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## FREEDOM OF PRESS: FOURTH PILLAR OF DEMOCRACY

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### ABSTRACT

In the last few decades, freedom of the press has remained a topic that has sparked endless debates across the democratic world. The press reports on all aspects of the country's social, political, economic, and cultural life in a comprehensive and objective manner. The existence of a free, independent, and powerful media is the bedrock of democracy, particularly in a society as diverse as India. The media is not only a tool for expressing one's opinions, but it also plays a role in shaping public opinion on a variety of regional, national, and international issues. The press can serve as a link between the government and the people in a democratic system. This right is extremely important during the formation of a government. Without this right, democracy will perish. The press, which exercises the right to freedom of speech and expression, is the fourth pillar of democracy. The answer for the question whether the press has absolute freedom made under article 19 to express whatever seems right to it has a mixed views in this research. The press is the fourth pillar of the constitution and hence it is considered as a most important organisation in the society.

**KEY WORDS** : Freedom , Press , Media , Reasonable Restrictions

### INTRODUCTION

The freedom of speech and expression is the most important fundamental right availed to the citizens by the constitution. There is no specific mention of freedom of press under Article 19 [1] [a] of the constitution and what is mention there is freedom of speech and expression. Freedom

the most critical constitutional right granted to people by the constitution is freedom of speech and expression. Article 19 [1] [a] of the constitution does not specifically mention freedom of the press, but it does mention freedom of speech and expression. The framers of the Indian Constitution found freedom of the press to be an integral component of freedom of speech and expression. In the cases of *Romesh Thaper vs. State of Madras* and *Brij Bhushan vs. State of Delhi*, the Supreme Court assumed that press freedom was an indispensable part of the right to free speech and expression.

### **FREEDOM OF PRESS**

Patanjali Sastri J. observed in *Romesh Thaper* that freedom of speech and expression included idea of dissemination, and that freedom was guaranteed by freedom of circulation. The First Amendment to the United States Constitution guarantees freedom of the press and speech, expressly stating that this freedom shall not be abridged by legislation. It's not that Indian leaders were unaware of the US First Amendment or of Thomas Jefferson's famous statement, "Were it left to me to determine whether we should have a government without newspapers or newspapers with government," People must have the right to express their feelings and make their opinions known to the general public in order to uphold the democratic way of life. The press, as a powerful medium of mass communication, should be allowed to play its part in constructing a strong and sustainable society. Citizens' press freedom would be harmed if they were denied the ability to influence public opinion. Aside from the Constitution's limitations on the press, there are a number of other laws that limit press freedom and the citizen's right to know, as well as the right to freedom of speech and expression. They are all in effect for the sake of maintaining public order, sovereignty, and state security. The Preamble of the Indian Constitution guarantees all people, among other things, freedom of thinking, speech, belief, religion, and worship.

### **IMPORTANCE OF FREEDOM OF PRESS**

The Preamble of the Constitution establishes the constitutional importance of freedom of speech, which is transformed into a fundamental and human right in Article 19[1] [a] as "freedom of speech and expression." In India, freedom of the press is implied by Article 19[1] [a] of the Indian Constitution, which guarantees freedom of speech and expression. All people have the right to freedom of speech and expression, according to Article 19[1] [a]. However, under

Article 19[2], fair limitations on the expression of this right for specific purposes apply . It is self-evident that every citizen must have the right to participate in the democratic process, and that free and open discussion of public issues is necessary for him to intelligently exercise his right to vote. This clarifies India's constitutional perspective on press freedom. The "right of the people to know" is a basic concept involved in press freedom. As a result, it has gained widespread support from all those who believe in the free flow of information and citizen participation in government; it is the primary responsibility of all national courts to protect this right and invalidate any legislation or administrative acts that obstruct it. In light of the observations made by the Hon'ble Supreme Court in various judgments and the opinions expressed by various jurists, it is clear that press freedom stems from the freedom of speech granted to "all people" by Article 19[1] [a].

