
BEYOND THE JOKE: HUMOUR, GENDER STEREOTYPES AND CONSTITUTIONAL PROTECTION IN INDIA

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ABSTRACT

Humour and satire have long served as powerful tools of social commentary, political critique, and public discourse. In a democratic society, humorous expression enjoys protection under the constitutional guarantee of freedom of speech and expression under Article 19(1)(a) of the Constitution of India.¹ However, the increasing prevalence of comedy content in digital spaces has raised significant concerns regarding the perpetuation of gender stereotypes, sexist narratives, and discriminatory representations of women. The line between legitimate humour and harmful expression remains contested, particularly when jokes and satirical content rely on stereotypes that reinforce structural inequalities. This article critically examines the constitutional protection afforded to humour and satire in India while analysing the legal and ethical challenges posed by gender-based humour. Through an examination of constitutional provisions, judicial precedents, obscenity jurisprudence, and contemporary controversies involving comedians and digital content creators, the study explores whether existing legal frameworks adequately balance freedom of expression with the constitutional commitment to dignity, equality, and non-discrimination. The article argues that while humour should generally enjoy robust constitutional protection, expressions that normalize gender prejudice and undermine the dignity of marginalized groups warrant critical scrutiny. It concludes that Indian constitutional jurisprudence must adopt a nuanced approach that preserves creative freedom while remaining sensitive to the transformative constitutional values of equality and gender justice.

Key Words: - Humour; Satire; Freedom of Speech and Expression; Article 19(1)(a); Gender Stereotypes; Constitutional Law; Obscenity; Equality; Dignity; Gender Justice

¹Indian Const. Art. 19(1)(a).

I. Introduction

A plate of chicken biryani worth ₹370 became the unlikely catalyst for a nationwide debate on social media. A remark - ₹370 lage hain, vasooltohkarunga—made in a humorous context quickly transcended the realm of comedy. It sparked discussions on consent, misogyny, and societal attitudes towards women. What initially appeared to be a joke protected under the freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution soon evolved into a larger conversation about the role of humour in shaping and reflecting social norms.

The incident raises a question that lies at the heart of contemporary free speech jurisprudence: does the constitutional protection afforded to humour shield all forms of expression from criticism, or are there circumstances in which a joke ceases to be mere entertainment and becomes a vehicle for perpetuating misogyny, gender stereotypes, and discriminatory social norms? While the Constitution protects a wide spectrum of expression, the growing influence of public speech in the digital age necessitates a closer examination of the relationship between humour, harm, and accountability.

II. Humour as a reflection of society

Humour is shaped by the society from which it emerges.² At its most basic level, humour may be perceived as a harmless form of entertainment, often drawing upon subjects that the speaker considers amusing or relatable. However, more often than not, the foundation of humour lies in prevailing social beliefs, cultural norms, and preconceived notions.³ The themes that become the subject of jokes are rarely arbitrary; rather, they are influenced by the values, assumptions, and stereotypes that exist within a particular society.

"What a society chooses to laugh at can therefore provide significant insight into its collective attitudes and perceptions."⁴

In this sense, humour frequently reflects beliefs that are deeply rooted in the social fabric and are considered familiar, acceptable, or worthy of laughter. Consequently, humour serves not only as

²Henri Bergson, *Laughter: An Essay on the Meaning of the Comic* 3–15 (Macmillan, London, 1911).

³Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* 12 (Oxford University Press, New Delhi, 2016).

⁴Simon Critchley, *On Humour* 7–14 (Routledge, London, 2002).

a source of entertainment but also as a mirror that reflects the social realities, prejudices, and power structures that shape everyday interactions.

The effectiveness of humour often depends upon a shared understanding between the speaker and the audience. A joke succeeds only when the audience is able to recognize and relate to the assumptions on which it is based. Consequently, humour frequently draws its strength from beliefs, stereotypes, and social perceptions that are already familiar within a particular cultural context.

For instance, a joke premised on the notion that a man who spends money on a woman is entitled to some form of return derives its humour from a socially recognized assumption, irrespective of whether that assumption is valid or acceptable. Similarly, jokes concerning domestic relationships, women and household responsibilities, wives being excessively demanding, or individuals suffering from mental health issues often rely upon preconceived notions that have become deeply embedded within social consciousness. The audience laughs not merely at the joke itself, but at the familiarity of the stereotype it invokes.

This demonstrates that humour is rarely created in a vacuum. Rather, it is often rooted in collective social beliefs and experiences, reflecting attitudes that society has come to accept, tolerate, or normalize over time. The popularity of such jokes therefore reveals not only what people find amusing, but also the assumptions and prejudices that continue to shape social discourse.

