

INDIA'S MEDIA FREEDOM: A LEGAL PERSPECTIVE

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SUMMARY

One of the fundamental tenets of a democracy is journalism. Often called the "Fourth Estate," journalism educates the public about its societal and democratic responsibilities. Journalists serve as society's watchdogs. The media is not, however, totally free to act in any way that they see fit. The media is governed by the same laws that govern the behavior of the State, its institutions, and its citizens. The legal system binds journalists just like it does any other profession. The Indian Constitution serves as the foundation for all national media regulations. The freedom of speech and expression is one of the most significant rights that citizens, including the media, are given by the Constitution. The goal of this research was to identify journalists' freedom of speech and expression and to comprehend how the law has addressed this freedom in various instances and rulings. The document examines the Indian constitution's provision of freedom of speech and expression and how Indian courts have interpreted it for the media through various rulings and case laws. It is predicated on an examination and evaluation of eleven court cases that the Indian courts have rendered.

KEYWORDS: Indian Constitution, Courts, Judgements, Speech and Expression, Journalism, and

OVERVIEW

Man has used a variety of media to communicate his thoughts throughout history, including symbols, signs, speaking, writing, print, and increasingly computer language. These media predate legal history and extend beyond legal memory. Since knowledge and ideas are crucial to the development and survival of a free and democratic society, achieving this goal requires that every individual have the fundamental freedom to communicate the opinions and ideas that they hold. This is now referred to as the freedom of speech and expression. The Preamble of the Indian Constitution pledges to protect the freedom of speech, religion, and thought for all of its residents. With an emphasis on the primary goal of the Indian Constitution, the Preamble guarantees each and every person of

India offers freedom of speech and expression, religious liberty, and the option to follow one's personal beliefs. The Fundamental Rights are covered in Section III of the Indian Constitution. The right to freedom is guaranteed by the Constitution in articles 19, 20, 21, and 22, with the intention of upholding individual liberties that the Framers of the document deemed essential. One of the six freedoms guaranteed by the right to freedom in Article 19 is the freedom of speech and expression.

Every Indian citizen is guaranteed the freedom to freely express their beliefs, opinions, and points of view by the constitution. They are entitled to seek out, receive, and share ideas and information for this reason. Since the exercise of freedom of expression necessitates a means for the exchange of ideas and information, it follows naturally that the media must be free. Unlike the US Constitution, ours does not make specific mention of media freedom. However, the Supreme Court has clearly decided that press freedom is part of the guarantee of freedom of speech, which also includes the right to publish and

circulate, based on the reasoning presented above. According to the ruling of the Apex Court, it was unnecessary to include a separate clause protecting press freedom.

Idea of Media Freedom

The free media is a vital institution in a democracy. The public opinion that drives and revitalizes the democratic form of governance is mostly conveyed through this media. And in pursuit of that, media freedom is firmly established and maintained by India's constitutional framework. Freedom of speech and expression are essential to democracy. In Dr. Ambedkar's draft, it was suggested that "no law shall be made abridging the freedom of speech, of the press, of association, and of assembly, except for considerations of public order and morality." It is protected by both the Indian Constitution and the

The protection of human rights and fundamental freedoms is guaranteed by the Universal Declaration of Human Rights as well as by a number of other international agreements. It stems from these assurances that citizens have the right to obtain news and opinions free from interference and to share them across national boundaries, as doing so is essential to the democratic process. In actuality, this right is regularly exercised by the media. Thus, the right to free speech and expression involves two fundamental rights: the freedom to share news, information, and viewpoints, as well as the right to receive news and ideas.

These rights primarily rely on the unhindered ability of all media professionals to do their duties as gatherers and disseminators of news and opinions.

As a result, the freedom of speech and expression that all citizens enjoy gives the media its rights. Therefore, the media has the same rights to write, publish, distribute, and transmit as any other individual—neither more nor less.

