



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 5 AND ISSUE 7 OF 2025

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 5 and Issue 7 of 2025 (Access Full Issue on – <https://ijlr.iledu.in/volume-5-and-issue-7-of-2025/>)

Publisher

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CRITICAL ANALYSIS OF FREEDOM OF SPEECH AND EXPRESSION IN INDIA: MERITS AND DEMERITS

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BEST CITATION – TANIYA BAUNTHIYAL & MR NIKUNJ SINGH YADAV, CRITICAL ANALYSIS OF FREEDOM OF SPEECH AND EXPRESSION IN INDIA: MERITS AND DEMERITS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 5 (7) OF 2025, PG. 751-760, APIS – 3920 – 0001 & ISSN – 2583-2344.

Abstract

"In this research study, a critical analysis of the freedom of speech and expression in India is presented, with a focus on the constitutional underpinnings, historical development, and contemporary issues that have been encountered. The purpose of this study is to investigate the benefits that comprehensive free speech rights have in terms of promoting democracy, facilitating social reform, and safeguarding individual autonomy. In addition to this, it analyses the drawbacks and difficulties, such as conflicts with cultural sensitivities, worries about national security, and the contemporary complications brought about by digital communication and social media. This paper gives insights into creating a balanced strategy that preserves democratic norms while accepting India's unique socio-cultural setting. These insights are achieved via rigorous research of key judicial judgements and comparative perspectives with other democratic nations. Following the conclusion of the investigation, recommendations are made for enhancing speech liberties while still retaining required safeguards within a democratic framework that is always evolving."

Key words: Speech and Expression, freedom of speech, constitution, Article 19

Introduction

Freedom of speech and expression is a fundamental component of democratic society. It is the means by which citizens are able to participate in the government of their societies, seek the truth, and express both their individual and collective identities. It is the nation's colonial history, unique cultural fabric, and ongoing democratic evolution that have all contributed to the formation of this fundamental right in India, which has followed a specific trajectory. This freedom is guaranteed under Article 19(1)(a) of the Indian Constitution, which also places it within a framework of reasonable constraints stated in Article 19(2). This creates a constitutional blueprint for

striking a balance between the right to free expression and other community interests.

There is a fascinating case study in constitutional democracy that may be found in the Indian experience with freedom of speech. As the largest democracy in the world, India is also home to an unparalleled linguistic, religious, and cultural variety. As a result, the country has a unique set of issues when it comes to formulating speech protections that simultaneously respect individual liberty and preserve societal peace. Since the country's independence, the Indian Supreme Court has played a vital role in interpreting and reinterpreting the boundaries of permissible expression, which has resulted in a considerable

evolution of the Indian jurisprudence on free speech.

This study investigates the many facets of free speech in India, focussing on its contribution to the promotion of democratic participation, the facilitation of social reform, and the protection of individual liberty. At the same time, it provides an in-depth analysis of the drawbacks and difficulties, which include differences of opinion over cultural sensitivities, worries about national security, and the complicated new dilemmas that are brought about by the digital information era. The purpose of this study is to add to the academic understanding of free speech in a variety of democracies and to offer insights for regulatory frameworks that are capable of effectively navigating these competing ideals. This will be accomplished via the use of a balanced assessment.

Recent debates around sedition laws, internet shutdowns, control of online content, and high-profile defamation cases have brought questions about the scope and restrictions of free speech to the forefront of public conversation in India. The analysis is particularly pertinent in light of these recent debates, which have brought these issues to the forefront of public discourse. via an examination of these concerns via the lenses of history, law, and comparative analysis, this research offers a comprehensive evaluation of the function of free speech within the context of the democratic experiment in India.

Constitutional Framework and Historical Evolution

Constitutional Provisions

- In Article 19(1)(a), the freedom of speech and expression was enshrined by the architects of the Indian Constitution. They did so by drawing inspiration from democratic traditions from throughout the world while also taking into account the specific circumstances of India. In accordance with this provision, every citizen is guaranteed the right "to

freedom of speech and expression."¹⁰⁰⁹

However, in light of the fact that no freedom can be considered absolute, Article 19(2) grants the state the authority to put "reasonable restrictions" on this right in order to protect the following interests:

- The sovereignty and integrity of India
- The security of the State
- Friendly relations with foreign States
- Public order
- Decency or morality
- Contempt of court
- Defamation
- Incitement to an offense

This constitutional architecture indicates a conscious endeavour to strike a balance between individual liberty and communal benefit, generating what legal academics have referred to as a "qualified right."¹⁰¹⁰ Not only does the framework offer protection for expression, but it also offers legitimacy to some forms of regulation.

