

# Balancing Freedom of Expression and Hate Speech: Case of India

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## Abstract

*In recent times, we have witnessed a spike in cases of hate speech, delivered either by the politicians or by the media that has resulted in violence among the public. Sensational reporting and discourse on critical issues just for the sake of viewership and notoriety has resulted in the tarnishing of an individual or community's image. This research examines the work of various authors and columnists, published on reputable websites. It is done in order to check the contemporary state of freedom of expression and the critical conditions of working journalists in India. The research also studies the status of freedom of the press and the upsurge in instances of hate speech in current times. The purpose of the study is to answer how the Indian government is restraining the individual's right to express, how the Indian politicians and media are liable for hate speeches by presenting biased views and prompted news, respectively. It demonstrates instances of hate speech where a discourse by a politician or biased coverage by the media results in a public disturbance, violence, and communal killings. The research also reveals how social networking sites in the present times is misused as a means to propagate inciting views among the public. I evaluated this by studying instances of government censorship, corrupt media coverages, and misuse of social media for adverse publicity by political parties. The study unveiled the unsafe provisions under which Indian journalists are working in the current scenario. This research provides valuable information on the declining status of press freedom due to constraints and illustrates the abuse of hate speeches in modern times.*

**Keywords:** Freedom of speech, Hate speech, Safety of journalist, Media Coverage, Social media, Freedom of Press

## 1. Introduction

Since the start of the Indian battle against British Colonialism for autonomy, particularly amid the nineteenth and twentieth centuries, 'Freedom of Expression' or 'Freedom of Press' has constantly had an essential influence. We are on the whole mindful of the job that the 'Indian

Press' played to create nationalistic judgments among the general population so as to get independence. Regardless of being blue-penciled and precluded, not once but rather a multiple times, the press figured out how to influence individuals everywhere throughout the country, which in the long run drove us to Independence.

Such is the significance of the free speech that in the Indian Constitution, Freedom of Speech and Expression is viewed as a Fundamental Right. Article 19 (1) (a) of Indian Constitution certifies every one of its natives the privilege of Expression and Speech. It's likewise considered as one of the basic Human Rights under Article 19 of the Universal Declaration of Human Rights (UDHR).

Since independence, free speech has kept Indian democracy living and unbroken. There were a few times when the government accomplished something incorrectly or dishonest and the general population were dependably there to scrutinize the administration by asking 'why?', through their entitlement to expression.

The Press, which is furthermore considered as the 'Fourth Pillar of Democracy' wouldn't have had the capacity to work properly and legitimately, had there not been this Freedom to practice uninhibitedly. Accordingly, it has dependably been an urgent key, to keep a check of Government, in this way empowering democracy, as the word itself signifies, 'to the people, for the people and, by the people'.

In the present situation, notwithstanding, there has been an abuse of this freedom. It ought to be noticed that hate speech doesn't fall under the classification of Freedom of Expression yet is fairly a particular problem to it. Deliberate attempts are being made either by the government or by the media, to control the freedom of expression. The lawmakers can be seen conveying hate speeches that plan to produce intolerance, incitement, or abuse against a specific religious network or a gathering of individuals, so as to either polarise the overall population or for electoral gains.

Hate Speech can result in shared viciousness, riots, the destruction of open property or more awful, killing of individuals. Demolition of Babri Masjid incidence in 1992 can be one of the numerous examples, where because of promptings, communal killings happened between the Hindu and Muslim gatherings which brought about the murdering of around 2000 individuals. Because of this, the further slaughter of Hindus occurred in Bangladesh and Pakistan.

Media too is held accountable for hate speeches. There are many cases when the Indian media has tried to curb freedom of Expression lately. People who outline an opinion and make inquiries from the administration are introduced as a risk to national security, as the media brands them as anti-nationals. At the point when an individual or a politician is conveying a hate speech, the press should act unbiased while revealing the occasion.

As the press is said to be the fourth pillar of a democracy, it has a remarkable impact over society. In this manner, it assumes an important job; by the way, it presents news or depicts a person on national TV as it can discolor somebody's picture. The media is relied upon to report truth by doing reasonable analysis and investigation of an occasion. Be that as it may, the media

as opposed to being unbiased can be seen favoring the perspectives of politicians and showing their perspectives which are totally untrustworthy.

