

# **ANALYSIS OF FREEDOM OF SPEECH AND EXPRESSION LAWS IN INDIA**

*Dissertation submitted to Maharishi University of Information Technology,  
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Master of Laws.*



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## **DECLARATION**

This dissertation on “*ANALYSIS OF FREEDOM OF SPEECH AND EXPRESSION LAWS IN INDIA*” embodies and is imperative with the result of my own research work pursued under the supervision of **Dr. Vikas Sharma**. I declare that no part of this dissertation has been published or submitted to any other institution for any other purposes. My indebtedness to other works and publications have been duly acknowledged at relevant places.

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This is to certify that this Dissertation titled “***ANALYSIS OF FREEDOM OF SPEECH AND EXPRESSION LAWS IN INDIA***” is written by **Lav Dev Singh** bearing enrolment no. **MUIT0224054058**. He is a candidate of Masters of Law Program here at the Maharishi University of Technology, Noida, School of Law. He has conducted all the research work under my supervision and submitted original and bona fide work to our utmost satisfaction, in the final semester for the partial fulfilment of the requirements for the award of the degree of Master of Laws.

**SUPERVISOR: Dr. Vikas Sharma**

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(Lav Dev Singh)

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## **LIST OF ABBREVIATIONS**

- AIR: All India Reporter
- All ER: All England Law Reports
- ALJ: Allahabad Law Journal
- ALT: Andhra Law Times
- BARC: Broadcast Audience Research Council
- BBC: British Broadcasting Corporation
- BCCC: Broadcasting Content Complaints Council
- BEREC: Body of European Regulators for Electronic Communication
- CrPC: Criminal Procedure Code
- CrLJ: Criminal Law Journal
- CWN: Calcutta Weekly Notes
- CTIA: Cellular Telecommunications Industry Association
- EPW: Economic & Political Weekly
- FAIR: Fairness and Accuracy in Reporting
- FCC: Federal Communications Commission
- Guj: Gujarat
- IBF: Indian Broadcasting Foundation
- ICCPR: International Covenant on Civil and Political Rights
- IPC: Indian Penal Code



- ILR: Indian Law Reports
- IMPRESS: Independent Monitor for the Press
- IPSO: International Press Standards Organisation
- KB: King's Bench
- NBA: News Broadcasters Association
- NBSA: News Broadcasting Standards Authority
- NCAC: National Coalition Against Censorship
- NSWLR: New South Wales Law Reports
- OFCOM: Office of Communication
- PRESSBOF: Press Standards Board of Finance
- QB: Queen's Bench
- SCC: Supreme Court Cases
- SCJ: Supreme Court Journal
- SCW: Supreme Court Weekly
- Supp: Supplementary
- TRAI: Telecom Regulatory Authority of India
- TLR: The Literary Review
- UDHR: Universal Declaration of Human Rights
- UK: United Kingdom
- USA: United States of America

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# CHAPTER 1

## INTRDUCTION

### 1.1 INTRODUCTION

The foundational legal document that governs the nation establishes the roles and responsibilities of the various branches of government, while also outlining the fundamental liberties and obligations of its people, along with the corresponding limitations on those freedoms. These rights were considered vital by those who drafted this seminal text to safeguard the well-being of all citizens. One such liberty enshrined within is the freedom of expression and speech for every individual. However, this right is subject to certain constraints imposed by the state in order to uphold the nation's sovereignty and territorial integrity, ensure security, maintain cordial relations with foreign countries, preserve public order, and protect against indecency, immorality, or actions that could be deemed contemptuous, defamatory, or inciting offenses.<sup>1</sup>

The paramount legal framework that governs the nation strikes a delicate balance between granting fundamental freedoms to its citizens and imposing reasonable limitations on those liberties to safeguard the rights of others and uphold crucial national interests. An amalgamation of the relevant provisions reveals that every individual enjoys the right to freely express themselves, albeit with certain restrictions outlined to prevent any infringement upon the liberties of others or actions detrimental to the nation's sovereignty, security, or public order. This founding document enshrines the principle of equality before the law and equal protection under the law, thereby ensuring that the freedom of expression is equally accessible to all, without discrimination.

This fundamental right holds particular significance in the context of the media, which has been recognized as a vital pillar of democracy, playing a crucial role in shaping public discourse and disseminating information to the masses. While not explicitly stated, the judicial branch has extended this same freedom of speech and expression to media entities, acknowledging their indispensable role in a vibrant democracy. This freedom encompasses various platforms,

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<sup>1</sup> Justice V.R. Krishna Iyer, "The Regional Media and the Democratic Process" Pg. 26 (2008) 1 Madras Law Journal

including print, electronic, and social media, enabling diverse voices to contribute to the public discourse. This recognition is vital for the media, as it serves as a platform to communicate with the wider world. Through various mediums such as news stories, reports, articles, advertisements, and editorials, the media keeps the public informed about global events and developments. Revoking this right could result in chaos, as journalists and editors would be unable to report on events promptly. News channels would be unable to conduct interviews, debates, or opinion polls, leaving the public uninformed about critical issues and those responsible. Often referred to as the fourth estate in a democracy, the media plays a crucial role in shaping public opinion and the national agenda. With rising literacy rates globally, individuals depend on the media for information on current affairs, politics, science, social issues, culture, sports, finance, and more, making it indispensable for survival in today's world.

The evolution of news presentation by the media has been greatly influenced by continuous advancements in science and technology. Johannes Gutenberg's groundbreaking invention of the printing press during the 14th century marked a significant turning point, allowing for the mass production of newspapers. This innovation revolutionized the dissemination of information, enabling the printing of millions of copies daily, a feat previously deemed impossible. However, in today's media landscape, the dominance once held by print media has diminished. Although newspapers still retain their importance in society, electronic and social media platforms have risen to prominence as influential news sources. The widespread accessibility of the internet through various electronic devices such as computers and smartphones has fundamentally altered the way people consume news. The emergence of online newspapers, social media platforms, and interactive features like opinion polls and surveys has transformed news consumption into a dynamic exchange between media outlets and the public. This paradigm shift has empowered individuals to express their views and participate in discussions regarding current events and political developments. Gone are the days when newspapers and traditional broadcast media were the primary sources of communication and entertainment. While print media once held sway, it has been eclipsed by electronic media, particularly television and radio. Today, the media landscape offers a diverse array of communication channels that are faster and easier to access than ever before, including smartphones, laptops, tablets, and other digital devices. However, excessive freedom of speech and expression in the media can have detrimental consequences. India grants the media this freedom under Article 19 to ensure transparency in governmental functions. The primary responsibility of a free press, even in the face of significant risks, is to hold the government

accountable and prevent deception of the public. Unfortunately, a lack of literacy and susceptibility to misinformation perpetuated by the news media is a widespread issue, particularly affecting rural areas.<sup>2</sup>

Freedom of expression is often justified by three main arguments. Firstly, some believe it is essential for individuals to attain autonomy and self-fulfillment. Secondly, the marketplace of ideas theory posits that minimal government intervention will encourage robust debate among citizens, facilitating the discovery of truth. Lastly, freedom of expression is seen as crucial for democratic governance. However, these justifications have faced criticism and extensive scrutiny due to their overlap. The judiciary consistently emphasizes the importance of press freedom. Although not explicitly provided for in the Constitution of India, landmark judgments have established that press freedom is an extension of the freedom of speech and expression guaranteed to citizens. Like citizens, the press and media are also subject to reasonable restrictions on their freedom, as outlined by law, similar to the restrictions under Article 19(2) of the Constitution.

## **1.2 RIGHT OF PRESS AND MEDIA IN LIGHT OF ARTICLE 19(1)(A) AND 19(2)**

The bedrock of any democratic society is the principle of equality before the law and equal protection under the law, which is enshrined in Article 14 of the nation's guiding constitutional framework. This fundamental tenet ensures that every citizen, regardless of their background or circumstances, is treated with impartiality and without any form of discrimination or prejudice in the eyes of the law. Consequently, the freedom of speech and expression, as guaranteed by Article 19(1)(a), becomes equally accessible to all individuals, without any distinction or favouritism.

This particular liberty holds profound significance for the media, often referred to as the "Fourth Pillar of Democracy," owing to its vital role in upholding the principles of a free and vibrant democratic society. The media, encompassing a diverse array of platforms, including print publications, electronic broadcasts, and the ever-evolving realm of social media, exercises this freedom of speech and expression while discharging its critical duties of informing the

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<sup>2</sup> A.K. Gopalan v. State of Madras, AIR 1950 SC 27. Also see Collector of Malabar v. Erimal Ebrahim Hajee, AIR 1957 SC 688.

public, fostering public discourse, and acting as a watchdog against any potential abuse of power.

Although the constitution does not explicitly mention the media's entitlement to this fundamental freedom, the judiciary, through its interpretative role, has extended the application of Article 19(1)(a) to media entities, recognizing their indispensable role in shaping public opinion and holding those in positions of authority accountable. This judicial interpretation ensures that the media, much like every individual citizen, enjoys the same rights and protections when it comes to the freedom of speech and expression, enabling it to fearlessly and without hindrance fulfill its responsibilities to the nation and its people.

By granting the media this crucial liberty, the constitution not only safeguards the free flow of information and ideas but also fosters an environment conducive to robust public discourse, where diverse perspectives can be shared, debated, and scrutinized. This, in turn, strengthens the foundations of a truly democratic society, where the voices of the people are amplified, and those entrusted with power are held accountable for their actions. This is crucial for the media, as it serves as a vital conduit for disseminating information to the general public. News stories, articles, and editorials published by the media are consumed by individuals seeking to stay informed about global events. Limiting this right for the media could lead to chaos, hindering journalists and editors from reporting news in a timely manner. Without this freedom, news channels would struggle to conduct interviews effectively, leaving the public uninformed about current events and lacking accountability from those in positions of authority.

### **1.3 HOW ELECTRONIC AND SOCIAL MEDIA ARE MISUSING THE FREEDOM?**

In earlier times, news and entertainment were predominantly disseminated through local and national newspapers, as well as via All India Radio and Doordarshan. However, with the advent of electronic media, such as television and radio, print media gradually took a backseat. Today, the media landscape has evolved significantly, with smartphones, laptops, tablets, and other digital devices offering faster and more accessible forms of communication. The emergence of social media has further revolutionized the way information is disseminated and consumed. While these advancements have undoubtedly enhanced communication, they have also brought about certain drawbacks. The proliferation of 24x7 news channels has enabled people to stay updated on global events in real-time. However, it has also led to issues like paid news, media

trials, and sting operations. Furthermore, the rise of fake news, fuelled by the rapid spread of information through platforms like WhatsApp, has become a cause for concern. Instances of individuals acting on baseless rumours have resulted in serious consequences, including violence and criminal activities like murders and riots. Thus, while media technology has empowered individuals with greater access to information, it also poses challenges in ensuring the reliability and accuracy of the content being circulated.

Similarly, with the proliferation of entertainment and film channels, it becomes imperative to scrutinize the content of their programs, given their wide-reaching audience spanning various age groups. Without adequate measures in place, channels may exploit the lack of restrictions to broadcast content of varying levels, occasionally offending viewer groups such as women and children. This issue extends to social media, the largest platform utilized by individuals, where some users exercise their freedom of speech responsibly, while others abuse it, whether publicly or personally. Consequently, the evolution of media has led to an abundance of media sources, presenting both benefits and drawbacks.

Moreover, media convergence has spurred the development of innovative news presentation methods, blending traditional printing, broadcasting, and online publishing. In light of these challenges, the debate over the regulation of media arises, questioning the extent to which it should be regulated.

Given the current challenges, it prompts us to ponder: is media regulation necessary, and if yes, to what degree? Furthermore, should this oversight originate from within media organizations or from an external regulatory body that is independent and distinct from all media entities? These questions emphasize the importance of conducting a thorough analysis of freedom of speech and expression laws in India. Therefore, the focus of this research will be on comprehensively examining these laws.

## **“ANALYSIS OF FREEDOM OF SPEECH AND EXPRESSION LAWS IN INDIA”**

### **1.4 OBJECT OF THE STUDY**

- Analysis of the constitutional provisions and legal structures governing freedom of speech and expression in India, including pertinent statutes, case law, and international agreements.



- Examination of the extent and constraints of freedom of speech and expression in India, considering factors like national security, public order, defamation, obscenity, hate speech, and sedition.
- Evaluation of the judiciary's role in interpreting and safeguarding freedom of speech and expression in India, through studying landmark judgments and legal principles.
- Identification of challenges and deficiencies in the current legal framework concerning freedom of speech and expression in India, along with proposed recommendations for legal reforms or policy interventions to address them.

## **1.5 SCOPE OF THE STUDY**

The dissertation aims to thoroughly analyze freedom of speech and expression laws in India, covering constitutional provisions, relevant statutes, judicial interpretations, and international treaties. It will delve into landmark legal cases and judicial precedents, particularly those from the Supreme Court and High Courts, which have significantly influenced the interpretation and implementation of these laws. Additionally, the study will trace the historical development of these laws, taking into account legislative amendments, policy shifts, and societal changes over time. A comparative analysis will be conducted with other democratic nations to highlight similarities, differences, and best practices in this regard. The dissertation will also explore contemporary challenges such as censorship, online speech, hate speech, and the impact of digital technologies. Recommendations for legislative, policy, and judicial reforms will be proposed to strengthen the protection of freedom of speech and expression in India.

## **1.6 SIGNIFICANCE OF THE STUDY**

Media regulations are established through a variety of Acts and regulatory bodies aimed at governing the industry. Both international laws and domestic Acts and bodies in India oversee the functioning of the media. Although the Constitution of India does not explicitly grant freedom of speech and expression to the media, judicial rulings have consistently upheld this freedom. However, in a competitive environment, media outlets sometimes overstep these freedoms and engage in practices such as paid news, fake news, sting operations, and media trials. Similarly, in the realm of new media, especially social media, there have been instances like the Shreya Singhal case where legislation has been misused to suppress online free speech.

This study aims to assess whether existing laws and regulatory bodies adequately address the evolving landscape of the media. Furthermore, it seeks to determine if additional measures are necessary to regulate media practices effectively. Additionally, there is a need to decide whether checks on media should be internal or external, as internal checks may leave room for abuse.

## **1.7 STATEMENT OF PROBLEM**

The scholarly inquiry delves into the intricate dynamics surrounding the exercise and potential misuse of the cherished freedom of speech and expression, with a particular emphasis on the role played by both traditional and contemporary electronic media platforms. While the nation's seminal constitutional document does not explicitly enshrine the concept of press freedom, the highest judicial authority has, through its rulings, unequivocally affirmed this fundamental right for media entities.

However, the research acknowledges the existence of instances where this liberty has been subjected to exploitation, often manifesting in concerning practices such as the dissemination of news or information through illicit financial arrangements, the phenomenon of media trials that can potentially undermine the due process of law, and the use of sensationalized sting operations that may cross ethical boundaries. Similarly, the realm of social media, which has emerged as a potent platform for the exchange of ideas and information, has also witnessed instances where the freedom of speech has been misused or abused, raising concerns about the need for responsible conduct and the preservation of ethical norms.

The study's focal point lies in the multifaceted challenges that arise from the exercise of press freedom, which have given rise to pressing issues such as the proliferation of fake news, the insidious practice of disseminating news or information through illicit financial arrangements, the phenomenon of media trials that can potentially undermine the sanctity of the legal system, and the use of sensationalized sting operations that may cross ethical boundaries. By delving into these complex dynamics, the research endeavors to shed light on the delicate balance that must be struck between preserving the fundamental right to freedom of speech and expression, and the need for responsible conduct that upholds ethical standards and safeguards the integrity of the media landscape, both traditional and modern.

## **1.8 RESEARCH QUESTIONS**

1. Are the current legal frameworks adequately equipped to address the implications of scientific and technological progress on the freedom of speech and expression?
2. Do regulatory institutions in India, including the Press Council of India and the News Broadcasting Standards Authority, possess the necessary resources and capabilities to adequately regulate internet broadcasts?
3. To what extent has the State potentially exploited provisions of the I.T. Act to quell political dissent?
4. Is there a prevalent perception within the media sector that their entitlements regarding freedom of speech and expression take precedence over those of citizens?

## **1.9 RESEARCH HYPOTHESIS**

The dissertation aims to evaluate the effectiveness of freedom of speech laws in India by analyzing legislative frameworks, judicial interpretations, and practical outcomes. It is anticipated that despite constitutional guarantees, discrepancies between laws and their implementation may impose limitations on this fundamental right.

## **1.10 RESEARCH METHODOLOGY**

The research is entirely doctrinal in nature, characterized by its descriptive and analytical approach. It relies on primary sources such as statutes, laws, regulations, and acts, as well as secondary sources including articles, research reports, policy papers, and government documents. The researcher has focused on various Indian judgments as well as of other countries to have a clearer insight into the research objectives, research questions, and hypothesis.

## **1.11 LITERATURE REVIEW**

Singh G. (2017) conducted a research study titled "The Impact of Freedom of Electronic Media on Indian Democracy," focusing on the effectiveness of existing laws and legislations in

addressing the issue of censorship. The research question explored whether the existing legal framework adequately addresses concerns related to censorship in electronic media.

A distinct scholarly endeavor undertaken by Iyer Venkatesh B. (2017) delved into the intricate dynamics at play between the realm of print media and the burgeoning influence of the internet and other emergent media formats. Titled "Analysing the Impact of Internet and Other Media on Print Media," this research initiative was guided by a set of well-defined objectives that aimed to shed light on the evolving landscape of the print media industry, particularly within the context of the Indian state of Gujarat. The first objective sought to evaluate the current state of the print media industry in India, with a specific focus on the region of Gujarat. This assessment aimed to provide a comprehensive understanding of the challenges, opportunities, and prevailing trends shaping the industry's trajectory within this particular geographical context. Building upon this foundation, the second objective delved into the historical development of print media in India, tracing its origins and charting its evolution through the annals of time. By exploring this historical narrative, the study endeavored to identify the present-day challenges confronting the industry, shedding light on the complex interplay of factors that have shaped its contemporary reality. The third objective shifted its focus towards examining the adaptability and resilience of the print media industry in the face of an increasingly competitive landscape. As new media formats and technologies have emerged, the study sought to investigate the strategies and innovations employed by print media entities to maintain their relevance and appeal in a rapidly evolving market. Furthermore, the fourth objective centered on analyzing readership trends among consumers in Gujarat, providing valuable insights into the preferences, behaviors, and consumption patterns of the local audience. By understanding these dynamics, the research aimed to inform strategic decision-making within the industry, enabling publishers and content creators to better cater to the evolving needs and desires of their target readership. Finally, the fifth objective explored the perceptions and attitudes held by consumers and industry stakeholders towards newspapers and other media formats. By delving into these perceptions, the study sought to uncover the underlying factors that shape consumer choices and preferences, as well as the industry's understanding of its strengths, weaknesses, and positioning relative to other media platforms. Through this multifaceted approach, the research endeavor by Iyer Venkatesh B. (2017) aimed to contribute to the broader discourse on the evolving media landscape, providing valuable insights and recommendations to industry stakeholders, policymakers, and academia alike. By

exploring the intricate interplay between print media, the internet, and other emerging media formats, this study shed light on the challenges and opportunities that lie ahead, informing strategies for adaptation, innovation, and sustained relevance in an ever-changing media ecosystem.

In his 2016 research titled "Trial by media and its impact upon judicial trial: a critical study," Mittal AK explored several objectives. These included analyzing the role of investigative journalism in societal dynamics, assessing the effects of media-driven judicial activism on both society and governmental institutions, and determining the subsequent impacts of media trials on societal perceptions. Additionally, the research aimed to investigate the influence of pressure groups on media activities, evaluate legislative and constitutional provisions pertaining to electronic media, propose new legal concepts to regulate media activities, and devise mechanisms to prevent the dissemination of false information by the media. Furthermore, Mittal AK sought to uncover the role of electronic media in exposing scams and its implications for the judicial process. The research questions posed in the study were: What role does investigative journalism play in shaping societal perceptions? How does media-driven judicial activism impact society and governmental machinery? What are the effects of media trials on societal dynamics? How do pressure groups influence media activities? How effective are legislative and constitutional provisions in regulating electronic media? What legal frameworks can be developed to regulate media activities? What mechanisms can be implemented to prevent the spread of false information by the media? And finally, how does electronic media expose scams and affect judicial proceedings?

A scholarly work titled "Freedom of Speech and Expression in Relation to Decency and Morality" by Sen, Shameek (2016) presents a compelling argument that the right to freedom of speech and expression is a fundamental human liberty that demands comprehensive protection. The study posits that the imposition of any form of pre-censorship poses a significant threat to this essential right. While acknowledging that cultural differences may lead to variations in opinion among different human rights frameworks regarding the necessity, scope, and justification for imposing prior restraints on speech, the research underscores a general consensus on the importance of minimizing such restrictions.

With few exceptions where pre-censorship may be deemed necessary, the study contends that mandatory pre-censorship, particularly concerning matters of obscenity, should be largely abolished and replaced with a system of post facto imposition of liability. This approach aims to strike a balance between protecting individual freedoms and addressing legitimate concerns. Furthermore, the research advocates for the establishment of a normative system of regulation based on scientifically measurable parameters, rather than relying solely on pre-censorship mechanisms. This proposed regulatory framework would involve stakeholders within the relevant media sector, rather than being solely under the purview of the state.

The study suggests that the state's role should be limited to providing legal recognition and support for such self-regulatory models. This approach is intended to reduce the potential for covert censorship and mitigate the chilling effect that excessive state control can have on the fundamental freedom of speech and expression. By presenting this nuanced perspective, the research by Sen, Shameek (2016) contributes to the ongoing discourse surrounding the delicate balance between safeguarding individual liberties and addressing societal concerns related to decency and morality. It offers a thought-provoking exploration of alternative regulatory approaches that aim to uphold the principles of freedom of speech and expression while addressing legitimate concerns through a collaborative and scientifically grounded framework.

Indraneel and Saleel S (2016) conducted a study titled "Media Accountability in Indian Democracy," aiming to delve into the nuanced landscape of media rights and responsibilities within the Indian context. Their research objectives encompassed delineating media rights, assessing constraints on these rights, scrutinizing instances of media overreach, dissecting the phenomenon of media trial, gauging its ramifications on both the public psyche and the legal framework, and delineating media accountability. Moreover, the study endeavored to navigate the intricate terrain where individual privacy rights intersect with the press's freedom to report. Recommendations were proffered to address apprehensions surrounding potential media power abuses.

