

Freedom of speech and expression under reasonable restrictions with reference to media trial

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Abstract:

The Constitution of India declares certain Fundamental Rights for individuals under Part III, Articles 12 to 35. Some of these rights are only for the citizens where as others are available equally to the non-citizens also. These fundamental rights are inviolable subject to the qualification defined in the constitution itself. It establishes that no law, ordinance, custom, usage or administration order can abridge or take away a fundamental right. These rights are binding upon both legislative and the executive and any law, which violates the fundamental right, is void. A fundamental right cannot be taken away even by a constitutional amendment, if it forms the basic structure of the constitution. Article 19(1)(a) secures to every citizen the freedom of speech and expression. The freedom of speech and expression means the right to express one's conviction and opinions freely by word of mouth, writing, printing, pictures or any other mode. Freedom of speech is the bulwark of a democratic government and it attaches great importance to this freedom, because without the freedom of speech appeal to reason, which is the basis of democracy, cannot be made. Freedom of speech opens up channels of free discussions of issues and play a crucial role in public opinion on social, political and economic matters. The Hon'ble Supreme Court has interpreted the phrase, 'speech and expression' of having a wide connotation and thus many a right not expressly found under the article's plain words has been recognised. Thus, in this paper an attempt is made to find out as to how relevant and effective has been such dynamic interpretation of the right.

Keywords

Constitution of India, Article 19(1)(a), speech and expression

Introduction

Freedom of speech and expression is the most precious gift of democracy this freedom is not limited to freedom of speech verbally in fact it is an instrument which exterminate all encumbrances comes within its scope. Article 19 indicate that not only freedom of verbal speech but any act of seeking receiving in imparting

information related to Idea regardless of medium used. The Right to speech is effective instrument for every single cultivated nations of the world. All the rights mentioned in article 19 of the Constitution are actually the privilege of every Freeman. Freedom of speech and expression incorporates various other rights for instance freedom as to Press includes all such person who are in connection with media by the virtue of article 19 of the Constitution every person connected with media and bestowed with the right to screen any organisation department regardless of the public and private. It is exclusive rights given to them however the right given to them are not to absolute, as it seems under clause (2) whereby this freedom can be restricted for reasons of sovereignty & integrity of India the security of state, friendly relations with foreign States, public order presuming decency, preserving morality, In relation to the contempt of court defamation or incitement to an offence

Freedom of expression has four broad special purposes to serve:

- 1) It helps an individual to attain self-fulfilment.
- 2) It assists in the discovery of truth.
- 3) It strengthens the capacity of an individual in participating in decision-making.
- 4) It provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change.
- 5) All members of society would be able to form their own beliefs and communicate them freely to others

In sum, the fundamental principle involved here is the people's right to know. Freedom of speech and expression should, therefore, receive generous support from all those who believe in the participation of people in the administration. It is on account of this special interest which society has in the freedom of speech and expression that the approach of the Government should be more cautious while levying taxes on matters of concerning newspaper industry than while levying taxes on other matters.

everybody was right. But on the certainty that everybody was wrong on some point on which somebody else was right, so that there was a public danger in allowing anybody to go unheard.⁶ The freedom of speech and expression is required to fulfil the following objectives : 1) **To discover truth** : Historically the most durable argument for a free speech principle has been based on the importance of open discussion to the discovery of truth. It is evident from the famous funeral address given by pericles as back as in 431 B.C. Athenians, he pericles out, did not consider public discussion merely something to be put up with; rather they believed that the best interest of the city could not be served with a full discussion of issue before the assembly.⁷ If

restrictions on speech are tolerated, society prevents the ascertainment and publication of accurate facts and valuable opinion. The best test of truth is power of the thought to get it accepted in the competition of market.⁸ The truth would emanate from a 'free trade in ideas' on intellectual competition.

2) **Non self-fulfilment** : A second major theory of free speech sees it as an integral aspect of each individual's right to self-development and fulfilment. Restrictions inhibit our personality and its growth. The reflective mind, conscious of options and the possibilities for growth, distinguished human beings from animals. Freedom of speech is also closely linked to other fundamental freedoms. Thus, for fullfledged development of personality, freedom of speech and expression is highly essential.

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3) **Democratic value** : Freedom of speech is the bulwark of democratic Government. This freedom is essential for the proper functioning of the democratic process. It is regarded as the first condition of liberty. It occupies a preferred position in the hierarchy of liberties giving succor and protection to all other liberties. It has been truly said that it is mother of all other liberties.⁹ In a democracy, freedom of speech and expression open up channels of free discussion of issues. Freedom of speech plays a crucial role in the formation of public opinion on social, political and economic matters.

