

FREEDOM OF EXPRESSION: A CRITICAL ANALYSIS IN INDIA

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This is true Liberty when free born men
Having to advise the public may speak free,
Which he who can, and will, deserves high praise,
Who neither can nor will, may hold his peace;
What can be juster in a State than this?
Euripid. Hicetidⁱ.

"Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties."

- John Milton, Areopagitica (1644)ⁱⁱ

ABSTRACT

Our civilization is 5000 years old; we are people of unity in diversity, we have never been hostile towards different ideas. It is also wished in the Rig-Veda, "Aa no bhadrah kravo yannu vishwath. Since ancient times, free speech was preserved in Rig-Veda, Gita and Asoka inscriptions in India, which is relevant even today. In India, since ancient times, the consciousness of expression has been mentioned in religious texts, literature, inscriptions that the right of speech of all persons was respected and the other side was also heard. In the medieval period, saints like Kabir and Tulsī had strongly criticized the evils prevailing in the society and also opposed religious hypocrisy.

In ancient Athens, Isagoria described the equal right of citizens to participate in public debate in a democratic assembly; "parrhesia", it is permissible to say what one liked, how and when one liked it, and to whom.

When we study the concepts of free speech, the role of Rome civilization and Athens civilizations has been important in history. In fact, the beginning of free speech is believed to be from here, about two concepts of the fifth century BCE, in which "isagoria" and "parrhesia" meaning 'speech in public' and 'free speech' are described. Here people were free to discuss openly in public at that time and used to criticize religion, politics, government's ideas, policies, decisions and talked about human rights. But time-period-circumstances frustrated the kings by the greed for power, which pushed them towards autocracy. Where all the systems started changing, now the king had to suppress all the disagreements, protests, actions that arose against him in order to remain in his kingdom. The lust of the state made the ruler autocratic today; this is where the decline of human rights started, although during this time there were many good rulers, kings who also laid the foundation of human rights, public forums, welfare works for their subjects. The suppression of human rights in history has become a practice of decline, which exists in the form of dictatorship; even today every government wants that no one should oppose the policies of their government.

John Stuart mill on Freedom Mill's Thoughts on Liberty (1859) is known as a historical literature in discussions of liberty. Without freedom the development of the individual is impossible and it is also necessary for the happiness of the society. They believe that restriction is an evil and the individual should be left to himself. Mill's argument on freedom can be classified into two categories which are as follows- freedom of thought and expression and freedom of action.

It is in this context that in the matter of freedom of thought and expression, they believe in absolute freedom and argue that if the entire human race except the individual had one opinion and only one person had the opposite view, then that one person would be given to that individual by the human race. It would not be justified to pacify, if that person had the power then it would be justified to pacify mankind. He further explained why even suppressing the voice of an individual can be dangerous for the society and the question is what if that person's opinion is true. In that case, humanity will be deprived of truth and the opportunity for development will be lost.

FREEDOM OF EXPRESSION

The word "speech" can be defined as "a spoken expression of thoughts, ideas, etc" performed by someone who is speaking in front of a group of people.

Article 11 of the Declaration of the Rights of Man and Citizen (France) was preserved as early as 1789. "The free communication of thoughts and ideas is the most precious of man's rights. Every citizen can, accordingly, speak, write and print with freedom. This is also protected in the First Amendment to the Constitution of the United States of America (1791): "Congress makes no law in relation to the establishment of religion or prohibits the free exercise thereof; undermine freedom of speech or the press; the right of the people to assemble peacefully...." Sweden has adopted a fundamental law protecting the freedom of the press, since 1766.

UNIVERSAL DECLARATION OF HUMAN RIGHTS 1948

Everyone has the right to freedom of opinion and expression; this right includes the freedom to express opinions without interference and to receive and provide information and views through any media and regardless of limitations.

