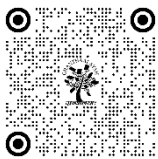


NAVIGATING THE DIGITAL DEMOCRACY: A MULTIDIMENSIONAL EXPLORATION OF THE RIGHT TO EXPRESS DISSENT ON SOCIAL MEDIA PLATFORMS IN THE AGE OF INFORMATIONAL ACTIVISM

Prof. Pallavi Ligade ¹✉, Dr. Hema Menon ²

¹ Assistant Professor, Symbiosis Centre for Distance Learning

² Professor and Head, Department of Law, Center for Higher Learning and Research, Dr. Ambedkar College, Nagpur



Corresponding Author

Prof. Pallavi Ligade,
pallavi.ligade@scdl.net

DOI

[10.29121/shodhkosh.v5.i7.2024.4636](https://doi.org/10.29121/shodhkosh.v5.i7.2024.4636)

Funding: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Copyright: © 2024 The Author(s). This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).

With the license CC-BY, authors retain the copyright, allowing anyone to download, reuse, re-print, modify, distribute, and/or copy their contribution. The work must be properly attributed to its author.



ABSTRACT

In today's digital age, social media has transformed the way individuals communicate, share ideas, and engage in public debates. These platforms offer unprecedented access to information and serve as a space for discussion, activism, and advocacy. However, they also present challenges when it comes to expressing dissent, as digital communication operates within legal frameworks, corporate policies, and ethical boundaries.

This study explores the complexities of voicing critical opinions on social media, focusing on the intersection of free speech, platform regulations, and the broader implications of digital activism. It examines how individuals and groups use online spaces to challenge dominant narratives, navigate restrictions, and influence social and political change.

By analyzing key case studies and policy frameworks, this research highlights the opportunities and risks associated with online dissent. It also delves into the role of creative expression in shaping digital resistance, emphasizing how language, imagery, and multimedia content contribute to movements of opposition. Ultimately, this article aims to provide a nuanced perspective on the evolving relationship between freedom of expression and digital governance.

1. INTRODUCTION

In the era of technology, social media platforms have developed into effective means for individuals to engage in political discourse and voice their disapproval. The current flurry of globalization, privatization, liberalization, and digitization is a striking example of how human social media has evolved. Generally speaking, social media is used by the public to obtain news and information, which lessens reliance on digital and social media.

The twentieth century witnessed significant changes in how individuals exercised their right to protest, participate in protests, and participate in liberation. This transformation has been driven by the growth of social media platforms

and technological advancements. Rapid technical advancements have transformed the internet world into a space for civil freedoms, fostering freedom and conflict.

This study seeks to explain the nuances of freedom of expression on social media, with a focus on how these platforms connect with the values of activism and democracy.

Additionally, this study aims to give a comprehensive analysis of the right to free speech in the context of cyber and informational democracy.

What is Social Media?

Social media platforms frequently use technology for content generation and discussion, particularly on the internet and mobile devices. It comprises the relationships, communication, and technology that facilitate the sharing of ideas via text, images and photographs, music, and video. Through the integration of cutting-edge electrical and mobile technologies, web-based entertainment enables the conversion of communication into user involvement.

A technocratic definition of social media reads: "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" (Kaplan & Haenlein, 2010). This definition is suited for defining "media" – generation of content, internet based set of technologies. However, the "social" part of the definition is made only implicitly through references to "Web 2.0" and "User Generated Content".

(Boyd & Ellison, 2008, p. 211) take a less technical approach and define "social network sites as web-based services that allow individuals to (1) construct a public or semi-public profile within a bounded system, (2) articulate a list of other users with whom they share a connection, and (3) view and traverse their list of connections and those made by others within the system". (Kane et al., 2014) extend this definition by adding that users should also be able to create and access digital content. These definitions enhance the technical definition of Kaplan and Haenlein by adding the "connection" element (list of interconnected users) and a "human" element (profiles). However, the boundlessness of these systems: the ability of users to integrate and combine applications and features into a new unique system is explicitly excluded in this definition. Also, the "interactive" nature of social media: the ability of users to establish and maintain social contact is not made clear.