The Constituent Assembly's discussions had been rife with disagreement at different points about whether

The topic of whether it would have been preferable to have included a specific mention of media freedom in what would eventually become Article 19 (1) (a) is still up for debate. The First Press Commission Report states that freedom of speech and expression is broadly defined. There can, therefore, be no dispute that freedom of the press is incorporated in the Fundamental Right of freedom of speech and expression protected under

The Constitution's Article 19 (1) (a). Members of the Constituent Assembly engaged in a thorough debate regarding the inclusion of a separate right for the media in the Indian Constitution, apart from that of the average citizen.

The Constituent Assembly determined that this kind of regulation was superfluous. The Chairman of the Constituent Assembly, Dr. B.R. Ambedkar, said: "The press is just another means of expressing an individual or a citizen." The press does not possess any unique rights that should not be granted to them or utilized by any citizen acting in their own right.

The courts have repeatedly affirmed that the rights of the media are implicit in the protection of freedom of speech and expression under Article 19 (1) (a) of the Constitution, despite the fact that no explicit provisions were made to protect those rights.

According to Indian courts, the right to free speech and expression cannot be restricted or taken away by law.

The media cannot be subject to laws that restrict or eliminate their ability to express themselves, limit the dissemination of information by limiting circulation, limit their ability to choose how to exercise their rights, or weaken their independence by making them depend on government assistance. The ruling rendered by the court in the Sakal Paper Pvt. case is a significant turning point in the history of press freedom. Union of India v. Ltd.

The Newspaper (Price and Page) Act, 1956, which gave the government the authority to control newspaper prices in connection to page counts and sizes as well as the distribution of advertising space, was challenged constitutionally, giving rise to the case. In this case, the Supreme Court was asked to decide whether the limitations placed

by the Price Page Schedule Act and Order amounted to any restriction on a newspaper's freedom of speech. The Supreme Court granted the petitioner's argument, ruling that the Newspaper Act of 1956 and the Order promulgated under it in 1960 were unconstitutional because they contravened Article 19(1)(a) of the Constitution and were not protected by Article 19(2). The Supreme Court ruled that legislation directly affecting a newspaper's distribution could not be passed by the State since doing so would violate people's right to free speech and expression. The right granted by Article 19(1)(a) covers both the subject matter and the volume of circulation that the person is permitted to circulate. Here, the

The court noted that

Once more, s. 3(1) of the Act, to the extent that it allows for the area to be allotted for advertisements, additionally directly

impacts the right to free movement. Should the area designated for advertisements be reduced, the newspaper's cost will

be compelled to rise. The circulation will unavoidably decrease if that occurs. Instead of a remote, this would be a

the immediate result of reducing advertising.⁴

The Court Noted Additional

However, the revenue of a newspaper would decrease if the amount of space allotted for advertisements was decreased.

and it would have to either run at a loss, shut down, or increase its price. What the Act's goal was in

It is claimed that controlling the advertising area will stop "unfair" competition. Thus, it is focused.

opposing the dissemination of a newspaper. If a law is designed to achieve this goal, there would be a direct obstruction of the freedom of speech and expression that is protected by Article

19(1)(a).5

Newspapers' autonomy to choose their pages and distribution

The Supreme Court ruled in *Bennett Coleman v. Union of India*⁶ that newspapers should have the autonomy to choose their own pages and distribution. The Supreme Court overturned the Control Order, which set a maximum number of pages that a newspaper could print and limited the quantity of newsprint supplied based on that fixed volume of publication. The newsprint policy was deemed to be unreasonable.

limitation that fell under the purview of Article 19(2) and violated the petitioners' basic rights as stated in Article 19(1) (a). As the court rendered its decision, it noted that:

If a law were to specifically target the press and impose burdensome restrictions that would limit circulation, penalize its personnel's freedom of choice, prohibit the establishment of publications, and press the government to provide assistance. This would not comply with Article 19(1)(a) and would not be within the the defense provided by Article 19(2).

