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FREEDOM OF EXPRESSION IN THE ERA OF HYPER-NATIONALISM: REVISITING CONSTITUTIONAL SAFEGUARDS

AUTHORED BY - NARENDRA NATH GUPTA¹
& PROFESSOR (DR.) FARID KHAN²

Abstract

In a constitutional democracy, freedom of expression is not merely a legal right but the very soul of public participation and democratic accountability. However, in recent years, the rise of hyper-nationalism has significantly transformed the discourse surrounding dissent, criticism, and patriotism in India. Voices questioning governmental actions, state policies, or dominant political narratives are increasingly labelled as “anti-national,” creating a chilling effect on free speech. The introduction of Section 152 of the Bharatiya Nyaya Sanhita, 2023, dealing with acts endangering the sovereignty, unity, and integrity of India, has further intensified debates regarding the balance between national security and constitutional liberties.

This research paper critically examines the evolving relationship between freedom of expression and hyper-nationalist ideologies in contemporary India. It analyses the constitutional framework under Article 19(1)(a) and the scope of reasonable restrictions under Article 19(2), while exploring judicial interpretations relating to dissent, sedition, and democratic freedoms. The paper also investigates the impact of digital media, political polarization, and state surveillance on the shrinking space for open dialogue and criticism. Through a doctrinal and analytical approach, the study argues that while protection of national integrity remains essential, vague and excessive restrictions on speech threaten the foundational principles of constitutional democracy.

The paper concludes that constitutional safeguards must be revisited and strengthened to ensure that patriotism does not become a tool for suppressing dissent. A democracy flourishes not when citizens fear speaking, but when they are free to question, critique, and participate without intimidation.

¹ Research Scholar, Raja Mahendra Pratap Singh University, Aligarh

² Professor, Department of Law, Shri Varshney College, Aligarh

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1. Introduction

Freedom of speech and expression is one of the most essential pillars of a democratic society. It is through free expression that individuals communicate ideas, criticize authority, demand accountability, and participate meaningfully in governance.³ Democracy thrives not merely through elections, but through the continuous exchange of opinions, debates, criticism, and public participation. Recognizing its importance, the Constitution of India guarantees freedom of speech and expression as a fundamental right under Article 19(1)(a)⁴. This provision reflects the vision of the framers of the Constitution who believed that liberty of thought and expression forms the foundation of political freedom and human dignity.

The right to freedom of expression is broad in scope and includes freedom of opinion, press freedom, artistic creativity, academic discussion, peaceful protest, and the right to receive and disseminate information. It protects both popular and unpopular opinions because democracy requires tolerance towards differing viewpoints. The Supreme Court of India has repeatedly emphasized that free speech is the “lifeblood of democracy” and an indispensable condition for social and political progress. Without the freedom to criticize the government or question public policies, democratic governance would lose its accountability and transparency.

However, the right to free speech is not absolute. Article 19(2) of the Constitution permits the State to impose reasonable restrictions in the interests of sovereignty and integrity of India, security of the State, public order, decency, morality, contempt of court, defamation, and incitement to an offence. The purpose of these restrictions is to maintain social stability and protect national interests. Nevertheless, constitutional democracy requires that such restrictions remain reasonable, proportionate, and narrowly tailored. Any excessive or vague restriction on speech risks transforming democratic governance into authoritarian control.⁵

In contemporary India, the debate surrounding freedom of expression has become increasingly intense due to the rise of hyper-nationalism. Hyper-nationalism refers to an aggressive and extreme form of nationalism where criticism of the State or government is often interpreted as disloyalty towards the nation itself. Unlike healthy patriotism, which encourages constructive

³ Sorabji, R. (2021). *Freedom of speech and expression: its history, its value, its good use, and its misuse*. Oxford University Press.

⁴ The Constitution of India, art. 19.

⁵ Yong, C. (2011). Does freedom of speech include hate speech?. *Res Publica*, 17(4), 385-403.

participation and collective responsibility, hyper-nationalism demands unquestioning loyalty and conformity. It creates an atmosphere where dissenting opinions are viewed with suspicion, hostility, and even criminality.⁶

The emergence of hyper-nationalist narratives has significantly altered public discourse in India. Individuals expressing opinions contrary to dominant political ideologies are frequently labelled as “anti-national,” “anti-state,” or “threats to national unity.” Journalists reporting critically on government policies, students participating in protests, comedians using satire, filmmakers addressing controversial subjects, and activists advocating civil liberties increasingly face social backlash, online abuse, and legal scrutiny. Such developments raise serious concerns regarding the shrinking space for democratic dissent and intellectual freedom. The digital revolution and the expansion of social media platforms have further complicated the issue. Social media has democratized expression by enabling ordinary citizens to participate in political discussions and mobilize public opinion. At the same time, it has also intensified polarization, misinformation, hate speech, and ideological extremism. Online spaces often become battlegrounds where hyper-nationalist sentiments dominate rational debate. Trolling, harassment campaigns, and public shaming are frequently used to silence dissenting voices. Consequently, many individuals begin practicing self-censorship out of fear of legal consequences or social isolation.

The enactment of the Bharatiya Nyaya Sanhita, 2023 has added another dimension to the debate on freedom of expression in India. Section 152 of the Sanhita⁷, which criminalizes acts endangering the sovereignty, unity, and integrity of India, has generated widespread controversy. Although introduced as a replacement for the colonial sedition law under Section 124A of the Indian Penal Code⁸, critics argue that the provision continues to retain broad and ambiguous terminology capable of misuse. Terms such as “subversive activities” and “separatist feelings” lack precise legal definitions, thereby granting wide discretionary powers to law enforcement authorities.

Historically, sedition laws in India have often been criticized for suppressing political dissent rather than protecting national security. During colonial rule, Section 124A IPC was frequently used against freedom fighters such as Bal Gangadhar Tilak and Mahatma Gandhi for criticizing British policies. In independent India, concerns regarding misuse of sedition laws persisted, particularly against journalists, students, activists, and political opponents. The replacement of

⁶ Basu, A. A Study of Media in Contemporary India.

⁷ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 152.

⁸ The Indian Penal Code, 1860 (Act 45 of 1860), s. 124A.

sedition with Section 152 BNS therefore raises an important constitutional question: has India genuinely moved beyond colonial restrictions on free speech, or has the law merely been restructured under a new framework?

The judiciary has consistently played an important role in balancing freedom of expression with national interests. Landmark judgments such as *Kedar Nath Singh v. State of Bihar*⁹, *Shreya Singhal v. Union of India*¹⁰, and *Romesh Thappar v. State of Madras*¹¹ have emphasized that mere criticism of the government does not amount to anti-national activity unless it incites violence or public disorder. These judgments reaffirm the principle that democracy requires tolerance of criticism and dissent. Nevertheless, concerns continue to arise regarding prolonged investigations, arrests, and trials under laws relating to national security and public order.