(Oestreicher-Singer & Zalmanson, 2013) employ the term "social computing" as a placeholder for online IT technologies which enable and facilitate social interactions and are deeply embedded in day-to-day human interactions. The focus on "any technology which supports relationships and collaboration" is also supported by (Kapoor et al., 2017). These definitions highlight the "social" nature of social media and focus on interpersonal communication and information exchange independent of technological platforms involved. These views lean towards the performative view, concentrating on what the platforms are used for rather than what the technology was intended to support.

A distinct type of social media is often referred to as mobile social media and occurs primarily when interacting with mobile devices. Mobile social media is different from traditional social media since it incorporates additional features like location sensitivity, which indicates the user's present location, and time sensitivity, which indicates how quickly messages are sent and received. This is due to the fact that mobile devices may access mobile social media.

Types of Social Media:

Social Media can be broadly divided into the following categories:

1. Social networking:

Social networking is an online service that allows users to make virtual connections with people with similar interests. It provides updates, photo and video sharing, chat, instant messaging and more. Facebook and LinkedIn are the most popular social networks.

2. Blog:

A blog is a personal website organized and managed by a user. They may contain text, images and links to other websites. One of the most interactive aspects of a blog is the ability for readers to leave comments and follow instructions.

3. Microblogs:

Microblogging platforms enable users to generate and disseminate content similar to a blog, albeit with a character limit of 140 characters or fewer. Twitter, for instance, is a microblogging site where users can publish and browse "tweets."

4. Video blogs and video sharing websites:

Video blogs, which are essentially blogs that primarily feature video content along with supporting text, have gained immense popularity in recent years. YouTube, the world's most popular video-sharing platform, has revolutionized the way people create, share, and engage with video content. With its user-friendly interface and vast library of videos, YouTube has become a go-to destination for millions of users who seek to stream live videos, upload their own content, share their thoughts through comments, and discover new trends and ideas through video blogs.

5. Wiki:

A wiki is a type of website that allows numerous users to collaborate on creating and editing content related to a specific topic. Each individual page on the website is known as a "wiki page," while all the articles related to a particular topic are collectively referred to as the "wiki." Users can access and interact with each other through hyperlinks that connect various pages, allowing for a dynamic and interactive experience.

6. Social Bookmarking:

This service can manage, organize and store links to different online resources and web pages. Websites can be interacted with by other users by bookmarking and tagging them. Stumble Upon and Delicious are the most popular.

7. Social News:

These platforms allow users to post links to external products as well as various media. Communicate by voting and commenting on products. The main feature is voting, as items with the most votes are viewed the most. The most popular are Propeller, Reddit and Digg.

8. Media Sharing:

You can use these services to upload and share photos and videos. Sharing and commenting on user content is how people interact. Flickr and YouTube are the most popular. The above environments may overlap. For example, Facebook; There is a Weibo function and its "status update" function. Also commenting on YouTube and Flickr is like blogging

1. Types of Social Media Platforms

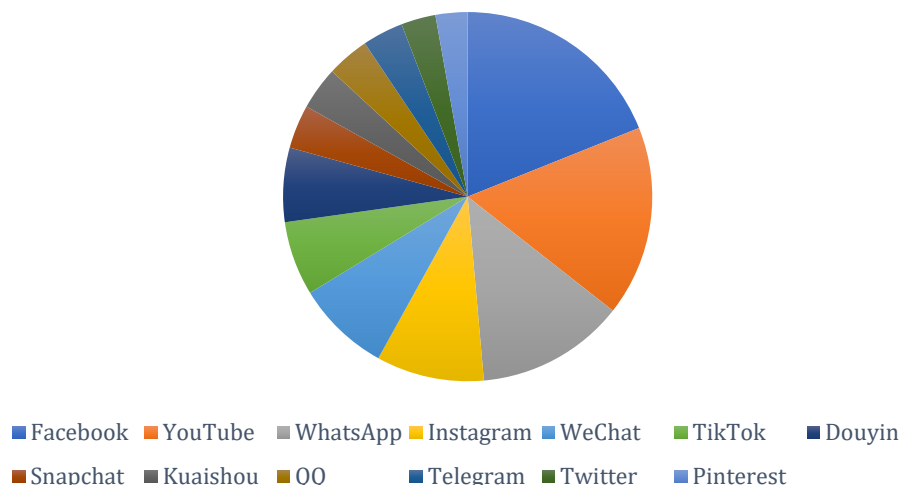
This pie chart visualizes the dominance of major social media platforms, highlighting Facebook and YouTube as global leaders. Understanding platform distribution helps map where digital activism is most likely to gain traction.

