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Freedom of the Press in the Digital Age: Balancing Article 19(1)(a), Misinformation and Media Accountability

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Freedom of the press is essential to democracy because it enables citizens to question authority, access information and participate in public debate. In India, press freedom is protected under Article 19(1)(a) of the Constitution, although it is subject to the reasonable restrictions specified in Article 19(2). Digital technology has transformed journalism by making information accessible to wider audiences and allowing individuals to report events independently. However, it has also increased the circulation of misinformation, manipulated content and sensational reporting. This creates a difficult question: how can misinformation be addressed without giving the State excessive power to control public discussion? This essay examines the constitutional foundations of press freedom, landmark judicial decisions, the legal framework governing digital media and the responsibilities of journalists and online platforms. It analyses decisions including Bennett Coleman & Co. v. Union of India, Shreya Singhal v. Union of India and Anuradha Bhasin v. Union of India, alongside the controversy surrounding the government Fact Check Unit mechanism. It argues that misinformation requires a proportionate response, but regulation must remain consistent with constitutional guarantees. Independent review, professional ethics, transparent platform policies and public media literacy offer a more balanced approach than broad restrictions on expression.

A democracy requires more than elections and representative institutions. Citizens must be able to obtain information, question public decisions and express disagreement without unreasonable interference. The press makes this possible by reporting public affairs, investigating wrongdoing and bringing issues of public importance to the attention of society. Its role becomes especially significant when it examines corruption, administrative failures, human rights violations or the misuse of public power.

In India, freedom of the press is protected through Article 19(1)(a) of the Constitution, which guarantees citizens the freedom of speech and expression[2]. Although the Constitution does not separately mention freedom of the press, the Supreme Court has recognised it as an essential part of this fundamental right. Article 19(2), however, permits

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[2] The constitution of India 1950, art 19(1)(a)

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reasonable restrictions on specified grounds, including public order, defamation, contempt of court and incitement to an offence[3].

The growth of digital media has changed how this freedom operates. News that once travelled through newspapers and television broadcasts can now reach millions of people through websites, social media and messaging applications. Independent journalists and ordinary citizens can share information without relying entirely on established media organisations. This has made public discussion more accessible, but it has also made the spread of false or misleading information much faster.

A fabricated claim can become widely accepted before it is verified. An edited video may be presented without context, while a sensational headline can attract more attention than a careful investigation. Such practices can damage reputations, create public confusion and intensify social tensions. At the same time, governments may use the problem of misinformation to justify restrictions that discourage criticism or interfere with independent journalism.

The challenge is therefore to protect both freedom and responsibility. An unrestricted flow of deliberately harmful falsehoods can undermine public trust, but excessive state control can weaken the very freedom that enables society to question official claims. This essay argues that misinformation should be addressed through clear laws, proportionate remedies, independent scrutiny and responsible journalism, rather than broad powers that threaten legitimate expression.

Article 19(1)(a) guarantees every citizen the right to freedom of speech and expression. This right includes the ability to communicate ideas, publish opinions and receive information. Freedom of the press falls within this guarantee because publication is an important means through which individuals and organisations exercise their freedom of expression.

The absence of a separate constitutional provision for the press does not reduce its importance. A right to express ideas would be ineffective if newspapers could not publish them or if publications could be prevented from reaching their intended readers. Press freedom consequently includes protection against unjustified interference with publication and circulation.

The protection is also relevant to digital journalism. The use of a website or social media platform does not automatically remove the constitutional significance of an expression. However, the legal position of a particular publication depends on the nature of the content, the applicable law and the circumstances in which it is published.

Article 19(2) permits reasonable restrictions on freedom of speech and expression on specified constitutional grounds[4]. These include the sovereignty and integrity of India, security of the

[3] The constitution of India 1950, art 19(2)

[4] The constitution of India 1950, art 19(2)

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State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation and incitement to an offence.

This provision establishes an important boundary. Freedom of the press does not protect every form of publication from legal consequences, but neither does it permit the government to restrict expression simply because a report is embarrassing or critical.

For example, a publication that satisfies the legal requirements for defamation may attract liability. However, criticism of a government policy cannot automatically be treated as a threat to public order. A restriction must have a proper legal basis and remain within the limits of Article 19(2).

This distinction is particularly important when dealing with misinformation. The fact that a statement is disputed does not, by itself, establish that it falls within a constitutionally permitted ground for restriction. Regulation must consider the nature of the statement, the evidence available and the harm that the law seeks to prevent.

A free press enables citizens to make informed decisions and hold public institutions accountable. Without access to reliable information, democratic participation risks becoming a matter of opinion shaped by incomplete or misleading claims.