In the era of hyper-nationalism, the distinction between the nation and the government is increasingly becoming blurred. Criticism of political authority is often projected as an attack on the nation itself. Such an approach weakens constitutional morality because democracy is built upon the freedom to question those in power. The suppression of dissent not only affects individual liberty but also damages democratic accountability, intellectual diversity, and social progress.

This research paper critically examines the relationship between freedom of expression and hyper-nationalism in contemporary India. It analyses constitutional safeguards, judicial interpretations, and legislative developments relating to free speech. The paper further explores the implications of Section 152 of the Bharatiya Nyaya Sanhita, 2023 and evaluates whether existing constitutional protections are sufficient to preserve democratic dissent in an increasingly polarized society. Ultimately, the study seeks to highlight the importance of protecting free expression as an essential feature of constitutional democracy and warns against the dangers of criminalizing criticism in the name of nationalism.

2. Concept of Hyper-Nationalism and Democratic Challenges

Nationalism has historically played a significant role in shaping political identity, social unity, and collective consciousness within nations. In its constructive form, nationalism promotes patriotism, cultural pride, national integration, and collective responsibility among citizens. It inspires people to work towards the development and protection of their country while respecting democratic institutions and constitutional values. In countries like India, nationalism

⁹ *Kedar Nath Singh v. State of Bihar*, AIR 1962 SC 955

¹⁰ *Shreya Singhal v. Union of India*, AIR 2015 SC 1523

¹¹ *Romesh Thappar v. State of Madras*, AIR 1950 SC 124

also emerged as a powerful force during the freedom struggle against colonial rule, uniting people from diverse backgrounds in the pursuit of independence.¹² However, when nationalism transforms into an aggressive and intolerant ideology that discourages criticism and demands unquestioning loyalty, it evolves into what is commonly referred to as hyper-nationalism.

Hyper-nationalism is an extreme form of nationalism characterized by intense emotional attachment to the nation combined with hostility towards dissenting voices, minority perspectives, and ideological opposition. Unlike healthy patriotism, which allows room for debate and criticism, hyper-nationalism treats disagreement as betrayal. It creates a rigid distinction between those considered “true patriots” and those labelled as “anti-national.” In such an atmosphere, criticism of government policies, political leaders, or state institutions is often perceived as an attack on the nation itself.¹³

One of the defining features of hyper-nationalism is the blurring of the distinction between the nation and the government. In a constitutional democracy, the government is a temporary political institution subject to criticism and accountability, whereas the nation represents the broader collective identity of its people. Hyper-nationalist discourse often merges these two concepts, implying that criticism of governmental actions amounts to disloyalty towards the nation. This approach weakens democratic culture because it discourages open debate and suppresses opposition voices essential for democratic accountability.

The rise of hyper-nationalism in contemporary societies is closely linked to political polarization, media influence, identity politics, and digital communication platforms. Political narratives frequently use nationalism as a tool for mobilizing public support and consolidating power. Emotional appeals to national pride, security, and cultural identity often dominate public discourse, leaving little space for rational criticism or constitutional dialogue. As a result, public debate shifts from discussing policies and governance to questioning the patriotism and intentions of dissenters.

In India, the rise of hyper-nationalism has significantly influenced social and political interactions. Public discourse increasingly reflects a culture where citizens are expected to demonstrate visible patriotism and ideological conformity.¹⁴ Those who challenge dominant political narratives are often subjected to online abuse, public shaming, legal action, or social

¹² Werlin, J. S. (1939). The Pathology Of Hyper-Nationalism. *The Southwestern Social Science Quarterly*, 300-311.

¹³ Pastor, D. K. N. (2025). *Contemporary Social Correlates and Predictors for the Emergence of Hyper-Nationalism* (Doctoral dissertation, George Mason University).

¹⁴ Bhayani, K. M. Nationalism Marketing as the New Strategic Frontier: Examining the Influence of National Identity Appeals on Consumer Behavior in India.

isolation. Journalists, students, writers, filmmakers, comedians, and activists who express critical opinions frequently become targets of accusations such as being “anti-national,” “urban naxals,” or “enemies of the nation.”

Educational institutions, particularly universities, have become important spaces where debates surrounding nationalism and free speech emerge prominently. Student protests and political discussions on campuses are often portrayed as threats to national unity. Instead of being treated as part of democratic engagement and intellectual growth, dissent within academic spaces is increasingly criminalized or politicized. Such developments create fear among students and educators, ultimately restricting academic freedom and critical thinking.

The media also plays a crucial role in shaping hyper-nationalist sentiments. In many cases, sections of the media amplify divisive narratives by portraying dissenting opinions as dangerous or anti-state. Sensationalized debates and aggressive political commentary contribute to public hostility against individuals expressing alternative viewpoints. Instead of encouraging informed discussion, media trials frequently influence public perception even before legal determination of guilt or innocence. Consequently, freedom of expression becomes vulnerable not only to state action but also to societal pressure and media-driven nationalism. Social media has further intensified the impact of hyper-nationalism. Digital platforms provide citizens with unprecedented opportunities to express opinions and participate in political discussions. However, they also facilitate the rapid spread of misinformation, propaganda, hate speech, and ideological extremism. Online trolling and harassment campaigns are often directed against individuals expressing unpopular or critical opinions. Public figures, journalists, and activists regularly receive threats, abuse, and intimidation on digital platforms. This environment creates a chilling effect where individuals avoid expressing genuine opinions out of fear of social backlash or legal consequences.

One of the most dangerous consequences of hyper-nationalism is self-censorship. Citizens begin restricting their own speech not because of direct legal prohibition but because of fear, intimidation, or societal hostility. Writers avoid controversial subjects, journalists soften criticism, artists withdraw creative works, and ordinary citizens hesitate to discuss political issues openly. Such self-censorship weakens democracy because it reduces diversity of thought and suppresses meaningful public discourse.

Hyper-nationalism also affects minority communities and marginalized groups. In many instances, individuals belonging to minority religious, cultural, or ideological backgrounds face greater scrutiny regarding their patriotism and national loyalty. Their opinions are often dismissed or viewed with suspicion, leading to exclusion from mainstream public discourse.

Democracy, however, requires equal participation and protection of all voices irrespective of ideological or social differences.¹⁵

Another important challenge posed by hyper-nationalism is the growing demand for stricter laws in the name of national security and public order. Laws relating to sedition, anti-terrorism, and sovereignty are increasingly invoked against individuals accused of spreading anti-national sentiments. While protection of national integrity is undoubtedly necessary, vague or excessive legal restrictions may lead to arbitrary misuse and suppression of legitimate criticism. In this context, provisions such as Section 152 of the Sanhita raise serious concerns regarding the balance between national security and constitutional freedoms.

