
**FOR THE REAL TRUTH, FREEDOM OF SPEECH AND EXPRESSION:
ANALYSIS OF PRESS IN INDIA**

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ABSTRACT

The truth is a thousand times nobler than a lie. The world is vast and in this vast world, we rely on reporters and news to seek the truth. The truth that the news spreads is believed far and wide by the citizens. This makes the press an imperative asset to have and the Right to Information Act 2005 gives another arrow to the quiver of the press.

The term information has been derived from the Latin words formation and forma meaning giving shape to something and forming a pattern respectively. Information is required by every person to remain aware and realize their full social, political and economic potential. It is the key which helps make decisions. It is a public resource collected and stored by the government in trust for people¹.

No law shall be passed restraining the free expression of opinion or restricting the right to speak, write or print freely on any subject whatever.

-Oregon Constitution, Article I, section 8

The media and press in India enjoy a great deal of freedom and when it is under danger, the response is vociferous. Nevertheless, there is the need to maintain a balance between free expression and other community and individual rights; this responsibility shouldn't be borne by the Judicial Body alone, but by all those individuals who are privileged such right.

With this arises the confusion in regards to the classification of the news media. Is it a 'business' in the ambit of Article 19(1)(g) of Constitution of India, or is it an activity which satisfies the conditions for the protection under Article 19(1)(a) of the Indian Constitution

¹ Right to Information Act –A Brief History legalserviceindia.com

which states about the right to freedom of Speech and Expression? This question is very critical in the present era for determining of the standards which are required or even applicable to conduct of many news providing outlets in India.

India, which is one of the largest democracies of the world, also considers the right to express opinion freely as one of the main essentials. Intellectuals had stated long ago that it is the gateway to all the other liberties, postulating that curtailment of free expression inevitably leads to restrictions on other rights such as the right to be informed.

Historical Background of Right to Speech and Expression of Press

1. Before the dawn of the Constitution of India, there had been no statutory status of the freedom of speech or the liberty of the press. The regulations required newspapers to print the names of the printers, publishers and editors of the newspapers and to submit all material published therein for pre-censorship by the secretary of the government of India. Further, in during the British Rule, only the first Indian newspaper was by Shri Gangadhar Bhattacharjee was published in 1816 and later in 1820 by Raja Ram Mohan Rai, known as the fore founder of Indian Journalism, who published the first Indian magazine named 'Brahmanical Magazine' and in the same year started the publishing of Indian language newspapers in Bengali and Persian.
2. Further, there had been many eminent personalities who brought upon remarkable reforms in the history of the Indian Journalism and freedom of press and journalism. Later, in 1935 under the British India ordinances and regulations were replaced by a proper and specific statute named as the Press Act 1935 popularly known as the Metalife's Act, which only required the printer and publisher of every newspaper to declare the location of the premises of its publication.
3. So, after the independence, the Indian press (both vernacular and English Language) played a major role in National Awakening and mobilizing public opinion and fighting for the freedom of India. In independent India, Freedom of speech and expression (Article 19) under which Freedom of Press is implicit, is vital to ensure Rule of Law and Liberty of the Citizens. Press in India after Independence found itself in an unfamiliar situation since its role as crusader or agitator had somewhat withered away.

4. The press and its rights observed development in March 1947, for the first time post-independence, where a Press enquiry committee was established to analyze the various existing laws and regulations and to modulate them by the Fundamental Rights proposed by the Constituent Assembly.
5. The Constitution of India since its enforcement has granted the Right to Freedom of Speech and Expression covering the Freedom of Press, which has amplified with the rise of various advancements in the technological sector not only in India but also globally.
6. The media has risen from the shackles of pre-censorship. Today the media has the freedom to publish, report and circulate any case as long as it is not against the public welfare.

WHAT DO PRECEDENTS SAY?

1. In *Indian Express Newspapers v/s Union of India*², it was understood that the press plays an extremely significant role in the democratic machinery. The courts have to uphold the freedom of the press and annul all laws and administrative actions that curtail that freedom. Freedom of the press has three essential elements. They are:
 2. Freedom to access all sources of information,
 3. Freedom of publication, and
 4. Freedom of circulation.
5. The Honourable Supreme Court observed in the *union of India v/s Association for Democratic Reforms*³, “One-sided information, disinformation, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a

² (1985)1SCC 641

³ (2002) 5 SCR 294

farce. Freedom of speech and expression incorporates right to impart and receive information which contains freedom to hold opinions”.

6. In *Romesh Thaper vs State of Madras*⁴ and *Brij Bhushan vs State of Delhi*⁵, the Supreme Court granted the fact that the freedom of the press was an essential of the right to freedom of speech and expression. It was witnessed by Patanjali Sastri J. in *Romesh Thaper* that propagation of ideas is included in freedom of speech and expression, and that freedom is ensured by the freedom of circulation.
7. Even though there are certain limitations yet the press plays an essential role in the dissemination of trustworthy news to the citizens. The freedom of the press allows for concrete proof for the basis of a report.

THE SILENCE OF KASHMIR

1. On 5 August 2019, the Government of India revoked the special status, or limited autonomy, granted to Jammu and Kashmir under Article 370 of the Constitution of India. The state of Jammu and Kashmir was also divided into two union territories - Ladakh and Jammu and Kashmir.
2. The order annulling article 370 brought in its wake a social media chaos. The means of communication out of Jammu and Kashmir became strained and even media reporters had a hard time unveiling the situation on the field and report them.
3. Kashmir had [witnessed](#) internet shutdowns 180 times since 2012, and 54 times before the current ban in 2019 itself. This time, though, broadband was also cut off along with landlines and cable.
4. The [Editor-in-chief of Kashmir Times](#), Anuradha Bhasin said that even after a month of annulling provisions of Article 370, journalists in the Valley were "not allowed to move freely".