Press freedom also protects the ability to question established narratives. Information that challenges an official account may initially be disputed but later supported by evidence. A system that treats every disagreement as misinformation could discourage precisely the kind of investigation that democracy requires.

Therefore, constitutional protection and accountability must operate together. The press must be free to investigate and criticise, while remaining responsible for unlawful conduct and avoidable harm.

The Supreme Court has developed important principles concerning press freedom through decisions on publication, circulation, censorship and online expression. These judgments provide a foundation for evaluating modern media regulation.

In Romesh Thappar v. State of Madras (1950) AIR 1950 SC 124, the Government of Madras prohibited the entry and circulation of the journal Cross Roads under the Madras Maintenance of Public Order Act, 1949. The Supreme Court examined the restriction under the constitutional provisions governing freedom of speech and expression.[5]

The Court held the restriction unconstitutional under the constitutional framework then in force. It recognised that freedom of expression includes the ability of a publication to circulate and reach its audience.

The decision established that press freedom is not limited to the physical act of printing. A publication that cannot reach readers cannot effectively communicate its ideas. Although Article 19(2) was subsequently amended, the case remains a landmark in the constitutional recognition of press freedom.

[5] Romesh Thappar v. State of Madras (1950) AIR 1950 SC 124

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Its relevance today lies in the importance of circulation. Restrictions on access to online news or the distribution of lawful reporting may raise similar constitutional concerns, depending on their legal basis and effects.

This Sakal Papers (P) Ltd. v. Union of India (1962) AIR 1962 SC 305, case concerned government measures regulating newspaper prices in relation to page numbers and advertising space. The Supreme Court held that the impugned measures violated Article 19(1)(a).[6]

The Court recognised that restrictions affecting the size, circulation and commercial arrangements of newspapers could interfere with freedom of expression. A measure does not escape constitutional scrutiny merely because it is presented as economic regulation.

The decision demonstrates that press freedom can be affected indirectly. A restriction may limit expression by reducing a newspaper's ability to publish and circulate information, even if it does not expressly prohibit a particular opinion.

In Bennett Coleman & Co. v. Union of India (1972)2 SCC 788, The case concerned the government's newsprint policy, which restricted the quantity of newsprint available to newspapers and affected their ability to expand publication.[7]

The Supreme Court held that restrictions affecting circulation and growth could violate Article 19(1)(a). It emphasised that freedom of the press includes the practical ability to publish and reach readers.

The judgment is significant because it examines the effect of state action rather than accepting its stated purpose without scrutiny. A policy concerning resources may still interfere with fundamental rights if it restricts the ability to communicate ideas.

In the digital age, similar questions arise when regulatory burdens or distribution arrangements affect the reach of news organisations. The precise legal issues differ, but the underlying principle remains relevant: indirect restrictions on publication must also be examined for their effect on freedom of expression.

Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India (1985) 1 SCC 641: This case concerned customs and auxiliary duties imposed on newsprint. The newspaper publishers challenged the financial burden, arguing that it affected their ability to operate and exercise press freedom.[8]

The Supreme Court recognised the special importance of the press in a democratic society and examined the relationship between taxation and freedom of expression. The judgment did not establish that newspapers are exempt from taxation. Instead, it recognised that economic measures affecting the press may require constitutional scrutiny when they burden the ability to publish.

[6] Sakal Papers (P) Ltd. v. Union of India (1962) AIR 1962 SC 305

[7] Bennett Coleman & Co. v. Union of India (1972)2 SCC 788

[8] Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India (1985) 1 SCC 641

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The decision remains relevant to discussions about whether disproportionate regulatory costs can make it harder for smaller publications and independent journalists to reach their audiences.

S. Rangarajan v. P. Jagjivan Ram (1989) 2 SCC 574: The case arose from the refusal to permit the screening of a film because of objections to its content. The Supreme Court considered whether anticipated public opposition justified restricting expression.[9]

The Court held that the danger relied upon to restrict expression must not be remote, conjectural or far-fetched. There must be a proximate and direct connection between the expression and the harm claimed.

The judgment is important because public hostility cannot automatically justify suppressing lawful expression. Otherwise, groups opposed to a particular viewpoint could effectively prevent its communication by threatening disorder.

This principle is relevant when online reporting attracts anger or threats. Authorities should address genuine unlawful conduct rather than automatically silencing the original speaker.

