

## **Freedom of Expression & Sovereignty And Security of Nation (State) (Special Reference of Issues Related to Jawaharlal Lal University Delhi)**

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**Abstract:** Freedom of expression entails to express one's convictions and also to seek, receive and communicate information and ideas, either orally or by written or printed matter or by legally operated visual and auditory devices, such as the radio, cinematograph, loudspeaker and the like. It is one of the fundamental rights helped under article 19 (1) (a) in the Constitution of India (Bashu1980). Freedom of speech is mother of all liberties. The liberties of thoughts, expression, belief, faith and worship are one of the basic concepts of our democratic constitution. In 11 February 2016, Jawaharlal Nehru University v/s Union Government of India has disputed on freedom of expression, sovereignty and security of the state. These issues raised on president of the Jawaharlal Nehru University Students' Union (JNUSU) was arrested after a expression on college campus organized to remember the 2013 death of Afzal Guru, a Kashmiri supporter of independence who was attained for his role in the 2001 attack in parliament. The President JNUSU was arrested in the connection with the expression with authorities called 'antinational'. He was arrested and charged with Sedition by the Delhi police for allegedly raising anti-India slogans in student rally. In view of the above, this papers a climacteric analysis of the Indian constitutional idea freedom of expression and the way you associated with the idea of freedom of expression & Sovereignty and Security of Nation (state).

**Keywords:** Freedom of expression, Media freedom, Media and democracy, Constitution of India, Concept of Expression, Security, Sovereignty.

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### **I. INTRODUCTION**

Expression is an issue of liberty and right. The liberty of idea and right to know are the sources of expression. Free Speech is line of the democracy. The growth and fulfillment of individual personality was included by freedom of expression. Freedom of expression is more essential in a democratic setup of country where people are the Sovereign rulers (Jennings 2007). In India, calumniation (defamatory) materials are dealt with sufficient strictness as these are thought to be directly conflicting with a person's right to privacy - another tacit yet fundamental human right facilitated in the Constitution of India. It is essential to mention that right to privacy signifies a person's right to maintaining the image he/she depicts to the society, right to "be let alone" and right to dignity and life (S.Naskar). The social interest in free expression is based on the idea that without expression, there is no society at all, because communication is the very spirit of social life (L.L. Fuller 1963). Indian constitution gives us the people, with a view of make it Sovereign, Democratic, Socialistic, Secular and state. In our democratic society, pride to place has been provided to freedom of speech and expression, which is the mother of all liberties. Freedom of speech and expression is one of the fundamental rights enshrined in our constitution. The Indian Constitution as ideates in the Preamble is to secure Liberty of Thought Expression to all the citizens. Freedom of Expression is among the leading of human rights.

Freedom of speech, as interpreted by courts, includes freedom of discussion and dissemination of knowledge. Referring to the 1<sup>st</sup> Amendment of the U.S.A. constitution, It is observed in Thorn-hill verse Alabama (1940) U S 88. Although we have already notice that in Britain freedom of speech is not embodied in or guaranteed by any constitutional document. In a same way I have read that Indian constitution is not specifically mentioning 'Press' in Article 19. It is underlying in the freedom of speech and expression consulted on the people. In Bennet Coleman & Co.v. Union of India 1973 I SC1177, the supreme court mentioned, 'Although

Article 19 (1) (a) does not mention the freedom of the Press, it is settled opinion of this court that freedom of speech and expression includes freedom of the Press and circulation.

The fundamental right to freedom of speech and expression is considered one among the foremost basic factors of a healthy democracy for permits its peoples to participate completely and effectively within the social and political method of the country. This right is available only to a citizen of India and not to foreign nationals. This right is not absolute; it permits Government to border Laws to impose affordable restrictions within the interest of Sovereignty and Integrity of India, security of the state, friendly dealings with foreign states, public order, decency & morality, contempt of court, defamation associate degreed provocation to an offence (academike). The chief draftsman of the Indian Constitution Dr. B. R. Ambedkar ensured members told that freedom of the press was enclosed within the guarantee of freedom associated to speech and expression and it had been barely necessary to supply for it deliberately. Supreme Court of India justifies this view. During a series of conclusions from 1950 forward the Supreme Court has ruled that Freedom of the Press is unquestioning in the guarantee of freedom of speech and expression guaranteed by Article 19(1) (a) of the Constitution (This case coded Saudal, M.K 2015). The struggle for freedom of information is a world-wide Phenomenon. In a democracy almost the first freedom is the freedom of expression- The right of the individual to speak out his mind according to his best judgment over the last few centuries, this right has been discussed and debated, sometimes fiercely. One of the first exponents of the idea of free speech and expression was the blind poet, John Milton, who in his *Areopagitica* (1644) stoutly opposed government licensing of the press as a prior condition of publication (R.k Chatterjee 1973).

