

An Analysis on the Right to Freedom of Speech: A Privilege or a Curse?

Dr. Jyotsna Singh

Assistant Professor, Affiliation- Amity Law School, Amity University Uttar Pradesh, Lucknow Campus.

ABSTRACT

The right to freedom of speech is fundamental in society, granting individuals the liberty to express their thoughts without restraint. In a liberal democracy, this right is paramount, fostering the exchange of ideas across various mediums. However, contemporary challenges arise as media outlets increasingly assume quasi-judicial roles, influencing public perception and potentially undermining principles of equity. Despite the intrinsic nature of this right, its exercise is subject to reasonable restrictions to safeguard societal well-being. International frameworks and constitutional provisions underscore the importance of balancing free expression with other societal interests. The press, often dubbed the "fourth estate," plays a critical role in ensuring transparency and accountability in governance. Yet, sensationalism and biased reporting threaten its integrity and the principle of fair trial. Striking a balance between press freedom and responsible journalism remains imperative to uphold democratic values and ensure justice. Efforts to address the phenomenon of "media trials" are essential to preserve the rule of law and protect individual rights. Ultimately, the pursuit of an informed and impartial media landscape is essential for upholding the principles of democracy and ensuring the equitable administration of justice.

KEYWORDS: Freedom of Speech, Media Influence, Democratic Values, Press Freedom, Judicial Integrity.

ARTICLE

The right to freedom of speech can be perceived in basic terms as the right bestowed upon individuals of the country. This privilege empowers every single individual to speak freely, or we can say that it offers freedom to an individual to express their thoughts. It is the articulation of thoughts into words without any limitations. It is viewed as an inalienable right; it isn't the State or the Government that provides this privilege but it is inherent in every individual in its natural form.

In a liberal democracy, ensuring the right to free speech is of utmost importance. It establishes a freedom for the free exchange of ideas. Freedom of expression encompasses the communication of ideas regardless of the medium used. There is always a need for these kinds of rights to be upheld by law so that no individual is deprived of it.

In the present scenario, it can be observed that media houses are acting as "public courts" and they have started to interfere in court proceedings which hampers the principle of equity, such as the presumption of innocence until proven guilty and guilt beyond reasonable doubt. Due to this, the general public acts as the courts sometimes, wherein the accused that should be presumed innocent is assumed as a criminal,

depriving them of all their rights and freedoms unaddressed. The resolution of such issues is always a delicate matter. These issues are still not properly addressed and resolved, which necessitates addressing this subject matter urgently.

In a democratic government, ensuring the right to freedom of speech is of utmost importance. It establishes a freedom for the free exchange of ideas. Freedom of expression encompasses the communication of ideas independent of the medium used. There is always a need for these kinds of rights to be upheld by law so that no individual is deprived of it.

Every citizen may rightfully speak, write, and print with freedom, but shall be accountable for any abuses of this freedom as defined by law. The First Amendment to the Constitution of the USA states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." Similarly, in the case of India, the Constitution guarantees "The right to Freedom of Speech and Expression." Article 19 of the Constitution of India states, "all citizens shall have the right to freedom of speech and expression." However, this right is not absolute and the State can impose "reasonable restrictions" on it based on several grounds, such as "security of the state," "public order," "contempt of court," "defamation," etc., as provided under Article 19(2) of the Indian Constitution. Reasonable restrictions are necessary because there should be a line drawn concerning the use of the right to freedom of speech and expression. It is the right given to individuals by the constitution to speak freely about whatever one likes, but it should not be of a nature that may defame the image of any individual or may harm society or be against public order. J.S. Mill in "On Liberty" proposed that "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."

Article 19 of the ICCPR states that "everyone shall have the right to hold opinions without interference" and "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." "The exercise of the rights provided for" in Article 19(2) "carries with it special duties and responsibilities" and "may therefore be subject to certain restrictions" when necessary "for respect of the rights or reputation of others" or "for the protection of national security or of public (order public), or of public health or morals" as provided under Article 19(3) of ICCPR. There cannot be any freedom that is completely unrestricted or absolute.

In the first amendment to the constitution of the US, there is explicit mention about the right to freedom of press. As the press is the fourth pillar of democracy, as it keeps checks on the workings of the government, the policies made by the government, and the laws made by the government to ensure that no actions done by the government are against public policy or violate the fundamental right of any individual. The "freedom of the press" is considered a "species of which freedom of expression is a family."

Generally, there are three branches of the government: Legislative, Executive, and Judiciary. The powers of the government are divided among these three separate branches of the government. Legislature serves

as the lawmaking body or the body that has the power to make the rules which will be applicable to the whole of the nation. Executive works for the enforcement of the laws made by the legislature and to maintain peace and harmony in the society and to arrest any individual who tries to disrupt the peace. Judiciary is the separate body whose role is to hear the grievances of people whose rights are being violated either by the government or any other individual. Judiciary also has the power to declare any law made by the legislature as void if that law violates the fundamental right of any individual or group of individuals.

One cannot deny the importance of media as it keeps the public informed, educated, and vigilant; it is considered as the "fourth estate" of democracy. It acts as a watchdog of the government functions and its abuses, by making them available to the public through various mediums like TV, radio, newspaper, etc. But at the same time, there is another issue to be considered, that is, the media sometimes also tries to sensationalize news and distort facts to grab the attention of people to keep up with the competition in this field, which undermines the true purpose of the media as a fourth estate. There are instances when media goes beyond its limits and instead of just letting people have the knowledge about any facts, it acts as an institution that starts giving judgment on any issue by outrightly ignoring the principle "presumption of innocence." It can even act as a threat to the guarantee of "right to a fair trial." Due to these reasons, freedom of the press should operate within a reasonable limit like any other freedom. Media limited to the imparting of information in a neutral manner to the public is considered best rather than conducting trials by media which may contradict with the fair trial.

The difficulty arises at its peak when there is extensive coverage by the media of issues that are sub judice, and publishes opinion and information that clearly prejudice the interests of the parties in a case which is pending before a Court. The administration of the judiciary is capable of conducting a fair trial and the trials by media should be avoided or else it would lead to interference with the work of the judiciary. This issue of "media trial" is of serious concern and it needs to be addressed. Freedom of the press should not be in such a manner that it causes harm to the individual or the society at large. Media should be responsible in their conduct and thus its freedom, like any other freedom, cannot be absolute.

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