R. Rajagopal v. State of Tamil Nadu (1994) 6 SCC: Commonly associated with the "Auto Shankar" case, this judgment concerned publication of an autobiography and the relationship between press freedom and privacy.[10]

The Supreme Court examined the circumstances in which information about individuals, including public officials, could be published. It recognised the importance of freedom of expression while also addressing the protection of private life.

The case remains relevant because digital publication can expose personal information to a large audience within minutes. Information being available online does not automatically make every further publication justified.

Responsible journalism must consider whether disclosure serves a genuine public interest and whether unnecessary harm to privacy can be avoided.

Shreya Singhal v. Union of India (2015) 5 SCC 1: This landmark case challenged Section 66A of the Information Technology Act, 2000, which criminalised certain online communications using vague expressions such as "grossly offensive" and "menacing".[11]

The Supreme Court struck down Section 66A as unconstitutional because its language was vague and overbroad and could discourage lawful expression. The Court also distinguished discussion and advocacy from incitement when considering restrictions on speech.

The decision is especially relevant to misinformation regulation. A law intended to address harmful content must not use unclear language that allows authorities to penalise a wide range of lawful communication.

[9] S. Rangarajan v. P. Jagjivan Ram (1989) 2 SCC 574

[10] R. Rajagopal v. State of Tamil Nadu (1994) 6 SCC

[11] Shreya Singhal v. Union of India (2015) 5 SCC 1

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The judgment does not protect every online statement from legal consequences. Rather, it establishes that restrictions must satisfy constitutional requirements and cannot be justified merely because online expression is difficult to regulate.

Anuradha Bhasin v. Union of India (2020) 3 SCC 637: The case concerned restrictions on communication services in Jammu and Kashmir. The Supreme Court recognised that freedom of speech and expression and the freedom to practise a profession through the internet receive constitutional protection.[12]

The Court held that orders suspending internet services must be published so that affected persons can challenge them. It also held that indefinite internet suspension is impermissible under the relevant legal framework and required periodic review of suspension orders.

The decision is significant because journalists increasingly depend on digital connectivity to verify information, communicate with sources and publish reports. Restrictions on internet access may therefore affect press freedom as well as the public's access to information. Together, these judgments demonstrate that restrictions on expression must have a lawful basis and remain subject to constitutional scrutiny.

Digital technology has made news more accessible and has created opportunities for independent reporting. A person who witnesses an event can record it and share it without waiting for a traditional media organisation to publish a report. Online platforms can also help regional-language journalism and voices that receive limited attention in mainstream media.

However, the speed and scale of digital communication create new difficulties. Information can be shared before its accuracy is checked, and a false claim may reach a large audience before a correction becomes available. Edited photographs, fabricated documents and manipulated videos can make inaccurate claims appear convincing.

Two terms are particularly relevant. Misinformation generally refers to false information shared without necessarily intending to deceive. Disinformation refers to false or misleading information deliberately circulated to mislead others. The distinction matters because an honest mistake should not automatically be treated in the same way as a deliberate attempt to deceive.

Digital platforms may also reward content that generates strong reactions. Sensational claims can attract attention more quickly than carefully verified reporting. Once a misleading post becomes widely shared, removing the original may not eliminate copies already circulating elsewhere.

Nevertheless, misinformation should not become a label for every disputed statement. Political criticism, satire, opinion and predictions cannot be assessed in the same way as verifiable factual claims. A government's disagreement with a report does not prove that the report is false.

[12] Anuradha Bhasin v. Union of India (2020) 3 SCC 637

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An effective response must therefore distinguish between deliberate deception, genuine mistakes and legitimate disagreement. It should also consider the seriousness of the harm and the evidence available before imposing consequences.

Media accountability refers to the responsibility of journalists and publishers to report accurately, treat people fairly and correct errors. It does not mean that journalists must agree with the government or avoid controversial issues.

Responsible reporting begins with verification. Journalists should check important claims against reliable sources, consult primary documents where possible and seek responses from people against whom serious allegations are made. A widely shared post should not be treated as reliable merely because it has attracted attention.

Publishers must also distinguish allegations from established facts. Reporting that a person has been accused of an offence is different from declaring that the person is guilty. Headlines should reflect the contents of the article rather than exaggerate its findings to attract clicks.

Corrections are equally important. When a significant error is discovered, the publication should correct it clearly and promptly. A visible correction helps readers understand what was wrong and reduces the continued circulation of inaccurate information.

Privacy must also be respected. Genuine public interest may justify investigating the conduct of public officials, but it does not automatically justify publishing unrelated personal details. The principles recognised in R. Rajagopal v. State of Tamil Nadu remain relevant to this distinction.

