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FREEDOM OF PRESS IN INDIA

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ABSTRACT

Freedom which is an innate right to all since their birth, has now become part of various countries' constitutions. It generally means free from all constraints and obstructions. But this notion is varied with the beliefs of the people as it affects various aspects of their life. Freedom isn't anything that can be seen, touched, or attained. It is a state of mind which means, one can live one's life as per their own choices and wishes. But, is it practically possible in present society? Can we grant absolute freedom to all?

Freedom of the press, which is one of the most significant liberty guarantees in democracies to ensure transparency and balance of power, comes in the limelight constantly for both positive and negative reasons. It is an institution that upholds social vigilance against the abuse of power by different authorities. In India, media is considered the fourth pillar of democracy which checks the powers of other institutions. It doesn't have powers like the other institutions, but it affects their functioning and makes them responsible to the public.

Also, 161st ranking of India in World Press Freedom Index arises concerns for Indian government as it degrades India's position on a global level. This questioned the credibility of the government and Article 19(1)(a) of the Indian constitution which guaranteed freedom of speech and expression. Here in this article, I am going to explore the legal framework of freedom of press which is a fundamental right in the Indian Constitution with its growing purviews with the development of the society. How are its areas spread compared to British India and what are the rules mentioned by different international organizations?

Keywords: Article 19(1) (a), Freedom of Press, Freedom of speech and expression, Indian Constitutions, Restrictions

INTRODUCTION

"No prison is big enough to contain free speech". By Mazen Darwish.

Freedom was the main goal of Indian political leaders during the Indian Independence movement. From the British representative leader for India to the concept of Poorna Swaraj, this idea evolved rapidly during the fight against the British. Freedom of press which was restrained by the British played a significant role in multiple instances to inspire the freedom fighters to gather a large crowd and unite them

like non-cooperation movement after Rowlatt Act.

Print media have a long and arduous history of affecting people's choices, now it is an important organ of democracy. It is also called the voice of people reflecting their ideas on an issue. But the journalist, writers and other media person faced a lot of problems while covering news like political influence, physical attacks, death threats, etc. This discouraged them from providing actual news to the general public.



Freedom of press is an essential element for the proper functioning of society through democratic channels. This is not only important for journalists and media houses but also for every individual. It empowers people to stand against societal injustices, and discrimination to uphold democratic values in society. It provides them a platform to access the masses and help to shape their opinions on a particular law and influence political decisions by scrutinizing the actions of public officials. It facilitates a regular flow of a diverse range of information and perspectives and helps them to make better decisions for every section of society. In countries like India, where corruption and politics go hand in hand, the press somehow checks this on a large scale.

But governmental censorship and the growth of disinformation and fake news grab everyone's attention toward freedom of press. I will talk about this issue by placing the challenges faced by individuals while using this right, freedom of press in the usual course of life. As a law student, I also tried to explore the legal framework behind this right and how it is expanding with time. The government tried to restrict media contents which criticized their laws and regulation but the Supreme Court came as guardian for the protection of people. The cases regarding this topic attracted me to write about this. Hereby, I will talk about all these problems mentioned above in this article.

WHAT IS FREEDOM OF PRESS?

"Freedom of the press is a precious privilege that no country can forego." is an infamous quote said by Mahatma Gandhi that clarified the perception of Indian leaders.

When we see the meaning of freedom of press, it has different definitions in accordance with different spheres. In India, when we talk in legal terms, it is derived from Article 19(a) of Fundamental Rights which talks about freedom of speech and expression. It is not explicitly mentioned in this article but emerged with the judgments of the courts. It gives journalists the

freedom to speak and express their views and also protects them from the higher and oppressive authorities. It provides the right to publish and disseminate information and opinions without any interference.

According to Dictionary.com, freedom of press is the right to publish newspapers, magazines, and other printed matters without governmental restriction and subject only to the laws of libel, obscenity, sedition, etc.