Kumar Ashok (2015) embarked on a study entitled "Legal Examination of Media in India in the Age of Electronic Technology and Media Trials." His research postulated that the ethos of freedom of speech and expression has deep historical roots. The government's persistent refusal to permit direct newsprint imports for newspapers was noted. Proposals were made for the

establishment of a Broadcasting Council or Media Council to redress grievances against media entities and rectify instances of partiality or bias in media coverage. It was underscored that through unfettered speech and expression, individuals acquire awareness of their civil, political, and socioeconomic entitlements, thereby fostering national development. The right to articulate thoughts and opinions was underscored as foundational to democracy and societal progress. The study highlighted the adverse effects of sting operations on various human rights. It was observed that media outlets often selectively disseminate either the police or defense narratives during ongoing legal proceedings.

Kumar N. (2015) conducted research on the "Role of Indian Media: Covering General Elections," exploring topics such as the relationship between mass media, democracy, and elections, as well as the accuracy of exit polls and opinion surveys. The study aimed to understand the role of media during elections in India, particularly focusing on electronic media, such as television news channels. It also sought to assess the effectiveness of media forecasting before and after elections, identify factors influencing media coverage during elections, and examine the significance of media in strengthening democratic institutions. The researcher hypothesized that mass media play an active role during elections, television news channels have taken over traditional roles of political parties in reaching out to the electorate, exit polls often fail to predict election outcomes accurately, and changes are needed in pre and post-poll surveys to improve accuracy. The study also highlighted the threat of paid news to fair and free elections and suggested that media should focus on people's issues to bridge the gap between political leaders and the public effectively.

Arora M. (2015) conducted a research study titled "The Role of Law in Regulating Electronic Media: A Socio-Legal Examination". The study investigates the application of Article 19(1)(a) in the realm of electronic media, focusing specifically on the implications of reasonable restrictions on its operations. It scrutinizes existing legislation and proposed bills that directly or indirectly regulate electronic media, while also exploring the concept of responsible journalism within the context of electronic media freedom. The main objectives of the study include analyzing the legal provisions governing electronic media, evaluating the extent and impact of electronic media platforms, assessing the accountability of electronic media entities, and examining the delicate balance between electronic media freedom and societal interests.

The study aims to identify regulatory laws pertaining to electronic media and assess the extent to which media freedom serves the public interest.

Following recommendations have been proposed at the conclusion of the study:

(i) The current plethora of laws and regulations governing electronic media is deemed adequate. However, the challenge lies in their effective enforcement to ensure that the media operates with integrity and responsibility.

(ii) To improve transparency and accountability in the operations and management of private television channels, it is proposed that they be included under the purview of the Right to Information (RTI) Act. This measure aims to ensure that these channels are subject to similar standards of openness and accountability as other public institutions, thereby fostering greater trust and accountability among stakeholders.

(iii) Programs depicting crime or obscenity, which have a detrimental effect on viewers, should be prohibited. Instead, emphasis should be placed on broadcasting content that promotes progress, unity, and stability, fostering harmony among the populace.

(iv) Electronic media should dedicate airtime to educational programs aimed at providing employment-related knowledge to illiterate, rural, and impoverished individuals, thereby empowering them economically.

(v) During terrorist attacks or hostage crises, electronic media should refrain from providing live coverage that may aid perpetrators. Information pertaining to rescue operations should also be withheld to prevent potential harm.

(vi) Media outlets should minimize the unnecessary repetition of archival footage, as it may agitate viewers unnecessarily.

(vii) It is recommended that the Broadcasting Services Regulation Bill of 2006 be enacted to regulate private broadcasting services objectively and ensure fair competition within the industry.

Maurya A. (2015) conducted a study titled "Regulation of social media in cyberspace: A critical study of regulatory mechanisms with special reference to India." The research delves into the challenges presented by social media platforms, such as hate speech, identity theft, and copyright infringement, and examines the legal frameworks and authorities governing these



platforms. Additionally, the researcher scrutinizes issues of extraterritorial jurisdiction related to social media offenses and compares the regulatory structures of the United States, the United Kingdom, and India. The study aims to assess critically the efficacy of current laws and regulatory bodies in addressing the changing landscape of new communication channels, as evidenced by various instances of misconduct on social media. Several recommendations are put forth, including the restructuring and reorganization of social media platforms to safeguard online freedom and liberty, the establishment of international agreements to address internet governance issues, and the signing of Mutual Legal Assistance Treaties by India with other nations. Furthermore, the researcher advocates for the global implementation of the "right to be forgotten" principle to protect user privacy and the development of national and international mechanisms to enhance the effectiveness of regulatory oversight bodies. Suggestions also include the creation of legal, moral, and ethical codes for social media application developers and the enactment of comprehensive legislation covering the rights, obligations, and responsibilities of social media companies, users, and Internet Service Providers (ISPs) in accordance with international standards and existing laws in India.

Trivedi B. (2015) conducted a study examining "Political Communication: A Comparative Study of Mass Media," which focused on understanding the perceptions of adult citizens and communicators regarding political communication through mass media. The primary objective was to identify deficiencies in political communication and propose effective strategies for improvement. The research aimed to investigate the scope, limitations, impact, and various aspects of political communication through mass media in the context of India. The study hypothesized that existing mass media platforms fail to effectively disseminate political information, thus hindering the cultivation of political awareness and informed citizenship essential for a thriving democracy. The study concluded and suggested the following:

- (i) The absence of unrestricted information flow in government-owned and print media poses a significant limitation in the mass political communication system. Timely and accurate dissemination of information is crucial, with a focus on avoiding interpretative reporting or biased projections.
- (ii) Communicators need to utilize their resources effectively to raise public awareness, especially among the masses. However, it is concerning that audiovisual media often presents stereotypical narratives without adequately assessing public

response. Communicators must change their approach and prioritize public interest by providing analytical perspectives.

- (iii) Establishing a team of independent expert communicators with the authority to financially support newspaper agencies that prioritize public interest could improve the quality of political communication.

In her 2013 research entitled "Exploring Freedom of Speech and Expression," Mehta K. delves into the essence and scope of freedom of speech and expression, particularly within the framework of the Right to Information Act at both national and international levels. The study underscores the judiciary's pivotal role in upholding the Right to Information in India and its impact on various sectors of society, such as voters, consumers, and prisoners. The primary objective of the study is to assess the implementation and effectiveness of the Right to Information Act of 2005, examining its significance across diverse societal domains and assessing the objectives achieved through its enforcement. The study presents two hypotheses: firstly, whether refusing requested information under the RTI Act constitutes a violation of Article 19(1)(a), and secondly, whether the general public lacks adequate awareness of their rights under the Constitution and other statutory laws, thus impeding their ability to fully exercise their right to access information.

In a comprehensive examination, the researcher has drawn several conclusions regarding the enactment of the Right to Information (RTI) Act:

- (i) Despite the passage of the RTI Act by Parliament, which aims to foster openness, transparency, and accountability in government operations, numerous obstacles persist for the public in accessing information.
- (ii) These obstacles stem from various factors, such as inadequate training of information officers, insufficient official records, a culture of secrecy within government agencies, uncooperative behavior from officials, and the provision of low-quality information.
- (iii) The researcher contends that the right to information constitutes a fundamental entitlement, and any failure to provide requested information, delays in its provision, dissemination of incorrect information, or unwarranted rejection of applications from the public constitutes a violation of this fundamental right, as per Article 19, Article 1 point a of the Constitution. In such instances, the researcher

recommends seeking legal recourse in accordance with Articles 32 and 226 of the Constitution.

Based on these findings, the researcher proposes various steps to enhance the efficacy of the RTI Act:

- (i) Incorporating private institutions within the definition of public authorities.
- (ii) Substituting the term "citizen" with "person" in the RTI Act of 2005 to broaden its applicability.
- (iii) Encouraging public authorities to proactively disclose information.
- (iv) Establishing mechanisms for regular review of Ministries' activities by the Government and penalizing officials who fail to adhere to Section 4 of the Act.
- (v) Developing training programs for Information Officers to ensure their thorough understanding of departmental procedures and accurate provision of information under the RTI Act, thus reducing the need for applicants to resort to appellate authorities.
- (vi) Aligning the extensive list of exemptions to disclosure, as outlined in Articles 9 and 24, with the permissible limitations specified in Article 19(2) of the Constitution. The Government should take necessary steps to amend the RTI Act accordingly.
- (vii) Empowering NGOs to access information from authorities on behalf of educationally, economically, and socially disadvantaged segments of the population.

A scholarly endeavor by Walia J. (2012), titled "Expanding Horizons of Freedom of Speech and Expression and the Judicial Response," explored the multifaceted conceptual dimensions surrounding the evolution and historical context of this fundamental liberty within the Indian context. The study also ventured into examining the international legal regimes governing freedom of speech and expression in nations such as England, the United States, and Australia, providing a comparative perspective. Central to this research was the hypothesis that the existing legal framework may be inadequate in addressing the emerging challenges confronting the exercise of freedom of speech and expression, particularly within the dynamic and rapidly evolving media landscape. This hypothesis underscored the need to critically examine the

sufficiency of current laws and regulations in safeguarding this essential right across various media sectors, including the press, electronic and broadcasting media, and the burgeoning realm of new media platforms. Complementing this investigation, Divan Madhavi G.'s seminal work, "Facets of Media Law," delves into the intricate interplay between constitutional principles and the media sphere. The book addresses pertinent issues such as contempt of court, legislative privileges, and the pivotal right to information, all of which hold significant contemporary relevance in the context of the media's role and responsibilities.

Through this comprehensive exploration, the author presents original perspectives and conducts thorough examinations of the implications surrounding these critical subjects. The work offers in-depth discussions on subjects such as decency, morality, and privacy, all of which have garnered heightened attention and scrutiny in the modern media age. By engaging with these complex themes and offering insightful analyses, these scholarly contributions aim to enrich the ongoing discourse surrounding the intricate balance between upholding the fundamental right to freedom of speech and expression, and addressing the evolving challenges and considerations that arise in the dynamic media landscape. These works shed light on the potential inadequacies within existing legal frameworks and underscore the need for continuous examination and adaptation to ensure the preservation of this essential liberty while addressing legitimate societal concerns.<sup>3</sup>

The book "Law and the Technologies of the Twenty-First Century" by Rogers Brownsword and Morag Goodwin offers a thorough examination of the interaction between law and technology in diverse regulatory environments around the world. It identifies four major challenges presented by technology to regulatory efforts, distinguishing between technology as the subject of regulation and as a regulatory tool. By drawing on a wide range of examples and excerpts from scholarly and public discussions on the regulation of technology, the book presents complex ideas in a clear and accessible manner. It serves as a valuable guide for navigating the rapidly changing landscape of technology regulation, providing readers with both context and structure while addressing the dynamic nature of this field.<sup>4</sup>

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<sup>3</sup> Eastern Book Company, 2nd Edition (2013)

<sup>4</sup> Cambridge University Press (2012)

In his book on Social Media, Narendra Arya explores various aspects of this digital platform. Chapter 2 delves into the relationship between social media and traditional journalism, arguing that they can coexist rather than replace each other. Arya acknowledges the changing landscape of journalism, emphasizing that those unwilling to adapt may struggle to remain relevant in the field. While the book primarily focuses on social media, it underscores the broader theme of media diversity. Legal aspects and issues such as abusive use of social media are not addressed in depth.

In "Internet Law" by Chris Reed, a global perspective is taken on the legal challenges posed by the internet as a worldwide communication tool. The book delves into the analytical methods needed for addressing internet-related legal issues and examines how various countries' laws must adapt to the digital age. It discusses how technological, economic, and political factors shape internet law, integrating legal and other materials to support its arguments. The book also explores global trends in legal developments related to the internet and evaluates potential mechanisms for legal change in this sphere.<sup>5</sup>

The book "Free Speech in the New Media," edited by Thomas Gibbons, is a notable contribution addressing the crucial issue of freedom of speech in the realm of social media. It offers a collection of empirical research studies exploring diverse aspects of free expression on online platforms. The publication is structured into three main sections: Part 1 examines research at the convergence of free speech and digital media, while Part 2 focuses on public service broadcasting. Part 3 encompasses articles discussing content standards. Additionally, the book features numerous essays covering various topics such as beliefs, indecency, advertising, and content regulation within the European Community.<sup>6</sup>

"In the discourse surrounding internet governance, regulations, and powers, one notable literary contribution is the book titled "Governance, Regulations, and Powers on the Internet," edited by Eric Brousseau et al. Chapter 6, authored by Benolt Frydman et al., titled "Co-regulation and the rule of law," stands out for its exploration of co-regulation on the internet. This concept

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<sup>5</sup> Cambridge University Press, 2nd Edition

<sup>6</sup> Routledge (2009)

involves leveraging legal mechanisms to influence control points to achieve regulatory objectives. The authors examine self-regulatory initiatives in the United States, contrasting them with co-regulatory approaches. They also evaluate the feasibility of implementing internet co-regulation in the European Union, concluding with an analysis of emerging regulatory trends in China. Another valuable resource is Chapter 10 of "Introduction to Internet Law and Policy" by Rodney Ryder, which delves into defamation and the internet. The chapter specifically assesses the legal implications and liabilities under Indian law concerning defamation. It begins by elucidating the legal framework of defamation in India and proceeds to scrutinize various avenues through which defamation can occur in the digital realm."<sup>7</sup>

A significant literary contribution on internet governance and regulations is the book "Governance, Regulations, and Powers on the Internet," edited by Eric Brousseau et al. A noteworthy chapter in this book is Chapter 6, titled "Co-regulation and the Rule of Law," authored by Benolt Frydman et al. This chapter delves into the concept of co-regulation in the context of the internet, which is defined as a legal mechanism aimed at exerting pressure on control points to achieve regulatory outcomes. The chapter analyzes self-regulatory measures in the United States compared to co-regulatory approaches, and also explores the potential for co-regulation of the internet within the European Union. It concludes with an examination of evolving internet regulation trends in China. Additionally, Rodney Ryder's "Introduction to Internet Law and Policy" includes Chapter 10, focusing on the topic of Defamation and the Internet: Analyzing Risks and Liabilities under Indian Law. This chapter delves into the legal concept of defamation within the Indian legal framework, identifying various methods through which defamation can occur.

## **1.12 CHAPTERIZATION**

CHAPTER 1 - INTRODUCTION

CHAPTER 2 - CONCEPT, MEANING AND SCOPE OF FREEDOM OF SPEECH AND  
EXPRESSION

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<sup>7</sup> Cambridge University Press

CHAPTER 3 - LEGISLATION WITH RESPECT TO FREEDOM TO SPEECH AND  
EXPRESSION

CHAPTER 4 - JUDICIAL APPROACH

CHAPTER 5 - CONCLUSION AND SUGGESTIONS

## **CHAPTER 2**

# **CONCEPT, MEANING AND SCOPE OF FREEDOM OF SPEECH AND EXPRESSION**

### **2.1 INTRODUCTION**

The concept of freedom of speech is widely acknowledged as a cornerstone of liberty, holding a central role among various other freedoms. It is often hailed as vital for the functioning of democratic societies, seen as essential for fostering openness and freedom. In contemporary society, there is a general consensus that safeguarding and upholding the right to freedom of speech is imperative in all circumstances. At its essence, free speech entails the uninhibited exchange of ideas within an inclusive environment. The ability to express opinions and thoughts without fear of censorship or retaliation is deemed critical for societal advancement and the overall welfare of the community. It is regarded as one of the fundamental liberties that should be protected from state interference or regulation.<sup>8</sup>

Article 19 of the Constitution enshrines essential liberties that inherently belong to every person, deriving from natural or customary law rather than legislative decree. These foundational freedoms, such as the right to freely express oneself, form the bedrock of a liberated society, empowering individuals to voice their thoughts and access a plethora of ideas and viewpoints. While reasonable constraints may be imposed by the State on these liberties, they are vital for the pursuit of truth and the cultivation of individuality. Moreover, freedom of speech and expression plays a vital role in the functioning of a parliamentary democracy, facilitating well-informed discussions and ensuring the availability of critical information for effective governance. Ultimately, this liberty is not solely an individual entitlement but also a communal imperative for staying informed and actively participating, highlighting its essential role in upholding democratic values.<sup>9</sup>

The Preamble encapsulates two interconnected concepts: firstly, the rights of individuals that entail corresponding duties of the State towards them, and secondly, the duties of individuals

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<sup>8</sup> Dheerendra Patanjali, "Freedom of Speech and Expression, India v America - A Study" Retrieved from visited on 12.3.2025.

<sup>9</sup> Sujata V. Manohar, "T.K. Tope's, Constitutional Law of India" Eastern Book Company, Lucknow, 2010, p. 143



towards the State that correspond to the rights of society against them. The State has a responsibility to safeguard the rights of individuals and refrain from encroaching upon them. Similarly, individuals have a duty to contribute to the well-being of society. It is crucial to uphold this equilibrium, ensuring that neither individual rights nor societal interests are undermined. While we cherish the freedom of speech and expression, it is important to acknowledge that this freedom entails certain responsibilities. The essence of true freedom lies in recognizing its limitations for the collective welfare of society.

## **2.2 HISTORICAL BACKGROUND OF FREEDOM OF SPEECH & EXPRESSION**

The demand for freedom of expression emerged during the European Enlightenment, particularly gaining momentum in England under common law principles. By the late 18th century, this idea broadened with the issuance of early declarations of basic rights. Section 12 of the Virginia Bill of Rights in 1776, influenced by English legal tradition, affirmed the freedom of the press as a cornerstone of liberty, stating that it should never be restricted by authoritarian governments. Unlike the English tradition of Parliamentary supremacy, the First Amendment of the United States Constitution also limits Congress, declaring, "Congress shall make no law abridging the freedom of speech or of the press." Similarly, the French Declaration of the Rights of Man and of the Citizen in 1789 echoed Enlightenment ideals by acknowledging freedom of opinion as a fundamental human right, underscoring the significance of unrestricted expression of thoughts or opinions. It guarantees every citizen the right to freely speak, write, and publish, with accountability for any abuses of this freedom as determined by law. In the 19th century, German states integrated freedom of opinion into their constitutions, often through explicit prohibitions on press censorship within the framework of general criminal laws.<sup>10</sup>

The Federal Constitutional Court has emphasized the fundamental importance of freedom of expression in a democratic society, stating that it is a crucial element that allows for ongoing intellectual discourse and the exchange of differing opinions.<sup>11</sup>

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<sup>10</sup> Christian Starck, "Freedom of Expression and Academic Freedom: Background and Formation of Legal Principles" in Mahendra P. Singh (eds.), *Comparative Constitutional Law*, Eastern Book Company, Lucknow, 2011, p. 409

<sup>11</sup> Christian Starck, "Freedom of Expression and Academic Freedom: Background and Formation of Legal Principles" in Mahendra P. Singh (eds.), *Comparative Constitutional Law*, Eastern Book Company, Lucknow, 2011, p. 409.

Abraham Lincoln famously characterized democracy as a government "by the people, for the people, and of the people." However, for democracy to function optimally, it is crucial that citizens are well-informed about the issues at hand, comprehend the various arguments for and against different solutions, and possess a solid understanding of the facts underlying those arguments. Essentially, the sovereignty of a democracy ultimately resides with its people, but this sovereignty can only be effectively exercised when citizens are informed and actively participate in the democratic process.<sup>12</sup>

In 1948, the United Nations held a Conference in Geneva focusing on Freedom of Information, with representatives from 54 nations in attendance. Throughout the conference, numerous resolutions were adopted for further consideration by the United Nations. This eventually led to the declaration by the General Assembly that Freedom of Information is an essential human right. Article 19 of the Universal Declaration of Human Rights explicitly states that "everyone has the right to freedom of opinion and expression," encompassing the freedom to hold opinions without interference and to seek, receive, and share information and ideas through any medium without geographical limitations.

The core principles embodied in these declarations underscore democratic ideals and stress the significance of safeguarding individuals' rights, including the right to access information. In 1960, the Economic and Social Council of the United Nations embraced a provision influenced by Article 19 of the Universal Declaration of Human Rights from 1948. Sweden achieved a milestone by becoming the inaugural nation to institute a legal framework affording citizens access to official information. The Rome Convention for the Protection of Human Rights and Fundamental Freedoms, ratified in 1950 and enforced on September 3, 1953, incorporates Article 10, which underscores the freedom of expression. This article declares that everyone has the entitlement to express their viewpoints and to seek, receive, and disseminate information and ideas without hindrance from public authorities and irrespective of borders. Nevertheless, governments may regulate broadcasting, television, or cinema operations. Additionally, the exercise of these freedoms may be subject to limitations as stipulated by law, including those necessary to preserve national security, public safety, or the rights of others, uphold judicial impartiality, or safeguard confidential information.<sup>13</sup>

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<sup>12</sup> Subhash C. Gupta, "Right to Information Act, 2005: A New Approach to Public Accountability" in *Law in India Emerging Trends*, Publications Bureau, Punjabi University, Patiala (eds.), 2007, p. 291.

<sup>13</sup> P.K. Das, "Handbook on the Right to Information Act" Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2010, p. 15.

In India, the Preamble of the Constitution stands out from other enactments as it encapsulates the aspirations of the Constituent Assembly. It serves as a guiding principle when interpreting any provision of the Constitution, especially in cases of ambiguity. The Preamble emphasizes the supremacy of the people in a democratic setup, evident from the opening phrase "WE, THE PEOPLE OF INDIA," and the closing statement "GIVE TO OURSELVES THIS CONSTITUTION." In spite of the democratic principles, a significant segment of the Indian population remains uninformed about public affairs and frequently faces marginalization by those in power across the executive, legislative, and judicial branches. The ideals of democracy are also outlined in global documents such as the Universal Declaration of Human Rights and domestically in the Constitution of India, which safeguard fundamental rights like the right to life, liberty, dignity, and adequate living conditions. Within a democratic framework, the electoral process assumes a pivotal role by granting citizens the ability to demand complete transparency regarding the candidates representing them in Parliament, where laws impacting their lives and property are formulated. Therefore, access to information is deemed a fundamental entitlement in a democracy, crucial for upholding the effective rule of law.<sup>14</sup>

## **2.3 MEANING OF FREEDOM OF SPEECH & EXPRESSION**

The foundational legal framework of the nation enshrines a range of fundamental liberties for its citizens, with Article 19 occupying a pivotal position. This article encompasses a diverse array of freedoms, including the right to freedom of speech and expression, the right to assemble peacefully, the freedom of association, the liberty of movement and residence, and the right to pursue one's chosen profession. Prior to the 44th amendment, Article 19(f) granted citizens the right to acquire, hold, and dispose of property, but this provision was subsequently removed in 1978. In its place, Article 300A was introduced, ensuring that no individual shall be deprived of their property except through due process of law. Consequently, the right to property ceased to hold the status of a fundamental right.

