

THE FREEDOM OF PRESS: AN ANALYTICAL STUDY

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Abstract

Free press in India is yet again in news again for the reason that the World Press Freedom Index puts India at rank 159 out of 180 countries. For a democracy the situation seems gloom if not alarming. Although many have questioned the rankings, the question remains how free is the Indian press? Indian constitution safeguards the free of press under its Article 19(1) although this is subject to certain reasonable constraints that can be imposed under the following clause. While the regulatory bodies viz., Press Council of India, Ministry of Information and Broadcasting and News Broadcasters Association exercise control over the press, the Editor's Guild and the judiciary have upheld the right of press to be free from external influences including those from the government. The press is suffering from the fear of consequences if truth is reported. It is targeted on the pretext of hate speeches and whistle blower reporters and journalists are harassed. There is a need to rethink on measures to restore the freedom of the Indian press.

The main objectives of this paper are to know the development of legal control on the press, understand the reasonable restricts that can be put on this freedom, know the court's attitude viz-a-viz press freedom and analyze the lacunas in relevant laws so framed. The doctrinal method of study has been adopted.

Keywords: Freedom of Press, Laws, Legal Mechanism, Challenges

INTRODUCTION

Both democracy and democratic governance, as well as the democratic process, depend on freedom of speech. It is believed that the prerequisite for liberty is the freedom of speech and expression. In terms of liberties, it has a favored stance that supports and safeguards all other liberties. Indeed, it has been stated that it is the exception to all other freedoms.¹

The primary responsibility of the press is to present objective information on all subjects related to the social, political, and economic spheres of life. The press has also been given the same freedom, which is safeguarded by the "right of freedom of speech and expression," in order to achieve the main objectives. Through several international organizations and conventions, press freedom is recognized not only in our country but also throughout the world. This right was unanimously recognized by the UN General Assembly on December 10, 1948. The fundamental principles of the Universal Declaration of Human Rights are found in Article 19.²

Although it is not expressly stated in the Indian Constitution or any other legislative

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¹MPJain, *Indian Constitutional Law*, 986(Eastern Book Company, Delhi, 2008).

² Universal Declaration of Human Rights, 1948, Article 19 reads: "Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

document, the freedom of the press is implied or implicit in the right of speech and expression guaranteed by Article 19 (1) (a) of the Constitution.

FREEDOM OF PRESS

A democratic society requires a free press. The press has achieved its current status after a protracted fight for independence. It was liberated from governmental authority thanks to a number of democratic movements. The most arduously fought-for right is the freedom of the press. "Freedom to hold opinion, to receive and impart information through the printed words without any interference from public authority" is the simplest definition of press freedom that the First Press Commission of India aimed to provide.³

The following are some insights into the idea of press freedom provided by the Indian Press Council's ruling in the following case:

"The freedom to express ideas, opinions, and information through printed materials and published for circulation is commonly understood to be the freedom from interference, pressure, restraint, or compulsions from any source, whether governmental or social."⁴

The Press Council is more in favor of giving the press greater freedom from social pressure as well as from governmental regulation. According to this perspective, the press has somewhat more unique status than an individual. According to the majority of definitions provided by various jurists and commissions, press freedom is the cornerstone of a developing and robust democratic society. They all agree that there should be no prior restrictions or press control. Therefore, the lack of prior restrictions and censorship can be referred to as free press.

SIGNIFICANCE

The press, the fourth pillar of democracy, plays a crucial role in enacting social change. In democracies, the press is considered the mother of all freedoms and is a potent instrument that the public uses to hold its elected officials accountable. Individual freedom is protected in part by the press. Thus, it is necessary to safeguard not just journalistic freedom but also the people who are connected to it.⁵

PRESENT DIMENSIONS

With accusations of increasing bureaucratic meddling, journalist killings, and political and economic pressures, free press has been a major problem in the biggest democracy in recent years. Notably, India has been placed over 100 since 2003, which suggests that press freedom in our nation has been subpar.⁶ In 2006 and 2009, the highest ranking of 105 was attained.⁷ According to the 2014 World Press Freedom Index, India ranked 140th out of

³ TheReportofFirstPressCommission358(1954)

⁴ K.K. Birlav. *Press Council of India & Ors*, ILR1976Delhi

⁵ Rahesha Sehgal and Udit Malik, "Press Freedom In India: A Legal Study" *4International Journal of Advance Research and Innovative Ideas in Education* 213 (2018)

⁶ Available at <https://www.thehindu.com/data/india-press-freedom-has-rapidly-declined-in-recent-years-data/article68160411.ece> visited on 2 April 2025

⁷ Available at <https://www.thehindu.com/data/india-press-freedom-has-rapidly-declined-in-recent-years-data/article68160411.ece> visited on 2 April 2025

180 nations.⁸ India's press freedom score in 2024 was 159 out of 180.⁹

Nearly half of the 27 journalists killed between 1992 and 2016 were looking into environmental pollution issues, according to the Committee to Protect Journalists, an independent nonprofit organization that promotes press freedom throughout the world. It also noted that the main causes of offenders escaping punishment were politics and corruption.¹⁰

