

# Freedom of Speech and Expression: A Comparative Analyses of USA and INDIA

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## Abstract

The majority of people in today's world believe that democracy is the ideal form of government and that the degree to which a sovereign nation's citizens are able to exercise their rights determines the status of that nation's democracy. Both India and the USA have proven to be among the largest democracies in the world. Both countries have adopted right-based jurisprudence, with India emphasizing the state is responsible to maintain and promoting to justice as a welfare state and the USA mainly focusing on securing rights of its citizens. Whereas, India's focused on ensuring to individual freedoms of its citizens social justice. In both India and the USA, the fundamental rights freedom of expression has received in their Constitutions. However, the extent of these rights as they are governed by the separate governments and decided by the respective judiciaries. In both of these countries this right is not absolute. The boundaries between citizens' freedom to express their emotions and their liability if they do so outside of those boundaries vary in both. These differences as well as the factors that influence them in both of these countries is important to understand. After overall examining the status of this right in both nations, it has been observed that the expansion of this right for citizens in India is much wider than that of the citizen of the USA.

**Keywords:** Democracy, Fundamental right, Freedom of Expression, Citizen, Individual rights, Social Justice, Constitution.

## Introduction:

“The phrase Freedom of Speech and expression” means to the ability to freely express one's opinions through their words, gestures, posture, any visual representation, any written, painting publishing document on social media, or any other mean of communication. Therefore, it is possible to say that the right to freedom of speech and expression mean to the ability to express one's own self-generated opinions and ideas etc. Since the right to communicate one's, thoughts would be useless without the freedom to think, freedom of speech and expression must also entail the freedom of thinking and conscience. “Expression” is a term including a sufficient range”, according to Meera Mathew “Expression” is a term that includes a suitable range of movements, words, or signs, according to Meera Mathew. In general, it may be argued that expression is a form of communication that consistently transmits thoughts, feelings, and ideas to any living thing, regardless of who the receptor is”.<sup>1</sup> The historian Bury wrote that freedom of speech and expression is a “supreme condition of mental and moral progress” of any citizen in his book History of Freedom of Thought.<sup>2</sup> The first freedom is sometimes referred to as the freedom of speech.<sup>3</sup> Free speech is based on the preservation of democracy, but society also has a right to democratically

control freedom of expression. The practice of liberty is constrained by the duty and responsibility that go along with freedom of speech and expression. The State has a right to control the aforementioned freedom by imposing restrictions on it. While this freedom has been guaranteed to every person, it is also everyone's responsibility to respect the rights of others to their own freedom. The following analysis can be used to examine how various international treaties have defined the idea of freedom of speech: According to Article 19 of the Universal Declaration of Human Rights (UDHR), as a human being everyone has the right to freedom of expression.<sup>4</sup> Article 19 of the International Covenant on Civil and Political Rights (ICCPR) established minimum restrictions on everyone's freedom of expression and the right to freedom of opinion, while also stating that these rights come with special responsibilities and may be subject to limitations if such limitations are enforceable by law and are required to protect other people's rights, national security, or other important interests.<sup>5</sup>

Everyone has the right to freedom of expression, according to Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, whose scope was similarly outlined in the ICCPR.<sup>6</sup> United States of America has a free speech and expression tradition. The federal republic known as the United States of America (USA) had 50 states. This section will examine the key federal law provisions, paying particular attention to how the USA attempts to defend its citizens' right to free speech and expression. The United States of America's Constitution was the first to recognize freedom of speech and expression in its contemporary form. One of the world's oldest constitutions, the United States' Constitution took effect on March 4, 1789. The US Constitution's first version only contained seven articles, and it did not deem the right to free speech and expression to be a fundamental right.

On December 15, 1791, the First Amendment to the United States Constitution was ratified, including it into the Bill of Rights. The rights and liberties of American citizens are protected by the Bill of Rights.<sup>7</sup> Ten amendments to the Bill of Rights defined a person's rights in relation to their government. The government does not have the authority to legally restrict any of the rights guaranteed by these 10<sup>th</sup> amendments, collectively, known as the Bill of Rights, including the right to freedom of speech.<sup>8</sup> The term "free speech" has been broadly defined by the USA Supreme Court, who has expanded its definition. The First Amendment of the United States Constitution protects a variety of speech forms, and the courts have defined these protections in words. Which are: Interpretation of Protected Speech by the Judiciary Protected speech refers to speeches that are covered by the First Amendment of the USA Constitution. Speeches that have important principles, opinions, or expressions that advance political, economic, or social justice are considered protected speech. Every person has the right under the First Amendment to engage in free speech, which includes publicly expressing their opinions without interference, pre-censorship, or other restrictions.