The focus of this research endeavor is Article 19(1)(a), which enshrines the right to freedom of speech and expression. It is important to note that this particular right is exclusive to citizens of the nation and is not extended to foreign nationals. The freedom of speech and expression holds profound significance in a democratic society, as it empowers individuals to freely

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<sup>14</sup> P.K. Das, "The Right to Information Act" Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2010, p. 3.

express their beliefs, opinions, and viewpoints through various mediums, including speech, writing, printing, and visual forms. This liberty encompasses the freedom to communicate, propagate, or circulate one's perspectives without constraint, playing a pivotal role in fostering public discourse and shaping public opinion on a myriad of issues. By examining this fundamental right and its implications, this research endeavor aims to contribute to the broader understanding of the intricate tapestry of civil liberties that form the bedrock of a vibrant and thriving democratic society. Through a nuanced exploration of the scope, boundaries, and practical applications of the freedom of speech and expression, this study seeks to shed light on the delicate balance between individual liberties and societal considerations, ultimately informing the ongoing discourse on this vital issue.

In one of the earliest rulings, *Romesh Thappar v. State of Madras*, Chief Justice Patanjali Sastri made an observation<sup>15</sup> :

“... The freedom lies at the core of all democratic institutions, as without open political discourse, essential public education necessary for the proper functioning of popular governance processes becomes unattainable. Such broad freedom may carry risks of misuse. However, the framers of the Constitution may have shared Madison's perspective, who played a key role in drafting the First Amendment of the Federal Constitution, believing it's better to allow a few harmful elements to flourish rather than risking damage to the vitality of those producing beneficial outcomes. In the same ruling, the Court emphasized that the public's interest in freedom arises from the need for members of a democratic society to be sufficiently informed to intelligently influence decisions affecting themselves. Therefore, freedom of speech and expression should be strongly supported by all advocates of people's participation in governance. This freedom encompasses the right to circulate and propagate ideas, extending to the use of media to respond to criticisms of one's views. Every citizen possesses the indisputable right to express their sentiments. However, this freedom must be exercised with caution, ensuring it does not infringe upon the rights of others or jeopardize public interests.”<sup>16</sup>

Freedom of speech and expression is widely recognized as a foundational element of a thriving democracy and a society that values liberty. In England, this right is upheld through the application of the Rule of Law principle. Within English legal tradition, freedom of expression holds great significance and is highly esteemed for its intrinsic value. A notable legal case in

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<sup>15</sup> AIR 1950 SC 124:1950 SCR 594.

<sup>16</sup> *Ibid*

England established that freedom of expression serves four primary social purposes: promoting individuals' self-fulfillment, facilitating the pursuit of truth, empowering individuals to participate in decision-making processes, and providing a means to strike a reasonable balance between stability and societal progress. It is crucial that all individuals have the opportunity to develop their own beliefs and freely communicate them to others. Ultimately, the fundamental principle underlying this is the people's right to access information. Therefore, support for freedom of speech and expression should be unwavering among those who advocate for citizen engagement in governance. This concept of freedom of speech aligns with John Milton's *Areopagitica*, which advocates for the discovery of truth, and with Justice Holmes' perspective that "the best test of truth is the power of the thought to get it accepted in the competition of the market."<sup>17</sup>

Lord Steyn underscored the pivotal role of freedom of speech and expression within a democratic society, highlighting its indispensable contribution to political discourse and its function as a bulwark against potential abuses of power by public officials. He described it as a "safety valve" that allows individuals to voice their dissent and contribute to decision-making processes. John Stuart Mill similarly highlighted the significance of freedom of speech, arguing that government suppression of communication can hinder the search for truth and promote a false sense of infallibility. However, it is important to note that the pursuit of truth encompasses not only factual accuracy but also judgments about values and personal well-being<sup>18</sup>.

The concept of freedom of expression is not just a positive or enforceable right, but rather a negative liberty that allows individuals the freedom to communicate with others without interference. This means that people have the right to express themselves through speech or writing as long as they don't break any laws or infringe upon the rights of others. Unlike rights that are protected from infringement, freedom of expression can be restricted by statutory laws or judicial decisions. For example, the right to display the national flag is a way to show allegiance and pride for one's country, and voting can also be seen as a form of expression. When there's a conflict between the will of the people and legislative decisions, priority should be given to the former over the latter.<sup>19</sup>

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<sup>17</sup> 250 US 616, 624 and 630 (1919)

<sup>18</sup> (2000) 2 LR 115 (AC).

<sup>19</sup> *Peoples Union for Civil Liberties v. Union of India*, AIR 2003 SC 2363.

The Constitution of India serves as the fundamental legal document of the nation, laying down the structure for various rights and procedures available to its citizens. Among the many freedoms protected by the Constitution is the freedom of expression, essential for nurturing democratic governance. This liberty, originating from the freedom of thought, is explicitly acknowledged in Article 19(1)(a) of the Constitution. Acknowledging that information acts as a catalyst for both thought and expression, the right to access information becomes a crucial aspect of the freedom of expression. Indeed, knowledge plays a pivotal role not just in the functioning of society, but also in the life of every individual. Thus, Article 21 of the Constitution, guaranteeing the right to life, inherently encompasses the fundamental right to information.

## **2.4 SCOPE OF FREEDOM OF SPEECH AND EXPRESSION**

In a democratic society, the judiciary plays a crucial role in interpreting and upholding the fundamental right to freedom of speech and expression. This right, outlined in Article 19(1)(a) of the Indian Constitution, is indispensable for the functioning of a vibrant democracy. It ensures that individuals, regardless of their background, have the freedom to express their opinions without fear of censorship. This liberty extends to both domestic and international forums, allowing citizens to engage in discourse on various issues without constraint. Central to this freedom is the belief in the rationality of individuals and their capacity to discern right from wrong based on their own judgment and wisdom. As the judiciary continues to broaden its interpretation of this right, it strengthens the foundation of democracy in India, empowering citizens to actively participate in shaping their society.<sup>20</sup>

A constitutional provision is dynamic and continuously evolving, not rigid or confined to narrow interpretation. The framers of the constitution used broad language when drafting fundamental rights to ensure they remain relevant to a changing society. As such, constitutional provisions, especially fundamental rights, should be interpreted broadly unless specific circumstances dictate otherwise. The intent is to avoid overly strict or limited interpretations that would diminish the scope and impact of these provisions.<sup>21</sup>

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<sup>20</sup> Retrieved from [http://wiki.answers.com/Q/What\\_is\\_Article\\_19\\_1\\_a\\_of\\_the\\_constitution\\_of\\_India](http://wiki.answers.com/Q/What_is_Article_19_1_a_of_the_constitution_of_India) visited on 10<sup>th</sup> Mar, 2025.

<sup>21</sup> Arashdeep Kaur, "Article 19 Protection of Certain Rights regarding Freedom of Speech etc" Retrieved from <<http://www.scribd.com/doc/51091293/Constitution-ARTICLE-19#>> visited on 11<sup>th</sup> Mar, 2025

In discussions regarding the extent of freedom of speech and expression, the Supreme Court has emphasized the need for a broad interpretation of these rights, encompassing the freedom to express one's opinions verbally, in writing, or through various audio-visual mediums. This includes the right to share views through print media, as well as other communication platforms such as radio and television. The Court has underscored that these rights are fundamental and intrinsic to the status of citizenship in a democratic society, and therefore must be upheld and safeguarded accordingly.

### **2.4.1 Freedom of Press**

Article 19(1)(a) of the Constitution of India ensures freedom of speech and expression, although it does not explicitly mention freedom of the press. However, the term "speech and expression" has a broad interpretation, encompassing communication with others. Therefore, it is widely understood that freedom of speech and expression inherently includes freedom of the press. This means that individuals have the right to express their opinions and share others' opinions through publications and circulation. In essence, freedom of speech and expression encompasses press liberty in India. Unlike the American Constitution, India's Article 19(1)(a) does not specifically address press freedom as a separate provision.

Press freedom pertains to the medium of publication and is closely linked with individual freedom and judicial independence. In his book "Law of the Press," Justice Marshall emphasized that while the press enjoys liberty, it is not authorized to disseminate falsehoods. He asserted that every citizen has a constitutional right to protect their character and property, which is as important as the freedom of the press. Marshall criticized those who indulge in scandalous behavior, noting that such actions are condemned by the majority of the newspaper profession. He highlighted the contrast between respectable journalists and those who engage in unethical practices, equating the latter to assassins of character driven by greed. Marshall emphasized the responsibility of the courts to punish offenders who abuse the liberty of the press, as such actions undermine its purpose and integrity.<sup>22</sup>

In his Commentary on the Laws of England, Justice Blackstone emphasized the significance of freedom of the press within a free society. He stressed that true liberty of the press entails

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<sup>22</sup> Referred in *M. Hasan and Anothers v. Government of Andhra Pradesh*, AIR 1998 AP 35:1997(6) ALT 209.

allowing publications without prior restraint, rather than immunity from criticism or punishment for unlawful content. Blackstone asserted that every individual has the right to publicly express their opinions, and curtailing this right would undermine press freedom. However, he also acknowledged that individuals must bear responsibility for the repercussions of publishing improper, harmful, or illegal material. In his work 'Freedom under the Law,' Lord Denning addressed the issue of news publication and the necessity for control. He asserted that every country retains the right to prevent the expression of views that threaten the existing Constitution or societal stability. While advocating for free and open discussion and criticism of matters of public interest, Lord Denning underscored the importance of establishing boundaries when there is a potential threat to overthrow the State through force. Arthur Hays delves into the true essence of freedom of the press, urging consideration of its broader implications beyond merely granting publishers the right to publish without restraint. He questions whether this freedom solely benefits publishers or extends to all citizens. Hays contends that freedom of the press is not a privilege bestowed upon publishers for their own advantage but is instead indispensable for fulfilling their responsibility to inform the public thoroughly, fairly, and comprehensively. He emphasizes that the crux of the matter lies not in the publisher's freedom to print but in the citizens' right to access information.<sup>23</sup>

### **1. Whether Press is Citizen**

Article 19(1)(a) of the Constitution guarantees the right to freedom of speech and expression exclusively for individuals holding Indian citizenship, whether they are citizens or non-citizen nationals. However, foreigners do not enjoy this privilege. Conversely, legal entities such as corporations, societies, and associations, which are not considered citizens, are not entitled to this right. Therefore, this right is reserved for natural persons who are citizens of India. However, Article 19(1)(a) extends the freedom of the press by recognizing that the press is comprised of citizens.<sup>24</sup>

The Supreme Court addressed the contention that the newsprint policy does not directly pertain to the fundamental right enshrined in Article 19(1)(a). It was also argued that regulatory statutes, which do not directly control the content of speech but incidentally restrict its exercise,

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<sup>23</sup> Referred in *M. Hasan and Others v. Government of Andhra Pradesh*, AIR 1998 AP 35:1997(6) ALT 209.

<sup>24</sup> G.P. Tripathi, "Constitutional Law: New Challenges" Central Law Publications, Allahabad, 2013, p. 368.



are not considered a form of censorship. Any incidental limitations or restrictions on freedom of speech are considered permissible as they are deemed essential for advancing important governmental interests in regulating freedom of speech.

The Supreme Court rejected this argument, with Justice Nanabhoy Palkhivala stating that: "The test of the subject matter's pith and substance, as well as the direct and incidental effect of the legislation, are relevant to questions of legislative competence but are irrelevant to the question of infringement of fundamental rights. In our view, this is a sound and correct approach to the interpretation of legislative measures and state action concerning fundamental rights. The true test is whether the effect of the impugned action is to take away or abridge fundamental rights. Even if the direct object of the law or action is not the direct abridgment of the right of free speech, it may still have a direct effect on a fundamental right, regardless of the direct subject matter of the impeached law or action."<sup>25</sup>

Although freedom of the press is not directly mentioned in Article 19 (1) (a) of the Constitution, the Supreme Court noted that freedom of speech and expression includes freedom of the press and distribution. This includes the right to print and publish without prior permission. Therefore, prior censorship of publications is considered a violation of the freedom of the press, unless it is justified under Article 19 (2). In *Brij Bhushan v. State of Delhi*, the Chief Commissioner of Delhi passed an order under Section 7(1)(c) of the East Punjab Public Security Act, 1949, requiring the petitioner, press, publisher and editor. The Organizer, a Delhi-based English-language weekly, submits all community affairs and news about Pakistan for review before publication. The Supreme Court dealt with this provision by a majority vote in accordance with Article 19(1)(a) of the Constitution.<sup>26</sup>

In an important case, the Supreme Court in *Virendra Vs. Punjab*, that the ban on newspapers publishing their own views or those of their correspondents on controversial issues of the day is unconstitutional. That decision was made in response to a petition challenging the special powers of the Punjab (Press) Act, 1956. The court emphasized the importance of freedom of speech and press in a democratic society and confirmed that such restrictions on public rights are contrary to the constitution<sup>27</sup>:

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<sup>25</sup> *Sakal Papers Pvt. Ltd. v. Union of India*, AIR 1962 SC 305

<sup>26</sup> AIR 1950 SC 129.

<sup>27</sup> AIR 1957 SC 896.

"It is undoubtedly a significant infringement on the fundamental and cherished right to freedom of speech and expression when a newspaper is prohibited from publishing its own viewpoints or those of its correspondents on current and pressing issues. While our societal interest typically necessitates the free exchange and dissemination of ideas, there may be occasions where the social interest in maintaining public order outweighs the need for unrestricted freedom of speech and expression. The Constitution recognizes this balancing act and allows for reasonable restrictions on the freedom to conduct trade or business in the interest of the general public.

In the case of *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*, the Supreme Court emphasized the importance of meeting communication needs in a democratic society through the extension of specific rights, such as the right to be informed, the right to inform, the right to privacy, the right to participate in public communications, and the right to communicate. The Court acknowledged the delicate balance between these rights and the societal interest in maintaining public order."<sup>28</sup>:

In today's modern society, freedom of the press is essential to promote social and political dialogue. Journalism serves as an essential educator, providing a wide range of both formal and informal education, especially in developing regions where television and other modern means of communication may be limited. Its mission is to inform the public by publishing facts and opinions so that citizens can make informed decisions in a democratic society. Newspapers, as mediators of news and opinions, often present content that can criticize the actions of the government and highlight the weaknesses of the administration. Although such articles can be seen as a challenge or threat to those in power, it is important to recognize that the freedom of speech and expression guaranteed by Article 19 (1) (a) of the Constitution is not only beneficial to the press but also to the general public. . Individuals have a right to information about democratic processes and government activities, and the press plays a key role in disseminating this information. Attempts by the government or its agencies to prevent the flow of critical information to the public are baseless and undermine the principles of democracy and transparency.

In several legal decisions, the Supreme Court overturned the practice of imposing a pre-publication ban on newspapers and other media. In *Reliance Petrochemical Ltd. vs. Proprietors*

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<sup>28</sup> AIR 1986 SC 515:(1985) 2 SCR 287:(1985) 1 SCC 641.

of Indian Express Newspapers, Bombay Pvt. Ltd., the Supreme Court found that such prohibitions can be legitimate only if the threat to fair administration of justice is clear and direct. Otherwise, the imposition of a pre-publication ban would not even be permitted by court order.<sup>29</sup>

Hence, an independent "free press," free from executive influence and censorship, is essential for a democratic society. The prosperity of democracy hinges on a press that operates with integrity, fairness, and independence.

In the case of R. Rajagopal Vs. The state of Tamil Nadu approached the Supreme Court of the petitioner, who was the publisher of a Tamil weekly, to stop the government from interfering with their right to publish the autobiography of the convicted Auto Hero. The Supreme Court found that neither the state nor its officials can order disclosure in advance based on the fear of libel. The court also found that the right to publish the life story of a convicted prisoner based on public documents, even without their consent or permission, is protected based on the freedom of the press guaranteed by Art. 19 (1) point a of the Constitution. The court argued that the right to privacy is included in the right to life and freedom guaranteed in Article 21 of the Constitution, which represents the right to be alone. Therefore, prior restriction of such publications is not permitted. Freedom of media in India is an extension and realization of freedom of expression<sup>30</sup>.

The Andhra Pradesh High Court in the case of M. Hasan and another Vs. Government of Andhra Pradesh that denying journalists and videographers the opportunity to interview convicted prisoners violates the fundamental right of citizens to freedom of expression under Article 19. (1)(a) of the Constitution.

In cases involving the exercise of fundamental rights, the court asserted that a condemned prisoner's position is equivalent to that of a free citizen. It ruled that prisoners have the right to express their thoughts and be interviewed or filmed. The court questioned why prison authorities would consider such reporting or filming to be unreasonable or a threat to safety and security, particularly when their Jail Manual permits prisoners to be interviewed by friends, including journalists and videographers. The court highlighted a letter from the condemned prisoners expressing their willingness to be interviewed by journalists and videographers.

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<sup>29</sup> AIR 1989 SC 190.

<sup>30</sup> AIR 1995 SC 264.

Therefore, denying the petitioners the opportunity to interview condemned prisoners, both orally and through videography, would constitute a violation of a citizen's fundamental right to freedom of speech and expression.

#### **2.4.2 Right to Remain Silent**

In the case of *Bijoe Emmanuel v. State of Kerala*, three children who were Jehovah's Witnesses were expelled from school because they refused to sing the National Anthem during prayers. Despite standing respectfully during the anthem, they did not participate in singing it due to their religious beliefs. The Kerala High Court upheld their expulsion, citing a violation of the Prevention of Insults to National Honors Act, 1971. However, the Supreme Court overturned this decision, ruling that individuals cannot be compelled to sing the National Anthem if they have genuine conscientious objections rooted in religious beliefs. The court emphasized that there is no legal requirement to sing the National Anthem, and merely standing with respect is sufficient. While Article 51-A(a) of the Constitution does mandate citizens to respect the ideals and symbols of the nation, silence during the anthem does not constitute disrespect. Therefore, the expulsion of the children from school was considered a violation of their fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution, which includes the freedom of silence.<sup>31</sup>

#### **2.4.3 Right to Receive Information**

The right to freedom of speech and expression, as outlined in Article 19(1)(a) of the Constitution, encompasses the freedom to seek and share information through various mediums, including print, electronic, and audiovisual platforms such as advertisements, movies, articles, and speeches. This right extends to the ability to express one's opinions without impediment to a broad audience, both domestically and internationally. The Supreme Court has interpreted Article 19(1)(a) broadly, recognizing that freedom of speech includes not only the right to express oneself but also the right to receive information, as these are interconnected aspects of the same fundamental right. The right to access information is essential for the functioning of a democratic society and is protected under Article 19(1)(a).

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<sup>31</sup> AIR 1987 SC 748:(1986) 3 SCC 615.

This right is integral to freedom of speech and expression because without access to information, individuals cannot form well-informed opinions.<sup>32</sup>

In the case of *State of Uttar Pradesh v. Raj Narain*, the Supreme Court reaffirmed that Article 19(1)(a) not only guarantees freedom of speech and expression but also encompasses citizens' right to access information on matters of public interest. The Court emphasized that the government is not the owner but merely the custodian of the rights of the true beneficiaries—the citizens. Similarly, it was asserted that the "right to know" is inherently a part of the right to free speech and expression, and that transparency in disclosing information regarding the government's functioning should be the standard practice.<sup>33</sup>

The Supreme Court emphasized that in a democratic society, the dissemination of information plays a crucial role as the foundation of the system. It is the government's duty to ensure that citizens are adequately informed, and equally significant is society's responsibility to educate all its members thoroughly, thereby fostering a heightened level of social awareness and comprehension.<sup>34</sup>

In the case of *Secretary, Ministry of Information & Broadcasting, Government of India v. Cricket Association of Bengal*, the Supreme Court reiterated that the freedom of speech and expression includes the right to access and disseminate information. This principle was further affirmed in the *Tata Press Case*, where the Supreme Court ruled that "commercial speech" is entitled to protection under Article 19(1)(a) of the Constitution, irrespective of its source. The court stressed that the public has a right to receive commercial messages, and Article 19 safeguards individuals' rights to listen, read, and receive such speech. Consequently, both the speakers and recipients of commercial speech enjoy protection under the provisions of Article 19<sup>35</sup>.

It is widely acknowledged that in societies where a significant portion of the population lacks literacy or easy access to information, utilizing various forms of communication, particularly audio-visual media, is essential not only for entertainment but also for educational and informational purposes, including the dissemination of scientific ideas. The Supreme Court, in

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<sup>32</sup> M.P. Jain, "Indian Constitutional Law" Lexis Nexis Butterworths Wadhwa Nagpur, Gurgaon, 2012, p. 1081, 1083.

<sup>33</sup> AIR 1975 SC 865:(1975) 4 SCC 428.

<sup>34</sup> M.C. Mehta v. Union of India, 1992 SCC 382.