There have been claims that media outlets and journalists are under government pressure. Sometimes, licenses are revoked, or financial pressure is applied through advertising. In India, journalists also deal with legal challenges. They handle arrests under the Information Technology Act and other legislation, defamation cases, and sedition allegations. Journalists may find it more challenging to function freely as a result of these legal barriers. Media ownership is very concentrated in India. Digital and social media now play a significant role in Indian media. They provide fresh viewpoints, but they also bring challenges like inaccurate information and regulatory issues. Journalists face challenges because they must cope with threats, harassment, and assault in the course of their work.¹¹

The freedom of press has been curtailed due to the following:

- a) Sedition and other criminal laws are being increasingly used against the journalists to tame them.
- b) The journalists also face the threat of harassment by judicial delays. A study of 624 incidents from 2012 to 2022 showed over 65% of cases remained open, highlighting the use of judicial delays as harassment.¹²
- c) Arrest followed by prolonged detention upto two years has deterred the journalists to work fearlessly.
- d) The business house use defamation cases as a tool to silence the press and media alike.
- e) Journalist have suffered physical violence and online harassment. But the wrong doers have not been punished. Mukesh Chandrakar's case is one such example.
- f) Takeover of independent media houses by capitalists has affected the editorial diversity in adverse manner.
- g) Advertising budgets have been used as a control to reward compliant media houses by various governments.
- h) Media Policy 2020 gives wide administrative powers with potential of misuse.

CONSTITUTIONAL PROVISIONS

The Preamble of the Indian Constitution guarantees "liberty of thought, expression, belief, faith, and worship" to all Indian people. One of the essential rights and its Preamble

⁸ Available at https://rsf.org/sites/default/files/index2014_en.pdf visited on 2 April 2025

⁹ Available at <https://www.statista.com/statistics/1364514/india-press-freedom-ranking/#:~:text=Following%20a%20declining%20trend%20that,Reporters%20Without%20Borders%20in%202024> visited on 2 April 2025

¹⁰ Available at <https://gijn.org/stories/cpj-impunity-lack-of-solidarity-expose-indian-journalists-to-attack/> visited on 2 April 2025

¹¹ Available at <https://theamikusqriae.com/in-depth-examination-of-press-freedom-in-india/> visited on 2 April 2025

¹² <https://www.google.com/search?q=post+2020+issues+in+freedom+of+press&eq=post+2020+issues+in+freedom+of+press&aqs=chrome..69i57j33i160l2j33i67l1l2.10223j0j15&sourceid=chrome&ie=UTF-8> visited on 8.2.2026

emphasize the importance of "freedom of speech and expression. "Any visual expression, such as gestures, songs, and the like, should be allowed to openly communicate one's beliefs, feelings, and ideas. It refers to expressing what a free citizen wants the general public to believe.¹³

Although it isn't stated explicitly, "freedom of speech and expression" encompasses "freedom of press," which has been upheld in a number of Supreme Court rulings.¹⁴ Article 19 (1)(a) of the Indian Constitution guarantees citizens the right to "freedom of speech and expression." This adaptability goes beyond just using words. It also includes the freedom to share information and ideas in written or printed form. Therefore, it is evident that press freedom is covered by "freedom of expression" and Article 19(1)(a).

A impartial channel of communication between citizens and their elected officials is only one aspect of press freedom. A constitutional or legal guarantee of press and individual freedoms did not exist in India before to independence. The press was granted several common law liberties at the highest possible level, as the Private Council noted: Although the journalist may go as far as the subject generally, away from statute law, his privilege is neither bigger nor different. The journalist's freedom is a normal component of the subject's freedom. His assertions, criticisms, and observations are as comprehensive as or more so than those on any other subject.¹⁵

In contrast to the American Constitution, press freedom is neither expressly or individually guaranteed by Article 19(1). Dr. B.R. Ambedkar defended the omission by pointing out that there are no special rights for the press that cannot be conferred or used by any single citizen. Since the management or editor is only using their right to free expression, there is no need to specifically address press freedom. Press freedom is now a component of the right to freedom of speech and expression, as stated in Article 19(1)(a) of the legislation. The primary goal of ensuring press freedom is to create a Fourth State independent of the state, which serves as an additional check on the legislative, executive, and judicial departments of government.¹⁶ Regarding the freedom to hold beliefs without interference, the Supreme Court has adopted a similar stance. According to the Court, a people that is stupid due to misinformation, disinformation, biased information, and non-knowledge makes democracy absurd. The right to transmit and receive information, as well as the freedom to voice one's thoughts, are all included in the freedom of speech and expression.¹⁷

The freedom of speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution implies press freedom even if it is not expressly mentioned in the Indian Constitution or any other legal document. Every person has the right to freedom of speech and expression under Article 19(1)(a). However, Article 19(2) imposes reasonable limitations on the expression of this freedom for specific objectives. The First Amendment of the US Constitution, which forbids Congress from passing legislation that restricts the

¹³*Lovell v. City of Griffin*, (1937) 303 US 444.

