



Peer Reviewed Refereed and  
UGC Listed Journal No. 47100

ISSN - 2279 - 0489

AN INTERNATIONAL MULTIDISCIPLINARY  
HALF YEARLY RESEARCH JOURNAL

# GENIUS

Single Blind Review / Double Blind Review

Volume - XIV | Issue - II

February - July 2026

English Part - I

Impact Factor / Indexing  
2026 - 8.077  
([www.sjifactor.com](http://www.sjifactor.com))

**Ajanta  
Prakashan**

❧

CONTENTS OF ENGLISH PART - I

❧

| S. No. | Title & Author                                                                                                                                                                 | Page No. |
|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 12     | Medical Negligence as Violation of the Right to Life and Health<br><b>Bipin Bawane</b>                                                                                         | 81-88    |
| 13     | Medical Negligence as a Violation of the Right to Life and Health: A Constitutional and Human Rights Analysis<br><b>Asst. Prof. Pooja Krishna Chawan</b>                       | 89-93    |
| 14     | Critical Analysis of Freedom of Speech and Expression Vis-a-Vis Hate Speech in India<br><b>Dr. Gauri Kala</b><br><b>Asst. Prof. Disha Sharma</b>                               | 94-100   |
| 15     | Role of Indian Judiciary in Promoting Social Justice<br><b>Asst. Prof. Smita Bansode</b>                                                                                       | 101-108  |
| 16     | From Healing to Harm: Medical Negligence and the Constitutional Right to Life<br><b>Sapana N. Jaiswal</b>                                                                      | 109-115  |
| 17     | Analysis of Right to Marry and Right to Adoption of LGBT Community<br><b>Asst. Prof. Disha Sharma</b><br><b>Assoc. Prof. Dr. Gauri Kala</b>                                    | 116-122  |
| 18     | Emerging Dimensions of Human Rights in Digital Constitutionalism: A Youth Perspective<br><b>Mayuri Shinde Raut</b>                                                             | 123-129  |
| 19     | A Thematic Study of the Right of Women in India<br><b>Adv. Mansingh Nikam</b>                                                                                                  | 130-136  |
| 20     | A Critical Analysis of Medical Negligence & Violation of the Right to Life & Health<br><b>Adv. Vijay Prabhakar Mhatre</b>                                                      | 137-143  |
| 21     | Legal Impact of Standard Treatment Protocols by Indian Council of Medical Research on Medical Liability: A Comparative Analysis<br><b>Kuntal Pal</b><br><b>Dr. Rishi Yadav</b> | 144-148  |

## 14. Critical Analysis of Freedom of Speech and Expression Vis-a-Vis Hate Speech in India

**Dr. Gauri Kala**

TMV's Lokmanya Tilak College of Law, Kharghar.

**Asst. Prof. Disha Sharma**

TMV's Lokmanya Tilak College of Law, Kharghar.

### Abstract

No matter what circumstances call for it or what laws the highest authority decides to enact in order to continue dominating over people, freedom of speech is crucial. The main reason why public speech should not be restricted is that the current generation will not silence their comments or share their thoughts on any topic. We can't even try our hardest to nuke ourselves when the current world is working to advance scientifically and technologically and we have so many opportunities to interact with the world through various media platforms. The freedom of speech protects everyone's right to freely express their thoughts and opinions; this allows people to express a variety of ideas and the freedom to agree or disagree with a particular viewpoint.

Whether or not people's rights are protected by the Constitution, there is an implicit duty to protect them in any cultural group where they are proclaimed and practiced. Even though everyone is entitled to the same rights, it won't matter if the other person ignores them. Therefore, for the system to work effectively, everyone must respect the rights of others and behave within their own boundaries. Since a community cannot accept an absolute or unrestricted right, no right can be absolute.

**Keywords:** Freedom of Speech, Hate Speech, Liberty, Right to Life, Restrictions

### Introduction

There can be no expression without thought. Without freedom of mind, it is impossible to communicate one's thoughts. Thought and belief are the sources of expression. Faith is more important than words and ideas. Freedom of thought and expression is the foundation of people's faith. A cornerstone of democratic governance is the freedom of speech and expression. The democratic process cannot work properly without this freedom.