Article 19ⁱⁱⁱ

- (1) Every person shall have the right to express opinion without interference
- (2) Every person shall have the right to freedom of expression, without regard to limitations, to seek information and ideas of all kinds, whether orally, in written or printed form, in the form of art, by any other means of communication of his interest. And the freedom to provide
- (3) The exercise of the rights provided in paragraph (2) of this article is subject to special duties and responsibilities and may be subject to certain restrictions and such restrictions as are in force by law.
 - (a) For the rights of other persons and respect for persons
 - (b) is necessary for the protection of national security or public order or public health ethics^{iv}.

Article 18(1) of the International Covenant on Civil and Political Rights

"Everyone shall have the right to freedom of conscience and religion" Article 19(2) states that "everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive and analyze all kinds of information and ideas^v."

The provision of freedom of expression in the French Declaration Article 11

"Free communication of ideas and opinions is one of the most precious rights of man. Every citizen may, accordingly, speak, write and print with liberty, but shall be responsible for such abuse of this freedom as may be prescribed by law." will be defined by^{vi}

Universal Declaration of Human Rights

Article 19: - "Everyone has the right to freedom of opinion and expression, this right also includes the freedom to vote without interference and to seek and give information by any means of communication and without consideration of limitations^{vii}."

Constitution Article 50 to the Soviet Union

Citizens have freedom of speech, freedom of the press and freedom of procession and demonstration. It has been said that it is political freedom in accordance with the interests of the people and provided for the purpose of strengthening and developing the socialist system. The public has access to newspapers and television and radio, public buildings, roads, Chocó grounds, etc.

Article 10 of the Human Rights Act: Freedom of Expression

1. Everyone has the right to freedom of expression.

"This right shall include the freedom to hold opinions and to receive and impart information and ideas without interference from public authority and without regard to limitations. This article shall not prevent States from requiring the license of broadcasting, television or cinema enterprises^{viii}".

2. The exercise of these freedoms, as it carries out its duties and responsibilities may be subject to such formalities, conditions, restrictions or punishments as may be prescribed by law and in the interest of national security, public order, a democratic are necessary in the society. To protect crime, health or morality, to protect the reputation or rights of others, to prevent the

disclosure of information obtained in confidence, or to uphold the authority and impartiality of the judiciary.

Article 19 Protection of certain rights regarding freedom etc.

(1) All citizens shall have the right—

- (a) To freedom of speech and expression;
- (b) To assemble peaceably and without arms;
- (c) To form associations or unions;
- (d) To move freely throughout the territory of India;
- (e) To reside and settle in any part of the territory of India;
- (g) To practice any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India,] 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 offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in 1 [sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses

either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) The professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or

(ii) The carrying on by the State or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise^{ix}.

FREEDOM OF EXPRESSION AND POSSIBILITY

- Is it necessary to put limits on the freedom?

Control can be justified and does it lead to conflict of interest situations?

- How much power does the state have to legitimately exercise control to act in the public good and how to differentiate between those Restrictions?

On the one hand which are used for repressive purposes of speech and expression in a democratic society?

- To what extent freedom of speech and expression should be considered fair and who will decide what is appropriate.
- We will also try to understand under what circumstances and on the other which are legally acceptable, finally we will also consider the circumstances in which the rights are violated as a result of the repressive exercise of control and then what action can be taken by the individuals against the state.

Sedition in India: Section 124 (A) of the Indian Penal Code

Every Indian as a citizen has the right to criticize the government and such criticism cannot be defined as sedition. If criticism is defined as sedition, India's democracy will be transformed into a police state. After nearly 21 months of national emergency, the self was freed from jail.

The word "sedition" has been used in different meanings and has been a cause of message not only to the members of this assembly but to all the courts of the world. Its definition is very simple and it was done long ago i.e. in 1668 AD. According to "Treason includes all such behavior, whether it is in verbal form or written form, whose purpose is to disturb the disobedience of the state or to induce the unknown people to abolish the state" but in reality in practice The movement of this word has become strange. 150 years ago in England, taking out a procession of meeting was considered "treason". Section 124-A of our penal code was once so widely used that I remember in one case it was even applied to the criticism of a District Magistrate. Public opinion has changed a lot since then and because our governance is now democratic we should welcome criticism of governance and differentiate between that and the kind of provocation that has the security and order on which all life rests in peril. If it falls and the state itself is abolished, therefore this word sedition has been removed.