¹⁴*Sakal Papers (P) Ltd. v. Union of India*, AIR 1962, SC 305; *Bennett Coleman & Co. & Ors v. Union of India* AIR 1973, SCR (2) 757; *Printers (Mysore) Ltd. v. Assistant Commercial Tax Officer*, AIR 1994, 2 SCC

434; *Indian Express Newspapers (Bombay) Private Ltd. v. Union of India & Ors.* 1985(2) SCR 287

¹⁵*Channing Arnold v. King Emperor* AIR 1914 PC 116.

¹⁶*New York Times Co. v. Sullivan*, 376 US 255 (1964).

¹⁷*Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294.

freedom of the press or of expression, is reflected in Article 19(1)(a).¹⁸

The United States Constitution was the first well-known example of a written constitution. It established a novel pattern and is widely praised as a remarkable document due to its conciseness, restraint, and simplicity.¹⁹ The US Constitution's provisions are notable for two reasons: (i) press freedom is mentioned explicitly, and (ii) there are no limitations on the rights to free expression. But according to the Indian Supreme Court, there isn't a distinct provision protecting journalistic freedom. While freedom of expression is a genus, freedom of the press is a species. Therefore, unique limits that would not apply to any individual cannot be placed on the press,²⁰ You cannot assert any privileges that are different from those of any other citizen unless expressly granted by law. There are three fundamental components to press freedom. They are:

- a. The ability to access all information sources, including one's own thoughts, convictions, perspectives, and beliefs
- b. taken from someone else or printed at their request,²¹
- c. the right to publish, and
- d. freedom of movement.

ARTICLE 19 (1)(A) FOR BIDS STATE MONOPOLY

By ruling that the government did not have a monopoly on electronic media, the Supreme Court marked a significant shift. According to Article 19(1)(a), everyone has the freedom to use electronic media, such as radio and television, to broadcast any noteworthy occurrence to viewers and listeners. A monopoly on broadcasting by the government or any other body has been found to infringe the right to free expression. For the straightforward reason that, in contrast to Clause (6) of Article 19 regarding the right protected by Article 19(1)(g), Article 19(2) did not permit State monopoly, no monopoly of this media could be contemplated. In order to free Doordarshan and Akashvani from governmental control and to ensure that citizens could effectively and meaningfully exercise their right to free speech, the Court ordered the Central Government to act immediately to establish an independent public authority to regulate the use of airwaves.

LAWS AND LEGAL MECHANISMS

The history of the independence movement is intertwined with the history of press laws. In order to impose its stringent restrictions on journalistic freedom, the British government drafted laws. To control the press, the British government introduced the Press and Registration of Books Act in 1867. It enabled the registration of presses and newspapers and made the safe storage of books and other printed materials imperative. The purpose of the Official Secrets Act of 1923 was to stop sabotage and the release of confidential information. Section 4 of the Indian Press (Emergency) Powers Act 1931 gave executive authority to demand that the press deposit a security deposit, which the government might lose upon publishing the material.

¹⁸Supra note 1

¹⁹M.V.Pylee, *Select Constitutions of the World* 8 (Lexis Nexis, Delhi, 2002)

²⁰*Sakal Papers (P) Ltd. v. Union of India*, AIR 1962 SC 305

²¹*M.S.M. Sharma v. Sri Krishna Sinha*, AIR 1959 SC 395.

The Press (Objectionable Matter) Act of 1951 was a two-year-long temporary law. This Act required a court of session to carry out a judicial investigation prior to a security amount being requested from the press or forfeited to the government. If the individual from whom the security was requested was unhappy with the Session Judge's ruling, he could file an appeal with the supreme court.

News is regulated and filtered under the 2023 Telecommunications Act and the 2023 Digital Personal Data Protection Act.

PRESS, RIGHTS AND JUDICIAL PRONOUNCEMENTS

a. No Pre-censorship on Press

"Liberty of the press" has been defined by Lord Mansfield as "printing without prior license subject to the consequences of law." Freedom of the press is the capacity to print and publish anything one wishes without previous authorization. Therefore, unless Article 19(2) justifies it, pre-censorship of publications is against press freedom. The rights protected by Article 19(1) (a) are violated when a publication is censored. The Apex Court first examined the legitimacy of censorship in the *Brij Bhushan*²² case. Images and cartoons that are not derived from official sources or supplied by news organizations are included in all community issues, news, and opinions regarding Pakistan.