According to Article 19(1)(a) of the Indian Constitution of 1950, every citizen has the right to freedom of speech and expression. Despite the fact that the Constitution guarantees everyone the fundamental right to free speech and expression, article 19(2) states that the State

may restrict this right if it serves the interests of "India's sovereignty and integrity, the 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 offense."<sup>1</sup>

A chapter on fundamental rights was at the center of the Constitution. One among these rights was the freedom of speech and expression that all Indian citizens were entitled to. To believe that this significant basic right belongs to the constitution's transformative section rather than its status quo section would be a significant initiative.

The Supreme Court of India ruled in *Maneka Gandhi v. Union of India*<sup>2</sup> that Article 21 should not be interpreted in a vacuum; all infractions and procedural requirements under Article 21 are also examined in relation to Articles 14 and 19. In the aforementioned case, the Supreme Court interpreted the Constitution's Article 21 right to life and personal liberty as broadly as feasible. Taking into account the relationship between Articles 19 and 21, the Court determined that Article 21 is governed by Article 19, meaning it must adhere to its requirements.

Every civilization has its own set of rules for preserving human life and dignity. The meaning of human beings is expressed by the right to life. Many people refer to it as the highest of the fundamental rights. The fundamental rights outlined in Article 21 of the Indian Constitution are intended to safeguard and uphold the fundamental human rights of individuals, which are a fundamental right that all Indian citizens are granted. Supporting the person is the primary goal of the constitution's framers.

### **The need to protect freedom of speech and expression**

Not only does freedom of speech allow people to communicate their emotions to others, but it also serves as a safeguard. There may be further justifications for defending these fundamental liberties. If excessive speech limitations imposed by the government are accepted, society will not be able to find and publish useful viewpoints and correct facts. This indicates that the right to free speech and expression aids in the pursuit of truth. Another justification for granting people freedom of expression is that it is essential to each person's right to self-actualization and self-development, which is the cornerstone of a civilized society. Restricting our freedom of speech, writing, hearing, and reading will impede the development of our personalities. It aids in self-realization for the individual.

Talking about social change is only feasible when people have the freedom to voice their opinions and disagree with the status quo. The right to free speech gives people the chance to voice their opinions and act as a mirror for those in charge of establishing laws. The state's and society's well-being is the ultimate outcome. As a result, freedom of speech offers a way to achieve a fair balance between societal development and stability.

Patanjali Shastri C.J. noted in *Romesh Thapar v. State of Madras*<sup>3</sup> that "freedom of speech and of the press is the basis of all democratic organization, for without political discussion there is no public education which is so necessary to the proper functioning of the process of popular government." Such breadth of freedom may come with the possibility of misuse. However, Madison might have been on the minds of the Constitution's founders, who served as inspiration for the First Amendment's formulation.

Furthermore, everyone has a basic obligation to stop engaging in acts that diminish their dignity. The success of these constitutionally mandated protections for a decent life must be compared to another fundamental human right: the freedom of speech in any form. Specifically, the question of whether the right to free speech encompasses the ability to portray someone in a way that diminishes their dignity must be addressed.

### **Other statutory provisions**

According to IPC, 1860<sup>4</sup>, it is illegal to incite animosity between different groups of people through words, images, or other means as specified by Section 153A; to spread rumors, sources of rebellion, or the suspension of military duties in order to incite fear in a segment of the population and lead to criminal activity against the government or public peace; or to incite any group of people to commit any kind of crime against another group of people (Section 505); or to use words or conspicuous representations with the intent to harm people's or any group's spiritual feelings or faith (Section 295A and Section 298).

Any action "which causes or is likely to cause disaffection towards the Government established by law in India among the members of a police force Or induces or attempts to induce any member of a police force to withhold his services or to commit a breach of discipline" is illegal, according to Section 3 of the Police Act, 1922.<sup>5</sup>

For the sake of public health, the Drugs and Magic Remedies Act, 1954<sup>6</sup>, forbids offensive advertising about self-medication for sexually transmitted diseases and magical therapy.

Section 11 of the Customs Act of 1962<sup>7</sup>, which supersedes the Sea Customs Act of 1878 and the Land Customs Act of 1924, gives the state the authority to prohibit the import and export of goods if it deems it necessary.