A portion of the important cases in which media can be said to be in charge of adding to spread hate speech is the capture of JNU students in February 2016 when they were charged blameworthy of Sedition (which is still to be demonstrated in court) and the capture of Human Rights activists in Bhima Koregaon incident. In the two cases, the media named the denounced people as 'Maoists' or 'enemies of the nations'.

This turns into a matter of grave concern since individuals depend on media for information and when senior columnists mark the students or activists as Anti-nationals or Urban Naxals, it turns into a hate speech and individuals begin to trust it as truth which thusly prompts the possible outburst of the general public. An outcome is a demonstration of brutality against the students or activists on the insignificant assumption of the perspectives that are held by media.

One ought to moreover take note that hate speech is unique in relation to Defamation. Slandering just stains the picture of an individual whereas the hate speech does both, defames the individual just as can hurt the individual against whom the hate speech is made. The media shouldn't be one-sided towards the perspectives on an individual (politicians) and furthermore refrain from getting engaged with hate speech.

Hate speeches can add up to trial by media which in itself is viewed as against the morals of news-casting and journalism. It incites more exploitation of the individual and is a straight assault on the right to speak freely and express.

The press which is also known as the 'watchdog of the government', indicates that the press should work openly with no restrictions or interference from the government. A free press intends that it stands ethically right between the general society and the government and conveys the information which concerns the general public.

Another disturbing fact is that India's positioning has dropped down to 140 from 138, as shown by World Press Freedom of Index, 2019. One of the numerous reasons can be developing hatred taken against the journalists in India. This turns into a matter of great concern as it uncovers the vulnerability under which Indian journalists are working at the contemporary time. The restrictions against the press that is held by the government officials or the politicians in the present moment demonstrate a great threat to democracy. Hence, there's a crucial need to balance freedom of expression and hate speech in India.

## 2. Literature Review

**Agrawal** (2018) on Firstpost pens that few particular Media channels through their biased and discriminatory reporting are encouraging acts of violence among people and are suppressing the free speech. Hate speeches that occur on social media, its influence on mainstream media and also the developing ways in which people communicate nowadays have recently come under a lot of evaluations due to lack of forethought.

The author criticizes tv anchors for using words like ‘Urban-Naxals’ or ‘Maoists’ on national media as it violates the freedom of speech and amounts to hate speech. The foremost problem is the language/narrative used by media houses, which often leads to false accusations of individuals.

Incidents of hate speeches-

- In 2016, JNU student leader Umar Khalid was denounced on Times Now where the news reporter described him as ‘more threatening to this country than Maoist terrorists’ and anti-national.
- In August 2018, the Supreme Court asked an explanation from the Uttar Pradesh government which rejected an appeal facing Yogi Adityanath in a 2007 hate speech case. The appeal was registered after UP Chief Minister Yogi Adityanath delivered a hate speech that caused riots in Gorakhpur district in January 2007.
- In 2015, civil rights activists Vrinda Grover and Kavita Krishnan in a written letter criticized Times Now and accused the anchor Arnab Goswami for disrespecting them. The activists denounced Arnab Goswami for using words like ‘naxal’, ‘terrorist’ and ‘terrorist sympathizer’ criticized Arnab of hate speech and further said that he was abusing the power of media that too in corrupt behavior.

Summing-up, the dilemma of hate speech worsens when it is broadcasted or published by the press. When a bureaucrat or an individual delivers a hate speech, the press is always supposed to perform unbiased and impartial in terms of describing the situation. Media journalists should refrain from using expressions or language that can lead to violence or intolerance. Hate speech is trial by media and is condemnable.

**Sen** (2016) on The Wire reports that according to The Hoot’s annual free speech report, 2015 was a year twirling around inquiries regarding free expression. Cases of censorship of different media hate speech, sedition, defamation, threats, assaults, deaths, constraints and surveillance were summarised in the report.

Journalists remained the most unsafe and under threat in India. In 2015, 8 journalists were killed (or died in the job), 27 injured and 15 death threats cases. Matters of media censorship also sprung, whereas instances of information monitoring and the blocking of internet services by authorities were also recorded.

For censorship, the government was active on both state and central level. Central Board of Film Certification (CBFC) and Ministry of Information & Broadcasting (I& B) were principally liable for the restrictions.

The political group, in general, contributed enormously to the number of free speech breaches in India. The politicians registered defamation cases on the media and upon each other as well. Witnessing the upsurge in the filing of defamation cases by the politicians, even the supreme court started questioning the plight.

