

Freedom of Press: Constitution Perspective

Sultan Singh¹, Dr. Meenakshi Sharma²

¹Ph.D Research Scholar, Department of Law, Maharishi Markandeshwar (Deemed to be University),
Mullana, Ambala, Haryana- 134003

²Assistant Professor, Department of Law, Maharishi Markandeshwar (Deemed to be University),
Mullana, Ambala, Haryana- 134003

Abstract

The importance of freedom of expression as the cornerstone of a democratic society has never been understated. Over the past few decades, conflicts around press freedom have continued to rage throughout democracies. Today, the degree of press freedom that a State allows is used to determine that state's democratic credentials. The press offers through an unbiased information on all facets of the nation's social, political, economic, and cultural life. In this study, there are differing opinion about whether the press has unrestricted freedom to say whatever it deems appropriate in accordance with Article 19. The press is regarded as a particularly important institution because it is the fourth pillar of the Constitution.

Keyword: Press, Freedom, Democracy, Constitution, Article 19

Introduction

The importance of freedom of expression as a foundational element of a society and a prerequisite for democratic functioning has long been underlined. The freedom of speech, expression, and the press are seen as the cornerstones of a democratic society. One measure or indicator of state's degree of democracy is the degree of press freedom that it enjoys. The press has a significant Impact on society because it offers details, unbiased information about the political, social, and aspects of a Nation.

The Right to Freedom of Expression is a Human Right that is covered by Article 19 of the 1948 Universal Declaration of Human Rights. It asserts that everyone has the right to freely express their thoughts. This right to free speech includes the capacity to develop views and to obtain and distribute information by any type of media, including oral, written, and other forms of expression.

Article 19 of the 1976 International Covenants on Civil and Political Rights also mentions freedom of speech and expression. The right to freedom of speech and expression is included in Section 19(1)(a) of the Indian Constitution. The right to free speech and expression is regarded as fundamental in Indian law. Freedom of speech and expression is regarded as a fundamental right under Indian law. Free expression is seen as a basic freedom since it is linked to and cannot exist independently from the right to a free press. The government's policies, which are sometimes formulated with ulterior intentions, are strongly checked by the press, which is regarded as the fourth pillar of democracy. The press serves as the tool for maintaining elected leader's accountability to the people they are supposed to represent. In addition to Bringing crimes that might otherwise go unreported to society's attention, the press is essential in triggering judicial action against those acts, securing Justice.

History of the press

Status of press in British era:

The British contributed significantly to the development of the press concept. After the industrial revolution, the mechanism of press establishment was developed. The first printing press was setup in Bombay in 1674. The Second printing press was setup in Madras 1772.

Former East India Company employee William Bolts had just announced in 1776 that he planned to start a newspaper. In order to achieve his goal, he merely posted a sign on the council Hall's gates alerting the populace to the fact that he was in possession of many manuscript and had important information to convey to everyone. William Bolts was requested to leave Calcutta and travel to Europe, so he had deal with censorship even before he launched the newspapers.

In Calcutta, where the first printing press was installed in 1779, James Augustus Hickley, an Irishman, published the first newspaper in 1780. Hickley picked the title A Weekly Political and Commercial Paper to make it clear to the public that this paper was untouched by politics and available to all parties. Hickley had criticized Lord Warren Hasting policy in his weekly. At the time, India's Governor General was Warren Hasting. He instantly made use of his authority and gave a command to seize the printing types. Thus, the paper was shut down in March 1782. This newspapers lifespan was quite brief since the executive branch had slashed the press neck. Since then and up until the present, the conflict between the free press and executive branch's repression of it had become a source of disagreement.

The censorship was implemented in the year 1795. The Madras Gazette is a prime example of pre-censorship because it was required to submit all general government instructions for censoring prior to publication to the military secretary. To limit the freedom of the press, the British Government used three strategies.

1. Pre-censorship
2. The loss of postal rights
3. The editor and publisher's deportation

The Marquess of Wellesley issued the first censorship regulations, which remained in effect until 1799. The following elements were covered under the Wellesley regulations:

1. It required that the editors, publishers, and printers' names appear in the publication.
2. The Secretary of the Indian Government was obligated to submit all the data for pre-censorship.

