

# LEGALFOXES LAW TIMES

## FREEDOM OF SPEECH AND EXPRESSION: AS SOCIO-LEGAL STUDY ON SOCIAL NETWORKING SITES

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### INTRODUCTION

“The more time you spend in India, the more you realize that this country is one of the world’s greatest wonders- a miracle with a message and the message is that democracy matters.”

-Thomas Friedman<sup>1</sup>

India is one of such places on earth where you can speak your heart without any fear that someone gunning you down for that. Situations of Indians is a lot better than as compared to citizens of other nations, but for Indians, the picture is not soothing or simple anymore. This observation is being made about the exercise of the right of freedom of speech and expression in the context of social networking sites and the hurdles placed on that by the arbitrary use of the so-called cyber law of the nation, particularly Section 66A of the Information Technology Act, 2000.<sup>2</sup>

On 24-3-2015, the Supreme Court of India gave a landmark judgment and struck down Section 66-A of the Information and Technology Act. The decision marked the relevance of online freedom of speech and expression and removed a very controversial restriction which was placed over the right. Since the inception of the Constitution, right to freedom of speech and expression has been given paramount importance, and though they are always has been a check on this right, it has evolved into various other forms. Online freedom of speech and expression express has become prevalent in the recent few decades after there has been an increase in internet and social media in society. Speech and expression is the basic essence of democracy and a medium through which a class of political inferior connect to the elected political superior. It is irrefutable that this right has been restricted in India in to prevent friction at a communal level and also between different castes which exist in the society. A major chunk of the population in India now has access to the Internet and social media as a platform for expression has drastically developed. The paper

<sup>1</sup> Rohit Raj, “Defining Contours of Press Freedom in Backdrop of National Emergency of 1975”, All India Reporter (Journal Section), 2008, p. 160.

<sup>2</sup> Shishir Tiwari and Gitanjali Ghosh “Social Media and Freedom of Speech and Expression: Challenges before the Indian law” Research Gate, October 2018, p.1.

brings out the multiple controversies which had taken place in recent years and how this helped in changing the perspective towards the right and finally the removal of the restriction. From the legislative point of view, it has been broadly discussed as to despite doing away with Section 66A, there are many other provisions which still put restrictions on the right. The paper concludes by providing the current state of the right in India, and analyse the arguments of both the sides regarding the removal of total restriction with a few suggestions addressing the problem. This paper deals with the concept of the online freedom of speech and expression in India, and the restrictions which are associated with it. The legislations which pertain to the criminalisation of online speech and expression have also been discussed in the paper vis-à-vis the controversies that have taken place in the country when this right was exercised by the people.

### **Research Methodology**

The present study is primarily based on empirical research conducted by the researcher to gather the different views and usage of networking sites by individuals. The survey was conducted in the form of answering for certain questions. The survey was circulated through google forms.

The study is also based on doctrinal research as certain data and information of study have been taken from published reports, journals, newspaper articles and various websites.

### **Object & Purpose of Study**

Object and Purpose of the Study are to find out whether Freedom of Speech and Expression on social networking sites are being exercised freely and to what extent reasonable restrictions are implied.

### **Research Questions**

- I. Whether the Right to Freedom of Speech and Expression is being exercised freely by all citizens of India?
- II. Whether Social Networking sites are a good platform to fully exercise their right to free speech.
- III. Whether the people are under the threat of being scrutinised by agencies and individuals?

### **Hypothesis**

H1- It appears that individual is under the threat of being judged and scrutinised and criticised for their freedom of thought and concise which is creating a hindrance upon their fundamental right.

H2- It seems that the authorities have not taken any appropriate action to curb the imminent threat to freedom of thought and concise of an individual.

### **WHAT IS SOCIAL MEDIA?**

Social media comprises “primarily internet and mobile phone based tools for sharing and discussing information. It blends technology, telecommunications, and social interaction and provides a platform to communicate through words, pictures, films, and music.<sup>3</sup> Social media includes web-based and mobile technologies used to turn communication into interactive dialogue”.<sup>4</sup>

Andreas Kaplan and Michael Haenlein define social media as “a group of internet-based applications that build on the ideological and technological foundations of Web 2.0, and that allow the creation and exchange of user-generated content.”<sup>5</sup> “Web 2.0” refers to Internet platforms that allow for interactive participation by users. “User-generated content” is the name for all of how people may use social media.<sup>6</sup> Twitter, Instagram, LinkedIn, Facebook, WhatsApp, LinkedIn and YouTube are mostly used by people these days.

## **FREEDOM OF SPEECH AND EXPRESSION**

Amid all the hue and cry about the issues of women empowerment and Gender Equality, the Fundamental Right of Speech and Expression has become a trivial matter; the inalienable right which has been guaranteed to every citizen under Article 19(1) (a) of the Constitution of India<sup>7</sup>. In every democratic setup, the welfare and need of the people are paramount and the opinion and wants of the people can never be made oblivious, and it is to ensure this purpose only that the Right to freedom of speech and expression has been imbibed within the Constitution of India as a Fundamental Right<sup>8</sup>. The basic essence of any democracy are the people and what ensures a strong democracy is that the voice of the people is taken into account and the actions taken should always be in furtherance to that cumulative benefit of every individual. This is how the Right to Freedom of Speech and Expression acts as a tool for the people to vent out their opinions and simultaneously also being sure that they are protected by the legal mechanism in case of violation.

