

## NATIONAL SECURITY & FREEDOM OF PRESS

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### ABSTRACT

*Under the Indian Constitution, it is clearly mentioned under Article 19(1)(a) that every person has the right to freedom of speech and expression irrespective of their race, caste, colour, and sex, which includes the freedom of the press as well. Such freedom not only includes giving opinions or forming them but also gives the press the right to circulate them, and in such a scenario of circulation arises the problem of conflict with the government.*

*As it is the responsibility of the government to make sure that the security and integrity of the country don't get hampered by any type of hate speech or propaganda, in such cases and scenarios, the government, in the name of national security, imposes a ban on free speech, which includes media rights as well. In this paper, on what grounds the government imposes a ban, what are the rights of the media that they are misusing, and what is the role of the Indian judiciary, will be discussed in detail by the author.*

**Keywords-** *Conflict, Freedom, Government, Security, Speech and Opinions.*

## 1. INTRODUCTION

Since the media is regarded as the fourth pillar of democracy and is the means by which opinions are formed or generated, press freedom is crucial for a healthy democracy. However, when opinions go against the government or violate the restrictions outlined in Article 19(2), which include the security of the state and the sovereignty and integrity of the nation, conflicts with the government's interests arise and freedom as a means of free speech and expression are ultimately curtailed or abolished.

## 2. FREEDOM OF SPEECH: MEANING AND CONCEPT

The meaning of the term freedom of speech and expression has been mentioned in Article 19(1)(a)<sup>1</sup>, which says that every citizen has the right to express their views and opinions about a particular thing or issue by way of mouth, writing, etc. The term freedom of speech and expression has been brought up in Article 19(1)(a) because it is necessary for a healthy democracy to exist. In Article 19(4)(a), the freedom of speech and expression also includes not only the freedom of the citizens to give their opinions or views but also the freedom of the press, which was discussed in the case of *Romesh Thappar v. State of Madras*<sup>2</sup>, which includes the right to publish, the right to circulate, and the right to print and advertise. Though the article is not absolute, it has certain restrictions, which are mentioned in Article 19(2)<sup>3</sup>, among them the most important of which is the security and integrity of India.

## 3. NATIONAL SECURITY: MEANING AND CONCEPT

The concept of national security is very important for every nation, as it clearly mentions in Article 19(2) that opinions, views, or any kind of circulation of any news that hampers the security and integrity of India is to be curtailed and abrogated. The concept of national security

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<sup>1</sup> INDIA CONST. art 19(1)(a)

<sup>2</sup> *Romesh Thappar v. The State of Madras*, 1950 SCR 594

<sup>3</sup> INDIA CONST. art 19(2)

also says that it is the duty of the government as well as their right to make sure that the state and its citizens remain safe and protected.

The concept of national security can also be defined as the free will of the government to ensure that the country's integrity and security don't get hampered by any negative opinion or view. National security is also important to make sure that the country can grow and develop itself socially, politically, and economically.

#### 4. RIGHTS OF MEDIA IN INDIA

As discussed above, the media has no specific laws or acts that empower them by providing rights and immunities. Just like the ordinary citizen, the media and press have certain rights that they have gotten from Article 19(1)(a) of the Constitution, which include the following<sup>4</sup>:

- **Right to Publish & to circulate**- This is the main or most important right of the press. To form an opinion and give meaning to freedom of speech and expression, it is vital that every person can publish their views and circulate them.
- **Right to Information**- In the era of globalisation, it is very important that free speech and expression can be fully exercised only when the person receives or gets information from a source. If no information is given or received by a person, then the opinion won't be proper and justified.
- **Right to conduct interview**- The right to conduct an interview is also a right given to the press under Article 19(1)(a), where the press can interview a person only when the person is willing to give his interview or gives his consent to it. Such a direction has been issued by the Supreme Court in the case of Prabha Dutt vs. Union of India<sup>5</sup>.
- **Right to report court proceedings**- The right to report court proceedings is an essential right of the free press to make the judiciary accountable to the people. One must publish and circulate information regarding a particular case or proceedings.