### **ARTICLE 19 AND FREEDOM OF PRESS**

Article 19[1] [a]of the Indian Constitution, which guarantees freedom of speech and expression under Part III, includes a provision for press freedom (fundamental rights). It does not specifically mention "freedom of the press" anywhere, but it is clear from this Constituent Assembly debate when Dr. Bhim Rao Ambedkar responds to a question about "Article 19 not including 'freedom of the press'". Press freedom is considered a "species" of which freedom of expression is a genus. As a result of its status as a right arising from freedom of speech, the freedom of the press in India enjoys a higher status than the freedom of speech enjoyed by citizens, and the press enjoy privilege as such distinct from citizen freedom. In several cases, the Supreme Court has emphasised the importance of maintaining press freedom in a democratic society. The press works to advance the public interest by publishing facts and opinions that a democratic electorate would be unable to make informed decisions without. Articles and news are published in the press on a regular basis to expose the government's flaws.

### **SCOPE**

#### **Freedom to spread information**

Press freedom is meaningless without this freedom. Though this right is implicit in freedom of expression, it is made explicit in *RomeshThapar v State of Madras*. The main distinction between

press freedom and individual freedom of expression is that an individual cannot communicate with the masses on his own, whereas a press can through its publications on various mediums.

**Freedom to criticize**

Individuals and the press have the right to criticise the government, its officials, policies, actions, laws, and statements, among other things. The press, on the other hand, cannot abuse this right by inciting the public against the government or by aiding riots, rebels, mutiny, or state or government insecurity.

**Freedom to receive the information**

Once again, the heart of the freedom of the press is at stake. If the press is not equipped with information, it will be unable to provide knowledge to the public, and thus the right to freedom of expression will be rendered useless because there will be no access to information on which anything can be expressed.

**Freedom to conduct interview**

This right is necessary in order to bring in firsthand knowledge from experts on specific subjects and to educate the general public. Though this right is not absolute, it does come with three limitations:

1. The interview will only take place with the interviewee's consent;
2. The interview will end when the interviewee requests it;
3. The interviewer cannot compel the interviewee to respond.

**Freedom to attend and report legislative proceedings**

We have the right under Article 361 of the Constitution to publish a kosher report of parliamentary proceedings. The only restriction on this freedom is that such publications must not be made with a malicious intent. When the right to report legislative proceedings, which is implicitly contemplated in the right of expression (A.19), conflicts with parliamentary privileges (A.105 and A. 194), the right to speech and expression takes precedence. The live telecast of parliamentary proceedings is now required.

## **Freedom to broadcast**

Power to broadcast is essential in today's technological age because it is one of the primary channels for disseminating information. This right encompasses not only broadcasting on news channels and radio stations, but also online activities such as websites, blogs, and mobile applications. On platforms like Alt News, ThePrint, TheWire, Quint, and others, we've seen some of the most trustworthy journalism.

## **REASONABLE LIMITATIONS ON PRESS' FREEDOM**

We all know that unrestricted freedom, or liberty without any reasonable limitations, always undermines the very purpose of granting that freedom in the first place, namely, to empower individuals, as it backfires and causes individual rights to collide with one another. Because the freedom of the press is derived from Article 19[1] [a], it is also subject to the reasonable restrictions imposed by the law under Article 19 [1][a] and Article 19 [2] which are as follows-

### **Sovereignty and integrity of the state**

It was added as a result of an amendment to control the outbursts of people protesting for separate entities for India's various regions. This restriction would apply to any form of speech or expression that jeopardises the state's sovereignty or integrity. The right to freedom of expression and speech cannot be used as a weapon against sovereignty.

At this point, it's essential to remember the fact that "sedition" isn't a legal basis for imposing reasonable restrictions, as defined by Article 19[2] of the Constitution.