Freedom of speech and expression is extensively understood as the notion that anybody has the natural proper to freely express themselves via any media and frontier without outside interference, which includes censorship, and without fear of reprisal, along with threats and persecutions. Freedom of expression is a complicated proper. This is due to the fact freedom of expression isn't absolute and incorporates with it unique duties and responsibilities therefore it can be subject to sure restrictions supplied with the aid of regulation.

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<sup>3</sup> Paranjy Guha Thakurta, Media Ethics, Oxford University Press, New Delhi, 2012 at p. 354.

<sup>4</sup> “Social Media”, available on the Web, URL: [http://en.wikipedia.org/wiki/social\\_media](http://en.wikipedia.org/wiki/social_media), accessed on 14/11/19.

<sup>5</sup> Andreas M. Kaplan & Michael Haenlein, “Users of the World, Unite! The Challenges and Opportunities of Social Media”, Business Horizons, vol. 53, 2010, p. 61.

<sup>6</sup> id., at p. 61.

<sup>7</sup> Article 19(1) (a) of the Constitution of India 1950.

<sup>8</sup> The Law Commission of India Commission of India, One Hundred and One Report on ‘Article 19 of the Constitution and the Freedom of Speech and Expression (1984)’.

The following are some of the most commonly agreed-upon definitions of freedom of expression that are considered as valid international standards:

1. “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”<sup>9</sup>
2. “Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other media of his choice.”<sup>10</sup>
3. Similarly, Article 19 (1) (a) of the Constitution of India also confers on the citizens of India the right “to freedom of speech and expression”<sup>11</sup>.

### **Article 19 of the Constitution of India<sup>12</sup>**

The freedom of speech and expression means the right to express one’s convictions and opinions freely by word of mouth, writing, printing, pictures or any other mode. It also includes the right to propagate or publish the views of other people.

Article 19(1) (a)<sup>13</sup> of the Constitution of India states that “all citizens shall have the right to freedom of speech and expression”. The philosophy behind this article lies in the Preamble of the Constitution, where a solemn resolve is made to secure to all its citizen, liberty of thought and expression. The exercise of this right is, however subject to “reasonable restrictions” for certain purposes being imposed under Article 19(2) of the Constitution of India.<sup>14</sup>

### **The elements of right to freedom of speech and expression**

The main elements of the right to freedom of speech and expression are as under-

1. This right is only available to a citizen of India and not to foreign nationals.
2. The freedom of speech under Article 19(1) (a) includes the right to express one’s views and opinions at any issues through any medium, e.g. by words of mouth, writing, printing, publishing, picture, movie film etc.
3. Under Article 19(2) of the Constitution, this right is not absolute and it allows “government to make laws to impose reasonable restrictions in the interest of sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency and morality and contempt of court, defamation and incitement to an offence”.<sup>15</sup>

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<sup>9</sup> Article 19, Universal Declaration of Human Rights, 1948 (UDHR).

<sup>10</sup> Article 19 (2), International Covenant on Civil and Political Rights, 1966.

<sup>11</sup> Article 19 of the Constitution of India, 1950.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Article 19(2) of the Constitution of the India, 1950.

<sup>15</sup> Ibid.

## **FREEDOM OF SPEECH AND EXPRESSION AND SOCIAL MEDIA/INTERNET**

The social networking sites and internet has become an important communications tool through which individual can exchange their ideas, opinions and can exercise their right to freedom of expression. We have seen that in the past year, internet and social networking sites played a major role in a growing movement of people around the world, who are advocating for justice, change, equality, human dignity and respect for human rights. The social networking sites connected people and enable them to exchange information instantly without any hindrance and creating a sense of solidarity.

Freedom of Expression through the medium of the on-line network. In the modern-day international of globalisation, the increase in the use of social media has been unparalleled, and numerous social structures are being accessed by using the human beings to bring the emotions and explicit their reviews. Not simplest this, when we talk about the freedom to explicit, it also involves the idea of on-line media, online leisure content material, etc.

The restriction under Article 19(2)<sup>16</sup> which has been earlier talked about is applicable in all such facets as well. The right to freedom of speech and expression is considered to be the first condition of liberty for an individual and is predominant for any democracy, and thus equal importance needs to be given to the online provision of this right. In India, there is a lot of censorship over the content which is being posted as well any news or information under the veil of reasonable restriction. There have been numerous incidents when on the online front this right has been violated several times being termed as provocative, degrading and offensive. In India, there are more than around 190 million internet users, including over 173 million mobile internet users who have the opportunity of voicing their opinions and thoughts through the online network. At this juncture, if their Right to express is curtailed, then it will be a sheer violation of their right. Whenever the Right to Freedom of expression is being violated, there is also a violation of the Right to be informed of an individual; the Right to be informed is considered to be a species of the Right to freedom of speech and expression who have the opportunity of voicing their Right to express is curtailed, then it will be a sheer violation of their Right to express is curtailed, then it will be a sheer violation of their right.<sup>17</sup> As an individual can never make an opinion or choice and participate socially, politically and culturally without receiving the information and opinions of the other individuals.