III. Gender Stereotypes, Consent and the ₹370 Biryani Debate

The controversy surrounding the ₹370 Biryani remark was not truly about the food or the money involved; rather, it stemmed from the deeper implication that a man who spends money on a woman becomes entitled to some form of reciprocation. The joke drew attention because it appeared to invoke a long-standing social assumption that financial expenditure in a social or romantic interaction creates an expectation of a favour in return.⁵

Viewed in this light, the remark extends beyond the immediate context of humour and touches upon traditional gender norms that have historically characterized men as providers and women

⁵Martha C. Nussbaum, *Hiding from Humanity: Disgust, Shame, and the Law* 72–90 (Princeton University Press, 2004).

as individuals expected to reciprocate for the benefits they receive.⁶ While such beliefs may not be consciously endorsed by all members of contemporary society, the very fact that the joke resonated with a segment of the audience suggests that these assumptions remain socially recognizable.

The controversy also intersects with broader discussions concerning consent, autonomy, and gender equality. Modern understandings of consent are founded upon the principle that personal autonomy cannot be compromised by financial expenditure, gifts, or acts of generosity. Any suggestion that spending money may create an entitlement to intimacy is therefore regarded as problematic, as it undermines the notion that consent must be freely, voluntarily, and independently given.

The public backlash was consequently less about the joke itself and more about what many perceived the joke to symbolize. For a significant section of society, the controversy reflected a broader frustration with forms of humour that appear to normalise gender stereotypes and perpetuate problematic social attitudes under the guise of entertainment. Whether one views the remark as harmless comedy or as an expression of entrenched social prejudices, the episode demonstrates the capacity of humour to provoke reflection on deeper societal concerns. The ₹370 Biryani debate thus serves as a compelling example of how jokes can become sites of contestation over gender norms, consent, and the boundaries of acceptable public discourse.

IV. Constitutional Protection of Humour under Article 19(1)(a)

The Constitution of India guarantees the right to freedom of speech and expression under Article 19(1)(a). The scope of this protection extends beyond mere verbal statements and encompasses a wide range of expressive forms, including satire, parody, artistic expression, and humour. The constitutional guarantee is not limited to ideas and opinions that are widely accepted or socially approved; it also protects expression that may shock, offend, or challenge prevailing social norms.⁷ Indeed, the very essence of a constitutional democracy lies in its willingness to accommodate diverse and unpopular viewpoints. Freedom of expression would lose much of its significance if protection were afforded only to agreeable ideas while criticism, dissent, and

⁶Anuj Garg v. Hotel Association of India, (2008) 3 SCC 1.

⁷Lawrence Liang, "Free Speech and the Regulation of Offensive Speech in India", 51(40) Economic and Political Weekly 45 (2016).

unconventional forms of expression were excluded from its ambit. The Supreme court has reaffirmed this principle in “*Shreya Singhal v. Union of India*⁸”, while striking down Section 66A of the Information Technology Act, 2000, the Court emphasized that mere annoyance, inconvenience, or offensiveness cannot constitute sufficient grounds for restricting speech. The judgment drew a distinction between discussion, advocacy, and incitement, holding that only speech which reaches the threshold of incitement may justify State intervention. The decision reaffirmed the principle that constitutional protection extends even to unpopular or controversial forms of expression.

Similarly, in “*Aveek Sarkar v. State of West Bengal*⁹”, the Supreme Court adopted a contemporary community standards approach while examining allegations of obscenity. The Court moved away from rigid and conservative notions of morality and emphasised that expression must be evaluated in its proper context. The judgment recognised that material cannot be considered obscene merely because it may offend the sensibilities of certain individuals. Rather, the effect, purpose, and overall context of the expression must be assessed before any restriction can be justified.

These decisions underscore an important constitutional principle: humour does not lose protection merely because it is provocative, distasteful, or controversial. Nevertheless, the right to free speech is not absolute. Article 19(2) permits reasonable restrictions on grounds such as decency and morality, thereby raising an important question: at what point does humour cease to be protected expression and enter the realm of legally actionable obscenity? The answer to this question lies in the evolution of India's obscenity jurisprudence.

V. When Humour turns into obscenity

Humour cannot automatically claim immunity from scrutiny merely because it is presented as a joke. While the Constitution of India guarantees the right to freedom of speech and expression under Article 19(1)(a), this right is subject to the reasonable restrictions enumerated under Article 19(2). These restrictions permit the State to regulate speech on grounds including the sovereignty and integrity of India, the security of the State, decency, and morality, among others.