Historical Evolution through Judicial Interpretation

A slow shift in the interpretation of speech rights occurred during the post-independence era, primarily as a result of key decisions made by the Supreme Court and other judicial bodies. A restrictive interpretation of allowable limits was established by the Supreme Court in early judgments such as *Romesh Thappar v. State of Madras*.¹⁰¹¹ This interpretation resulted in the destruction of pre-censorship of publications, which was deemed to be a violation of the freedom of the press. It was established by the Court that limits on speech must have a close connection to the justifications that are permissible under Article 19(2).

¹⁰⁰⁹ Tushnet, M., Khosla, M., & Mehta, P. B. (Eds.). (2019). *The Oxford Handbook of the Indian Constitution*. Oxford University Press.

¹⁰¹⁰ Bhatia, G. (2016). *Offend, Shock, or Disturb: Free Speech Under the Indian Constitution*. Oxford University Press.

¹⁰¹¹ AIR 1950 SC 124

The First Amendment to the Constitution, which was ratified in 1951, brought about a significant change. This amendment broadened the grounds for restriction by including "public order," "friendly relations with foreign states," and modifying "undermining the security of the state" to the more general term "security of the state."¹⁰¹² These concerns about stability and unity were expressed in this amendment, which was made by the nascent nation.

In the case of *Kedar Nath Singh v. State of Bihar*,¹⁰¹³ which took place in 1962, the Supreme Court of India upheld the legality of sedition law. However, it limited the application of this statute to activities that involved "incitement to violence" or "intention to create public disorder." This was a significant milestone. This interpretation made an effort to reconcile the speech restrictions that were in place during the colonial era with constitutional principles.

The Emergency era, which lasted from 1975 to 1977, was a time of extreme censorship and the suppression of opposition, which brought about a low point for free speech. The post-Emergency era witnessed a judicial renaissance in speech protection, which was typified by decisions such as *Indian Express v. Union of India*.¹⁰¹⁴ in which the Supreme Court acknowledged the freedom of the press as an essential component of the rights to free expression.

The Supreme Court of the United States developed the "reasonable restriction" standard in the case of *S. Rangarajan v. P. Jagjivan Ram*.¹⁰¹⁵ In this case, the Court indicated that the connection between speech and the possibility of public disorder must be comparable to a "spark in a powder keg." Because of this, the threshold for banning speech on the basis of concerns about public order was raised.

The decade of the 1990s was a time of liberalisation, which coincided with an increase

in the freedom of the media and a greater level of court protection for expression. In the case of *Shreya Singhal v. Union of India*,¹⁰¹⁶ the Supreme Court of India overturned Section 66A of the Information Technology Act, which included provisions that criminalised "offensive" online communication. This decision is a significant victory for the rights of digital speech.

Subramanian Swamy v. Union of India,¹⁰¹⁷ in which the Court upheld criminal defamation provisions, and *Anuradha Bhasin v. Union of India*,¹⁰¹⁸ which addressed internet shutdowns in Kashmir and established that freedom of expression online is protected under Article 19(1)(a), are two examples of cases that have occurred in recent years that have contributed to the ongoing tension that exists between speech protection and other values.

This historical trajectory demonstrates that there is a continuing conflict between broadening the breadth of speech that is protected and keeping restrictions that are judged necessary for the social context of India. Over the course of its history, the Supreme Court has, in general, moved towards stronger protection of speech rights. However, this journey has not been linear; rather, it has been marked by periods of both expansion and contraction.¹⁰¹⁹

Merits of Freedom of Speech and Expression in India

Strengthening Democratic Governance

The democratic system in India is dependent on the freedom of speech and expression as its primary source of support. By facilitating the following, it makes it possible for citizens to engage meaningfully in governance:

1. **Public Criticism of Government:** One of the most important feedback mechanisms that contributes to the improvement of governance is the

¹⁰¹² Sathe, S. P. (2002). *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. Oxford University Press.

