

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 2 | Issue 3

2020

© 2020 *International Journal of Legal Science and Innovation*

Follow this and additional works at: <https://www.ijlsi.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for free and open access by the International Journal of Legal Science and Innovation at VidhiAagaz. It has been accepted for inclusion in International Journal of Legal Science and Innovation after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at International Journal of Legal Science and Innovation, kindly email your Manuscript at editor.ijlsi@gmail.com.

Right to Freedom of Speech and Expression

MADHU SINGH¹

ABSTRACT

The freedom of speech is considered as the first condition of liberty. Freedom of speech and expression means the right to express one's own conviction and opinion freely by words of mouth, writing or any mode. The person have the right to express their thought, their view, their idea especially without fear of punishment freedom of speech is guaranteed not by the constitution only but also by various international convection like universal declaration of human right, European convention on human right

Article 19 (1) (a) of the constitution of India provides and guarantees to all its citizen the right of Freedom of speech and expression. whereas article 19(2) allow for reasonable restriction to be imposed on all fundamental right including that of freedom to speech and expression. the preamble of Constitution provides liberty to all its citizens. Preamble of Constitution itself ensure to all citizen liberty of thought, expression, belief, faith and worship. In Romesh Thappar Versus Union of India Justice Patanjali has rightfully held that 19(1) is the very basic and essence of the constitution and our democracy reasonable restriction, however he noted should be such that other rights should not be effected by the act of one man

Through this Article it can be easily concluded that right to freedom of Speech and Expression is one of the important fundamental right. It gives us to power to put over thought, our point, our ideas forward this fundamental right gives us immense power but not in the case if it hurt sentiments and morality of others.

I. INTRODUCTION

"Give me the liberty to know, to utter and to argue freely accordingly to conscience above all liberties"

- JOHN MILTON

The freedom of speech is considered as the first condition of liberty. Freedom of speech and expression means the right to express one's own conviction and opinion freely by words of mouth, writing or any mode. The person have the right to express their thought, their view, their idea especially without fear of punishment freedom of speech is guaranteed not by the

¹ Author is a student at Shambhunath Institute of Law, Jhalwa, Prayagraj (UP), India.

constitution only but also by various international convention like universal declaration of human right, European convention on human right and fundamental freedom .

Citizen have the right to speak freely without any fear of punishment, restriction or repression by government Or any other institutions.

What do you mean by freedom in the eyes of law ?

Freedom stands for something greater than just the right to act however I choose- it also stands for securing to everyone an equal Opportunities of it for life, liberty and the pursuit of happiness. if we see the legal definition of freedom then it is the quality or state of being free as – “The absence of necessity, coercion or constraint in choice or action (b) liberation from slavery or restraint or from the power of another. Freedom of free will be a state of being capable of making decisions without any external control.

II. TYPE OF FREEDOM

The historian and the philosopher of idea Isaiah Berlin according to her view there are two types of freedom and that is negative freedom and positive freedom. Negative freedom centres on freedom from interference. Theories of negative freedom usually can be understand as the out of acceptable limits of interference in individual’s life. One restricts the negative freedom when that one person restricts the number of choice he or she can make about my life.

Positive freedom can be understand as freedom to do something. It is derived from the wish on that part of individual to be his own master there is no external influence.

Right to Freedom of Speech and Expression

Article 19 (1) (a) of the constitution of India provides and guarantees to all its citizen the right of Freedom of speech and expression. The law states that all citizen shall have right to freedom of speech and expression.

The constitution of India provides the right to freedom, given in article 67,45,87 and 92 with the view of guaranteeing individual right that were considered important by the makers of constitution. Article 45 provide provision for free and compulsory education for children. The government provides free education to all children until they complete the age of fourteen years.

Freedom of speech is considered to be most basic freedom. In India the right is granted by Article 19(1)(a) whereas article 19(2) allow for reasonable restriction to be imposed on all fundamental right including that of freedom to speech and expression.

In *Romesh Thappar Versus Union of India* Justice Patanjali has rightfully held that 19(1) is the very basic and essence of the constitution and our democracy reasonable restriction, however he noted should be such that other rights should not be effected by the act of one man

III. THE IMPORTANCE OF FREEDOM OF SPEECH AND EXPRESSION

The freedom is essential for the proper functioning of the democratic process. Freedom of speech and expression is regarded as the first condition of liberty. Freedom of speech and expression can be said as the base or mother of all liberties. Through this right the citizen can easily take part in any discussion of issue. Freedom of speech plays a crucial role in the formation of public opinion on social, political, economic matters.

