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Is The Right to Freedom of Speech and Expression Violating in India?

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ABSTRACT

In this paper I tried to summarise about one of the fundamental right which is violating these days often. Article 19 of constitution talks about right to freedom of speech and expression under which right to freedom of press is also interpreted. "In "Indian Express Newspapers (Bombay) Private Ltd. v. Union of India" this case it was established after observing that the term "freedom of press" is not used under Article 19 in its language but it is contained in the form of its essence within Article 19(1)(a) of the Constitution of India. This paper also mentions how the government power suppressing media and press and how rights of common people are infringing by being illegally spied by government, their personal data is leaking through malicious spyware Pegasus. Detention of people who are posting against powerful people, and all these activities are shaking the 4th pillar of democracy. Reasonable restrictions on fundamental rights are mentioned but it shouldn't be used to exploit nation and citizens.

Keywords: *Right to Freedom of Speech & Expression, Article 19, Press freedom, Media, World press freedom index, Journalist & democracy.*

I. INTRODUCTION

Article 19(1)(a) of the Indian Constitution, which stipulates that all citizens of India have a right to freedom of speech and expression, defines freedom of speech and expression. The guiding principle of this Article is found in the Preamble of the Indian Constitution, "where a solemn resolve is made to secure to all its citizen, their liberty of thought and expression." However, under Article 19(2) of the Indian Constitution, the exercise of this freedom is subject to reasonable limitations for specific purposes.

The idea of freedom of speech and expression offers up avenues for unrestricted debate of topics in a democracy like India. In the creation and presentation of public opinion on social, economic, and political issues across the nation, freedom of expression is crucial. It guarantees, within its purview, the freedom connected to the exchange and propagation of ideas, the dissemination of information that would subsequently aid in the development of one's opinion

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and position on certain subjects and give rise to discussions on issues that concern the general public. The usage of the national flag as a means of expressing such thoughts would constitute a Fundamental Right as long as the expression is limited to nationalism, patriotism, and love for our country. The right to communicate and receive any information without interference is a key component of this right, according to the independent judiciary of India, which has held and expressed its opinion on the matter. This right also includes the right to freedom of speech and expression. Press freedom is already included in the freedom of speech that is granted to all country citizens, hence it is not a distinct protection under the Freedom of Speech and speech Act.

(A) What does "freedom of the press" mean?

In no place does the Indian Constitution mention press freedom. It does, however, exist as a right within the definition of freedom of speech and expression as stated in Article 19 of the Constitution, even if it is not expressly stated. Without a free and independent press, it is impossible to have open debates and conversations regarding particular topics. One of the tenets of democracy is freedom of the press, which is also the cornerstone of democratic governance. The Supreme Court of India has repeatedly ruled that freedom of the press is a component of freedom of speech and expression and is protected by Article 19(1)(a) of the Indian Constitution. This is because freedom of the press is nothing more than a component of freedom of speech and expression.

“In *Indian Express Newspapers (Bombay) Private Ltd. v. Union of India*” this case it was established after observing that the term “freedom of press” is not used under Article 19 in its language but it is contained in the form of its essence within Article 19(1)(a) of the Constitution of India, and hence, there can not be any interference with the freedom of press which involves the public interest and security. Therefore, it was concluded that the imposition of censorship of a journal or prohibiting a newspaper from publishing their own views about any issue which involves public interest would amount to a restriction on the press’ liberty.”

II. MEDIA FREEDOM UNDER THREAT IN INDIA

On February 18, 2021, journalists demonstrated outside the Press Club of India in New Delhi, India, over the government's tightening control over the media. Indian authorities have detained journalists on fabricated terrorism and sedition accusations and frequently target detractors and independent news organizations, including raiding their offices, amid escalating limitations on media freedom. For posting anything that is critical of the government, journalists and online critics run the possibility of being prosecuted under the Information Technology Act and IT

Rules of 2021. The Israeli-made spyware Pegasus has been used by Indian authorities to target journalists. Additionally, the regular internet outages caused by the government make it difficult for journalists to carry out their duties, including obtaining and sharing information online. These limitations on media freedom come amid an intensifying crackdown on civil society by the Bharatiya Janata Party (BJP)-led administration, which is targeting and prosecuting human rights activists, students, government critics, and peaceful protesters using sedition, counterterrorism, and national security laws.

