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Freedom of Press and Legal Restrictions

Pragya Mehta

Where the Constitution Draws the Line

India's constitutional promise of free speech is real. The harder question is how far the state may go before a “reasonable restriction” turns into a quiet form of censorship. In 2026 that question sits inside a sharp factual frame: India ranked 157th out of 180 countries in RSF's World Press Freedom Index, in the “very serious” category¹ a sign that the problem isn't the absence of legal protection, but the way legal power gets used in practice. The claim running through this piece is simple: most restrictions on the Indian press start from a legitimate state interest, and the law still ends up travelling far beyond what that interest actually requires.

Freedom of the press isn't named separately in the Constitution. What's there is Article 19(1)(a), the right to freedom of speech and expression, and the Supreme Court read press freedom into that phrase early on². In *Romesh Thappar v. State of Madras*, the Court treated a free press as foundational to democracy, not an optional privilege of journalists.³ That protection was never absolute Article 19(2) permits “reasonable restrictions” on eight grounds, among them sovereignty and integrity, security of the state, public order, defamation, contempt of court, and incitement to an offence. What matters isn't whether these grounds exist. It's whether a given restriction stays tightly connected to the harm it claims to prevent.

¹Reporters Without Borders, 2026 World Press Freedom Index (Apr. 30, 2026), <https://rsf.org/en/index>.

²INDIA CONST. art. 19, cl. 1(a); id. cl. 2.

³*Romesh Thappar v. State of Madras*, AIR 1950 SC 124.

As the sections below show, Indian law keeps failing that test not because the eight grounds are illegitimate, but because the drafting and enforcement built around them rarely stay inside the boundary the Constitution actually draws.

Sedition by Another Name

Sedition is the clearest case of a legitimate interest translated into overbroad enforcement. Section 124A of the Indian Penal Code criminalised bringing the government into “hatred or contempt” or exciting “disaffection.” In *Kedar Nath Singh v. State of Bihar*, the Supreme Court narrowed the law considerably, holding that criticism of the government isn't sedition unless it incites violence or public disorder.⁴ That narrowing was elegant in doctrine and weak in practice for decades, sedition complaints were filed against journalists, students, and activists long before any court got the chance to test whether the speech actually crossed the line.

The story didn't end with the IPC's repeal. In 2023 the Bharatiya Nyaya Sanhita replaced the old code and dropped the word “sedition” entirely but Section 152 introduced a new offence covering acts that endanger India's sovereignty, unity, and integrity, including secession, armed rebellion, and “subversive activities.”⁵ The state's underlying interest here is real: India shouldn't be legally defenceless against genuine incitement to armed rebellion. The problem is that the new language is still broad enough to sweep in speech that's abrasive, political, or inconvenient, without it being violent or imminent in any real sense.

The Supreme Court's 2025 notice on the constitutional challenge to Section 152 shows the issue is live, not settled.⁶ And its 2026 clarification in *Kamran v. State of Madhya Pradesh* that lower courts may proceed with pending Section 124A matters if the accused consents makes one thing clear: sedition changed form, but it never stopped shaping the legal climate around speech.⁷ The practical chill sits inside that uncertainty. A journalist deciding whether to run a hard-edged investigation doesn't need an actual conviction to feel constrained; the threat of a

⁴Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955.

⁵Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, S. 152 (India).

⁶Supreme Court Issues Notice on Plea Challenging Constitutionality of BNS Section 152, THE WIRE (Aug. 2025).

⁷Kamran v. State of Madhya Pradesh, Supreme Court of India (May 2026) (clarifying the scope of the Court's 2022 order suspending sedition prosecutions).

police case, a long trial, or a statutory label that equates criticism with subversion is often enough on its own.

Defamation and the Arrest-First Problem

Defamation rests on a legitimate intuition: speech shouldn't be free to destroy someone's reputation through falsehoods. The Supreme Court upheld criminal defamation in *Subramanian Swamy v. Union of India*, reasoning that reputation is part of dignity under Article 21 and can justify limits on speech.⁸ That doctrine survives in Section 356 of the BNS, which largely carries forward the older IPC framework.⁹

The trouble isn't that defamation law exists; it's how the criminal version gets used against reporting that plainly serves the public interest. Asking whether a public officer responded to a fatal incident isn't the same thing as inventing a story yet criminal process can still be triggered first, with the burden of proving the exception shifting to later. In March 2025, the Uttarakhand High Court intervened in the case of journalist Sudhanshu Thapliyal after police acted on a Facebook post¹⁰, a clean illustration of how fast criminal defamation can move from theory to coercive pressure even where the underlying speech looks like ordinary accountability reporting. A legal system can say it protects good-faith criticism all it wants; if the first response is arrest, the exception arrives too late to matter.

NewsClick: When Journalism Meets a Terror Law

A more serious example is NewsClick. In 2023, founder and editor Prabir Purkayastha was arrested under the UAPA a terror law in a case widely treated as a press-freedom flashpoint. The Supreme Court later set aside the arrest and remand, holding that the grounds of arrest hadn't been properly communicated in writing, and that this defect invalidated the custody.¹¹ That ruling does two things at once: it shows speech-related cases can be escalated into severe

⁸Subramanian Swamy v. Union of India, (2016) 7 SCC 221.