⁸*Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

⁹*Aveek Sarkar v. State of West Bengal*, (2014) 4 SCC 257.

In recent years, there has been an increasing tendency to justify controversial or offensive remarks under the guise of humour. The invocation of humour as a defence, however, does not place expression beyond constitutional examination. This raises an important question: can every statement be insulated from criticism or legal scrutiny simply because it is framed as a joke, or are there circumstances in which humour crosses the boundaries of decency and morality contemplated under Article 19(2)? The answer to this question lies in the constitutional distinction between protected expression and legally actionable obscenity.

The determination of what constitutes obscenity has evolved significantly through judicial interpretation. One of the earliest decisions on the subject was “*Ranjit D. Udeshi v. State of Maharashtra*¹⁰”, where the Supreme Court adopted the Hicklin Test. Under this approach, material could be considered obscene if it had the tendency to deprave or corrupt those whose minds were open to immoral influences. The test attracted criticism for its broad scope and for assessing isolated portions of a work rather than its overall effect.

A more contextual approach emerged in “*Samaresh Bose v. Amal Mitra*¹¹”, where the Supreme Court emphasized that a literary work must be evaluated as a whole and not on the basis of isolated words or passages. The Court recognized that the presence of coarse language or sexual references does not automatically render a work obscene. Rather, the overall message, purpose, and impact of the expression must be considered.

The modern position was further clarified in *Aveek Sarkar v. State of West Bengal*. Rejecting the rigid Hicklin approach, the Court adopted the contemporary community standards test and held that expression must be viewed in its proper context. The decision acknowledged that changing social attitudes require a more nuanced understanding of obscenity and that material cannot be condemned merely because it offends the sensibilities of certain individuals.

These decisions collectively demonstrate that the law draws a distinction between offensiveness, vulgarity, and obscenity. A statement may be crude, distasteful, or even misogynistic without necessarily satisfying the legal threshold of obscenity.¹² Constitutional protection is not withdrawn merely because speech provokes discomfort or criticism. The inquiry instead focuses

¹⁰Ranjit D. Udeshi v. State of Maharashtra, AIR 1965 SC 881.

¹¹Samaresh Bose v. Amal Mitra, (1985) 4 SCC 289.

¹²Devidas Ramachandra Tuljapurkar v. State of Maharashtra, (2015) 6 SCC 1.

on whether the expression violates standards of decency and morality to such an extent that it attracts the restrictions contemplated under Article 19(2).

VI. Conclusion

The ₹370 Biryani controversy demonstrates that the debate surrounding humour is rarely about the joke alone. While the Constitution protects a wide range of expression, including speech that may offend or provoke, such protection does not preclude social scrutiny. A joke may be legally permissible and yet raise legitimate concerns regarding the stereotypes and assumptions it reinforces.

The distinction between offensiveness and obscenity remains central to constitutional jurisprudence. Not every distasteful or controversial remark crosses the threshold of obscenity, nor should every unpopular opinion invite legal sanction. However, as humour increasingly shapes public discourse in the digital age, society must remain willing to question not only what is being said, but also the beliefs that make such statements worthy of laughter. Ultimately, what we laugh at often reveals more about our social values than the joke itself.

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References

1. Bergson, Henri, *Laughter: An Essay on the Meaning of the Comic* (Macmillan, London, 1911).
2. Bhatia, Gautam, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford University Press, New Delhi, 2016).
3. Critchley, Simon, *On Humour* (Routledge, London, 2002).
4. MacKinnon, Catharine A., *Only Words* (Harvard University Press, Cambridge, 1993).
5. Nussbaum, Martha C., *Hiding from Humanity: Disgust, Shame, and the Law* (Princeton University Press, Princeton, 2004).
6. Anuj Garg v. Hotel Association of India, (2008) 3 SCC 1.
7. Aveek Sarkar v. State of West Bengal, (2014) 4 SCC 257.
8. Devidas Ramachandra Tuljapurkar v. State of Maharashtra, (2015) 6 SCC 1.
9. Ranjit D. Udeshi v. State of Maharashtra, AIR 1965 SC 881.
10. Samaresh Bose v. Amal Mitra, (1985) 4 SCC 289.
11. S. Rangarajan v. P. Jagjivan Ram, (1989) 2 SCC 574.
12. Shreya Singhal v. Union of India, (2015) 5 SCC 1.
13. Liang, Lawrence, "Free Speech and the Regulation of Offensive Speech in India", 51(40) *Economic and Political Weekly* 45 (2016).
14. The Constitution of India, 1950.