

## Freedom of Expression: A Reality and A Myth in India K. Sinchana<sup>1</sup> & Sathish Kumar<sup>2</sup>

<sup>1</sup>MA Student, Department of Journalism and Mass Communication,  
Kuvempu University, Jnana Sahyadri, Shivamogga.

<sup>2</sup>Professor, Department of Journalism and Mass Communication,  
Kuvempu University, Jnana Sahyadri, Shankaraghatta.

**DOI: <https://doi.org/10.5281/zenodo.18116590>**

### ABSTRACT:

This article explores the dualistic nature of freedom of expression in India, framed as both a constitutional reality and a persistent myth. While Article 19(1)(a) provides a robust legal foundation, reinforced by landmark judicial interventions like the Shreya Singhal case, the practical exercise of this right faces significant hurdles. The authors analyze the tension between democratic ideals and restrictive measures, including the misuse of sedition and anti-terror laws, digital censorship, and rising social intolerance. Ultimately, the paper argues that while the judiciary remains a guardian of liberty, true freedom of expression requires a cultural shift toward tolerance to bridge the gap between constitutional promise and lived practice.

### KEYWORDS:

Article 19(1)(a), Constitutional Democracy, Judicial Interpretation,  
Digital Censorship, Reasonable Restrictions.

.....

### Introduction:

Freedom of expression is the heartbeat of any democracy. It is the right that allows citizens to think freely, question authority and participate meaningfully in the political and cultural life of a nation. Without this freedom, democracy becomes hollow, a mere formality without genuine participation or dialogue. In India, the world's largest democracy, freedom of expression is not just a constitutional right but a deeply moral idea that defines who we are as a people. Yet, the reality of this freedom is far more complicated. While the Constitution guarantees every citizen the liberty to express thoughts and beliefs, the social and political landscape often restricts, punishes or silences those who dare to use it freely. The paradox is stark: India celebrates freedom of expression in principle, but struggles to uphold it in practice. Thus, freedom of expression in India is a reality and a myth, a living promise and a contested ideal.

---

---

## **Constitutional Foundation of Freedom**

When India became independent in 1947, the new nation faced an extraordinary challenge: how to preserve unity in a society of immense diversity while also guaranteeing individual liberty. The framers of the Constitution, led by Dr. B.R. Ambedkar, Jawaharlal Nehru, and Sardar Patel, understood that the right to express opinions freely was essential for a healthy democracy. During the Constituent Assembly debates, members repeatedly emphasized that liberty of thought and speech was the essence of free governance. As K.M. Munshi noted, “Freedom of expression is the mother of all liberties.”

The result of these debates was Article 19(1)(a), which guarantees that “All citizens shall have the right to freedom of speech and expression.” This article encompasses every form of communication, speech, writing, art, performance, and even symbolic gestures like protests or wearing black bands. It ensures that citizens can question power, share ideas, and influence the direction of public policy. However, this freedom is not absolute. The framers, mindful of maintaining order and security, introduced Article 19(2), which allows the State to impose “reasonable restrictions” in the interests of the sovereignty and integrity of India, the security of the State, public order, decency, morality, or to prevent defamation and contempt of court.

This balance between liberty and restraint reflects the complex nature of Indian democracy. The Constitution promises freedom, but it also provides the government with tools to limit it when speech is considered harmful to public interest. What constitutes a “reasonable restriction,” however, has been the subject of constant debate and judicial interpretation, a debate that continues to shape India’s democratic character.

## **Judicial Interpretation and the Evolution of the Right**

From the earliest years of the Republic, India’s judiciary has played a crucial role in defining the scope of freedom of expression. One of the first major cases, *Romesh Thappar v. State of Madras* (1950) case, arose when the government banned the political magazine *Cross Roads* for criticizing its policies. The Supreme Court struck down the ban, declaring that freedom of speech and expression is the very foundation of democracy. Soon after, in *Brij Bhushan v. State of Delhi* (1950) case, the Court ruled that pre-censorship of newspapers violated this fundamental right. These early decisions established the principle that the government

cannot curb speech merely because it finds it inconvenient or critical.