Warren Hasting ended all of these above the law restrictions.

In 1818, the Bengali publication Samachar Darpan first appeared. The year 1822 is notable because it marks the debut of the Bombay Samachar. Asia's first newspaper, The Bombay Samachar, is still being published today and is well-known.

In those days, the Indian publications primarily focused on the following:

1. To organize the Native Americans into groups.
2. To encourage Indians to embrace nationalism.
3. To motivate individuals to join the liberation movement is goal.
4. To draw attention to and denounce the British Government's discriminatory practices.

To push for Indian's Civil rights.

Freedom of press - Constitutional status

Constitutional principles serves as the cornerstone of every legal system. The Indian legal system, which is founded on Indian Constitutional law, operates similarly. And so, in order to be invoked, a right, liberty, power, immunity, or obligation must be the first be entrenched in the Constitution. Similar to that, freedom

of the press is guaranteed by the Constitution, therefore Indian citizens may exercise this privileges. The freedom of the press is included in two elements of the Indian Constitution.

1. Preamble
2. Article 19(1)(a) – Right to freedom of speech and expression.

Preamble

The preamble serves as the beginning of the Indian Constitution. The preamble is said to embody the Constitution's spirit and soul, making it a crucial component of the document. Every citizen of India has the right to free expression, according to the preamble of the constitution. A citizen's freedom of speech, thought, and religion is asserted by this. Freedom of thought and speech include the right to a free press. The right to a free press is implicitly covered by the extent of freedom of speech and ideas. The India Constitution gives liberty a unique place because it is thought of as the fundamental value of human life. Similar clauses pertaining to press freedom were originally included in Article 19 of the Universal Declaration of Human Rights (1948), which was a component of the freedom of speech and expression. Everyone has the right to freedom of expression, which includes the ability to hold an opinion without interference as well as the freedom to look for, receive, and exchange information and ideas using any method they want without regard for borders. This is the core of Article 19.

Constitutional provision- Article 19(1)(a)

The subject of whether to establish a separate law similar to the first Amendment of the United States, or to follow the English model, where freedom of the press is included in freedom of speech and expression, was before the framers of the new Constitution after independence.

The head of the drafting committee, Dr. Babasaheb Ambedkar, adamantly argued that the press is only another channel for a person or citizen to express themselves. There are no special rights for the press that cannot be provided or used by a citizen in their personal capacity. In my opinion, there is no need to make any specific mention of press freedom because all press editors and managers are citizens who are just expressing their right to free speech and expression by choosing to publish their articles in newspapers.

Importance of freedom of speech and expression and freedom of press

According to **Maneka Gandhi v. Union of India**¹ freedom of speech and expression is a crucial component of liberty. The freedom of speech and expression should be considered one of a person's essential rights, according to the Indian Constitution's founding fathers. True, Article 19(1)(a), which is a section of the Indian Constitution's chapter on fundamental rights, includes the freedom of speech and expression. The first of the six freedoms protected by Article 19(1)(a), one of the constitution's Articles, is the freedom of speech and expression. Every human being has the innate desire to express themselves, and it is fair to assume that without the freedom to do so, a person would cease to be one. Speaking and expressing oneself freely is a fundamental human right as well as a basic human need. Speech and expression allow humans to not only grow and develop, but also to express a variety of different emotions and sensations. One of the most significant means of communicating one's voice and expression is press freedom. As a result, the freedom of the press serves many important purposes for society.

1. The press freedom is referred to as the democracy's support system. This is one of the most fundamental tasks carried out by press freedom. The existence of democracy can be attributed to press freedom. Democracy refers to a system of governance that is run by, for, and by the people. The

¹ Maneka Gandhi case

government can learn about public sentiment and needs thanks to the media. The press simultaneously informs the entire society of the government's aim, policy, and measures.