It further stated that press freedom is a qualitative and quantitative concept. Content and circulation are key components of freedom. The newsprint policy, which allows newspapers to boost circulation by decreasing the number of pages, page area, and periodicity, forbids them from decreasing circulation in order to increase page count, page area, and periodicity. The newspapers' ability to change their page count and distribution is limited by these regulations. According to the Court's ruling in this case, imposing a page limit would not only make the petitioners financially unviable but also impede their capacity to exercise their right to free speech by forcing them to reduce the number of pages they publish, which in turn would reduce the amount of news and opinions that may be covered. Laws cannot restrict or impede the right to free speech and expression.

The *Union of India v. Express Newspapers* case resulted from a challenge to the Working Journalists (Conditions of Service) and the Miscellaneous Provisions Act, 1955, since their provisions contravened Article 19(1) (a). The contested Act was designed to govern the terms of employment for working journalists and other individuals employed by newspaper companies. Among other things, it stipulated that a working journalist who had been employed continuously for at least three years would receive a gratuity, even in the event that he voluntarily resigns from his position.

The Act was designed to control work hours and leave policies, as well as to offer retroactive retrenchment compensation in specific circumstances. The guidelines for determining the rates of pay for working journalists were outlined in 9(1). The petitioners argued that the provisions of the contested Act infringed upon their fundamental rights under the Arts on a number of reasons. 19(1)(a), 19(1)(g), 14 and 32 of the Constitution, as well as the fact that the industry was overly burdened financially by the salary Board's decision to fix the rates and salary scales. and meant its complete collapse.

The court determined that there was no need for judicial intervention in this instance since the impact of the statute on the right to free speech and expression was too remote. The court did acknowledge one crucial idea, though:

Therefore, the press cannot claim such protection from general rules, but it would undoubtedly not be appropriate to impose rules on the press that restrict or eliminate the freedom of speech and expression or that would limit circulation, so reducing the amount of information that may be shared information, or restrict its ability to select how to exercise the right, or would jeopardize its independence by pushing for government assistance. Laws that specifically target the media for being harsh on it burdens that are severe and burdensome, which would limit the distribution and penalize its right to select the tools for its use, look for a substitute media, stop newspapers from being began and eventually forced the press to turn to the government for assistance in order to survive, would be declared unconstitutional and overturned.

The Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 was passed by the Court with the intention of improving the working conditions of newspaper industry employees. The Court determined that the legislation's impact on the petitioners' claimed right to freedom of speech and expression was too slight and incidental to justify its repeal. The Mother of All Other Liberties is the Press The ruling of Venkataramiah J. provides one of the most thorough and insightful explanations of the significance of the press and why it is considered "the mother of all other liberties" in a democratic society. In *Union of India v. Indian Express Newspaper*. This case brought up significant issues about journalistic freedom in relation to the state's taxing authority. Newspaper companies filed multiple writ petitions in the Supreme Court contesting the legality of the Customs Act of 1962's application of duties on newsprint. On behalf of the petitioners who used a lot of newsprint to publish journals, magazines, newspapers, and other materials, it was argued that the application of duty had the "direct consequence of hurting the freedom of freedom of speech and expression as protected by the Constitution, which inevitably resulted in a rise in newspaper prices and a decline in their distribution. As an example, Venkataramiah J. recognized that the press is a vital component of the democratic apparatus and emphasized the significance of freedom of speech and expression in the following ways: freedom of expression serves four main social purposes: (i) it facilitates the pursuit of self-fulfillment; (ii) it aids in the pursuit of truth; (iii) it enhances the ability of an individual to participate in decision-making; and (iv) it offers a means of establishing a reasonable balance between social change and stability. Everyone in society ought to be allowed to establish their own opinions and express them to others. In summary, the people's right to know is the guiding premise. Therefore, everyone who is in favor of people participating in the administration should generously support freedom of speech and expression.