The Indian society is always in a State of flux, and a democratic society always metamorphoses whenever there is a sense of urgency for a change. The criminalisation of online speech and expression and the excessive censorship of online media and social platform is a serious threat to the Right of freedom speech and expression in the country. To subdue political criticism and to

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<sup>16</sup> Article 19(2), Constitution of India, 1950.

<sup>17</sup> Expanding Horizons of Right to Information, Central Information Commission, <<http://cic.gov.in/CIC-Articles/Praveen%20Dala-02-13052006.pdf>>. (last visited on 3-11-2019).

fulfil the selfish motives, the right of speech and expression is being jeopardised. The uncontrolled restrictions on the online freedom of speech have tarnished the image of India of being the world's largest democracy.<sup>18</sup>

## **CONTROVERSIES REGARDING ONLINE FREEDOM OF SPEECH & EXPRESSION<sup>19</sup>**

In India, controversies are almost a family affair, and every other day there is a spur in the media regarding the political and administrative lacunae. However, most of these controversies rather than delivering any productive benefits end up getting futile sensitisation. Right to Online Speech and Expression has been also talked about and been in controversies, but it never got its due of attention until there were a few controversies which involved imminent personalities. Some of the major controversies which created an impact were:

### **1. Political Cartoons: Anti- Corruption Cartoonist Aseem Trivedi arrested on Sedition Charges.**

In a 2011 case regarding censorship of online content, a free-speech campaigner Aseem Trivedi was arrested by Mumbai police. The arrest was carried out after Amit Katarnayea, a legal advisor for a Mumbai based NGO, filed a complaint against him. It was said that he had uploaded cartoons on his Facebook page and his website, and it mocked the parliament and the corruption in the administrative machinery. Soon the imitation was shared rapidly in the social media platforms as well. Trivedi's cartoons supposedly depicted the parliament as a giant commode (national toilet) and showed the national emblem with wolves instead of lions with the caption "Wolfs with the Sign of Danger" and Bharastameva Jayate instead of Satyameva Jayate<sup>20</sup>. It was alleged that the derogatory sketch depicted the Parliament and the National Emblem in a bad light. The complainant said that the offending and derogating cartoons were uploaded on social networking sites also, and it hurt the sentiments of the nation. Aseem Trivedi was charged with sedition under Section 124-A of the Indian Penal Code 1860. And Section 66(A) of the IT Act and Section 2 of the Prevention of Insults to National Honour Act. It was followed by the large protest by the people across the nation and later the Bombay High Court said that his cartoons only expressed anger with the State machinery and did not incite violence. Every citizen of the country has a right to freely criticise State machinery in strong and harsh words and there has to be incitement of violence against the government to slap sedition charges on someone.

### **2. AIB Controversy**

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<sup>18</sup> Parkhi Aggarwal and Piyush Goyal, "Online Freedom of Speech and Expression: A critical analysis", *KIIT Student L Review* 33, 2016, pp. 34-45.

<sup>19</sup> *Ibid.*

<sup>20</sup> "Anti-Corruption Cartoonist Aseem Trivedi Arrested On Sedition Charges", Indian Today, <<http://indiatoday.intoday.in/story/anti-corruption-cartoonist-aseem-trivedi-arrested-onseditioncharges/1/216643.html>> (last accessed on 3-11-2019).

In another trending case of online content censorship, the controversial video of “AIB Roast” was banned from YouTube. AIB conducted a roast comedy show in Mumbai starring Ranveer Singh, Arjun Kapoor and Karan Johar. The show was uploaded on YouTube only and went viral on the site; after which it faced widespread criticism from different sections of the society. It was alleged that the show was laced with swear words and objectionable language. The president of a Brahman Ekta Seva Sanstha in Mumbai, Akhilesh Tiwari filed a complaint against various celebrities. They allegedly passed abusive and offensive remarks against one another along with other performers and even at the audience<sup>21</sup> Maharashtra Government to probe AIB comedy show after complaints over obscenity, Mumbai police filed an FIR against the organisers of the show. The FIR was registered under Section 15 of the Environment Protection Act — Sections 34, 294, 509 and 120-B of the Penal Code, 1860; and Sections 66-A and 67 of the Information Technology Act., 2000<sup>22</sup> Johar gets interim reliefs in AIB Roast case, The Hindu. Several Christian organisations also filed complaints that the show contained several religious comments and used insulting jokes on Catholics. The AIB Team later apologised to the Christian community for any hurt which was caused to their religious sentiments. The content which was posted had all the sufficient warning of containing adult content, and the show was inspired by a western concept where such shows are very common and taken in good humour. It was also criticised that the action that was taken against the show depicts the unreasonable restrictions that are imposed on online freedom of speech and expression.