In one instance, the editor, printer, publisher, and petitioner of "the Organiser," an English weekly published from Delhi, were ordered by the Chief Commissioner of Delhi to submit for review before to publication until further directives.²³ Press freedom is restricted when pre-censorship of periodicals is enforced, the Court said, overturning the decree. This is a crucial component of the freedom of speech and expression guaranteed by Article 19 (1) (a).

b. No Pre-stoppage of Publication on the Matter of Public Importance

In *The S. C.* held in the case of *Virendra v. State of Punjab*²⁴ that prohibiting its own reporters' thoughts on the day's hot issue from being published in newspapers was a grave violation of the highly valued and cherished right to freedom of speech and expression. Similar to this, the Supreme Court ruled in the *Reliance Petrochemicals* case that a pre-publication limitation could only be permitted in the interest of justice where the administration of impartial justice was clearly and immediately in jeopardy, even in cases when a court order was in place.

Similarly, the Supreme Court ruled that neither the government nor authorities may stop a piece of content from being released because it would be derogatory to them.²⁵ The freedom of the press protected by Article 19(1)(a) has ruled include the right to publicize a convicted prisoner's life story inasmuch as it appears from public documents, even without his knowledge or authority. No prior restrictions can be placed on such a publication.²⁶

²²*Brij Bhushan v. State of Delhi*, AIR 1950 SC 129.

²³The East Punjab Public Safety Act, 1949 Section 7(1)(c) reads: "The Provincial Government or any authority authorised by it in this behalf is satisfied that such actions necessary for the purpose of preventing or combating any activity prejudicial to the public safety or the maintenance of public order, may, by order in writing addressed to a printer, publisher or editor"

²⁴AIR 1957 SC 896.

²⁵*R. Rajagopal v. State of Tamil Nadu*, AIR 1995 SC 264.

²⁶*Khushwant Singh v. Maneka Gandhi*, AIR 2002 Del 58

c. Right to Access to the Source of Information

In *M. Hasanv. Government of Andhra Pradesh*²⁷, the Andhra Pradesh High Court held that the denial of people's fundamental right to freedom of speech and expression under Article 19 (1) (a) was equivalent to denying videographers the opportunity to interview condemned prisoners. In terms of exercising fundamental rights, the court ruled that a convicted prisoner had the same status as a free person. He had the right to voice his thoughts and to be interviewed or shown on television. When conducting an interview, the press must first ascertain the subject's willingness.

However, the Bombay High Court ruled in *Saroj Iyer v. Maharashtra M.C.I.*²⁸ that neither the right to interview inmates nor the right to unlimited access to information is absolute, as stated in Article 19(1)(a). A journalist has the right to accurately report the court proceedings they have heard and seen, as stated in Article 19 (1)(a). However, in some situations, like rape, excessive publicity could lead to a miscarriage of justice. The Supreme Court of Maharashtra has noted that public agitation, electronic media, and the press were the exact opposite of the rule of law. This was noted in *State of Maharashtra v. Rajendra Jawanma lGandhi*,²⁹

d. Freedom of Circulation

The "freedom of circulation" protects the freedom of speech and expression, which includes the freedom to spread someone's beliefs. The general public benefits from freedom of expression and the press just as much as the press does. Since the population has a right to information and the government has a responsibility to educate the populace within the constraints of its resources, it is the duty of the government to ensure that newspapers are circulated.³⁰

According to Section 9(1-A) of the Madras Maintenance of Public Order Act, 1949, the Provincial Government of the State of Madras issued an order in the *Romesh Thapar vs State of Madras*³¹ case that forbade the printing and distribution of the petitioner's weekly newspaper "Cross Roads" in Bombay. Because the Order infringed upon the freedom protected by Article 19(1)(a), the majority of the S.C. of India declared it to be unlawful. The freedom of circulation is equally fundamental to that right as the freedom of publication, according to the following sentence from the two decisions of the U.S. S.C. of India, which court noted with approval. In actuality, without distribution, the magazine would have no value.

Press freedom would be infringed not only when the distribution of a publication is completely forbidden, as *Romesh Thapar's* case was, but also when a government action has a detrimental effect on the dissemination of the publication.

²⁷AIR1998A.P. 35.

²⁸ AIR2002Bom.97.

²⁹ AIR1997SC3986.

³⁰ P.M.Bakshi, *The Constitution of India* 39 (Lexis Nexis, Delhi, 2007)

³¹AIR1950SC124

e. Freedom in the Volume of Circulation

In the *Sakal Papers case*¹, the Supreme Court ruled that the right to regulate the spread of information protected by Article 19(1)(a) applied not only to the content he was allowed to circulate but also to the volume of circulation.

In this case, the Central Government has the power to regulate newspaper prices based on page and size, as well as the allocation of advertising space, thanks to the Newspapers (Price and Page) Act, 1956. According to this provision, the central government published the Daily Newspapers (Price and Page) Order, 1960, which placed a cap on the number of pages a daily may publish based on the price it charged. A minimum price and the number of pages a newspaper might publish were set by the ruling. The petitioners had to increase the cost of their publication if they wished to add extra pages. Such a price rise would result in a decrease in circulation. However, in order to reduce the cost, the petitioners had to reduce the number of pages. As a result, the column would have less space for news, thoughts, or opinions.