The year also witnessed plenty of constitutional advancements in the practice of free speech and expression. Supreme Court striking down Section 66a of the IT Act and Section 118d of the Kerala Police Act, were some of the examples of judicial developments.

As with the development of the internet, issues of free expression and data secrecy also appeared. Various social media companies, messaging apps, and networking sites come up with new data privacy and content blocking policies.

**Singh** (2018) reports that lately, there happens to be a struggle between freedom of expression and religious bias which is significantly shown in the Indian culture. It is due to the Government's censoring of books, film exhibitions, pictures and different types of basic expression, which exploits scholars and artists so as to fulfill Hindu religious-patriots and Muslim fundamentalist groups. Talking about Hindu and Muslim fundamentalist groups, each is trying to impose its religious and values over one another or minorities to gain dominance in the Indian Nation. The violent and aggressive actions by the fundamentalists have led to the suppression of free speech, killings of journalists/individuals, which the fundamentalists perceive as a threat.

The case study made few things clear, both Hindu and Muslim students conferred superiority to religion and beliefs over freedom of speech. Faith shouldn't be ridiculed in the name of freedom of expression, they said. Furthermore, most of the students were in admiration of the government's censorship to protect religious unanimity. Summarising, understandings from both sides i.e. secular and non-secular citizens are needed, in order to maintain a reasonable and peaceful multicultural community, notably in Indian circumstances. Hence, to adjust dissents and extreme points of view, recognition is expected from both parties i.e. the society as well as the state.

**Economic Times** (2019) reports that according to press freedom index 2019 records, India has collapsed down to two positions globally and is ranked 140th out of 180 countries, according to Reporters Without Borders (RSF). The study found that there has been an increase in the attacks against the Indian journalists by supporters of the ruling party BJP, especially before the general elections.

The index also found brutality toward Indian journalists that include police violence, assaults by Maoist Rivals and retaliation by wicked groups. These have displayed one of the most unusual features of the present status of the press of India. In 2018, 6 Indian journalists were killed in association with their work.

The murders have revealed vulnerabilities under which Indian journalists are working right now, particularly non-English writers serving in provincial and primitive regions, the report says. The writers/reporters who attempt to express or communicate concerning subjects that disturb Hindutva are being subjected to hate campaigns on social media.

The report also mentions, 'it is difficult for Indian journalists to work under regimes which are very unstable, for instance, Kashmir. Internet services are frequently shut and foreign reporters are also stopped in such a regime'. Consequently, journalism can't sustain under these conditions.

**Dasgupta** (2018) on 'HuffPost' writes that the human rights activists charged 'Republic TV' to be prosecuted for 'hate speech', as Arnab Goswami's news channel had continually labeled the activists as 'Naxalites' and 'Maoists' in the Bhima Koregaon conflict. When the activists were raided at their homes and arrested, Arnab Goswami's supervised republic tv while reporting the matter shot 'IndiaVsMaoists' and 'UrbanNaxals' at the bottom of the news program.

On Twitter, republic tv shared clips of the debate titled as 'NationalistsMaoists'. Most of the tweets on the debate were from people supporting the government and police's actions for the arrest of the activists. Moreover, the writer asserts that television news in India has now become more dramatic and violent rather than being informational, in the last few years. Republic TV has been severe to the people who dare to speak against the ruling party (BJP), by holding them as 'Naxalites' or 'Urban Naxals' Pratik Sinha, founder Altnews, says "it's hard to believe Republic TV's viewers are still unaware of the fact that it has a political agenda". When native media advertises fake news with privilege, it's a matter of grave concern because of its vast reach. In conclusion, what Arnab and Republic TV is doing is worse than defamation. By misleading the general public, Republic TV is encouraging members of distinct communities toward each other, which itself is a threat to national security.

**Chetty and Alathur** (2018) in "Hate speech review in the context of online social networks" express that with the progress of internet technologies and social networking which contributed considerably to humankind, hate speech and terrorism have also grown beside. They define hate speech as offensive content, produced by custom ideas that are intended to target a particular community or group, race, religion or gender, in order to generate violence or tension. The implementation of few laws within the legal framework can serve to check hate speech in India, they say.