2. Due to its extremely broad scope, the press is regarded as the most influential kind of communication. Because of this, press freedom is a very valuable freedom.
3. The freedom of the press helps people learn the truth.
4. Today, the media is viewed as a tool for educating people.
5. Public opinion is created, shaped, and propagated by the media. Because of this, the press is viewed as a tool for change.
6. The press has a duty to hold government officials accountable for their actions as they are made public by the government.
7. The press serves as the public's watchdog and serves as an effective check on fraud and corruption, which affects both public officials and ordinary citizens.
8. The language press helps to achieve stability and unity in the country by tying together the community's ties inside the state.
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Last but not least, the media and press serve as a society's eye opener.

Right of press

Meaning of press :-

The term "press" has two distinct meanings.

1. The rigid interpretation of the basic meaning
2. Word Press's expanded scope.

The core or common his meaning strict interpretation.

The word "press" is most commonly used to refer to a printing press. It includes all of the printing press's outside components. This definition makes it apparent that the term "press" is being used in a very rigorous or limited sense. at fully comprehend the numerous facets of press freedom, one must go at the term's broader definition, which is press.

The wider horizon of the word press

In its broadest sense, the term "press" refers to all printed matter produced by a printing press, including books, journals, magazines, periodicals, pamphlets, leaflets, newspapers, handbills, and other printed matter. Newspapers make up a sizable portion of the term press, which also encompasses agencies, feature agencies, press, and syndicates. Press is occasionally used interchangeably with newspapers. This newspaper, which is seen as an essential component of the press, is the cause of the conflict between the freedom of the press and the limitations placed by the government.

Freedom of the Press includes the following rights;

1. News is printed and published. The judiciary ruled in **Re Daily Zemmedar**² that the right of the press to print and publish news was a fundamental one. The court further ruled that the press has the freedom to publish historical truths of the present.
2. The publication of viewpoints or opinions is a part of the press's second freedom. In **Gopal Dass v. D.M**³ the Supreme Court of India stated that publishing of editors' or writers' opinions falls under the

² Re Daily Zemmedar AIR 1947 Lah 340

³ Gopal Dass v. D.M AIR 1974 SC 213

- definition of free speech. In **Sharma v. Srikrishna**⁴ the Supreme Court further decided that publishing opinions include not only the views of the editors or writers, but also those of anybody person who printed the opinions under the direction of the editor, author, or publisher.
3. **Romesh Thappar v. State of Madras**⁵ established that in addition to publishing, the freedom of the press includes the ability to spread ideas across society.
 4. The freedom of the press covers, among other things, the right to voice opinions and publish information that society's members need to know in order to meet any pressing demands at the time. It's possible that this material has nothing to do with any political or public issues.
 5. The Supreme Court held in **Bennett Coleman v. State of J. & K**⁶ that one aspect of the freedom of the press is the ability to comment on current events. This freedom to express opinions on public affairs extends to the freedom to criticize both public people and public policies. This freedom of speech also extends to the ability to evaluate and criticize the government's actions, including its defense and military strategies.⁷ However, there is a strict restriction on this ability to criticize government policies: it must not jeopardize national security. Regarding the Indian situation, this privilege is reserved under section 124A of the Indian Penal Code and is not allowed in most circumstances.
 6. The right to access the information's sources follows from the right to get information. In **Prabha v. Union of India** the Supreme Court said unequivocally that the right to access information sources is required for that freedom to exist. In **Branzburg v. Hayes**, the court determined that the press does not have a constitutional right to get secret information and that access to the sources of such information is prohibited. The government is not compelled to provide any journalist access to the sources of such sensitive material, the court said in **Pell v. Procunier**.
 7. The press also has a very strong legal privilege that allows it to get diverse material from adversarial sources in a highly competitive marketplace. As the Supreme Court of India has often stated, the press is free from any monopolistic government control in such circumstances.

Scope of the powers of the press

Power to circulate the information

Before the case of **Romesh Thaper v. state of Madras** it was presumed that the right to circulation was included in the freedom to press and no special statement was seen essential. One cannot claim to be exercising their right to free circulation without also claiming to be doing so. This privilege is extremely important to the press since it allows for the publication of information to the general public.

The Supreme Court made it clear in **Sakal News Publications v. Union of India**⁸ that any limitations on newspaper distribution would be viewed as a serious breach of the basic right to freedom of speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution.

