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## Freedom of Speech and Expression: Relevance in Democracy

Adrita Ghosh<sup>a</sup>

<sup>a</sup>Amity University, Kolkata, India

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*The inspiration of democratic rights and liberties to express freely is the soul of democracy globally. Freedom and democracy are frequently used synonymously because, without Freedom, democracy is impossible. Democracy and the word freedom are inseparable in every manner. And a state's level of freedom—whether its citizens are sufficiently free to practise their unassailable, basic rights is an essential requirement for claiming that it is a democracy. As a result, it is accurate to say that a democratic society cannot exist without free expression. The existence of an independent press can determine whether a society is democratic or not. Expression is important for any self-governing entity, without a doubt. The foundation of freedom and right is expression. The right to information and the freedom of thought are the places where expressiveness comes from. The democratic system's lifeblood is freedom of speech and the power to express is essential to the growth and fulfilment of each person's unique identity that adds to the power of the society. In a democratic state where the people are the sovereign rulers, expression is more important. According to Ivor Jennings, democracy's foundational appeal to reason cannot exist without freedom of speech. Thus, a democratic democracy has been said to require the freedom of expression as a requirement. Also, the fundamental tenet of liberty, according to Kant, is that no man can be exploited as a means of oppression. Free speech is an exchange of ideas. According to Hocking, an idea that originated in a man was not a part of capital stock. He has a whim to spread it out and give it away, knowing that he will keep whatever he offers. He opined that the community's mental sterility would be the more severe result of speech suppression.*

**Keywords:** *freedom of speech and expression, democracy, rights, liberty, sovereign.*

## INTRODUCTION

*"I may not agree with what you have to say, but I will defend to the death your right to say it."*

- Voltaire

The freedom to think and talk freely and to learn from others through publications forms society. The basic right to speak and express freely is recognised as the very recognized component of a strong democracy since it enables its natives to actively engage in the socio-political life of the nation. The right to speak and express freely affords citizens more options in their political and social lives under democratic and public dialogue without worrying about punishment, restrictions, or suppression by the government is the true spirit of free speech. Achieving political power, bolstering morality, and assisting others to become vigilant and informed citizens are all necessary for a democracy. The right to speak and express freely is protected and guaranteed by the Indian Constitution under Article 19(1)(a). In addition to the constitutions or laws of different states, 'the various international conventions, such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Fundamental Freedoms, and the Universal Declaration of Human Rights', guarantee the freedom to speak and express freely.<sup>1</sup>

The first prerequisite for liberty is to express freely. The right to express freely is often referred to be the mother of all other liberties since it holds a prominent and significant position in the hierarchy of rights. The right to freely express one's thoughts and beliefs through speech and writing, as well as through the use of images, photographs, and other media, is known as freedom of speech. The right to express freely is now largely acknowledged as the foundation of a free, democratic society, and as such, it always needs protection. The unrestricted exchange of ideas in a public arena is the foundational tenet of a liberal society. The unrestricted expression of ideas and opinions, especially without concern for repercussions, is crucial for the growth and development of any society in general. There are very few forms of liberties that are protected from official suppression and it is one of those.

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<sup>1</sup> Alok Kumar & Divya Utkarsh, 'Democratic Values of Freedom of Speech and Expression: An Analytical Study' (2016) 3 (8) JCIL, 2

## MEANING & APPLICATION

The Indian people vowed solemnly to protect everyone's right to speak and think freely from their Preamble to their Constitution. The right to express freely also includes the right to express one's mind, the right to obtain information and ideas, and the right to collect information and disseminate information, which is affirmed by the Indian Constitution. The right to speak and express freely is assured to all citizens of India by the constitution. The right to free speech encompasses the ability to express one's thoughts and opinions on any topic using any medium, such as by saying, writing, printing, pictures, films, and other visual representations. Thus, it encompasses the freedom to speak and the right to spread or publish an idea. However, this privilege is subject to a Constitutional limit. Free speech cannot be linked to or confused with a right to make careless and unwarranted accusations against the judicial system. It is crucial to realise that the State's action or inaction can both impose restrictions on any citizen's right to free expression. To ensure that everyone who is a citizen, regardless of their circumstances or the class to which they belong, has access to speak and express freely, the State must uphold this fundamental right. Since it enables citizens to participate actively in the socio-political life of the country, this right is acknowledged as one of the most basic and essential tenets of a vibrant democracy.