Over the decades, several landmark judgments expanded and refined this right. In *Bennett Coleman & Co. v. Union of India* (1973) case, the Supreme Court struck down restrictions on newspaper imports, affirming that freedom of the press is integral to free speech. In *S. Rangarajan v. P. Jagjivan Ram* (1989) case, the Court famously held that “freedom of expression cannot be suppressed on account of threat of demonstration and processions or threats of violence.” This judgment made clear that intolerance cannot be allowed to silence art or opinion.

Perhaps the most significant modern judgment came in *Shreya Singhal v. Union of India* (2015) case. Section 66A of the IT Act had been used to arrest individuals for posting allegedly “offensive” content online. Shreya Singhal, a young lawyer, challenged the provision after two girls were arrested for a Facebook post questioning the shutdown of Mumbai following a political leader’s death. The Supreme Court ruled that the section was unconstitutional, as it violated Article 19(1)(a) and did not meet the standard of “reasonable restriction.” The judgment was a landmark for digital freedom, ensuring that criticism, satire, or disagreement could not be criminalized simply for being “annoying.”

In recent years, courts have continued to act as defenders of this right. The *Kunal Kamra vs. Union of India* (2023) case challenged new IT rules that allowed a government-appointed “fact-checking unit” to label online content as false or misleading. The Bombay High Court struck down parts of these rules, warning that vague definitions could create a chilling effect on speech. Similarly, when the independent news outlet NewsClick faced raids and arrests under anti-terror laws in 2023, the Supreme Court intervened, ruling that the detentions violated due process. Each of these judgments illustrates that while the State sometimes overreaches, the judiciary has often acted as a guardian of free expression.

### **Freedom of Expression as a Reality**

Despite its flaws, India remains a vibrant democracy where diverse opinions, criticism and debates are visible in public life. The Constitution, judiciary, and civil society together have ensured that the spirit of free expression survives, even under pressure. India’s media ecosystem is among the most dynamic in the world, with thousands of newspapers, television channels, and digital platforms offering competing narratives.

Investigative journalism has repeatedly exposed corruption, from the 2G Spectrum case to the Commonwealth Games scandal, reinforcing the accountability of public officials. The right to information, granted by the RTI Act of 2005, further empowered citizens to question the government and demand transparency.

Cinema and literature have also been powerful platforms of expression. Films like Article 15, Raazi, and Pink addressed social and political issues with courage, sparking conversations on gender justice, nationalism, and caste discrimination. The 2016 film Uda Punjab faced severe censorship for its portrayal of the drug crisis in Punjab, but the Bombay High Court ruled in favor of the filmmakers, stating that creative freedom must not be curbed by political sensitivities. This judgment reaffirmed the independence of art and the importance of dissenting voices in culture.

Public protests are another manifestation of this freedom. The Anna Hazare Anti-Corruption Movement (2011), the Nirbhaya protests (2012), the CAA demonstrations (2019–2020), and the Farmers’ Protests (2020–2021) are examples of how citizens used peaceful dissent, art, slogans, and social media to demand change. The Constitution protects the right to protest under Article 19, and the courts have often upheld it as an essential part of free expression.

The rise of digital media has further democratized expression. Ordinary citizens now use X (Twitter), YouTube, and Instagram to share views, satire, and news. Campaigns like #MeTooIndia, #SaveAareyForest, and #JusticeForManipur began online but had real-world consequences, influencing legislation, policy, and public awareness. This participatory form of democracy demonstrates that expression in India is not limited to elites but belongs to everyone with a voice and an Internet connection.

Even against state pressure, many journalists and activists continue to speak truth to power. Civil society groups like the Internet Freedom Foundation and Citizens for Justice and Peace consistently fight against censorship and misuse of laws. The courts, for their part, have protected journalists from sedition and defamation charges in cases like *The Wire vs. Assam Police* (2025) case, where the Supreme Court prevented coercive action against editors accused of “anti-national reporting.”