### **3. Anti-Bal Thackeray Comment: Girls Held for Facebook Post- Questioning Mumbai Shutdown.**

The landmark case which brought up the issues of online freedom of speech was the incident after the death of Bal Thackeray on 17-11-2012. Two young girls from Palghar district, Shaheen Dhada and Renu Srinivasan were arrested by the Mumbai police after an FIR was made by a Shiv Sena activist, after one of them posted a question on her Facebook account, questioning the city’s total shutdown for Shiv Sena leader Bal Thackeray’s funeral. The Post-read “Every day thousands of people die. But still, the world moves on... just due to one politician deal, a natural death. Everyone goes crazy... Respect is earned not given out, definitely not forced. Today Mumbai shuts down due to fear not due to respect”<sup>23</sup> This post was regarded as abusive and it was claimed that it scathed the religious sentiments of the people. Another girl, Renu who had merely “liked” the post was also arrested. Both of them were reportedly booked under Section 295(a) of the IPC (for hurting religious sent and Section 66(a) of the Information Technology Act., 2000 and were sent to 14-day judicial custody by a court. However, it was later realised that the girls were booked

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<sup>21</sup> Available at <<http://www.hindustantimes.com/entertainment/maharashtra-govt-to-probe-aib-comedy-show-after-plaints-over-obscenity/story-mSjdlh0GOT328WLFpOaaM.html>> (last visited 3-11-2019).

<sup>22</sup> Available at <<http://www.thehindu.com/news/national/other-states/johar-gets-interim-relief-in-aib-roast-case/article6917749.ece>> (last accessed on 10 July 2020).

<sup>23</sup> Available at <<http://indianexpress.com/article/india/india-others/sec-66a-21-individuals-who-changed-the-system/>> (last accessed on 10 July 2020).

under the wrongly under Section 295(a) of the IPC as the post of the girl did not hurt the religious sentiments of people but only the sentiments of a particular group of people.

The girls were later released after a few days after the protest from all around the city and a petition was filed in the court. The post by the girl hurt the sentiment of a particular group of people. Article 19(a) of the Indian constitution provides us with the freedom of speech and expression. This freedom should not be misused by the people and thus certain restrictions have been imposed on this right as a safety valve. However, it has been seen very often that these restrictions have been detrimentally under the veil of maintaining peace and ensuring the public interest. In the wake of the various controversies that have occurred in the past and also the judgment passed in the above mentioned Bal Thackeray case, The Supreme Court repealed Section 66-A of the Information Technology Act, 2000, that had led to the arrests of many people for posting content deemed to be “allegedly objectionable and offensive” on the Social media<sup>24</sup>. The first PIL on this issue was filed by a law student Shreya Singhal, who sought amendment in Section 66-A of the Act.

#### **4. Other Incidents of Violation of Free speech**

In Uttar Pradesh, four journalists arrested by police over a tweet and a story, the arrest is seen as an increasing threat to freedom of speech in India by various news organisations and other critics. Freedom of speech is a fundamental right, but reports from across the country showing growing official intolerance for contrary opinions and dissent. On June 8, the U.P. police arrested journalist Prashant Kanojia, Ishika Singh head of news channel Nation live and editor named Anuj Shukla. On June 10, police arrested Anshul Kaushik, another editor of the news channel. All four were booked for publishing “objectionable content” related to a controversial video of a woman who claimed she had sent a marriage proposal to CM yogi Adityanath.

Therefore it is concluded that every citizen of India has the fundamental right of freedom of speech and expression on social networking sites but this right is not absolute. It curtailed again and again by the government. Also, freedom of expression included so many other aspects of rights. By using this right freely express their choice on social networking sites.

#### **Freedom of Online Speech & Expression: Legal Safeguards & Restrictions**

The tale of free speech and expression in India has been redefined by the Hon'ble Supreme Court in **Shreya Singhal v. Union of India**<sup>25</sup>, when Section 66-A had been struck down from the Information and Technology Act. A writ petition has been filled in the form of the PIL in the Supreme Court in the face of widespread abuse of Section 66A. In this case, the constitutionality of Section 66A challenged and argued that the section is so wide and vague and incapable of being judged on standards, and that is the reason this provision is abuse by authorities which violates the

<sup>24</sup> Available at <<http://www.thehindu.com/news/national/supreme-court-strikes-down-section-66-a-of-the-it-act-finds-it-unconstitutional/article7027375.ece>>, (last accessed on 3-11-2019).

<sup>25</sup> Shreya Singhal v. Union India, (2013) 12 SCC 73.



Article 14, 19(1)(a) and Article 21 of the Indian Constitution. Section 66-A had criminalised any individual's act of sending messages through electronic media which the Court found to be offensive in nature. The Court struck down the Section stating it to be vague and to have a chilling effect on the freedom of speech. Division Bench of supreme court admitted writ petition and Chief Justice Altamas Kabir and Justice Chelameswar held that the “wording of Section 66A is not satisfactory. It is made very wide and can apply to all kinds of comments.” However, apart from Section 66-A, there are ample amount of provisions which are the species of the same genus and have the same restrictive effect on the online freedom of speech. Although it is claimed that such provisions are to safeguard the right, but is serving its purpose or has boiled down to being a restriction. After a careful analysis, some of the legal provisions are Section 67<sup>26</sup> — “Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished”.