⁹Bharatiya Nyaya Sanhita, 2023, S. 356 (India).

¹⁰Uttarakhand High Court order in the matter of journalist Sudhanshu Thapliyal (Mar. 2025), as reported in MediaNama.

¹¹Prabir Purkayastha v. State (NCT of Delhi), 2024 INSC 414, Criminal Appeal No. 2577 of 2024 (May 15, 2024).

criminal process through statutes with nothing to do with press law, and it shows the Court can still correct that abuse once procedure is ignored.

NewsClick doesn't fit neatly into sedition, defamation, or IT Rules it sits between doctrine and practice in a way none of the other examples here quite do. It demonstrates something broader: when the state feels politically threatened by journalism, it can reach for the harshest instrument available, even where the underlying conduct is reporting rather than violence. Which is exactly why the real constitutional question isn't only what the law says. It's how easily the machinery of arrest, remand, and prolonged custody can be turned on a newsroom in the first place.

Digital Speech: One Restriction That Lost

The digital sphere shows both the state's instinct to regulate and the judiciary's capacity to stop it. In *Shreya Singhal v. Union of India*, the Supreme Court struck down Section 66A of the IT Act for being vague and overbroad, particularly because words like “offensive” and “menacing” invited subjective enforcement¹² one of the strongest statements in Indian free-speech law that online speech isn't second-class speech.

The government's next attempt was more targeted: an IT Rules amendment creating a Fact Check Unit empowered to label government-related content as false or misleading and trigger takedowns. The Bombay High Court struck it down in the *Kunal Kamra* litigation, holding the scheme unconstitutional.¹³ The reasoning matters more than the outcome: fighting misinformation is a legitimate concern, but a system where the government judges the truth of speech about itself fails a basic test of institutional neutrality before free-speech analysis even starts.

Two Comedians, Two Different Problems

The same *India's Got Latent* controversy produced two separate legal threads worth telling apart, because they pull in opposite directions.

The first looks, on its face, like a restriction working as intended. When remarks made on the show first reached the Supreme Court, the Court didn't treat free speech as a shield for obscenity

¹²*Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

¹³*Kunal Kamra v. Union of India*, Writ Petition (L) No. 9792 of 2023 (Bom. H.C., Sept. 20, 2024).

it called the comments “disgusting” and “filthy”¹⁴ while still declining to authorise arrest, choosing supervision over custody. Genuine disapproval paired with restraint from criminal coercion is close to what Article 19(2)'s decency ground is actually meant to produce.

It's worth being precise about *why* it worked, though. The restraint came from these particular judges, in this particular case, with national attention on the outcome not from any rule that guaranteed it. Nothing in the governing law required the Court to stop short of arrest; in less visible cases, without a well-known defendant or press attention, it often doesn't stop there. A system that depends on individual judicial temperament to reach a proportionate outcome is not the same as a system built to produce one, and that gap matters more than this one good outcome suggests.

The second thread, arising from the same litigation but developing on its own, is a different story. In July 2026, the Supreme Court imposed costs of ₹3 lakh each on comedian Samay Raina and four others for failing to honour undertakings they'd given the Court around disability-awareness measures; CJI Surya Kant said Raina had “taken the court for a ride.”¹⁵ That isn't a press-freedom case and shouldn't be read as one but it belongs here because it shows a different institutional concern: courts moving from deciding rights to actively managing remedial conduct, which raises its own question about whether that kind of supervision stays bounded or drifts into an open-ended compliance regime.

Not Just an Indian Problem

India isn't unusual in caring about reputation, public order, or national security. What sets it apart is the breadth of some of its tools and its continued reliance on criminal sanctions where many democracies have shifted toward narrower, civil, or rights-protective frameworks. In the United States, defamation is generally a civil matter under strong First Amendment protection, and criminal libel survives on the books in only a minority of states, rarely enforced.¹⁶ That

¹⁴Supreme Court of India, oral observations in proceedings arising from the India's Got Latent controversy (Feb. 2025), as reported in national press.

¹⁵Supreme Court of India, order imposing costs on Samay Raina and four others (July 14, 2026), as reported in national press.

¹⁶New York Times Co. v. Sullivan, 376 U.S. 254 (1964).

model carries its own cost: the “actual malice” standard makes it genuinely hard for even a legitimately defamed public figure to win a case¹⁷ an imbalance running the opposite direction.

That imbalance is real, and it's a fair criticism of the American model. It doesn't erase the underlying point, though. Most mature democracies moved away from criminal sanctions for speech about public affairs precisely because a civil remedy can still compensate a defamed person without handing the state a tool that chills reporting before any court even examines whether the claim has merit. India's continued reliance on criminal process through provisions as broad as Section 152 and Section 356 remains an outlier worth defending on its own terms. Another system's flaws don't make that outlier acceptable by comparison.