As of January 2022, the most popular social networks worldwide, ranked by monthly active users (in billions), are as follows:

Platform	Global Active Usage Penetration (as of Feb 2021)
YouTube	62%
Facebook	61%
WhatsApp	52%
Instagram	39%
Facebook Messenger	36%
Twitter	22%
Snapchat	13%
TikTok	12%
Telegram	10%

Source: Most Popular Social Media 2004/2022 - Statistics and Data

Monthly Active Users (in millions)



Source: Statista Research Department (2021). "Most popular social networks worldwide as of January 2021, ranked by number of monthly active users."

Freedom of Speech and Expression:

The fundamental principle of Democracy is freedom of speech and expression. This is important for the growth and development of the character of each individual. For a free society, it is important to have open communication for the free exchange of ideas.

According to Ivor Jennings,

"The appeal to reason which is the basis of democracy cannot be made without freedom of speech"

The fundamental right to freedom of expression and speech is universally acknowledged and safeguarded by various international treaties and agreements, including the Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights, which was adopted on December 10, 1948.

Everyone has the right to their own use and interpretation. The choice of alternatives activates man's moral abilities.

The process of ensuring legal protections for freedom of speech and expression, including the right to freedom of speech and expression, may vary across different countries. This right is acknowledged in the United Nations Joint General Declaration of Rights and is enshrined in the laws of numerous nations, such as those in Africa, India, China, Australia, Europe, France, Germany, the United Kingdom, Turkey, Canada, and the United States. The English rule broadened the scope of demands for freedom of expression and discussion, encompassing the Nehru Board of trustees (1928), the Indian Public Congress Karachi meeting (1931), the Round Table Gathering (1930-1932), the Legislature of India Act (1935), and lastly, after India's independence, the consideration of Article 19(1)(a). The preamble of the Indian Constitution aims to guarantee every citizen the freedom to think and express themselves.

The Constitution's drafters acknowledged the importance of free speech and expression as a means to safeguard it from government intervention and realize the objectives outlined in the Preface. This fundamental right, which serves as the foundation for all other liberties, holds a prominent position in our society that values popularity.

The Indian Constitution's primary objective is to guarantee every citizen the right to think and express themselves, as stated in the Preface.

Under Article 19(1)(a), "the right to speak freely of discourse and saying" is guaranteed as a fundamental right, subject only to any restrictions that the State may impose under that Article's provision (2).

In a broader sense freedom of speech and expression refers to the idea that everyone has an inherent right to express themselves freely in any media and across all boundaries, free from outside interference like censorship and fear of retaliation like threats and persecution. The right to freedom of expression is nuanced. This is because there may be legal constraints on the freedom of expression because it is not unrestricted and entails unique duties and responsibilities.

Broadly speaking, the principle of freedom of speech and expression posits that individuals possess an inherent right to express themselves freely and without hindrance, in any medium, and across all boundaries, unencumbered by external constraints such as censorship and fear of retaliation in the form of threats or persecution

However, the right to freedom of expression is a complex matter, as it is not without limitations. Legal restrictions may be imposed on this right, as it is not unconditional and carries with it certain obligations and responsibilities.

- "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." [Article 19, Universal Declaration of Human Rights, 1948 (UDHR)]
- "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 in print, in the form of art, or through any other media of his choice." [Article 19 (2), International Covenant on Civil and Political Rights, 1966 (ICCPR)]

The Indian Constitution, like many other democratic nations, guarantees its citizens the right to freedom of speech and expression under Article 19 (1) (a). This right encompasses the freedom to express one's thoughts, opinions, and views through various mediums, such as spoken, written, printed, visual, or any other form of expression. It also includes the freedom to disseminate or publish the opinions of others.

The concept of freedom of expression is deeply intertwined with the concept of democracy. One of the proponents of this link, Alexander Meiklejohn, argues that democracy is about self-governance by the people, and for it to function effectively, an informed electorate is crucial. This, in turn, necessitates the unrestricted flow of information and ideas.