All these examples demonstrate that the promise of Article 19 is not

empty. It continues to live through citizens' courage, judicial intervention, and the resilience of democratic institutions. In this sense, freedom of expression in India is a reality, an imperfect but undeniable one.

### **When Freedom Becomes a Myth**

Yet, this reality coexists with a darker truth. For every citizen who speaks freely, there is another who is silenced. For every court victory, there are countless stories of censorship, arrests, and intimidation that never reach the headlines.

The misuse of colonial-era laws like sedition (Section 124A IPC) and the Unlawful Activities Prevention Act (UAPA) has often turned dissent into a criminal act. The 2016 JNU sedition case, where students like Kanhaiya Kumar were arrested for allegedly "anti-national" slogans, revealed how easily expression could be equated with disloyalty. Similarly, environmental activist Disha Ravi was arrested in 2020 for sharing a "toolkit" in support of the farmers' protest. She was later granted bail, with the court noting that there was no evidence of conspiracy, a clear case of the law being used to intimidate.

Journalists too face increasing peril. India's rank in the World Press Freedom Index has fallen dramatically, reflecting threats, lawsuits, and violence. The murder of Gauri Lankesh in 2017 for her outspoken criticism of communal politics remains a grim reminder of the cost of courage. Journalists like Rana Ayyub, Siddharth Varadarajan, and Mohammad Zubair have faced harassment, FIRs, or tax raids for publishing critical stories.

Censorship in art and media continues to undermine creative freedom. Padmaavat (2018) faced violent protests before release despite CBFC approval, while the web series Tandav (2021) was forced to issue apologies after outrage over a brief depiction of a Hindu deity. Authors like Salman Rushdie and Wendy Doniger saw their books banned or withdrawn under pressure from religious groups. Even satire is no longer safe, comedian Munawar Faruqui was arrested before his show began in Indore in 2021, accused of offending religious sentiments. His experience exemplifies how the fear of offense can precede actual speech.

The suppression of dissent is not limited to the arts. Peaceful protests have frequently been met with curfews, arrests, and internet shutdowns. During the CAA protests, entire districts were placed under

lockdown, and communication lines cut. India now holds the world record for the most internet shutdowns annually, often justified in the name of “public order.” This digital silencing cuts off millions from information and discussion, eroding the very idea of participatory democracy.

Academic freedom too has suffered. Universities such as JNU, Jamia Millia Islamia, and Delhi University have witnessed canceled lectures and police action against students for organizing discussions. In 2022, the government banned screenings of the BBC documentary “India: The Modi Question”, and students who tried to watch it on campus faced disciplinary measures.

Social media, once hailed as the new frontier of free speech, has also become a battleground of hate and intimidation. Women journalists and activists face online abuse and threats. Troll armies, often politically motivated, target anyone critical of the government. In 2019, a woman in West Bengal was arrested for sharing a meme of Chief Minister Mamata Banerjee, a trivial act turned into a criminal offense.

This combination of legal misuse, political interference, and social intolerance has created an atmosphere of fear. People self-censor not because they are legally compelled to, but because they fear consequences, social, economic, or physical. In such a climate, freedom of expression becomes less a right and more a privilege available only to a few. This is why, for many Indians, the right remains a myth rather than a lived reality.

### **Beyond Law: The Cultural and Social Dimension**

Freedom of expression is not protected by law alone; it is sustained by culture. A society that cannot tolerate difference or criticism will inevitably destroy its own liberty. India’s greatest thinkers, from Tagore to Ambedkar, warned that democracy depends as much on temperament as on institutions.

Social and religious intolerance remains a major barrier. Speaking against caste discrimination, patriarchy, or religious orthodoxy still invites threats and ostracism. Artists who challenge myths or reinterpret traditions face boycotts and violence. The pressure to conform, politically, socially, and religiously, has created an environment where silence is often safer than honesty.