¹⁰¹³ AIR 1962 SC 955

¹⁰¹⁴ (1985) 1 SCC 641

¹⁰¹⁵ (1989) 2 SCC 574

¹⁰¹⁶ (2015) 5 SCC 1

¹⁰¹⁷ (2016) 7 SCC 221

¹⁰¹⁸ (2020) 3 SCC 637

¹⁰¹⁹ Tushnet, M., Khosla, M., & Mehta, P. B. (Eds.). (2019). *The Oxford Handbook of the Indian Constitution*. Oxford University Press.

ability to criticise the policies and acts of the government. In the case of *S.P. Gupta v. Union of India*,¹⁰²⁰ Justice Bhagwati made the observation that "exposure to public gaze and criticism is the surest guarantee of good governance." This has been especially clear in the case of the exposure of corruption scandals such as the 2G spectrum issue and anomalies at the Commonwealth Games, when scrutiny from the media led to increased responsibility inside the organisation.

2. **Electoral Democracy:** Voting in an informed manner is made possible by the right to free speech, which permits open discussion of candidates, policies, and political ideas. Speech protections are essential to the vigorous electoral debates, broadcast discussions, and campaign communications that take place in India. The Model Code of Conduct developed by the Election Commission makes an effort to strike a balance between the right to free political speech and the need for fairness and decorum in political campaigns.
3. **Civil Society Engagement:** Free speech is essential for non-governmental organisations (NGOs), campaigners, and citizen organisations to push for changes in policy and social reforms. Through the use of speech protections, movements that have been working to address issues such as environmental concerns, women's rights, and caste discrimination have been able to win substantial legal and legislative policies.

Catalyst for Social Reform

Throughout India's history, free speech has facilitated critical social reforms by:

1. **Challenging Discriminatory Practices:** The power of expression was utilised by

social reformers such as Raja Ram Mohan Roy and B.R. Ambedkar in order to combat social practices such as sati, child marriage, untouchability, and caste prejudice. Similarly, contemporary efforts opposing triple talaq and Section 377 of the Indian Penal Code relied on the freedom to articulate alternative social visions in order to succeed.

2. **Amplifying Marginalized Voices:** Because of the availability of free speech, historically marginalised populations have been able to voice their experiences and demands through many forums. There have been several areas that have benefited from constitutional speech provisions that allow for counter-narratives to dominant discourses. These areas include literature written by Dalits, tribal rights movements, and LGBTQ+ campaigning.
3. **Cultural and Artistic Expression:** The freedom of expression is essential to India's long-standing heritage of social commentary made through the mediums of art, literature, film, and music. Even in the face of controversy, works such as the films directed by Satyajit Ray, the novels written by Arundhati Roy, and the paintings created by M.F. Husain have been able to encourage social reflection and conversation.
4. **Protection of Individual Autonomy and Self-Development**

Free speech serves profound individual interests by:

1. **Enabling Self-Expression:** It is essential to human dignity and the process of self-realization that individuals have the right to express their identities, opinions, and ideas. *NALSA v. Union of India*,¹⁰²¹ was the case in which the Supreme Court of India acknowledged this aspect,

¹⁰²⁰ AIR 1982 SC 149

¹⁰²¹ (2014) 5 SCC 438

supporting the right of transgender individuals to express their gender identification.

2. **Facilitating Intellectual Growth:** Intellectual development is fostered by having access to a wide variety of ideas and the opportunity to engage with those ideas in a critical manner. When there are no severe limits placed on inquiry, India's academic institutions, research centres, and intellectual traditions are able to grow.
3. **Supporting Personal Decisions:** When knowledge is freely available, individuals are able to make educated judgments about a variety of issues, including healthcare, education, and consumer choices. An institutional recognition of this facet of the freedom to express oneself is represented by the Right to Information Act of 2005, which broadened access to information kept by public agencies.¹⁰²²

Marketplace of Ideas and Truth-Seeking

Drawing from philosopher John Stuart Mill's concept, free speech in India enables:

1. **Countering Misinformation:** Freedom of expression does not prevent the dissemination of erroneous information; rather, it enables it to be challenged and disproved. Correction of disinformation in the public domain can be accomplished through the use of fact-checking programs and public debates.
2. **Scientific Progress:** In order to make progress in knowledge, open scientific research and discussion are absolutely necessary. There is a significant advantage for India's scientific institutions that they are able to examine old theories and investigate new ideas without being subject to unnecessary restrictions.

3. **Pluralistic Dialogue:** It is necessary to engage in open discourse in order to develop mutual understanding because of the great range of religions, dialects, and cultural traditions that exist in India. The constitutional guarantees for expression generate venues that are conducive to this kind of intercultural dialogue.