### **Security of the state**

The right to freedom of expression cannot be exercised in a way that jeopardises the state's security in any way. This restriction would apply to any communication that incites people to cause social unrest, rebels, violence, riots, or other forms of violence against the state and its subjects.

The Supreme Court held in *State of Bihar v Shailabala Devi* that any speech made by any person (citizen or non-citizen) that encourages people to commit crimes such as dacoity, murder, robbery, and so on is without a doubt a threat to the state's security. As a result, such a speech

will be regarded as a threat to the state's sovereignty or integrity, and an order to stop or curtail such communication will be issued under reasonable restrictions of article 19 [2].

### **Public order**

The Constitutional (First Amendment) Act of 1951 added this term. This clause was added to counteract the effects of the Supreme Court's ruling in *RomeshThappar v State of Madras*, which stated that the right to circulation is an integral part of the right to freedom of expression.

In the case of *RamjiLal Modi vs. the State of Uttar Pradesh*, The constitutionality of Indian Penal Code (IPC) Section 295A was called into question. The argument was that the mentioned section violates Part III of Article 19[1] [a] of the Constitution, which guarantees the right to freedom of speech and expression. The petitioner, who worked as a printer, publisher, and editor, was found guilty of unspecified offences. The petitioner, who worked as a printer, publisher, and editor, was found guilty of violating Section 295A of the Indian Penal Code. Furthermore, it was argued that this section is unprotected under Article 19 [2] of the constitution's reasonable restrictions. The Supreme Court rejected this argument, holding that if an individual causes public disorder by exercising his or her right to freedom of expression, he or she can be prosecuted under the mentioned section, which falls under the category of reasonable restrictions.

### **Contempt of court**

There is no doubt that freedom of speech and expression is essential for societal development, but ensuring and maintaining justice and equity is also essential. Though freedom of speech and expression is important, it cannot be used to overturn a court's decision.

Article 129 of the constitution empowers the Supreme Court and the High Courts to take punitive action for contempt of court. It was also held in *C.K. Daphtary v O.P. Gupta* that the S.228 of the IPC and Article 129 of the constitution are valid and fall within the scope of Article 19(2) of the constitution's reasonable restrictions. . As a result of the preceding discussion, we can deduce that freedom of speech and expression is resistant to Articles 19(2), 129, and 215 of the constitution.

### **Defamation**

Article 19[1] [a] does not grant permission to harm a person's reputation in the name of freedom of speech and expression. Defamation is defined as causing harm to someone's reputation, and it is a severe restriction on one's right to freedom of speech and expression.

### **Friendly relations with foreign states**

This ground, like the term "public order," was inserted into Article 19[2] of the Constitution through the Constitution (First Amendment) Act of 1951. The main goal of enacting this restriction was to combat hostile and false propaganda against any foreign country that may have friendly relations with the Republic of India.

Such activities may jeopardise the government's efforts to promote and maintain friendly relations with foreign countries, as well as to reap financial benefits from those relationships. The Supreme Court ruled in *JaganNath v Union of India* that all Commonwealth countries are foreign countries for the purposes of Article 19 of the Constitution. Another fact to remember is that members of the Commonwealth of Nations are citizens of the United Kingdom.

### **Incitement to an offence**

The act of incitement or abetment to an offence is a distinct and independent offence per se, according to criminal law. Inciting an offence through freedom of speech and expression would be considered a threat to public order. This ground of reasonable restriction, like the terms "public order" and "friendly relations with foreign states," was incorporated into the constitution by the Constitution (First Amendment) Act of 1951.

The seven grounds for reasonable restrictions mentioned above serve as a line in the sand for defining the right to freedom of speech and expression, which includes the right to freedom of the press. As a result, one can deduce that the right to a free press prevails within the bounds of the constitution's Article 19[2] reasonable restrictions.

