

Article 19 of the Indian Constitution: Scope, Limitations, and Contemporary Challenges

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Abstract—Article 19 of the Indian Constitution guarantees six fundamental freedoms—speech and expression, peaceful assembly, association, movement, residence, and profession—that together form the foundation of India’s democratic system. While these rights safeguard individual liberty and political participation, they are not absolute; the Constitution authorizes the State to impose reasonable restrictions in the interest of sovereignty, security, morality, and public order. This paper examines the scope and significance of these freedoms, analyzes constitutional limitations through landmark judicial interpretations, and highlights contemporary challenges such as digital censorship, hate speech, internet shutdowns, and restrictions on protests. By tracing the balance between liberty and regulation, the study underscores the evolving relevance of Article 19 in safeguarding democratic values in a complex and changing socio-political landscape.

Keywords: Indian constitution, Article 19, rights, freedom, Democratic.

I. INTRODUCTION

The Indian Constitution, adopted in 1950, embodies the vision of a democratic republic founded on the principles of liberty, equality, and justice. Among its many provisions, the Fundamental Rights enshrined in Part III serve as the cornerstone of India’s democratic framework by guaranteeing essential freedoms to citizens. Within this framework, Article 19 occupies a central place, as it enumerates six basic rights that enable individuals to express themselves, participate in collective activities, and pursue economic opportunities. These rights ensure that citizens can meaningfully engage in the democratic process and contribute to social, political, and economic development.

However, the freedoms guaranteed under Article 19 are not absolute. The framers of the Constitution recognized that unrestricted liberty could endanger public order, national security, and social harmony. Therefore, the Constitution permits the State to impose reasonable restrictions on these freedoms under specific circumstances. This balance between individual liberty and collective security has generated ongoing constitutional debates, particularly in light of changing social and technological contexts.

Over the years, the judiciary has played a pivotal role in interpreting the scope of Article 19, expanding its application through landmark rulings, and safeguarding citizens against arbitrary restrictions. At the same time, new challenges have emerged in the twenty-first century—ranging from digital free speech, hate speech, and misinformation to internet shutdowns, protest regulations, and national security concerns. These issues demand a re-examination of Article 19 to ensure its continued relevance in a rapidly evolving democracy.

I.1. OBJECTIVES OF THE STUDY

1. To analyze the scope of Article 19 by examining the six fundamental freedoms guaranteed to Indian citizens.
2. To study the constitutional limitations imposed on these freedoms through clauses (2)–(6) and judicial interpretation of “reasonable restrictions.”
3. To explore the role of the judiciary in shaping the meaning and application of Article 19 through landmark cases.
4. To identify contemporary challenges—such as digital censorship, hate speech, internet shutdowns, and restrictions on protests—that influence the practical application of Article 19 today.

II. METHODOLOGY

This research adopts a doctrinal and analytical approach.

II.I. DOCTRINAL METHOD

Analysis of the text of Article 19 of the Constitution of India. Examination of constitutional provisions relating to fundamental rights and reasonable restrictions. Study of reports of the Constituent Assembly debates to understand the framers' intent.

II.II. CASE LAW ANALYSIS

Review of landmark Supreme Court and High Court judgments such as Romesh Thapar (1950), V.G. Row (1952), Maneka Gandhi (1978), Kesavananda Bharati (1973), Shreya Singhal (2015), and Anuradha Bhasin (2020). Assessment of judicial trends in expanding or restricting the scope of Article 19.

II.III. SECONDARY SOURCES

Reference to authoritative commentaries and academic works, including Granville Austin, H.M. Seervai, M.P. Jain, and Gautam Bhatia. Review of journal articles, legal research papers, and reports addressing free speech and constitutional law.

II.IV. CONTEMPORARY ANALYSIS

Use of recent developments such as CAA protests, farmers' protests, internet shutdowns, and social media regulation as case studies. Critical evaluation of government policies and their compatibility with Article 19.