The judiciary has repeatedly emphasized that democracy requires tolerance towards dissent and unpopular opinions. In *Kedar Nath Singh v. State of Bihar*, the Supreme Court clarified that mere criticism of the government does not amount to sedition unless it incites violence or public disorder. Similarly, in *Shreya Singhal v. Union of India*, the Court highlighted the importance of protecting free speech even when opinions may offend or disturb others. These judgments reinforce the principle that democracy cannot survive without open criticism and debate.

Despite constitutional protections, the social and political climate created by hyper-nationalism continues to challenge democratic values. Patriotism is increasingly measured through ideological conformity rather than constitutional commitment. The suppression of dissent weakens accountability, discourages intellectual inquiry, and undermines the democratic spirit of the Constitution.¹⁶

Therefore, it becomes essential to distinguish between genuine nationalism and hyper-nationalism. True patriotism strengthens democracy by encouraging citizens to participate actively, question injustice, and work towards national improvement. Hyper-nationalism, on the other hand, weakens democracy by demanding blind loyalty and suppressing dissent. A constitutional democracy flourishes not through fear and conformity but through dialogue, diversity, and the protection of individual freedoms. Protecting freedom of expression in the era of hyper-nationalism is therefore not merely a legal necessity but a democratic imperative essential for preserving constitutional values and the spirit of liberty in India.

¹⁵ Khan, M. U. HYPER NATIONALISM V. HUMAN RIGHTS.

¹⁶ Sailaja, P. V. S., & Manikyam, K. S. (2026). CONSTITUTIONAL SAFEGUARD OF EXPRESSION: BALANCING DEMOCRACY AND DISSENT. *Lex Localis*, 24(S1), 24-38.

3. Constitutional Framework of Freedom of Expression in India

Freedom of speech and expression occupies a central position in the constitutional framework of India. It is regarded as one of the most vital pillars of democracy because it enables citizens to express ideas, criticize authority, participate in governance, and contribute to social and political development. The framers of the Indian Constitution recognized that democracy cannot survive in an environment where citizens are afraid to speak freely. Consequently, the right to freedom of speech and expression was guaranteed as a fundamental right under Article 19(1)(a) of the Constitution of India.¹⁷

Article 19(1)(a) provides that all citizens shall have the right to freedom of speech and expression. Although the Constitution does not explicitly define the scope of this freedom, judicial interpretation has expanded its meaning over time. The right includes freedom of opinion, freedom of the press, artistic and literary expression, academic freedom, political criticism, peaceful protest, commercial speech, and the right to receive and disseminate information. The Supreme Court has repeatedly emphasized that free speech is essential for individual liberty as well as democratic governance.

The importance of freedom of expression lies in the fact that it facilitates the exchange of ideas and promotes informed public debate.¹⁸ Democracy is based on the participation of citizens in decision-making processes, and such participation becomes meaningful only when people are free to discuss political, social, and economic issues openly. Freedom of speech acts as a safeguard against authoritarianism because it enables citizens to question governmental actions and demand accountability.¹⁹ It also encourages intellectual growth, social reform, and the discovery of truth through dialogue and discussion.

The Indian judiciary has consistently interpreted freedom of expression broadly. In the landmark case of *Romesh Thappar v. State of Madras*, the Supreme Court observed that freedom of speech and expression lies at the foundation of all democratic organizations. The Court recognized that without free political discussion, no public education or democratic functioning would be possible. Similarly, in *Brij Bhushan v. State of Delhi*²⁰, the Court held that pre-censorship of the press was unconstitutional because it directly violated freedom of

¹⁷ Singh, D. P. (2025). An Analysis of the Article 19 (1)(a) and Article 19 (2) of the Indian Constitution and Distorting Form of Freedom of Speech and Expression in the Era of Social Media in India. Available at SSRN 5100601.

¹⁸ Veeder, V. V. (1909). Freedom of Public Discussion. *Harv. L. Rev.*, 23, 413.

¹⁹ Gaur, K. D. (1994). Constitutional rights and freedom of media in India. *Journal of the Indian Law Institute*, 36(4), 429-454.

²⁰ *Brij Bhushan v. State of Delhi*, AIR 1950 SC 129

expression.

Freedom of expression also includes the freedom of the press, even though the Constitution does not specifically mention it. The press acts as the “fourth pillar of democracy” by informing the public, exposing corruption, and ensuring transparency in governance. Courts have repeatedly recognized that press freedom is an essential component of Article 19(1)(a). In *Indian Express Newspapers v. Union of India*²¹, the Supreme Court emphasized that freedom of the press is crucial for maintaining democratic accountability and public awareness.

Another important aspect of free speech is the right to criticize the government and public institutions. In a democracy, citizens must have the freedom to disagree with policies, protest against injustice, and advocate reforms. The judiciary has clarified that criticism of the government does not amount to anti-national activity unless it incites violence or threatens public order. This distinction is essential because governments are temporary political institutions subject to democratic scrutiny, whereas the nation itself represents the broader constitutional and collective identity of the people.

However, the right to freedom of speech and expression is not absolute. Article 19(2) of the Constitution empowers the State to impose reasonable restrictions on free speech in the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign states, public order, decency, morality, contempt of court, defamation, and incitement to an offence. These restrictions aim to balance individual liberty with societal interests and national security.

The concept of “reasonable restrictions” is significant because it prevents arbitrary state action. Restrictions imposed by the State must not be excessive, vague, or disproportionate. They must have a direct connection with the objective sought to be achieved. The judiciary acts as the guardian of constitutional freedoms by examining whether restrictions imposed on speech satisfy the test of reasonableness.²²

The Supreme Court has played a crucial role in protecting freedom of expression against unconstitutional restrictions. In *Shreya Singhal v. Union of India*, the Court struck down Section 66A of the Information Technology Act, 2000 on the ground that it was vague and overbroad. The provision criminalized offensive online speech using undefined terms such as “annoyance” and “inconvenience.” The Court held that vague laws create a chilling effect on

²¹ *Indian Express Newspapers v. Union of India*, AIR 1986 SC 515

²² Madhav, K., Shukla, A., Naqshbandi, M. Q., Venaik, S., & Lal, R. (2024). A Critical Analysis of Freedom of Speech and Expression in India. *Library of Progress-Library Science, Information Technology & Computer*, 44(3).

speech because citizens may avoid expressing opinions out of fear of prosecution. The judgment reaffirmed that only speech involving incitement to violence or public disorder can be legitimately restricted.