<sup>35</sup> Union of India v. The Motion Picture Association, AIR 1999 SC 2334.

the case of *Dinesh Trivedi, M.P and Others v. Union of India*, underscored the importance of ensuring that citizens in modern constitutional democracies are well-informed about government affairs, as elected representatives formulate policies for their welfare. The Court emphasized that transparency is vital for democracy to thrive, and openness is a fundamental characteristic of a free society. Similarly, the Delhi High Court emphasized the significance of the right to information in the context of elections, ruling that the Election Commission must provide voters with comprehensive information about candidates, including their assets and education. This is not intended to impose additional qualifications on candidates but rather to empower voters to make informed decisions. The Supreme Court, in its ruling on the matter, upheld the voter's right to access information about candidates as a fundamental right under Article 19(1)(a) of the Constitution, emphasizing that democracy relies on well-informed voters capable of making fair decisions. Subsequently, the Central Government amended the Representation of the People Act, 1951, through the Representation of the People (Third Amendment) Act, 2002, to align with these principles.<sup>36</sup>

It is clear that the Indian Constitution guarantees the fundamental right to access and receive information. However, it is crucial to define the scope of this right. It includes information related to matters of public or common importance that impact the general populace, rather than all types of information. Historically, many government departments have withheld information from the public citing the Official Secrets Act. However, recent judicial rulings have affirmed citizens' right to access such information. Consequently, the government cannot deny access to information unless it is deemed irrelevant to the public interest.<sup>37</sup>

## **2.5 REASONABLE RESTRICTIONS ON FREEDOM OF SPEECH AND EXPRESSION**

In modern society, it is widely recognized that freedoms come with responsibilities and cannot be absolute. Balancing civil liberties is crucial for maintaining a well-functioning society. While unrestrained power can lead to oppression, unchecked freedoms can result in disorder and turmoil. Justice Patanjali Shastri emphasized the importance of individuals in a civil society acknowledging the necessity for their desires to be regulated and aligned with the

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<sup>36</sup> (1997) 4 SCC 306; (1997) 1 SCJ 697

<sup>37</sup> B.P. Srivastava, "Constitutional Provisions and Judicial Pronouncements on Freedom of Information" *Orissa Review*, November 2006, p. 87-93. Retrieved from 24-08-2008.

interests of others. While people may have various desires as rational beings, it is essential in a civilized community to temper and reconcile these desires to ensure the welfare of all members.<sup>38</sup>

Individual rights, whether as citizens or members of a civilized society, are not without limits or conditions. They are influenced and restricted by the structure of social organization, the demands of industry, and the need for collaboration in a sophisticated division of labor. While we often use the term "freedom" to describe these rights, it is important to recognize that unrestricted freedom, driven solely by uncontrolled impulses, is characteristic of primitive societies or wild animals. Rights must be balanced with and complemented by the duties and obligations of citizenship, which are equally important and deserving of emphasis.<sup>39</sup>

The Supreme Court has established that while individuals possess certain rights, such as freedom of speech and expression, these rights are not absolute and may be subject to reasonable limitations. The court underscored the importance of striking a balance between individual liberties and the need for societal control to ensure the safety, health, peace, order, and morale of the community. In a free and democratic society, citizens enjoy the right to express themselves without undue restraint. However, the Constitution mandates a careful equilibrium between individual freedom and societal interests, as delineated by the Supreme Court.<sup>40</sup>

Defining the term "reasonable" poses challenges, especially when determining whether a restriction on fundamental rights qualifies as reasonable. The assessment of reasonableness lacks a precise test and must be determined by the courts on a case-by-case basis. Each case is evaluated independently, without a standard or pattern of reasonableness that applies universally. The enjoyment of fundamental rights is upheld, and there should be minimal interference by the executive branch without legal authorization. "Reasonable" implies thoughtful and prudent decision-making, aiming to strike a balance between individual rights protected by Article 19(1) and the societal control permitted by Article 19(2) to (6) of the Constitution. However, these rights are not absolute, and reasonable restrictions can be imposed in the interest of India's sovereignty and integrity, state security, foreign relations, public order, decency and morality, contempt of court, defamation, and incitement to an

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<sup>38</sup> A.K. Gopalan v. State of Madras, AIR 1950 SC 27.

<sup>39</sup> Divisional Forest Officer v. Biswanath Tea Company, AIR 1981 SC 1368.

<sup>40</sup> K.K. Kochuni v. State of Madras, AIR 1960 SC 1080. Also see Collector of Customs, Madras v. Nathella Sampathu Chetty, AIR 1962 SC 316

offense. It is important to note that reasonable restrictions under clause (2) of Article 19 can only be imposed through duly enacted laws and not through executive actions lacking legal support.<sup>41</sup>

The limitations set out in Articles 19(2) to 19(6) of the Constitution serve a dual purpose with regard to the freedoms guaranteed by Articles 19(1)(a) to (g). Firstly, they clarify that these freedoms are not absolute and may be subject to regulation. Secondly, they constrain the legislature's authority to restrict these freedoms beyond the boundaries established in Articles 19(2) to 19(6). The Supreme Court has underscored the importance of the reasonableness test, emphasizing that it should be applied to each statute challenged individually. There is no universally applicable standard of reasonableness; instead, factors such as the nature of the right at issue, the purpose of the restrictions, the severity of the problem being addressed, the proportionality of the measures, and the prevailing circumstances must all be taken into account when reaching a judicial decision.<sup>42</sup>

The Supreme Court has established guidelines for assessing the reasonableness of restrictions in several cases:

1. The determination of the reasonableness of restrictions lies within the jurisdiction of the Courts, rather than the Legislature.
2. Restrictions should not be arbitrary, excessive, or go beyond what is necessary in the public interest, while also complying with Article 14 of the Constitution.
3. Reasonableness is not a fixed standard; each case must be assessed based on its individual merits.
4. Restrictions must be reasonable both in substance and procedure, and their duration cannot be indefinite.
5. Restrictions imposed to uphold Directive Principles may be considered reasonable.
6. The test of reasonableness must be objective, taking into account the perspective of an average, rational person.
7. There must be a direct and reasonable link between the imposed restriction and its intended objective, without being disproportionate.

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<sup>41</sup> Krishnan Kakkanth v. State of Kerala, AIR 1997 SC 128. Also see Kharak Singh v. State of U.P., AIR 1963 SC 1295.

<sup>42</sup> State of Madras v. V.G. Row, Union of India & State Interveners of Travancore, AIR 1952 SC 196: 1952 SCR 597.



8. The reasonableness of the restriction is determined by the Courts, not the justification provided by the law authorizing it.
9. In certain situations, restrictions may effectively amount to a prohibition.

The concept of freedom of speech encompasses a level of protection for expression that extends beyond limitations on government interference with other activities. While a basic principle of liberty suggests that the government should refrain from restricting communications that do not pose a legitimate threat of harm, a separate principle of freedom of speech advocates for more robust constraints on such restrictions.<sup>43</sup>

### **2.5.1 Grounds of Restrictions on Freedom of Speech and Expression**

a) In a democratic society, safeguarding freedom of speech and expression is paramount. However, it is equally crucial to recognize the need for certain limitations on this freedom to preserve social harmony and order. No freedom can be absolute or entirely unrestricted. Article 19(2) of the Constitution delineates the grounds for imposing reasonable restrictions on the freedom of speech and expression. One such ground is the security of the State. This provision permits restrictions to be placed on freedom of speech and expression in situations where the security of the State is jeopardized. The term 'security of the State' specifically refers to severe and escalated forms of public disorder, such as rebellion, acts of war against the State, and insurrection, rather than mere breaches of public order and safety. Speeches or expressions that incite or advocate violent crimes, such as murder, also pose a threat to the security of the State. It is essential to recognize that the concept of 'security of the State' encompasses not only threats to the security of the entire nation but also threats to the security of specific regions within the State.<sup>44</sup>

b) The provision regarding friendly relations with Foreign States was introduced through the Constitution (First Amendment) Act of 1951. Its purpose is to prevent the dissemination of harmful propaganda against foreign friendly states, which could adversely affect India's diplomatic ties with those nations. While no other constitution worldwide includes a similar provision, India's Foreign Relations Act of 1932 imposes penalties on Indian citizens for

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<sup>43</sup> Kent Greenawalt, "Free Speech Justifications" in Mahendra P. Singh (eds.), *Comparative Constitutional Law*, Eastern Book Company, Lucknow, 2011, p. 369

<sup>44</sup> *State of Bihar v. Shailabala Devi*, AIR 1952 SC 329.

defamatory statements against foreign dignitaries. However, it is essential to recognize that the desire to maintain friendly relations with foreign states does not justify the suppression of legitimate criticism of the government's foreign policies. Furthermore, although members of the Commonwealth, such as Pakistan, are not categorized as "foreign states" under the Constitution, they may still be considered foreign powers for other purposes. Therefore, restrictions on freedom of speech and expression cannot be justified solely on the basis of being adverse to Pakistan.

c) The provision concerning Public Order was also introduced through the Constitution (First Amendment) Act of 1951. The concept of "public order" extends beyond the notion of "security of the state." It encompasses the maintenance of peace and tranquility within society through internal regulations enforced by the government. Public order encompasses various aspects, including public peace, safety, and tranquility, and extends beyond mere law and order maintenance. To determine whether an action affects law and order or public order, one must assess whether it disrupts societal harmony to the point of disturbing public tranquility, or if it only perturbs an individual without causing broader societal disturbances.<sup>45</sup>

Anything that disturbs public tranquility or peace disrupts public order. This includes communal disturbances and strikes aimed at inciting unrest among workers. Public order refers to the absence of violence and a state where citizens can pursue their daily lives peacefully. Internal disorder or rebellion undermines public order. However, mere criticism of the government does not necessarily disrupt public order. On the external front, public safety entails protecting the country from foreign aggression. The state has the authority to prevent any propaganda advocating for war with India in the interest of public order. The phrase "in the interest of public order" encompasses not only statements directly intended to cause disorder but also those that have the potential to do so.<sup>46</sup>

Therefore, a law that penalizes statements made with the explicit intention of offending the religious sentiments of any group is deemed justified as it places a limitation on freedom of speech in the interest of maintaining public order. This is because such speech or written content has the potential to provoke public unrest, even though in certain instances, such activities may not directly lead to a breach of peace. However, it is crucial that there exists a

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<sup>45</sup> Collector & District Magistrate v. S. Sultan, AIR 2008 SC 2096.

<sup>46</sup> Jawali v. State of Mysore, AIR 1966 SC 138

reasonable and appropriate correlation between the restrictions imposed and the preservation of public order.<sup>47</sup>

d) Decency or Morality: The concepts of "morality" and "decency" are subjective and can vary widely depending on societal norms and values. Sections 292 to 294 of the Indian Penal Code delineate restrictions on freedom of speech and expression in the interest of decency or morality, prohibiting the sale, distribution, or exhibition of obscene material in public places. The Indian Supreme Court has clarified that "decency and morality" extend beyond sexual morality and encompass actions that align with prevailing standards of behavior or propriety. The Court has endorsed the view that indecency encompasses anything that an ordinary, decent person would find shocking, disgusting, or revolting.

e) Contempt of Court: Restrictions on freedom of speech and expression may be justified if they are deemed to exceed reasonable and fair limits, particularly when they amount to contempt of court. Despite the constitutional protection of freedom of speech and expression, individuals can face contempt of court charges for scandalizing or intending to scandalize the authority of any court. Section 2(a) of the Contempt of Courts Act, 1971, classifies contempt of court as either civil or criminal.

f) Defamation: Defamation involves making statements that harm a person's reputation, exposing them to hatred, ridicule, or contempt. According to Winfield, defamation occurs when a statement is published that damages a person's reputation and causes them to be viewed negatively by society or avoided. In India, civil law concerning defamation is not codified and is subject to certain exceptions. Section 499 of the Indian Penal Code, 1860, defines defamation as both slander and libel.

g) Incitement to an offense: The provision introduced by the Constitution (First Amendment) Act, 1951, makes it clear that freedom of speech and expression cannot be used to promote criminal behavior. The term 'offense' refers to any act or omission punishable by law. Inciting others to commit an offense does not necessarily mean urging them to break the law. Therefore, Article 19(2) does not cover every incitement to breach a civil law.

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<sup>47</sup> Supdt. Central Prison v. Ram Manohar Lohia, AIR 1960 SC 633.

h) Sovereignty and Integrity of India: Added by the Constitution (Sixteenth Amendment) Act, 1963, this provision aims to safeguard freedom of speech and expression by preventing its misuse to undermine the nation's sovereignty and territorial integrity.

i) Sedition: Not explicitly listed in clause (2) of Article 19, sedition under English law encompasses actions, whether spoken or written, intended to disrupt the peace of the State and incite individuals to overthrow the government. The Supreme Court has clarified that section 124-A of the Indian Penal Code, 1860, applies only to acts aimed at creating disorder, inciting violence, or disturbing law and order. Therefore, it does not infringe upon Article 19(1)(a) when considered alongside Article 19(2) of the Constitution.<sup>48</sup>

## 2.6 CONCLUSION

It is widely recognized that the right to freedom of speech and expression is among the most vital fundamental rights. This right encompasses the ability to express opinions verbally, in writing, through audio-visual mediums, advertisements, or any other form of communication. Moreover, it includes the right to access information and the freedom of the press, thus encompassing a wide range of rights. Through an examination of relevant case law, it becomes evident that the judiciary consistently interprets Article 19(1)(a) expansively, with limitations outlined only in Article 19(2). Any efforts by authoritarian entities to suppress or curtail this freedom are vehemently opposed, particularly when such actions demonstrate tyrannical tendencies.

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<sup>48</sup> Kedar Nath v. State of Bihar, AIR 1962 SC 955.

## **CHAPTER 3**

# **LEGISLATION WITH RESPECT TO FREEDOM TO SPEECH AND EXPRESSION**

### **3.1 INTRODUCTION**

Part III of the Constitution of India, often referred to as the Magna Carta of India, safeguards fundamental rights essential for every citizen. These rights, outlined in this chapter, ensure that they cannot be violated by anyone. The provision of fundamental rights is not unique to India; it is a common feature in the constitutions of most modern nations. This highlights the crucial role of safeguarding these rights for the welfare of the populace. In the *Golak Nath vs. State of Punjab* case, the Honorable Supreme Court emphasized that fundamental rights are synonymous with "natural rights." One of these fundamental rights, enshrined in the Constitution of India, is the freedom of speech and expression, which is guaranteed to all citizens. However, the legislature retains the authority to impose reasonable restrictions on this freedom if they are in the interests of specific grounds outlined in the Article.<sup>49</sup>

Apart from the freedom of speech and expression, citizens of India are entitled to various other fundamental rights, which can be classified based on their applicability or content. Certain provisions, such as Articles 15, 16, 19, 29, and 30, apply exclusively to citizens, while others, like Article 21, extend to both citizens and non-citizens residing within India's territory. When classified by content, some fundamental rights limit the actions of the State (e.g., Articles 14, 15(1), 16, 18(2), 19, 20-22, 31), while others restrict the actions of private individuals as well (e.g., Articles 15(2), 17, 18(1), 23(1), 24). Additionally, certain rights are specific to particular sections or communities (e.g., Articles 26, 29(1), 30). It's important to note that while breach of rights guaranteed against state action may be remedied constitutionally, no such remedy exists for breaches by private individuals unsupported by state action. Fundamental rights collectively and individually serve as limitations on state action. The term "State," as defined in Article 12 of the Constitution, encompasses not only government organs but also other

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<sup>49</sup> AIR 1967 SC 1643

bodies exercising legal authority, providing guidance to courts in cases involving state and covered entities.<sup>50</sup>

Article 12 of the Constitution extends its scope beyond just the Legislature and Executive branches of both the Union and the States. It also includes government instrumentalities, whether operating under statutory authority or not, as well as local authorities and any groups exercising statutory powers, whether governmental or non-governmental.

While the Constitution of India does not have a separate provision specifically guaranteeing freedom of speech, press, or media, freedom of speech inherently encompasses these rights, underscoring their significance in a democratic society. The media, often referred to as the fourth estate, plays a vital role in facilitating communication between the government and the public. It serves as a platform for amplifying the voices of the marginalized and holding those in power accountable for their actions. The media also exposes instances of corruption, bribery, nepotism, and other misconduct by politicians, ministers, and officials, ensuring that such information reaches the public through various mediums such as television, internet news, and print media. Given its influential role, it is imperative to regulate the media effectively to ensure the fair and impartial dissemination of information. This chapter explores legislative and constitutional provisions related to freedom of speech and expression, as well as legislative efforts to regulate media freedom through additional Acts.<sup>51</sup>

### **3.2 CONSTITUTIONAL PROVISIONS**

The Constitution of India is the longest written constitution of any sovereign nation in the world. It was passed by the Constituent Assembly on 26 November 1943 and officially came into force on 26 January 1950. Its entry into force marked the transformation of the Union of India into the modern Republic of India, replacing the Government of India Act of 1935 primary governing document. from the country The Constitution defines India as a sovereign, socialist, secular, democratic republic that guarantees justice, equality and freedom to its citizens while promoting brotherhood among them. Different articles of the constitution deal with different aspects such as freedom of speech and expression, reasonable restrictions, emergency provisions and many more.

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<sup>50</sup> *Bhasheshwar vs. I.T. Commissioner*, AIR 1959 SC 158

<sup>51</sup> *Rajasthan State Electricity Board vs. Mohan Lal*, AIR 1967 SC 1856

### **3.2.1 Protection of certain rights regarding freedom of speech, etc (Art. 19)**

(1) All citizens are entitled to the following rights:

- (a) Freedom of speech and expression;
- (b) Peaceful and unarmed assembly;
- (c) Formation of associations, unions, or cooperatives;
- (d) Free movement throughout the territory of India;
- (e) Residence and settlement in any part of the territory of India; and
- (f) Pursuit of any profession, trade, or business.

Section 19(2) stipulates that the rights under clause 1(a) may be subject to reasonable restrictions imposed by existing laws or laws enacted by the State. Such restrictions may pertain to the sovereignty and integrity of India, national security, friendly relations with foreign countries, public order, decency, morality, contempt of court, defamation, or incitement to crime.

### **3.2.2 Supreme Court to be a court of record (Art. 129)**

The Supreme Court holds the designation of a court of record, entitling it to wield all the powers inherent in such a status, including the jurisdiction to levy penalties for contempt of court.

### **3.2.3 High Courts to be courts of record (Art. 215)**

Every High Court holds the status of a court of record and is vested with all the powers inherent to such a court, including the ability to punish individuals for contempt of court.

### **3.2.4 Proclamation of Emergency (Art. 352)**

If the President assesses that a grave emergency jeopardizes the security of India or any of its regions, whether arising from war, external aggression, or armed rebellion, they have the

authority to issue a Proclamation declaring such an emergency for the entire nation or designated areas.

### **3.2.5 Suspension of provisions of Article 19 during emergencies (Art. 358)**

During a Proclamation of Emergency resulting from war or external aggression threatening the security of India or any part of its territory, Article 19 does not restrict the authority of the State, as defined in Part III, to enact laws or take executive actions that it would otherwise be authorized to do. However, any law enacted during the emergency will cease to be effective to the extent of its incompetence as soon as the Proclamation ends, except for actions taken or omitted before the law ceases to be effective.

### **3.2.6 Protection of publication of proceedings of Parliament and State Legislatures (Art. 361A)**

- (1) Individuals shall not be subject to civil or criminal proceedings in any court for publishing a substantially accurate report of proceedings from either House of Parliament or the Legislative Assembly, or their respective bodies at the state level, unless malice can be proven in the publication. However, this provision does not apply to reports of proceedings from secret sessions of either House of Parliament or the Legislative Assembly, or their state counterparts.
- (2) The provisions of Clause (1) also extend to reports or matters broadcast via wireless telegraphy as part of any program or service provided by a broadcasting station, similar to the way they apply to reports published in newspapers.

## **3.3 ARTICLE 19 AND RESTRICTIONS THEREON**

Article 19 of the Constitution of India guarantees six fundamental rights, commonly known as "freedoms," to every citizen of the country. These freedoms include the following:

- (i) The right to freedom of speech and expression;
- (ii) The right to freedom of assembly;



- (iii) The right to freedom of association;
- (iv) The right to freedom of movement;
- (v) The right to freedom of residence and settlement;
- (vi) The right to freedom of profession, occupation, trade, or business.

In addition to defining these freedoms, Article 19 also outlines the limitations imposed on each of them. Over time, courts have established general principles to assess the constitutionality of statutory provisions that impose unreasonable restrictions on these freedoms. These principles serve as guidelines for determining the validity of such restrictions in various legal cases<sup>52</sup>:

- 1) Restrictions placed on fundamental rights under Article 19 of the Constitution should not be arbitrary or excessive, exceeding the societal need and intended objective.
- 2) There must be a direct and reasonable connection between the restriction imposed and the objective sought to be achieved.
- 3) A fixed principle universally applicable to all cases is not feasible. Hence, the assessment of reasonableness must vary depending on the circumstances of each case.
- 4) Courts interpreting constitutional provisions should consider current societal needs and challenges addressed by legislation, ensuring a pragmatic and flexible approach.
- 5) Judicial approach to addressing contemporary societal needs should be dynamic and flexible.
- 6) When evaluating the reasonableness of a restriction, the Court should consider whether it achieves the social control envisaged in Article 19.
- 7) While Article 19 guarantees six freedoms, they are not absolute and may be subject to reasonable restrictions in the public interest, promoting social welfare and aligning with prevailing social values.
- 8) Reasonableness should be assessed procedurally and substantively, without being constrained by formalities or rigid remedies.
- 9) Restrictions on fundamental rights must not be arbitrary, excessive, or unreasonably discriminatory, aligning with Article 14 of the Constitution.

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<sup>52</sup> Papanasam Labour Union vs. Madura Coats Ltd. (1995) 1 SCC 501

10) In assessing reasonableness, the Court should consider Directive Principles of State Policy, with restrictions aimed at implementing them generally considered reasonable in the public interest.

Freedom of speech and expression, a fundamental human right protected under international and national laws, is subject to reasonable restrictions to prevent harm to others' rights. Article 19(2) acknowledges the State's authority to enact laws imposing such restrictions for specified reasons. However, restrictions must be reasonable, and fundamental rights apply against the State, including legislative authorities at various levels within India's territory.

The term "reasonable restrictions" pertains to limitations imposed on the exercise of an individual's rights to ensure they are exercised within their intended boundaries. These restrictions are essential for maintaining order and preventing abuse of rights. To determine the meaning of reasonable restrictions, several factors must be considered:

- (a) Restrictions must be directly related to the objectives that the legislation aims to achieve and should not surpass those objectives.
- (b) The reasonableness of restrictions should be assessed impartially and objectively, taking into account the overall context and impact.
- (c) The validity of restrictions is determined by their effect, irrespective of whether the legislative objective is deemed favorable or unfavorable.
- (d) Courts play a crucial role in evaluating the validity of restrictions based on their contribution to advancing societal interests and upholding the rule of law.
- (e) For restrictions to be deemed valid, they must have a rational or proximate connection to the grounds on which the legislature is authorized to impose them, ensuring they serve a legitimate purpose and are not arbitrary or disproportionate.