In actuality, the right to speak and express freely broadens the definition of citizenship and provides it greater significance by elevating it above mere survival to include a person's participation in politics and social life. This right, while not absolute, does grant the government the power to adopt laws that set sensible limitations in the interest of public order, decency, and morality, mostly against the slander of the courts, encouraging criminal activity, and the sovereignty and integrity of the country. The Apex Court of India ruled that because a publication is essentially worthless without circulation, the freedom of speech and expression also encompasses the freedom to spread ideas. "Freedom of Speech and the Press is the foundation of all democratic organisations, for without free political discussion no public education, so vital for the effective functioning of the process of Government, is possible,".

'Speech and expression have a wide-ranging meaning'.<sup>2</sup> This privilege covers the ability to distribute, publish, and market the information. In India, the freedom to speak and express naturally follows the liberty of the press. Speaking in a business or artistic capacity is not specifically included in Indian law. The apex court, however, opined "commercial speech cannot be denied protection as Indian Law evolves". India's citizens are entitled to get "commercial speech". Both the speaker and the receiver are covered by this protection.<sup>3</sup> The right to express oneself artistically includes the freedom to create works of art, such as paintings, songs, dances, poetry, and literature. Through the use of a Writ Petition, both an individual and a company can use justifications related to free speech. Everyone has the freedom to use the justifications for free speech, as per Indian legal regulations. Corporations also enjoy similar rights to defence. The courts ultimately concluded that 'people's ability to conduct business cannot be hampered by restricting their right to free expression.

#### **INTER-RELATION BETWEEN FREEDOM OF SPEECH AND EXPRESSION AND DEMOCRACY**

Freedom of expression is a fundamental right that supports both communal interaction and the essence of personal identity. In the most important international documents on human rights, the right to free speech is recognised as one of the fundamental rights of a man. The indispensable element of a self-governing community is freedom of speech. The self-regulatory press and mass media are defining characteristics of a democratic society. Exercising the right to free speech and expression may contribute to the protection of the measured society and the control of the state apparatus that society exercises, which is what democracy demands. A self-controlled society must be able to make its own decisions, according to the definition.<sup>4</sup>

This idea was often conveyed by Abraham Lincoln in the following way: "*Let the people know the facts, and the country will be tranquil.*" Thus, the role of the media in a democratic society as a means of exercising the right to speak and express freely is important.

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<sup>2</sup> *Romesh Thappar v State of Madras* (1950), AIR 124

<sup>3</sup> *State of U.P. v Raj Narain & Ors.*, (1975), AIR 865

<sup>4</sup> Satya Kam Sharma, 'Democracy and Freedom of Speech and Expression' (2016) 03 (08) IJR, 142

In a democracy, the right to speak and express freely opens forums for deliberations. For the general population to establish an opinion on social, economic, and political issues, freedom of expression is essential. It includes debates on issues of public concern as well as the freedom of thought exchange and information dissemination that would aid in the creation of one's opinion and viewpoint. 'The usage of the national flag as a means of expressing those sentiments would be considered a Fundamental Right as long as the expression is limited to nationalism, patriotism, and love for the country'.<sup>5</sup>