Similarly, in *Kedar Nath Singh v. State of Bihar*, the Supreme Court examined the constitutional validity of the sedition law under Section 124A of the Indian Penal Code. The Court upheld the provision but limited its application to speech involving incitement to violence or intention to create public disorder. Mere criticism of the government, however strongly worded, was held to be protected under Article 19(1)(a). This judgment remains highly relevant in contemporary debates concerning nationalism, dissent, and free speech.

The doctrine of proportionality has also become an important constitutional principle in free speech jurisprudence. According to this doctrine, restrictions on fundamental rights must be proportionate to the objective sought to be achieved. The State cannot impose excessive limitations when less restrictive alternatives are available. This principle ensures that national security concerns do not become a justification for suppressing legitimate democratic dissent.²³ In recent years, debates concerning freedom of expression have intensified due to the rise of hyper-nationalism and digital surveillance. Laws relating to sedition, anti-terrorism, public order, and sovereignty are increasingly invoked against journalists, activists, students, and social media users. The enactment of Section 152 of the Bharatiya Nyaya Sanhita, 2023 has further reignited concerns regarding the criminalization of dissent. Critics argue that broad and ambiguous provisions may undermine constitutional safeguards by allowing authorities to interpret criticism as anti-national activity.

The digital era has also transformed the scope of free speech. Social media platforms provide citizens with opportunities to participate in political discourse on an unprecedented scale. However, they also create challenges relating to misinformation, hate speech, online harassment, and state surveillance. The balance between regulating harmful content and protecting constitutional freedoms has therefore become increasingly complex.²⁴

Despite these challenges, the constitutional framework of India continues to emphasize the importance of protecting freedom of expression as a democratic necessity. The Constitution does not merely protect agreeable or popular opinions; it also safeguards controversial, offensive, and dissenting viewpoints. Democracy requires tolerance towards criticism because social progress and political accountability depend upon open dialogue and debate.

²³ Jackson, V. C. (2014). Constitutional law in an age of proportionality. *Yale Lj*, 124, 3094.

²⁴ Balkin, J. M. (2008). The future of free expression in a digital age. *Pepp. L. Rev.*, 36, 427.

The constitutional framework governing freedom of expression in India reflects a careful balance between individual liberty and societal interests. Article 19(1)(a) guarantees citizens the freedom to express ideas and participate in democratic discourse, while Article 19(2) permits reasonable restrictions in exceptional circumstances. Judicial interpretation has consistently reinforced the principle that free speech is essential for democracy and cannot be suppressed merely because it challenges authority or disturbs dominant narratives.²⁵ In an era marked by rising hyper-nationalism and shrinking spaces for dissent, the protection of constitutional safeguards becomes more important than ever for preserving democratic values, constitutional morality, and the spirit of liberty in India.

4. Section 152 of Bharatiya Nyaya Sanhita, 2023: A New Sedition Law?

The enactment of the Bharatiya Nyaya Sanhita (BNS), 2023 marked a significant transformation in India's criminal justice system. Introduced as a replacement for the colonial-era Indian Penal Code, 1860, the BNS was presented as an effort to modernize criminal law and align it with contemporary realities. One of the most controversial aspects of the new legislation is Section 152, which deals with acts endangering the sovereignty, unity, and integrity of India. The provision has generated intense constitutional and political debate because many legal scholars, activists, and constitutional experts view it as a restructured version of the colonial sedition law under Section 124A of the Indian Penal Code.

Section 152 of the Bharatiya Nyaya Sanhita criminalizes acts that intentionally or knowingly excite secession, armed rebellion, subversive activities, separatist activities, or activities endangering the sovereignty, unity, and integrity of India through words, signs, visible representation, electronic communication, financial means, or any other form.²⁶ The provision prescribes severe punishments, including life imprisonment or imprisonment extending up to seven years along with fines.

The government justified the introduction of Section 152 by arguing that India requires strong legal safeguards against terrorism, separatism, cyber warfare, and threats to national integrity. According to supporters of the provision, the changing nature of modern threats demands updated criminal laws capable of addressing anti-state activities conducted through digital

²⁵ Dutton, W. H., Dopatka, A., Hills, M., Law, G., & Nash, V. (2010). Freedom of connection–freedom of expression. *Report prepared for UNESCO's Division for Freedom of Expression, Democracy and Peace.*

²⁶ Sharma, P. (2024, November). Sedition in Bharat: A Transformative In-Depth Analysis of Section 124A IPC and Section 152 of Bharatiya Nyaya Sanhita 2023. In *This is the research paper version of the Best Presentation given before Ex-Law and Ex-IT Minister Shri Ravi Shankar Prasad Ji and Adv. Vishnu Shankar Jain in National Conference of Research Scholars at SGT University, Gurugram, Haryana organized by BSM.*

platforms and organized networks. They contend that while the colonial sedition law was associated with suppressing freedom movements, the new provision is intended to protect national security and sovereignty in an independent democratic nation.²⁷

However, critics strongly dispute this claim and argue that Section 152 essentially reproduces the spirit of sedition law under a different name. Although the word “sedition” itself has been removed, the provision retains broad and ambiguous terminology that can be used to suppress dissent and criticism. Terms such as “subversive activities,” “separatist feelings,” and “endangering unity and integrity” are not clearly defined, thereby granting wide discretionary powers to law enforcement authorities. Such vagueness creates uncertainty regarding what forms of speech or conduct may attract criminal liability.

Historically, sedition laws in India have been deeply controversial because of their misuse against political dissenters. During British colonial rule, Section 124A IPC was frequently invoked to silence Indian freedom fighters and nationalist leaders who criticized colonial policies. Bal Gangadhar Tilak and Mahatma Gandhi were among the most prominent individuals prosecuted under sedition laws. Mahatma Gandhi famously described sedition as “the prince among the political sections of the IPC designed to suppress the liberty of the citizen.” The colonial government used sedition laws not to protect public order but to suppress opposition and maintain political control.

Even after independence, concerns regarding misuse of sedition laws persisted. Although India adopted a democratic Constitution guaranteeing freedom of speech and expression, sedition continued to be invoked against journalists, activists, writers, students, political opponents, and protestors. Critics argued that the law had become a tool for intimidating dissent rather than addressing genuine threats to national security.²⁸

The constitutional validity of sedition law was examined in the landmark case of *Kedar Nath Singh v. State of Bihar* (1962). The Supreme Court upheld the validity of Section 124A IPC but limited its application only to acts involving incitement to violence or intention to create public disorder. The Court clarified that mere criticism of the government, however strongly worded, does not amount to sedition unless it encourages violence against the State. This judgment became a crucial safeguard for freedom of expression because it distinguished democratic dissent from anti-state violence.

