

## Twitter Thread by Bar & Bench



**Bar & Bench**

[@barandbench](#)



**Vidhi Centre for Law and Policy will be organizing a talk on "Free Speech and its (Un)Lawful Restriction" shortly.**

**@Vidhi\_India**

CONSCIENCE KEEPER:  
JUDICIARY AS THE CONSTITUTIONAL GUARDIAN

**FREE SPEECH AND ITS  
(UN)LAWFUL RESTRICTION**

A SERIES OF PUBLIC CONVERSATIONS

19 DEC 2020 18:00 IST

IN AFFILIATION WITH  
THE KAUTILYA SOCIETY AT NATIONAL LAW UNIVERSITY, ODISHA

**VIDHI** Centre for  
Legal Policy

**H R VENKATESH**  
DIRECTOR, TRAINING &  
RESEARCH, BOOM FACTCHECK

**PRASHANT IYENGAR**  
DOCTORAL CANDIDATE,  
COLUMBIA UNIVERSITY

**ARGHYA SENGUPTA**  
FOUNDER & RESEARCH DIRECTOR,  
VIDHI CENTRE FOR LEGAL POLICY  
**MODERATOR**

The event begins.

HR Venkatesh: We dont think too about about Supreme Court or censorship. You dont worry about contempt or so.

Journalism in the digital space is a little freer compared print media, in the past few years.

Venkatesh: We feel that entire atmosphere in Judiciary for journalism is bit restrictive. We are little "hemmed"

Off late, the restriction is spreading to the digital space as well.

[@Vidhi\\_India](#)

Prashant Iyengar: What do we make of digital speech and the law?

The Supreme Court has the image of being completely neutral. This is untrue. It has an extremely reactionary attitude. This is true for all Courts in the world.

Iyengar: Whatever you tweet immediately goes out to million followers. Communication itself has changed in character. You cannot apply the old regime now.

This is person - who has a private conversation. Is this publication? All Courts are trying to figure out this.

Should Courts continue to be a conscience keeper?

Iyengar: To punish people for contempt of Court is bad way to do that. The SC has been flattered by press and others by the terms such as "Conscience keeper", "People's Court", "Guardian of the Constitution".

Iyengar: The Court is taking is too seriously. When the framers called SC the Guardian of the Constitution, I dont think it wanted the Court to chase after people.

Venkatesh: When we think of the SC, as journalists, we regard it in two ways

- Guardian of the Constitution and other institutions.
- It is staffed with people who are regular, who are buoyant to the political winds. Are Courts being too politicized now?

Venkatesh: Media likes a narrative. A hero vs villain narrative. So if the Judge is pronouncing a judgment, there will be a similar narrative.

Iyengar: I think you were right when you said that the Court has a patchy record.

Art 19 is a very curious article in terms of the way it has been drafted. The Framers are doing something extremely surprising with Art 19.

It's hard to imagine people who witnessed censorship back then, framed something stricter. During our freedom struggle, there were many seditious speeches made.

They (Framers of Consti) used the ladder to climb towards independence, then they threw it away, Iyengar.

Venkatesh speaks on the First Amendment Act - restrictions to free speech.

I do believe that there many threats to the freedom of speech in India, which includes freedom of press, Venkatesh

Question of free speech should be looked at, not just legally but also politically and culturally, Venkatesh

Venkatesh: We have noted that social media companies and other tech companies are the gate keepers now - they decide what people see, using algorithm. There is algorithm bias.

Iyengar: Private capital has always had a huge say in governing/shaping the public sphere. Few huge companies like Twitter, Facebook etc are shaping with respect to the internet

We dont have as much freedom as we had 20 years ago, in the internet right now.

Right to protest is increasingly getting curtailed. In India, you cant protest right before the Rashtrapathi Bhavan, but in the US, you can.

What happened to the CAA protests?

Farmers protesting in Delhi is bright sport but I need to see more..., Venkatesh.

Iyengar: Right to protest, I share that anxiety. Govt is ready to incarcerate people from the middle class and upper middle class as well. Who is this Govt accountable to? This is concerning

The event ends.