Its prime purpose is to make an institution free from governing and law-making bodies, legislative, executive, and judiciary with no control by any statutory and administrative rule. But, nowadays these organs affect the media by different means. The government imposes censorship to restrict the free publication of writers and journalists. Laws are also made to limit their sphere and make them responsible in the cases like sedition, defamation, national security, etc. They faced legal harassment, even punishment of imprisonment that influenced various positions of their life

FREEDOM OF PRESS IN INDIA

Freedom of the press is a debatable topic in India, dating back to the ancient time. While this term didn't exist in that period, the principles were reflected in the laws and norms of society. Freedom of expression which is a fundamental right mentioned in our constitution took its main essence from ancient texts like Dharmashastra, Manusmriti, Buddhist literature, etc. In India, the tradition of oral transmission of knowledge emerged in the Vedic period that reflects the freedom to express their ideas and philosophy. Manusmriti also recognized the significance of public opinion and freedom to express. Buddhism and Jainism religions solely flourished because of the transmission of the ideas of Buddha and Mahavira. Its importance emerged rapidly in the colonial era when the colonizers started limiting and censoring it. During British rule, newspapers and magazines were subjected to pre-publication censorship to suppress nationalist ideas that emerged in that



period. The expansion of the vernacular press also became an eye sore for the British Government. To counter it, British authorities implemented laws like the Vernacular Press Act of 1878 to check the seditious content of the newspaper which shaped public opinion and fostered nationalist feelings among them. The famous Press (Emergency Powers) Act of 1931 is an example of the curtailment of freedom of press in India. All these events made a background for this right for the recognition of freedom of expression in Independent India, which resulted in Article 19(1)(a) in the constitution and preamble of India¹.

Freedom of press is an evolved right by the courts of India with their judgment. It originated from a fundamental right, freedom of speech and expression which gives the right to express our opinion and beliefs to all citizens of India. It also has some reasonable restrictions to protect the rights of other individuals; like rights always come with some duties. So, freedom of press means the right to publish and print one's opinion. It is equated with Article 19(1) (a) of the Indian constitution. But it is not expressly written term in our constitution. Even in the Drafting committee, B R Ambedkar mentioned this law and said that there was no need for a special right. It could be drawn from the right of freedom of speech and expression provided to all citizens². Now, it is a settled law derived by the courts, and controversy regarding the same ended with the judgments of the court.

Freedom of press is not an absolute right. It came with some restrictions like defamation, security of the state, incitement to an offense, etc. It has 3 essential elements mentioned by the court of India, the right to access all the sources of information, freedom of publication, and freedom of circulation which gave power to

the court to uphold this right and invalidate all laws that abridge that freedom.

CASE LAWS RELATED TO FREEDOM OF PRESS

Freedom of press is a settled law and is considered as a fundamental right that was held in many landmark judgments of the Indian Judiciary. The related judgments to this are as follows:

A. In the case, *Printers (Mysore) Ltd v. Asst Commercial Tax Officer*³, the Supreme Court ruled that no sales tax can be imposed on the selling of newspapers in the country. It didn't immune the press from taxation or regulation of the terms of labor laws of employment, but it is forbidden to impose any limitation on the transmission and distribution process of any newspaper, magazine, or any print media. Freedom of press has a responsibility to protect the public interest by exposing the wrongdoer; so, it must stand on higher ground than other enterprises. It was also determined that newspapers are entitled to take advantage of 4% central sale tax when buying the raw material for printing newspapers.

B. In another case, *Indian Express Newspaper v. The Union of India*⁴, the court observed that press freedom has not been issued by Article 19(1)(a), but it is comprehended within the article. Further, the court stated that the authorities had no power to intervene in the publication's circulation. The court had the obligation to restrict the laws that violate this freedom.

C. In the case of *Brij Bhushan v. State of Delhi*,⁵ the issue of the legality of censorship was raised before the court against the restrictions faced by the printer, publisher, and editor of Organizer, an English weekly of Delhi, under Section 7 of the East Punjab Safety Act, 1949. It submitted some communal news and views about Pakistan supplied by the official sources of the news agencies. The court overturned the

¹ Wikimedia Foundation, Freedom of Press, Wikipedia, (Last Accessed on 12 June, 2023, 8: 24 PM) https://en.wikipedia.org/wiki/Freedom_of_the_press_in_British_India#:~:text=The%20British%20Indian%20press%20was,1857%20and%20Registration%20Act%2C%201867.