II.V. ARTICLE 19 OF THE CONSTITUTION OF INDIA

Article 19 (1) of the Constitution, guarantees certain fundamental rights, subject to the power of the State to impose restrictions on the exercise of those rights. The Article was thus intended to protect these rights against State action other than in the legitimate exercise of its power to regulate private rights in the public interest.

II.VI. FREEDOM OF SPEECH AND EXPRESSION

Expression is a matter of liberty and right. The liberty of thought and the right to know are the sources of expression. Free Speech is the live wire of democracy. Freedom of expression is integral to the expansion and fulfillment of individual personality. Freedom of expression is more essential in a democratic setup of a State where people are Sovereign rulers. Iver Jennings said, without freedom of speech, the appeal to reason which is the basis of Democracy. cannot be made. According to Justice Krishna Iyer, "This freedom is essential because the censorial power lies in the people over and against the Government and not in the Government over and against the people." Freedom of speech and expression is required to fulfill the following objectives:

- a) To discover the truth
- b) Non-self-fulfillment
- c) Democratic value
- d) To ensure pluralism

In order to create India a sovereign, democratic, socialist, secular, and republican nation, the people of India gave themselves the Constitution of India. Freedom of speech and expression, which is the mother of all rights, holds a

special position in our democratic society. Securing LIBERTY OF THOUGHT AND EXPRESSION to all people is one of the major goals of the Indian Constitution, as stated in the Preamble. A fundamental human right is the

freedom of expression. It is the expression and actual implementation of individual thinking freedom. No matter the kind of government, freedom of speech is mentioned in many constitutions. In Bennett Coleman & Co. v. Union of India⁵, the Supreme Court held that newspapers should be left free to determine their pages and their circulation. This case arose out of a constitutional challenge to the validity of the Newspaper (Price & Page) Act, of 1956 which empowered the Government to regulate the allocation of space for advertisement matters. The court held that the curtailment of advertisements would fall foul of Article 19(1)(a), since it would have a direct impact on the circulation of newspapers. The court held that any restriction leading to a loss of advertising revenue would affect circulation and thereby impinge on the freedom of speech

- - Article 19(1) of the Constitution of India guarantees six fundamental freedoms to every citizen of India. Though all of these six Fundamental Freedoms are not absolute. They contain certain restraints and exceptions within them which are postulated in Article 19(2) to 19(6).

Freedom of Speech and Expression - Article 19(1)(a) grants citizens the right to freely express their thoughts, opinions, and ideas. This includes the freedom to express oneself through speech, writing, printing, visual representations, or any other means. However, reasonable restrictions can be imposed on this right for the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign nations, public order, decency or morality, contempt of court, defamation, incitement to an offense, or the sovereignty and integrity of Parliament.

The first set of grounds, namely, the sovereignty and integrity of India, the security of the State, friendly relations with foreign States and public order are all grounds referable to national interest. Whereas the second set of grounds, namely, decency or morality, contempt of court, defamation and incitement to an offense are all concerned with the interest of the society. However it is the constitutional obligation of the judiciary to ensure that the restrictions imposed by a law on the media are reasonable and relate to the purposes specified in Article 19(2). Because reasonable restrictions contemplated under the Indian Constitution brings the matter in the domain of the court as the question of reasonableness is a question primarily for the Court to decide. Freedom of speech and expression is a crucial right which is recognized by Article 19(1)(a), It has been held to be a basic and indivisible right for a democratic polity.

In *Romesh Thappar v. State of Madras*, Patanjali Shastri, C.J. observed: "Freedom of speech and of the press lay at the foundation of all democratic organizations, for without free political discussion no public education, so essential for the proper functioning of the process of popular government, is possible" The expression 'Freedom of press' is part of the ambit of article 19 and it means the right to print and publish without any interference from the state or any other public authority. But this Freedom, like other freedoms, cannot be absolute but is subject to well known exceptions acknowledged in the public interests, which in India are enumerated in Article 19(2) of the constitution.