The ambit of section 67 is limited to the medium of expression and transmission. In a nutshell, it bans any obscene or lascivious material transmitted in electronic form. Although Section 66-A has been struck down its restrictive effect can be seen under Section 67 as well. The problem under this particular provision is that the words “obscene” and “lascivious” are subjective, and the ban which has been put under the pretext of this Section has been criticised. Even the online media advertisement has to bear the brunt of this Section, as very often the Government stating the advertisement to be obscene in nature.

In **Hamdard Dawakhana v. Union of India**<sup>27</sup>, the contention being the online advertisement of prohibited drugs; the Court held that such advertisement is in the public welfare and cannot be considered as depriving or corrupting the minds of people. Thus the Court held that restriction is unreasonable and online freedom of speech and expression.

“Section 69 of the Information Technology Act, 2000<sup>28</sup> - Power to issue directions for interception or monitoring or decryption of any information through any computer resource”. This Section empowers the Government to monitor, decrypt and intercept any information through computer resource in the lieu of national interest and security. Although this Section is in the greater benefit of the public, the probability of its misuse cannot be ignored. Numerous times has the right to online freedom of speech and expression been jeopardised to fulfil the perverted political interests of the Government, and it is these provisions which act as a safety mechanism against any legal standing. “Section 69-A of the Information Technology Act., 2000<sup>29</sup> — Power to issue directions for blocking for public access of any information through any computer resource.” Recently, Government to take countermeasures against the ISIS propaganda had

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<sup>26</sup> Section 67 of the Information of Technology Act, 2000.

<sup>27</sup> AIR 1960 SC 554.

<sup>28</sup> *Ibid.*

<sup>29</sup> *id.*, at Section 69-A.

blocked numerous websites under this Section, and later it was reviewed and seen that many websites which were total of a different paradigm were also blocked. Although the importance of this Section is not being contested, the extent of its misuse needs to be understood as well. The blocking procedure which has been laid down under the same Section has several loopholes which aggravate the chances of the exploitation of this provision.

### **Cyber Laws of India and Social Media**

In India, there is no specific legislation which deals with social networking sites, but there are several provisions in the cyber laws which can be used to seek redress in case of violation of any rights in the social networking sites. The legislation which deals with social networking sites are-

- The Information Technology Act, 2000
- The Information Technology (Procedure and Safeguards of Interception, Monitoring and Decryption of Information) Rules, 2009
- The Information Technology (Intermediaries Guidelines) Rules, 2011

Therefore it is concluded that freedom of speech and expression is not an absolute right it has been curtailed under Article 19(2) of the Constitution of India. Also, the Government has made various cyber laws to protect the fundamental speech of expression on social networking sites. Also, the government violated this right proportion to the offence done by the person on the social networking sites and also make sure that no person use this right for make hate speech, defame, and cyberbullying.

### **SURVEY FINDINGS AND OBSERVATION**

Having looked at the advantages and disadvantages of censorship on social networking sites in our country, we wanted to know what the public thought about freedom of speech and expression on social networking sites. We surveyed among people who access the Internet frequently. Some of the questions listed in the survey were:

#### **Findings of the questionnaire-based Survey**

##### **Survey Question I. Specify the age of people who participated in this survey**

### Age

71 responses

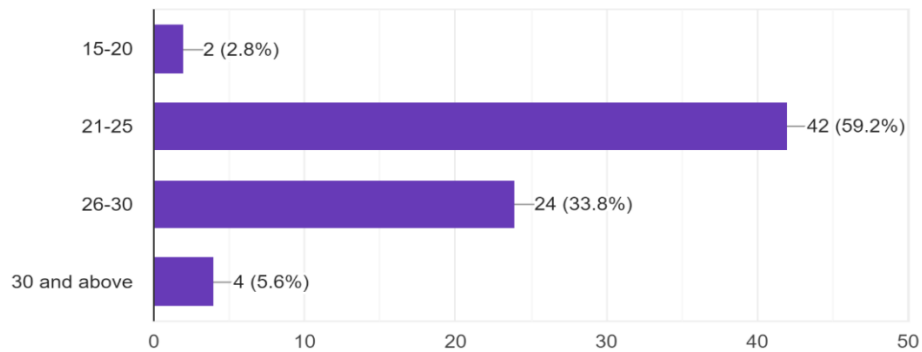


Fig. 1 – the graph consists of the age of different individuals who use social networking sites.

The chart above shows that the age of (21-25) Year, and (26-30) Year are the most frequent users of social networking sites. This percentage of persons are the youth which plays a vital role in any democracy. These are the people who are aware of their rights and have an outlook towards any burning issue. They use their right of expression by sharing their freedom of speech by using on any social networking sites.



### Survey Question II. Do you use any social networking sites?

#### Do you use any social networking sites?

71 responses

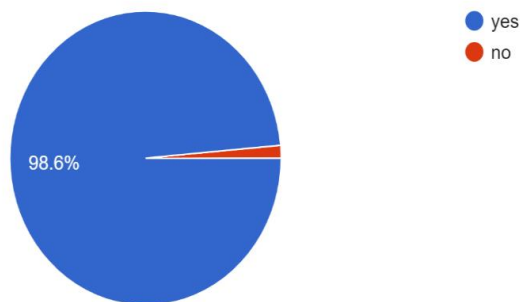


Fig. 2- the pie-chart shows the percentage of users of social networking sites.

