

The Right to Freedom of Speech is a Pillar of Democracy: An Analytical Study

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Abstract

Our constitution has provided us numerous fundamental rights. Among them the most important right is Right to freedom of Speech covered under Article 19(1) (a). Freedom of Print Media is also essential to a human being in a political system. No doubt that the media is the significant pillar of a society and is the weapon of political and social scenario. Security of this essential freedom of speech is very important for any nation and for the entire progress of a human being. This freedom helps in their overall development but it is a complex process. Sometimes they start miss utilizing the liberty given to them. In this back drop it is necessary to impose certain appropriate limitation on this right. This article contemplates whether this right should be absolute or not and what is the importance of it.

INTRODUCTION

This right is very essential to democracy. It means that every person can enjoy his/her freedom without giving threat to freedom of other and without endangering the peaceful atmosphere of the society. Every person has different mindset. So, all people interpret the things in different way. Difference of opinion does not mean they are criticizing each other. This freedom is often considered as an integral concept in modern liberal democracies. India being a liberal democracy believes that freedom of press and expression are urgent demands to the operation of a democratic system. A modern democracy enhances much importance to its freedom because without this freedom which is the base of a democratic country, cannot be formed. Article 19, the most significant and essential article of our constitution justifies the authority of the government

to place limitations on the exercise of these rights. The objective of these rights is to permit the person to obtain self-confidence and participate in finding out true power or strength of an individual to form plans and make a balance between fixation and social structure. This exploring freedom is very crucial among all human freedoms. It is a composite expression. It possesses much organized connotation which confers the liberty to expression, views and opinions.

MEANING

After universal declaration of human rights our makers of constitution included the right of freedom of speech & expression under article 19(1) (a). Under this right we may exchange our ideas, ask for any public information through any medium of communication. Nobody can interfere in this process. We are free to opine about anything & without attracting the fear of any punishment. So, in other words, it can be said that within the boundaries of constitution, we may show our feeling through gesture, oral words, pictures, cartoon, print or electronic media. So, there is no hindrance in communicating our expressions, point of views to others. It includes the right to spread or print the view of other group and also includes freedom of the press. It is a principle which supports the liberty of individuals or a community to articulate their opinion and idea without fear of retaliation, censorship, or legal sanction.²

For examples, Govt. launched scheme of demonetization. Some person appreciated the steps taken by government while other criticized it a lot. **In another example**, we see that many politicians contest the election. They make very attractive announcement in favor of general masses. They declare that they will waive interest on loan of farmers, electricity bill, water bill etc. Some person states it is misappropriation of tax amount given by the tax payers while other expressed that it is welcome step as it gives relief to needy & poor person.

IMPORTANCE OF THIS RIGHT

In a democracy, the freedom of speech and expression is one of the prime liberties granted to the citizens. It forms a foundation for other rights granted to citizens such as freedom of the press. Freedom of the press, in turn helps in inculcating a better-informed public and electorate.

It ensures that citizens can express their opinions freely and also hold their political leader accountable. Also, this freedom ensures that important information is legally shared and circulated among citizens. It also provides a platform to make the marginalized and minority voices heard. Issues concerning these categories can be highlighted and brought to the front by using the right to speech. This right protects the creative license of artists and allows them to

develop and share ideas freely.³ These ideas can be shown through articles, poem, movie, cartoons, visual arts and comedy show. The people also feel empowered themselves in true democracy in their social, cultural, economic context.

THE NEED TO PROTECT THIS RIGHT⁴

It should be protected because it provides or helps in:

- 1. Public Education** – In democracy, contestants are elected by the public and they form the government. Because of it, government is always accountable to the public. We should be well aware about plans, policies & programmers of government only then we can discuss whether these are beneficial for us or not. People express their view on different topic through their speeches, Facebook page, YouTube channel etc. by using their right of freedom to speak. So, this right helps in public education.
- 2. Active Participations** – Social reformers, politicians, freedoms fighter used to lead rallies & deliver speeches at different places. These activities help general people to be aware of pros & cons of different scheme of government. Accordingly, they may force government to take back its policies in the interest of the common man. In 2020, government implemented KISSAN Bill. Government held various workshops to create favorable situation in favour of this bill. But the farmer leaders were successful to convince the farmers that this bill is detrimental to their interest. Eventually government had to take back this bill. In other case Government brought Citizenship Amendment Act, 2019. Too much deliberation was held for the implementation of it but opposition parties raised objection on the feasibility of this bill. Therefore, still it is pending and many states have not implemented it.
- 3. Transparency** – In democratic countries, it is necessary for any government to be transparent. Public may ask any information from the government on any matter which is related to them so it is necessary to preserve this right to have transparency in the working of government.
- 4. Accountable Government** – Every government takes opinion from the public before formulating its policies. In the midst of those suggestions, government may change her policies in the interest of the public. Government cannot stop public from revolting their decision as in democracy, every government has to be answerable to the public.
- 5. Proper functioning of ruling government** – Any government can sustain itself only by