Thus, in *Prabhu Dutt v. Union of India* the Supreme Court has held that the right to know news and information regarding administration of the Government is included in the freedom of press. But this right is not absolute and restrictions can be imposed on it in the interest of the society and the individual from which the press obtains information. They can obtain information from an individual when he voluntarily agrees to give such information.

In *Bennett Coleman & Co v. Union of India* (1972), the Hon'ble Supreme Court held that the freedom of the press embodies the right of the people to free speech and expression. It was held that "Freedom of the press is both qualitative and quantitative. Freedom lies both in circulation and in content."

In the case of *Shreya Singhal v. Union of India*, 2015 Section 66A of the Information Technology Act was challenged. Under this section, there were several arrests which were made due to which a wide outrage was seen in society. The petitioners said that this Article is infringing the Freedom of Speech and Expression. The Supreme Court struck down this provision saying that this provision is too vague and prone to misuse.

In the State of U.P. v. *Raj Narain* (1975), the Supreme Court observed that the right to know is derived from the concept of freedom of speech. The Court further held that the people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries.

Right to speak includes the right to not speak or the right to remain silent. In *Bijoe Emmanuel v. State of Kerala* (1986), the Supreme Court upheld the right to silence of three students who were expelled from school because they refused to sing the National Anthem. The Court held that no person can be compelled to sing the National Anthem if he has genuine conscientious objections based on his religious belief. Hence, the right to speak and the right to express includes the right not to express and to be silent.

Freedom to Assemble Peacefully - Article 19(1)(b) ensures the right to peacefully assemble and hold public meetings or processions without arms. This right allows citizens to come together for various purposes, such as protests, demonstrations, or discussions. However, reasonable restrictions can be imposed on this right in the interests of public order, sovereignty, and integrity of India.

In *Himmat Lal v. Police Commissioner, Bombay* (1972), the Supreme Court struck down a rule that empowered the police commissioner to impose a total ban on all public meetings and processions. It was held that the state could only make regulations in aid of the right of assembly of citizens and could impose reasonable restrictions in the interest of public order but no rule could be prescribed prohibiting all meetings or processions altogether.

Freedom to Form Associations or Unions - Article 19(1)(c) guarantees the right to form associations or unions. Citizens have the freedom to form social, cultural, economic, or political associations or unions. This right allows individuals to collectively pursue common goals or interests. However, reasonable restrictions can be imposed on this right in the interests of public order, morality, or the sovereignty and integrity of India.

In *Damyanti v. Union of India* (1971), the Supreme Court upheld the right of the members of an association to continue the association with its composition as voluntarily agreed upon by the persons forming the association.

Freedom to Move Freely - Article 19(1)(d) ensures the right to move freely throughout the territory of India. Citizens have the liberty to move within the country, reside in any part of India, and settle in any place of their choice. However, reasonable restrictions can be imposed on this right in the interests of public order, security of the State, or the sovereignty and integrity of India.

In *Chambara soy v. Union of India* (2007), some persons had blocked a road due to which the petitioner was delayed in taking his ailing son to the hospital and his son died on arrival at the hospital. The Supreme Court held that the right of the petitioner to move freely under Article 19(1)(d) has been violated due to the road blockage. The Court held that the State is liable to pay the compensation for the death of the petitioner's son due to the inaction on the part of the State authorities in removing the aforesaid blockage.

Freedom to Reside and Settle - Article 19(1)(e) guarantees the right to reside and settle in any part of India. Citizens have the freedom to choose their place of residence and settle anywhere within the country. However, reasonable restrictions can be imposed on this right in the interests of public order, protection of scheduled tribes, or the sovereignty and integrity of India.

In the case of *U.P. Avas Evam Vikas Parishad v. Friends Co-op. Housing Society Ltd.* (1995), it was held by the Supreme Court that the right to residence under Article 19(1)(e) includes the right to shelter and to construct houses for that purpose.