From our survey responses, we can see that 98.6% of the people are using social networking sites in their daily lives. The relevance of the question is that social networking site is a part of their daily life, time consumption varies from person to person. The people use it as a medium to reflect their personal and professional life by updating statuses, pictures, thoughts which reflect the different perspective of living of every person.

### Survey Question III. Do you post any personal/religious/political views or photos on social networking sites?

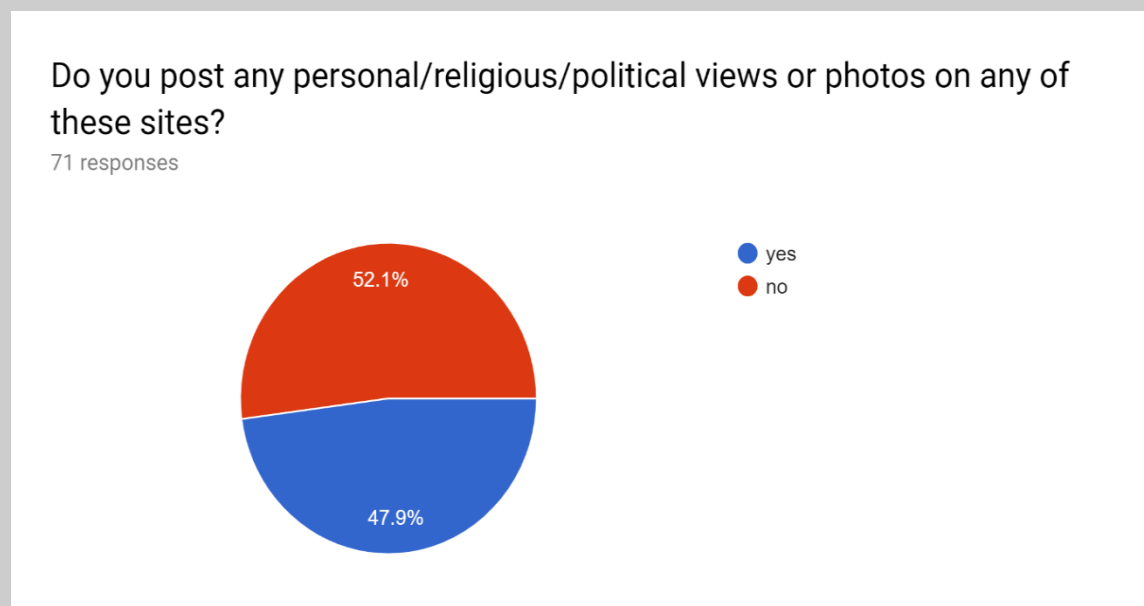


Fig no. 3- the pie-chart shows the percentage of users who post their view or photos on social networking sites.

The above figure shows a mixed percentage of people who likes to share their personal, religious or political views or photos and some do not. The difference between persons who share and the person who do not share their views or thoughts reflect their understanding of the free exercise of their fundamental right. The 52.1% the persons are who do not share or post on these sites because of being criticised for their thoughts. Which shows there is a hindrance in exercise of there right.

### Survey Question IV, If, not, please specify reasons-

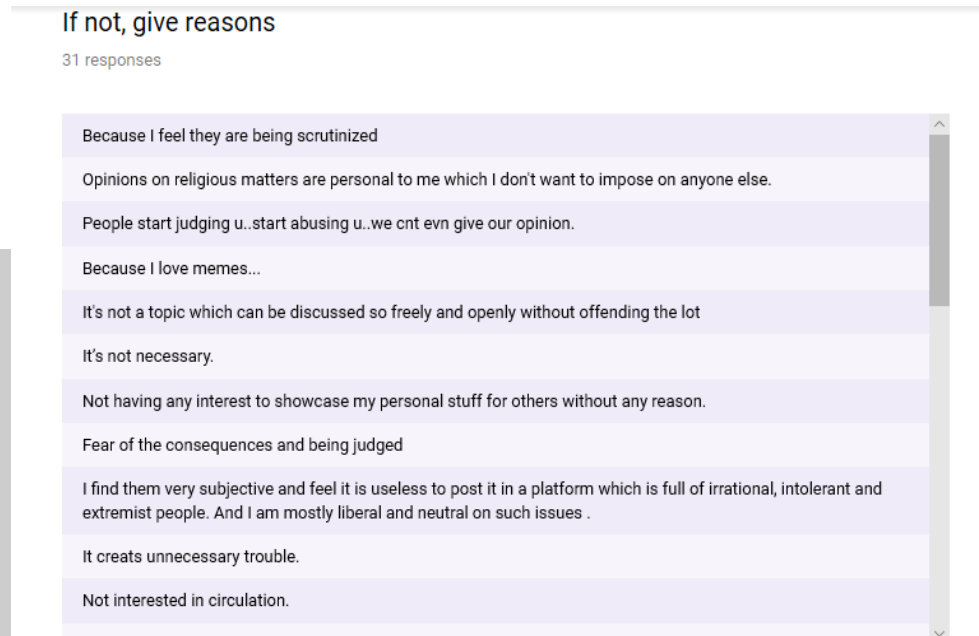


Fig. no. 4 lists of responses drawn for the question asked.