### **3.3.1 The restriction must be imposed by law**

For a restriction to be considered legal, it must be established by a "law" passed by a "state" as defined in Article 12 of the Constitution. The phrase "legislative State" in each limitation clause (2) (6) clearly refers to this requirement. In addition, the term "law" includes applicable secondary legislation as set out in Article 13(3)(a). However, the executive has no power to

impose restrictions on the fundamental rights guaranteed under Article 19(1) without legislative authorization.<sup>53</sup>

Any legislation created under Article 19 (2) to (6) governing the exercise of the freedoms guaranteed by Article 19 must be a formal legislative authority and not simply a directive or administrative guideline.<sup>54</sup>

Therefore, the control or limitation must be implemented exclusively by law and cannot be imposed by executive orders. The state has the right to issue directives that fulfil the definition of the term "law" in Article 13 of the Constitution. In addition, the legislator is not obliged to proclaim a special law only for the purpose of imposing restrictions. Instead, restrictions may be imposed by common law, provided all other conditions are met.<sup>55</sup>

### **3.3.2 Law must be made by the ‘State’**

The restrictions outlined in Article 19(2) to (6) may be imposed by any authority falling within the expansive definition of "the State" as defined in Article 12. These authorities must possess the competence to enact laws as defined in Article 13(3)(a).

Compared to the United States, where the concept of "Police Power" is considered a state sovereignty attribute, the Indian Constitution grants a broader authority to impose limitations on freedoms. Even the Federal Government in the US lacks this power, as it was not delegated by the States during the federal compact. In contrast, in India, the power to impose limitations extends not only to the States and the Union but also to local and other authorities with the ability to enact laws. This encompasses all forms of subordinate legislation, such as bye-laws, within the ambit of the term "laws."<sup>56</sup>

### **3.3.3 Relationship with permissible ground must be ‘proximate’**

The impugned legislation must establish a rational or proximate relationship with any of the specified grounds for restriction. A valid restriction must be directly related to the grounds for

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<sup>53</sup> Ganapati vs. State of Ajmer (1955) 1 SCR 1065

<sup>54</sup> Bijoe Emmanuel vs. State of Kerala (1986) 3 SCC 615

<sup>55</sup> Babulal vs. State of Maharashtra AIR 1961 SC 884

<sup>56</sup> Vrajlal vs. State of M.P. AIR 1970 SC 129

which the legislature is authorized to impose restrictions. If the connection between a restriction and the constitutionally authorized grounds is too remote, it will render the law invalid. Legislation that encroaches upon an individual's fundamental rights is considered invalid due to its vague and uncertain nature<sup>57</sup> The case of *K.A. Abbas vs. Union of India* established that when individuals affected by a law are unsure about its essence, and if the law appears to infringe upon a guaranteed freedom, it violates the Constitution. When assessing the validity of legislation, it is the substance of the law that holds significance, not just its appearance or form. Therefore, there must be a clear and reasonable connection between the restriction imposed by the law and the objective it aims to achieve. If there is a direct nexus between the restriction and the objective of the Act, there will be a strong presumption in favor of the Act's constitutionality.<sup>58</sup>

### **3.4 PUBLIC ORDER**

The provision introducing the Constitution (First Amendment) Act was a significant development. It is important to acknowledge that while the Constitution guarantees various freedoms, they cannot be fully exercised in a state of disorder. Therefore, maintaining order is imperative in any civilized society. The term 'public order' holds extensive meaning, encompassing the peace and stability existing within a political community as a result of the internal regulations enforced by its government.<sup>59</sup>

Public order encompasses more than just the maintenance of law and order; it also includes public peace, safety, and tranquility within society. Any disruption to public peace or tranquility, such as communal disturbances or strikes aimed at causing unrest among workers, constitutes a breach of public order. It involves not only the absence of violence but also the presence of an orderly environment where citizens can peacefully go about their daily lives. Public safety is also a crucial aspect of public order, as actions that incite internal disorder or rebellion pose threats to both public order and safety. However, mere criticism of the government does not necessarily disturb public order. In the Indian context, as highlighted in *Romesh Thappar's case*, the Supreme Court clarified that public order is a broad concept that

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<sup>57</sup> *Superintendent District Jail vs. Lohia* AIR 1960 SC 633

<sup>58</sup> *MRF Ltd. Vs. Inspector Kerala Govt.* (1998) 8 SCC 227

<sup>59</sup> Dheerajendra Patanjali, *Freedom of Speech and Expression – India vs. America – A Study* ([www.indialawjournal.org/archives/volume3/issue\\_4/article\\_by\\_dheerajendra.html](http://www.indialawjournal.org/archives/volume3/issue_4/article_by_dheerajendra.html)) (Visited on Mar 10, 2025)

signifies the state of tranquility prevailing within a political society due to internal regulations enforced by the government.<sup>60</sup>

The term 'in the interest of public order' encompasses not only statements explicitly designed to incite disorder but also those that have the potential to do so. Numerous laws impose limitations on freedom of speech and expression to uphold public order.

### **3.4.1 Indian Penal Code**

It is an offense under Section 153A of the Indian Penal Code to incite enmity between different classes of citizens by word or writing, performance or otherwise. In addition, according to §§ 295A and 298 of the same law, it is forbidden to intentionally utter words or take visible action to offend the religious feelings or beliefs of another person or group of citizens.

### **3.4.2 Indian Telegraph Act, 1885**

The prohibition of private broadcasting without the permission of the Government of India is a reasonable restriction under Article 19 (2). Private broadcasters are not essential to protect citizens' freedom of expression. Allowing private broadcasting can create powerful economic, business and political interests that can undermine citizens' freedom of expression. This risk increases if strict program monitoring and regulatory measures are not implemented.

### **3.4.3 The Cinematograph Act 1952**

The law authorizes the government to stop the projection of any film that may disturb the peace.

### **3.4.4 Representation of People Act 1951**

Providing or displaying notices or posters in or near the polling station on election day in accordance with section 130 section 130.

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<sup>60</sup> RomeshThappar vs. State of Madras (1950) SCR 594

### **3.4.5 Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954**

In the name of public health, the law prohibits inappropriate promotion of magic and self-healing.

### **3.4.6 Customs Act, 1962**

Section 11 empowers the Central Administration to prohibit the import and export of goods if it deems it necessary to maintain the security of India and to uphold public order, decency or morality.

### **3.4.7 Criminal Procedure Code, 1973**

Section 95 punishes any person who publishes a map of India which does not correspond to that published by the Survey of India, with imprisonment or fine or both.

### **3.4.8 Civil Defence Act, 1968**

The law allows the government to prohibit the publication of newspapers, etc., containing matters affecting civil protection; to demand a guarantee from every press on this occasion.

### **3.4.9 Decency and morality**

When expressing opinions and views, citizens must use language that maintains societal standards of decency and morality. The Constitution acknowledges this by allowing for restrictions on freedom of speech and expression based on decency and morality. In the case of *Miller vs. California*, obscenity was defined as depictions or descriptions of sexual conduct. Similarly, Webster's New International Dictionary defines obscenity as something offensive, foul, or disgusting. The Advanced Law Lexicon describes obscenity as something offensive to decency, purity, or delicacy. Indecency is seen as behavior contrary to good manners and proper sensitivity. Obscenity, however, goes beyond indecency and is intended to encourage lawlessness and corrupt morals. Freedom of speech and expression is subject to reasonable restrictions, including those necessary for the public interest, such as public decency and

morality. Sections 292 to 294 of the Indian Penal Code provide examples of such restrictions by prohibiting the sale, distribution, or exhibition of obscene material in public places.

In case of Director General of Doordarshan vs. Anand Patwardhan the guidelines for testing obscenity were laid down as under<sup>61</sup>:

The determination of obscenity in a work involves several factors:

- (i) The assessment of whether the work as a whole appeals to prurient interests should consider the standards of the contemporary community.
- (ii) The evaluation should also take into account whether the work depicts sexual conduct that is deemed patently offensive under state law.
- (iii) Additionally, the examination should determine if the work lacks significant literary, artistic, political, or scientific value. It is crucial to evaluate the decency of a film from the perspective of an average, healthy individual using common sense. Furthermore, when analyzing a film, it should be viewed in its entirety rather than in isolated fragments, as the intended message cannot be accurately discerned by only watching certain parts of the film.

In India, the test for obscenity established in *R v. Hicklin* is regarded as the primary criterion for determining obscenity, and subsequent court rulings have reinforced and provided additional guidance on its application.

(i) Obscenity pertains to material that offends modesty or decency, such as lewd, filthy, or repulsive content. However, even content that may be considered immodest may not necessarily be subject to reasonable restrictions if it serves the purpose of disseminating ideas or information of public interest. For instance, medical textbooks containing illustrations of male and female anatomy for educational purposes would not be subject to reasonable restrictions. Generally, socially significant ideas are protected unless the obscenity is extreme enough to warrant public interest in restricting it. The determination of obscenity is subjective and relies on the moral standards of the community in question.

(ii) The test for obscenity focuses on the effect of the published material on readers rather than the intention of the author. The crucial consideration is whether the material has the potential to corrupt and deprave the minds of those who may come across it. This evaluation is based on

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<sup>61</sup> (2006) 8 SCC 433

whether the content could influence individuals susceptible to immoral influences and who may be exposed to the publication.

(iii) When assessing the impact of offensive publications, the court must take into account the evolving moral standards of contemporary society, particularly in India, where societal norms are rapidly changing. With increasing access to literature containing mixed content of sex and romance, the court must determine whether the publication as a whole has the potential to stimulate sexual desire in adolescent readers.

(iv) Section 292 of the Indian Penal Code grants absolute immunity to publications used in good faith for religious purposes. However, aside from this exception, the section does not allow for any exemptions based on the plea of 'public good'.

The concepts of "morality" and "decency" have been extensively discussed to determine reasonable restrictions on freedom of speech and expression. In the case of *Benazir Bhutto vs. Federation of Pakistan*, it was observed that the term "morality" is more ambiguous than "decency" in common language usage. Determining what offends against morality is challenging due to varying individual perspectives and societal norms across different ages and cultures. The concept of morality is subjective and can vary significantly between individuals and societies. While acts deemed immoral may vary based on prevailing societal opinions, there is no universal standard of morality due to ethnic, cultural, and psychological differences. Therefore, notions of morality are subjective and can vary from country to country and from age to age, making it challenging to establish a universal code of morality at the international level.<sup>62</sup>

Numerous key legislations in India impose reasonable restrictions based on the grounds of morality and decency. These include:

1. The Cinematograph Act of 1952, which regulates the approval of cinematograph films for public exhibition.
2. The Young Persons (Harmful Publications) Act of 1956, aimed at curbing the production and dissemination of harmful publications, such as "horror comics," that may encourage antisocial behavior among children and negatively impact young individuals.

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<sup>62</sup> PLD 1988 SC 416



3. The Drugs and Magical Remedies (Objectionable Advertisements) Act of 1954, which prohibits objectionable advertisements claiming to cure sexual ailments through magical means.
4. Sections 20-23 of the Post Office Act of 1898, which prohibit the transmission of obscene material through postal services.
5. Section 3 of the Dramatic Performances Act of 1876, which prohibits dramatic performances deemed likely to corrupt or deprave the audience. It is important to note that there is no fixed standard for morality and decency, as these concepts evolve over time and vary across different regions.

### **3.5 SEDITION: (SECTION 124A)**

Sedition refers to words or actions that incite rebellion against state authority. According to Coleridge, the term "riot" usually means noise, rebellion, or public disturbance, often involving violence or lawlessness. Lord Fitzgerald developed the concept further by describing sedition as a crime against society closely related to, and often preceding, treason. Sedition includes a wide range of practices, including speech, action or writing, that disturb the peace of the country and encourage uninformed people to subvert the government and laws. Rebellion usually aims to incite discontent, incite rebellion and destabilize a government, while its natural tendency is to incite people to become rebellion.<sup>63</sup>

Sedition is characterized as disloyalty in action, encompassing behaviors aimed at inciting discontent, public disturbance, or civil unrest, as well as undermining the government, laws, or Constitution, or promoting disorder. Section 124A of the Indian Penal Code delineates the offense of sedition, stipulating that individuals who, through words, signs, or visible representations, endeavor to discredit the government or foster disaffection towards the lawful government in India, shall be liable to punishment, which may include imprisonment for life or up to three years, along with a fine. The section also provides explanations: (a) "Disaffection" encompasses feelings of disloyalty and enmity; (b) Criticizing government measures, with the intention of lawful change and without inciting hatred or contempt, is not considered an offense under this section; (c) Criticizing government administrative actions,

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<sup>63</sup> Dr. S. R. Myneni, Media Law 216 Asia Law House 2013

without inciting hatred, contempt, or disaffection, also does not constitute an offense under this section.

In the case of *Kedar Nath Singh vs. State of Bihar*, it was established that criticizing government actions, even if expressed strongly, is not punishable unless it incites public disorder or violence. Expressing disapproval of government measures in strong terms, with the intent of advocating lawful change, is not tantamount to disloyalty or sedition. Similarly, in the case of *Balwant Singh vs. State of Punjab*, the court ruled that the mere chanting of slogans by a few individuals does not pose a threat to the government or incite hostility among communities. Thus, for sedition to apply, there must be a deliberate attempt to provoke disaffection, hatred, or contempt towards the government, either verbally, in writing, or through visible representations. Criticism grounded in moral principles and lacking incitement of hatred or contempt towards the government is not deemed seditious.

### **3.6 THE RIGHT TO INFORMATION ACT, 2005**

The Government of India has acknowledged the necessity of improving access to information for all citizens through amendments to the Freedom of Information Act of 2002. Recommendations from the National Advisory Council prompted significant changes aimed at making the legislation more progressive, participatory, and effective. Responding to these suggestions, the Government opted to repeal the existing Act and introduce a new law aimed at establishing a robust framework for realizing the right to information guaranteed under Article 19 of the Constitution of India. The Right to Information Act establishes a practical mechanism for citizens to obtain information held by public authorities, with the objective of promoting transparency and accountability in government operations. Additionally, this legislation mandates the creation of Central and State Information Commissions to oversee compliance and address related issues.

In the digital age, the proliferation of the internet and digital technology has made numerous original works easily accessible online, reaching a global audience. However, this accessibility has also resulted in widespread instances of unauthorized copying and appropriation of original literary, musical, and other creative works without proper attribution to the original creators. Recognizing this challenge, international initiatives have been undertaken to establish a framework that safeguards the right to freedom of expression and enables the sharing of

knowledge and culture in the digital realm. The Right to Share Principles, developed collaboratively with experts worldwide, seek to promote affirmative measures that facilitate the free exchange of information and ideas while expanding access to information, knowledge, and culture online and beyond.<sup>64</sup>

The tension between freedom of expression and copyright has long been acknowledged, but in recent years, there has been a concerning trend of prioritizing copyright claims over human rights. The Right to Share Principles underscore the importance of upholding freedom of speech and the open exchange of information and ideas, which should not be overshadowed by assertions of property rights. As part of a series of recommendations, policymakers should consider abolishing criminal penalties for non-commercial copyright infringement. It is unfair for millions of internet users worldwide to face the risk of criminal prosecution for using copyrighted material for personal purposes without seeking any financial gain. Copyright laws must evolve to keep pace with technological and societal changes and should not stifle creativity under the guise of protecting it.

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<sup>64</sup> Available at <http://www.article19.org/resources.php/3715/en/article-19-launches-right-to-share> (Visited on: 10<sup>th</sup> Mar, 2025)

## **CHAPTER 4**

### **JUDICIAL APPROACH**

#### **4.1 INTRODUCTION**

Since the emergence of print media, ongoing discussions have centered on the boundaries of press freedom. Although the Constitution of India does not explicitly mention freedom of the press, it is generally considered to be encompassed within the broader framework of freedom of speech and expression. Despite this, the judiciary has consistently supported the media, ensuring they have a firm legal foundation. Recognizing the importance of an independent press, the courts have played a pivotal role in shaping the landscape of press freedom through their judgments. Numerous cases addressing the extent of press freedom and the reasonable restrictions that can be imposed have been adjudicated by the Supreme Court of India and various High Courts. With the rise of electronic and social media, the challenges faced by the courts have only heightened, given the wide reach and influence of these platforms compared to traditional print media. In the case of *Ram Lila Maidan*, significant observations regarding freedom of speech and expression, as well as the permissible restrictions, were articulated in the following manner<sup>65</sup>:

1. Recognizing the pivotal role of freedom of speech in democratic governance is essential. This freedom serves as the cornerstone of democratic processes and is deemed indispensable for the functioning of liberty. Often dubbed as the "mother of all liberties," freedom of speech is paramount, providing a foundation and safeguard for other freedoms. It plays a crucial role in shaping public opinion on various societal, political, and economic issues. Acknowledged as a fundamental human right, freedom of speech has evolved to encompass the right to receive information and press freedoms within the legal framework of India.

2. While the state bears the responsibility of safeguarding against unlawful actions, it may enact laws to fulfill this duty. However, the right stemming from Article 19(1)(a) is not absolute or unbounded. Absolute liberty could result in chaos and disorder, necessitating reasonable constraints. Liberties must be subject to certain controls to prevent their abuse. Therefore, while

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<sup>65</sup> AIR 2012 SC(Supp) 266

individuals enjoy the right to freedom of speech and expression, it is not without limitations, and laws may impose reasonable restrictions to uphold order and security within society.<sup>66</sup>

3. No individual can be deprived of their fundamental rights, as they are inviolable and cannot be diminished. The State's authority lies in regulating these rights by imposing reasonable restrictions through legislative means. To assess the validity of such restrictions, certain criteria must be met:

a) Restrictions can only be imposed through lawful means and not by executive power alone, without legal backing.

b) Each restriction must be reasonable.

c) Restrictions must be directly related to the purposes outlined in Article 19(2) of the Constitution.

4. In assessing the reasonableness of a restriction, several factors come into play, including the duration and scope of the restriction, the manner in which it was authorized, the nature of the right being infringed, the underlying purpose of the restriction, the urgency of the situation, the proportionality of the restriction, and the prevailing conditions at the time. These factors are carefully weighed in judicial decisions. Any restriction imposed must pass the test of reasonableness and withstand judicial scrutiny. It cannot be arbitrary or excessive but must have a clear and direct connection to its intended objective. When curbing the right to freedom of speech and expression, it must be done in accordance with the provisions of Article 19(2) of the Constitution. This underscores the importance of reasonable restrictions in preventing the abuse of freedom of speech and expression, which can disrupt social harmony and order, whether by individuals or the media. Instances such as paid news and media trials can have far-reaching implications, shaping the nation's political, social, and legal landscape. The media should refrain from engaging in such practices driven by commercial interests or pursuit of high ratings. Instead, they should exercise their freedom of speech and expression responsibly, respecting the reasonable restrictions imposed by law. Various court judgments pertaining to print, electronic, and social media are discussed in the context of their respective domains.<sup>67</sup>

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<sup>66</sup> State of West Bengal v. Subodh Gopal Bose [AIR 1954 SC 92]

<sup>67</sup> Chintamanrao and Anr. v. State of Madhya Pradesh (AIR 1951 SC 118)

## 4.2 JUDICIAL PRONOUNCEMENTS IN RELATION TO ARTICLE 19(1)(A) AND PRINT MEDIA

In its formative years, print media played a crucial role in distributing news, entertainment, advertisements, and other information through newspapers, magazines, tabloids, journals, and similar publications. With electronic media in its nascent stage and social media barely emerging, print media shouldered the responsibility of disseminating news across the nation. Serving as the primary mode of communication, it encountered various challenges over time, some of which were brought before the Supreme Court for resolution.

In case of *Srinivas vs. State of Madras*<sup>68</sup>, the court held that the freedom of speech and expression encompasses more than just the right to express one's own views. It also extends to the liberty to disseminate or publish the views of others. In case of *Romesh Thapper vs. State of Madras*<sup>69</sup>, The Madras Government invoked Section 9(1-A) of the Maintenance of Public Order Act 1949 to prohibit the circulation of the petitioner's weekly journal within their state. The court, recognizing the significance of "freedom of speech and expression," which includes publication, affirmed that it encompasses freedom of the press. The fundamental objective is the unrestricted dissemination of ideas, achievable through platforms like the press. The freedom of circulation is integral to this objective, as the sharing of ideas relies on their wide circulation. The law was invalidated because it restricted both entry and circulation of the journal, highlighting the importance of circulation in facilitating the sharing of ideas through the press. Both the liberty of circulation and publication are indispensable, as the absence of either would undermine the purpose of the entire system.

In the case of *Express Newspapers vs. Union of India*, the petitioners challenged the validity of the Working Journalists Act of 1955. This legislation aimed to regulate the employment conditions of workers in the print media industry, covering aspects such as gratuity payment, wage determination, work hours, and leave entitlements. The petitioners contended that the Act would adversely affect newspapers' financial stability, potentially leading to their closure and thereby impeding the dissemination of information, contrary to Article 19(1)(a) of the Constitution. However, the court held that the press is subject to general laws and regulations, including those concerning taxation and industrial relations. The Working Journalists Act was enacted to enhance the working conditions of employees in the newspaper industry, and thus,

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<sup>68</sup> AIR 1931 Madras 70

<sup>69</sup> AIR 1950 SC 124

the restrictions it imposed were deemed reasonable under the freedom of speech and expression guaranteed by Article 19(1)(a).<sup>70</sup>

In case of *Sakal Papers P. Ltd. Vs. Union of India*<sup>71</sup>, two readers, shareholders, and the company publishing a Marathi newspaper filed petitions against the state challenging the constitutionality of the Newspaper (Price and Page) Act of 1956. This Act engaged the focal government to direct the cost of papers in light of their pages and portion of room for publicizing. The distributing organization likewise challenged the Day to day Papers (Cost and Page) Request of 1960, which was passed by the public authority under the Paper Act to execute such guidelines. These guidelines intended to control the quantity of pages in view of the cost charged, direct the quantity of enhancements to be distributed, and forbid the distribution and offer of papers that disregarded any Request made under Segment 3 of the Demonstration. Furthermore, the Demonstration considered the guideline of the sizes and area of promoting matter comparable to other substance in the paper through a Request under Segment 3. Punishments were forced for contradictions of the Demonstration or Request. The applicants contended that these actions disregarded their right to the right to speak freely of discourse and articulation ensured under Article 19(1)(a) of the Constitution.

