



# A COMPREHENSIVE STUDY ON THE FREEDOM OF PRESS IN INDIA: IN REFERENCE TO ARTICLE 19

**Animesh Nagvanshi**  
*Student*  
*The ICAI University, Dehradun*

## ***ABSTRACT***

The press is believed to be the fourth pillar of democracy as its present viewpoint or the position of the citizen in an inopportune moment. It was at the time of Emergency when the requisite or necessity of the press was realized as it presented the current scenario of the people to the democratically elected government. India is known as the largest democracy in the world. It emphasized the significance of the press and media in preserving the Rule of Law contained in the Indian Constitution and safeguarding the nation's democracy. It's interesting to note that the Indian Constitution does not protect press freedom, unlike the American Constitution. Dr. BR Ambedkar did point out that Freedom of the Press is inextricably linked to Freedom of Expression, which is safeguarded as a Fundamental Right by Article 19(1)(a)<sup>1</sup> of the aforementioned Constitution. As a result, there is a Fundamental Right known as "Freedom of the Press" in India. The article is going to discuss the basic definition of freedom of the press, the right given to the freedom to spread information, a reasonable restriction on the press to prohibit certain practices and an international perspective regarding freedom of the press.

## ***INTRODUCTION***

Freedom of speech and expression is the most significant fundamental right that is protected by the constitution of the largest democracy in the world. The media is crucial to a country's political, economic, social, and international affairs and is regarded as the fourth pillar of democracy. It should thus be obvious that a free press is essential for a democracy to exist, thrive, and defend the principles of good and open governance.

## ***WHY FREEDOM OF THE PRESS?***

According to **Indian Newspapers v. Union of India**,<sup>2</sup> The press's mission is to advance the common good by disseminating the information and points of view that the people of the country require to make informed judgments. Press freedom is essential to political and social engagement. The judiciary's main duty is to protect press freedom and to oppose any legislation or government actions that might violate the Constitution in this regard.

Because of this, the free and impartial functioning of the press provides the basis of civil society, which can think independently and critically and develop judgments about the nation and its government after carefully weighing the available data. The media acts as a conduit for knowledge and the dissemination of crucial information concerning happenings, events, and developments of national significance to the entire country.

<sup>1</sup> Constitution of India 1950, Article 19(1)(a)

<sup>2</sup> 1985 SCR (2) 287

## ***WHAT IS ARTICLE 19(1)(a) of INDIAN CONSTITUTION***

An essential component of every egalitarian nation is the press as a vehicle for social, political, and economic culture. Thus, a democratic system of governance is based on the freedom of speech and expression, and the press has a vital right to assure the sharing of information about public life and means of expression.

The following are some of the elements that have been added to the ambit of Article 19 (1)(a)<sup>3</sup> as a result of creative interpretations, court precedents, and pronouncements:

### ***1- Liberty to disseminate information***

Even though this right is implicit in the freedom of expression, **Romesh Thapar v. State of Madras**<sup>4</sup> makes it explicit. The main difference between individual freedom of speech and freedom of the press is that the former permits publication on a range of media, including print, broadcast, electronic, etc., while the latter permits mass communication. As a result, the freedom to share knowledge is essential to the independence of journalists.

### ***2-The right to criticize***

Like citizens, the press is allowed to criticize the government, its representatives, its laws, decrees, acts, and other statements. However, the press cannot abuse this freedom by stirring the public against the government or by encouraging riots, uprisings, mutinies, or other dangers to the state's or the government's security.

### ***3- Receiving information without restriction***

The right to freedom of the press, once more. Lack of information prevents the press from educating the public and renders the right to free speech meaningless since there is no access to the information that may serve as the foundation for any expression.

### ***4- Freedom to interview anybody***

This right is required to educate society as a whole and to get first-hand information from specialists on certain topics. There are three limitations to this privilege, even though it is not absolute:

- (i) The interviewee cannot be forced to respond to any queries without his or her will by the interviewer.
- (ii) The interview will only be conducted with the interviewee's agreement.
- (iii) The interview will end when the interviewee wants it to.