According to the most recent report issued by international media watchdog Reporters Without Borders (RSF), India's position in the 2023 World Press Freedom Index has dropped to 161 out of 180 nations. Compared to other countries, Pakistan has performed better in terms of media freedom, ranking 150 this year, up from 157 last year. India came in at number 150 in 2022. Pakistan, in contrast, this year rose seven positions to a position of 150.

A month after taking office in the summer of 2014, Prime Minister Narendra Modi said India's "democracy will not sustain if we can't guarantee freedom of speech and expression".

Many people think that after six years, India's democracy appears to have suffered due to what they claim are ongoing attacks on press freedom.

Many people think it's getting riskier to work as a journalist in India. A report by Geeta Seshu for the Free Speech Collective found that in 2020, 67 journalists were physically assaulted and detained. A journalist has been imprisoned for five months. He was on his way to report about the gang rape of a girl in the state of Uttar Pradesh.

Threats and vicious internet bullying are commonplace for journalists, particularly women who are critical of the administration. Neha Dixit, a freelance writer living in Delhi, claims she has been "stalked, publicly threatened with rape and murder, viciously trolled," and her residence has been attempted to break into. A law student who reportedly threatened to kill and rape another freelance writer, Rohini Singh, was detained by the police.

“India's media was gagged for 21 months when then prime minister Indira Gandhi suspended civil liberties and **imposed a nationwide Emergency in 1975**. "What is unusual about our current political moment is that, unlike a formal emergency that undermines rights openly, all our rights are supposed to still be functional. There is no formal suspension of rights. But their corrosion in practice has become overwhelming. We are living in an extra-legal, informal, emergency. During a formal emergency, a citizen can perhaps hope that things will go back to normal once it is lifted," says Prof Khaitan.”

"How do you even 'lift' an informal emergency, one that was never promulgated in the first place?"

As reported some months back that twitter had removed hashtags which were against MODI Governmnet and Facebook also removed many pages and tags which were against government of BJP, and later stated that it was removed by mistake. But it is clear that critics of Modi government posts were removed intentionally and government was funding and directing these companies for doing so to manintain their legacy and domination and it is clear violation of freedom of Speech and Expression.

(A) What are the justifications for limiting this freedom?

The state may impose legitimate limits on the freedom of speech and expression on a variety of reasons. These limitations are outlined in clause (2) of Article 19 of the Indian Constitution, which places limitations on free expression within the following headings:

1. Security of the State
2. Friendly relations with foreign States
3. Public order
4. Decency and Morality
5. Contempt of court
6. Defamation
7. Incitement to an offence, and
8. Sovereignty and integrity of India.

III. CONCLUSION

One of the fundamental freedoms guaranteed by the Indian Constitution is the right to express one's opinions through speech. In the modern world, however, the right to freedom of speech also includes the right to disseminate one's opinions in writing, through audio-visual media, or through any other form of communication. In addition, this right includes the freedom of the press, the right to knowledge, etc. Thus, it is clear from this text that the idea of freedom is crucial to the efficient operation of a democratic state.

The phrases "in the interest of public order" and "reasonable restrictions" from Article 19 of the Indian Constitution serve as reminders that the rights guaranteed in this section are not unqualified and that they may be subject to limitations in order to protect the safety of other citizens, preserve public order, and uphold morality.

But the Government should not curtail the freedom of speech and expression on media and citizens unnecessarily just for the sake of maintaining reputation of ruling party in the country. It becomes biased and violates many rights of citizens.