Accountability mechanisms should encourage transparency rather than fear. Journalists should face consequences where the applicable law is violated, but good-faith reporting should not be discouraged merely because an investigation produces a disputed conclusion.

A responsible media environment depends on editorial independence, careful verification and a willingness to acknowledge mistakes.

The Press Council Act, 1978, provides the statutory foundation for the Press Council of India. The Council seeks to preserve press freedom and maintain standards in newspapers and news agencies.[13]

It can consider complaints within its statutory jurisdiction and promote professional standards through its Norms of Journalistic Conduct. This provides a means of addressing certain complaints without relying entirely on criminal proceedings or direct government intervention.

However, the Council's jurisdiction is limited and does not provide a comprehensive regulatory system for every social media platform or digital publisher. The growth of online journalism has therefore created questions about how accountability mechanisms should operate across different forms of publication.

[13] The Press Council Act, 1978

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The Information Technology Act, 2000, regulates several aspects of electronic communication and online activity. Section 69A empowers the Central Government or an authorised officer to direct the blocking of public access to information through a computer resource on specified grounds and subject to prescribed safeguards.[14]

Section 79 provides conditional safe-harbour protection for intermediaries in relation to third-party information, subject to the statutory requirements and applicable rules. This is important because online platforms host material created by many unrelated users[15].

Safe harbour is not absolute immunity. Intermediaries must satisfy the applicable legal conditions, but making them automatically liable for every user post could encourage excessive removal of content.

In Shreya Singhal, the Supreme Court struck down Section 66A while upholding Section 69A and the associated blocking rules in the context of the challenge before it. The decision illustrates the importance of examining the safeguards and wording of each legal provision rather than assuming that every form of online regulation is either valid or invalid.[16]

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, establish due-diligence requirements for intermediaries and a framework for covered digital publishers, including certain publishers of online news and current-affairs content.

The Rules provide grievance-redressal mechanisms and a code of ethics for covered publishers. Supporters argue that these measures improve accountability and help address unlawful content. Critics have raised concerns about executive influence, the scope of regulatory powers and the risk of excessive removal of material.

The appropriate response is to examine whether particular requirements have a lawful basis, serve a legitimate purpose and respect constitutional limits. Digital publishers and general-purpose intermediaries perform different functions, so their responsibilities should not be treated as identical.

Clear obligations and effective safeguards are necessary to ensure that regulation addresses genuine harm without undermining independent journalism.

Press freedom does not protect every publication from liability. Defamation, contempt of court and other unlawful conduct may attract legal consequences when the relevant requirements are satisfied. Section 356 of the Bharatiya Nyaya Sanhita, 2023, addresses defamation. Civil remedies may also be available under the applicable law.[17]

However, a disputed statement is not automatically defamatory. The nature of the publication, the applicable legal requirements and relevant defences must be considered. A

[14] Section (69) of The Information Technology Act, 2000

[15] Section (79) of The Information Technology Act, 2000

[16] Shreya Singhal v. Union of India (2015) 5 SCC 1

[17] Section 356 of the Bharatiya Nyaya Sanhita, 2023

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fair legal system must provide remedies for unlawful harm without making legitimate public-interest reporting unnecessarily difficult.

The controversy concerning the government Fact Check Unit provides a significant example of the constitutional difficulties involved in regulating misinformation.

In April 2023, an amendment to Rule 3(1)(b)(v) of the Information Technology Rules, 2021, provided for a government-designated Fact Check Unit to identify information concerning the business of the Central Government that it considered fake, false or misleading. The proposal raised concerns because of the possible consequences for intermediaries that continued to host information identified by the Unit.

The central question was whether the government should have a legally consequential role in determining the truthfulness of information concerning its own activities. The State has a legitimate interest in correcting false claims, but it is also a subject of public scrutiny. Giving it excessive power to identify disputed reporting could discourage criticism and affect editorial independence.

In Kunal Kamra v. Union of India[18] and connected matters, the Bombay High Court considered the validity of the amendment. Following a difference of opinion between judges, Justice A.S. Chandurkar agreed with the view that the amendment was unconstitutional. On 26 September 2024, the High Court, by majority, struck it down, finding violations of constitutional protections including Articles 14, 19(1)(a) and 19(1)(g).

The decision highlighted concerns about vague language, excessive discretion and the potential chilling effect on expression. It did not establish that misinformation should never be regulated. Rather, it demonstrated that the means adopted to address misinformation must themselves satisfy constitutional requirements.

The Union Government challenged the judgment before the Supreme Court. In March 2026, the Supreme Court issued notice and declined to stay the High Court judgment at that stage. A Supreme Court order dated 10 August 2026 adjourned the matter to 5 October 2026. The subsequent procedural position should be checked against the latest official court record before submission.