The Court decided that the Demonstration and Request being referred to successfully constrained papers to either lessen the quantity of pages or increment costs, affecting the opportunity of articulation ensured by Article 19(1)(a) of the Constitution. A decrease in pages would restrict the spread of information and perspectives, while greater costs would ruin course, the two of which are fundamental parts of free discourse. Also, it was noticed that the right to the right to speak freely of discourse can't be abridged to limit business exercises. Thus, the Paper Act and Paper Request were considered unlawful as they straightforwardly encroached upon the right to speak freely and articulation.

On account of *Bennett Coleman and Co. versus Association of India*, the candidates, who were paper distributors, tested limitations on the import of newsprint under the Import Control Request 1955 and the Newsprint Request 1962. Additionally, the most recent Newsprint Strategy 1972-73 came into execution adding a few limitations as underneath<sup>72</sup>:

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<sup>70</sup> AIR 1958 SC 578

<sup>71</sup> AIR 1962 SC 305

<sup>72</sup> AIR 1973 SC 106

- (i) Establishments owning more than two newspapers, with at least one being a daily, are prohibited from starting new newspapers.
- (ii) Newspapers are restricted to a maximum of ten pages.
- (iii) Newspapers with fewer than ten pages may only increase their page count by up to 20%.
- (iv) There is no allowance for interchangeability of newsprint between newspapers of the same establishment or different editions of the same paper.

Petitioners contested this policy, arguing it violated Article 19(1)(a) as it prevented adjustments in circulation within the quota limit. Respondents countered that fundamental rights only apply to natural persons, not companies, and that Article 358's emergency powers barred challenges to fundamental rights. They proposed a subject-matter test for restrictions, arguing that regulations on newspapers' commercial operations aimed to prevent monopolies, with any impact on freedom of expression being incidental.

The Supreme Court, in its judgment, made several observations:

- (i) Companies being petitioners did not preclude relief for violating shareholders' and editorial staff's rights.
- (ii) Article 358's bar did not apply to laws predating the emergency proclamation, allowing challenges to the newsprint policy as a continuation of the previous year's policy.
- (iii) Regarding freedom of the press:
  - It is an essential component of Article 19(1)(a), regardless of its explicit mention.
  - It is integral to freedom of expression in general.
  - Restrictions on page limits unjustifiably impede economic viability and harm freedom of expression, as reducing advertisements or news content would be necessary.
  - Quantitative controls on the press constitute restrictions on freedom of expression, and since they are not justified by newsprint shortages, they are unreasonable.

The Newsprint Policy of 1972-73 was found to be unconstitutional, although the Newsprint Order and Import Control Order remained in effect. This ruling emphasized the importance of a free press over fluctuating economic policies. It is not feasible to restrict the number of pages in a newspaper without reducing either advertorial content or news coverage. Advertisements



often convey crucial information about new products, government initiatives, legislative changes, and notifications. Limiting them would raise costs, while cutting back on news coverage would hinder press freedom.

In the case of *Indian Express Newspaper vs. Union of India*, the Supreme Court examined the legality of import duty on newsprint under the Customs Tariff Act of 1975 and auxiliary duty under the Finance Act of 1981. This duty, imposed through notifications under the Customs Act of 1962 from March 1, 1981, had a negative impact on printing costs and newspaper circulation. Consequently, this encroached upon the freedom of expression under Article 19(1)(a) and the freedom to practice any trade or occupation under Article 19(1)(g). Moreover, since India's foreign exchange reserves were robust at the time, there was no immediate justification for such imposition, constituting an infringement on fundamental rights. The classification of newspapers into small, medium, and large for the imposition of duties was considered arbitrary, violating the principle of equality before the law as enshrined in Article 14 of the Constitution. However, the Union of India argued that taxation serves the public interest by increasing government revenue and that the exemption granted to newsprint was unjustified and therefore subject to government intervention.<sup>73</sup>

In its ruling favoring the Union of India, the Supreme Court acknowledged that the newspaper industry falls under government jurisdiction and can therefore be subject to taxes, similar to other sectors. The Court also approved the categorization of newspapers into small, medium, and large categories based on economic factors, deeming this classification non-arbitrary and logically connected to the taxation objective. However, it emphasized that any restrictions on freedom of expression under Article 19(1)(a) must be reasonable and serve the public interest, as outlined in Article 19(2). The Court highlighted two key principles: firstly, newspapers, like other industries, benefit from government services and must therefore contribute a fair share of government revenue through taxation; and secondly, the tax burden should not be excessive. The Court instructed the government to reassess its taxation policy to determine if it unfairly burdened newspapers, rejecting the government's argument that this consideration was irrelevant. Consequently, the notification regarding taxation required revision in light of this assessment.

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<sup>73</sup> (1985) 1 SCC 641

This case underscored the vital role of the media as the fourth pillar of democracy, which must be protected from executive interference. The taxation burden on newspapers should be reasonable enough to enable them to fulfil their responsibilities without undue strain. Imposing excessive taxes could impede newspapers' ability to publish and circulate content effectively, potentially resulting in higher prices and decreased sales. Therefore, the verdict not only upheld press freedom from direct regulation but also extended it to encompass economic considerations.

In case of *Express Newspapers P. Ltd. vs. Union of India*<sup>74</sup>, The constitutional validity of a notice for re-entry upon forfeiture of a lease and the threatened demolition of the Express Buildings, purportedly for violating Article 19(1)(a), was contested in court. The petitioner had been allocated certain plots by the Government of India for constructing its press building, which it duly erected. However, the Lt. Governor of Delhi alleged that the new Express Building violated municipal corporation laws, prompting an immediate demolition notice. The petitioners argued that the new building's construction adhered to the lease deed and had explicit approval from the lessor, the Union of India. They contended that the notices directly infringed upon press freedom and sought their withdrawal. The court, in its ruling, deemed the notices a direct and immediate threat to press freedom, violating both Article 19(1)(a) and the right to equality under Article 14. Consequently, the notices were invalidated due to their malicious intent to disrupt the Indian Express newspaper's operations.

In the case of *Ajay Goswami vs. Union of India*, a petition was filed against the Union of India, Press Council of India, and prominent newspapers such as *The Times of India* and *Hindustan Times*. The aim was to seek court protection preventing minors from exposure to sexually exploitative materials, regardless of their legality. The petitioner argued that sexually explicit content should not be indiscriminately accessible to minors without regard to their age, and advocated for parental, guardian, teacher, or sex education expert discretion in this matter. The petitioner urged authorities to strike a balance between the press's fundamental right to freedom of speech and expression and the government's duty to shield vulnerable minors from exploitation and harmful content effects, as mandated by the United Nations Convention on the Rights of the Child, 1989, and the Universal Declaration of Human Rights. The petitioner

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<sup>74</sup> 1986 AIR 872

implored the court to implement a regulatory system or classification to foster an environment of mutual tolerance<sup>75</sup>:-

(a) Respect for others' rights to express and receive certain ideas and actions, and

(b) acknowledging that others have the right not to be exposed unwillingly to one's expression of ideas and actions, are essential components of mutual tolerance. This reciprocal tolerance is increasingly crucial in light of the growing prevalence of X-rated jokes, SMS, and MMS among young people and minors. The petitioner emphasized that they were not advocating for restrictions on press freedom or pre-publication censorship but rather for measures to address the easy accessibility of literature containing obscene content to children.

The petitioner raised concerns about the limitations of The Press Council of India in enforcing guidelines specifically aimed at minors and adolescents. To address these issues, the petitioner suggested several measures: i) Issuing detailed guidelines to newspapers regarding content unsuitable for minors or requiring parental or teacher discretion; ii) Implementing a self-regulatory system for newspapers to adhere to these guidelines; iii) Packaging newspapers containing potentially objectionable material differently and clearly labeling them as such; iv) Allowing parents to instruct news vendors on whether to deliver such newspapers. Alternatively, the petitioner proposed the establishment of a committee to recommend methods for regulating minors' access to adult-oriented sexual or prurient material. In response to these arguments, the Union of India argued that the publication and circulation of obscene or nude/semi-nude photographs of women is already punishable under the Indecent Representation of Women (Prohibition) Act, 1986, administered by the Department of Women and Child Development, Ministry of Human Resources Development. Additionally, selling, renting, distributing, exhibiting, or circulating obscene books and materials involving young persons under the age of twenty years is considered a criminal offense under sections 292 and 293 of the Indian Penal Code. The Press Council of India, however, maintained that its authority is limited, with powers restricted to issuing directions and reprimands to the parties involved, and lacks the ability to enforce compliance with its directives. The Press Council Act of 1978 outlines the Council's jurisdiction, but it lacks punitive powers to ensure compliance with its decisions. The Times of India, representing the press, argued that existing legislation, rules, and regulations within the Indian legal framework already address the publication of

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<sup>75</sup> AIR 2007 SC 493

obscene materials. Additionally, the Press Council of India Act empowers the Press Council to impose stringent controls on newspapers, news agencies, editors, or journalists who violate established norms, thereby upholding societal standards of decency. It was further argued that Article 19(1)(a) of the Indian Constitution guarantees every citizen the right to freedom of speech and expression, allowing newspapers like the respondent to express their views and report various national and international news events in their publications. Any undue restrictions on this right would constitute a violation of the constitutional guarantee. Similarly, citing American legal precedents, it has been established that mere nudity does not constitute obscenity. According to 50 Am Jur 2d, paragraph 22, page 23, articles and images in a newspaper must meet the Constitutional standard of obscenity outlined in the Miller test for publishers or distributors to be prosecuted for obscenity. The presence of nudity alone does not render material legally obscene. In the case of *Alfred E Butler v. State of Michigan*, the U.S. Supreme Court ruled that quarantining the general reading public from books deemed too explicit for adults in order to protect juvenile innocence amounts to sacrificing the greater good for the sake of minor concerns.<sup>76</sup>

Citing the widespread popularity and extensive circulation of leading newspapers such as the Times of India and Hindustan Times, it was argued that the published images were not objectionable and were not intended to appeal to prurient interests. It was asserted that an internal regulatory system was in place to prevent the publication of objectionable content. However, it was emphasized that any attempt to prohibit the publication of certain news pieces or images would encroach upon the independence of the free press. In its verdict, the Court stated that globalization and liberalization do not give the media license to misuse press freedom or undermine societal values. The media has a unique role and public responsibility that necessitates prioritizing cultural heritage and social values over commercial interests. The Court cited the American case *Reno vs. the American Civil Liberties Union*, where the U.S. Supreme Court invalidated provisions of the Communications Decency Act, 1996, criminalizing the online transmission of obscene or indecent messages to minors. The Court stressed that safeguarding children from harmful material should not lead to overly broad suppression of speech aimed at adults. It also underscored the importance of considering the artistic, literary, or social value of a work when determining obscenity. The judgment emphasized the need to evaluate publications in their entirety and to foster a culture of

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<sup>76</sup> 1 Led 2d 412

responsible reading among the public. It cautioned against interpreting news items or images in isolation and encouraged readers to consider the intended message conveyed by the publication as a whole. Additionally, it urged the public not to attribute unintended meanings to pictures or articles.<sup>77</sup>

The court rejected the idea of imposing a complete ban on the publication of obscene materials or articles to safeguard juvenile innocence, as it believed it would restrict newspapers' ability to provide information to readers of all ages. Instead, it emphasized the need to consider news items in their entirety rather than in isolation and cautioned against stirring up fictitious imaginations, especially those of minors, in court. The court also suggested that the Press Council amend its Act to address these concerns.

In the case of *S. Khushboo v. Kanniammal*, the national magazine "India Today" featured opinions from various individuals, including the appellant, on the subject of sexual behavior and premarital sex in major Indian cities. The appellant shared her views on the increasing prevalence of premarital sex, particularly in the context of live-in relationships, while also advocating for societal acceptance of such relationships. However, she also emphasized the importance of girls taking precautions to prevent unwanted pregnancies and the spread of venereal diseases. The appellant's statements were quoted in the Tamil newspaper "Dhina Thanthi," which reported that her remarks had caused a sensation in Tamil Nadu. Subsequently, the appellant sent a legal notice to the newspaper's editor, denying that she had made the statement attributed to her and demanding the retraction of the news item. She warned of legal action if her objections were not addressed within three days.<sup>78</sup>

The publication of the appellant's statements in 'India Today' and 'Dhina Thanthi' drew nationwide criticism, leading to criminal complaints against the appellant. However, the Court observed that these complaints failed to demonstrate how the appellant's remarks constituted 'obscenity' under Section 292 of the Indian Penal Code (IPC). Section 292(1) defines material as obscene if it is lascivious, appeals to prurient interest, or tends to deprave and corrupt persons likely to be exposed to it. Nonetheless, the Court concluded that the complaints did not establish a *prima facie* case for any of the alleged statutory offenses. Consequently, the appeals were allowed, and the High Court's judgment and order dated April 30, 2008, were overturned.

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<sup>77</sup> 521 US 844 (1997)

<sup>78</sup> AIR 2010 SC 3196

In the case of *N. Radhakrishnan vs. Union of India*, a request was made to ban the novel "Meesha" due to certain parts being perceived as portraying women negatively when going to the temple, causing distress within the community. The Supreme Court held that individuals' mere perception or opinion should not be sufficient grounds for banning books. Such censorship would stifle the free exchange of ideas and constitute a violation of freedom of speech, thought, and expression. The Supreme Court underscored the importance of freedom of speech and expression for writers, artists, and individuals in creative fields, emphasizing its crucial role in nurturing a vibrant and diverse society.<sup>79</sup> It held as under:

- Literature serves as a conduit for connecting with readers when creativity is allowed to flourish without constraints. Writers, artists, and individuals in creative fields must have the freedom to think without hindrance, enabling them to express their views and imagination without censorship. Likewise, readers have the freedom to interpret and imagine from their own perspectives.
- Suppressing free speech, expression, creativity, and imagination is perilous, leading to intellectual repression and stifling of literary freedom. Censorship or banning of books, except in cases of defamation or derogatory content towards any community, can incite unrest and discontent among intellectuals, eroding intellectual tolerance and threatening intellectual freedom. This ultimately results in "intellectual cowardice," stifling the free spirit of creativity.
- Adhering to unwritten codes of maturity, humanity, and tolerance is essential for readers and admirers of literature and art, allowing freedom of expression to flourish unimpeded.
- Approaching creative works with maturity, open-mindedness, and objective tolerance is vital. Understanding that reality can be portrayed differently and being sensitive to context, readers should appreciate characters rather than hastily judging content as inappropriate or corrupting.

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<sup>79</sup> AIR 2018 SC 4154

- Writers' imaginations should not be constrained by specific guidelines or impositions. They deserve the liberty to play with words, akin to painters with colors.
- While final publications must adhere to the law, legal rigor should consider various perspectives recognized by the authorities of the court. Respecting the craftsmanship of the writer involves accepting the concept of objective perceptibility.

### **4.3 JUDICIAL PRONOUNCEMENTS IN RELATION TO ARTICLE 19(1)(A) AND ELECTRONIC MEDIA**

In a recent legal development, the Gujarat High Court dismissed a petition filed by a website seeking the dismissal of a defamation case filed against it by Jay Shah. The website, accused of corruption in its report, had its petition rejected by the court, which found that there was sufficient evidence to support a *prima facie* case against the website's reporter, publisher, and editors. The court identified the most troubling aspect of the article as the implied link between the increase in Jay Shah's company's turnover and the election of Narendra Modi as Prime Minister. The website in question, known as The Wire, had published an article titled "The Golden Touch of Jay Amit Shah," alleging a significant surge in Jay Shah's company's turnover following the BJP's rise to power in 2014. The Wire defended its report by citing documentary evidence and argued that it should not be subject to criminal defamation charges.<sup>80</sup>

Initially, the court issued a comprehensive *ex parte* injunction in favor of Jay Shah, prohibiting The Wire from utilizing, publishing, or disseminating any content related to an article published on October 8, 2010, in any media format, including electronic, print, digital, or broadcast. This injunction encompassed interviews, television discussions, debates, news segments, and programs in any language, whether directly or indirectly related to the plaintiff. However, subsequently, the injunction was narrowed down to solely include the phrase "Narendra Modi becoming Prime Minister/elected as Prime Minister," following a court ruling on December 23, 2017. The media outlet contested the injunction, contending that it encroached upon freedom of the press. They further maintained that the original article titled "The Golden Touch

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<sup>80</sup> Available at <https://www.ndtv.com/india-news/electronic-media-cant-think-they-become-popes-overnight-chiefjustice> (Visited on 12th Mar, 2025)

of Jay Amit Shah" contained no derogatory content and was solely based on public records and information provided by Jay Shah himself.<sup>81</sup>

In its ruling, the Supreme Court highlighted concerns about certain segments of the press, particularly in the realm of electronic media, which had crossed boundaries by expressing opinions without due regard for accountability. The Court stressed the importance of media, especially electronic media, exercising caution and responsibility in their reporting, rather than resorting to unfounded allegations. It cautioned against adopting an authoritative stance akin to a Pope delivering a sermon. Media outlets were urged to refrain from publishing content that could be construed as contempt of court or defamation, as such actions cannot be justified under the guise of freedom of speech and expression for journalists. The Court emphasized the collective duty of all individuals to uphold the law and act responsibly. While the Court aimed to preserve press freedom, it also underscored the need for media outlets to avoid irresponsibly fabricating or disseminating baseless information solely at their discretion.<sup>82</sup>

In the case of R.K. Anand vs. Registrar, Delhi High Court, the petitioner was captured on camera by the media while attempting to bribe a crucial witness to testify in favor of his client, Sanjeev Nanda. This undercover operation was aired by NDTV, bringing to light the issue of affluent individuals resorting to bribery to avoid criminal charges. Consequently, the Delhi High Court initiated criminal contempt of court proceedings against R.K. Anand, and the Supreme Court upheld the High Court's ruling, finding him guilty. Despite Anand's arguments of facing a trial by media, the court dismissed them and acknowledged the significant public interest served by the sting operation in uncovering corruption.<sup>83</sup>

In the recent Muzaffarpur shelter home case, the Supreme Court made a significant ruling regarding the reporting of sexual abuse and rape cases. While overturning a blanket ban imposed by the Patna High Court on such reporting, the Supreme Court emphasized the need for caution by the media in covering these sensitive incidents. The case involved allegations of sexual abuse and rape against 30 girls over an extended period at the Muzaffarpur shelter home.

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<sup>81</sup> Available at <https://www.thequint.com/news/india/injunction-the-wire-lifted-by-jay-shah> (Visited on 12<sup>th</sup> Mar, 2025)

<sup>82</sup> Available at <https://m.timesofindia.com/india/section-of-electronic-media-has-crossed-the-line-says-supremecourt> (Visited on 10<sup>th</sup> Mar, 2025)

<sup>83</sup> (2009) 8 SCC 106



The Supreme Court called on both print and electronic media outlets to refrain from sensationalizing incidents of sexual assault in their reporting.<sup>84</sup>

The electronic media has been prohibited from displaying images of alleged rape victims, even if blurred or morphed, recognizing the need to shield them from "reliving the trauma" repeatedly. This practice by the media was found to be deeply troubling, as it resulted in alleged victims of sexual violence being subjected to multiple interviews and compelled to recount their harrowing experiences. It was determined that victims of child sexual abuse should only be interviewed by members of the National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights, with the presence of counselors.<sup>85</sup>

#### **4.4 JUDICIAL PRONOUNCEMENTS IN RELATION TO ARTICLE 19(1)(A) AND SOCIAL MEDIA**

In the landmark case of *Shreya Singhal vs. Union of India*, the petitioner, along with her friend, faced arrest for posting comments deemed offensive on the social networking site Facebook. Their posts questioned the government's decision to shut down Mumbai following the death of a prominent political leader. While the petitioner made the initial post, her friend expressed agreement in the comments, which were visible to the public. The police invoked Section 66A of the Information Technology Act, which penalizes the transmission of highly offensive information through computer resources or communication devices. The women were later released, and the prosecution was dismissed, but the incident garnered significant media attention and criticism. Consequently, the women, represented by their lawyer, filed a petition challenging the constitutionality of Section 66A, arguing that it violated their right to freedom of expression.<sup>86</sup>

The petitioners contended that Section 66A violated the fundamental right to freedom of speech and expression and could not be justified under any reasonable restrictions. They argued that transmitting information electronically with the intent to cause annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will could not be deemed reasonable grounds for restriction. Furthermore, they highlighted the excessive

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<sup>84</sup> Available at <https://www.hindustantimes.com/india-news/treat-cautiously-in-reporting-rape-supreme-court-to-media> (Visited on 10<sup>th</sup> Mar, 2025)

<sup>85</sup> Available at <https://www.newindianexpress.com/supreme-court-restrains-media-from-showing-images-of-biharshelter-home-rape-victims> (Visited on 28<sup>th</sup> Feb, 2025)

<sup>86</sup> AIR 2015 SC 1523

vagueness of Section 66A, as none of the terms for which it held individuals liable were clearly defined, resulting in the potential for unjust punishment of innocent individuals. Additionally, they asserted that there was no discernible distinction between those exercising free speech on the internet and those using spoken words, leading to an arbitrary difference in treatment.

HELD:

1. The Court examined the scope of "freedom of speech and expression," noting that it encompasses discussion and advocacy of any subject under Article 19(1)(a). However, incitement to violence or lawlessness may warrant reasonable restrictions on such discussion and advocacy.

2. It emphasized that actions causing widespread disturbance to community life should be punishable, contrasting with those affecting only individuals. Section 66A, aimed at punishing internet dissemination of certain information, lacks provisions for defamation, which requires injury to reputation.

3. The Court clarified that Section 66A does not pertain to incitement for committing offenses but restricts online information deemed grossly offensive or inconvenient, unrelated to the permissible restrictions under Article 19(2), rendering it unconstitutional.

4. It noted the absence of specific standards for identifying offenders under Section 66A, concluding that the provision unreasonably curtails free speech rights.

5. The Court agreed with petitioners that Section 66A's vague terms could stifle free speech, as expressing views online may inadvertently cause annoyance to others, potentially leading to excessive use of the provision to silence dissent.

6. Based on these considerations, the Court declared Section 66A unconstitutional due to its potential to suppress protected speech and innocent expression, leading to a chilling effect on free speech and violating the principle of overbreadth.

Possibility of an act being abused is not a ground to test its validity.