Because the Order called for either a price rise or a reduction in the present number of pages, it was opposed as a violation of press freedom. In either case, press freedom would be flagrantly violated and newspaper circulation would decline. As a result, the Order served as a double-edged sword. By restricting column space, which led to a decrease in the number of pages, it reduced circulation by raising the price of publications or the spread of news, ideas, and knowledge. Because the contested Act and the Order imposed restrictions on the volume of circulation, the Supreme Court overturned the Order and declared it to be ineffective.

Once more, in *Bennett-Coleman*² the Supreme Court held that the number and quantity of news and ideas that are shared are both protected under the right to free speech and expression. Citing the Newsprint Policy as a breach of Article 19(1)(a), the Court decided that the newspapers should be permitted to select their pages, circulation, and new edition within their fairly defined quota.

f. No Excessive Taxes

The S.C. India stressed in *Indian Express Newspapers (Bombay) Pvt. Ltd v. Union of India* that the government should exercise greater caution while taxing issues pertaining to the newspaper industry than when taxing other issues. The petitioners in this case, who were editors, printers, and publishers of periodicals, newspapers, magazines, and other publications, disputed the legality of imposing import duties on newsprint under the Customs Tariff Act of 1975 and auxiliary duties on newsprint under the Finance Act of 1981.

The newspaper industry was found to be subject to taxes by the Supreme Court. However, the Court ought to look into how the taxing authority is being used. A tax akin to the customs duty on newsprint, the Court ruled, would effectively penalize a man for being literate and conscious of his civic duty to educate himself about the world.

¹*Sakal Papers(P)Ltd.v. UnionofIndia*AIR1962SC305.

²*Bennett Colemanand Co.v.Union of India* AIR 1973SC106.

g. No Indirect Attack on Press

The S.C. of India stipulated in the Bennett Coleman case that the disputed conduct must directly and immediately affect the freedom of speech and expression protected by Article 19(1)(a). Because the notice of re-entry following the lease forfeiture and the threatened demolition of the Express Buildings was intended to silence the Indian Express, the Supreme Court used this test to rule in *Express Newspapers Pvt. Ltd. v. Union of India* that it violated Article 19(1)(a) read with Article 14 of the Constitution.

In this case, under a lease agreement, the petitioner received land lots to develop its press facility. The new Express Building was constructed in violation of Municipal Corporation statutes, according to the Lieutenant Governor of Delhi's notification for re-entry and demolition. In this instance, there was sufficient evidence to draw the conclusion that the contested notifications lacked thought and were arbitrary. As a result, they were judged to be against Articles 14 and 19(1)(a).

It has been determined that the government's practice of distributing ads in a manner that discriminated against particular periodicals was against the freedom of the press and the equality clause in Article 14. A functioning democracy depends on the growth of a healthy populace, which is impacted by such policies.³

h. Freedom of Employment

Any restriction on the choice of employment in a newspaper's editorial staff may jeopardize the press's independence because freedom of the press encompasses the freedom to employ or not employ the required means of executing the right. The legitimacy of the Working Journalists Act, 1955 was contested in the case of *Express Newspapers (P) Ltd. v. Union of India*⁴. In order to regulate the terms of employment for individuals employed in the newspaper industry, including gratuity payments, work hours, leave, wage fixing, etc., the Working Journalists Act of 1955 was passed.

The S.C. of India maintained the Act's legality, pointing out that ordinary or general taxation and labor relations laws did not exclude the press. Because the challenged Act was established to enhance the working conditions of employees in the newspaper industry, the Court determined that it imposed reasonable restrictions on the freedom guaranteed by Article 19(1)(a).

Based on legal principles established in the *Express Newspapers* case, the S.C. of India ruled in *Express Newspapers (P) Ltd. v. Union of India*⁵ that classifying newspapers establishments on an all-India basis for the purpose of setting salaries was not illegal and did not violate Articles 19(1)(a) and 19(1)(g). The Constitution (Sixth Amendment) Act of 1957 introduced Entry 92-A to List I and changed Entry 54 in List II to be subject to the conditions of Entry 91-A of List I. The definition of "goods" under Sec. 2(d) of the Central Sales Tax Act of 1956 was also changed to reflect the

³*Sushil Choudhury v. State of Tripura*, AIR 1998 Gau 28.

⁴ AIR 1958 SC 578.

⁵ AIR 1995 SC 965. In this case the working journalists and other Newspaper Employees (Conditions Of Service) and Miscellaneous Provision Act, 1955 and amended by the Act of 1989, Classified different units of a newspaper establishment which had branches all over India, could be clubbed together for the purpose of fixation of wages on all-India basis.

previously indicated change. These changes were made in order to prevent sales taxes from being applied on newspaper purchases.

Manufacturers of goods are entitled to a 4 percent reduction on the acquisition of their raw materials under Section 8(3)(b) read with Section 8(1)(b) of the Central Sales Tax Act, 1956. Following the 1956 change, the Central Sales Tax authorities levied a higher rate of 10 percent on raw materials used to produce newspapers, arguing that newspaper printers and publishers were not entitled to the benefits of Section 8(3)(b) read with Section 8(1)(b).