### **Impact of hate speech on freedom of expression**

One of the fundamental rights of a democratic society is the freedom of speech and expression. The liberal idea of freedom of expression emphasizes judicial review and sees speech as an essential component of freedom. Promoting the expression of thoughts is the aim of

freedom of speech in democracies. "If all mankind without one were of one opinion, and only one man was of the opposite opinion, mankind would not be justified in silencing that one man any more than he, if he had power, would be justified in silencing mankind,"

It has long been believed that the cornerstone of every democracy is freedom of expression. The idea of free speech emerged as a safeguard against the state's power to censor communication. The liberal idea acted as a restraint on the undemocratic authority of the state. The right to free expression was one of the fundamental freedoms guaranteed by the Charter of Human Rights. Because expression is given more weight in the framework of rights, lawmakers and judges are hesitant to impose exceptions that might limit the spirit of this freedom. Perhaps this is the reason hate is hard to categorize.

#### Shreya Singhal vs Union of India<sup>8</sup>

According to the Supreme Court, a person cannot be convicted for sedition unless their speech—no matter how "unpopular," rude, or improper—has been linked to any incitement to violence or disturbance of public order. The Supreme Court made a distinction between "advocacy" and "incitement," holding that only the latter is subject to legal penalties. In this instance, a petition contesting the validity of curfew and internet shutdown restrictions issued in Jammu and Kashmir after the state's special status was revoked in August 2019 is being heard by three judges.

#### **Balancing Freedom of Speech and Expression**

The Supreme Court claims that, given necessity and disdain for independence, sixty years of jurisprudence have rendered reputation a part of Article 21 of the Constitution. According to constitutional expert Rajiv Dhawan, "since law is strongly based on intent of constitution, Article 21, as envisaged by constitutionalists, does not include either honor or due process in sanctioning procedures." The Supreme Court at the time gave broader interpretations of constitutional rights in a number of decisions, and reputation was one of consequences. Although this remark is accurate, it totally disregards the arguments of the Constituent Assembly, which attempts to interpret the boundaries of reason in a limited way, as well as "post-emergency" rulings and discussions.<sup>9</sup>

As "life and personal liberty" are guaranteed by Article 21 of the Constitution, the right to a "good name" was safeguarded. Article 21 now solely shields an individual's life and freedom from state interference. Notwithstanding this minor textual issue, the Supreme Court ruled that criminal defamation was constitutional and that the right to freedom of expression under Article 19, paragraph 1 letter should have been executed rather than merely arrested because reputation could not be "crucified" on the altar of free speech.<sup>10</sup>

The notion that the government should treat people with equality and decency is a defense of free speech that is closely tied to the previously mentioned points but places more emphasis on the speaker than his audience. We may owe it to each other out of a sense of basic human decency to hear what we have to say, or at the very least, to not deny each other the chance to speak and listen. According to this perspective, suppression is a form of disdain for citizens that is unacceptable regardless of the consequences, and it may be seen as failing to treat citizens fairly when it favors some viewpoints over others.<sup>11</sup>

#### Arnab Goswami Vs Union of India<sup>12</sup>

Concerns over India's long-cherished freedom of speech and if it is losing its constitutional status have been raised by the Raigad police's abrupt arrest and alleged assault of Arnab Goswami, the editor-in-chief of Republic TV. While hearing the case in which the Maharashtra government challenged a Bombay high court order that halted an investigation into the first two information reports filed against Republic TV, a Supreme Court bench led by Chief Justice S.A. Bobde had previously noted that "some people were targeted with greater intensity and needed more protection."

There are opinions, but generally speaking, "Liberty is the acceptance of principles; anger can be more dangerous than dissent." Every human endeavor needs to have a cultural organization. Every rule and regulation must include some self-imposed restrictions. According to Holmes J., "even the most stringent protection of free speech does not bar a man from unfairly setting a theater on fire and inciting fear."

In *Narendra Kumar v. Union of India*<sup>13</sup> The Supreme Court defines restriction as "full protection" in situations where it is appropriate. Use of the right is limited. Unreasonable restrictions won't impact this right, but they will still restrict its use when they are required. This restriction may be full or partial. Consequently, the concept of sufficiency serves as the foundation for all limits.