<sup>4</sup> Saumya Krishnakumar , *Freedom of the Press*, 4 (2) INT'L J. L. MGMT. & HUMAN. (2021)

<sup>5</sup> Prabha Dutt vs. Union of India, [1982] 1 S.C.R 1184

- **Right to advertise-** This is also an important right given to the press under Article 19(1)(a) to make sure a healthy democracy can be established by the dissemination of information from one person to another. Advertising information lets the other individual know about a thing, a product, or any other kind of service.

## 5. MISUSE OF THE RIGHTS BY THE PRESS

As journalism is considered a low-paying job and the hurdles of a journalist are many, so many reporters in the majority of cases are fabricating and representing news and information that is actually not true by way of taking money from the influential. This is one kind of misuse of power by the media, as many viewers are getting biased and are not able to express their views genuinely. This has also resulted in the committing of crimes against journalists against the news and information they show, which hampers the reputation of a person as the media and press forget the rights and immunities that they have gotten from Article 19(1)(a), which are not absolute.

## 6. ROLE OF INDIAN JUDICIARY IN CASES OF NATIONAL SECURITY

Though the constitution of India under Article 19(1)(a) has given the media certain rights as a way of exercising freedom of speech and expression, it has also been mentioned in Article 19(2) that these rights and their exercise are not absolute in nature. In the Indian Penal Code, it has also been mentioned in Section 124A<sup>6</sup> that whoever, by words, either oral or written, gestures, or visible representation, brings or attempts to bring hatred against the government of India, then such person would be liable and would be given punishment for a term of three years and shall also be liable to a fine as well.

Not only in matters of national security but also the government can impose a ban on media when someone conspires, abets, or attempts to bring hatred against the government or wage war

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<sup>6</sup> Indian Penal Code, 1860, § 124A, No. 45, Acts of Parliament, 1860 (India)

against them. In such circumstances or situations, the government can curtail or abolish the rights of the media as well.

The court in the case of *State of Bihar v. Shailabala Devi*<sup>7</sup> (1952) has made it clear that any kind of gesture or visible representation that affects the state and causes internal disturbance can be restricted, and such restriction comes within the scope and purview of Article 19(2) of the Constitution of India.

In another case, *Sanskar Marathe v. The State of Maharashtra and Anr*<sup>8</sup> (2015), the court made it mandatory that any kind of gesture that causes public disorder or may cause violence or any kind of instigation or abetment of such a nature would be made punishable under Section 124A of the Indian Penal Code.

## 7. KEY SUGGESTIONS FOR MAINTAINING BALANCE

Although it is very important that freedom to express one's opinion results in the flow of information from one person to another, certain rights and immunities that the media have got from Constitution Article 19(1)(a) are not absolute in nature. So any kind of information or opinion that hampers the sovereignty and integrity of the nation should be abrogated, and such a prohibition comes well within Article 19(2) of the Constitution<sup>9</sup>. To maintain balance and hold the government accountable to the public, it should be done by the media by exercising the rights that they have under Article 19(1)(a), and it is also the right of the government to impose bans on such views or opinions that are derogatory to the integrity of the nation<sup>10</sup>. But in recent times, it has been seen that the government, in the name of national security, has used its powers arbitrarily, and the media has gone beyond their limitations in expressing their opinion. So here, it is necessary that a forum or authority exist that will act like a watchdog so that no one can encroach upon the authority of the other and can act well within their limitations.

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<sup>7</sup> *The State of Bihar v. Shailabala Devi*, 1952 SCR 654

<sup>8</sup> *Sanskar Marathe v. The State of Maharashtra and Anr*, 2015 Cri LJ 3561

<sup>9</sup> RHEA ABRAHAM, *MEDIA AND NATIONAL SECURITY* (KW Publishers 2012)

<sup>10</sup> *Id.*

## 8. CONCLUSION

For the maintenance of a healthy democracy, it is very important that the media be given such rights so that when the government or any authority exceeds their powers and misuses them, they can make such authority responsible and accountable to the people. It is also to be kept in mind that while the media have rights, they also have some duties, which are prescribed and stated in Article 19(2) of the Constitution. Freedom of speech and expression should never be against the integrity of the nation, and for such, it is necessary that a balance be maintained. Such a balance can only be maintained when there are more awareness programmes on this issue and a forum for monitoring the powers and limitations of the media and the government.

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