Before the Supreme Court, the newspaper publishers contested the tax authorities' actions. The court determined that newspapers could not be excluded from the scope of Section 8(3) (b) by using the word "goods." According to the court, the aforementioned revisions were meant to relieve the burden that was already there in the newspapers, not to add to it. Newspaper publishers were consequently eligible to the concessional sales tax rates on the raw materials used to produce the newspapers.⁶

i. Commercial Advertisement Included

In the *Hamdard Dawkhana*⁷ case, it was determined that commercial ads did not qualify as free speech or expression. In this case, the Drugs and Magic Remedies (Objectionable advertising) Act, 1954, was passed in an attempt to prevent self-medication and self-treatment by prohibiting the publishing of advertisements for drugs that have magical characteristics for treating ailments. Based on their gross revenue, the newspapers are divided into eleven classes. The Act also made it possible for the better classes to advance. The act was contested on the grounds that it violated the freedom of speech and expression granted by Article 19(1) (a).

The Act's legitimacy was maintained by the S.C. of India, which decided that it concerned business and trade rather than infringement on the right to free speech. The Act's provision, which were in public interest and placed reasonable restrictions on the petitioner's business and operations, were upheld by Article 19(6). However, the S.C. of India ruled in the *Hamdard Dewarkhana* Case that no commercial advertisement could be excluded from the protection of Article 19(1) (a) only because it was published by a businessman.⁸

The S.C. of India in *TATA Press Ltd. v. Mahanagar Telephone Nigam Ltd*⁹. explained the impact of reading the cases of *Hamdard Dewakhana* and *Indian Express Newspapers* together. It concluded that "commercial speech" could not be excluded from the protection of Article 19(1)(a) only because it was published by business people. With the ruling that "commercial speech" was protected by Article 19(1)(a) of the Constitution, the Supreme Court underlined significance of "advertisements" in our democratic economy in the following terms:

⁶*Printers(Mysore)Ltdv.Asstt.CommercialTaxOfficer*(1994)2SCC434.

⁷*HamdardDawakhana(Wakf)Lal Kuan v.UnionofIndia*AIR1960SC554

⁸*IndianExpressNewspapers(Bombay) Pvt.Ltd. v.UnionofIndia*AIR1986SC515

⁹AIR1995SC2438

Advertising is regarded as the cornerstone of the economy. Mass manufacturing depends on volume sales, which in turn depend on advertising, and mass production depends on volume sales, which in turn depend on low pricing for consumers. Advertising can be seen as the lifeblood of free media, covering its expenses and ensuring that it is broadly accessible, in addition to being the backbone of the free economy in a democracy. From a different angle, the court made it clear that the public has a right to hear the "commercial speech." Article 19 (1) (a) protects the right to hear, read, and receive speech in addition to guaranteeing freedom of expression. The general population may find informational ads regarding life-saving drugs considerably more significant than head marketers who might simply be thinking about business.

j. Right to know and obtain Information

Some have claimed that in a responsible government like ours, citizens ought to know what their government is doing. They have the right to know about every public act and action that their public servants take. No democratic government can function without accountability, which is based on the idea that people should be aware of how their government is run. It has also been stated that one of the most reliable ways to create a hygienic and safe administration is to expose oneself to public scrutiny and view. The right to know, which appears to be implied in the right to free speech and expression protected by Article 19(1)(a), is claimed to have been the primary source of the idea of an open government.¹⁰

Additionally, residents have the freedom to choose who will govern them and under what laws, and they can hold those in charge accountable for their actions. Thus, a citizen has the right to request copies of public papers and to view them if they are willing to pay the necessary charge.¹¹

In addition to promoting openness, transparency, and accountability in administration and in relation to matters linked to or incidental to it, the Freedom of Information Act of 2002 was designed to grant every person the right to safe access to public information. According to the Act, if a person requests information and pays the required fee, the Public Information Officer may supply it.

The freedom of speech and expression includes the right to be educated, informed, and amused as well as the right to educate, inform, and amuse oneself. In order to make an informed choice based on his personal beliefs, it also addresses the consumer's right to know the ingredients of food products, cosmetics, and pharmaceuticals. In *Ozair Hussain v. Union of India*¹², a Delhi High Court division bench decided that the consumer had a basic right under Articles 19(1)(a), 21, and 25 to know whether food items, cosmetics, and medications were vegetarian or non-vegetarian in origin. As a result, the Court imposed guidelines about the declarations and various colored symbols that should be put on product packaging pertaining to their vegetarian or non-

¹⁰*Union of India v. Association for Democratic Reforms*, AIR 2002 SC 2112.

¹¹*R.L. & E. Kendrav. State of U.P.*, AIR 1985 SC 652.