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case *Ward v. Rock Against Racism*, it is held by the court that a restriction on the 1<sup>st</sup> Amendment must pass 3 main requirements in order to stand that is:

1. The Court must consider whether a piece of law is content-based or content-neutral in order to evaluate its legality. Regulations that are based on content put limitations on free speech and expression, hence they must not be content-based. The Supreme Court will probably invalidate laws that make distinctions based on what is said or expressed. The rule must be devoid of any explicit content.

2. It must be specifically crafted to advance an important governmental objective.

3. It must keep plenty of other options available for delivering the speaker's point.<sup>9</sup> Press freedom The First Amendment protects the freedom to communicate ideas and information, to receive information, and to publish any kind of material. The courts have been debating whether press freedom differs from free speech since the beginning of time.<sup>10</sup> USA Supreme Court Justice Potter Stewart has stated that there is difference between freedom of the press and the freedom of speech. Justice Stewart had noticed mandates that the press act with compassion in order to fulfil its mission. But the court noted in the case of *Houchins v. KQED*<sup>11</sup> that "the First Amendment has expressed the terms Freedom of Speech and Freedom of the Press separately which cannot be a constitutional accident, but an acknowledgment of the critical role played by the press in American society. The Constitution mandates that the press act with compassion in order to fulfil its object. But in *First National Bank of Boston v. Bellotti*, the court noted that if the court and the government give the freedom of the press special protection, then it will be their responsibility to define "what is press" and "what kinds of actions can fall under the press freedom." There is no obligation to distinguish between these two terms, because free speech assures press freedom.<sup>12</sup> Symbolic Language Until and unless these forms of speech intimidate other people, symbolic speech is equally protected by the First Amendment. The symbolic speech takes the shape of art, music, dance, and painting to communicate nonverbal, non-writing forms of thoughts and beliefs.<sup>167</sup> The First Amendment would be broken if the government passed any legislation restricting symbolic communication. The government and companies in the 1990s backfired on one music rap group when the court ruled that their single album, "Nasty as they want to be," was indecent and the band members were detained after playing a song from the record.

<sup>168</sup> The song's lyrics used the term "bitch" to refer to women. The band was found guilty by the lower court, and during the appeal, the band's attorney argued that the music was also an exercise in the right to free speech because it "reflects exaggeration, parody, and humour" These words, as offensive as some may find them to be, have artistic value when you understand them, when you have them, in effect, decoded, the attorney added.<sup>169</sup> The Court overturned the Lower Court's judgment on appeal. Another instance was <sup>170</sup> kids from a school who organized a silent demonstration against the Vietnam War by donning black armbands.

When the principal learned about the situation, he informed the student body that anyone who showed their opposition to the Vietnam War by donning a black armband would face suspension. Some students were consequently expelled from the school. According to the Supreme Court, the students' suspensions were in violation of their First Amendment rights since the armbands were "pure speech" and conveyed that. Another instance where the First Amendment was found to protect symbolic expression as protected speech is when a demonstrator burned an American flag to show his opposition to the Reagan Administration. The Lower Court found the demonstrator guilty. The Supreme Court overturned the lower court's ruling and declared that disrespecting the flag in the name of political protest was Unprotected

Speech<sup>13</sup>. Giving people the freedom to employ various kinds of communicable modes is regarded as granting them freedom of speech because, as was mentioned before, visible representations like pictures, gestures, and others can also be thought of as forms of speech. The judiciary in America distinguished between two categories of speech: protected speech and unprotected speech. The First Amendment of the American Constitution was used to protect the speech in the situations mentioned above, among others. According to the First Amendment of the USA Constitution, pornography is not protected. According to the dictionary, obscenity is “an act, utterance, or item tending to corrupt the public morals by its indecency or lewdness.”<sup>14</sup> By the definition, it can be termed as prurient or sexual interest. The term obscenity can be divided into three kinds, via- obscene speech, pornography, and child pornography.<sup>174</sup> Although, all communication that represents indecency is not considered obscene.