Citizens in India have the fundamental rights enshrined in Part III of the Constitution, which protect them; those rights also include the right to criticize the government. But this type of criticism cannot be considered as sedition and citizens can be detained in jails, for this sedition will have to be redefined otherwise criticism, peaceful protests which have been the foundation of democracy will be suppressed and India's democracy will turn into a police state.

Thus, in the times to come, the Supreme Court will reconsider sedition and freedom of expression and define it clearly so that the fundamental rights of citizens can be protected and the misuse of the sedition law can be stopped.

It is often alleged that the sedition law is used to silence political opponents and to intimidate others, which is known to have seen a huge difference between the number of cases registered under this section and the conviction rate. For this reason its misuse has to be stopped and freedom of expression has to be protected.

Status of sedition cases in India^x

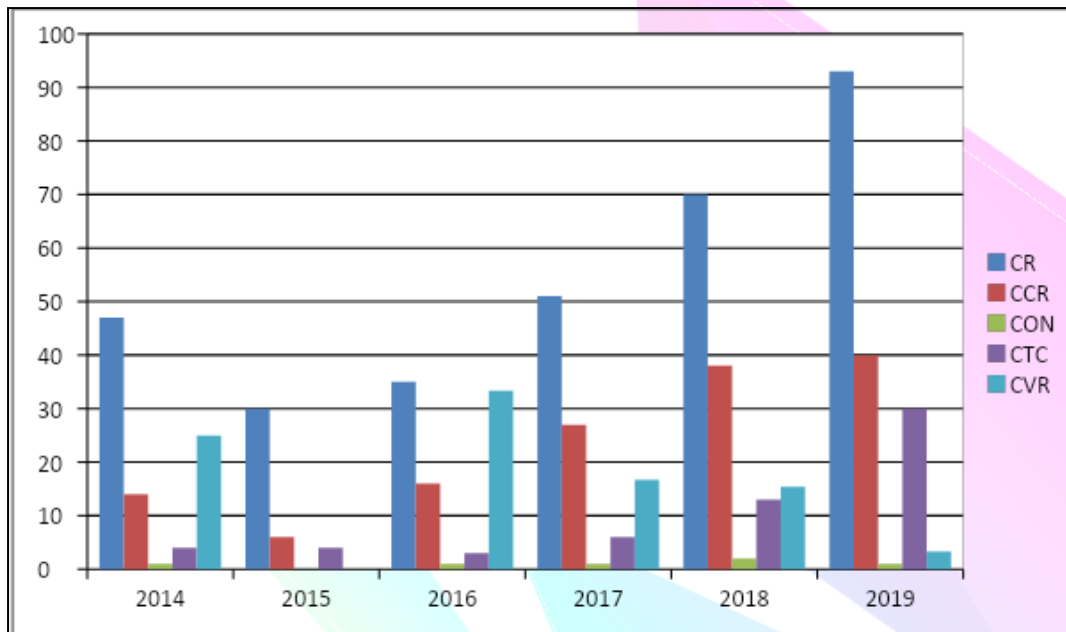
CR: case registered

CCS: case charge sheeted

CON: case convicted

CTC: case in which trials completed

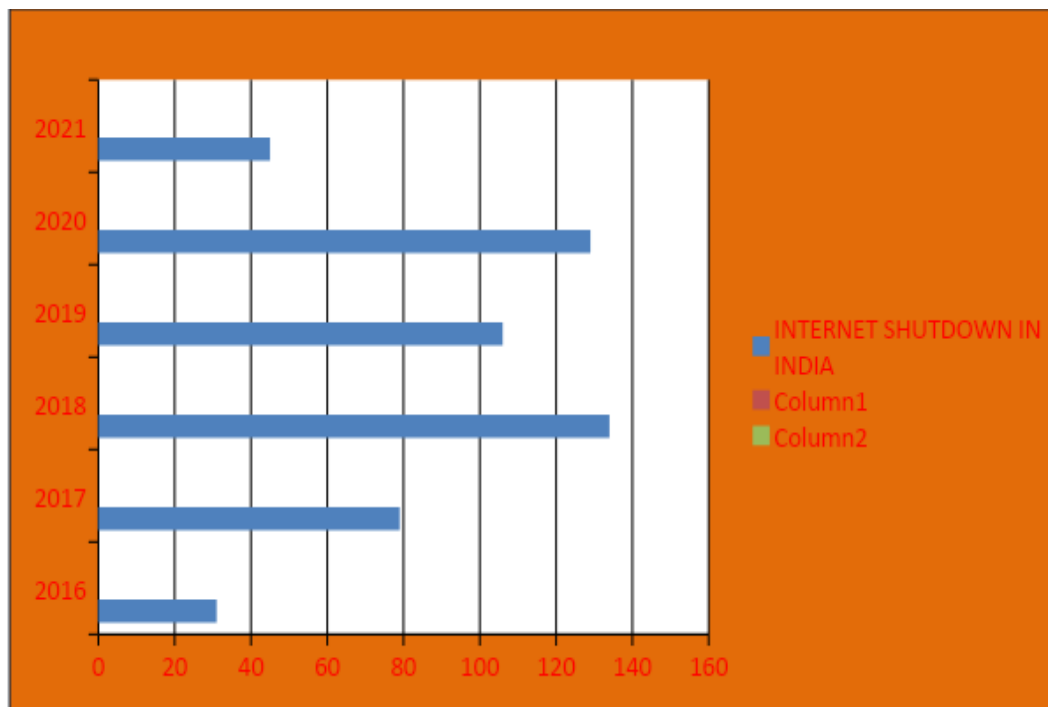
CVR: conviction rate the offence of sedition



Source: www.mha.gov.in/MHA1/Par2017/pdfs/par2021-pdfs/LS-16032021/281.pdf

INTERNET BAN IN INDIA

India, being the mother of democracy, is at the forefront of banning the Internet in the world, it is a slur on Indian human rights, on the one hand the big talk of rights of expression and on the other hand how far it is appropriate to snatch them. This makes it appear as if the government is trying to suppress dissent by controlling the internet and online freedom of expression. The figures of internet ban in India during the years 2016-2021 are as follows.