### ***5- Freedom to report on court events***

The spirit of justice, in the words of Jeremy Bentham, is publicity. The Supreme Court ruled in **Sahara India Real Estate Corporation Ltd v. SEBI**<sup>5</sup> that the media has a right to report on legal processes. The Supreme Court ruled in **Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine**<sup>6</sup> that the freedom to publish accurate accounts of the court procedures one has observed exists even when doing so in opposition to quasi-judicial institutions.

### ***6- Access to and reporting on parliamentary proceedings***

We have the right to publish a kosher report of the legislative proceedings thanks to Article 361 of the Constitution<sup>7</sup>. This freedom is only constrained by the need that publications have no malicious purpose. When parliamentary privileges (Article 105 and Article 194<sup>8</sup>) and the right of reporting legislative proceedings, which

<sup>3</sup> Constitution of India 1950, Article 19(1)(a)

<sup>4</sup> AIR 1950 SC 124

<sup>5</sup> (2013) 1 SCC 1

<sup>6</sup> AIR 2002 Bom 97

<sup>7</sup> Constitution of India 1950, Article 391

<sup>8</sup> Constitution of India 1950, Articles 105 and 194

is implicitly contemplated in the right of expression, conflict, the right of speech and expression should take precedence. The live broadcast of legislative sessions is now required.

### ***7- Freedom to serve as a platform for advertising***

We are aware that the bulk of media, including newspapers, news channels, mobile applications, and radio stations, primarily rely on advertising income. After *Tata Press v. Mahanagar Telephone Nigam*<sup>9</sup>, the Supreme Court decided to include the right to advertising as a component of the right to freedom of expression.

### ***8- Freedom to communicate***

In the technology age of today, having the ability to broadcast is essential since it is one of the primary means of disseminating information. This freedom extends to online content including websites, blogs, and mobile applications as well as broadcasting on radio and television news programs. On sites like Alt News, ThePrint, TheWire, Quint, etc., we have seen some of the most trustworthy journalism.

## ***RESTRICTION ON FREEDOM OF THE PRESS***

Because it causes individual rights to conflict with one another, unrestricted freedom, or liberty without any legitimate constraints, is known to undermine the very purpose for which that freedom was provided in the first place—that is, to empower individuals. The following are the reasonable limitations put on Article 19(1)(a)<sup>10</sup>, which, because it derives its power from that clause, also apply to press freedom.

### ***1- State integrity and Sovereignty***

It was included through an amendment to rein in the out-of-control protests for separate entities for the various regions of India. This limitation would apply to any utterance or kind of communication that impairs the integrity or sovereignty of the state. It is forbidden to let the freedom of speech and expression be used as a weapon to undermine a state's integrity or sovereignty.

It is crucial to recognize at this point that "sedition" is not a justification for imposing reasonable limits as outlined in Article 19(2)<sup>11</sup> of the Constitution.

### ***2- State-wide security***

It is forbidden to practice freedom of expression in a way that endangers the state's security in any way. This limitation would apply to any communication that encourages citizens to revolt, engage in violence, riot, or other forms of discontent against the government and its subjects.

The Supreme Court ruled in *State of Bihar v. Shailabala Devi*<sup>12</sup> that anyone's (citizen or non-citizen) comments that incite others to commit crimes like dacoity, murder, robbery, etc. pose a clear threat to the safety of the state. As a result, such speech will be seen as being against the sovereignty or integrity of the state, and Article 19<sup>13</sup> provisions for reasonable limits will apply to any orders to cease or limit such communication.

### ***3- Public peace***

The Constitutional (First Amendment) Act of 1951<sup>14</sup> introduced this phrase. This provision was adopted to mitigate the impact of *Romesh Thappar v. State of Madras*<sup>15</sup>, in which the Supreme Court ruled that the freedom of expression's essential right to circulation is protected by it.

<sup>9</sup> 1995 SCC (5) 139

<sup>10</sup> Constitution of India 1950, Article 19(1)(a)

<sup>11</sup> Constitution of India 1950, Article 19(2)

<sup>12</sup> 1952 SCR 654

<sup>13</sup> Constitution of India 1950, Article 19

<sup>14</sup> Constitutional (First Amendment) Act of 1951

<sup>15</sup> AIR 1950 SC 124

The word "public order" has a broad definition and refers to a variety of behaviors that might jeopardize national security. According to the Supreme Court's ruling in **Madhu Limaye v. Sub Divisional Magistrate Monghyr**,<sup>16</sup> "public order" may be defined as "no insurrections, riots, or disturbances to public peace."