4) **To ensure pluralism**: Freedom of Speech reflects and reinforces pluralism, ensuring that different types of life's are validated and promote the self-esteem of those who follow a particular life-style. The French Council constitutional and the Italian Constitutional courts have ruled that the free speech rights of media corporations may be limited to ensure that the Constitutional value of pluralism is safeguarded. So, it can be concluded that freedom of speech enables the discovery of truth, is crucial to the working of a democratic

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press. Press includes all such person who are in connection with media by the virtue of article 19 of the Constitution every person connected with media and bestowed with the right to screen any organisation department regardless of the public and private. It is exclusive rights given to them however the right given to them are not to absolute, as it seems under clause (2) whereby this freedom can be restricted for reasons of sovereignty & integrity of India the security of state, friendly relations with foreign States ,public order presuming decency, preserving morality ,In relation to the contempt of court defamation or incitement to an offence

Freedom of speech and an expression also includes clause (1)(b): Right of assembly Clause (1)(c): Right of associations Clause (1)(d): Right of movement Clause(1)(e): Right to residence Clause (1)(f): Right to property Clause (1)(g): Right of trade and occupation However no rights mentioned are absolute in nature It has certain reasonable restrictions but as regards to the unreasonable restrictions it has taken into consideration that those restriction bus strike a balance between freedom guaranteed in article 19 of the constitution and the social control permitted by 19 class (6).

LAW OF EXPRESSION UNDER INDIAN CONSTITUTION

The PEOPLE OF India gave to themselves, the Constitution of India, with a view of make it Sovereign, Democratic, Socialistic, Secular and Republic. In our democratic society, pride to place has been provided to freedom of speech and expression, which is the mother of all liberties. One of the main objectives of the Indian Constitution as envisages in the Preamble, is to secure LIBERTY OF THOUGHT AND EXPRESSION to all the citizens. Freedom of Expression is among the foremost of human rights. It is the communication and practical application of individual freedom of thought. Irrespective of the system of administration, various constitutions make a mention of the freedom of expression. While freedom of thought is a personal freedom;

freedom of expression is a collective freedom, whose character becomes more and more pronounced as the technical methods of their diffusion multiply and improve.

The right of free speech is absolutely indispensable for the preservation of a free society in which Government is based upon the consent of an informed citizenry and is dedicated to the protection of the rights of all, even the most despised minorities. or contest election, the contractual right against the Government, right of Government servants to continue in employment and the right to strike. The freedoms enumerated in Article 19 (1) are those great and basic rights which are recognized as natural rights inherent in the status of a citizen. But none of these freedoms is absolute or uncontrolled. The rights granted by Article 19 are available only to citizens and not to aliens or foreigners. **INTERNATIONAL PERSPECTIVE OF FREEDOM OF EXPRESSION** Freedom of Expression under Constitutions of Different Countries Freedom of Speech and expression is guaranteed by several Constitutions in the World. They are

: (i) The First and Fourteenth Amendments to the Constitution of United States, (ii) the common Law of England, (iii) Section 40 (6)(1) of the Constitution of Eire, 1937. (iv) Section 18 (1) (e)(f)(g) of the Constitution of Sri Lanka, 1972. (v) Articles 50 and 51 of the Constitution of the USSR 1977, and (vi) Section 298 of the Government of India Act, 1935. The First Amendment to the Constitution of USA provides, “Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people to assemble peaceably and to petition the Government for a redress of grievance Right to Expression under International Conventions Right to expression under Constitution of different countries has close similarity with different International Conventions.

(i) Articles 13, 20, 23, 29 of the Universal Declaration of Human Rights, 1948.

(ii) Article 22 of the International Covenant of Civil and political Rights, 1966.

(iii) Article 11 of the European Convention on Human Rights, 1950.

(iv) Articles 6,12 of the International Covenant on Economic, Social and Cultural Rights, 1966. Article 19 of the Universal Declaration of Human Rights, 1948 declares the freedom of press and so does Article 19 of the International Covenant on Civil and Political Rights, 1966.

Article 10 of the European Convention on Human Rights, 1950 provides that (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinion, to receive and impart information and ideas without interference by the public authority and regardless of the frontiers. This Article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprise. (2) The exercise

of this freedom, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by the law and are

Conclusion

The role of a press in a developing and democratic society is unique the press has a social responsibility and accountability to the public the

theory that the freedom of press new no restrained was gone the freedom of the issue of news alone is not sufficient, the freedom of the citizens must also be protected the it should be able to register not only external pressure but also inducement which would reasons that its inter Independence from the general list should be on guard against the Temptation to enjoy favours whether from government authority employee advertisers or from others. the free press in every country should be morally socially conscious and enterprising, the role of a press at the dawn of the freedom and after in the Madras state was significant and it played a role as a social monitor and a constructive critic the stimulate afterwards on public issue and medium of feedback awards top of democracy A balancing Wheel in the government and structure of great social bitwise I'm a big animal of parrot the press as a medium of communication is important phenomena it has immense power to advanced the progress of Civilization its freedom can be used

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