²⁷ Naik, Y. (2024). The Bharatiya Nyaya Sanhita (BNS): A critical examination of India's new penal code. Available at SSRN 4884622.

²⁸ Ali, S. A., & Mukhopadhyay, P. (2024). Bharatiya Nyaya Sanhita: Decolonizing Criminal Law or Colonial Continuities?. *International Annals of Criminology*, 62(2), 406-425.

Despite judicial safeguards, misuse of sedition law continued over the years. Several individuals faced arrest for slogans, social media posts, political speeches, cartoons, academic discussions, and peaceful protests. In many cases, charges were eventually dropped or courts granted relief, but the process itself became punitive. Long investigations, arrests, detention, and social stigma created a chilling effect on freedom of expression.²⁹

Against this backdrop, the introduction of Section 152 BNS raises important constitutional questions. Critics argue that although the government claimed to repeal sedition, the essence of the offence remains preserved in broader terminology. In fact, some experts contend that Section 152 may be even wider than the previous sedition provision because it extends to electronic communication, financial support, and unspecified “subversive activities.” The absence of precise legal definitions increases the risk of arbitrary interpretation.

One of the most concerning aspects of Section 152 is its potential impact on democratic dissent. In a constitutional democracy, criticism of governmental policies, protest movements, academic debates, and journalistic investigations are legitimate forms of democratic participation. However, when broad national security provisions are interpreted expansively, authorities may equate criticism with threats to national unity. Such misuse undermines constitutional morality and weakens democratic accountability.³⁰

The rise of hyper-nationalism in contemporary India further intensifies concerns surrounding Section 152. Public discourse increasingly treats dissenting voices as anti-national, particularly in politically sensitive matters relating to nationalism, religion, military operations, or state policies. Social media outrage and political polarization often create pressure for strict action against individuals expressing unpopular opinions. In such an atmosphere, vague legal provisions become dangerous tools capable of silencing legitimate criticism.

The digital age also complicates the issue. Online expression through social media platforms enables rapid dissemination of ideas and political mobilization. However, authorities increasingly monitor digital content in the name of national security and public order. Social media posts, memes, satire, political commentary, and online activism may potentially fall within the broad ambit of Section 152 if interpreted aggressively. This creates fear among citizens and encourages self-censorship.

Another major concern is the chilling effect produced by vague criminal laws. The chilling effect refers to a situation where individuals avoid exercising constitutional rights due to fear

²⁹ Thomas, R. (2024). *Bharatiya Nyaya Sanhita, 2023: A Critical Perspective*. Available at SSRN 4898463.

³⁰ Akksharra, P. V. (2025). A Comprehensive Review of Sedition Laws in India: Analysis of Section 152 Of BNS and Section 124 A of IPC. *Journal of Law and Legal Research Development*, 09-14.

of prosecution or punishment. Even if courts ultimately protect free speech, the fear of arrest, investigation, and trial discourages citizens from expressing opinions openly. Democracy suffers when citizens begin censoring themselves rather than participating freely in public discourse.

The judiciary therefore has an essential role in interpreting Section 152 narrowly and ensuring constitutional safeguards for freedom of expression. Courts must continue to uphold the principle established in *Kedar Nath Singh* that only speech involving incitement to violence or genuine threats to public order can be criminalized. Mere criticism of the government or advocacy of unpopular opinions cannot be treated as anti-national activity.

Furthermore, legislative reform is necessary to ensure greater clarity and accountability. Criminal provisions affecting free speech must be drafted with precise definitions to prevent arbitrary misuse. Safeguards such as prior judicial scrutiny before registration of offences under Section 152 may help prevent abuse of power. Democratic societies require laws that protect national security without undermining constitutional liberties.³¹

In conclusion, Section 152 of the Bharatiya Nyaya Sanhita, 2023 represents one of the most controversial developments in contemporary Indian criminal law. While the protection of sovereignty, unity, and integrity of India remains a legitimate state objective, the broad and ambiguous language of the provision raises serious concerns regarding freedom of expression. The historical misuse of sedition laws demonstrates the dangers of granting excessive powers to suppress dissent. In the era of hyper-nationalism, where criticism is increasingly viewed with suspicion, the risk of misuse becomes even greater. Therefore, the future of democratic freedom in India depends largely upon whether constitutional institutions, particularly the judiciary, can ensure that national security laws are not transformed into instruments for silencing dissent and weakening democracy itself.

5. Digital Media, Public Opinion, and the Criminalisation of Dissent

The emergence of digital media has fundamentally transformed the nature of communication, political participation, and public discourse across the world. In India, the rapid expansion of internet accessibility and social media platforms has created unprecedented opportunities for citizens to express opinions, participate in debates, mobilize protests, and challenge dominant political narratives. Platforms such as X (formerly Twitter), Instagram, Facebook, YouTube,

³¹ Chauhan, S. (2026). From suppression to expression: Is the sedition era truly over?. In *Humanities and Social Sciences* (pp. 732-737). Routledge.

and WhatsApp have become powerful spaces for political engagement and social activism. However, alongside these democratic possibilities, digital media has also contributed to the rise of ideological polarization, misinformation, hyper-nationalism, and the increasing criminalisation of dissent.³²

Digital media has democratized freedom of expression by reducing dependence on traditional gatekeepers such as mainstream news channels and newspapers. Ordinary citizens now possess the ability to communicate directly with large audiences, share political opinions instantly, and influence public discussions. Social movements, awareness campaigns, and protests often gain momentum through digital platforms. Hashtags, online petitions, independent journalism, and citizen reporting have emerged as significant tools of democratic participation. Issues relating to corruption, gender justice, human rights, environmental protection, and governmental accountability frequently receive public attention through social media activism.

However, the same digital platforms that empower free speech also create challenges for constitutional democracy. One of the most concerning developments is the rise of online hyper-nationalism. Social media algorithms often amplify emotionally charged and divisive content because such material attracts greater engagement and visibility.³³ Nationalist rhetoric, political propaganda, hate speech, and misinformation spread rapidly across digital platforms, influencing public opinion and intensifying ideological divisions.

In this environment, dissenting voices frequently become targets of hostility and harassment. Journalists, academics, activists, comedians, filmmakers, and students expressing critical opinions are often subjected to online abuse, trolling, threats, and coordinated harassment campaigns. Public discourse increasingly shifts from reasoned debate to emotional outrage, where individuals are attacked personally rather than engaged intellectually. The branding of dissenters as “anti-national,” “anti-state,” or “enemies of the nation” has become a recurring feature of digital political culture.