The controversy illustrates the difference between fact-checking and censorship. Independent factchecking can improve public understanding, while an official mechanism with coercive consequences requires strong safeguards, particularly where government conduct is being scrutinised.

A chilling effect occurs when people avoid exercising a lawful right because they fear legal proceedings, penalties or other adverse consequences. In journalism, this may happen when publishers cannot reasonably determine whether a report will result in prosecution or removal.

The problem is particularly serious for investigative reporting. Journalists examining corruption or administrative failure may begin with incomplete information and need time to

[18] Kunal Kamra v. Union of India

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verify documents and obtain responses. If reporting disputed information carries excessive legal risks, publishers may avoid difficult investigations altogether.

The reasoning in Shreya Singhal v. Union of India demonstrates why vague and overbroad restrictions are dangerous. When the boundaries of prohibited expression are unclear, people may refrain from lawful communication out of caution.

This does not mean that journalists should be exempt from legal responsibility. Deliberate fabrication, unlawful disclosure and defamation may attract consequences where the legal requirements are met. The concern is that restrictions should distinguish adequately between unlawful conduct and legitimate criticism.

Proportionality is therefore essential. The response should reflect the nature of the harm, the evidence available and the applicable law. A correction or right of reply may resolve some disputes, while more serious conduct may justify stronger remedies.

The objective should be to make media organisations more responsible without making them afraid to report controversial issues.

A sustainable framework must address misinformation while protecting constitutional freedoms.

First, laws should be clear and narrowly defined. Vague expressions can give authorities excessive discretion and discourage lawful speech. Restrictions must remain within the grounds permitted by Article 19(2).

Second, decisions should be subject to independent review. Where content removal or other serious consequences are possible, affected persons should ordinarily receive reasons and have access to a meaningful appeal process. Independent scrutiny is especially important when government bodies are the subjects of the reporting.

Third, remedies should be proportionate. A factual mistake does not always require criminal punishment. Corrections, clarifications, contextual labels and rights of reply may be appropriate in many cases. Stronger intervention should depend on the nature of the harm and the applicable law.

Fourth, professional accountability should be strengthened. Media organisations should adopt clear editorial standards, verify important claims and maintain accessible complaint procedures. Complaints should be examined fairly, and significant errors should be corrected visibly.

Fifth, digital platforms should be transparent. Platforms should explain their content policies, provide meaningful reasons for significant moderation decisions and offer workable appeal mechanisms. Automated systems should not be treated as infallible, particularly where context, satire or regional languages are involve.

Sixth, media literacy should be promoted. Citizens should be encouraged to check original sources, compare reliable reports, identify manipulated media and distinguish facts from opinions. Education should help people evaluate evidence independently rather than tell them what to believe.

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Finally, editorial independence must be protected. Journalists should be able to investigate public institutions and powerful private interests without arbitrary interference. At the same time, they must remain accountable for unlawful conduct and avoidable harm.

These measures would address misinformation through a combination of law, professional responsibility and public awareness rather than relying exclusively on censorship or punishment

Freedom of the press is an essential part of India's constitutional commitment to freedom of speech and expression. It allows citizens to access information, question authority and participate meaningfully in democratic life. Digital technology has expanded these opportunities, but it has also increased the speed and reach of misinformation, manipulated content and sensational reporting.

The Supreme Court's decisions in Romesh Thappar, Sakal Papers, Bennett Coleman, Indian Express Newspapers, S. Rangarajan, R. Rajagopal, Shreya Singhal and Anuradha Bhasin establish important principles for protecting publication, circulation and legitimate criticism. These principles remain relevant when evaluating restrictions on digital journalism.

The Fact Check Unit controversy further demonstrates that the purpose of combating misinformation cannot justify every regulatory mechanism. The State may correct inaccurate claims, but restrictions on expression must remain clear, proportionate and constitutionally justified.

At the same time, press freedom should not excuse deliberate deception or disregard for the rights of others. Journalists and publishers must verify information, distinguish allegations from established facts, correct significant errors and respect privacy. Digital platforms should also provide transparent moderation policies and effective remedies.

Ultimately, a democratic society needs both a free press and responsible journalism. Excessive censorship undermines accountability, while unchecked misinformation weakens public trust. The appropriate balance lies in protecting legitimate expression, providing fair remedies for genuine harm and ensuring that regulatory power remains subject to independent scrutiny.

The question is not whether the media should be free or accountable. It is how accountability can be achieved without destroying the freedom that makes journalism valuable.

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