doing the right things for the people. If government listens to public complaints and solve them, then there will be proper implementation of government policies. In this way government may insure proper functioning of its working. The rights conferred u/a 19 of the constitution are positive in nature and that is available only to the citizens of India. Article 19 is called the foundation of Indian democratic governance. Although the freedom is not exhaustive in nature and these can be curtailed by imposing suitable restrictions. Reasonable restrictions can be imposed only by the authority of law and not by the action of the executive. The right to decide the reasonability is not with the government but with the judiciary. The restrictions can be imposed only on the grounds mentioned in the constitution. Article 19(1) provides the rights of the citizenship while article 19(2) gives right to the state that no one can take illegal advantage of them. So, we can say that there is no constitutional right that is absolute.

SCOPE OF THIS ARTICLE

Freedom covers almost all how you can express yourself irrespective of the substance or tone of your message. It grips all Spaces (public and private), purpose (commercial, artistic and political), Forms (words, pictures, and sounds), Media and social media, television film radio cartoons.

ELEMENTS OF THIS RIGHT

The chief elements of this right are as follows:

1. This right is conferred only to the resident/citizen of India. Foreigners and non-residential person cannot enjoy this right.
2. Every person may nurture any thoughts. He/she is at liberty to think in different way about the same matter. Only than creativity may be restored.
3. We can express our thoughts & views in different way.

For example: We may write editorial, articles in newspaper, Magazine & journal. We may give video lecture and can post them on social media. We may open our own you tube channel. This can be seen when after giving resignation to NDTV, senior journalist Ravish Kumar opened his own you tube channel to articulate his opinion on various burning matters.

4. While enjoying above freedom one must keep in mind following things:
 - One is not authorized to hurt the sentiments of other religion. One may profess any religion, may worship as per one's own choice but he can't undermine preaching of other religions by spreading hate speech.

- We may criticize wrong policies of government for the benefit of the country. But we are not allowed to destabilize the government & create conditions of destabilization in the country.
- We can't defame other person by either spreading false rumors about them or by putting false and baseless allegation against them.⁵ **For example**, senior opposition leader Rahul Gandhi alleges that all person having surname of Modi are CHOR. So, if Neerav Modi has deceived the Bank, we can't claim all Modi's are cheaters.

THIS RIGHT IS ABSOLUTE OR NOT⁶

Liberty to speech cannot be absolute. The fundamental right guaranteed by Article 19 has not been declared in absolute terms. Article 19 imposed several restrictions but it would be legitimate only if some aspects are fulfilled. The restriction has been imposed under Article 19. The restriction has been imposed by valid law. Article 19 provides for the restriction which may be imposed by the state. Limitations on expression freedom are applied only on the basis mentioned in clause (2) of Article 19.

Freedom of speech and expression is a very wide concept but it can be limited and restricted too. This is when the right of any individual shades the right of other person or the value of whole society. In these circumstances, the state can legally limit or punish expressions that produce harm to the society. Examples of this are a violation of private life, defamation, hate speech, obscenity, libel slander, sedition, pornography, fighting words, incitement, classified information, public security, right to privacy, food labeling, copyright violation, perjury, dignity, nondisclosure, agreement, right to be forgotten and trade secrets.

GROUNDS OF FREEDOM OF SPEECH

- **Sovereignty and Integrity:** It means no external power has the right to interfere in our internal matter. Nobody can threat us to stage war against us. Therefore, if some group wants to divide the country on the basis of regionalism and to achieve their goal, they provoke inhabitants of that state for the separation. Then this freedom will not be allowed. State is free to impose restriction on this particular right of such radicals.
- **Maintain Public Peace:** It is very important to maintain peace of public places. If anyone wants to disrupt this tranquility, then he will not be allowed to do so. On pretext of their freedom, if mischief mongers assemble on public place and incite people against the

government policies or communicate in such a way that it is likely to disrupt the peace, then government may put restriction on such freedom. Nobody can object these restrictions.