The listed annexure shows for the reason of them not sharing their views on the public platform. Some of these are the fear of consequences and being judged. Somethings that it may draw unnecessary attention when it comes to any personal or religious opinions. Religious or political comments may have negative consequences which people are not comfortable sharing due to kind of inequality, sentiments. It can provoke people to such a large extent that it may cause injury or hatred for that person. One of the views is “I find them very subjective and feel it is useless to post in a platform which is full of irrational, intolerant and extremist people. And I am mostly liberal and neutral on such issues.” another view was “opinions or religious matters are personal to me which I don’t want to impose on anyone else, people start judging you, abusing you. We can’t even our opinion.” From the views of the people reflect that freedom of speech and expression despite being fundamental right is not being exercised by person freely as they fear repercussions and consequences.

**Survey Question V- If yes, did you ever face any threat/ troll/bullying for such personal views?**

If yes, did you ever face any threat/troll/bullying for such personal views

71 responses

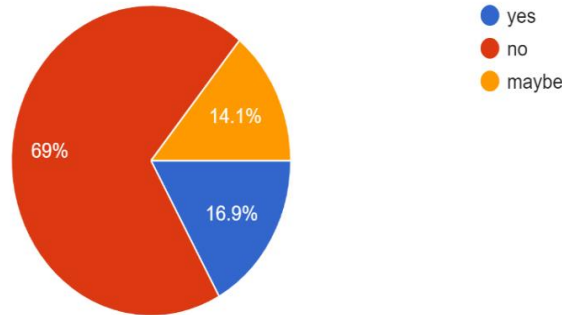


Fig. no. 5- the pie-chart depicts the percentage of person who face threat or bullying on social networking sites.

From the responses, it can be inferred that the minuscule number of people who share their views are criticised. They are judged to that extent that it may cause injury as well. If we combine the data of people who faced negative consequences and who fall under the category of “maybe” then it would constitute 31%. It can also be inferred that this is also a reason that people are not comfortable sharing their views. Facing such troll or bullying can also affect a person mentally and physically. It must also be noted that what response does authorities to ensure safety to their users.

**Survey Question VI- After a few arrests made regarding posting on networking sites, do you think twice before posting content online?**

After few arrests made in regard to posting on networking sites, do you think twice before posting content online?

71 responses

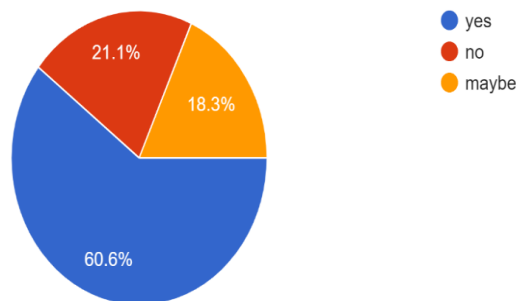


Fig. no. 6- the pie-chart depicts the percentage of person who hesitates on posting after the arrests incidence in India. The next question is very crucial for the understanding of freedom of speech and expression on social networking sites. The arbitrary arrest made after 2014 shows the “in-between the lines” threat which has been circulated on these networking sites. The maximum percentage of persons shows that they are not comfortable to use their basic rights, Right of thought and conscience. People are being afraid of reflecting their ideas because of legal actions taken against persons in an earlier context.

**Survey Question VII- Do you think freedom of speech and expression can be fully exercised?**

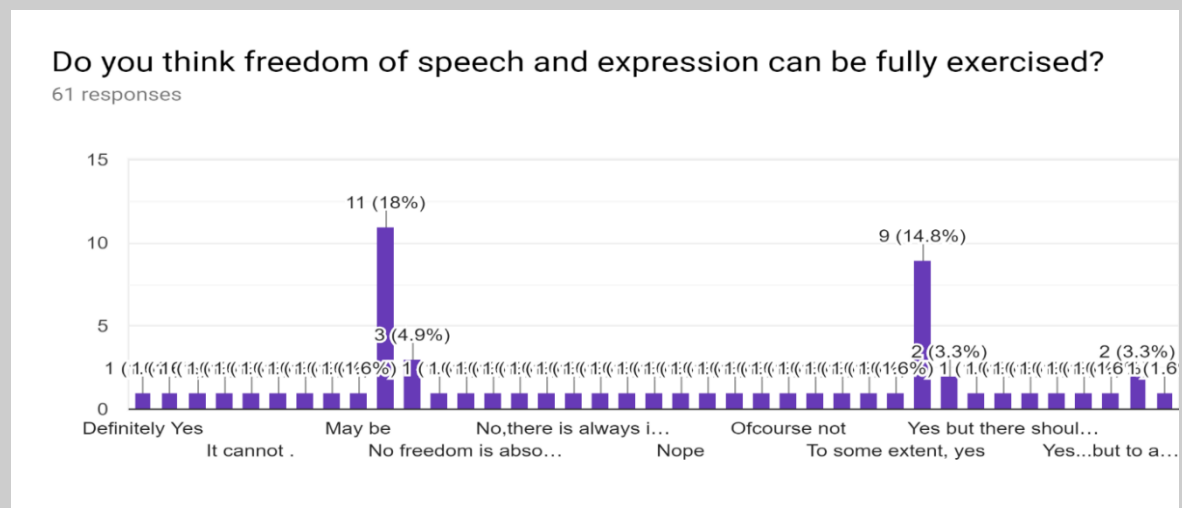


Figure no.7- Graph consists of different views on the individual on the question of free exercise of freedom of speech and expression.

