

The fundamental right to Freedom of Speech and Expression is one of the three pillars that the democracy of India rests upon - as part of the “Golden Triangle” present in the Indian Constitution that guarantees its citizens freedom and justice. The Golden Triangle includes: Articles 14, that ensures equality to all before the law¹; Article 19, which discusses and guarantees the freedom of speech and expression²; and Article 21, that ensures the freedom of life and liberty of Indian citizens³. The presence of these Articles in the Indian Constitution and being called the “Golden Triangle” shows that it is absolutely essential to the spirit of democracy in India, as it provides full protection to individuals from any encroachment upon their rights. They pave the way for the people in India to experience the “trinity of liberty, equality and fraternity.”⁴

Article 19 implies that each citizen is entitled to the right to freely express their views, beliefs and opinions, by mouth, writing, printing, illustrating or through any method and medium. However, Article 19 of the Indian Constitution also provides “reasonable restrictions” as to the prevention of the abuse of freedom of speech and expression. The Indian Constitution states that the use of the right to freedom of speech and expression should: not affect the security of State; affect friendly relations with foreign States, impact public order, decency or morality; or in relation to contempt of court, defamation or incitement to an offense⁵.

However, there have been many issues with the Right to Freedom of Speech and Expression, especially with the rise in many social movements and the internet and social media acting as facilitators that allow people to voice their opinions and experiences more freely and on a platform that almost everyone has access to. An example of this would be the “Me Too” Movement, which was a social movement that had initially started out in the West, that had allowed people to speak up about their experiences with sexual abuse and sexual harassment, where people publicise allegations of sex crimes⁶.

¹ INDIAN CONST. Art. 14.

² INDIAN CONST. Art. 19.

³ INDIAN CONST. Art. 21.

⁴ INDIAN LAW PORTAL, <https://indianlawportal.co.in/the-golden-triangle-of-the-indian-constitution/>, (last visited Apr. 8th, 2021).

⁵ *Article 19: The Freedom of Speech and Expression*, INDIA TODAY, <https://www.indiatoday.in/information/story/article-19-the-freedom-of-speech-and-expression-1671716-2020-04-27>, (last visited Apr. 8th, 2021).

⁶ *Understanding the Me Too Movement: A Sexual Harassment Awareness Guide*, <https://online.maryville.edu/blog/understanding-the-me-too-movement-a-sexual-harassment-awareness-guide/>, (last visited Apr. 8th, 2021).

The Me Too movement inspired former journalist Priya Ramani to speak up about her own sexual harassment experiences, and expressed herself through the use of social media, like the online platform Twitter, exercising her right to freedom of speech and expression. However, her former colleague and the alleged abuser, who went on to be the Minister of State for External Affairs until 2018 and is currently a Member of Parliament, filed a case against Priya Ramani for defamation. He tried to convince the court that his conduct, or lack thereof, was “proper” because he “didn’t do anything”⁷. In addition to this, he retaliated against her stating that she brought the event up long after it took place. However, a Delhi Court had later acquitted Ramani, stating that “a woman has the right to voice her grievances several years after the alleged crime took place”, and that “the right of reputation can not be protected at the cost of someone else’s right to dignity⁸.” The Additional Chief Metropolitan Magistrate, Ravindra Kumar Pandey said: “The woman has the right to put her grievances on any platform of her choice, even after decades,” referring to the use of Twitter and social media to exercise her right to freedom of speech and expression. Pandey also said: “Women can not be punished for raising their voice against the sexual abuse in the pretext of complaint of defamation,” which was what MJ Akbar had filed a case against her for. Under Section 499 of the Indian Penal Code, “Defamation” is defined as: “Whoever, by words either spoken or written or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation would harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.” According to Section 500 of the Indian Penal Code, the punishment for defamation is: “simple imprisonment for a term which may extend to two years, or with a fine, or with both.”

To conclude, on a different depth of comprehension with regards to exercising one’s right to freedom of speech and expression in contrast to going out of one’s way to “defame” another person, social and legal progression triumphed in the case of Priya Ramani vs. MJ Akbar. By ruling in favour of Ramani, the Delhi court implied that women should publicly speak up about

⁷ Sunetra Choudhary, *Priya Ramani vs. MJ Akbar case: 5 Takeaways from the Order*, HINDUSTAN TIMES, <https://www.hindustantimes.com/india-news/priya-ramani-vs-mj-akbar-case-5-takeaways-from-the-order-101613621211188.html>, (last visited, Apr. 8th, 2021).

⁸ Madhavi Menon, *MJ Akbar vs. Priya Ramani: Reading between the lines of the Ramayana tales cited by the Judge*, SCROLL, <https://scroll.in/article/987470/mj-akbar-vs-priya-ramani-reading-between-the-lines-of-the-ramayana-ales-cited-by-the-judge#:~:text=The%20verdict%20in%20Mobashar%20Jawed,not%20tolerate%20unwanted%20sexual%20attention>, (last visited Apr. 9th, 2021).

incidents of sexual harassment and unwanted sexual attention, which actively illustrates a clear signal of support for all the women in the nation. This also implied that the court categorized posts in relation to the Me Too movement to be for public welfare and public good, and further encouraged women to exercise their right to freedom of speech and expression on any platform and on any medium. The court's decision supports progressive thinking and holistic understanding of feminism by arguing that social status does not provide behavioural impunity - which brings down the veil that hides sexual predatory behaviour that lurk behind seemingly respectable facades⁹, and the decision upholds the principle that women have all the right to speak up about the social injustice they face, at home, in the workplace and throughout their lives.

The decision did not only embolden women to openly speak about their sexual harassment in the workplace, but also made space for the manifestation of a platform for women from minority communities. This means that the decision upheld the right to freedom of speech and expression for women to the best and the healthiest extent possible, and did not allow the case to be what Justice Chandru (Retd.) of the Madras High Court stated, “a classic case, where the complainant became the accused, and the accused became the complainant.”¹⁰

⁹ Madhavi Menon, *MJ Akbar vs. Priya Ramani: Reading between the lines of the Ramayana tales cited by the Judge*, SCROLL, <https://scroll.in/article/987470/mj-akbar-vs-priya-ramani-reading-between-the-lines-of-the-ramayana-ales-cited-by-the-judge#:~:text=The%20verdict%20in%20Mobashar%20Jawed.not%20tolerate%20unwanted%20sexual%20attention.>, (last visited Apr. 9th, 2021).

¹⁰ Jayna Kothari, *Priya Ramani has expanded the law on sexual harassment*, INDIAN EXPRESS, <https://indianexpress.com/article/opinion/columns/priya-ramani-verdict-has-expanded-the-law-on-sexual-harassment-7201745/>, (last visited Apr. 9th, 2021).