² Manmeet Singh, Freedom of Press - Article 19(1)(a), Legal Service India, [https://www.legalservicesindia.com/article/1847/Freedom-of-Press---Article-19\(1\)\(a\).html](https://www.legalservicesindia.com/article/1847/Freedom-of-Press---Article-19(1)(a).html) (Last Accessed on 12 June, 2023, 8: 25 PM)

³ *Printers (Mysore) Ltd. v Asst. Commercial Tax Officer*, (1994) 2 SCC 434

⁴ *Indian Express Newspaper v. Union of India* (1985) 1 SCC 641

⁵ *Brij Bhushan vs State of Delhi*, A.I.R. 1950 SC 129; 1950 SCR 605

decree, pointing out the importance of freedom of speech and expression to the press guaranteed by Article 19 (1)(a). It granted the newspaper the right to publish its own opinions and prohibit it as a grave violation of their rights.

In 1955, the Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provision Act was passed to regulate certain conditions of service of working journalists and other employees in a newspaper establishment.

D. Working Journalists and Other Newspaper Employees (Condition of Service) and Miscellaneous Provision Act was challenged in the case of *Express Newspaper v. Union of India*⁶ where the court validated this Act by stating its importance in the newspaper industry. The court held that Article 19(1)(a) is subjected to some reasonable restrictions which created a shape for the government to make laws to improve the working conditions for the women in this industry.

E. Also while ruling *Romesh Thapper v. State of Madras*⁷ case, the court held that the freedom of speech and expression includes freedom of propagation of ideas that can be assured by circulation. Article 19(2) imposed some restrictions based on public safety or maintenance of public order and restrictions outside the scope of this clause (2) were unconstitutional.

F. The same clause was also mentioned in the case, *Sakal Papers Ltd v. Union of India*⁸ where the limit was fixed by the government on the number of pages and minimum price for newspapers. The court struck down this rule of the Daily Newspaper (Price and Control) Order of 1960 by stating that it was unconstitutional as infringing the liberty of the press. The government had no power to impose this type of restriction on the freedom to carry on business.

G. Also, In the *Bennet Colman case*⁹, the court held that fixing the number of pages was unconstitutional, as freedom of press involved both quantitative and qualitative dimensions, and both were affected by this order.

H. If we talk about any recent judgment, in the case of *Vinod Dua v. Union of India*¹⁰, a journalist was charged with sedition for criticizing the government. To rule its judgment, the court held that he was merely exercising his right under Article 19(1)(a) of the Indian constitution. Relying on the previous judgment, *Indian Express Newspapers (Bombay) Private Ltd v. Union of India* the court mentioned freedom of press as heart of social and political intercourse.

From all the above judgments, we can declare that freedom of the press is an important right under freedom of speech and expression but it must be exercised under some reasonable restrictions mentioned by law.

CONCLUSION

In my concluding line, I want to denote that power with no restriction can be hazardous and the same goes for the media. It can access the masses and manipulate their opinions on any social or political matter causing outrage amongst the people. So, rules are necessary to maintain balance in society and protect from any harm to the peace and harmony of the country. However, there is an urgent need to address the present issues that come in the way of this free. I hereby mentioned some solutions like making strict laws for the protection of journalists, reforms in the existing laws, media diversity and no dependence on any political organization, media literacy with digital advancement, etc. that can contribute to creating an enabling environment for the press freedom in India and may rise the ranking of India in the report of Reporters Without Borders.¹¹

⁶ *Express Newspapers (Private) Ltd. & Anr. v. The Union of India & ors.*[1959] S.CR.12

⁷ *Romesh Thaper vs State of Madras*, A.I.R. 1950 SC 124

⁸ *Sakal Papers v. Union of India*, A.I.R. 1962 SC 305

⁹ *Bennett Coleman & Co. v. Union of India*, A.I.R. 1973 SC 106; (1972) 2 SCC 788

¹⁰ *Vinod Dua v. Union of India*, 2021 SCC OnLine SC 414

¹¹ Editor Team , Our Reports, Reporter Without Borders, <https://rsf.org/en> (Last Accessed on 8th June, 2023 – 3: 21 PM)