Again, Richard Moon argues that the value of freedom of speech and expression lies within social interactions. He says "[b]y communicating an individual forms relationships and associations with others-family, friends, co-workers, church congregation, and countrymen, by entering into discussion with others an individual participates in the development of knowledge and in the direction of the community

Freedom of Speech and Expression and Social Media/ Internet :

Social media and the internet have become important communication tools that allow people to express themselves freely and share ideas and information.

Social media and the Internet have become important communication tools that allow people to express themselves and express their ideas. In recent years, important trends have emerged around the world as people advocate for reform, justice, equality, and issues of power, responsibility, and the promotion of human rights. 14 In these efforts, online media is an important tool that facilitates instant connection and exchange of information, promoting unity and solidarity among the same people.

In his report to the Human Rights Council, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Thought and Expression emphasized the important role of the internet in the implementation of this important policy. The report states that online access has become an important part of enjoying freedom of expression and should therefore be considered a human right. The Special Rapporteur says that states have a responsibility to ensure that Internet access is always available, even in times of conflict. The report also emphasizes that states are responsible for encouraging and facilitating the exercise of the right to freedom of expression and providing the necessary tools for the exercise of this right, including access to the Internet. To ensure this fundamental right is fulfilled, the report calls on countries to adopt policies that will make the Internet widespread, affordable, and accessible to all.

The United Nations Human Rights Committee strives to implement the principles of freedom of thought and expression in the changing media environment dominated by the internet and mobile communications. The Commission defines new media as global platforms for the exchange of ideas and views that do not rely on traditional mass media. In this context, the Commission recommends that States take all necessary measures to promote new media freedom and ensure access to these media. 16 Moreover, Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19(2) of the International Covenant on Human Rights provide that: The Covenant on Civil and Political Rights (ICCPR) also guarantees freedom of speech and expression. Therefore, it is well known that the exercise of freedom of speech and expression by whatever means is considered a fundamental right under the Constitution of India and many international instruments. Therefore, the use of the internet and media as an application of this fundamental right is also considered a human right.

Restrictions on Freedom of Speech and Expression:

The right to freedom of speech and expression does not give citizens the right to speak or speak without taking responsibility. It is not carte blanche that provides protection for all forms of language use and exempts individuals from penalties for abuse of this freedom. Article 19(3) of the International Covenant on Civil and Political Rights imposes restrictions on:

- (a) For respect of the rights of reputations of others
- (b) For protection of national security, or public order, or public health or morals.

As per Article 19(2) of the Constitution of India, the legislature may enact laws to impose restrictions on the right to speech and expression on the following grounds:

- (a) Sovereignty and integrity of India
- (b) Security of the State
- (c) Friendly relations with foreign States
- (d) Public order
- (e) Decency or morality
- (f) Contempt of court
- (g) Defamation
- (h) Incitement to an offence

The Right to Express Dissent: Legal Foundations: Censoring Social Media

In contemporary times, information has emerged as a pivotal concept. It is imperative to align oneself with the contemporary trends in order to keep pace with the ever-evolving world. The technologically advanced world, characterized by a remarkable capacity for communication, simplification, and storage of information at an incredible speed, has placed information at the forefront of progress. The lack of transparency and the failure to share information can impede democratic participation in decision-making processes. The power of social media to disseminate information among the masses has enabled individuals to function as watchdogs, scrutinizing the powerful and uncovering instances of mismanagement and corruption.

Until relatively recently, governments around the world have attempted to withhold information from the general public for various reasons. However, the emergence of social media with the ability to disseminate information to the public was seen as a threat by the government and they are now careful to control it. The Internet, with its unlimited potential and widespread influence, has become the foundation of modern civilization. It has the ability to collect and disseminate information and opinions, which gives it a special role in the work of international democracy.

Even if citizens are not physically there, they can come together in the region through social media and the internet. The opposition's collective strength is still weak. It is clear why governments worldwide seek to censor the internet.

Furthermore, although the internet has many benefits, it is also open to misuse, giving the state a justification to regulate online content in the public's interest. A variety of cybercrimes, including defamation, invasion of privacy, incitement of offenses, racist remarks, stalking, abuse, hacking, harassment, and more, can be easily committed through

social media. Once objectionable content is uploaded, it can quickly become viral and difficult to contain. Therefore, the state's regulation of social media cannot be ignored. As long as the government is governed to ensure the welfare of individuals and society, there should be no opposition. However, problems arise when the law affects civil liberties such as freedom of speech and expression. Although protections exist, all states favor these protections to some degree, but this varies from state to state. China takes the lead in online censorship, using the China Firewall and Golden Shield Project to block objectionable web pages.