The right of freedom related to expression, the right to privacy, frequently there has forever been a fundamental question about the relative burden of privacy and expression. An open democracy values a person's right to express opinions even when it conflicts with another's right to privacy. The press of freedom serves the bigger purpose of the right related to the people to be informed of a broad spectrum of facts, views and opinions. It is the medium through which people increase access to new information and ideas, a vital component of a functioning democracy. Therefore, his survival and blooming of Indian democracy owes a great deal to the freedom and energy of our press (Law Commission of India). Universal Declaration of Human Rights related Article XIX reads- 'Everyone has the rights to freedom of opinion and expression ; this right includes to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers' The expression "personal liberty" used in Article-21 has also been given a liberal interpretation. It does not mean merely the liberty of the body i.e., freedom from physical restraints or freedom from confinement within bounds of a prison. In other words, it means not only freedom from arrest or detention, from false imprisonment or wrongful confinement, but it means much more than that. The term personal liberty is not used in a narrow sense but has been used in Article-21 as compendious term to include within it all those variety of rights of a person which go to make up the personal liberty of a man.

## II. COURT CASES

In the case of *Kharak Singh vs. The State of Uttar Pradesh*, The Supreme Court recognized that people of India had a fundamental right to privacy which was part of the right to liberty in Article-21 as well as the right to freedom of speech and expression in Article 19(1) (a), and also of the right of movement in Article 19(1) (d). This line of thought has recently been accepted again by the Supreme Court in District Registrar and Collector, Hyderabad and another.

In *Maneka Gandhi vs. Union of India*, Ex. Chief Justice BHAGWATI J has emphasized on the significance of the freedom of speech & 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 him to brightly exercise his rights of making a choice, free & general discussion of public matters is absolutely essential." Although, Supreme Court of India has agreed that there was no need to mention freedom of expression (S.C .R.12: Casebook 1 1959).

### **Sovereignty and Security of Nation**

It is cited that 'sovereignty' is one of the matters in the interests of which law can impose reasonable restrictions without offending the right guaranteed under Article 19 (1) (a).

Sovereign or supreme power is that which is absolute and uncontrolled within its own sphere. 'Sovereignty' involves freedom from all foreign control or dominion. Sovereignty implies the supremacy of the state internally and externally. The Indian Constitution is a creation of the will of the people related to India who have resolved to constitute India into sovereign Democratic Republic.

This ground was contributed as a ground of restriction related to the freedom of expression by the sixteenth Amendment of the Constitution, with effect from the 6<sup>th</sup> October, 1963. The object was to enable the State to battle cries for secession and the like from organizations such as the Dravida kashagam in the South and

the Plebiscite Front in Kashmir, and activities in pursuance thereof which might not possibly be brought within the fold of the expression security of the state'. No independent country can tolerate any agitation on the part of any unit of its region either to separate or from an independent State or to integrate with a foreign State. The publication of official secrets which is likely to affect the sovereignty or integrity of India is also punishable under the Official Secrets Act, 1923.

### **Security of the state**

Security of the state is of paramount importance, and as such, reasonable restrictions on the exercise of the rights available under Act. 19 (1) are permissible. Security of the state can be undermined by danger from both within and without the state. The danger, rebellion or upheaval, may not at once affect the entire country.

It is also probable to commit acts that would hazard the sovereignty and integrity of India or the security of India or friendly relations of India with any country, security of the state by citizens of India or friendly relations of India with any country, security of the state by citizens of India or other persons visiting any foreign country. The Criminal Law Amendment Act, 1961 (Act XXIII of 1961) contains parallel provisions questioning the protective integrity or frontiers of Asian nation in a manner damaging to the interest of safety and security of India by words, either spoken or written, or by songs, or by visible illustration, or otherwise, is created a penal offence. Power is additionally given to the authorities for search, seizure and forfeiture of such offensive publications.

Maintenance of internal security of a nation is as vital as safeguarding it from external aggression. The Maintenance of Internal Security Act, 1971 was enacted to supply for detention of anyone for the aim of maintenance of internal security of the country and matters connected with that. Throughout the emergency on 10 October 1975 the President of India issued one more ordinance amending the maintenance of Internal Security Act, 1971, to forbid revealing of bases are detention or material on that such ground are based.

