

The Preamble's Pivotal Role in Safeguarding Freedom of Speech and Expression in India

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Abstract:

This research article delves into the intrinsic connection between the Preamble of the Constitution of India and the fundamental right to freedom of speech and expression. The Preamble, often regarded as the soul of the Constitution, lays down the guiding principles that form the bedrock of the Indian legal system. One of these foundational principles is the assurance of freedom of speech and expression, a cornerstone of democracy. This article explores the historical context, judicial interpretations, and contemporary relevance of the Preamble in ensuring and protecting the cherished right to freedom of speech and expression in India and comparison with UK and US in Brief.

Keywords: Preamble, Constitution of India, freedom of speech and expression, fundamental rights, judicial interpretations, democracy, contemporary challenges.

Introduction:

One of the main objectives of the Indian Constitution as envisaged in the Preamble, is to secure "*LIBERTY OF THOUGHT AND EXPRESSION*" to all the citizens. The principles and goals that direct the government of the country are encapsulated in the Preamble of the Indian Constitution, which acts as a beacon. The dedication to protecting liberty, promoting justice, and guaranteeing the fundamental democratic value of freedom of speech and expression is a fundamental principle ingrained in its aspirational language. The symbiotic relationship between the Preamble and the constitutional guarantees of freedom of speech and expression is explored in this introduction, which also looks at important legal precedents and laws that have affected the development of this basic right. Recognizing the importance of free speech and expression in building a strong and dynamic democracy, one of these objectives is the guarantee of such freedoms.

Historical Evolution:

The historical evolution of the role of the Preamble in safeguarding freedom of speech and expression in India traces back to the framing of the Constitution. The writers of the Constitution acknowledged the Preamble as a guiding document that encapsulated their hopes and dreams for a democratic nation during the deliberations of the Constituent Assembly. "We, the People of India" was included because it represented our shared desire to protect liberty and promote the growth of many voices.

As the drafting progressed, the framers strategically embedded the guarantee of freedom of speech and expression within Article 19(1)(a) of the Constitution. The Preamble's influence on this provision became evident as it set the overarching tone for the interpretation of fundamental rights. Over the years,

judicial pronouncements reinforced the inseparable link between the Preamble and freedom of speech and expression, emphasizing the Preamble as a source of interpretative guidance.

Noteworthy cases, such as *Kesavananda Bharati v State of Kerala*, affirmed the Preamble's significance in elucidating the constitutional spirit. The historical evolution reflects a conscious effort to ground the protection of freedom of speech and expression in the foundational principles articulated in the Preamble, solidifying its enduring role in shaping India's constitutional jurisprudence.

Constitutional Provisions and Judicial Interpretations

The guarantee of freedom of speech and expression in India is enshrined in Article 19(1)(a) of the Constitution, forming the bedrock of democratic principles. However, the framers recognized that absolute freedom might lead to chaos, necessitating reasonable restrictions under Article 19(2) to ensure public order, decency, morality, and the security of the state. The interplay between these constitutional provisions and the role of the Preamble in their interpretation has been elucidated through several landmark cases.

In *Romesh Thappar v State of Madras* (1950), case the Supreme Court laid down a robust foundation for the freedom of speech and expression. The Court held that the right to freedom of speech and expression includes the right to propagate one's views and that restrictions must be narrowly construed to prevent an unreasonable interference with this fundamental right. The decision set a precedent for a liberal interpretation of the constitutional guarantee, emphasizing the importance of the Preamble in framing such rights.

Kameshwar Prasad v State of Bihar (1962) further highlighted the constitutional significance of the Preamble. The Court, in this case, emphasized that the Preamble is an integral part of the Constitution and can be referred to for understanding the spirit behind its provisions. This recognition strengthened the link between the Preamble's aspirational language and the interpretation of fundamental rights, including freedom of speech and expression.

In the case of *Brij Bhushan v State of Delhi* (1950), the Supreme Court underscored that free speech is the bulwark of democracy and should not be curtailed unless there are compelling reasons. The Court upheld the right to criticize public officials and government actions, emphasizing that restrictions must be narrowly tailored to serve the legitimate aims specified in Article 19(2). This decision reinforced the principle that any restriction on freedom of speech and expression must meet stringent constitutional standards.

In the case of *Maneka Gandhi v Union of India* (1978) marked a watershed moment in constitutional jurisprudence. Although primarily dealing with the right to travel, the Court held that the right to life under Article 21 includes the right to live with dignity, which encompasses the freedom of speech and expression. This expanded interpretation reinforced the integral connection between different fundamental rights and laid the groundwork for a holistic understanding of constitutional liberties.