In the landmark case *Miller v. California*,<sup>175</sup> the Court developed three kinds of tests which determined the obscenity which is also known as the Obscenity or Miller test.

The three tests are:

1. The material must appeal to the prurient interest;
2. The material must depict or describe sexual conduct in a deliberate offensive manner in the community which is specially defined by the applicable state law and
3. some exceptions do not fall under obscene materials, for instance, a statue of a naked man, biological symbol of the human body, etc. It can be claimed that the content, when regarded as a whole, is not deemed offensive and has literary, aesthetic, political, or scientific worth.

For the purpose of determining the obscenity of the item, all three of these tests must be taken into account.<sup>15</sup>

**Defamation** Any speech or remark that harms a man's reputation is considered defamation. It could involve making a false claim about someone else or making a comment that hurts that person's reputation. Defamation is not considered a crime in the United States but rather a tort. According to the USA Constitution's First Amendment, defamatory speech is not protected.<sup>16</sup> A key ruling issued by the USA Supreme Court in *New York Times Co. v. Sullivan*<sup>17</sup> stated that news publications. Only if the plaintiff satisfies the actual malice criterion for the dissemination of the false information may the news source be held accountable. Newspapers now have more latitude to report news of general interest as a result of this ruling. One must satisfy the Substantial Truth Doctrine test in order to defend themselves against defamation claims. A person can be shielded from liability if they make a defamatory remark that is published or publicly expressed and is supported by the substantial truth doctrine. According to this idea, if someone can prove that a proposition is true, it cannot be considered disagreeable. In the instance of *Lathan v. Journalco*,<sup>18</sup> the court determined that where defamation is intended to protect a publisher or person, a statement's modest inaccuracies of wording do not render the alleged libel false.<sup>19</sup>

**Provocation** It is a speech that allows one to engage in dishonest or illegal behaviour. The First Amendment of the US Constitution does not protect the inciting as speech. Justice Wendell Holmes Jr. created the clear and present danger test in *Schenk v. the United States*<sup>20</sup>. The test will be applied in this situation if the nature of the person's comment indicates a threat to the public order. The Supreme Court ruled in this case that the First Amendment does not guarantee the protection of speech that urges men to oppose induction.<sup>21</sup> According to the Court, "speech is not protected when it is used in such circumstances and of a nature that creates a clear and present danger that they will bring about substantive evils that the government has a right to prevent."<sup>22</sup>

**Business Speech** Commercial speeches are ones that are used to market and sell things. Commercial speech is partially protected by the First Amendment, but not in the same way that non-

commercial speech is. Commercial speech that is real, free of harmful or illegal content, and not typically untrue or misleading is protected by the First Amendment.<sup>23</sup> In *44 Liquormart, Inc. and Peoples Super Liquor Stores, Inc., Petitioners v. Rhode Island and Rhode Island Liquor Stores Association*,<sup>24</sup> the Rhode Island government passed two laws that prohibited the seller and media from advertising the alcohol in any store aside from those that sold it on the island. Later, a Liquormart filed a lawsuit challenging the law, claiming that it infringed their First Amendment rights and was unconstitutional.

The Court ruled that it does not infringe upon the people's First Amendment rights. Following this case, the Rhode Island Liquor Stores Association attempted to promote the costs of alcohol purchased outside of the State by publishing in the newspaper, and as a result, it launched a lawsuit against the Court, challenging the two restrictions.

The Lower Court determined that because it will significantly increase consumption, restricting advertisements is permissible under the First Amendment. The Supreme Court overturned the Lower Court's judgment and declared that the government's laws constituted a "blanket ban" on advertising, which was protected by the First Amendment. The Court ruled that unless an advertisement is deceptive or illegal, it would be incorrect to conclude that it is not protected by the First Amendment.