The criminalisation of dissent is closely linked to this changing digital landscape. Online speech is increasingly monitored and scrutinized by authorities in the name of national security, public order, and sovereignty. Social media posts, political memes, satirical videos, online articles, and protest-related content have resulted in criminal proceedings under laws relating to sedition, anti-terrorism, public order, defamation, and hate speech. Although the State has a

³² Selmini, R., & Di Ronco, A. (2023). The criminalization of dissent and protest. *Crime and Justice*, 52(1), 197-231.

³³ Russell, Z. (2020). Resistance and movement in neoliberal society: A literature review on the criminalisation of dissent. *Spark: Stirling International Journal of Postgraduate Research*, (6).

legitimate responsibility to regulate harmful content and prevent violence, excessive legal intervention creates serious threats to freedom of expression.³⁴

The introduction of Section 152 of the Bharatiya Nyaya Sanhita, 2023 has further intensified concerns regarding digital expression. The provision extends to acts committed through “electronic communication” and other digital means. Given the broad and ambiguous language of the provision, online criticism of governmental policies or political institutions could potentially be interpreted as threatening national unity or integrity. This creates uncertainty among citizens regarding the limits of permissible speech.

One of the most dangerous consequences of digital criminalisation is the chilling effect on free speech. The chilling effect occurs when individuals avoid expressing opinions due to fear of legal action, arrest, public backlash, or surveillance. Even in cases where charges may ultimately fail in court, the process of investigation, arrest, and prolonged litigation itself becomes punitive. Citizens therefore begin practicing self-censorship, avoiding political discussions or controversial opinions to protect themselves from social and legal consequences. The role of misinformation and fake news also complicates the regulation of digital speech. Social media platforms frequently witness the rapid circulation of manipulated content, inflammatory propaganda, communal rumours, and politically motivated misinformation. Such content can incite violence, disturb public order, and threaten social harmony. Consequently, governments argue that stronger laws and digital surveillance are necessary to maintain stability and national security.

While regulation of harmful content is important, the absence of clear legal standards often results in overreach and arbitrary enforcement. Broad legal provisions allow authorities to selectively target dissenting voices while ignoring similar conduct by politically aligned groups.³⁵ Such selective enforcement undermines the rule of law and weakens public trust in democratic institutions. The challenge therefore lies in distinguishing between legitimate criticism and speech that genuinely incites violence or threatens national security.

The judiciary has repeatedly emphasized that free speech protections extend to online expression as well. In the landmark judgment of *Shreya Singhal v. Union of India* (2015), the Supreme Court struck down Section 66A of the Information Technology Act, 2000 on the ground that it violated freedom of expression under Article 19(1)(a). Section 66A criminalized

³⁴ Martin, G. (2017). Criminalizing dissent: Social movements, public order policing and the erosion of protest rights. In *The Routledge international handbook of criminology and human rights*. Taylor & Francis.

³⁵ Trotter, D., Huang, Q., & Gabdulhakov, R. (2025). *Digital Media, Denunciation and Shaming: The Court of Public Opinion* (p. 130). Taylor & Francis.

offensive online messages using vague terms such as “annoyance,” “inconvenience,” and “grossly offensive.” The Court held that vague restrictions on speech create a chilling effect and encourage arbitrary arrests. Importantly, the Court distinguished between “discussion,” “advocacy,” and “incitement,” holding that only incitement to violence or public disorder can justify criminal restrictions.³⁶

Despite this progressive judgment, concerns regarding online surveillance and suppression of digital dissent continue to grow. Internet shutdowns, content takedowns, account suspensions, and monitoring of online activity increasingly affect freedom of expression. India has witnessed multiple instances where internet services were suspended during protests, political unrest, or sensitive events in the name of maintaining law and order. Critics argue that such measures disproportionately restrict democratic participation and access to information.

Digital media has also transformed the role of public opinion in shaping legal and political outcomes. Social media outrage often creates immediate pressure on authorities to take action against individuals accused of making controversial statements. Online campaigns demanding arrests or punishment frequently influence public perception even before legal examination of the issue. This phenomenon weakens the principle of due process because individuals may face public condemnation without fair investigation or judicial determination.³⁷

The criminalisation of dissent through digital media also affects artistic and academic freedom. Writers, filmmakers, stand-up comedians, and educators increasingly face pressure to avoid sensitive political or social themes. Satire, political commentary, and critical artistic expression are often interpreted as offensive or anti-national. Such restrictions weaken creativity, intellectual inquiry, and democratic culture.

Another important concern is the impact on marginalized communities and minority voices. Individuals belonging to religious, ideological, or social minorities often face greater online hostility and surveillance. Their opinions may be disproportionately targeted or labelled suspicious within hyper-nationalist narratives. Democracy, however, requires protection of diverse perspectives and equal participation in public discourse.

The future of constitutional democracy therefore depends significantly on how societies balance digital regulation with free speech protections. While harmful content, hate speech, and incitement to violence must be addressed, laws regulating online expression should remain

³⁶ Di Ronco, A., & Selmini, R. (Eds.). (2024). *Criminalisation of dissent in times of crisis*. Switzerland: Palgrave Macmillan.

³⁷ Kirkpatrick, D. (2017). *Silencing Dissent: A comparative study of criminalising political expression and conflict transformation*. University of Kent (United Kingdom).

clear, proportionate, and constitutionally consistent.³⁸ Criminal law cannot become a tool for suppressing criticism or enforcing ideological conformity.

In conclusion, digital media has emerged as both a powerful instrument of democratic participation and a significant challenge to freedom of expression. While online platforms provide citizens with unprecedented opportunities for political engagement, they have also intensified hyper-nationalism, polarization, misinformation, and the criminalisation of dissent. The increasing use of legal provisions against online speech creates fear, self-censorship, and democratic insecurity. In the era of digital communication, protecting constitutional freedoms requires a careful balance between national security and individual liberty. Democracy can flourish only when citizens feel safe to express opinions, question authority, and participate in public discourse without fear of intimidation, surveillance, or criminal prosecution.

6. Judicial Response and the Role of Constitutional Safeguards

The judiciary occupies a central position in the protection of constitutional democracy and individual liberties in India. As the guardian of the Constitution, the judiciary is entrusted with the responsibility of ensuring that legislative and executive actions remain within constitutional boundaries. In matters relating to freedom of speech and expression, the courts play a particularly significant role because democratic freedoms often come into conflict with state claims of public order, national security, and sovereignty.³⁹ In the era of hyper-nationalism, where dissenting opinions are increasingly viewed with suspicion, judicial intervention becomes essential for preserving constitutional safeguards and protecting democratic values. The Indian Constitution guarantees freedom of speech and expression under Article 19(1)(a), but this right is subject to reasonable restrictions under Article 19(2). The role of the judiciary lies in determining whether restrictions imposed by the State are constitutionally valid, reasonable, and proportionate. Courts must balance individual liberty with societal interests while ensuring that constitutional rights are not sacrificed in the name of nationalism or political convenience.