Although the Court acknowledged the significance of the press's right to freedom, it concluded that no exemption from taxes could exist since the Constitution's authors had decided against including such protections. Simultaneously, they had taken care to shield the press from regional influences by granting Parliament the exclusive authority to impose levies on publications rather than the State Legislatures. The freedom of speech and expression given by Article 19 (1) (a) and the freedom to engage in any profession, vocation, trade, industry, or business protected by Article 19 (1) (g) are two of the fundamental rights that the newspaper industry enjoys. Although the freedom of speech cannot be taxed, taxes can be imposed on trade, business, industry, professions, and occupations.

Taxes are therefore imposed on the newspaper sector. However, when such a tax infringes upon the right to freedom of When one restricts the freedom of expression, it violates the constitution. As long as it stays within appropriate bounds It does not interfere with the right to free speech, it will not violate

Article 19 (2). Any levy imposed on the press, according to the Court, shall be "subject to scrutiny by the courts in the light of the clauses found in the Constitution.

A violation of the right to free speech and expression is when censorship is applied to print media before it is published.

Article 19 (1) would be violated if censorship was imposed on a periodical before it was published (a). The issue of the legitimacy of censorship was brought before the Supreme Court in the case of Brij Bhushan.

In accordance with the Punjab Public Safety Act, 1949, the State Government of Punjab placed pre-censorship on an English-language weekly publication called "Organizer" with the goal of preserving law and order. The printer, publisher, and editor of the weekly filed an application under Article 32 of the Constitution in the Supreme Court, requesting the issuance of writs of certiorari and prohibition to the Chief Commissioner of Delhi. The purpose of this request was to investigate the legality of the Chief Commissioner's order regarding the English weekly and to overturn it. According to the petitioners, the Chief Commissioner's directives violated their basic right to freedom of speech and expression, which is protected by Article 19(1)(a) of the Constitution. After accepting the petition, the Supreme Court examined the application of Art. 19(2) in this particular case, where Fazl Ali J. In his ruling, the judge noted that the Court should fiercely defend the right to free speech and expression since it is one of the most important liberties that the Constitution grants to all citizens. It is also necessary to acknowledge that open discourse on politics is necessary for a democratic government to run smoothly, and contemporary jurists have a predisposition to criticize censorship, even while they all concur that "press liberty" should not be confused with its "licentiousness." However, the Constitution itself sets forth specific boundaries, and this Court is only asked to determine whether a specific instance falls under those parameters.

In the instance of this ruling, Justice Patanjali Sastri noted that pre-censorship of a publication is a limitation on press freedom, which is a crucial component of the right to freedom of speech and expression. Additionally, he approvingly cited Blackstone's opinion that Press liberty is defined as not being in freedom but rather not having any prior restrictions placed on publications. upon publication, from censure for criminal content. Unquestionably, every free man has the right to lay what sentiments he wants the public to hear. Press freedom would be destroyed if this were prohibited.

The Chief Commissioner's decision of pre-censorship against the Organizer's publisher was overturned by the Supreme Court, which ruled that pre-censorship is an unreasonable limitation on press freedom. This case demonstrates how the courts have stepped in to support media freedom of expression when it has been needed. An Indian citizen has the freedom to communicate to viewers and listeners through media, and the government is not the exclusive owner of electronic media.

The Supreme Court ruled in the matter of Minister of Information and Broadcasting v. Cricket Association of Bengal¹⁶ that Effective communication is a fundamental right to freedom of speech and expression.

and to the greatest number of people that is both possible to reach both domestically and overseas. There aren't any geographical obstacles to communication. Thus, each and every citizen is entitled to use the best resources available. for the objective. Television is one example of electronic media nowadays. and radio, the most efficient method of exchange of ideas. The limitations that electronic

media experiences in addition to those that print medium, are that (i) the airwaves must be used for the public good because they are a public domain. the general public; (ii) the frequencies are restricted...