Freedom to Practice Profession, Occupation, Trade, or Business - Article 19(1)(g) provides the right to practice any profession, occupation, trade, or business. Citizens have the freedom to choose and engage in their preferred livelihoods. However, reasonable restrictions can be imposed on this right in the interests of the general public, professional qualifications, or the sovereignty and integrity of India.

In the landmark judgment, *Chindamanrao v. State of M.P.* (AIR 1951), the Central Provinces imposed a ban on the making of Bidis during the Agricultural Seasons. The manufacturing of Bidis used to work as an additional income for the women of the local area. So the act by the government of the Central province was challenged in the Supreme Court. Court decided that the act made by the government is arbitrary and does not fall under the reasonable restrictions.

The Hon'ble Supreme Court in *Vishaka v. State of Rajasthan* (1997) has observed that the sexual harassment of working women in workplaces violates the fundamental right under Article 19(1)(g). In this case, comprehensive guidelines and binding directions were issued by the court to prevent the incidents of sexual harassment of women at workplaces in both public and private sectors.

III. CONTEMPORARY CHALLENGES

III.I. DIGITAL AGE AND FREE SPEECH

Internet shutdowns, regulation of social media, and surveillance raise questions about the scope of free expression.

In *Anuradha Bhasin v. Union of India* (2020), the Supreme Court held that internet access is integral to freedom of expression.

III.II. HATE SPEECH AND DISINFORMATION

Rise of online hate speech, fake news, and communal propaganda challenges the balance between liberty and public order.

III.III. NATIONAL SECURITY VS. LIBERTY

Laws such as UAPA and sedition provisions (*Kedar Nath Singh v. State of Bihar*, 1962) test the boundaries of speech restrictions.

III.IV. RIGHT TO PROTEST

The tension between civil disobedience and restrictions under public order laws (e.g., Shaheen Bagh protests, 2019–20).

III.V. ECONOMIC AND PROFESSIONAL RESTRICTIONS

Licensing, state monopolies, and restrictions during emergencies (e.g., COVID-19 lockdowns) highlight limits on trade and movement.

IV. SUGGESTIONS AND REFORMS

Codifying Free Speech Protections: Clear legislative standards for restrictions on online expression. Strengthening Proportionality Doctrine: Courts should consistently apply proportionality to test restrictions. Public Order Mechanisms: Use mediation and democratic dialogue rather than blanket bans or shutdowns. Legal Literacy: Promote awareness of constitutional rights among citizens to prevent misuse and arbitrary restrictions. Balancing Liberty with Responsibility: Encourage responsible digital behavior to curb misuse of freedoms.

V. CONCLUSION

Article 19 stands as a cornerstone of Indian democracy, guaranteeing citizens essential freedoms such as speech and expression, assembly, association, movement, residence, and profession. These rights form the very foundation of individual liberty and democratic participation. At the same time, the Constitution balances these freedoms with reasonable restrictions to safeguard public order, morality, security, and the rights of others. Thus, Article 19 not only empowers individuals to express themselves and contribute to national life but also ensures harmony between liberty and social responsibility, making it a dynamic and living part of India's constitutional framework. Article 19 of the Indian Constitution embodies the essence of democratic values by granting citizens the freedom of speech and expression, association, assembly, movement, residence, and profession. These rights empower individuals to participate meaningfully in social, political, and economic life. However, the framers wisely incorporated reasonable restrictions to prevent misuse and to protect the sovereignty, integrity, and harmony of the nation. Therefore, Article 19 is not merely a guarantee of liberty but a dynamic framework that balances individual freedom with collective welfare, making it one of the most vital pillars of constitutional democracy in India. The challenges of Article 19 can be removed by ensuring precise laws, judicial oversight, citizen awareness, and a careful balance between freedom and social order. Citizens must be educated about their rights and responsibilities so that freedoms are exercised without harming others. Also free press and strong democratic institutions help check censorship and protect freedom of expression.

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