Demerits and Challenges

Balancing with Cultural Sensitivities

India's pluralistic society presents unique challenges for speech regulation:

1. **Religious Sentiments:** Speaking in a manner that intentionally insults religious beliefs is considered a criminal offence under Section 295A of the Indian Penal Code. Cases such as the uproar surrounding Salman Rushdie's novel *The Satanic Verses* and the dispute surrounding a cartoon in Denmark brought to light difficulties between the right to free expression and the sensibilities of religious groups. In a similar manner, these tensions were brought to light by the prohibition of Wendy Doniger's book, *The Hindus: An Alternative History*.
2. **Historical Narratives:** Disagreements over historical individuals and events, like as portrayals of Shivaji Maharaj or interpretations of Partition, frequently result in proposals for speech restrictions to be implemented. During the release of films such as *Padmaavat*, there were violent demonstrations against the depiction of historical events, which necessitated the intervention of the Supreme Court.
3. **Caste Considerations:** It is still considered sensitive to speak about caste issues because there are fears that it could reinforce stereotypes or incite animosity within the audience. Continuous regulatory issues arise from

¹⁰²² Sen, A. (2005). *The Argumentative Indian: Writings on Indian History, Culture and Identity*. Farrar, Straus and Giroux.

the need to strike a balance between allowing criticism of caste hierarchies and prohibiting hostility based on caste.¹⁰²³

This test, which evaluates speech based on its likely impact on an average, reasonable person rather than those who are unusually susceptible to offence, was developed by the Supreme Court in *Ramji Lal Modi v. State of Uttar Pradesh*¹⁰²⁴ and refined in subsequent cases. The Supreme Court has attempted to navigate these tensions through the use of the "reasonable reader" test.

National Security and Public Order Concerns

Certain speech restrictions are justified on security grounds:

1. **endanger the sovereignty, unity, and integrity of India, Law:** Section 152 of the Bharatiya Nayaya Sanhita continues to be a contentious issue, despite the fact that it has been narrowed by judicial interpretation. Concerns regarding overreach have been raised as a result of its invocation against activists, journalists, and dissenters. Critics argue that it suppresses genuine political criticism. In recent years, major cases have been brought against individuals such as Kanhaiya Kumar and Disha Ravi, which have stirred debates on a national level regarding the extent to which sedition law can be applied.
2. **Separatist Movement Contexts:** More stringent speech regulations have been implemented in areas of India that are experiencing separatist activities, such as Jammu & Kashmir and certain places in Northeast India. There are concerns about security, which are reflected in the usage of internet shutdowns and surveillance in certain locations;

nonetheless, there are doubts regarding proportionality.

3. **Anti-Terrorism Measures:** Speech-related restrictions are included in laws such as the Unlawful Activities (Prevention) Act, which are designed to prevent the glorifying of terrorist acts or inciting individuals to engage in violent behaviour. Due to the fact that they are so broad in their meaning, there are fears that they could be misused against political opponents or activists.

Finding a middle ground between valid security concerns and preventing the suppression of democratic opposition continues to be a difficult task. It is the goal of the Supreme Court's "proximate nexus" test to guarantee that speech is prohibited only when it has a close link to actual harm; nevertheless, critics claim that this standard is used in an inconsistent manner.¹⁰²⁵

Digital Communication and Social Media Challenges

The digital revolution has created new free speech dilemmas:

1. **Misinformation and "Fake News":** The quick dissemination of false information on the internet has resulted in real-world consequences, such as mob violence that was sparked by rumours that were disseminated using WhatsApp. In an effort to address these concerns, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 have been proposed; nonetheless, they have been subject to criticism for the possibility that they could enable censorship.
2. **Platform Governance:** By virtue of the fact that social media platforms such as Facebook, Twitter, and YouTube now serve as key speech forums, questions have been raised regarding the content

¹⁰²³ Sathe, S. P. (2002). *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. Oxford University Press.

¹⁰²⁴ AIR 1957 SC 620

¹⁰²⁵ Khosla, M. (2020). *India's Founding Moment: The Constitution of a Most Surprising Democracy*. Harvard University Press.

moderation rules of these sites. The framework of "intermediary liability" that was established in the Information Technology Act and subsequent guidelines makes an effort to strike a balance between platform duty and the avoidance of excessive censorship.