The Central Government shall take immediate steps to establish an independent autonomous public authority representative of all sections and interests in the society to control and regulate the use of the airwaves, the court declared, while ordering the Government to create an independent autonomous broadcasting authority.

The Supreme Court held in this case that a citizen has the right under Article 19 (1) (a) to telecast and broadcast to viewers/listeners through electronic media, such as television and radio, and that the government does not have a monopoly on electronic media. The court also significantly expanded the scope and extend of the right to freedom of speech and expression.

The freedom to advertise is a component of freedom of speech and expression.

The Supreme Court ruled in the landmark decision of *Tata Press v. Mahanagar Telephone Nigam Ltd.* that the right to commercial speech—which is included in the fundamental right to freedom of speech and expression under Article 19 (1) (a)—also extends to the right to advertise. Regarding the question of whether commercial speech is covered by Article 19(1)(a), the Court ruled that an advertisement qualifies as "commercial speech" if it contains two elements: first, although it is merely a commercial transaction, it nevertheless disseminates information about the product, and second, the public at large benefits from the information made available by the advertisements.

The unrestricted exchange of commercial information is essential in a democracy. Honesty is not possible.

and affordable marketing by the general audience without educating them through the material shared through commercials. A democracy's economic structure would be severely hampered if "commercial speech" was not allowed.

When the Court considered the matter from a different perspective, it concluded that: The general public has a right to hear "commercial speech." Article 19 (1)(a) of the Constitution guarantees people's freedom of speech and expression as well as their ability to hear, remember, and receive the speech in question.

The unalienable right to freedom of speech and expression across national borders

The Supreme Court of India examined the issue of whether an Indian citizen's right to freedom of speech and expression beyond India's borders in the *Maneka Gandhi v. Union of India* case. The Supreme Court ruled in this historic decision that a citizen's right to free speech and expression includes the ability to obtain information and engage in intellectual exchange with others both domestically and internationally. The judge declared:

The freedom of speech and expression includes the right to speak and listen, as well as the ability to obtain knowledge.

Expression both domestically and internationally, as well as the sharing of ideas and opinions with people not just in India but

outside as well. The Court noted that by omitting the phrase "in the territory of India" at the conclusion of Article 19(1) (a), the framers of the Constitution had consciously opted not to use language that would restrict the freedom. The government's position was that the State could not defend the upholding of the basic right to free expression in a foreign nation, so the right under Article 19 (1) (a) could not be extended outside of Indian territory. The Court rejected that argument and acknowledged that a person could exercise their right to free expression abroad while in India by transmitting information to a foreign nation due to significant advancements in technology and communications. If the State were to restrict this right, it would be a violation of Article 19(1) (a).

News and information gathering rights are part of press freedom.

The petitioner in *Prabhu Dutt v Union of India*²² wanted to speak with Billa and Ranga, the sentenced inmates. The newspaper representative was not allowed to interview the prisoners by the jail administration. The Court ruled that persons are not legally required to provide information to the press, and that the press does not have an unrestricted or absolute right to information. If the prisoner provides his written consent, an interview may be held; however, the reasons must be documented in writing.

agree to participate in an interview. The Court ruled that refusals of interviews might occur when there are "weighty" reasons to do so.

The petitioner in this case, a newspaper reporter, is claiming the right to speak with two prisoners

not the right to voice any specific viewpoint or opinion when facing the death penalty, but rather the right to a method of

through conducting an interview with them to obtain information. The Press cannot claim such a privilege.

Unless the subject of the interview is open to being interviewed. In this instance, the Court ordered the Superintendent of the Tihar Jail to allow Ranga and Billa, the two death sentence convicts, to be interviewed by the Chief Reporter of the *Hindustan Times* and representatives of the *Times of India*, *India Today*, the *Press Trust of India*, and the *United News of India* in accordance with Art. 19 (1) (a) since they were willing to do so.