The importance of freedom of speech and expression has been underlined by BHAGWATI J. He added, "In a democratic system, the only means of correcting government activity is through free debate and open discussion. Every person must have the right to participate in the democratic process if democracy is defined as the government of the people, by the people, and for the people"<sup>6</sup> and free and open deliberation of issues having national importance is crucial for allowing each citizen to use his or her right to vote as a vigilant citizen. The judiciary has frequently expressed the opinion that the freedom to acquire information without any form of suppression or oppression is a key component of freedom of speech and that the right to receive information is one part of the right to freedom of speech and expression.<sup>7</sup> This is because without receiving sufficient information, a person cannot successfully engage in society, politics, or culture or create a learned opinion or make a learned choice. The Apex Court stated that the Constitution gives all citizens the freedom to speak and express themselves in addition to defending their right to knowledge about issues of public concern.<sup>8</sup>

## **REASONS FOR PROTECTING FREEDOM OF SPEECH AND EXPRESSION**

The right to speak freely allows people to communicate their feelings to others, but this is not the sole reason to safeguard that right. There may be further justifications for preserving these fundamental privileges. Four key grounds exist for the right to free speech. Those include-

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<sup>5</sup> Alok Kumar & Divya Utkarsh (n 1) at 4

<sup>6</sup> *Maneka Gandhi v Union of India* (1978), AIR 597

<sup>7</sup> State of U.P. (n 3)

<sup>8</sup> *Balaji Raghavan v Union of India* (1996) 1 SCC 361

1. The open debate of fact - Contends that if speech barriers are common, society is avoided from collecting and disseminating dependable records and insightful viewpoints. 'In other words, it aids in the pursuit of truth'.<sup>9</sup>
2. Freedom of speech as a component of self-satisfaction as well as growth - The right to self-fulfillment and development belongs to every person, and freedom of expression is one of those components. Limiting what we are permitted to hear, read, and speak will prevent our personalities from developing. It aids someone in achieving self-fulfillment.<sup>10</sup>
3. The right to speak freely gives people the chance to express their beliefs and political views. In the end, it contributes to the well-being of the nation and society. Thus, the right to free expression offers a mechanism through which it would be feasible to strike a fair balance between societal development and stability.<sup>11</sup>
4. The most significant aspect of today's world is a democracy, which is necessary for active involvement. The purpose of freedom of expression is to safeguard everyone's right to comprehend political concerns so they can take part in the efficient operation of democracy. In other words, the ability of an individual to participate in nation-building by the freedom of expression.<sup>12</sup>

As a result, we discover that preserving the right to free expression is crucial. Protection of free speech is crucial for the open exchange of ideas that leads to the discovery of truth, for personal growth and fulfillment, for expressing political opinions, and for active involvement in democracies.

## INTERNATIONAL PERSPECTIVE

'A demand of the European enlightenment on the State that first emerged in England within the context of common law precedents is the freedom to express and spread one's opinions.'. According to various countries' constitutions, there is freedom of expression There are several

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<sup>9</sup> Alok Kumar & Divya Utkarsh (n 1) at 6

<sup>10</sup> *Ibid*

<sup>11</sup> *Ibid*

<sup>12</sup> *Ibid*

constitutions around the world that guarantee people's right to free speech and expression. As follows:

1. The First and Fourteenth Amendments to the Constitution of the United States, the common law of England,<sup>13</sup>
2. Section 18 (1) (e) (f) (g)<sup>14</sup> of the Constitution of Sri Lanka, 1972.<sup>15</sup>
3. Section 298<sup>16</sup> of the Government of India Act, 1935. <sup>17</sup>
4. The First Amendment to the Constitution of the USA provides, that 'Congress is prohibited from passing legislation that restricts the free exercise of religion, the establishment of religion, press freedom, free expression, or the right of the people to peacefully congregate and petition the government for a remedy to their complaints'.<sup>18</sup>

By the end of the 18th century, the first declarations of fundamental rights had increased the freedom of speech. 'Section 12<sup>19</sup> of the Virginia Bill of Rights-', adopted in 1776, stated that 'the freedom of the press is one of the major pillars of liberty and cannot ever be curtailed by dictatorial governments in the context of English law'. The First Amendment of the United States Constitution binds Parliament as well, breaking with the English tradition of parliamentary supremacy.