By limiting the protection for commercial speech, the Supreme Court ruled that it might be limited in some instances but not in its entirety.<sup>25</sup> As a result, even though the First Amendment did not specifically grant these other rights, their reach has been greatly expanded due to judicial interpretation and the introduction of several new rights. The judiciary has declared certain rights to be protected, including the right to publicity, the right to receive information and ideas, the freedom to respond and to reply, the right to criticism, and access to the press. The Judiciary has, however, also designated several types of expression as being unprotected because of their potential to endanger the values that are thought to be crucial to be safeguarded for the current human civilization. The American judiciary's division of speech into several categories also emphasizes the amount of its influence over how a constitutional clause is interpreted in the United States. Laws in the United States that Protect Free Speech In the United States of America, various laws that were passed to specify how the right to free speech shall be safeguarded are now in effect. In this part, a few of these laws will be examined to see how much of that freedom is safeguarded. The 1967 Freedom of Information Act on July 4th, 1967, the Freedom of Information Act (FOIA), a federal statute, went into effect. The Act granted citizens the right to request free access to all documents held by any federal agency, with the exception of those that are exempt from disclosure under one of the nine statutory exemptions or one of three unique law enforcement records exclusions. Congress and the courts are exempt from this Act's application, but it will still apply to federal agencies. Since its passage, this Act has undergone a number of revisions, the two most significant of which took place in 1974 and 1996.<sup>26</sup> The 1974 Privacy Act This law was passed in order to preserve the appropriate balance between recording individual data and providing the government with the personal information it needs. This Act establishes a code of fair information practices that regulates the gathering, storage, use, and dissemination of personal data about persons by federal agencies that is kept in systems of records.<sup>27</sup>

**India Fights for Freedom of Speech and Expression:** The first Indian document to emphasize freedom of speech and expression was the Constitution of India Bill of 1895, which stated that every citizen had the right to freely express his or her opinions in writing or verbally and to publish those opinions in print without fear of retaliation. However, those who abuse this right will be held accountable in the situations and ways that the Parliament will specify.<sup>28</sup> The discussion on the Indian Constitution lasted from

December 9 to January 24, 1950. All of the issues covered by the Indian Constitution were discussed in this Constituent Assembly. The Assembly engaged in a lengthy discussion on freedom of speech. The right to freedom of speech and expression was mentioned in Article 13 of the Draft Constitution. According to Article 13, citizens are guaranteed the following freedoms, subject to public order or morality: (a) freedom of speech and expression; (b) freedom of the press; (c) freedom to form associations or unions; etc.<sup>29</sup> ” It was also suggested that Article 13(1)(a) mention freedom of press and publication in addition to freedom of speech and expression.<sup>30</sup> Article 13(2) to (6), the limits section, should be removed from the draft constitution, according to M.V. Kamath's recommendation. Some members, however, backed the restriction clause and made the case that since freedom of speech is not a universal right, it will be necessary to impose limitations under the Constitution once India's government is freed from British Imperial Rule. The limitations were ultimately agreed to be maintained. Freedom of the press, which was a crucial component of both freedom of speech and freedom of the press in the Indian Constitution, was inherent in the 1950 amendments. Additionally, the Preamble of the Indian Constitution, which was adopted by the Constituent Assembly and adapted from Pt. Jawaharlal Nehru's "Objective Resolution," also included provisions for guaranteeing "liberty of thought, expression, belief, faith, and worship"<sup>31</sup> to all citizens. This Preamble clause emphasized the rights that the Indian Constitution guarantees to all of its citizens as well as the significance that these rights have in India. After that, the 1951 amendment to the First Amendment of the Constitution placed the phrase "reasonable" before the word "restriction" and added the words "public order" and "friendly relations with foreign states" to the list of grounds for limitation. The sixteenth Amendment to the United States Constitution was ratified in 1963. Thus, we can state that if any preexisting law existed prior to the establishment of the Constitution, it shall continue to be in effect subject to the conditions set forth in any amendments, and the state shall have the right to enact any law necessary to preserve its security, to forbid unrestrained malicious propaganda against friendly relations with other states, to uphold public peace, to maintain morality and decency, and to safeguard the reputation of the Court from wilful disobedience. The goal of freedom of speech and expression is to aid people in realizing their potential, to aid in the pursuit of truth, to increase people's capacity for decision-making, and to offer a mechanism through which it would be possible to strike a reasonable balance between social change and stability.<sup>32</sup>