Whereas, terrorism is defined as a deliberate action intended to cause harm against life which results in public danger. Hate speech is a form of terrorism that leads to violence and dangers. The writers argue that earlier, most of the papers discussed hate speech and terrorism separately but with the change of time, both need to be addressed together as they are so firmly interconnected. Lastly, the authors suggest that with support from the government and social networking sites, policies and methods can be framed to control hate speech and terrorism effectively

**Narrain** (2018) in "Social Media, Violence and the Law" writes that with the arrival of the internet and the increase in hate speeches over social media, the governing laws regulating it have also developed subsequently. He further says that after shutting down section 66 of the IT Act (penalizing of offensive/provocative messages or content sent through communication devices), it is difficult to specify or distinguish divisions such as 'provocative', 'offensive' or 'objectionable' content.

The study has shifted from the message i.e. finding its intention and moved towards limiting the distribution of such matter as a whole. Law is regularly being called upon to prior restrict the freedom of expression instead of doing inquiries and undertaking after the matter is

distributed or published. To explain this, the author cites the case when the Gujarat government banned internet services in 2015 to constrain Patidar agitation. When challenged in High Court for using Section 144 of CrPC (enabling to enforce curfew and law to control riots) instead of Section 69A of the IT Act (blocking of sites or pages) to block internet services, the court held decision in support of the government declaring it did the right thing. Therefore, we notice that the focus has shifted to prevent the circulation of the material instead of locating the person responsible or source of the offensive information.

**Chopra (2019)** in “WhatsApp is a weapon of antisocial hatred” writes that in the recent times, social media platforms or sites, particularly WhatsApp, have become a means for sharing of rumors, inciting content, and misinformation. This issue builds during the time of elections as each political party is viewed posting on social media platforms. Fake news shared on the social networking app has resulted in violence, intolerance, and deaths. In the running 2019 general election, social networking apps are being used in a dishonest and wrong way by the political parties for their own private gains which are dangerous for the general public.

Whatsapp is being misused to share fake news and misinformation in order to inflame fear among the common public, mainly against individuals who are perceived as non-natives. Fake news and rumors on WhatsApp have already caused 30 deaths in 2019, most of which were not political events but instead based on the fear of outsiders. Rumors such as the kidnapping of kids have led to the killing of individuals. Despite the implementation of preventive measures by WhatsApp to stop the dissemination of false information, there are crooked people out there who are abusing their freedom of speech in corrupt ways. This has become a dangerous threat and concern to democracy.

**Sorabjee (2018)** on ‘Indian Express’ writes that the law of sedition is being misused in recent times. Under the Indian constitution, Article 19 (1) (a) guarantees the right to speech and expression to the citizen of India, but this right is not absolute. It can be restricted under Article 19 (2) if it possesses a threat to the security of the nation or the state. While adopting Indian constitution, notwithstanding, many questioned the insertion of sedition as a ground to restriction of speech under Article 19 (2) of the constitution while making the draft, as it was used by colonials to suppress Indian nationalists during the struggle for independence. Though, sedition remains a criminal offense in IPC Section-124A which authorizes life confinement and fine, if found convicted.

Sedition is defined as an act that has the potential to incite hatred or violence upon the regime or state. It should be noted that fair criticism of government or administration is not sedition, incitement to violence or threat is. The author acknowledges that sedition has been misused in recent times but also says that solely erasing of the law won't remove the dilemma as there have been many laws that are abused. The honor of the Indian state can only be protected if the provision is rightly understood.

### 3. Objectives of the Study

1. To analyze the current status of freedom of speech and expression in India
2. To critically analyze the impact of hate speech on freedom of expression

### 4. Research Methodology

This is a purely exploratory research. The analysis is done on the basis of secondary data accessible on the internet, websites, research papers, news papers etc. In the dictomy of qualitative and quantitative research it is primarily qualitative.

### 5. Freedom of Press in India: Current Scenario

According to the latest data released in 2019, India ranks 140th out of 180 countries in the "World Press Freedom Index". In 2018, India was at 138th position, this transgression in two places in the rankings reveals that India's situation is worsening consistently throughout the years. The journalists can be seen operating in dangerous situations and consistent threat.

News concerning murders of journalists or trolls on social media against reporters is a common trend nowadays. The murder of senior journalist Gauri Lankesh in 2017 is one of the most famous cases of journalist killing. According to reports, Lankesh was murdered because she was critical of the criminal ventures of some 'right-wing activists' and was in the process of flashing them through her investigations.