7. The Court's ruling concluded that:

- Section 66A is unconstitutional under Article 19(1)(a) as it creates an overly vague and broad offense, not justified by Article 19(2).

- No part of Section 66A can be salvaged, and the provision as a whole must be deemed unconstitutional.
- The widespread circulation of content over the internet does not justify curtailing the right protected under Article 19(1)(a).

This judgment marked a significant milestone in the era of social media, providing millions of ordinary users with a platform to express their views freely. The rise of the internet and social media platforms led individuals to engage in discussions about politics, current events, and more. However, Section 66A of the Information Technology Act, 2000 imposed strict criteria that law enforcement agencies often interpreted narrowly. Moreover, the vague language of the Section, using terms like "offensive" and "causing annoyance," allowed for broad interpretation by law enforcement. As a result, political satire, caricatures, and cartoons based on current events were indirectly restricted, stifling the free expression of ideas by artists and cartoonists. The Court's ruling declared Section 66A unconstitutional, void, and detrimental to free speech on social media platforms. Furthermore, the Section failed to clearly define what actions on the internet would constitute defamation, leaving both internet users and law enforcement agencies without clear guidance. Ultimately, Section 66A had a chilling effect on free speech due to its vague and undefined language.

In conclusion, the judiciary has played a crucial role in championing the rights of the media, particularly concerning freedom of speech and expression. Initially, the media lacked specific constitutional rights, leaving it vulnerable in disputes over its freedoms. However, through landmark cases discussed earlier, the media has gained solid ground and enjoys the same freedom of speech and expression as any other citizen, albeit subject to reasonable restrictions. Transitioning from the Fourth Estate to arguably the first, the media now serves as a reflection of the actions of the legislature, executive, and judiciary to society. However, this newfound freedom has not been without challenges. In some instances, the media has overstepped its boundaries, engaging in practices such as media trials, paid news, and sting operations. Moving forward, it is essential for the media to exercise its freedom responsibly, taking into account reasonable restrictions, rather than viewing it as an unrestricted birthright.

## CHAPTER 5

### CONCLUSION AND SUGGESTIONS

#### 5.1 CONCLUSION

In a democratic republic, the government's primary purpose is to serve the people, who hold the ultimate authority. However, for this system to operate effectively, citizens must be well-informed about the issues, debates, and underlying facts. Government should not be an exclusive domain reserved for professionals; instead, it should encourage active participation from all citizens. The rights of citizens against the government are fundamental, as the government derives its legitimacy from the people. Nevertheless, in practice, governments may occasionally prioritize the broader public interest over individual rights, resulting in violations under the pretext of "public interest". The fundamental rights outlined in Part III of the Constitution are intended to protect the freedoms of individuals against such abuses of power. Article 19(1)(a) guarantees the right to freedom of speech and expression, including the right to access and share information through various channels. The Right to Information Act, 2005, is rooted in this fundamental right, aiming to enhance transparency and accountability in governance. However, true transparency and fairness require equal access to information, enabling citizens to assess the government, participate in decision-making processes, and hold their representatives accountable. Ultimately, government officials serve as trustees entrusted with power for the welfare of the people, echoing the sentiments of Henry Clay.<sup>87</sup>

The Right to Information Act is a crucial instrument that empowers citizens to exercise their fundamental right to freedom of speech and expression, thereby fostering transparency in governance. Despite notable advancements such as provisions for independent appeals, penalties for non-compliance, and streamlining the access process, challenges persist in the Act's implementation. These challenges encompass issues like the proactive disclosure of information, excessive exemptions, monitoring, and awareness programs. Administrators also encounter difficulties in retrieving information from past periods, raising doubts about the Act's efficacy. Furthermore, limited public access to information undermines the Act's effectiveness, stemming from ineffective mechanisms and reluctance to share information. Although the

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<sup>87</sup> Lovekesh Jain, "The Information Gleaner" Capital Law House, Delhi, p. 3

Right to Information Act is a progressive legislation, its full potential is hindered by a lack of awareness and education among the populace. Hence, it is essential for citizens to remain vigilant and assertive in utilizing this Act for their benefit, as even groundbreaking legislation like the Right to Information Act requires active participation from the citizenry to succeed.

The government should take proactive steps to promote widespread awareness of the Right to Information (RTI) Act, as its effective implementation is vital for serving the interests of the public. Judicial intervention is also essential to ensure the genuine enforcement of the RTI Act, which can facilitate greater public involvement and ultimately contribute to its success in achieving its objectives. Well-educated citizens who are knowledgeable about their right to information are more likely to fulfill their responsibilities effectively. By fostering collaboration between the government and the public, the RTI Act can play a significant role in nation-building efforts. As highlighted in the Fitzgerald Report of 1989, access to information is a crucial element of the political process, and an educated populace is essential for meaningful participation in democratic governance.<sup>88</sup>

The Right to Information Act, enacted by Parliament and based on fundamental rights, serves as a potent tool empowering citizens to access information from various government departments and private institutions substantially funded by the government. However, the implementation of this Act encounters challenges, particularly due to India's high illiteracy rate, affecting over 35% of the population, and the financial constraints faced by many individuals. While the fees for obtaining information from Public Information Officers (PIOs) are nominal, the process can become costly if the PIO fails to provide the requested information, leading to additional expenses for appeals and prolonged delays. Transparency and openness in government functioning are crucial for combating corruption, as a corrupt administration poses a significant threat to the state and undermines human rights. The Right to Information Act plays a pivotal role in the fight against corruption, empowering citizens to hold the government accountable and ensuring greater transparency in governance.

The implementation of the Right to Information Act, 2005, is anticipated to enhance transparency and accountability across all government departments. This legislation empowers citizens by providing them with a mechanism to hold the government accountable and promote good governance. However, it is imperative to acknowledge that certain confidential

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<sup>88</sup> Retrieved from <[www.cmc.qld.gov.au/...and.../the-fitzgerald-inquiry-report-1987201389.pdf](http://www.cmc.qld.gov.au/...and.../the-fitzgerald-inquiry-report-1987201389.pdf)> visited on Mar 14<sup>th</sup>, 2025.

information vital for the efficient functioning of the government cannot be disclosed to the public. The Right to Information Act aims to identify and categorize such information, making publicly available only that which can be safely shared, thereby enabling the public to access information while upholding democratic principles.

Governments at both the State and Central levels have implemented various schemes aimed at providing essential services like food, shelter, and education to underprivileged individuals. However, many people are unaware of the specifics and entitlements of these schemes, leading them to settle for less than they are entitled to. Additionally, access to government records is often restricted, and there may be instances of tampering with records, preventing individuals from obtaining accurate information.

In a democratic society, the government is formed through the votes of the people, and maintaining trust between the government and society is crucial. The transparent sharing of information by the government can help build and strengthen this trust, facilitating better communication and improving the efficiency of public administration. Public support is essential for the survival of any government in a democratic country, making it vital for government ideas and information to reach the public. Transparency is indispensable for societal growth and development, and the Right to Information Act plays a pivotal role in ensuring transparency and accountability in governance.

However, it has been noted that many individuals appointed as Chief Information Commissioners and other Commissioners, both at the central and state levels, are retired bureaucrats who may have a tendency to withhold information rather than disclose it. Consequently, the common citizen may struggle to fully exercise their right to information under the provisions of the Act. Access to information is often limited to a privileged class, such as the educated and financially well-off, who have the resources and means to navigate the legal provisions of the Act. This creates a disparity where those with strong financial or political connections can easily obtain information through unofficial channels, while others may face difficulties accessing the information they need.

In a democratic nation, the formation of the government hinges on the people's votes, underscoring the trust placed in the electoral process. However, there is concern among researchers regarding instances where public authorities either withhold information, provide inaccurate or incomplete details, or delay in furnishing information. Such actions infringe upon

the right to information enshrined by the RTI Act, thereby undermining its intended purpose. Of particular concern is the lack of effective remedies to address these violations, especially considering that the right to information is integral to the fundamental freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. Without access to reliable information, individuals are unable to fully exercise their right to know, receive, and disseminate information, ultimately weakening democracy. While constitutional remedies are available under Articles 32 and 226, they are constrained and can only be pursued after exhausting all available avenues under the RTI Act or in the absence of alternative remedies. The prevalence of one-sided information, disinformation, misinformation, incomplete information, and non-disclosure all contribute to the creation of uninformed citizens, which undermines the democratic fabric. It is essential to prevent the monopolization of media by central authorities, private entities, or mandated organizations to ensure the dissemination of accurate and impartial information.

In a democracy, it is crucial to uphold and safeguard freedom of speech and expression, while also recognizing the need for certain limitations to maintain societal harmony. Article 19(2) of the Constitution outlines the grounds on which reasonable restrictions on freedom of speech and expression can be imposed, including considerations such as national security, foreign relations, public order, morality, contempt of court, defamation, incitement to offenses, and the integrity of India. Despite constitutional guarantees of fundamental rights, there is a pressing need for separate legislation specifically addressing freedom of information. While Part III of the Constitution provides the framework for such legislation, our society would benefit from comprehensive laws addressing each right guaranteed therein. Therefore, ensuring the right to information requires robust legislation, and the process of lawmaking should be inclusive and participatory.

## **5.2 SUGGESTIONS**

The researcher has conducted an analysis of both the statutory provisions and judicial decisions pertaining to the Right to Information Act, 2005. They have scrutinized the challenges encountered in enforcing and implementing this legislation, which carries significant implications. Additionally, the researcher has put forth potential modifications and amendments to the existing laws.

1. In the current landscape, the privatization and liberalization of public services have undergone significant expansion, with many government functions now entrusted to the private sector across various domains. While the Right to Information Act, 2005, permits access to information from private bodies or non-governmental organizations that receive substantial government funding, the scope of accessible information from such entities is limited. Given the increasing involvement of private companies in government projects, it is crucial for the public to have access to information regarding the actions and operations of these entities, especially when government interests are at stake. Therefore, there is an urgent need to amend the Right to Information Act, 2005, to encompass private bodies within its ambit. Justice Prabha Sridevan underscored the importance of applying the RTI Act to non-governmental organizations, charitable trusts, and trade unions during a lecture at the Law Faculty of the University of Madras in 2007. She emphasized that all sectors of society, not just the government, should uphold accountability and transparency, thereby fostering democracy through proactive disclosure of information.

It is to be noted that during the sixth annual meeting of the Central Information Commission held on 16 October 2011, Bihar Chief Minister Nitish Kumar recommended the extension of the Right to Information (RTI) Act. He strongly recommended the inclusion of business sector and Public Private Partnership (PPP) projects under the RTI Act. Kumar emphasized that both the corporate sector and PPP projects use equity funds and institutional investment. Therefore, he believed that they should be open and accountable to the public, providing information about their activities. He emphasized that the public has a right to information about the activities of the business sector and this information should be easily accessible through the RTI Act..<sup>89</sup>

2. To enhance the reach of the RTI Act, 2005, it is suggested that the term "person" should replace "citizen" in the legislation. This proposal finds support in the verdict of *Treesa Irish v. Central Public Information Officer*, where the court emphasized that the right to information is not merely a statutory entitlement but a fundamental right enshrined in the Constitution of India. The freedom of speech and expression, which includes the right to access, receive, and disseminate information, is safeguarded under Article 19(1)(a) of the Constitution. Similarly,

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<sup>89</sup> Nitish Kumar, "Bring Corporate Under RTI" *The Times of India*. Retrieved from <[http://articles.timesofindia.indiatimes.com/2011-10-16/india/30285749\\_1\\_rti-activists-transparency-law-information-commissioners](http://articles.timesofindia.indiatimes.com/2011-10-16/india/30285749_1_rti-activists-transparency-law-information-commissioners)> visited on Mar 11<sup>th</sup>, 2025.



in the case of *Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers, Bombay*, the court affirmed that the right to information is a fundamental right under Article 21, which guarantees the protection of life and personal liberty to all individuals, regardless of citizenship. Consequently, foreigners and non-citizens are also entitled to the protections of Article 21, as established by various Supreme Court judgments. The term "person" is utilized in the Freedom of Information Acts of many other nations, suggesting a broader applicability beyond citizenship. Therefore, amending the RTI Act to replace "citizen" with "person" is essential to expand the right to information to a larger demographic.<sup>90</sup>

3. *Suo Motu* or Pro-active Disclosure of Information is a crucial aspect of the Right to Information (RTI) Act, particularly highlighted in Section 4. This section places specific obligations on public authorities to disclose essential information necessary for ensuring fairness within the organization. The language used in Section 4 is clear in imposing mandatory duties on public authorities, requiring them to maintain and computerize records for wide dissemination and proactively publish specific categories of information. The aim is to reduce the need for formal information requests by citizens. In the case of *Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others*, the Supreme Court emphasized strict enforcement of the Act's provisions to promote transparency, accountability, and combat corruption. The primary objective of Section 4 is to ensure that information is readily available to citizens. Under Section 4(1)(a) of the RTI Act, public authorities must maintain well-organized records, preferably in a computerized format. Furthermore, Section 4(1)(b) mandates the publication of 17 manuals containing comprehensive information about the functioning of each department and public authority. This information must be made available to the public domain within the specified timeframe and updated periodically in accordance with the Act's provisions.<sup>91</sup>

The question arises as to how many authorities have disseminated the relevant information required by the RTI Act through various channels such as websites, newspapers, archives and notice boards. These agencies must regularly update this information in accordance with the provisions of the law. However, at present, Sec 4 of the RTI Act does not provide for cases in which the institution does not fulfil the obligation to keep, publish and update records. Correct

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<sup>90</sup> AIR 1989 SC 190.

<sup>91</sup> 2011(2) ID 101 (SC); (2011) 8 SCC 497.

record keeping by authorities is essential to ensure accurate and prompt delivery of information to applicants and the public, saving time and resources. The government must not ignore non-compliance with the provisions of the law and do everything possible to enforce the law. The activities of public authorities must be reviewed periodically, and sanctions will be imposed on officials who do not meet the requirements set forth in Sec 4 of the Law. Parliament must definitely consider amending Section 4 of the RTI Act to address these issues.

4. The researcher has observed a common issue where Public Information Officers (PIOs) lack proper training and familiarity with the rules and regulations of their respective departments. This often leads to incorrect information being provided to applicants or information not being provided at all. As a result, applicants are forced to escalate their requests to higher authorities, causing delays and frustration. This undermines the purpose of the Right to Information Act and imposes additional costs and time burdens on both the applicants and the government. The role of the Public Information Officer is crucial in ensuring the smooth implementation of the RTI Act. When PIOs are adequately trained and knowledgeable about departmental rules and procedures, they can efficiently provide requested information to applicants in a timely manner, saving time and resources for both parties. It is imperative for the appropriate government authorities to implement training programs for PIOs to enhance their understanding of departmental mechanisms. This will enable PIOs to fulfil their obligations under the RTI Act by providing accurate information to applicants promptly, ultimately benefiting both the government and the public.

5. The Right to Information Act, 2005, marks a significant step forward in promoting transparency and accountability by placing greater obligations on government bodies and offering clear guidelines to officials. However, the Act's broad and ambiguous exemptions restrict access to information in certain areas, undermining its goal of providing citizens with information. Section 8 of the RTI Act sets out numerous exemptions from disclosure, which, while necessary for national security and other legitimate reasons, may hinder the Act's overall objective. It is essential to recognize that the right to information is derived from the fundamental freedom of speech and expression enshrined in Article 19(1)(a) of the Constitution. Nonetheless, this right is subject to reasonable restrictions under Article 19(2),

including considerations such as national security, public order, and decency. The extensive list of exemptions under sections 8, 9, and 24 of the RTI Act should be brought in line with the reasonable restrictions provided in Article 19(2) of the Constitution. Therefore, there is a pressing need for the government to take effective steps to amend the RTI Act accordingly, striking a balance between transparency and legitimate concerns.

6. At the grassroots level, there is a critical need for awareness about fundamental rights and entitlements, especially in light of the high levels of illiteracy prevalent in our country. Many individuals lack access to basic education, which hampers their ability to fully understand and exercise their rights under various laws. The government's efforts to provide basic education have been insufficient and slow-moving, highlighting the urgent need for decisive action to ensure widespread access to education. Without adequate education, individuals are unable to comprehend and assert their rights effectively. Therefore, prioritizing education and awareness initiatives is crucial, particularly for the effective implementation of the Right to Information Act, which is still in its early stages. Section 26 of the Act outlines various activities that the government must undertake to promote the growth of the right to information. Educational programs should be organized to enlighten people, especially those in remote and illiterate communities, about the benefits of the Act and encourage them to use it to address their personal issues. Both the public and the government must be familiarized with new procedures and protocols to educate people and train government officials to address new challenges. Officials should adopt a proactive approach, ensuring transparency and timely dissemination of information. Grassroots awareness initiatives should target the most vulnerable sections of society, utilizing various mediums such as television programs, dramas, awareness camps, and educational curricula. Additionally, the press and media can play a significant role in educating the public about their right to information. Civil society organizations should also be empowered to access information from public departments on behalf of disadvantaged segments of society.

7. The Right to Information Act, 2005 was enacted by the Government with the aim of promoting transparency, openness, and accountability in governance, and facilitating public access to information held by public and private authorities. This Act grants citizens the

fundamental right to seek information. However, there have been instances where individuals have misused information obtained under the RTI Act to blackmail and tarnish the reputation of others, causing harm to society. Such misuse results in the wastage of government resources without achieving any legitimate objectives. Therefore, it is recommended that the government consider amending the Act to include penalties for misuse of information obtained under the RTI Act. Imposing penalties would deter individuals from misusing the Act and damaging others' reputations. In conclusion, echoing the words of Mahatma Gandhi, true self-governance will not be achieved through the concentration of authority in a few hands but by empowering everyone to resist abuses of authority.<sup>92</sup>

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<sup>92</sup> Krishan Vrind Jain, "Right to Information Act, 2005 with reference for Companies" in P.K. Saini and R.K. Gupta (eds.), *Right to Information Act, 2005: Implementation and Challenges*, Deep & Deep Publications Pvt. Ltd., New Delhi, 2009, p. 306.

## BIBLIOGRAPHY

### BOOKS

- Acharya, N.K., “Right to Information Act, 2005”, Asia Law House, Hyderabad, 2006.
- Austin, Granville, “The Indian Constitution: Corner Stone of a Nation”, Oxford University Press, New Delhi, 1972.
- Awasthi, S. K., “The Right to Information Act, 2005”, Dwivedi Law Agency, Allahabad, 2008.
- Bakshi, P.M., “The Constitution of India”, Universal Law Publishing Company Pvt. Ltd., Delhi, 2006.
- Barowalia, J.N., “Commentary on the Right to Information Act”, Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2012.
- Basu, D.D., “Constitutional Law of India”, Lexis Nexis, Buttersworths Wadhwa Nagpur, Gurgaon, 2011.
- Basu, D.D., “Shorter Constitution of India”, Lexis Nexis, Buttersworths Nagpur, Gurgaon, 2009.
- Basu, D.D., “Commentary on the Constitution of India”, Wadhwa and Company Nagpur, New Delhi (Vol A to R), 2007.
- Basu, D.D., “Introduction to the Constitution of India”, Wadhwa & Company Nagpur, New Delhi, 2006.
- Bedi, R.S. and Aryan, Rita, “The Constitution of India”, Orient Law House, New Delhi, 2001.
- Bhansali, S.R., “The Right to Information Act, 2005”, India Publishing House, Jodhpur, 2006.
- Chaturvedi and Chaturvedi, “Law of Fundamental Rights”, Delhi Law House, New Delhi, 1998.
- Cowling, M. (eds.), “Selected Writings of John Stuart Mill”, New York, 1968.
- Das, P.K., “Handbook on the Right to Information Act”, Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2010.
- Datar, Arvind P., “Datar on Constitution of India”, Wadhwa & Company Law Publishers Nagpur, New Delhi, 2001.

- Dicey, A.V., “Introduction to the Study of Law of the Constitution”, Macmillan, New York, 1959.
- Florini, Ann (eds.), “The Right to Know: Transparency for An Open World”, CUP, 2007.
- Garg, Sushil Kumar, and Garg, Sarika, “Simplified Approach to Right to Information Act, 2005”, Shreeram Law House, Chandigarh, 2012.
- Goel, S.L., “Right to Information and Good Governance”, Deep and Deep Publications Pvt. Ltd., New Delhi, 2007.
- Haiman, Franklyn S., “Speech and Law in a Free Society”, University of Chicago Press, 1981.
- Hiddyatullah, M., “Constitutional Law of India”, Deep & Deep Publications Pvt. Ltd.,
- Jain, M.P., “Indian Constitutional Law”, Lexis Nexis Butterworths Wadhwa Nagpur, Gurgaon, 2012.
- Jain, Subhash C., “The Constitution of India Select Issues & Preceptions”, Taxmann Publications Pvt. Ltd., New Delhi, 2000.
- Johari, J.C., “The Constitution of India: A Politico-Legal Study”, Sterling Publishers Pvt. Ltd., New Delhi 1995.
- Kagzi, M.C. Jain, “Kagzi’s The Constitution of India”, Metropolitan Book Co. Ltd., New Delhi, 1998.
- Kagzi, M.C. Jain, “The Constitution of India”, India Law House Ltd., New Delhi, Vol. 1&2, 2001.
- Kashyap, Subhash C., “Jawaharlal Nehru The Constitution and The Parliament”, Metropolitan Book Co. Pvt. Ltd., New Delhi, 1990.
- Kashyap, Subhash C., “Our Constitution”, National Book Trust, New Delhi, 1994.
- Kashyap, Subhash C., “The Framing of India’s Constitution-A Study”, Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2012.
- Kashyap, Subhash C., “The Framing of India’s Constitution-Select Documents”, Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2012.
- Khandelwal, Dheera and Khandelwal, Krishna K., “A Commentary and Digest on the Right to Information Act, 2005”, Bright Law House, New Delhi 2007.
- Pruthi, Raj Kumar, “Manual of Right to Information Act”, Pentagon Press, New Delhi, 2006.