Because it provided the government the power to regulate the quantity of advertising space, the Newspaper (price and pages) Act of 1956 was declared unlawful by the court in this case. Furthermore, it was claimed

⁴ Sharma v. Srikrishna AIR 1959 SC 395

⁵ Romesh Thappar v. State of Madras 1950 SCR 594

⁶ Bennett Coleman v. State of J. & K. 1975 Cr LJ 211

⁸ Sakal Newspapers v. Union of India AIR 1962 SC 305

that the government's conduct would contravene Article 19(1)(a) of the Indian Constitution and have a detrimental effect on the circulation of the paper.

Power to project criticism:

Because of its nature, the right to criticize is something that neither one can live with nor tolerate. This right must be used with extreme care and attention because it is a very strong one. The press is granted the right to criticize the government, its representatives, programs, and plans on the basis of this right. However, the press is not permitted to abuse this privilege, incite populace opposition to the government, or prepare the groundwork for any insurrection, mutiny, or state or government insecurity.

The power to receive information:

If the right to receive the information is not given, the Article 19(1)(a)'s entire spirit would be violated. The media's job is to inform and educate the public, but if that right is restricted, it will be impossible for the media to educate the populace and society will be unable to adapt to a changing world.

In relation to interviewing, the press has the following power:

Interviews can be conducted by the press. This right, however, is not unqualified. This right is subject to three restrictions:

1. Only with the interviewee's approval can the conversation begin.
2. The interviewee has the right to end the exchange at any time. After the famous Ramleela Maidaan incident where he was lathi-charged, Baba Ramdeo gave his first interview. Baba eventually wanted to terminate the conversation, but the interviewer had additional questions. The limitation prevented the interviewer from asking any questions.
3. The interviewee cannot be coerced into giving a response they may not want to provide by the interviewer.

The power to report the court proceedings:

The Supreme Court ruled in **Sahara India Real Estate Corpn Ltd v. SEBI**⁹ that the media has a right to report on legal proceedings and that superior courts cannot thwart that publishing absent a compelling reason or in the interest of justice. The public has a right to an accurate record of court events that they have personally witnessed, the court said in **Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine**.¹⁰

Conclusion

India is ranked 140th out of 180 nations in the most recent Reporters Without Borders World Press Freedom Index. This rank has had some substantial declines over the previous 10 years, falling from 133 to 136 in 2017, 136 to 138 in 2018, and 138 to 140 in 2019. This decline can be attributed to journalists being assaulted, accused of crimes, or even killed for doing their duties. Videos of journalists being violently attacked and lynched in public for trying to expose politicians or other prominent figures are frequent. In the nation with the biggest Constitution and government in the world, this raises significant questions concerning press freedom.

It is clear that the press in today's society does the opposite of what it is supposed to do because some of the major mainstream media outlets support particular political parties while demonizing those who support the opposition and avoiding important topics like public welfare, corruption, the evaluation of government policies, etc. The fact that wholly autonomous platforms like WhatsApp, YouTube, and

⁹ Sahara India Real Estate Corpn Ltd v. SEBI AIR 2012 SC 3829

¹⁰ Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine AIR 2002 Bom 97

Facebook are more susceptible to fake news fuelling mob lynchings, fear-mongering, hate speech, propaganda distribution, and obscenity promotion highlights the necessity for some sensible press limitations

Without a question, we must grant the press a certain amount of freedom in order to maintain democracy and foster informed citizens across the country. By modifying the RTI Act, the Whistle Blower Act, and passing the Sedition Act in parliament, the current administration has attempted to limit this freedom, which the author claims violates the fundamental principles of the constitution by undermining democracy itself.

References

1. Maneka Gandhi case
2. Re Daily Zemedar AIR 1947 Lah 340
3. Gopal Dass v. D.M AIR 1974 SC 213
4. Sharma v. Srikrishna AIR 1959 SC 395
5. Romesh Thappar v. State of Madras 1950 SCR 594
6. Bennett Coleman v. State of J. & K. 1975 Cr LJ 211
7. Sakal News papers v. Union of India AIR 1962 SC 305
8. Sahara India Real Estate Corpn ltd v. SEBI AIR 2012 SC 3829
9. Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine AIR 2002 Bom 97