From the early years of constitutional governance, the Supreme Court has consistently

³⁸ de Morais, C. B. (2022). "Digital Democracy": A Threat to the Democratic System or Oxygenation of Representative Democracy and Free Speech?. In *The Rule of Law in Cyberspace* (pp. 9-63). Cham: Springer International Publishing.

³⁹ Baker, E. (2026). Judicial Activism versus Judicial Restraint: Safeguarding Democratic Principles in Contemporary Constitutional Systems. *Law, Governance & Social Justice JournalStack*, 1(01).

emphasized the importance of free speech in a democratic society.⁴⁰ In *Romesh Thappar v. State of Madras* (1950), one of the earliest free speech cases in independent India, the Court observed that freedom of speech and expression lies at the foundation of all democratic institutions. The judgment highlighted that political discussion and public criticism are indispensable for democracy. The Court struck down restrictions imposed on a journal because they violated constitutional guarantees of free expression.

Similarly, in *Brij Bhushan v. State of Delhi* (1950), the Supreme Court held that pre-censorship of newspapers was unconstitutional. The Court recognized that prior restraints on publication directly interfere with press freedom and democratic accountability. These early judgments established the judiciary's commitment towards protecting civil liberties against arbitrary state interference.

One of the most important judicial decisions concerning free speech and nationalism is *Kedar Nath Singh v. State of Bihar* (1962). This case examined the constitutional validity of the sedition law under Section 124A of the Indian Penal Code. The petitioner had delivered a speech criticizing the ruling government and was prosecuted for sedition. The Supreme Court upheld the constitutional validity of sedition law but imposed significant limitations on its application. The Court clarified that only speech involving incitement to violence or intention to create public disorder could be punished under sedition law. Mere criticism of the government, however strongly worded, was protected under Article 19(1)(a).

The *Kedar Nath Singh* judgment remains extremely relevant in contemporary debates surrounding Section 152 of the Bharatiya Nyaya Sanhita, 2023. The principle established by the Court, that democratic dissent cannot be criminalized unless it incites violence, serves as a constitutional safeguard against misuse of national security laws. In the context of hyper-nationalism, this distinction becomes crucial because criticism of governmental policies is often portrayed as anti-national activity.

The judiciary has also recognized that vague and overbroad laws create a chilling effect on free speech. The landmark judgment in *Shreya Singhal v. Union of India* (2015) represents a major milestone in protecting digital freedom of expression. The Supreme Court struck down Section 66A of the Information Technology Act, 2000 because it criminalized online speech using vague expressions such as "annoyance," "inconvenience," and "grossly offensive." The Court held that unclear laws allow arbitrary interpretation and discourage citizens from expressing

⁴⁰ Bonventre, V. M. (2007). Changing Roles: The Supreme Court and the State High Courts in Safeguarding Rights. *Albany Law Review*, 70(841).

opinions freely.

Importantly, the Court in *Shreya Singhal* distinguished between “discussion,” “advocacy,” and “incitement.” According to the judgment, mere discussion or advocacy of ideas, even if controversial or unpopular, is protected speech. Only incitement to violence or public disorder can justify criminal restrictions. This principle strengthens constitutional safeguards by ensuring that democratic debate is not suppressed simply because it offends majority sentiments or political authorities.

Another important constitutional principle developed by the judiciary is the doctrine of proportionality. This doctrine requires that restrictions on fundamental rights must be proportionate to the objective sought to be achieved. The State cannot impose excessive or unnecessary limitations when less restrictive alternatives are available.⁴¹ In cases involving free speech, courts examine whether restrictions genuinely protect public interests or merely suppress dissent. The doctrine of proportionality therefore acts as a safeguard against authoritarian tendencies and arbitrary use of state power.

The judiciary has also emphasized the importance of constitutional morality over popular morality. Constitutional morality refers to adherence to constitutional values such as liberty, equality, dignity, and tolerance, even when public opinion may be hostile towards certain ideas or groups. In a democracy, constitutional rights cannot depend solely on majority approval. Courts must protect unpopular opinions and minority viewpoints because democracy requires diversity of thought and open debate.

Despite progressive judicial principles, significant challenges remain in practice. One of the major concerns is the misuse of criminal laws relating to national security, public order, and sovereignty. Journalists, students, activists, writers, comedians, and social media users frequently face arrests and investigations under various legal provisions. Although courts may eventually grant relief or dismiss charges, the process itself becomes punitive. Prolonged detention, repeated court appearances, social stigma, and financial burdens discourage citizens from exercising their constitutional rights freely.

The rise of hyper-nationalism further complicates judicial protection of free speech. Public pressure and political polarization often influence legal discourse surrounding dissent. Individuals accused of anti-national activities may face media trials and public condemnation

⁴¹ guimarães Piacenti, L. (2024). The Role of Constitutional Courts: Limits of Judicial Activism and the Safeguarding of Democratic Processes. *Estudios Constitucionales*, 22(2).

even before judicial determination.⁴² Courts therefore carry the difficult responsibility of maintaining constitutional neutrality amidst emotionally charged political environments.

The enactment of Section 152 of the Bharatiya Nyaya Sanhita, 2023 has renewed the importance of judicial oversight. Given the broad language used in the provision, there is a strong possibility of expansive interpretation by investigating agencies. Terms such as “subversive activities” and “endangering unity and integrity” may potentially be used against peaceful criticism, protest movements, or political activism. In such circumstances, judicial interpretation becomes the primary safeguard for protecting democratic dissent.

Courts must therefore ensure that Section 152 is interpreted consistently with constitutional principles established in *Kedar Nath Singh* and *Shreya Singhal*. Mere criticism of the government, advocacy of unpopular opinions, or participation in peaceful protests cannot be treated as threats to national integrity unless there is direct incitement to violence or armed rebellion. Judicial vigilance is necessary to prevent the transformation of national security laws into instruments of political suppression.

In addition to adjudication, the judiciary also influences democratic culture by reaffirming the importance of tolerance and pluralism. Judicial observations emphasizing the value of dissent help strengthen constitutional morality and public understanding of democratic freedoms. Courts act not merely as legal institutions but also as defenders of democratic principles and civil liberties.

In conclusion, the judiciary plays a decisive role in safeguarding freedom of expression in India, particularly in the era of hyper-nationalism and expanding state power. Through landmark judgments, the courts have repeatedly emphasized that democracy requires tolerance of criticism, dissent, and unpopular opinions. Constitutional safeguards such as judicial review, the doctrine of proportionality, and protection against vague laws remain essential for preserving democratic freedoms. However, the effectiveness of these safeguards depends upon consistent judicial courage and independence. In times when nationalism is increasingly used to silence dissent, the judiciary must continue to uphold constitutional morality and ensure that the promise of liberty under the Constitution remains meaningful for every citizen.