- Rai, Kailash, “The Constitutional Law of India”, Central Law Publishing Co., Allahabad, 2010.
- Ryder, Rodney D., “Right to Information - Your Access to Public Information (Law Policy Practice)”, Wadhwa and Company Nagpur, New Delhi, 2006.
- Saini, P.K. and R.K. Gupta (eds.), “Right to Information Act, 2005: Implementation and Challenges”, Deep and Deep Publications Pvt. Ltd., New Delhi, 2009.
- Sathe, S.P., “Right to Information”, Lexis Nexis, Buttersworths Wadhwa Nagpur, Gurgaon, 2006.
- Seervai, H.M., “Constitutional Law of India”, N.M. Tripathi Pvt. Ltd. Bombay, 2005.
- Shakdhar, S.L., “The Constitution and The Parliament of India”, National Publishing House, New Delhi, 1976.
- Sharma, Y.S., “The Law of Pleading, Drafting and Conveyancing”, University Book House (P) Ltd., Jaipur, 2011.
- Shukla, V.N., “The Constitution of India”, Eastern Book Company, New Delhi, 2004.
- Singh, Mahendra P., “Comparative Constitutional Law”, Eastern Book Company, Lucknow, 2011.
- Singh, Mahendra P., “V.N. Shukla’s Constitution of India”, Eastern Book Company, Lucknow, 2012.
- Sridhar, M., “Right to Information: Law and Practice”, Wadhwa & Company Nagpur, New Delhi, 2007.
- Srivastava, A.B., “Right to Information Laws”, Law Publishers (India) Pvt. Ltd., Allahabad, 2006.
- Tripathi, G.P., “Constitutional Law: New Challenges”, Central Law Publications, Allahabad, 2013

## ARTICLES

- B.K. Chaturvedi and Dr. S.K. Mittal, Mass Communication – Principles and Practices (Global Academic Publishers 2nd edn. 2016)
- Borrie & Lowe (1996, 3rd Ed P 151)
- Briggs, A. & Burke, P. A Social History of the media: From Gutenberg to the Internet. (Cambridge, UK: Polity 2005)

- Durga Das Basu, Commentary on the Constitution of India (Vol.2) – (Wadhwa Publications, Nagpur, 8th edn., 2007)
- Eoin Devereux, Understanding the Media, 7 (Sage Publications, 1st edn., 2003)
- Justice Fazal Karim, Judicial Review of Public Action Vol.1 –2006)
- Joseph Turow, Media Today – An Introduction to Mass Communication (Routledge, 3rd Ed., 2009)
- J.B. Bury, History of Freedom of Thought (Library of Alexandria, 1913)
- Jean Folkerts and Stephen Lacy, The Media in your Life – An Introduction to Mass Communication (Pearson Education, 2004)
- Nic Newman, The Rise of Social Media and its impact on mainstream journalism, (Reuters Institute for the Study of Journalism)
- Paranjoy Guha Thakurta, Media Ethics – Making and Breaking News (Oxford Press, 1st edn., 2009)
- R. Terry Ellmore, NTC's Mass Media Dictionary (NTC Publishing Group, 1996)
- Sarah Dyer Evolution of the Book – A Historic Timeline (2nd edn. 2000)
- Straubhaar and La Rose, Media Now – Communications Media in the Information Age (Wadsworth/Thomson Learning, California, 2nd edn, 2000)
- Vidisha Barua, Press & Media Law Manual, (Universal Law Publishing Co., 2002)
- Vivian, The Media of Mass Communication, (Pearson Education, England, 11th edn., 2013)
- Law Commission of India: 200th Report on Trial by Media Free Speech and Fair Trial under CrPC 1973, August 2006
- Massey, Massey on American Constitutional Law (Aspen Publication, 2nd Ed., 2005)
- Madhavi Goradia Divan, Facets of Media Law (EBC, 2006)
- Ramanatha Iyer, Advanced Law Lexicon (Part 3, 3rd Ed. 2005)
- Robertson, Freedom, the Individual and the Law (1989)
- Dr. S. R. Myneni, Media Law 216 (Asia Law House 2013)
- Justice R Fazal Kasim - Judicial Review of Public Action Vol. 1 631)
- The Ofcom Broadcasting Code, April 2017



## WEBSITES

- <https://www.ndtv.com/india-news/electronic-media-cant-think-they-become-popesovernight-chief-justice>
- <https://www.thequint.com/news/india/injunction-the-wire-lifted-by-jay-shah>
- <https://m.timesofindia.com/india/section-of-electronic-media-has-crossed-the-line-sayssupreme-court>
- <https://www.hindustantimes.com/india-news/treat-cautiously-in-reporting-rape-supremecourt-to- media>
- <https://www.newindianexpress.com/supreme-court-restrains-media-from-showingimages-of-bihar-shelter-home-rape-victims>
- <https://www.firstpost.com/india/shashi-tharoors-right-to-silence-balancing-free-speechand-trial-by-media-3922079.html>
- Madabhushi Sridhar, Law and Policy “A sting without public interest is a crime” (Available at <http://asu.thehoot.org/media-watch/law-and-policy/a-sting-without-publicinterest-is-a-crime-7672>)
- [Globalfreedomofexpression.columbia.edu/cases/singhal-v-union-of-india/http://Dmca.harvard.edu/pages/overview](http://Globalfreedomofexpression.columbia.edu/cases/singhal-v-union-of-india/http://Dmca.harvard.edu/pages/overview)
- [www.businessdictionary.com/definition/communication.html](http://www.businessdictionary.com/definition/communication.html)
- [www.merriam-webster.com](http://www.merriam-webster.com)
- [En.oxforddictionaries.com/definition/mass\\_communication](http://En.oxforddictionaries.com/definition/mass_communication)
- [www.study.com/academy/lesson/what-is-mass-communication-definition-theoriesquiz.htm](http://www.study.com/academy/lesson/what-is-mass-communication-definition-theoriesquiz.htm)
- <http://youngjournalistsjourney.wordpress.com/2015/02/08/media-2-0/>
- [www.thefreedictionary.com/print+media](http://www.thefreedictionary.com/print+media)
- [www.oxfordreference.com/view/10.1093/oi/authority.20110803100346392](http://www.oxfordreference.com/view/10.1093/oi/authority.20110803100346392)
- [www.oxfordreference.com/view/10.1093/oi/authority.20110803100346392dictionary.cambridge.org/dictionary/English/electronic-media](http://www.oxfordreference.com/view/10.1093/oi/authority.20110803100346392dictionary.cambridge.org/dictionary/English/electronic-media)
- [www.businessdictionary.com/definition/electronic-media.html](http://www.businessdictionary.com/definition/electronic-media.html)
- [www.catgraphics.co.za/index.php/media-solutions/electronic-media](http://www.catgraphics.co.za/index.php/media-solutions/electronic-media)
- [online.seu.edu/what-is-new-media/](http://online.seu.edu/what-is-new-media/)

- Merchant Minhaz, “Are Supreme Court judges right in saying social media must be regulated?” (Available at <https://www.dailyo.in/lite/politics/supreme-court-judges-socialmedia-trolls-free-speech/story/1/20059.html>)
- Laura Click “From Sketch Pads to Smart Phones: How Social Media has changed coverage of the Judiciary” (Available at <https://www.ncsc.org/home/social-media/2-4-how-social-media-has-changed-coverage-of-the-judiciary.aspx>)
- [www.britannica.com/topic/media-convergence](http://www.britannica.com/topic/media-convergence)
- [www.thecanadianencyclopedia.ca/en/m/article/mediaconvergence/www.shareyouressays.com/103996/history-of-journalism-and-theevolution-of-print-mediaessay](http://www.thecanadianencyclopedia.ca/en/m/article/mediaconvergence/www.shareyouressays.com/103996/history-of-journalism-and-theevolution-of-print-mediaessay)
- [www.shareyouressays.com/103996/history-of-journalism-and-the-evolution-of-printmediaessay](http://www.shareyouressays.com/103996/history-of-journalism-and-the-evolution-of-printmediaessay)
- ShailajaBajpai “The World Came Home: The History of Television in India” Available at
- [“http://www.indianexpress.com/article/entertainment/television/the-world-came-home2932048/](http://www.indianexpress.com/article/entertainment/television/the-world-came-home2932048/)
- Kim Ann Zimmermann, “History of Computers: A Brief Timeline” (Available at <http://www.livescience.com/20718-computer-history.html>)
- Available at <http://www.businessdictionary.com/definition/social-media.html>
- [www.merriam-webster.com/dictionary/socialmedia](http://www.merriam-webster.com/dictionary/socialmedia)
- <http://heidicohen.com/social-media-definition/> ([www.synthesio.com/about](http://www.synthesio.com/about))
- [www.digitaltrends.com/features/the-history-of-social-networking/](http://www.digitaltrends.com/features/the-history-of-social-networking/)
- <https://www.ifactory.com.au/news/brief-history-social-media/>
- Jonathan Shieber “Facebook is creating a news section in Watch to feature breaking news” Available on “<http://www.techcrunch.com/2018/02/12/facebook-is-creating-a-news-section-in-watch-to-feature-breaking-news/>”
- Elisa Shearer, Jeffrey Gottfried “News Use Across Social Media Platforms 2017” (Available at <http://www.journalism.org/2017/09/07/news-use-across-social-mediaplatforms-2017/>) (Visited on 12.3.2025)
- Available on <http://www.statista.com/statistics/304827/number-of-facebook-users-inindia/>
- “About” – [www.whatsapp.com](http://www.whatsapp.com)

- Michael Barthel, Elisa Shearer “The Evolving Role of News on Twitter and Facebook”, Available at <http://www.journalism.org/2015/07/14/the-evolving-role-of-news-on-twitterand-facebook/>
- Available at <http://www.mediapost.com/publicaations/article/255762/breaking-newsfacebook-and-twitter-a-popular-sour.html>
- <http://en.m.wikipedia.org/wiki/YouTube>
- Available on <http://www.statista.com/topics/2019/youtube/>
- Available on <http://www.journalism.org/2012/07/16/youtube-news/>
- Instagram – Statistics and Facts Available on [www.statista.com/topics/1882/instagram/](http://www.statista.com/topics/1882/instagram/)
- Ashley Alexander “Why and How Newspapers should use Instagram” Available on <http://www.newsmediaalliance.org/newspapers-instagram/>
- Available at <http://heidicohen.com/social-media-definition/>
- <http://heidicohen.com/social-media-definition>
- [www.armentdietrich.com/about](http://www.armentdietrich.com/about)
- [www.ninjaoutreach.com/rise-social-media-facts/](http://www.ninjaoutreach.com/rise-social-media-facts/)
- “How social media is reshaping news” (Available at [www.pewresearch.org/facttank/2014/09/24/how-social-media-is-reshaping-news](http://www.pewresearch.org/facttank/2014/09/24/how-social-media-is-reshaping-news))
- <http://www.nyfa.edu/student-resources/social-media-in-journalism/>
- <http://socialmediaweek.org/blog/2016/09/rise-social-media-affects-civil-society>
- <http://www.history.com/topics/freedom-of-speech>
- <http://www.merriam-webster.com>
- [http://www.claiminghumanrights.org/opinion\\_expression\\_definition.html](http://www.claiminghumanrights.org/opinion_expression_definition.html)
- <http://slulibrary.saintleo.edu/c.php?g=368038&p=2487227>
- <https://www.rferl.org/a/1347296.html>
- <http://www.joshuakennon.com/freedom-of-speech-united-states/>
- <https://usa.usembassy.de/media-freedom.htm>
- <http://en.m.wikipedia.org/wiki/>
- Dheerajendra Patanjali, Freedom of Speech and Expression India vs. America – A study ([www.indialawjournal.org/archives/volume3/issue\\_4/article\\_by\\_dheerajendra.html](http://www.indialawjournal.org/archives/volume3/issue_4/article_by_dheerajendra.html))
- [www.uscourts.gov/about-federal-courts/educational-resources/about-educationaloutreach/activity-resources/](http://www.uscourts.gov/about-federal-courts/educational-resources/about-educationaloutreach/activity-resources/)
- <https://www.duo.uio.no/handle/10852/22867>

- Changing Views of Free Speech in the U.S. –  
[www.infoplease.com/timelines/freespeech.html](http://www.infoplease.com/timelines/freespeech.html)
- <https://foia.state.gov/Learn/FOIA.aspx>
- <https://www.justice.gov/opcl/privacy-act-1974>
- <http://www.ala.org>
- Melkonian Harry, “The Speech Act, A View From Abroad” (August 11, 2012)  
(Available at [www.acdemocracy.org/the-speech-act-a-view-from-abroad/](http://www.acdemocracy.org/the-speech-act-a-view-from-abroad/) )
- <https://www.congress.gov/bill/111th-congress/house-bill/1304/text>
- [www.govtrack.us/congress/bills/113/s987](http://www.govtrack.us/congress/bills/113/s987)
- [www.fcc.gov/about/overview](http://www.fcc.gov/about/overview)
- [www.fcc.gov/about-fcc/what-we-do](http://www.fcc.gov/about-fcc/what-we-do)
- [www.fcc.gov/international](http://www.fcc.gov/international)
- [www.ctia.org/about-ctia/our-mission](http://www.ctia.org/about-ctia/our-mission)
- [www.ncta.com/careers](http://www.ncta.com/careers)
- [www.fair.org/about-fair](http://www.fair.org/about-fair)
- [www.newseum.org/about](http://www.newseum.org/about)
- [www.newseum.org/about/freedom-forum](http://www.newseum.org/about/freedom-forum)
- <http://www.asne.org/content.asp>
- <http://www.nab.org/about-us>
- <http://ncac.org/about-us>
- <http://www.ifea.net/mission.html>
- [http://En.m.wikipedia.org/wiki/Law\\_of\\_India](http://En.m.wikipedia.org/wiki/Law_of_India)
- [http://En.m.wikipedia.org/wiki/Censorship\\_in\\_the\\_United\\_Kingdom](http://En.m.wikipedia.org/wiki/Censorship_in_the_United_Kingdom)
- <http://www.civilrightsmovement.co.uk/right-freedom-speech.html>
- <https://www.duo.uio.no/handle/10852/22867>
- <http://www.rightsinfo.org/the-rights-in-the-european-convention/>
- [http://www.legislation.gov.uk/ukpga/1952/66/pdfs/ukpga\\_19520066\\_en.pdf](http://www.legislation.gov.uk/ukpga/1952/66/pdfs/ukpga_19520066_en.pdf)
- [https://www.britannica.com/event/Obscene-Publications-Act \(1961\)](https://www.britannica.com/event/Obscene-Publications-Act-(1961))
- [https://en.m.wikipedia.org/wiki/Obscene\\_publications\\_Act\\_1959](https://en.m.wikipedia.org/wiki/Obscene_publications_Act_1959)
- <https://www.duo.uio.no/handle/10852/22867>
- <https://www.iomcc.im/media/1021/telecommunications-act-1984.pdf>
- <http://En.m.wikipedia.org/digitaleconomybill2016-17>

- <https://www.article19.org/data/files/pdfs/publications/uk-media-regulation.pdf>
- <https://www.pcc.org.uk/about/whoswho/pressbof.html>
- <https://www.Inbrief.co.uk/media-law>
- <https://www.article19.org/data/files/pdfs/publications/uk-mediaregulation.pdf><http://www.theguardian.com/media/2012/mar/08/press-complaintscommission-close-phone-hacking>
- [www.ipso.co.uk](http://www.ipso.co.uk)
- Leveson Report: Key Points – Lisa O’Carroll –
- [www.theguardian.com/media/2012/nov/29/leveson-report-key-points](http://www.theguardian.com/media/2012/nov/29/leveson-report-key-points)
- <http://www.theguardian.com/media/2018/may/08/why-is-uk-press-regulation-back-in-the-headlines>
- <http://www.mediareform.org.uk/blog/>
- <http://www.ipso.co.uk/faqs>
- <http://www.Pressrecognitionpanel.org.uk>
- <http://www.pressrecognitionpanel.org.uk/faq>
- <http://Www.ofcom.org.uk>
- Clause 2.1 of Agreement ([www.bbc.co.uk/info/bbccharter](http://www.bbc.co.uk/info/bbccharter))
- <https://www.article19.org/data/files/pdfs/publications/uk-media-regulation.pdf>
- <https://www.article19.org/data/files/pdfs/publications/uk-media-regulation.pdf>  
Available at <http://Berec.europa.eu/eng/netneutrality/>
- Dheerajendra Patanjali, Freedom of Speech and Expression – India vs. America – A Study  
([www.indialawjournal.org/archives/volume3/issue\\_4/article\\_by\\_dheerajendra.html](http://www.indialawjournal.org/archives/volume3/issue_4/article_by_dheerajendra.html))
- <http://www.legalserviceindia.com/article/l255-Contempt-of-Court.html>  
<http://www.freedomhouse.org/report/special-reports>
- [https://www.rni.nic.in/all\\_page/History.aspx](https://www.rni.nic.in/all_page/History.aspx)
- [www.indianexpress.com/article/india/indiaothers/electronicmediamaysooncomunderpresscouncilact](http://www.indianexpress.com/article/india/indiaothers/electronicmediamaysooncomunderpresscouncilact) (Published on March 13, 2015 by Press Trust of India, New Delhi)
- <http://www.article19.org/resources.php/3715/en/article-19-launches-right-to-share>
- <http://www.ddindia.gov.in>
- <http://Articles.economictimes.indiatimes.com>
- Programme and Code: How govt rules TV channels, 8.11.2016 – Krishn Kaushik  
([www.indianexpress.com/article/explained](http://www.indianexpress.com/article/explained))

- Editors Guild condemns one-day ban on NDTV India  
([www.thehindu.com/news/national/](http://www.thehindu.com/news/national/))
- <http://www.ibfiindia.com/history-vision> (Visited on 12.3.2025)
- <http://www.barcindia.co.in/about-us.aspx> (Visited on 12.3.2025)
- [www.nbanewdelhi.com/objectives](http://www.nbanewdelhi.com/objectives)
- <https://www.indiatoday.in/amp/inidia/story/arnab-goswami-republic-tv-using-multiplefeeds-to-claim-viewership-pulled-up-by-regulator-977226-2017-05-15/>
- <http://www.dot.gov.in/about/us/profile>
- <http://www.trai.gov.in/aboutus/history>
- <http://www.indiatoday.in/magazine/nation/story/20120514-print-and-electronic-mediastandards-and-regulation-bill-rahul-gandhi-meenakshi-natrajan-758299-2012-05-04>
- <http://www.indiantelevision.com/headlines/y2k8/mar/mar256.php>
- [www.thehindu.com/todays-paper/](http://www.thehindu.com/todays-paper/) (Editor's Guild Rejects Broadcasting Regulation Bill dtd. 7.9.2007)
- Whose Convergence is it anyway? A Critical Introduction to the Convergence Bill 2000 –Lawrence Liang Available at:  
[http://www.nwmindia.org/Law/Commentary/Convergence\\_bill.htm](http://www.nwmindia.org/Law/Commentary/Convergence_bill.htm)
- NDA rehashes old convergence bill, plans super regulator for telecom, TV and internet Available at - <http://M.firstpost.com/business/corporate-business/> (Published on 8.9.2014)
- <http://scroll.in/article/874272/opinion-it-isnt-suprising-that-guidelines-to-tackle-fakenews-were-scraped-they-were-bad-in-law>
- <http://m.economictimes.com/news/politics-and-nation/fake-news-guidelines-would-haveopened-door-for-frivolous-complaints-editors-guild/articleshow/63600680.cms>  
<http://archive.indianexpress.com/news> – Sep. 22, 2007
- Vinod Mehta “For media, self-regulation is best” ([M.timesofindia.com/edit-page](http://M.timesofindia.com/edit-page))
- <http://www.history.com/topics/freedom-of-speech>
- <http://www.merriam-webster.com>
- ShakuntalaBanaji, “Regulating the Media in India – An Urgent Policy Priority” ([blogs.lse.ac.uk](http://blogs.lse.ac.uk)) (2013)

- <https://www.indianexpress.com/article/explained/what-is-the-menace-of-paid-newselection-commission-narottam-mishra-madhya-pradesh-minister-2008-assemblyelections-4755328.html>
- <https://www.indianexpress.com/article/explained/what-is-the-menacce-of-paid-newselection-commission-narottam-mishra-madhya-pradesh-minister-2008-assemblyelections-4755328.html>
- [www.history.com/topics/apartheid](http://www.history.com/topics/apartheid)
- <http://www.newspapers.com/about/>
- <https://telecomtalk.info/total-number-tv-channels-india/139844/>
- <https://m.timesofindia.com/india/media-trials-strain-us-says-SC-judge/>
- <https://m.timesofindia.com/edit-page/Media-on-trial/articleshow/1460248.cms>

## ACTS & STATUES

- Assam Right to Information Act, 2002
- Commonwealth Expert Group Meeting on the Right to Know and the Promotion of Democracy and Development
- Delhi Right to Information Act, 2001
- Election Commission's Guidelines for Publication and Dissemination of Results of Opinion Polls/Exit Polls, 1998
- Freedom of Speech, Right to Know and Right to Privacy as Per
- Recommendation by 179th Report of Law Commission of India, 2001
- Goa Freedom of Information Act, 1997
- Jammu and Kashmir Right to Information Act, 2004
- Karnataka Right to Information Act, 2000
- Madhya Pradesh Right to Information Act, 2003
- Maharashtra Right to Information Act, 2002
- Rajasthan Right to Information Act, 2000
- Report of National Commission to Review the Working of the Constitution, 2002
- Reports of the Law Commission of India
- Tamil Nadu Right to Information Act, 1997
- The Constitution of India, 1950

- The Environment (Protection) Act, 1986
- The Factories Act, 1948
- The Indian Citizenship Act, 1955.
- The Indian Evidence Act, 1872
- The Official Secrets Act, 1923
- The Representation of the People Act, 1951
- The Right to Information Act, 2005
- The Water (Prevention and Control of Pollution) Act, 1974
- African Charter on Human and Peoples' Rights, 1981
- American Convention on Human Rights ('Pact of San Jose, Costa Rica'), 1969
- American Declaration of the Rights and Duties of Man, 1948
- European Union (EU)
- Framework Convention for the Protection of National Minorities
- Inter-American Declaration of Principles on Freedom of Expression, 2000
- International Convention on the Elimination of All Forms of Racial Discrimination, 1966
- International Covenant on Civil and Political Rights, 1966
- Rio Declaration on Environment and Development, 1992
- Rome Convention for the Protection of Human Rights and Fundamental Freedoms, 1950
- UNESCO Declaration, 1978
- United Nations Development Programme (UNDP), 1997
- United Nations Principles on Freedom of Information, 2000
- Universal Declaration of Human Rights, 1948