The Supreme Court ruled in *Sahara India Real Estate Corpn. Ltd. v. SEBI*<sup>14</sup> that restrictions placed on basic rights under Article 19 (1) have to match those outlined in Article 19 (2). Restrictions cannot be justified on the grounds that the intended goal is admirable if they do not fall within any of the headings of Article 19(2).

#### **Conclusion**

Since it allows people to communicate their opinions and sentiments to the entire world, the freedom of speech and expression guaranteed by Article 19 of the Indian Constitution must be upheld. This, however, cannot be the sole justification for guaranteeing the right outlined in

Article 19 of the Constitution. Protecting this right is important for a variety of reasons, including finding the truth or looking into a situation.

Thus, upholding the freedom of speech and expression helps to preserve the core democratic values and principles of our country. Furthermore, diversity in the country is guaranteed by Article 19. Pluralism will prevail in a society like this one, where everyone has a voice and is allowed to create any associations or unions they choose. No one's philosophy will be disparaged for any reason. This feature of Article 19 is essential in a country as diverse as India.

It is evident from the facts that no right is absolute. Individuals and the general public may have different interests. As a result, freedoms have been rightfully restricted. Furthermore, our constitution's framers believed that in situations of dire necessity, it was appropriate to limit this freedom.

## References

1. Abhinav Chandrachud , Republic of Rhetoric Free Speech And The Constitution of India
2. A.J. Anderson, Problems in intellectual freedom and censorship , R.R. Bowker Company, 1974
3. Aparajita Baruah, Preamble of the constitution of India
4. Durga Dass Basu, Introduction to the Constitution of India, Lexis Nexis, 23rd edition, 2018
5. Gray Dorsey, Equality and Freedom , Ocenia Publication, 1977
6. Prof. G. Manohar Rao, Constitutional development through judicial , Asia law house, 2006
7. G. Vishwanathis, Democracy constitution and judiciary, surendra publication, 2012
8. Michael E.Craft and Scott R.Furlong, Public policy: politics, analysis and alternatives, Sage publication, 2013
9. Molin Ahmad, "blemishes words and stick, a critique of criminal defamation in india, ijler,2017
10. Monika Macovei, Freedom of expression: a guide to the implementation Om Prakash Tiwari, Rights of common men in India , sri sai law publication, 2010
11. S. K. Ghosh, Freedom of speech and assembly and public order , Ashish publication house, 1993

12. Sujit Choudhary, Madhav Khosla and Pratap Bhanu Mehta, The Indian constitution, Oxford university press, 2016
13. Dr. S.R. Myneni, Constitutional law- 1 (rights, directives principles and duties)
14. Rajbans Singh Gill, Human rights the new awakening , Abhishek Publication, 2010
15. Rajeev Bhargava, Politics and ethics of Indian Constitution, oxford university press, 2009

**End Notes**

1. Constitution of India, 1950, art. 19(1)(a) §19(2)
2. Maneka Gandhi v. Union of India AIR 1978 SC 597
3. Romesh Thapar v. State of Madras AIR 1950 SCR 594
4. Indian Penal Code 1860, NO. 153A, NO. 505, NO.295A, Act of Parliament, 1860(India)
5. Police Act 1922, NO. 3, Act of Parliament, 1922(India)
6. Drugs and Magic Remedies Act, 1954, Act of Parliament 1954(India)
7. Customs Act, 1962, NO. 11, Act of Parliament 1962(India)
8. Shreya Singhal vs Union of India AIR 215 SC 1523
9. MOLIN AHMAD, "BLEMISHES WORDS AND STICK, A CRITIQUE OF CRIMINAL DEFAMATION IN INDIA, IJLCR,, Jan 2017
10. Gautam Bhatia, "A Blow Against Free Speech", The Hindu, May 16, 2018
11. Mahendra P Singh, Comparative Constitutional Law, 405 (Eastern Book Company, 2nd Edition)
12. Arnab Goswami Vs Union of India AIR 2018 10 SCC 753
13. Narendra Kumar v. Union of India AIR 1989 SCR 43 1990
14. Sahara India Real Estate Corpn. Ltd. v. SEBI AIR 2012 SC 8643