The Freedom of Information Act came into force in 2000, but India did so before the 2008 Mumbai terrorist attacks, the United States did not tightly control cyberspace. Following the protests, a constitutional amendment was passed to expand and strengthen the government's surveillance and censorship capabilities. Existing Internet laws include blocking websites, monitoring and recording Internet traffic, interfering with or decrypting that data, preventing access to personal information from being affected, and holding intermediaries such as social media sites liable for hosting user content complaints. A lot. In light of these developments, India is considered the preferred country in terms of internet filtering.

The Information Technology Act, 2000

(a) Under Chapter XI of the Act, Sections 65, 66, 66A, 6C, 66D, 66E, 66F, 67, 67A and 67B contain punishments for computer related offences which can also be committed through social media viz. tampering with computer source code, committing computer related offences given under Section 43, sending offensive messages through communication services, identity theft, cheating by personation using computer resource, violation of privacy, cyber terrorism, publishing or transmitting obscene material in electronic form, material containing sexually explicit act in electronic form, material depicting children in sexually explicit act in electronic form, respectively.

(b) Section 69 of the Act grants power to the Central or a State Government to issue directions for interception or monitoring or decryption of any information through any computer resource in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States, public order, for preventing incitement to commission of any cognizable offence, for investigation of any offence.

(c) Section 69A grants power to the Central Government to issue directions to block public access of any information through any computer resource on similar grounds.

(d) Section 69B grants power to the Central Government to issue directions to authorize any agency to monitor and collect traffic data or information through any computer resource for cyber security.

(e) Section 79 provides for liability of intermediary. An intermediary shall not be liable for any third party information, data or communication link made available or hosted by him in the following cases-

- his function is limited to providing access to a communication system over which such information is transmitted, stored or hosted.
- He does not initiate, select the receiver and select or modify the information contained in the transmission.
- He observes due diligence and other guidelines prescribed by the Central Government while discharging his duties.
- Again, an intermediary shall be liable in the following cases:
- He has conspired, abetted, aided or induced by threats, promise or otherwise in the commission of the unlawful act.
- He fails to expeditiously remove or disable access to the material which is being used to commit the unlawful act, upon receiving actual knowledge or on being notified by the Government.

(f) If any intermediary fails to assist, comply with direction and intentionally contravenes provisions under Sections 69, 69A and 69B respectively, he shall be liable to punishment.

(g) Section 43A provides that where a body corporate possessing, dealing or handling any sensitive personal data or information in a computer resource owned, controlled or operated by it, is negligent in implementing and maintaining reasonable security practices and procedures thereby causing wrongful loss or wrongful gain to any person, it shall be liable to pay damages by way of compensation to the affected person.

(h) Section 70B provides for an agency of the Government to be appointed by the Central Government called the Indian Computer Emergency Response Team, which shall serve as the national agency for performing functions relating to cyber security.

The Central Government has also enacted rules to give effect to various provisions of this Act which are as follows:

The Information Technology (Procedure and Safeguards of Interception, Monitoring and Decryption of Information) Rules, 2009

These regulations have been established by the central government under Section 87 (2) (y), which includes procedures and assurance measures for monitoring and recording of vehicle data or information specified in Section 69B (3).

Article 3 states that the interception, monitoring or decryption of information pursuant to Article 69 will be affected by an order given by the competent authority.

Rule 2 (d), the secretary to the Minister of Home Affairs (in case of central government) and the secretary in charge of the Ministry of Home Affairs (in case of a federal state or alliance territory).

Chapter 4 describes the work of state institutions authorized by the competent authority.

Rule 10 must include the name and name of the director of the authorized body that must publish this information.

Rule 13 requires the intermediary to provide every facility, cooperation and assistance in interception, monitoring or decryption of information.

The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009

These rules are made by the Central Government in exercise of its powers under Article 87(2)(z) and relate to civil protection procedures and safeguards under Article 69A (2).

Articles 3, 4, 5, 6, 7 and 8 have the usual procedure of sending blocking requests to the administrator of the relevant organisation; This administrator must also examine them and forward them to the head of the Central Government. should review it with a committee and then its recommendations should be sent to the Secretary, Ministry of Information Technology for approval and the designated officer should maintain records accordingly.

