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# IMPORTANCE OF FREE SPEECH IN A DEMOCRACY

*Authored by - Alden Vas*

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*An unrestricted exchange of ideas in a public arena is the foundational tenet of a free society.*

*~Alden Vas*

*This research paper goes on to understand what free speech means and thereafter highlights its importance in a democracy for enjoying a free society. Free speech is always necessary in a democratic society for people to criticize the wrongdoings of the elected government as well as suggest the government on what is needed by the people at large. According to the Constitution, the freedom of speech and expression is a crucial fundamental right. Protecting freedom of expression is crucial if we want to live in a society where everyone is treated fairly. Authoritarian governments deny individuals the freedom to voice their opinions. The Indian Constitution guarantees a number of essential rights for its people. The right to communicate one's thoughts and beliefs without restriction through spoken words, written words, printed words, visual images, or any other means is known as freedom of speech and expression.*

**Keywords:** Freedom, Speech, Expression, Constitution, Words

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## INTRODUCTION

*It is a paradox that every dictator has climbed to power on the ladder of free speech. Immediately on attaining power each dictator has suppressed all free speech except his own.*

*-Herbet Hoover*

The fundamental element of liberty is the freedom of speech and expression. The freedom of speech and expression is sometimes considered to be the mother of all other freedoms since it

has a prominent and significant place in the hierarchy of rights. The freedom of speech and expression is now largely acknowledged as being essential to society and as such, must always be protected. An unrestricted exchange of ideas in a public arena is the foundational tenet of a free society. The unrestricted expression of ideas and opinions, especially without concern for repercussions, is essential to the growth of any given community and, eventually, the state. One of the most significant fundamental rights protected from official repression or control is this one. According to the Constitution, the freedom of speech and expression is a crucial fundamental right. It is crucial for the growth of one's personal uniqueness as well as for the success of parliamentary democracy. It is argued that in a democracy, everyone has the right to free expression, including the community at large, which has the right to hear and be informed. <sup>1</sup>The freedom of speech and expression is not only guaranteed by the Constitution or statutes of various states but also by various international conventions like Universal Declaration of Human Rights, European Convention on Human Rights and fundamental freedoms, International Covenant on Civil and Political Rights etc. Protecting freedom of expression is crucial if we want to live in a society where everyone is treated fairly and equally since it is one of the fundamental tenets of the democratic process. Democracy is weakened if this isn't done.

## **MEANING AND CONSTITUTIONAL PRESENCE**

Free speech has many different meanings, but at its core, it refers to the legal right to freely express or seek out ideas and viewpoints without concern about censorship or legal implications. Individuals have the freedom to express themselves however they see fit, which is a component of freedom of expression. In a broad sense, it is possible to state that "Speech is the expression of one's ideas, thoughts, and opinions to the public" through verbal communication, writing, printing, images, films, and other visual media. According to Duhaime's law dictionary speech is defined as "The expression of an idea in circumstances where it is likely that the message would be understood." The Indian Constitution guarantees a number of essential rights for its people. The Article 19, Right to Freedom' is one of these crucial rights. This encompasses the freedoms of speech and expression, peaceful assembly without the use of force, association and union formation, unrestricted movement across

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<sup>1</sup> Lavanya. B "Freedom of Speech and Expression", LEGAL SERVICE INDIA, <https://www.legalserviceindia.com/legal/article-77-freedom-of-speech-and-expression.html>

India's territory, residence and settlement in any location, and practice of any profession or operation of any enterprise. The Indian Constitution's Article 19(1)(a) is a key focus of this study project. All people are guaranteed the right to freedom of speech and expression under Article 19(1)(a). Foreign nationals and other non-Indian citizens do not have access to this privilege, which is solely available to Indian citizens. The right to communicate one's thoughts and beliefs without restriction through spoken words, written words, printed words, visual images, or any other means is known as freedom of speech and expression. Thus, it encompasses the expressing of one's ideas through any kind of communication or through outward manifestations like gestures, signs, and the like. The term also implies publishing, therefore press freedom falls under this heading. The freedom of speech is thought of as the genus and the freedom of the press as a species. The required goal is the free dissemination of ideas, which may be accomplished through the press or on a platform. The Indian people vowed solemnly to protect everyone's right to freedom of speech and thinking in the Preamble to their Constitution. The freedom of speech, which encompasses the right to speak one's mind, the right to seek out information and ideas, the right to receive information, and the right to disseminate information, is affirmed by the Constitution. The Indian government has a duty to establish the necessary framework so that all citizens can effectively and efficiently use the aforementioned rights. The Supreme Court of India ruled in *Romesh Thappar v. State of Madras* that the freedom of speech and expression, which is guaranteed by the freedom of circulation of a publication, including the freedom to promote ideas, is of limited value without circulation.<sup>2</sup>