⁴ A.I.R. 1950 SC 124

⁵ A.I.R. 1950 SC 129; 1950 SCR 605

5. She travelled to many parts in the Valley and according to her, media cannot work due to "communication restrictions".
6. Amidst restrictions and numerous government controls, the [media](#) has boldly tried to report the situation on the ground along with the serious and long-term implications of the communications blockade on health, education, trade and the economy.
7. In contrast, however, there is a deadly silence and invisibility of voices from Kashmir expressing alienation, anger and disillusionment at the unforeseeable situation. The government's control over communication processes is undemocratic and harmful, as it weakens those who speak the truth and seek answers.

Freedom of Press in 2020 under Freedom of Speech and Expression

1. So with the fast evolution of the media and technology, the meaning of freedom of the press under the circle of the freedom of speech and expression has widened and different aspects have been added to the category of freedom of speech and expression.
2. In the 20th century, different means of socializing have emerged and the press may it be news channels or the newspaper publishers have also digitalized the reach.
3. But with this widened scope of the press the associated rights under Article 19 of the Indian Constitution has also been upgraded, since the Constitution of India is framed in such a manner that it is flexible enough to stay in step with the dynamic society. As per the Constitution the freedom of the press isn't referenced in article 19(1) (a) and what is referenced is just the ability to speak freely and articulation. While media has the freedom of the press it is still bound by valid restrictions under the Constitution of India.
4. In the Constituent Assembly Debates, it was made clear by the Chairman of the Drafting Committee, Dr. Ambedkar, that no special mention of the freedom of the press was required since the press and an individual or a citizen were identical as far as their right of expression was concerned.

5. The framers of the Indian Constitution considered freedom of the press as an essential part of the freedom of speech and expression as guaranteed in Article 19 (1) (a) of the Constitution.

ANALYSIS

1. One should be careful about the weight their word carries. Press has the freedom to report to almost every issue around the world but the line is drawn when that report extends to treason, sedition and defamation. The press is employed to report the truth and only the truth to the public. When the press publishes speculation as evidence it loses its principle. The press is duty-bound to report the truth based on facts and not to mislead the public.
2. “*Freedom of speech is not a license to abuse, it is a responsibility*”. A great statement which speaks a greater message to the news agencies of the 21st century. Today the news is not something which is there for providing information or for creating awareness rather all these news and information being circulated by the news sources are for commercial gain or to raise the Television Rating Points (TRP). The news which is circulated or is televised is mostly just to defame an individual or news are just there to create the criticism for a community which in turn defeats the whole purpose of the freedom of the press as they, in turn, are the major reason behind communal violence in the country.
3. The concept of media trial is interfering with a fair trial since the reports convict a person before the court can. And this creates belief in the minds of the viewers about the guilty that cannot be challenged. As witnessed within the past few months within the case of Sushant Singh Rajput, there has been unproved speculations daily and with the relation to drugs found in the case, the information channels have changed their focus to the narcotics or the drug connection within Bollywood industries. Broadcasting news which is not confirmed and reporting basic speculation tampers the public opinion towards the particular person or industry. Not only has the coverage of this issue been excessive and repetitive but also it has given a frightening

amount of information about the world of drugs and narcotics to the youth who are very impressionable.

4. Parents always encourage their children to watch the news but nowadays they are hesitating to let their children watch news that is creating such a negative impact on the society and preaching that only news that people will tale about is relevant news. Only a handful of media channels have shifted focus and reported the other trials of the country with the same veracity of the Rhea Chakraborty case.
5. People rely on the media to understand the happenings around the world, but if the media itself would work only for their profit and viewership then who can the public rely on?
6. The whole struggle of the past was to give the truth a voice and that fight is still on today, except only a few of the soldiers are on the right side. A paper, channel or report that seeks, to tell the truth, shall always find the freedom to do so but anyone who seeks to create a mockery of the truth shall be condemned and for the law shall be purgatory.
7. From a philosophical point of view, as a kite flyer controls the kite and gives the freedom to kite to soar high however, such freedom with no control prompts the misappropriation of such an opportunity. Accordingly, the news offices ought to as soar with the opportunity as being freely provided by law but still stick to the requirements of the society while bearing in mind why the people trust them the most.
8. It can be appreciated that the right to freedom of speech and expression carries with it the right to publish and distribute one's ideas, opinions and other views with complete freedom and by complying to all available means of publication. The right to freedom of the press incorporates the right to broadcast ideas and views and to publish them. Nonetheless, the freedom of the press is not absolute, just as the freedom of expression is not. Public Interest has to be safeguarded by article 19(1)(2) which lays

down reasonable limitations to the freedom of expression in matters affecting⁶:Sovereignty and integrity of the State

- a. Security of the State
 - b. Friendly relations with foreign countries
 - c. Public order
 - d. Decency and morality
 - e. Contempt of court
 - f. Defamation
 - g. Incitement to an offence
9. Since the press is constituted for the people Public Interest must remain the core of reporting.
10. After this reading, it can be realised that though freedom of speech and Right to information is quintessential to a journalist, it is their own will that makes their reports credible. News becomes worthy when it is well researched, thoroughly investigated and supported by facts. In some aspects a news report is like a banana, only after peeling through speculations and doubts can you reach the truth. And therefore, a reporter must always aim for this core since millions of eyes are on them, hungry for the truth.

⁶ Freedom of Press- Article 19(1)(A)