### **Role of Media related to freedom of expression**

The press is a great social asset, for it has to serve the entire community of varying minds with its raw material for thoughts, as also to act as a watchdog by exercising its role to warn and curb forces of repression, community of varying minds with its raw material for thought, as also to act as a watchdog by exercising its role to warn and curb forces of repression, corruption and divinises Dwivedi (2012). Freedom of the Press is a must for a developing democracy. This does not mean that it can assert absolute freedom at all times and in all circumstances, without correlative obligations and responsibilities. In fact, it is the most responsible media related to communication to the people and for their betterment. It is medium of public opinion which pulsates and very much invigorates the democratic system of government.

In a democratic system, Media have to protect and safeguard the rights and civil liberties of the citizens of the country. B.R Gupta says that communication process cannot be understood without the proper understanding of social, political, economic and cultural structures in which they operate. The process of communication in primary groups such as family, neighbourhood, kinship, caste and community may be radically different from the process of communication in secondary groups. Leadership and communication are interconnected Indian society. To fulfil this objective, government of India have a separate Ministry of Information & to provide the informational and development needs of the people about the nation's development and soliciting their participation in the implementation of government' policies, plans and programmes.

The Media has always freedom to 'Fair Comment'. It may be said that the spirit of fair comment is that the matter is of public importance. He makes the comment without malice, and in the interests of the general public, and not for gratifying personal feelings or notions. Fair comment maintains a golden mean between deformation and the right of free public golden mean between deformation and the right of free public discussion of a matter of public interest, and it would be one of the defences available in a case of defamation as we would see at a later stage dealing with the relative law. The Preamble of the Indian Constitution ensures to all its peoples the freedom of expression. Freedom of the press has been admitted as part of freedom of speech and expression under the Article-19 of the Universal Declaration of human rights. The strength of the Article-19 says that everyone has the right to freedom of opinion and expression, its includes freedom to hold opinions without interference and to seek, receive and communicate information and thought through any media and regardless of frontiers (M. K Saudal).

The former Chief Justice of India J.S. Verma said, He referred to 'seven principles' of conduct counted by the Lord Nolan committee in England (i.e.,

selflessness, integrity, objectivity, accountability, transparency, honesty and leadership) and said they were applicable to anyone in public life "whether they belong to the first, second, Third or Fourth Estate" (The Hindu newspaper 2007).

### **Constitutional Foundation of Freedom related to the Press**

The means of freedom related to press is 'the right of free expression extended to media publications. This is designed to uphold the independence and diversity of opinions and voices of the Media' (Oxford Dictionary). Democracy successful and ensure a safe future for it in the absence of freedom related to thought, press, vigilant public opinion and eternal vigilance. It has been said, he is the price of liberty. The mass media, the press and platform are the means to educate the people and keep them vigilant about their liberties inherent in a democracy and established their hegemony. The Editor of illustrated weekly of Bombay S. Khushwant Singh said 'No dictator in the world can tolerate freedom of thought, expression and press.

As independence, the Constitution of India has defined the 'freedom of speech and expression' as a fundamental Right under Article-19 (1) (a). There is no special provision in the fundamental rights on the freedom of press, However it's enclosed within the freedom of speech and expression. The supreme court, on Sakal papers Private Limited Verses union of India, stated that the right to propagate one's idea was inherent in the concept of freedom of the speech and expression and that for the purpose of propagating his ideas every citizen had a rights to publish them, to disseminate them and to circulate them (Balraj (1973). Press freedom is granted by the constitution; but not as a separate entity or special privilege. Freedom of speech and expression were incorporated by the individual rights. Our governments have preferable press freedom to the connected with social, fundamental responsibilities and also the obligation to report objectively.

Freedoms of the press follow from Article.19 (1) of the Constitution. India has a written constitution which guarantees certain fundamental rights as specified in Part III of the Constitution. Of these Article.19 (1) (a) relates to freedom of speech and expression, subject to the restrictions which may be imposed by the state under cl. (2) of that Article, which has to be read along with cl. (1) (a). Several conclusions follow from the fact that there is no separate guarantee of freedom of the press in India that it must be derived from Article 19 (1) (a) of the constitution (Basu.D.D 1980). Universal Declaration of Human Rights provides freedom of expression in its Article 19, The International Covenant on Civil and Political Rights (Article 19), American Convention of Human Rights (Article 13), The African Charter on Human and People's Rights (Article 9), and also the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 10).