Beyond the Statute Book

A complete account of press freedom in India can't stop at the black-letter law. Financial dependence on government advertising, ownership concentrated among a few large corporate groups, and the risk of physical violence all shape editorial freedom even when no statute is ever invoked. The pattern is concrete enough to name. Gautam Adani's hostile takeover of NDTV once one of the last major broadcasters to consistently criticise the government put nearly 65% of the network under a politically aligned billionaire by the end of 2022¹⁸, and reporters resigned in waves afterward. Sixteen months later, Reliance's ₹70,000-crore JioStar merger placed over 100 television channels under the country's other dominant business-political nexus.¹⁹ RSF's own ownership survey found that most leading Indian outlets are controlled by people with political ties²⁰, and the watchdog specifically named ownership concentration and legal pressure as factors behind India's 2026 ranking decline.²¹

The same asymmetry shows up in how investigative machinery gets used against critics. Days after the BBC aired a documentary on Modi's role in the 2002 Gujarat riots a film the government had already blocked from airing in India income tax officials raided its Delhi and

¹⁷American Civil Liberties Union, statement on state criminal defamation laws (noting such laws remain on the books in approximately fourteen U.S. states, rarely enforced).

¹⁸Reporters Without Borders, NDTV Takeover Signals End of Pluralism in India's Leading Media (2022), <https://rsf.org/en/ndtv-takeover-signals-end-pluralism-india-s-leading-media>.

¹⁹Reuters, coverage of the Reliance–Disney Star "JioStar" merger (Nov. 2024).

²⁰Reporters Without Borders, 2019 survey of Indian media ownership.

Mumbai offices for three days.²² Independent outlet Newslaundry was surveyed twice after critical government coverage, and a subsequent tax-evasion case against its founder was later thrown out by a Delhi court.²³ Neither episode needed any of the speech statutes discussed above — both used ordinary tax-enforcement powers instead. None of it required a single overbroad law. It only required concentrated ownership and selectively enthusiastic tax officers. The murder of freelancer Mukesh Chandrakar in January 2025, after he reported on irregularities in a road project in Chhattisgarh²⁴, is a starker reminder still that the gravest threat to press freedom is sometimes retaliation against scrutiny itself — not a legal penalty at all.

Why the Law Keeps Overreaching

The pattern isn't hard to see once you look for it. The state almost always starts with a real concern — security, reputation, misinformation — and then, somewhere in the drafting or the enforcement, reaches for more than that concern actually needs. The result is a regime that punishes speech before any court gets the chance to separate genuine harm from ordinary democratic criticism. Vague drafting is why this keeps happening: a law doesn't have to be openly tyrannical to chill speech. It just has to leave people unsure what a prosecutor, a police officer, or a regulator might decide to do with it.

That uncertainty is really a design problem, not an enforcement accident. Push a law's boundary far enough out and the burden shifts onto speakers to guess where it actually sits. Journalists, editors, and small digital publishers are the ones least equipped to absorb that guesswork — which means the cost of vague drafting doesn't fall evenly. It falls hardest on exactly the speech Article 19(1)(a) exists to protect.

What Should Actually Change

None of this calls for anything dramatic. Section 152 needs a narrower trigger — real intent to incite imminent violence, secession, or armed rebellion — with explicit carve-outs for criticism, reporting, academic work, and political dissent. Criminal defamation should go the way most mature democracies already have: replaced with a civil remedy, or at minimum hedged with

²²Indian Authorities Raid BBC Offices After Broadcast of Modi Documentary, CNN BUSINESS (Feb. 14, 2023).

²³BBC Tax Raids Shine Light on Indian Media Freedom Under Modi, Some Journalists Say, REUTERS (2023) (describing tax surveys of Newslaundry's offices and the later dismissal of a related criminal case).

²⁴News reports on the murder of journalist Mukesh Chandrakar (Jan. 2025).

stricter intent requirements and real procedural safeguards before an FIR can even be filed. And any fact-checking or takedown power touching government-related speech needs to sit outside the government itself independent, transparent, and subject to immediate judicial review, not self-certifying.

The comparative lesson from earlier holds here too: regulation works better narrow, reviewable, and separated from whoever's conduct is actually being reported on. That's the direction India should be moving not away from protecting reputation or security, but toward doing it without quietly shrinking the space for criticism. Anti-SLAPP-style protection, transparent rules on government advertising, and real safeguards for investigative journalists would all move it there.

Conclusion: The Real Measure of a Free Press

India's press freedom problem isn't a missing constitutional protection. On paper, Article 19(1)(a), Article 19(2), and decades of Supreme Court speech jurisprudence add up to a framework that's mature, balanced, and fully capable of supporting a free press. The problem is that the law keeps becoming broader in execution than it is in principle visible in the shadow of Section 152, in the coercive use of criminal defamation, in the collapse of the FCU model, in the NewsClick arrest correction, in ownership concentration and selective investigative pressure, and in the non-legal costs that make journalism dangerous even where no statute is in play.

A serious reform agenda doesn't ask India to choose between free speech and state interests. It asks the state to draft narrowly, regulate independently, and enforce proportionately. That is how a constitutional guarantee stops being symbolic and starts functioning as a real protection for the press.