In *Maneka Gandhi Versus Union of India* Justice Bhagwati J. has emphasized on the significance of the freedom of speech and expression in these words -“Democracy is based essentially on free debate and open discussion, for that is the only corrective of government action in a democratic set up. If democracy means government of the people by the people, it is obvious that every citizen must be entitled to participate in the democratic process and in order to enable to intelligently exercise his right of making a choice, free and general discussions of public matters is absolutely essential.

The right to freedom of speech and expression offers and give human being the power to express his feeling to other. the Supreme Court in the case of *State of UP Versus. Raj Narayan* has held that article 19(1)(a) of the Constitution guarantees the freedom of speech and expression to all citizen in addition to protecting the right of the citizen to know the right to receive information. Regarding matter of public concern.

Under the freedom of speech and expression and expression, there is no separate guarantee of freedom of the press and the same is included in the freedom of expression, which is conferred on all citizen (*Virender Versus state of Punjab*.1958 SC. 986. and *Sakal Papers Versus. Union of India* A 1962 SC 305)

IV. FREEDOM OF SPEECH & EXPRESSION

In India under article 19(1) (2) of the constitution of India says that “all citizen have to right to freedom of speech and expression” the preamble of Constitution provide s liberty to all its citizens. Preamble of Constitution itself ensure to all citizen liberty of thought, expression, belief, faith and worship. But it is important to note that liberty of one must not offend the liberty of others.

In recent judgement of Supreme Court in khushboo v. Kannaiammal upholds the right to freedom of speech and expression. Khushboo's right to freedom of speech was violated by the institution of multiple criminal cases against her in various court across the country and conquest harassment that she suffered.

V. SOME GROUNDS OF RESTRICTION OF FREEDOM OF SPEECH AND EXPRESSION

It is good that we have this right that allows us to express our thought. It is necessary to maintain and preserve freedom of Speech and Expression but at the same time it is also important to place some restriction because no freedom is absolute or unrestricted.

Article 19(2) the constitution of India says that the states may make laws imposing "reasonable restriction" on the exercise of right to freedom of speech and expression " in the interest of public ."

1. SECURITY OF STATE

The security of the state is in the first priority. Government have the power to impose restrictions which affect the state. The term "security" of state refers to serious form of public disorder like - rebellion, waging war against the war, breaches of public order, riot etc.

2. DECENCY OR MORALITY

The way to express our thoughts, ideas or to say something should be decent, kind and standard. It should not affect the morality of society as well as hurt the sentiments of other people. Section 292 to 294 of IPC provides instance of restriction on freedom of Speech and Expression in the interest of morality. These sections prohibit the use or exhibition of obscene words or abusive words in public places

3. DEFAMATION

One's freedom be it of any type must not affect the reputation of status of another person, the right of one person should not overpass the right of another. By the right of freedom of Speech and Expression no person is allowed to hurt the sentiment of other people. No person is allowed to ridicule, hatred or contempt the right of other person.

4. SOVEREIGNTY AND INTEGRITY OF INDIA

The constitution has given the right of freedom of speech and expression but then also no citizen of India is allowed to challenge the sovereignty or say something which break or which is against the integrity of the country. The ground was added by the constitution (sixteen amendment) act 1963.

Right of Freedom of Speech and Expression - A Constitutional Analysis

In the landmark case judgment of the case *Maneka Gandhi Versus. Union of India* AIR 1978 SC 597 .. the Supreme Court held that the freedom of Speech and Expression has no geographical limitation and it carries with it the right of citizen to gather information and exchange thought with others not in India but abroad also. the right of freedom of speech and Expression is considered as natural law or common law which is not created it was a birth right. It is one of the most important fundamental right which is important for the development of one's own individuality. Our Constitution is based on the principle of checks and balance. The preamble expresses 2 idea which complement each other namely-

1. Right of the individual which correspond and coordinate to the duties of the state towards the individual and
2. Duties of the individual towards the state which correspond to the right of the society against the individual.

Justice U.R Krishna Iyer has observed that :-

“Right to express one's thought is meaningless if it is not accompanied by relaxed right to secure all information on matters of public concern from relevant public authorities. However to insure that there is no harm in inserting the freedom of information on a specific corollary to Article 19 of the constitution.

VI. CONCLUSION

Through this Article it can be easily concluded that right to freedom of Speech and Expression is one of the important fundamental right. It gives us to power to put over thought, our point, our ideas forward this fundamental right gives us immense power but not in the case if it hurt sentiments and morality of others. From the above case law analysis it is proved that the court has always played an important role and placed a broad interpretation on the value and contents of art 19(1)(a). It also compromise of right to information, freedom of press etc. the freedom is essential for the proper functioning of democratic process and is regarded as the first condition of liberty. it is a broader concept and not only limited to putting our views but it also includes the right to information. Everyone shall have the right to information and everyone shall have the right to freedom of speech and expression.