Digital spaces mirror these anxieties. While the internet has given voice to millions, it has also amplified hate. Targeted trolling,

misinformation campaigns, and online harassment have replaced dialogue with hostility. This psychological silencing is just as damaging as legal censorship because it erodes the courage to speak. Freedom of expression, therefore, is not only about the absence of restrictions but also the presence of tolerance. Until society learns to value disagreement as much as harmony, true freedom will remain incomplete.

### **Conclusion: Between Promise and Practice**

Freedom of expression in India stands at a delicate crossroads. It is enshrined in the Constitution, defended by courts, and exercised by millions every day. Yet, it remains vulnerable to misuse of power, intolerance, and fear. The contradictions are striking: India is a country where people can openly criticize the government on television, yet journalists are arrested for tweets; where films question patriarchy, yet comedians are jailed for jokes; where citizens protest on the streets, yet the Internet is shut down to silence them.

This duality defines modern India, a democracy proud of its freedoms but anxious about their consequences. The judiciary has often been a guardian, restoring balance when the State oversteps. But laws alone cannot safeguard liberty. The real test lies in our collective mindset, our ability to tolerate dissent, to engage rather than suppress, and to understand that disagreement is not disloyalty.

As India continues to grow and change, freedom of expression must evolve from a constitutional clause into a social habit. Citizens must not only claim their right to speak but also protect others' right to disagree. Only when every Indian, regardless of class, faith, or ideology, feels safe to express themselves without fear of reprisal will the dream of Article 19 truly come alive.

Freedom of expression, then, is both our reality and our unfinished journey, a promise made by the Constitution, tested by history and waiting still to be fully realized.

**Reference:**

1. Ambedkar, B. R. (1948). Constituent Assembly Debates: Vol. VII. Government of India
2. Bhatia, G. (2016). Offend, shock, or disturb: Free speech under the Indian Constitution. Oxford University Press
3. Dhruv Madan, G. (2022). Understanding misinformation in India: The case for a meaningful regulatory approach for social media platforms. arXiv. <https://doi.org/10.48550/arXiv.2207.01508>
4. Govindarajan, G., & Ravindar, N. (2016). Freedom of expression on social media: Myth or reality. *Global Media Journal – Indian Edition*, 7(1). <https://www.caluniv.ac.in/global-mdia-journal/SR-2016-NOV/SRI.pdf> Calcutta University.
5. India Today. (2024, February 15). India ranked 159th in World Press Freedom Index 2024: Reporters Without Borders. India Today. <https://www.indiatoday.in>
6. Parthasarathi, V., Kumar, S., & Acharya, B. (2015, July 14). Freedom of expression in a digital age. Centre for Internet & Society. <https://cis-india.org/internet-governance/blog/freedom-of-expression-in-a-digital-age> Centre for Internet & Society
7. Sharma, T. (2023). A study of Article 19 in the digital age in India. *International Journal of Law & Social Sciences*, 12(4). Available from <https://www.journalsalliancepub.com/index.php/ijls/article/view/87> journalsalliancepub.com
8. The Supreme Court of India. (1950). Romesh Thappar v. State of Madras (AIR 1950 SC 124). <https://indiankanoon.org/doc/85706/>
9. The Supreme Court of India. (2015). Shreya Singhal v. Union of India (AIR 2015 SC 1523). <https://indiankanoon.org/doc/1187864/>
10. Vidyarthi, A., & Hulvey, R. (2021). Building digital walls and making speech and internet freedom (or Chinese technology) pay for it. *Indian Journal of Law & Technology*, 17(1). <https://repository.nls.ac.in/ijlt/vol17/iss1/1> NLSIU Repository
11. World Press Freedom Index. (2024). Reporters Without Borders (RSF). <https://rsf.org/en/index>

**Funding:**

This study was not funded by any grant.

**Conflict of interest:**

The Authors have no conflict of interest to declare that they are relevant to the content of this article.

**About the License:**

© The Authors 2024. The text of this article is open access and licensed under a Creative Commons Attribution 4.0 International License.