## IMPORTANCE OF FREE SPEECH

*“Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties”*

*-John Milton*

A pluralistic and tolerant society is what democracy aims to achieve. Citizens must have the freedom to express their opinions about how they want to be governed and to criticize those in authority in order for this to succeed. This dialogue between opposing viewpoints occurs frequently throughout the course of a government's tenure rather than only on election day. Citizens require access to accurate and true knowledge about a wide range of issues in order

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<sup>2</sup> Nirbhay Phusate, “Freedom of Expression – Democracy”,  
<http://www.legalservicesindia.com/article/2307/Freedom-of-expression---Democracy.html>

to be able to make meaningful judgments about how they want society to function. This is only possible if individuals feel comfortable speaking up about the challenges impacting their communities. By encouraging individuals to speak up, protecting free speech makes it simpler to attack societal problems from inside. People are discouraged from misusing their authority as a result, which ultimately benefits everyone. Citizens have the chance to hold their leaders responsible during elections. They need to know how well a political party has done while in power and whether or not they have kept their election promises in order to pick who to vote for. Media outlets and civil society organizations (CSOs) contribute to the public's impression of how well the government is performing by reporting on society's most important social concerns. This is beneficial, though, only if they are allowed to report on stories that are critical of the government honestly. Elections and referendums are wonderful ways for people to influence how society develops, but they only occur every few years. Free speech supports other basic rights like the right to assemble, which people use to influence public policy by going to marches, demonstrations, or running for office. They can use this to express their disapproval of a controversial choice, like Poland's abortion restrictions, or to tell the government that they want more robust political action on a pressing issue. Everyone should be treated equally and fairly in a democratic society. In contrast, minority groups who are underrepresented in government are frequently ignored and their ideas are given less weight than those of the main social group. Marginalized individuals may win over a large portion of the public to their cause by organizing campaigns and publicly discussing the problems that affect their communities.<sup>3</sup> This improves their capacity to shape public opinion and stop violations of human rights. We all want to see society improve for everyone, but in order for that to happen, society must support and promote freedom of expression. Authoritarian governments deny individuals the freedom to voice their opinions or take action on crucial social issues by stifling dissent and withholding information of the public interest. Important information being withheld leads to problems festering and getting worse. This slows down work and makes it far more difficult to discover a solution when the problem is ultimately identified. For instance, a doctor in China who tried to alert the medical community about the deadly Covid-19 virus was instructed to "stop making false statements" and was being looked into for "spreading rumours." This had the terrible outcome of delaying the adoption of steps to limit COVID-19, which brought about a pandemic that affected the whole world. The foundation of democratic administration is free speech. This independence

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<sup>3</sup> Index on Censorship, "Why is free speech important?", <https://www.indexoncensorship.org/2016/04/free-speech-important/>

is necessary for the democratic process to run smoothly. It is recognised as the foundational requirement for liberty. It holds a favoured place in the hierarchy of rights, supporting and defending all other rights. It is true what is claimed that this freedom is the mother of all others. Freedom of speech and expression create forums for discussing concerns in democracies. In concerns of social, political, and economic policy, freedom of expression is crucial in forming public opinion.<sup>4</sup>

## REASONABLE RESTRICTIONS IMPOSED BY THE STATE ON FREE SPEECH

In a democracy, it is important to retain and protect the freedom of speech and expression, but it is also important to put some restrictions on this right in order to maintain social order. No freedom can be total or unrestrained in its entirety. In order to safeguard state security, appropriate limits on freedom of speech and expression may be imposed under Article 19(2). The phrase "security of the state" only applies to significant and exacerbated types of public disturbance, such as rebellion, waging war against the State, and insurrection, and not to regular violations of public order and public safety, such as illegal assembly, rioting, and altercations. While statements made by an individual that call for or support the commission of heinous crimes like murder are issues that might jeopardize state security.<sup>5</sup>

The Constitution (First Amendment) Act of 1951 also included his ground. Public order is a broader idea than state security. The term "public order" has a broad range of meanings and refers to the serenity that exists among the members of political society as a result of internal rules that are upheld by the government that they have formed. Greater than simple upkeep of law and order is public order. Public safety, calm, and harmony are all equated with "public order." The criteria for assessing whether an act impacts law and order or public order looks at whether the conduct results in communal disruptions that are sufficient to constitute a disturbance of the public order or if it just affects one person, leaving the tranquility of society undisturbed. Public order is disturbed by anything that upsets public peace or

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<sup>4</sup> Eleanor Brooks, "Why is freedom of speech important? Why is it a core principle in a democracy? How is it being threatened? How do we protect it?"

<https://www.liberties.eu/en/stories/why-is-freedom-of-speech-important/44136>

<sup>5</sup> Rhiannon Wardl, "Freedom of speech: What does it mean and why is it important?",

<https://www.futurelearn.com/info/blog/freedom-of-speech>

tranquility. Therefore, public order offences include strikes and other forms of organized protest that have the express purpose of upsetting the peace among workers. Thus, public order denotes a lack of violence and a calm environment where people can quietly engage in their daily activities. Therefore, stirring up internal unrest or insurrection would harm the peace. However, merely criticizing the government need not cause a disruption in the peace. In its exterior sense, "public safety" refers to safeguarding the nation against foreign assault. In accordance with public order, the State would have the right to halt pro-war propaganda against India. The phrase "in the interest of public order" refers to both statements that have the potential to cause disruption and those that are directly designed to do so.