Various reports have mentioned that journalists who attempt to scrutinize or report against the 'Hindutva' ideology or 'Hindu Rashtra' are threatened by the right-wing activists. Due to such tremendous pressure from the authority and the mob, reporters are struggling to survive in the present democracy. Healthy journalism and fair criticism are almost doomed and are nowhere to be found in current media scenarios. Cases of media prejudice or partiality in terms of reporting have also grown.

Journalism in the contemporary period has become a business instead of a profession in India. Media houses can be seen advertising the views of a particular political party or a personality. Most of the media industry today is owned either partially or completely by a few media giants. The concentration of media in the hands of a few prominent personalities has resulted in the death of independent journalism.

Finally, vernacular media has been greatly affected in recent years, in terms of freedom of the press. The local journalists are the primary ones affected by this issue. This is because of the low wage and difficult working conditions for native and local journalists.

### 6. Impact of hate speech on freedom of expression

Hate speech has affected freedom of speech and expression extensively in recent times. Hate speeches which are spread by media channels, as discussed earlier in the paper, have



resulted in public unrest and violence which has even endangered the life of the accused individual. Few prominent media figures abuse their power of the press. Their biased reporting that promotes a particular political party or ideology has resulted in a lack of public debate and fair criticism. Media nowadays targets a specific group and individual, it labels them as "anti-national" or "Naxalites". Shows titled as "TraitorsvsPatriots" are run on national television. The media creates a cynical narrative, it distorts the facts and presents sensational news in order to gain viewership

The problem of hate speech has also risen on social media platforms as the spreading of misinformation amongst online platforms is common these days. Social networking apps like WhatsApp have become the most common tool for spreading hate speech. Despite WhatsApp company's attempt to aware its users not to spread misinformation or any message that amounts to hate speech, the cases of mob lynching and attacks on individuals due to false suspicion are still happening. Trolls on social media have also become another great worry for social networking sites. Trolling is posting an inflammatory or offensive comment on social media which is aimed to defame an individual.

Politicians nowadays can be seen delivering hate speeches for personal electoral gains and also to raise their own religious views. In several occasions, politicians are found making disturbing comments such as "Muslims should chant Bharat Mata ki Jai if they want to live in India". This produces religious intolerance and communal violence among the general public. Lack of strict laws to control hate speech and to conduct the person accountable for its dissemination has led to an upsurge in the cases of hate speech.

## 7. Conclusion

Freedom of expression is suppressed more frequently momentarily. In the last five years, cases of hate speech have soared in India. Few of the Indian media channels broadcast fiery content among the public that has the potential to incite the masses. An individual finds it difficult to express opinion now due to tremendous political pressure and surveillance on him when compared to recent times.

The law is abused by the lawmakers, who use it unjustly against the individuals that are considered as a threat. It is done in order to silence the voices which confront the government's administration. Several cases explained that people who were working for the welfare of the underprivileged minorities by acquainting and educating them, the media and the government manifested them as criminals because of the fear that these individuals might cause trouble once the deprived starts to doubt the system. Activists and students are convicted under serious crimes just because of their critical thinking. The government and the media portray these individuals as anti-nationals. This has raised the question of an individual's entitlement to his fundamental rights. Whereas, few media channels have also been responsible for curbing the freedom of speech and expression. By reporting falsely of an event and deceiving the public by not telling the truth, the media has tarnished the image of the individuals who were critical of the

government. The public relies on media for the information and instead of working neutral the media can be seen favoring personal views of politicians.

Hate speech has become the most concerning issue in recent times as it has resulted in communal intolerance and public unrest. It has generated hatred against particular individuals, religious communities and groups. Both media and politicians are found making hate speeches. Media houses do it for the sake of viewership by creating controversial and sensational news, whereas politicians make hate speeches for the purpose of gaining votes.

Social media apps and sites are also responsible for limiting freedom of expression. Cases of constant surveillance of user activities and censoring their posts by networking sites have also occurred in recent times. Whatsapp is misused to deliver misinformation, which has led to the false killing of individuals due to suspicion by the mob. Fake news, especially related to politics has upsurged on such platforms. Offensive messages which are generated by corrupt users are shared and forwarded blindly. Therefore, the research reasons that press freedom and the right to an opinion has dwindled. Hate speeches have risen and there is a lack of balance to keep an eye on both.

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