civilizations, as well as societies. As long as the interests of individuals are safeguarded, whether individually or collectively, there can be no problem with government regulation. The problem arises when, under the pretence of regulation, it starts to suppress, or infringe upon, people's civil rights, such as their right to an independent voice as well as proclamation. Despite the fact that there are protections in place, each state has a tendency to go beyond them to a different degree.

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- **Express Newspapers Private Limited vs. Union of India**
- **Priya Parameswaran Pillai v. Union of India & Others (2015)**
- **Disha A. Ravi toolkit Case (No. 420/2021 in FIR No. 49/2021)**