¹²AIR 2003 Delhi 103

vegetarian origin¹³. However, as far as life-saving medications are concerned, a limited exception has been granted.

k. Right to Reply

The Supreme Court held in the LIC case¹⁴ that the freedom of speech and expression protected by Article 19 (1) (a) included the right to reply, or the right to have one's response published in the same news outlet as something written about or against an individual. The defendant in this case, the executive trustee of the Consumer Education and Research Centre (CERC), Ahmadabad, produced a report titled "A Fraudon Policy Holders: a Shocking Story" following research on the LIC's activities. Numerous policyholders' interests were negatively impacted by the LIC's discriminatory actions, as demonstrated in the research report. The findings of the responder's study paper were subsequently challenged by LIC member Shri N. C. Krishnan, who wrote a response to the study and had it published as an article in the "Hindu." The respondent then wrote a rebuttal, which was published in the same newspaper.

In order to inform its members, staff, and agents about its activities, the LIC publishes a magazine called "Yogakshma." Additionally, Mr. Krishnan's work in this journal was a response to the respondent's research paper. The respondent then requested that the LIC publish his rebuttal to the previously mentioned article in its magazine. The LIC denied the request, claiming that the magazine was a house magazine and should not be distributed to the general public.

The respondent filed the petition, claiming that the LIC had violated his basic right under Article 19 (1) (a) of the Indian Constitution of 1950 by refusing to publish his rejoinder in its magazine. The High Court directed the LIC to include the respondent's response in the next issue of the magazine. The LIC appealed the decisions of the High Court to the Supreme Court.

The Supreme Court dismissed the LIC's appeal, ruling that since it is a "State" under Article 12 of the Indian Constitution of 1950, it must act in the community's best interests. The Life Insurance Corporation Act of 1956 established the LIC to conduct life insurance business for the benefit of the general people. The public is therefore entitled to know if the LIC's operations adhered to this legislative mandate.

COMMITTEES

Numerous committees have been established in India to look into and resolve matters pertaining to press freedom. These committees have played a crucial role in debating the legal system, suggestions for guaranteeing press freedom, and the difficulties the media faces. Several important committees have looked into press freedom in India, including:

¹³The prevention of Food Adulteration Act, 1954, contains such a provision in respect of articles of food

¹⁴*Life Insurance Corporation of India v. Prof. Manubhai D. Shah*, AIR 1993 SC 171

i) The Press Commission (1952-1954)

Under the direction of Justice Rajadhyaksha¹⁵, the Government of India established one of the first committees to examine the condition of the press and suggest policies to advance its growth in the nation. It underlined the value of an independent press and made a number of recommendations, one of which was to give journalists more influence over media regulations. Issues including censorship, government control over the media, and the press's role in advancing democracy were all covered in the Commission's work.

ii) The Press Council of India (PCI) - Established in 1966

Although it is not a single body, the Press Council of India is an important organization that was founded to protect press freedom. It serves as an impartial quasi-judicial body responsible for regulating press conduct in India. The PCI's duties include monitoring ethical conduct, addressing complaints regarding journalistic content, and ensuring that press freedom is upheld across the country. It also provides a forum for grievances on violations of media ethics and standards.

iii) Verma Committee (2013)

Under the direction of Justice J.S. Verma, this group was created to suggest modifications to laws pertaining to gender justice and sexual violence, but it also looked into media concerns. The Verma Committee stressed the need to preserve press freedom and avoid enforcing strict censorship while recommending stricter rules on media coverage of sexual abuse cases.

iv) The Mehta Committee (1997)

The Indian government established this committee to examine press-related issues and the operation of the broadcasting sector. The Mehta Committee presented suggestions about the necessity of an independent broadcasting body and the control of the media industry, especially in the television sector.

v) The Shyam Benegal Committee (2016)

This group was charged with suggesting ways to improve public service broadcasting and Prasar Bharati in India. The committee emphasized the necessity of avoiding commercial or political pressures that would jeopardize the media's ability to promote democratic discourse and suggested strengthening the independence of public service broadcasters.

vi) The Law Commission of India (2017)

Under the direction of Justice B.S. Chauhan, the 21st Law Commission of India studied media and free speech problems, including the laws pertaining to hate speech, sedition, and defamation. The Commission's report looked at how laws like defamation and sedition have been used to suppress the press and suggested changes to make sure that these laws don't unfairly restrict press freedom.

¹⁵ It had had several prominent personalities and journalists as its members: Dr. C.P. Ramaswami Aiyar, Acharya Narendra Dev, Dr. Zakir Hussain, Dr. V.K.R.V. Rao, P.H. Patwardhan, T.N. Singh, Jaipal Singh, J. Natarajan, A.R. Bhat and Chalapati Rau.

CHALLENGES TO FREEDOM OF PRESS

Press freedom is crucial to democracy, but it faces many obstacles around the world. Both societal forces and governmental acts may be the source of these difficulties. Here are a few of the main challenges:

Government Censorship

- a) **Authoritarian Regimes:** The governments of many nations impose restrictions on media freedom and regulate the information that is made public. For covering delicate subjects, journalists may face violence, incarceration, harassment, or spying.
- b) **Laws and Regulations:** Governments frequently enact legislation that curtails journalistic freedom, such as prohibitions on the dissemination of "false information" or anti-terrorism laws. These laws are occasionally employed to restrict criticism of the government and suppress opposition.