The legality of Section 295A of the Indian Penal Code (IPC)<sup>17</sup> was contested in **Ramji Lal Modi v. State of UP**.<sup>18</sup> The claim made was that Part III of Article 19(1)(a) of the Constitution's<sup>19</sup> protection of freedom of speech and expression is violated by the aforementioned clause. The printer, publisher, and editor in question, the petitioner, was found guilty of offenses under Section 295A of the IPC<sup>20</sup>. Furthermore, it was argued that the reasonable limitations of Article 19(2)<sup>21</sup> of the constitution do not apply to this clause, giving it no protection. The SC rejected this argument and concluded that a person might be charged under the cited clause, which is covered by reasonable limits if exercising his or her right to free expression results in public disturbance.

#### **4- Morality or decency**

To protect national morality or decency, the government has the power to place limits on a person's freedom of expression and IPC goes into further depth on this subject in Sections 292 to 294. The aforementioned parts include a list of illegal actions, including selling pornographic books to children and making lewd gestures in public. In **Ranjit Udeshi v. State of Maharashtra**<sup>22</sup>, the Supreme Court ruled that Section 292 of the IPC<sup>23</sup> is constitutional because it discourages public use of profanity and upholds morals and public decency. In **Chandrakant Kalyandas Kakodkar v. State of Maharashtra**<sup>24</sup>, The Supreme Court further stated that while discussing morality and decency, the court must take into account the question of whether the young people's minds were sufficiently tainted by the immoral or indecent acts or whether there was a chance that their minds would become depraved.

#### **5- Misconduct in Court**

No question sustaining and promoting justice and fairness are equally important to society's growth as is freedom of speech and expression. However, the right to free speech and expression maintains that it cannot be used to overturn a court's decision in favour of justice.

The SC is authorized to impose sanctions for contempt of court under Article 129<sup>25</sup>, while the HCs are authorized by Article 215 of the constitution<sup>26</sup>. Furthermore, it was decided in the case of **C.K. Daphtary v. O.P. Gupta**<sup>27</sup> that Articles 129 of the Constitution<sup>28</sup> and Section 228 of the Indian Penal Code<sup>29</sup> are legitimate and fall within the ambit of reasonable limits outlined in Article 19(2) of the Constitution<sup>30</sup>.

#### **6- Defamation**

It is not permissible to harm someone's reputation in the name of freedom of speech or expression. Defamation is the serious restriction of the freedom of speech and expression when it results in harm to someone's reputation.

No speech, sign, or gesture may be used to subject a person to hatred, mockery, or contempt. The Civil Laws of Torts consider defamation to be a highly serious offense and for this reason, forbid it. Additionally, it is illegal

<sup>16</sup> AIR 1971 SC 2486

<sup>17</sup> Indian Penal Code 1860, s295A

<sup>18</sup> AIR 1957 SC 620

<sup>19</sup> Constitution of India 1950, Article 19(1)(a)

<sup>20</sup> Indian Penal Code 1860, s295A

<sup>21</sup> Constitution of India 1950, Article 19(2)

<sup>22</sup> 1965 SCR (1) 65

<sup>23</sup> Indian Penal Code 1860, s292

<sup>24</sup> 1970 SCR (2) 80

<sup>25</sup> Constitution of India 1950, Article 129

<sup>26</sup> Constitution of India 1950, Article 215

<sup>27</sup> AIR 1971 SC 1132

<sup>28</sup> Constitution of India 1950, Article 129

<sup>29</sup> Indian Penal Code 1860, s228

<sup>30</sup> Constitution of India 1950, Article 19(2)

according to IPC Section 499<sup>31</sup>. Something has a defense under the reasonable limitations of Article 19(2) of the Constitution<sup>32</sup> since it is declared to be unlawful by two pieces of legislation.