- **Security of the state:** We cannot endanger the security of our country. If we have some secrets of our country, we cannot share them to our enemy country because they will take benefit of this exposure and can threaten the security of our nation.
- **International Relations:** Now whole world is interconnected. We have to maintain amicable relation with other country so that our import-export relations are good with them. FDI is attracted which give boost to our economy. MNC would also like to establish their branches here and it will provide good opportunities of employment. So, if some people try to spoil our international relation by opposing them, our government can restrict this right.
- **Disobedience of Court:** Judiciary is the important organ of Government in any Country. We have to maintain the dignity of the court. Any contempt of court is not to be accepted under any right of freedom. **In one example**, senior advocate Prashant Bhushan had criticized the chief justice. It was held nobody is above law so he was guilty of the contempt of court.
- **Defamation:** In democratic country everyone has a right to live respectfully. The freedom of expression is not meant to insult others in any manner. So, the rights should be exercised in such a way that no one is offended. So, we should give special attention to respect and dignity of another person. The section 499 and 500 of the Indian Penal Code, 1860 specially defines the provision of defamation.
- **Maintain Decency:** In the name of entertainment, nobody is allowed to show obscene material on TV, Cinema etc. **For example**, if singer sings a song full of abuses, then it will teach youngster to use abusive language. So, there will be censorship on such song. **For example**, the Censor Board has been constituted to review the documentary and release of films in India. The Censor Board has the right to cut any scene and also has the right to stop the release of any film, if they find obscene scenes are included in movies so that there is no bad effect on society.
- **Provocation of an Offence:** Provoking for an offence does not come under any constitutional right to say something wrong to a person or to incite him to commit a crime. Therefore, it is necessary that a person should not do anything that affects public peace, security or law.

LIBERTY OF PRESS THROUGH JUDICIAL INTERVENTION

Press is assumed as fourth estate of democracy. Press works to instill confidence in the general public towards the government and the constitution. But the press should also perform its duty within the ambit of the constitution. The press also needs to understand that in the name of freedom, especially freedom of expression, they should not violate the law. Whenever the press starts going beyond its limits, it becomes necessary for the state to protect constitution and must impose some necessary restrictions on the press. But here it is also necessary that each restriction should be completely legal and constitutional.⁷ Following examples through light on the freedom of press:⁷

For Example, in the year 1975, Prime Minister Mrs. Indira Gandhi put various bans on the press. However, this ban was highly objected by every section of society.

Romesh Thapar vs. The State of Madras,⁸ In this case, the Supreme Court considered the freedom of the press cannot be sacrificed as it is an integral part of our fundamental right.

Indian Express Newspaper vs. Union of India,⁹ In this case, it was described that the press plays a very important part in the modern democratic system. Thus, every government should try to give liberty to press so that they can expose burning matters to the society without any fear.

Bijou Emmanuel vs. The State of Kerala,¹⁰ This case becomes important because three students were suspended from the school just for not participating in the national anthem in the assembly. The students approached Supreme Court and the court ruled in favor of them and also declared that it does not come under the category of any offence under insult to the National Anthem Honor Act, 1971. It was declared by the court the students had not committed any crime against the National Anthem. Court also made it clear that the suspension of the students from the school in this manner is against their right.

CONCLUSION

Consideration of the people in a democratic government is top most but there is exception that there is no Government by the people if they look down the problems or issues to be resolved, the arguments for and against various solutions, and the facts underlying those arguments. Government based on democracy works under the title “**we the people**” and finds itself under emergence or mandatory accountability to seek acceptance of legitimacy from its citizens. Therefore, it can be rightly said that rights of citizens against the Government are not absolute.

However, this is applicable in theory and practically as well. Government is the statutory guardian of these rights for the sake of public interest. Therefore, if any of the citizen try to take undue benefit of this freedom and work toward spreading nuisance than this liberty can be checked and control by the judiciary. The Indian Constitution preserves the rights and liberties of the citizens against the misuse of the power subordinated to them by their government.

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