Press freedom provides the oxygen in a climate of a healthy democracy. It is a matter of common experience that the press can do will and perform its professional work. Smoothly if it operates in the open and competitive information market and does not itself suffocate or corrupt the process of collecting, selecting and presenting the news objective and truthfully. This expression mentions to the right of the state to maintain its own existence, i.e, the right of self-protection. It has a dual aspect, external and internal. The principles laid down in the American decisions should be applicable in India, unless the contrary is indicated. From the external standpoint, it means that the State may impose restrictions on the freedom of the press in so far as it is necessary to protect itself from external aggression, e.g., by prohibiting and punishing any publication which interferes with the war efforts of the nation, such as inciting resistance to the participation by the state in war or recruitment or conscription for the Defence Forces, undermining their confidence disclosing war measures or movements which may help the enemy, inciting curtailment of production of goods necessary for action of war (D.D Basu 1980).

### **Restrictions on Freedom of Press in India**

It is necessary to maintain and preserve press in a democracy. But at the same time it is also essential to put some restrictions on this freedom for the upkeep of social order, as a result of no freedom is absolute or wholly unrestricted. Therefore, below Article 19(2). of the Republic of India, the State might create a law vulnerable restrictions on the exercise of the right to freedom of press in the interest of the general public on the subsequent grounds:

1. The Sovereignty & Integrity of Republic of India.
2. The Safety of the State.
3. Friendly relations with Foreign States.
4. Public Order.
5. Decency or Morality.
6. In relevance Contempt of Court.
7. In relevance Defamation.
8. In relevance Incitement to An Offence.

### **Case study on Jawahar Lal University Issues:**

Case: 1-On 9 February, 2016 left-wing students' organization Democratic Students Union held a protest at Jawaharlal Nehru University campus against the capital punishment to the 2001 Indian Parliament attack convict Afzal Guru, following complaints by Bharatiya Janata Party Member of Parliyamant Mahesh Giri and the Akhil Bhartiya Vidyarthi Parishad. He said in an interview that "I dissociate myself from the slogans

which were shouted in the event. I have full faith in the Constitution of the country and I always say that Kashmir is an integral part of India”.

Jawaharlal Nehru University Students Union President denied the charges, and upon his release, gave a speech in favour of freedom in India. In Parallel, a disciplinary committee constituted by JNU Vice-Chancellor have also investigated the controversial event and observed that the organizers have organized the event by circumventing the ‘permission process’. Case:2-Khalid was one of the applicants who sought permission for organizing a cultural event organized by the break- away fraction of Democratic Students Union (a so-called ultra-leftist group) titled ‘A Country without a Post Office’, to commemorate the anniversary of the hanging of Afzal Guru on 9 February, and to protest the “judicial killing” of Guru and Maqbool Bhat.

### III. DISCUSSION

Thus, we find with the intention of protection related to freedom of speech is incredibly abundant necessity. The Protection of freedom of speech is vital for the invention of truth by open discussion, for self-fulfillment and development, for expressing belief and political attitudes, and for active participation in democracy. Expression through speech is one amongst the fundamental guarantees provided by civil society. Through in modern times Right to freedom of speech and expression is not restricted to precise ones read through words however it too includes current one’s views in writing or through audio-visual instrumentalities, advertisements, no matter different communicating. It also comprises of right to information, freedom of press etc. It is a right to communicate and self realization.

### IV. CONCLUSION

As noted at the start, Expression through speech is one in all the fundamental guarantees provided by civil society. On the other hand in modern world right to freedom of speech and expression is not restricted to specific ones read through words yet it is too includes current one’s views in writing or through audio-visual instrumentalities, through advertisements and through any other transmission channel. It also contains of right to information, freedom of press etc. It is a right to specific and self realization. India developed its own free speech jurisprudence that applies a “reasonable restrictions” check based on eight mentioned restrictions. Supporters of this view will tend to remind us that when we are discussing free speech, we are not dealing with speech in isolation; what we are doing is comparing free speech with some other good. For instance, we have to decide whether it is better to place a higher value on speech than on the value of privacy, security, equality, or the prevention of harm. This article has attempted to explore some of these doctrines as they relate to the field of freedom of expression. The particular solutions advanced may or may not be accepted. But it is along such lines that the ultimate answers will have to be required.

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