### **Freedom of Press and Legislative Privileges**

The term privilege means an exceptional right and an exemption. In the context of the Indian Constitution and the parliamentary arena, the term "privilege and immunity" grants Lok Sabha and Rajya Sabha certain special and exceptional rights or their individual members who have

been accepted as necessary to perform the constitutional duties in general. Press which is a fundamental right is limited by the privileges of the parliament. The press must take greater care and caution during the publication of any report, paper from parliamentary proceedings or the conduct of any member. Certain amendments have indeed been tabled to compensate press freedom, as the freedom of the media falls within the framework of the protection of parliamentary privileges. There seems to be no democracy if basic rights are violated.

The Supreme Court in case *M.S.M. Sharma v. Sri Krishna Sinha*<sup>1</sup> held that the legislature has the right and privilege under the scheme of the Constitution of India of completely prohibiting publication in the floors of houses and houses of the debate and proceedings and punishing for violation of those privileges. Therefore, freedom of speech and of expression as provided for in Art. 19(1)(a) shall be covered by Articles 105(3) and 194(3). The legislative privilege lies above the fundamental right to freedom of expression and speech. If there is any conflict between Parliament's privilege pursuant to Article 105, clause 3 of the Constitution, and freedom of speech and expression, a harmonious construction of the provisions must resolve this inconsistency. The general nature of Article 19(1)(a) shall give in accordance with Art. 105(3) of the Constitution a special provision. No person shall be bound under the authority of the member of that house for the publication, as specified in Article 105, clause 2, of the Constitution. Members are given the privileges to enable the parliament to function smoothly. But, because we are represented and work towards our well being, these rights should always be in conformity with fundamental rights. If the privileges do not conform to basic rights, the essence of democracy for the protection of citizens' rights will be lost.

## **SUGGESTIONS ON FREEDOM OF PRESS**

### **1. Growth with Freedom**

A young democracy like India can only survive if the press helps it develop social justice and serve the interests of the common people. A free press can aid in the development of a

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<sup>1</sup> AIR 1959 SC 395

population of citizens who are well-informed about current events as well as the country's problems and the solutions available to address them.

## **2. Importance of Constitutional Amendment**

To keep the general population of citizens in our young democracy well informed, the press requires special protection so that it can carry out its mission of recalling facts from various aspects of national life, evaluating them, and affirming them. The National Commission to Review the Constitution's Workings has recommended that Article 19(1)(a) be amended to include freedom of the press and media.

## **3. Press needs to Improve**

Because private businesses and those who control them are treated with kid gloves, the philosophy of those who are appointed to senior journalistic positions is influenced in part by the fact that many newspapers are owned by the same people. When it comes to gathering and disseminating facts and making comments, it has been observed that editors and journalists lack adequate freedom because they are under the control of capitalist owners. As a result, capitalist owners' pressure should be reduced.

## **4. Press to be allowed to freely represent**

The daily newspaper and daily news on electronic media are practically the only sources of information for most people. People can thus be given complete freedom of thought and discussion on public issues if newspapers and electronic media are allowed to freely represent various points of view, including those of the opposition, without government control.

## **CONCLUSION**

In all democratic countries, press freedom has always been a prized right, and the press is rightly referred to as the Fourth Pillar of Democracy. Until and unless there is transparency, the media can be considered the fourth pillar of democracy, and in this era, the media is considered a daily necessity because the day begins with the media and ends with the same, whether it is social media or electronic media or print media. We live in a democratic country where the citizen is supreme, and there must be checks and balances on the government, with the media playing a

key role in these checks and balances. The government cannot function in a democracy unless the people are well informed and have the freedom to participate in public issues by having a wide range of alternative solutions to problems that arise. Articles and news are published in the press on a regular basis to expose the governments' flaws. The daily newspaper and daily news on electronic media are practically the only sources of information for most people. People can thus be given complete freedom of thought and discussion on public issues if newspapers and electronic media are allowed to freely represent various points of view, including those of the opposition, without government control.

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