Rule 9 empowers the Designated Officer to make a decision regarding the blocking of information in cases of emergency, where delay is unacceptable.

Rule 13 requires every intermediary to appoint a person to receive and handle directions for blocking of information, and this person must acknowledge receipt of the directions to the Designated Officer within two hours of receiving them, either through an acknowledgment letter, fax, or email.

Rule 10 mandates that upon receipt of a court order directing the blocking of any information, the Designated Officer must submit it to the Secretary, Department of Information and Technology and take immediate action.

The Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules, 2009

The Central Government, in exercise of its power under Section 87(2) (za), has formulated these regulations pertaining to the procedure and safeguards for monitoring and collecting traffic data or information under Section 69B (3)

Rule 3 specifies that the competent authority shall issue directions for monitoring and collection of traffic data or information under Section 69B (3) through an official order.

Rule 2(d) defines the competent authority as the Secretary of the Government of India in the Department of Information Technology under the Ministry of Communications and Information Technology.

Additionally, Rule 3 stipulates that the competent authority may issue directions for monitoring purposes related to cyber security.

Rule 4 allows the competent authority to delegate the task of monitoring and collecting traffic data or information to any government agency. The designated nodal officer of the agency will send a requisition to the Designated Officer of the intermediary, conveying the direction issued under Rule 3.

The Information Technology (Intermediaries Guidelines) Rules, 2011

The Central Government, in exercise of its powers under Article 87(2)(zg), has created a system for intermediaries under Article 79(2). Section 2(w) of the Information Technology Act, 2000 gives the meaning of "intermediary".

This includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online auction sites, online marketplaces, and cyber cafes.

Rule 3 requires intermediaries to inform users about the rules, regulations, privacy policies and user agreements published on the website. You may submit, modify or distribute complaint information as provided in Rule 3(2).

Upon receipt of written or email notification by the affected party of a violation of rule 3(2), the mediator shall remove the objectionable content within 36 hours in accordance with rule 3(4).

The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011

The Central Government has framed these provisions under Section 87(2) (two) and Section 43A regarding implementation of appropriate security measures and protection of personal information or data specified in Section 43A.

According to Rule 6, organizations that disclose personal information to third parties must first obtain the consent of the person providing the information. However, there are exceptions to this requirement and this information may be shared with government agencies without prior consent for the purposes of personal identification or protection, prevention, investigation, investigation (such as cyber incidents, prosecutions, and criminal sanctions).

Section 66A of the Information Technology Act, 2000

The provision in question, Section 66A of the Information Technology Act, 2000, has been a subject of recent news, unfortunately for all the wrong reasons. Prior to delving into the matter in depth, it is prudent to first examine the provision itself. Section 66A penalizes the act of sending offensive messages through a communication device or computer resource, and reads as follows:

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

(a) any information that is grossly offensive or has 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 a 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 messages shall be punishable with imprisonment for a term which may extend to three years and with fine."

2. EXPLANATION

In this section, the terms "electronic mail" and "electronic mail message" refer to any information or message, along with any attachments, that is created, transmitted, or received on a computer, computer system, computer resource, or communication device. This can include text, images, audio, video, and any other electronic record, and may be transmitted along with the message.

The provision of Section 66A was added to the Act in 2008 through an amendment. The Amendment Bill, which was introduced in Parliament in 2006, only contained the first two sub-clauses under Section 66A. Initially, Section 66A was designed to combat spam, which was defined as unwanted and unsolicited emails. However, the Department of

Information Technology informed the committee that clauses (b) of Section 66A and (i) of Section 43 of the Act were sufficient to address the issue of spam. Despite this, the Standing Committee on Information Technology recommended in its 2007 report that the Bill be made more stringent, leading to the addition of sub-clause (c) to the provision and an increase in the punishment for violations to three years of imprisonment from a maximum of two years.

A careful examination of the provision reveals a glaring inconsistency between the language of Section 66A and Article 19 (1) (a) of the Constitution, which guarantees freedom of speech and expression to all citizens. While Article 19 (2) permits restrictions on freedom of speech and expression only for specific reasons such as sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, Section 66A imposes restrictions on freedom of speech and expression for several other reasons not mentioned in the Constitution.