The intersection of freedom of speech and expression with the Preamble was reiterated in *Kesavananda Bharati v State of Kerala* (1973), a landmark case on the scope of amending powers. The Court asserted that the Preamble is a key to the Constitution and can be used to interpret ambiguous provisions. This decision fortified the idea that the Preamble serves as a guiding philosophy for understanding and interpreting constitutional provisions, including those related to fundamental rights.

In more recent times, *Shreya Singhal v Union of India* (2015) dealt with the constitutional validity of Section 66A of the Information Technology Act, which criminalized certain online speech. The Supreme

Court, in striking down the provision, reiterated the importance of freedom of speech and expression in the digital age. The judgment emphasized that the Preamble's values are not only timeless but also evolve with societal changes, ensuring the continued relevance of constitutional principles in contemporary contexts.

Thus the Preamble, with its commitment to securing liberty and fostering justice, acts as a guiding philosophy that shapes the interpretation of these provisions.

In Some Latest Decided Cases -

1. **Shreya Singhal v Union of India (2015):** Addressing the constitutional validity of Section 66A of the Information Technology Act, the Supreme Court struck down the provision. This case exemplifies the contemporary challenges posed by digital communication. The judgment underscored the Preamble's enduring relevance in adapting constitutional principles to modern contexts, ensuring that the values of liberty and fraternity resonate in the digital age.
2. **Justice K.S. Puttaswamy (Retd.) v. Union of India (2017):** Commonly known as the Aadhaar judgment, this landmark case upheld the right to privacy as a fundamental right intrinsic to the right to life and personal liberty under Article 21. While not explicitly about freedom of speech, the judgment recognized the evolving nature of constitutional rights. The Preamble's commitment to liberty and dignity played a crucial role in interpreting the Constitution in the context of contemporary challenges.
3. **Navtej Singh Johar v. Union of India (2018):** While primarily dealing with the decriminalization of homosexuality, this case has broader implications for freedom of expression. The judgment recognized the dignity and equality of individuals, aligning with the Preamble's commitment to justice and liberty. The evolving societal values reflected in this decision highlight the Preamble's role in shaping interpretations that resonate with contemporary understanding.
4. **Anuradha Bhasin v. Union of India (2020):** This case addressed the restrictions on communication imposed in Jammu and Kashmir following the abrogation of Article 370. The Supreme Court, in its judgment, emphasized the importance of free speech in a democratic society. The Preamble's principles of justice, liberty, and fraternity were invoked to underline the significance of open communication and public discourse even in times of security challenges.
5. **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth (2020):** In this case, the Supreme Court highlighted the importance of fostering critical thinking and diverse opinions in education. The judgment recognized the significance of freedom of speech and expression in academic settings, aligning with the Preamble's vision of securing justice and liberty for all citizens.

In the contemporary landscape, these cases illustrate the dynamic role of the Preamble in interpreting and adapting constitutional principles to address emerging challenges. The Preamble acts as a beacon, guiding the judiciary to navigate the complexities of free speech in a rapidly changing society while staying true to the foundational principles enshrined in the Constitution. In these judicial interpretations, the Preamble emerges as a constitutional compass guiding the courts in their understanding and application of freedom of speech and expression. The decisions collectively reinforce the idea that the Preamble is not a mere prelude but a substantive source for interpreting and expanding the scope of fundamental rights in India. The Preamble's enduring influence continues to shape the evolving landscape of free expression in the country.

Thus the constitutional provisions relating to freedom of speech and expression in India have been dynamically shaped by judicial interpretations that frequently invoke the Preamble. These decisions underscore the Preamble's enduring role as a guiding force in understanding and interpreting fundamental rights, thereby reinforcing the inseparable link between the Preamble and the cherished right to freedom of speech and expression.

Contemporary Relevance

The Preamble's role in safeguarding freedom of speech and expression in the present-day context will be discussed. Emerging challenges such as online censorship, fake news, and the impact of technology on expression will be analysed in light of the principles enshrined in the Preamble.

In the dynamically evolving landscape of the 21st century, the contemporary relevance of the Preamble in shaping and safeguarding freedom of speech and expression in India cannot be overstated. This section examines this relevance by delving into constitutional provisions and drawing insights from recent landmark cases that reflect the changing dynamics of communication and expression.

Comparative Analysis:

A brief comparative analysis with other democratic nations, particularly focusing on how their constitutional preambles influence the protection of freedom of speech and expression, will be presented.

In exploring the role of the Preamble in safeguarding freedom of speech and expression, a comparative analysis with other democratic nations allows us to gain valuable insights into the unique constitutional frameworks and judicial approaches. This section examines constitutional provisions and recent cases from India, the United States, and the United Kingdom, shedding light on the diverse ways in which these nations navigate the delicate balance between free expression and societal interests.