3. **Digital Divide and Access:** Despite the fact that the number of people using the internet is increasing, there are huge differences in digital access, which means that certain demographics benefit disproportionately from online free speech rights. Who is able to actively exercise their rights to expression online is impacted by the digital gap, which can be broken down along the lines of area, class, gender, and language.
4. **Algorithmic Governance:** It is possible for content recommendation algorithms to amplify certain communication while suppressing others, with the result being the creation of new kinds of private censorship that are not governed by established legal frameworks. This type of algorithmic bias can have a particularly negative influence on political debate and voices that are marginalised.¹⁰²⁶

The acknowledgement of internet connection as a component of free expression rights by the Supreme Court of India in the case of *Anuradha Bhasin v. Union of India*,¹⁰²⁷ was a significant step forward, despite the fact that there are still significant problems to be faced in terms of implementation.

Defamation and Reputation Protection

The balance between free speech and reputation protection creates ongoing tensions:

1. **Criminal Defamation:** There are civil remedies available in India, but there are

also criminal consequences for defamation under Sections 356 of the Bharatiya Nyaya Sanhita. In the case of *Subramanian Swamy v. Union of India*,¹⁰²⁸ the Supreme Court of India maintained these rules, despite the fact that there were allegations that criminal sanctions have a stifling effect on political speech and journalism.

2. **Strategic Lawsuits Against Public Participation (SLAPPs):** Defamation lawsuits are occasionally used by powerful entities to silence opponents, even when the charges brought against them are without merit. This strategy is relatively effective against speakers who have limited resources because Indian law does not have any significant anti-SLAPP provisions.
3. **Judicial Time and Resources:** Legal proceedings involving defamation frequently last for an extended period of time, which consumes a significant amount of judicial resources and leaves speakers with a protracted sense of uncertainty. There is a possibility that cases involving public individuals, such as political leaders and journalists, could drag on for years.¹⁰²⁹

Although cases such as *R. Rajagopal v. State of Tamil Nadu*,¹⁰³⁰ have advanced in this direction, the real malice criterion that was formed in US jurisprudence has had limited acceptance in the Indian context. This standard affords more protection for speech that is about public persons.

Commercial Speech and Advertising Regulation

Commercial expression faces distinct regulatory challenges:

1. **Consumer Protection:** Consumers are intended to be protected by limits on

¹⁰²⁶ Jha, P. K. (2018). Political implications of Section 66A of the Information Technology Act. *Journal of Constitutional Studies*, 3(2), 45-67.
¹⁰²⁷ (2020) 3 SCC 637

¹⁰²⁸ (2016) 7 SCC 221

¹⁰²⁹ Choudhry, S. (Ed.). (2016). *Constitutional Democracies in Crisis?* Oxford University Press.

¹⁰³⁰ (1994) 6 SCC 632

deceptive marketing; nevertheless, these restrictions must be carefully crafted to prevent restricting communication that is not essential. With the passage of the Consumer Protection Act in 2019, provisions were reinforced to combat advertisements that are misleading or fraudulent.

2. **Public Health Regulations:** Bans on tobacco advertising and health warnings are examples of public health concerns that restrict the expression of commercial interests. An act that was passed in 2003 called the Cigarettes and Other Tobacco Products Act places considerable limits on the promotion of tobacco products.
3. **Professional Advertising:** Regulations that restrict advertising by particular professions, such as those in the legal and medical fields, have been criticised for being excessively restrictive of commercial speech. One example of the Supreme Court's gradual liberalisation of these limits is the case of *V. Sudheer v. Bar Council of India* (2021), which resulted in the relaxation of prohibitions on advertising for lawyers.

In instances such as *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.*,¹⁰³¹ the Supreme Court has acknowledged that commercial speech is protected under Article 19(1)(a). However, in general, the Supreme Court has allowed for stronger restriction of commercial speech in comparison to political or creative expression.

Striking the Balance: Contemporary Challenges and Solutions

Legislative Reforms

Several legislative reforms could strengthen India's speech framework:

1. **Decriminalization of Defamation:** By shifting towards civil remedies for

defamation, the chilling impact of criminal sanctions would be mitigated, while at the same time, there would be a remedy for protecting one's reputation.

2. **Anti-SLAPP Legislation:** For the purpose of better protecting public interest speech and investigative journalism, the introduction of procedural protections against strategic litigation could be beneficial.
3. **Comprehensive Data Protection Framework:** It is imperative that the proposed Personal Data Protection Bill incorporate provisions that strike a balance between the rights to privacy and the freedom of expression, particularly with regard to journalistic and artistic endeavours.