The language in the original sentence could be improved by rephrasing it to enhance clarity and quality. Here's a possible rephrased version:

Several inconsistencies in the provision raise concerns about its compatibility with free speech requirements. The undefined terms "grossly offensive," "menacing character," "annoyance," "danger," "obstruction," "insult," and "injury" lack precision. Unanswered questions include whether these terms should be interpreted based on the sensibilities of the individual addressed or a reasonable person. This ambiguity leaves room for misinterpretation, such that even innocent communication through email could potentially be deemed illegal.

Additionally, recent events demonstrate the provision's potential for misuse. Two examples include:

* In April 2012, Ambikesh Mahapatra, a chemistry professor at Jadavpur University in West Bengal, was arrested for posting a cartoon of West Bengal Chief Minister Mamata Banerjee on social media.

* In May 2012, two Air India employees were detained for 12 days by the Mumbai Police for posting critical content about a trade union leader and several politicians on Facebook and Orkut.

3. CONCLUSION

Social media has proven to be a powerful tool for exercising one's freedom of speech and expression, but it has also been increasingly used for illegal activities, leading to government attempts to censor it. While legal censorship is necessary to address the misuse of social media, there are concerns about the potential violation of civil rights that may result from such censorship.

Therefore, what is needed is regulation of social media, rather than censorship. However, India's current cyber laws are inadequate for this purpose. A closer examination of the existing IT laws reveals that the government has significant and unchecked power when it comes to managing cyber security. Despite this, the misuse of social media continues to be a problem. Therefore, a specific legislation is needed to effectively regulate social media.

Although there are several practical challenges that may arise when attempting to regulate social media, it is important to strike a balance between the enjoyment of individual rights and the protection of the rights of others. For instance, while freedom of speech and expression on social media can lead to privacy invasions and defamation, the concept of objectionable content is subjective and varies from person to person. A cartoon that one person finds harmless could be offensive to another, and the meaning of hate speech, racist remarks, and religious sentiments can differ among individuals.

Given these complexities, it is recommended that the government establish a committee comprising technical experts to thoroughly examine the various aspects of social media use and misuse, and propose appropriate measures for regulation that do not infringe on citizens' civil rights.

CONFLICT OF INTERESTS

None.

ACKNOWLEDGMENTS

None.