Defamation is the act of making a comment that harms a man's reputation. To defame a man is to subject him to prejudice, mockery, or contempt. Winfield defines defamation as the public dissemination of a remark that casts doubt on a person's character and tends to reduce his standing among right-thinking members of society generally, or tends to cause people to avoid or shun him. In India, the civil law governing defamation is still not defined and is limited in several ways. The crime of defamation is defined under Section 499 of the Indian Penal Code, 1860. Both slander and libel are recognised.

It should be observed that sedition is not listed in Article 19's clause (2) as a reason for imposing limits on the right to free speech and expression. According to English law, sedition encompasses any actions, whether verbal or written, that aim to disturb public peace and encourage the uninformed to overthrow the government. According to the Supreme Court, Article 19(1)(a) read with Article 19(2) of the Constitution was not violated since section 124-A of the Indian Penal Code, 1860 was confined to conduct containing a purpose or a tendency to cause disorder, disrupt law and order, or encourage violence.

The Constitution (Sixteenth Amendment) Act of 1963 also adds this foundation to Article 19(2). The fundamental goal is to prevent the use of freedom of speech and expression to undermine the country's sovereignty and territorial integrity.

## **THREATS FACED BY FREE SPEECH IN THE MODERN ERA**

Governments with a strong emphasis on maintaining their hold on power seek to make sure that any media coverage is positive. They assign political personalities to media positions and exert financial and editorial influence over mainstream media organizations in order to shape the public narrative. Governments restrict freedom of expression through enacting stringent law changes, using the police to manage crowds, or by using extraordinary emergency measures.<sup>6</sup> As an emergency response during the Covid-19 pandemic countries such as Belgium, Bulgaria, Germany, Slovenia and Spain disproportionately curtailed exercise of the right to protest in the interest of public health through heavy-handed policing and the arrest of activists. Denying access to information or criminalising the dissemination of incorrect information are two further legal means by which the state regulates the flow of information. Politicians and other influential people who worry that journalists may reveal their unethical behaviour turn to dishonest, illegal means of silencing them. Common tactics include SLAPPs (strategic lawsuits) or smear efforts intended to delegitimize important CSOs. When whistleblowers exposed wrongdoing, such as corruption, unlawful activity, or malpractice, they often suffered grave personal repercussions. A growing number of journalists and civil rights activists are at danger of verbal or physical abuse, including from police. The harsh digital environment that can be brought about by hate speech or online trolling might deter women and marginalized persons from engaging in online social discussions. Thoughtful attempts to address this issue may unintentionally have the same silencing consequences. Attacks against free speech transmit the message that speaking the truth might put you in danger. People start to self-censor because there is uncertainty about what is appropriate or inappropriate, which causes them to proceed cautiously. The 2022 Media Freedom Report discovered that owing to internet harassment or attacks, journalists in Bulgaria, Germany, Hungary, Italy, Slovenia, and Sweden were forced to self-censor.<sup>7</sup> Even when courts rule in favor of authors and artists, cops usually support the thugs who harass them. Even after the Bombay High Court overturned the Maharashtra Government's prohibition on James Laine's book about Shivaji, the state police declined to provide security when the publisher asked for it when the book's publisher sought them for assistance. Additionally, the Hussain Doshi Gufa, a work of art created by the renowned architects Balkrishna Doshi and Maqbool Fida

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<sup>6</sup> Eleanor Brooks, "Why is freedom of speech important? Why is it a core principle in a democracy? How is it being threatened? How do we protect it?"

<https://www.liberties.eu/en/stories/why-is-freedom-of-speech-important/44136>

<sup>7</sup> Thomas Brown, "Freedom of speech: challenges and the role of public, private and civil society sectors in upholding rights", <https://lordslibrary.parliament.uk/freedom-of-speech-challenges-and-the-role-of-public-private-and-civil-society-sectors-in-upholding-rights/>

Hussain, was vandalized in Ahmedabad while Gujarat police stood by.

## CONCLUSION

One of the most significant fundamental rights is the freedom of speech and expression, it may be inferred. It entails sharing one's opinions verbally, in writing, through audio-visual tools, commercials, or by any other kind of communication. It also includes journalistic freedom, the right to knowledge, and other things. Thus, the extent of this basic right is rather broad. It is clear from the analysis above that Article 19(1)(a) is given a broad reading, making it solely subject to the constraints that are permitted by Article 19. (2). It has always been difficult for intolerant authorities to restrict or stifle this freedom, especially when those in power have shown despotic inclinations. Even while the right to free speech is a fundamental human right and an integral aspect of our society, it might nevertheless be helpful to consider its restrictions. Democracy benefits from citizens having the freedom to challenge social norms, and we think that fostering curiosity is an important aspect of the learning process for all people.