Internet shutdown in India (2016-2021)^{xi}**CONCLUSION**

The importance of freedom of expression and its relation to the conscience can be known from the experiences of those who are confined in solitude. Telling his experience, he says that at such a time there is not much pain in the body. is more painful; Loneliness and inability to communicate with anyone. Due to this the soul dies. The same kind of loneliness arises out of fear. In a society where the communication of free ideas is always threatened with consequences. The mind becomes a prison, plagued by constant fear, apprehension and surveillance. Without the basic right to thought and expression, society leads to mass mental death and democracy becomes a sham.

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ENDNOTES

ⁱ https://oll.libertyfund.org/title/jebb-areopagitica-1644-jebb-ed#f1224_head_012 (LAST SEEN SEP.28, 2022,10.57P.M.INDIA)

ⁱⁱ John Milton's Areopagitica(1644)

ⁱⁱⁱ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

^{iv} <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

^v <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=Everyone%20shall%20have%20the%20right,of%20thought%2C%20conscience%20and%20religion> .

^{vi} <https://fra.europa.eu/en/eu-charter/article/11-freedom-expression-and-information#:~:text=1.,authority%20and%20regardless%20of%20frontiers>.

^{vii} <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

^{viii} <https://www.equalityhumanrights.com/en/human-rights-act/article-10-freedom-expression>

^{ix} https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2019

^x Source: www.mha.gov.in/MHA1/Par2017/pdfs/par2021-pdfs/LS-16032021/281.pdf

^{xi} internetshutdowns.in