REFERENCES

- Rohit Raj, "Defining Contours of Press Freedom in Backdrop of National Emergency of 1975", *All India Reporter* (Journal Section), 2008, pp. 155-160, at 160.
- Paranjy Guha Thakurta, *Media Ethics* (New Delhi: Oxford University Press, 2012), p. 354.
- "Social Media", available on the Web, URL: http://en.wikipedia.org/wiki/social_media, accessed on 14/4/13.
- "Social Media Framework Draft for Public Consultation", available on the Web, URL: http://www.indiaenvironmetportal.org.in/files/file/SocialMediaFrameworkDraftforPublicConsultation_192011-2.pdf, accessed on 10/4/13.
- Andreas M. Kaplan & Michael Haenlein (2010), "Users of the World, Unite! The Challenges and Opportunities of Social Media", *Business Horizons*, vol. 53, 2010, pp. 59-68, at 61. 6 *Ibid.*, at 60-61 (noting that Web 2.0 may be contrasted with Web 1.0 platforms, which simply provide content to users without giving them the opportunity to interact with or modify the information online).
- OECD, *Participative Web and User-Created Content: Web 2.0, Wikis, and Social Networking*, 2007, pp. 1-74, at 8, available on the Web, URL: <http://www.oecd.org/sti/38393115.pdf>; see also Kaplan & Haenlein, note 5, at 61.
- In 2010, Kaplan and Haenlein classified social media into six different types:⁹
- collaborative projects (e.g., Wikipedia),
 - blogs and micro blogs (e.g., Twitter),
 - content communities (e.g., YouTube),
 - social networking sites (e.g., Facebook),
 - virtual game worlds (e.g., World of War craft), and
 - virtual social worlds (e.g. Second Life).
- UNESCO, *Freedom Of Expression Toolkit: A Guide Students*, 2013, 1-86, at 16, available on the Web, URL: <http://unesdoc.unesco.org/images/0021/002186/218618e.pdf>, accessed on 14/4/13.
- "Freedom of Speech", available on the Web, URL: http://en.wikipedia.org/wiki/freedom_of_speech, accessed on 21/4/13. In its landmark judgment, the Indian Supreme Court in the case of the *Secretary, Ministry of Information and Broadcasting vs. Cricket Association, Bengal with Cricket Association, Bengal vs. Union of India* (AIR 1995 SC 1236) has also recognised the 'right to information' as part of the fundamental right of speech and expression under Article 19 (1) (a) of the Indian Constitution.
- Randal Marlin, *Propaganda and the Ethics of Persuasion* (Ontario: Broadview Press, 2002), pp. 226-227.
- "Freedom of Expression Everywhere", available on the Web, URL: <http://www.ohchr.org/EN/NewsEvents/Pages/Freedomofexpressioneverywhere.aspx>, accessed on 5/4/13.
- Report of the Special Rapporteur on Key Trends and Challenges to the Right of All Individuals to Seek, Receive and Impart Information and Ideas of All Kinds through the Internet, 2011, UN General Assembly Doc. A/HRC/17/27. This Report is also available on the web, URL: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/132/01/PDF/G1113201.pdf?OpenElement>.
- "Freedom of Expression and New Media", available on the Web, URL: <http://www.ohchr.org/EN/NewsEvents/Pages/FreedomExpressionandnewmedia.aspx>, accessed on 5/4/13.
- Bal Mukund Vyas (2008), "Sharing of Information with citizens", *All India Reporter* (Journal Section), 2008, pp. 171-176, at 176.
- Justice Rajesh Tandon, "Policing the Web: Free Speech under Attack?", *Lawyers Update*, August 2011, also available on the Web, URL: <http://lawyersupdate.co.in/LU/7/65.asp>, accessed on 24/5/13.
- Freedom House, *Freedom on the Net*, 2012, available on the Web, URL: <http://www.freedomhouse.org/sites/default/files/India%202012.pdf>, accessed on 24/5/13.
- Reporters without Borders, *Internet Enemies Report*, 2012, available on the Web, URL: http://march12.rsfor.org/i/Report_EnemiesoftheInternet_2012.pdf, accessed on 24/5/13.
- Google Seventh Transparency Report can be accessed online, URL: <http://www.google.com/transparencyreport/>, accessed on 01/5/13.
- See Open Net Initiative Report on India. It describes India as a stable democracy with a strong tradition of press freedom, nevertheless continuing its regime of Internet filtering. Report is available on the web, URL: <http://access.opennet.net/wp-content/uploads/2011/12/accesscontested-india.pdf>, accessed on 30/4/13.

"Indian Government v Social Networking Sites", available on the Web, URL: http://barandbench.com/indian_government_v_social_networking_sites.html, accessed on 30/4/12.

Central Board of Film Certification Home Page, <http://www.cbfcindia.tn.nic.in/> (last visited Aug. 21, 2008).

Universal Declaration of Human Rights, 10th December, 1948

Art 19 of Constitution of India
(1954) S.C.R. 587
1995 AIR 1236, 1995 SCC (2) 161

Art 25 (1) of Constitution of India

"Censoring the Internet", available on the Web, URL: http://barandbench.com/censoring_the_internet.html, accessed on 30/4/13.

India passed the Information Technology Act 2000 in May 2000 in pursuance of the United Nations General Assembly Resolution A/RES/51/162 of 30th January 1997. This Resolution adopted the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law. The Information Technology Act, 2000 came into force on 17th October 2000 and it has been substantially amended through the Information Technology (Amendment) Act, 2008. It got the Presidential assent on 5th February 2009 and came into force on 27th October 2009.

This writ petition has been filed by Shreya Singhal of Delhi. The writ petition can be accessed online, URL: <http://www.scribd.com/doc/115031416/Shreya-Singhal-v-Union-of-India>.

See Ministry of Communications and Information Technology, Government of India, Advisory on Implementation of Section 66A of the Information Technology Act, 2000 (9th January 2013), available on the Web, URL: http://deity.gov.in/sites/upload_files/dit/files/Advisoryonsection.pdf.

"Vital Analysis of Freedom of Expression in Social Media: In the Current Indian Scenario"
by Akhilesh Kumar Pandey, 2022 IJRTI | Volume 7, Issue 12 | ISSN: 2456-3315