Congress is not allowed to pass legislation that restricts press or speech freedom. The unrestricted sharing of thoughts or opinions was declared to be one of the most precious rights of man in 'Article II of the French Declaration of the Rights of Man and of the Citizen.', which was published in 1789.<sup>20</sup> Every citizen has the right to talk, write, and publish without restriction, provided that he is accountable for any misuse of that right under the circumstances set forth by law. Within the ambit of general criminal laws, the German States safeguarded freedom of speech in their constitutions during the 19th century, largely by explicitly forbidding press censorship.

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<sup>13</sup> Satya Kam Sharma (n 4) at 144

<sup>14</sup> Constitution of Sri Lanka, 1972, s 18(1) (e) (f) (g)

<sup>15</sup> *Ibid*

<sup>16</sup> Government of India Act, 1935, s 298

<sup>17</sup> *Ibid*

<sup>18</sup> *Ibid*

<sup>19</sup> Virginia Bill of Rights, 1776, s 12

<sup>20</sup> Alok Kumar & Divya Utkarsh (n 3) at 7

In 1948, the United Nations called a conference in Geneva on the topic of information freedom, to which 54 nations were invited. Abraham Lincoln claimed that democracy is the "government of, by, and for the people." But if the populace is unaware of the problems that need to be solved, the justifications for and against various solutions, and the evidence supporting those justifications, there can be no government by the people. As a result, in a democracy, the people are the sovereign.<sup>21</sup>

## INDIAN PERSPECTIVE

All Indian citizens enjoy the right to speak and express freely, which is stated in Article 19(1)(a) in the Constitution of India. The Indian people vowed solemnly to protect everyone's right to freedom of speech and thinking in the Preamble to their Constitution. The Supreme Court of India ruled that 'the right to speak and express freely extends to the freedom to spread ideas, which is made possible by the right for publications to circulate without restriction'.<sup>22</sup>

Now, there are several limitations to Article 19(1)(a) on a lot of grounds that are stated in Article 19(2) of the Constitution of India. Both creative and commercial expression must be protected, and both fall under the umbrella of the right to free speech. 'Artistic expression falls within the umbrella of freedom of speech and expression, which is protected by Article 19(1)(a) of the Constitution. This is because freedom of speech and expression is the fundamental element that all of these activities share. Both individuals and corporations are allowed to assert their right to free speech and other fundamental liberties under the Indian Constitution. Not only is freedom of speech protected from unwarranted government intrusion, but it is also safeguarded from a private party asking a court to uphold legal provisions that might impede or punish expression'.<sup>23</sup>

## CONCLUSION

The cornerstone of democratic administration is the freedom of speech and expression. This freedom is seen as the primary requirement of liberty and is crucial to the efficient operation of

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<sup>21</sup> *Ibid*

<sup>22</sup> Constitution of India, 1950, art.19(1) (a)

<sup>23</sup> Constitution of India, 1950, art.19(2)



the democratic process. In the hierarchy of rights, it holds a favoured position, protecting all other rights. It is undoubtedly true that this freedom is the mother of all others. The freedom to gather and share information is a part of such freedom. It also involves the freedom to disseminate it without restriction to as many people inside and outside of the nation as is physically possible. Citizens of a free nation have a fundamental right to know, and Article 19(1)(a) preserves that right. One of the fundamental rights that civic society provides is freedom of speech. However, in the current world, exercising one's right to speak and express freely means more than just using words to express one's opinions; it also means disseminating those opinions in writing, through audio-visual media, through marketing, and through any other form of communication. It further includes 'press freedom, the right to information.', and other things. Expression and self-realization are rights. America and India, which are considered to be the world's largest two democracies, have remarkably upheld freedom. This significant right is indicated in Article 19(1) (a), which belongs to the category of fundamental rights, concerning India. Indian Judiciary has always broadened the purview of Article 19(1) through several judgements.

The phrase "*in the interest of public order,*" as used in Article 19, refers to both statements that directly threaten disruption and those that have the potential to do so. The 'restriction and the maintenance of public order' should have a logical and appropriate connection.