Thus, it can be concluded that the right to free speech and expression in a democracy like India is essential for the welfare of society in order to critique the actions of the government. The protection and preservation of the freedom of speech and expression for involvement in public affairs is vital to enhance democracy. Freedom of speech and expression must be unrestricted and cannot be absolute. In order to prevent abuse of this privilege, freedom of speech and expression must be exercised responsibly. Absolute freedom of speech allows individuals to abuse their rights, jeopardize national peace, and incite violence. As a result, limiting people's ultimate freedom of speech and expression is important. Indian Judicial Interpretations of Freedom of Expression Every person of India has the right to use their freedom of speech and expression, subject to certain restrictions outlined in Article 19 1a of the Indian Constitution. Freedom of Speech and Expression refers to the ability to state one's own beliefs and viewpoints openly and without restraint through spoken word, written or printed expression, promotion through the publication of articles, etc.<sup>33</sup> Press freedom The press is regarded as the fourth pillar of democracy. In the same way as the executive, legislative, and judicial branches of government maintain a check and balance and help shape democracy, the press also helps to shape democracy by maintaining transparency in these three branches. A nation's press is a crucial tool for bringing about social, political, and economic change. A democratic

nation must, therefore, have a free press and press, which is a sine qua non. The ability to print, publish, and speak freely in order to disseminate information or knowledge related to the advancement of national interest is a key component of press freedom. To openly critique how the government operates, the press must be independent. Therefore, the government should keep its meddling in the freedom to spread ideas through the press, publications, articulation, and communication to a minimum.<sup>34</sup> There is no need to mention the word "freedom of the press" expressly because it is an implicit term that was proposed by Dr. B.R. Ambedkar in the Constituent Assembly and is simply another name for freedom of speech and expression. In the Constituent Assembly Debate, Dr. Bhimrao Ambedkar presented his opinions on the press, stating that press managers, editors, and publishers are individuals who are expressing their First Amendment rights by publishing articles.<sup>35</sup> Press freedom applies to all forms of media, including print (newspapers, magazines, journals, reports, etc.), audio (radio, podcasts, etc.), video (news channels, YouTube), and other forms of social media.<sup>36</sup> Free speech for businesses Commercial speech is defined as any speech used to promote a product through print, online, or other media. It is a manifestation of interests in social, political, and economic realms. A commercial advertisement is not protected by the Constitution's Article 19(1)(a). However, the court ruled in *Hamdard Dwakhana v. Union of India*<sup>37</sup> that commercial advertisements do not fall under the umbrella of free speech and expression. Right to Broadcast According to Article 19(1)(a) of the Constitution, broadcasting is a basic right. Every citizen is entitled to express their ideas and thoughts on television, radio, in newspapers, etc. The Court expanded the definition of freedom of speech and expression in the case of *Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal*<sup>38</sup> and decided that the right to broadcast or telecast the games was included in that definition. freedom of information The Supreme Court expanded the right to free speech and expression on the condition that Article 19(1)(a) of the Constitution protects the right to information that fosters transparency in public affairs. The Right to Information Act of 2005 was passed in order to uphold the accountability or transparency and the participatory nature of the decision-making process. People have a right to know and to access information about the operations of the government. Valid criticism In *Life Insurance Corporation of India v. Manubhai D. Shah*,<sup>39</sup> the Supreme Court decided that it is a basic right to express one's disagreement with a position. The freedom of speech and expression provided by Article 19(1)(a) of the Indian Constitution includes the right to reply, which is the right to have one's response published in the same publication as something was published before against the view of citizens. In addition to these, the judiciary has recognized other types of freedom of speech, including the right to expression across international borders, the right to intellectual property, the right to silence, and freedom of online speech, which is recognized by the Indian Constitution in the same way as traditional freedom of speech. This was demonstrated in the case of *Shreya Singhal v. Union of India*<sup>40</sup>, in which the Supreme Court of India highlighted both traditional and online freedom of speech. The discussion above demonstrates how broadly the definition of "freedom of speech" has been expanded in order to permit all forms of public expression, including the dissemination of information. Such freedom in India now includes, Right to Know, Right to Conscience, Right to Criticize, right to remain Silent, Freedom of Press, etc. which indicates that due to the demand for democracy and Rule of Law, the Judiciary has always been extending the meaning of Freedom of Speech. However, these rights are not absolute in nature that subject to some restriction that is provided for the government and those Reasonable Restrictions on Freedom of Speech and Expression are provided under Article 19 (2) of the Constitution of India.

These are:

1. Sovereignty and integrity of India
2. Security of the state
3. Friendly relations with foreign states
4. Public order
5. Decency or morality
6. Contempt of Court
7. Defamation
8. Incitement to an offense.