India:

- **Constitutional Provisions:** India, under Article 19(1)(a), guarantees the right to freedom of speech and expression. However, Article 19(2) allows for reasonable restrictions in the interest of public order, decency, morality, and the security of the state.
- **Preamble's Influence:** Indian courts often refer to the Preamble as a guiding philosophy, emphasizing justice, liberty, equality, and fraternity. The Preamble acts as a moral compass, interpreting and expanding the scope of fundamental rights, including freedom of speech.
- **Recent Case:** In **Shreya Singhal v. Union of India (2015)**, the Supreme Court invoked the Preamble's principles to strike down Section 66A of the Information Technology Act, showcasing the Preamble's contemporary relevance in interpreting and protecting free expression.

United States:

- **Constitutional Provisions:** The First Amendment of the U.S. Constitution explicitly protects freedom of speech. The Supreme Court has interpreted this right broadly, recognizing robust protection for various forms of expression.
- **Preamble's Influence:** While the U.S. Constitution lacks a specific preamble akin to India, the principles of the Preamble, such as promoting the general welfare and securing the blessings of liberty, resonate in the interpretation of the First Amendment.

- **Recent Case: Citizens United v. FEC (2010)** is a landmark case where the Supreme Court, emphasizing the importance of free speech, held that political spending is a form of protected speech under the First Amendment, further demonstrating the influence of constitutional principles on contemporary issues.

United Kingdom:

- **Constitutional Provisions:** The United Kingdom lacks a written constitution, and its legal framework relies on statutes and conventions. The Human Rights Act incorporates the European Convention on Human Rights, including Article 10, which protects freedom of expression.
- **Preamble's Influence:** The UK's constitutional structure differs, and the absence of a formal preamble like India is notable. However, principles of liberty and justice influence the interpretation of human rights laws.
- **Recent Case: Miller v. The Prime Minister (2019)** dealt with prorogation of Parliament. Although not directly related to freedom of speech, the case emphasized constitutional principles, reflecting the UK's commitment to democratic values.

Comparative Reflections:

- **Approaches to Reasonable Restrictions:** While all three nations acknowledge the necessity of reasonable restrictions on free speech, the threshold and interpretation of these restrictions vary. India's approach is nuanced, with the Preamble guiding the assessment of reasonableness.
- **Interpretative Influences:** The U.S. Constitution's First Amendment and India's Article 19(1)(a) both draw inspiration from democratic principles, emphasizing the profound influence of constitutional values on judicial interpretation.
- **Diversity of Legal Frameworks:** The UK's reliance on statutes and conventions highlights the diversity in legal frameworks. Nevertheless, constitutional principles and commitments to democratic ideals remain pervasive.

So, the comparative analysis underscores the diverse approaches to freedom of speech and expression in democratic nations. While the absence of a formal preamble in some constitutions is notable, the shared commitment to democratic principles and the evolving nature of constitutional interpretation highlight the enduring relevance of the Preamble's influence in safeguarding this fundamental right.

Key Insights:

1. **Adaptability:** The Preamble's enduring relevance lies in its adaptability to changing times. The judiciary, in interpreting the Constitution, has recognized the need to apply the Preamble's principles to contemporary challenges, such as those posed by the digital age and security concerns.
2. **Interconnected Rights:** The cases examined reveal the interconnectedness of various fundamental rights, with the Preamble acting as a unifying force. The right to freedom of speech and expression is intricately linked with principles of justice, liberty, and fraternity, creating a cohesive constitutional fabric.
3. **Democratic Values:** The Preamble reinforces the foundational democratic values that underpin the Constitution. As evident in recent judgments, the courts have consistently upheld the importance of robust public discourse, dissent, and the protection of individual liberties as essential components of a vibrant democracy.

Conclusion:

The Preamble plays a crucial role in upholding freedom of speech and expression in India, shaping the legal landscape and fostering a democratic ethos. The Preamble is a living document that infuses constitutional provisions with the spirit of justice, liberty, equality, and fraternity. It is not just an introductory statement but a beacon guiding the interpretation and protection of freedom of speech and expression. Recent cases highlight the judiciary's commitment to ensuring the resilience of constitutional principles embodied in the Preamble in the face of evolving challenges. As India navigates the complexities of the 21st century, the Preamble remains a source of inspiration and guidance, ensuring that the cherished right to freedom of speech and expression remains a cornerstone of the nation's democratic ethos. The judiciary's reliance on the Preamble reaffirms its central role in shaping constitutional jurisprudence and upholding democratic values enshrined in the Constitution of India.

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