### ***7- Amiable interactions with foreign nations.***

Through the Constitution (First Amendment) Act of 1951<sup>33</sup>, this ground was also added to Article 19(2) of the Constitution<sup>34</sup>, just way the word "public order" was. Incorporating this limitation was primarily to resist hostile and malicious propaganda against any foreign nation that could have friendly ties to the Republic of India.

Such actions might compromise the government's attempts to establish and uphold good relations with other countries and produce fruitful outcomes for India. In **Jagan Nath v. Union of India**<sup>35</sup>, the SC determined that all commonwealth nations fall under Article 19 (2)'s definition of foreign nations<sup>36</sup>. However, another point to be aware of is that for the Indian constitution, members of the Commonwealth, including Pakistan, are not considered to be citizens of foreign states.

### ***8- Incitement to commit a crime***

According to criminal law, the act of inciting or aiding an offense constitutes a separate and independent offense per se. It would be deemed a danger to the public order to use one's freedom of speech or expression to encourage criminal behaviour.

The Constitution (First Amendment) Act of 1951<sup>37</sup> added this justification for reasonable limitation to the Constitution, along with the phrases "public order" and "friendly relations with foreign states". The Supreme Court ruled in the **State of Bihar v. Shailabala Devi**<sup>38</sup> that any communication that encourages criminal activity can be banned, and any decision imposing such a prohibition shall be subject to the reasonable limits envisioned by Article 19(2) of the Constitution.<sup>39</sup>

The seven reasons for justifiable limits listed above serve as a dividing line for the freedom of speech and expression, which also encompasses the freedom of the press. Therefore, it may be concluded that the freedom of the press persists within the limits of justifiable limitations outlined in Article 19(2) of the Constitution<sup>40</sup>.

### ***International Position on Expression and Free Speech***

One of the cornerstones of international law is viewed as being the ability to express one's beliefs freely. Since it is steadfastly protected by international treaties, regional human rights laws, and recently formed domestic human rights laws, the right to free expression is now regarded as a rule of ordinary international law. According to Article 19 of the UDHR<sup>41</sup>, everyone has the right to freedom of speech, which includes the freedom to express opinions, ideas, and beliefs without hindrance as well as the right to access, gather, and distribute ideas and data by any means and without respect to borders.

The ICCPR further defines the right to freedom of expression as the ability to freely seek, receive, and impart ideas and information of any type, across national boundaries, whether orally, in writing, in print, as visual art, or via any other means of expression. This protects all forms of communication, including those that are expressed through written, spoken, sign language, and other non-verbal mediums like artwork<sup>23</sup>. Without free speech, no other rights can be practiced in society. International, national, and regional laws all uphold the right to free expression.

<sup>31</sup> Indian Penal Code 1860, s499

<sup>32</sup> Constitution of India 1950, Article 19(2)

<sup>33</sup> The Constitution (First Amendment) Act of 1951

<sup>34</sup> Constitution of India 1950, Article 19(2)

<sup>35</sup> AIR 1997 SC 811

<sup>36</sup> Constitution of India 1950, Article 19(2)

<sup>37</sup> The Constitution (First Amendment) Act of 1951

<sup>38</sup> 1952 SCR 654

<sup>39</sup> Constitution of India 1950, Article 19(2)

<sup>40</sup> Constitution of India 1950, Article 19(2)

<sup>41</sup> Universal Declaration of Human Rights 1950, Article 19

People can express their thoughts and political viewpoints freely to improve society and the state. As a result, it provides a framework for striking a good balance between permanence and societal change. It is extremely important in a democratic system since it makes it easier for an individual to take part in decision-making. The right to free expression is a component of a person's right to self-actualization and fulfillment, hence preserving that right is essential.

## ***CONCLUSION***

Certain essential rights are guaranteed to every Indian citizen in Part III of the Constitution. The most significant fundamental right—freedom of speech and expression—is granted by Article 19<sup>42</sup> for a socialist nation like India.

However, judicial rulings have broadened the article's reach and ambit, thus even though some rights aren't explicitly listed in this article, they would still be relevant and subject to interpretation.

One such kind is the press's freedom of speech and expression, which not only extends to the press but also the freedom of individuals to speak their minds and share their opinions on social media.

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<sup>42</sup> Constitution of India 1950, Article 19