Speech and Expression Rights of Non-Indians

The matter pertaining to M. The case of *S. M. Sharma v. Krishna Sinha* began when a well-known English daily with a sizable readership in Bihar published a section of the Assembly's proceedings that had been removed and contained a scathing criticism of the Chief Minister by one of its members. The Supreme Court noted in this instance that:

A publication owned and operated by a non-citizen is not entitled to the fundamental rights of freedom of speech and expression and, as a result, is unable to assert the advantage of press liberty as a basic right. Furthermore, the freedom of the press stems only from the freedom of speech and expression. In India is equal to the freedom of speech and expression granted to all citizens, and that no Press privilege is attached to it as an entity, separate and apart from citizen freedom.

It follows that it is clear that only citizens have been granted the right to freedom of speech, expression, and the press. That being said, this does not imply that a foreigner or non-citizen in India is not entitled to freedom of speech or expression. It simply indicates that this kind of right is not admissible as a fundamental one.

Taxes on News Distribution:

The case of *Asstt. v. Printers (Mysore) Ltd.* The matter came up, Commercial Tax Officer²⁶, regarding the newspaper publisher's eligibility to receive the concessional rate for raw material purchases under Sections 8(3)(b) and 8 (1)(b) of the Central Sales Tax Act, 1956.

In this regard, the Court determined that neither Parliament nor State Legislatures possess the authority to impose taxes on the sale or purchase of publications within or between states. The Supreme Court ruled as follows:

The Central Sales Tax Act's Section 2(d) definition of "goods" has been amended to exempt the The purpose of the sale of newspapers from the central sales tax levy was to align the Act with the modifications made possible by the Constitutions (Sixth Amendment) Act of 1956, which added List I Entry 92-A. Thus, the petitioner was qualified to receive the benefit of paying the concessional rate for raw materials.²⁷

As a result, the nation cannot impose a sales tax on publications. That being said, the press is nevertheless subject to taxes, general industrial relations laws, and state regulations governing the terms of employment for its staff. Any limitation on the dissemination of information and the publication of newspapers is prohibited. The constitution forbids any restrictions that are directly related to the freedom of the press to publish, distribute information, and circulate newspapers and magazines, even though the press is not exempt from taxation.

RESULTS

One of the most significant basic rights is the freedom of speech and expression. It involves disseminating one's opinions using written or spoken words, audiovisual tools, commercials, and any other kind of communication. It also includes the freedom of the media, the right to information, and the freedom to publish and distribute. As a result, this fundamental right is rather broad. Regardless of the media utilized, the phrase "freedom of expression" refers to any act of seeking, receiving, and disseminating knowledge and ideas. Every Indian citizen is guaranteed the freedom of expression by the country's Constitution, which aims to safeguard their freedoms. All Indian people are guaranteed the right to freedom of speech and expression under Article 19 (1) of the Indian Constitution. As a result, Indian citizens have the fundamental right to express themselves freely.

beliefs and viewpoints. They are entitled to seek out, receive, and share ideas and information for this reason. Since the exercise of freedom of expression necessitates a means for the exchange of ideas and information, it follows naturally that the media must be free.

The freedom of the media is not specifically mentioned in the Indian Constitution. But the Supreme Court has been applying the reasoning presented above, clearly ruling that the freedom of the media is a part of the freedom of speech, which encompasses the right to publish and distribute. According to the ruling of the Apex Court, it was unnecessary to include a separate clause protecting media freedom. Through a number of rulings and case laws, the courts have repeatedly interpreted the freedom of speech and expression. They have made it quite evident that this freedom includes the freedom of the media.

Eleven case studies that unequivocally demonstrated that media freedom is a part of the freedom of speech and expression guaranteed by Article 19 (1) (a) of the Indian Constitution were examined in order to bolster this conclusion. The case law analysis makes clear that the Court has consistently interpreted the meaning and content of Article 19(1)(a) broadly, subjecting it to the limitations that are allowed by Article 19(2). The actions of intolerant

Authorities who attempt to restrict or stifle this freedom have always faced strong opposition.

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