Media Consolidation

- a) **Ownership Concentration:** The range of opinions may be constrained when a few companies or individuals own the bulk of the media. Biased reporting, the repression of opposing viewpoints, and a lack of accountability may arise from this.
- b) **Corporate Influence:** Big media firms may prioritize financial gain over journalistic ethics, perhaps leading to skewed or sensationalized news coverage, particularly when it comes to topics that potentially have an impact on their bottom line.

Violence and Harassment of Journalists

- a) **Physical Threats:** Journalists, especially investigative reporters, are frequently targeted with threats, intimidation, or violence. In some countries, this violence is state-sponsored or condoned.
- b) **Online Harassment:** In the digital age, journalists face online threats, including doxing, trolling, and coordinated attacks, which can lead to psychological distress and force them to self-censor their reporting.

Mis-information and Disinformation

- a) **Fake News:** The legitimacy of reliable news sources is weakened by the proliferation of false and misleading material on the internet. False or misleading information is frequently spread on social media platforms, making it more difficult for the general public to separate fact from fiction.
- b) **Agenda-driven Information:** In order to sway public opinion, political or ideological groups may purposefully misrepresent facts, which can undermine public confidence in the media.

Economic Pressures

- a. **Declining business:** Digital media has undermined the traditional journalistic business model, which is centered on print advertising. Because of this, a lot of news organizations have reduced their investigative reporting or turned to clickbait.

- b. **Job Insecurity:** Layoffs and job cuts are a reality for journalists, which may lower the caliber of their reporting. In order to increase traffic, journalists may be compelled by economic constraints to cover less significant stories or sensationalize content.

Access to Information

- a) **Secrecy and Lack of Transparency:** Governments, corporations, and other institutions often withhold crucial information from the public. Journalists can face significant barriers when trying to access official records, data, or interviews that are necessary to report on important issues.
- b) **Uncooperative Sources:** Sometimes sources within government or business are reluctant to share information with journalists, fearing retaliation or legal consequences.

Legal and Judicial Harassment

- a. **Libel and Defamation Lawsuits:** Even when reporting is correct, journalists may be subject to expensive and drawn-out legal battles over defamation claims. Investigative journalism may be curtailed and opposition silenced by these lawsuits, which may constitute harassment.
- b. **Criminal Charges:** When reporting on delicate political or social problems, journalists may face criminal charges in certain areas.

Digital Surveillance and Privacy Invasion

- a) **Government Surveillance:** Governments often engage in mass surveillance of journalists, especially in authoritarian countries. This can make journalists hesitant to investigate certain stories or to protect their sources.
- b) **Corporate Surveillance:** Journalists' digital communications may also be monitored by corporations or third-party entities, compromising their privacy and the safety of their sources.

Public Perception and Trust

- a) **Erosion of Trust in Media:** In some parts of the world, people have become distrustful of the media due to bias, sensationalism, or perceived lack of professionalism. This can reduce the media's effectiveness in holding powerful entities accountable.
- b) **Polarization:** In increasingly polarized environments, different segments of the population may rely on media outlets that align with their views, creating echo chambers and further dividing society.

Impact of Technology and Social Media

- a. **Algorithmic Biases:** Search engines and social media sites employ algorithms to rank information. These algorithms frequently give sensational or polarizing content precedence over more impartial and accurate reporting, which affects how people consume and comprehend news.

- b. Platform Control:** Governments or social media companies may choose to filter or prohibit material, which can restrict the reach of reputable news and restrict free speech.

These issues are interrelated, and resolving them calls for a multipronged strategy that incorporates active civil society participation, technology safeguards, legal protections, and journalism's economic viability. In order to guarantee that the public has access to reliable, timely, and impartial information, it is imperative that the challenges facing press freedom be addressed.

CONCLUSION

Since public education is essential to the process of effective governance and cannot take place without free political conversation, press freedom is the cornerstone of all democratic organizations. Abuse risks could result from such a wide range of freedom. Nonetheless, Madison, the man who spearheaded the first amendment's drafting in the Federal Constitution, might have concurred with the document's authors that it is better to leave some of its harmful consequences on those who are bearing the appropriate fruits.

Freedom of speech and expression creates avenues for unrestricted discourse in a democracy. Public opinion on social, political, and economic issues is significantly influenced by press freedom. Freedom of speech and expression, including freedom of the press, is a fundamental human right. The capacity to freely express one's opinions verbally, in writing, or through the media must be included in the wide definition of "freedom of speech and expression." Once it is recognized—and it is indisputable—that freedom of the press includes freedom of the transmission of ideas, there is little doubt that the right extends to the citizen's ability to use the media to reply to criticism of the thoughts he propagates.