⁴² Hussain, N. (2025). Safeguarding Liberties: Judicial Review’s Role in Protecting Fundamental Rights. *Research Consortium Archive*, 3(4), 329-337.

7. Conclusion and Suggestions

Freedom of expression is the cornerstone of every democratic society because it enables citizens to think independently, question authority, express dissent, and participate meaningfully in governance. The Indian Constitution recognizes this importance by guaranteeing freedom of speech and expression under Article 19(1)(a). This right is not merely an individual liberty but a collective democratic necessity that ensures transparency, accountability, and intellectual progress. A democracy cannot flourish where citizens fear expressing opinions or criticizing those in power. In contemporary India, however, the rise of hyper-nationalism has created serious challenges for the effective enjoyment of this constitutional freedom.

Hyper-nationalism has transformed public discourse by promoting an aggressive form of patriotism that often equates criticism of the government with disloyalty towards the nation. The distinction between the nation and the ruling government is increasingly blurred, creating an atmosphere where dissenting voices are viewed with suspicion. Journalists, students, activists, artists, comedians, writers, and ordinary citizens frequently face hostility, online abuse, criminal proceedings, and public condemnation for expressing opinions that challenge dominant political narratives. Such developments weaken the democratic culture of dialogue, tolerance, and pluralism envisioned by the Constitution.

The enactment of Section 152 of the Bharatiya Nyaya Sanhita, 2023 has intensified concerns regarding freedom of expression in India. Although introduced as a replacement for the colonial sedition law under Section 124A of the Indian Penal Code, the provision continues to use broad and ambiguous language capable of wide interpretation. Terms such as “subversive activities,” “separatist activities,” and “endangering sovereignty, unity, and integrity” lack precise legal definitions. This creates a significant possibility of misuse against political dissent, criticism, protest movements, and online expression.

The historical experience of sedition law in India demonstrates the dangers of vague national security provisions. During colonial rule, sedition laws were used to suppress freedom fighters who criticized British rule. Even after independence, sedition laws continued to be invoked against journalists, activists, students, and political opponents. Although the judiciary attempted to limit misuse through decisions such as *Kedar Nath Singh v. State of Bihar*, concerns regarding arbitrary arrests and prolonged investigations persisted. The replacement of sedition with Section 152 BNS therefore raises important constitutional questions regarding whether India has genuinely moved beyond colonial methods of suppressing dissent.

The digital era has further complicated the relationship between free speech and nationalism. Social media platforms have democratized expression by allowing citizens to share opinions and participate in political debates. At the same time, digital spaces have become centers of polarization, misinformation, online harassment, and ideological extremism. Hyper-nationalist narratives spread rapidly across social media, often targeting dissenting voices through trolling, abuse, and public shaming. Citizens increasingly practice self-censorship due to fear of legal consequences, social backlash, or online intimidation. Such a chilling effect weakens democratic participation and restricts intellectual freedom.

The judiciary has emerged as one of the most important constitutional safeguards against arbitrary restrictions on speech. Landmark judgments such as *Romesh Thappar v. State of Madras*, *Kedar Nath Singh v. State of Bihar*, and *Shreya Singhal v. Union of India* reaffirmed that democracy depends upon open criticism, public debate, and tolerance of dissent. The courts consistently emphasized that only speech involving incitement to violence or public disorder can be legitimately restricted. Mere criticism of the government or advocacy of unpopular opinions remains protected under Article 19(1)(a). These judicial principles continue to serve as essential protections against authoritarian tendencies.

However, constitutional safeguards alone are insufficient unless they are effectively implemented and respected by all democratic institutions. Delays in judicial proceedings, arbitrary arrests, misuse of criminal provisions, and prolonged investigations continue to undermine the practical value of free speech protections. In many cases, the process itself becomes the punishment. Even if courts ultimately provide relief, individuals suffer financial, psychological, and social consequences due to prolonged legal battles. This reality discourages citizens from exercising their constitutional rights fearlessly.

In order to strengthen freedom of expression in India, several reforms and safeguards are necessary. Firstly, laws affecting speech and national security must be drafted with greater clarity and precision. Vague and ambiguous terminology should be avoided because it grants excessive discretionary powers to authorities. Legal provisions must clearly distinguish between genuine threats to national security and democratic criticism of government policies. Secondly, stricter procedural safeguards should be introduced before registering offences under laws relating to sovereignty, sedition, or anti-state activities. Prior judicial scrutiny or approval from senior constitutional authorities may help prevent arbitrary arrests and misuse of legal provisions. Such safeguards are essential to ensure that criminal law is not used as a political weapon against dissenters.

Thirdly, the judiciary must continue to interpret free speech protections broadly and

consistently uphold the principles established in *Kedar Nath Singh* and *Shreya Singhal*. Courts should ensure that peaceful criticism, satire, protest, academic discussion, and journalistic investigations are not criminalized merely because they offend political authorities or dominant public sentiments. Judicial independence and constitutional morality remain crucial for preserving democratic freedoms.

Fourthly, media institutions and digital platforms must promote responsible and balanced public discourse. Sensationalism, misinformation, and hate campaigns contribute significantly to ideological polarization and hostility towards dissent. Media ethics and digital literacy programs should encourage critical thinking, fact-checking, and respect for diverse viewpoints. Citizens must be educated about the difference between criticism of the government and anti-national activity.

Fifthly, educational institutions should actively promote constitutional values such as liberty, equality, secularism, tolerance, and pluralism. Universities and academic spaces must remain centers of intellectual freedom where students and scholars can debate ideas openly without fear of political retaliation. Democracy becomes stronger when citizens are encouraged to think critically rather than conform blindly to ideological narratives.

Lastly, society as a whole must recognize that dissent is not a threat to nationalism but an essential element of democratic patriotism. Genuine patriotism does not require silence or blind obedience. Instead, it involves active participation in improving society through criticism, reform, and accountability. A nation grows stronger when citizens are free to question injustice and demand better governance.

In conclusion, freedom of expression remains one of the most valuable constitutional safeguards in India's democratic framework. In the era of hyper-nationalism, protecting this freedom becomes even more important because aggressive nationalism often seeks to silence dissent and enforce ideological conformity. The challenge before India is not merely legal but deeply constitutional and democratic: whether nationalism will coexist with liberty or overpower it. The future of Indian democracy depends upon preserving the delicate balance between national security and individual freedom. A truly strong nation is not one where citizens fear speaking, but one where they can express opinions, criticize authority, and participate fearlessly in shaping the future of their democracy.