In the case of *Kaushal Kishor v. State of Uttar Pradesh*,<sup>41</sup> decided on January 3, 2023, a majority of 4-Judges of the Constitution Bench held that the restrictions under Article 19(2) protect individuals and sections of society, prevent contempt of Court, and protect the security of the country. As these restrictions cover all necessary aspects, any restrictions beyond these are unconstitutional. They referred to some notable cases to reach this conclusion:

1. *Express Newspapers (Private) Ltd. v The Union of India* (1958) – Any restriction outside Article 19(2) would be struck down.
2. *Secretary, Ministry of Information & Broadcasting, Govt. of India v Cricket Association of Bengal* (1995) – Restrictions on free speech can only be imposed on the basis of Article 19(2).
3. *Ramila Maidan Incident v Home Secretary, Union of India* (2012) – Restriction on fundamental rights should be reasonable and must be related to Article 19(2).

The Bench further examined whether the exercise of one's fundamental right to liberty can impose additional restrictions on another's right to speech and expression.

They referred to *Life Insurance Corporation of India v. Prof. Manubhai D. Shah* (1992) where it was held "A citizen who exercises this right must remain conscious that his fellow citizen too has a similar right. Therefore, the right must be so exercised as not to come in direct conflict with the right of another citizen."

In *R. Rajagopal v. State of Tamil Nadu* (1994) the Court favoured the right to privacy (a facet of the right to liberty) over the right to freedom of expression of another person. This means that one cannot exceed their right to speech to such an extent that one's privacy or liberty is violated. There is a need for balance and 'mutual respect' between the fundamental rights of individuals.

However, this Constitution bench ultimately concluded that one cannot invoke other fundamental rights or impose additional restrictions other than Article 19(2) on the right to speech of another.

Following points raised towards the supreme court:

1. Are the grounds specified in Article 19(2) in relation to which reasonable restrictions on the right to free speech can be imposed by law, exhaustive, or can restrictions on the right to free speech be imposed on grounds not found in Article 19(2) by invoking other fundamental rights?

The grounds lined up in Article 19(2) for restricting the right to free speech are exhaustive. Under the guise of invoking other fundamental rights or under the guise of two fundamental rights staking a competing claim against each other, additional restrictions not found in Article 19(2), cannot be imposed on the exercise of the right conferred by Article 19(1)(a) upon any individual.

2. Can a fundamental right under Article 19 or 21 of the Constitution of India be claimed other than against the 'State' or its instrumentalities?



A fundamental right under Article 19/21 can be enforced even against persons other than the State or its instrumentalities.

3. Can a statement made by a Minister, traceable to any affairs of State or for protecting the Government, be attributed vicariously to the Government itself, especially in view of the principle of Collective Responsibility?

A statement made by a Minister even if traceable to any affairs of the State or for protecting the Government, cannot be attributed vicariously to the Government by invoking the principle of collective responsibility.

4. Whether a statement by a Minister, inconsistent with the rights of a citizen under Part Three of the Constitution, constitutes a violation of such constitutional rights and is actionable as ‘Constitutional Tort’  
A mere statement made by a Minister, inconsistent with the rights of a citizen under Part III of the Constitution, may not constitute a violation of the constitutional rights and become actionable as Constitutional tort. But if as a consequence of such a statement, any act of omission or commission is done by the officers resulting in harm or loss to a person/citizen, then the same may be actionable as a constitutional tort.

**Conclusion:** Thus, it is evident from the foregoing that both the USA and India regard the freedom of speech and expression as the most important citizen right, however India's understanding of the right to free speech differs significantly from that of the USA. India's judiciary gave the concept of freedom of speech and expression a broad definition. Both the USA and India view these rights as not being absolute freedoms for their citizens, and while both nations have put limitations on fundamental rights, India's limitations on these freedoms are more stringent than those in the USA. Even if the freedom of speech is recognized as a fundamental right in India, it must also be noted that the judiciary has used more power to restrict it than the country's population have. The Judiciary is once again responsible for determining the extent of such a right, and at the same time, it also appears to be responsible for determining the legality of any restrictions. It also appears that the judiciary in India has the final say on how far a citizen may exercise his or her fundamental right to freedom of speech and expression, but in the United States, the executive branch has that power. However, it might be stated that England felt the first civil right for a citizen when it made the Magna Carta in 1215. The concept of civil rights for their citizens originated with the Magna Carta of England, despite the fact that it only gave limited rights to the citizenry.

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