The abovementioned question has a mixed response of the persons. 14.8% persons say it can be fully exercised and 18% says no it cannot be. The other mixed reactions are to some extent yes it can be exercised to some extent no. it also raises a question that if it is a basic right why do we feel that it cannot be exercised freely. Since there are no fixed parameters reasonable restrictions on social networking sites than why people are facing legal actions. If no one is a judge on these sites than on what parameters are these people judged or criticised upon. Without fact-checking on analysis, people are blindly following fake news. Sometimes fair criticism is a victim of cyberbullying. People over exaggerated a minuscule thought of expression. The majority are enforcing their point of perception be it religious or political upon minority view then how it is democracy. When an individual can't exercise his basic right of thought and conscience.

**CONCLUSIONS AND SUGGESTIONS**

In the growing era of worldwide internet, it has become feasible for everyone to connect at public platform globally. The important feature of social networking sites is to provide easy connectivity to different individuals. These sites provide access to post or share any thought or photo as a status to say what's in their mind. It is such a primitive stage of exercising their freedom of speech and expression. By posting pictures it gives an outlook of a person's life like their eating habits, their love interest etc. these social networking sites are providing a platform to individuals exercise their freedom of speech and expression. For instance, if someone posts a picture of non- veg food it implies that he is a non-vegetarian it is a symbol of their expression. These platforms provide a bilateral form of communication where one can comment or share upon other individual's statuses. This is also a form of expression.

This platform has provided a wider ambit to the meaning of freedom of speech and expression. After the Nirbhaya case, people took the help of these sites to show their support towards peaceful protest against the heinous crime. Another example of one such freedom of thought and conscience was where people at large supported the landmark judgement given by Hon'ble Supreme Court on Sabrimala and Navtej Singh Johar's Case. It was also observed by the Supreme Court that the LGBTQ community also has a right to exercise their freedom of speech and expression. If we look at the other side of the coin we can see that once a medium of expressing joy and happiness taken the form of criticism, abuse and hate speeches. As per the findings of the survey conducted by the researcher reflects that individuals now don't share or post anything which can be criticised or scrutinised. The data reflects that people are under the threat of being judged or criticised for their views which are purely personal and are harmless. People think that by sharing religious or political views would draw unnecessary attention and may have negative consequences. Nowadays some groups using this medium to propagate hate and disharmony in society. Innocent persons are being the victim of cyberbullying which violates their freedom of speech and expression. The hypothesis of this paper is hence proved and it appears that individual is under the threat of being judged and scrutinised and criticised for their freedom of thought and concise which is creating a hindrance upon their fundamental right. Also, it seems that the authorities have not taken any appropriate action to curb the imminent threat to freedom of thought and concise of the individual.

We have seen that social networking sites are very powerful means of exercising freedom of speech and expression. However, it is also been increasingly used by people for illegal acts, this is the reason government time to time censoring social media. Where on the one hand, the misuse of social networking sites for illegitimate and illegal purpose entails the need for legal censorship, on the other hand, there are reasonable fears of violation of fundamental rights of people because of the excess of censorship.

What is consequently perfect is the regulation of social media, not its censorship. However, the prevailing cyber legal guidelines of India are neither appropriate nor ok on this admire. An evaluation of the present IT legal guidelines suggests that there's unaccountable and monstrous



power within the palms of the Government even as dealing with protection in the cyberspace. Even then, it is not sufficient to check the misuse of social media. Hence, a specific rule is appropriate to alter social networking sites.

As responsible citizens of our nation individuals are aware that what views should be shared on social media and whatnot. They also have a presence of mind to maintain the public order and not cause any religious or sentimental injury by their views. "Expressing a thought is a freedom of speech", if it is personal they should be free of any limitations. There should be mutual synchronisation between freedom of thought and arbitrary use of such freedom. Satire is a better form of expression and has a larger degree of acceptability. Debates in current discourse are healthy. Constructive criticism should always be encouraged. However, reasonable restrictions should always be imposed but not arbitrarily.

### **Suggestions**

- I. Filters should be added automatically which can ensure that a degree of content of any post especially if it is made on any burning issue. The individual would also know such post, as in earlier context we have been prosecuted unnecessarily.
- II. If an individual of being a victim of cyberbullying the concerned authorities must take necessary actions.
- III. Remedies available at these social networking sites must be availed before taking any legal action as concerned authorities always come to rescue.
- IV. Before taking any serious legal action against any individual arbitration should always be encouraged in such cases.
- V. Some of the actions that can be taken by the authorities of concerned social networking site are prohibiting the post or picture as a hidden content which has a potential of creating hatred, blocking any individuals account if he is an accused of cyberbullying etc.

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