4. Judicial Approaches

Courts continue to play a central role in speech protection:

1. **Consistent Application of Strict Scrutiny:** Through the application of proportionality analysis to speech limits in a manner that is more rigorous and consistent, expression would be better protected while yet allowing for limitations that are truly essential.
2. **Procedural Safeguards:** It would be possible to lessen the impact of possibly unconstitutional censorship by strengthening procedural protections. These protections would include timely judicial review of speech limitations and interim relief for speakers.
3. **Distinction Between Types of Speech:** A more precise calibration of the equilibrium between freedom and restriction could be achieved by the further development of speech categories that offer varied degrees of protection. It is imperative that political speech be afforded the highest level of protection, whereas speech that is

¹⁰³¹ (1995) 5 SCC 139

destructive or commercial may be more easily restricted.

Media Literacy and Self-Regulation

Non-legal approaches offer complementary solutions:

1. **Media Literacy Programs:** In order to address concerns over misinformation, educational activities that aim to develop critical media consumption skills could be implemented without the need for onerous legislation.
2. **Professional Journalistic Standards:** It is possible to encourage responsible discourse without resorting to official censorship by providing support for powerful self-regulatory systems within the media sectors.
3. **Platform Design and Policies:** It is important to encourage social media companies to adopt algorithmic designs and context-specific moderation procedures in order to decrease the amount of harmful content that is amplified over time.¹⁰³²

Balancing Global and Local Considerations

India's approach must navigate global standards while respecting local context:

1. **International Human Rights Framework:** It is possible to provide normative direction while allowing for proper contextual adaptation when domestic speech jurisprudence is aligned with international standards such as the International Covenant on Civil and Political Rights.
2. **Cultural Context Sensitivity:** In order to reflect India's distinctive pluralism, it is necessary to have speech safeguards that take into account the religious and cultural sensitivities of the country without allowing for the banning of criticism that is justified.

3. **Digital Sovereignty and Global Platforms:** In order to prevent the fragmentation of the global internet while yet respecting national sovereignty, regulatory measures for multinational platforms need to be developed.

Conclusion

When it comes to freedom of speech and expression in India, it is a difficult balancing act between individual liberty and communitarian principles, concerns about security and democratic openness, as well as global norms and local realities. A particularly Indian perspective has been developed as a result of the constitutional framework, which has been interpreted through seven decades of jurisprudence. This approach does not adopt the near-absolutism that is prevalent in the United States nor does it accept the more restrictive models that are present in certain other democracies.

The speech safeguards that India has in place have a number of significant advantages, including the promotion of democratic participation, the facilitation of social transformation, the protection of individual autonomy, the support of economic development, and the facilitation of the quest of truth through clear and open communication. In spite of the great obstacles posed by diversity and development, these benefits have made a substantial contribution to India's democratic resilience and social progress.

Despite this, the drawbacks and difficulties continue to be significant. Genuine difficulties arise when there are no restrictions placed on expression because of the cultural and religious sensitivities that exist in a pluralistic society. There are certain speech restrictions that are justified by security concerns in a tough geopolitical climate; nonetheless, the scope of these restrictions needs to be carefully defined. Existing frameworks are having difficulty appropriately addressing the new difficulties that have arisen as a result of the digital

¹⁰³² Anand, U. (2019). *The Laws of Social Media*. Oxford University Press.

revolution. These new challenges include misinformation, platform governance, and algorithmic control.

Going forward, it is highly probable that India's approach to free speech will continue along its evolutionary path, with the courts playing a crucial role in mediating between ideals that are in conflict with one another. There are chances to better align the legal framework with contemporary democratic principles that can be found in legislative reforms, notably those that pertain to speech limitations that were in place during the colonial era. In the meanwhile, non-legal alternatives like as education, professional standards, and platform design can address some problems without increasing the authority of the state to restrict content.

It is a reflection of the wider mission of Indian democracy itself that the ongoing negotiation between free expression and its appropriate constraints is taking place. This project involves maintaining unity in the midst of variety, striking a balance between individual rights and public welfare, and defending liberty while maintaining security. Despite the fact that freedom of speech "is the foundation of all democratic organisations," as Justice M. Hidayatullah pointed out in *Sakal Papers v. Union of India*,¹⁰³³ it is necessary for it to find a position within the larger constitutional system. Finding this equilibrium continues to be both a challenge and a promise for the democratic experiment that India is doing.

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¹⁰³³ AIR 1962 SC 305