

Lecture- 11



Facets of Media under Article 19(1)(a)

Article 19(1)(a)

According to Article 19(1)(a): All citizens shall have the right to freedom of speech and expression.

This implies that all citizens have the right to express their views and opinions freely.

This includes not only words of mouth, but also a speech by way of writings, pictures, movies, banners, etc.

- The right to speech also includes the right not to speak.
- The Supreme Court of India has held that participation in sports is an expression of one's self and hence, is a form of freedom of speech.
- In 2004, the SC held that hoisting the national flag is also a form of this freedom.
- Freedom of the press is an inferred freedom under this Article.
- This right also includes the right to access information because this right is meaningless when others are prevented from knowing/listening. It is according to this interpretation that the Right to Information (RTI) is a fundamental right.
- The SC has also ruled that freedom of speech is an inalienable right adjunct to the right to life (Article 21). These two rights are not separate but related.
- Restrictions on the freedom of speech of any citizen may be placed as much by an action of the state as by its inaction. This means that the failure of the State to guarantee this freedom to all classes of citizens will be a violation of their fundamental rights.
- The right to freedom of speech and expression also includes the right to communicate, print and advertise information.
- This right also includes commercial as well as artistic speech and expression.

Importance of Freedom of Speech and Expression

A basic element of a functional democracy is to allow all citizens to participate in the political and social processes of the country. There is ample freedom of speech, thought and expression in all forms (verbal, written, broadcast, etc.) in a healthy democracy.

Freedom of speech is guaranteed not only by the Indian Constitution but also by international statutes such as the Universal Declaration of Human Rights (declared on 10th December 1948), the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Fundamental Freedoms, etc.

- This is important because democracy works well only if the people have the right to express their opinions about the government and criticise it if needed.
- The voice of the people must be heard and their grievances are satisfied.
- Not just in the political sphere, even in other spheres like social, cultural and economic, the people must have their voices heard in a true democracy.
- In the absence of the above freedoms, democracy is threatened. The government will become all-too-powerful and start serving the interests of a few rather than the general public.
- Heavy clampdown on the right to free speech and free press will create a fear-factor under which people would endure tyranny silently. In such a scenario, people would feel stifled and would rather suffer than express their opinions.
- Freedom of the press is also an important factor in the freedom of speech and expression.
- The second Chief Justice of India, M Patanjali Sastri has observed, “Freedom of Speech and of the Press lay at the foundation of all democratic organizations, for without free political discussion no public education, so essential for the proper functioning of the process of Government, is possible.”
- In the Indian context, the significance of this freedom can be understood from the fact that the Preamble itself ensures to all citizens the liberty of thought, expression, belief, faith and worship.
- Liberal democracies, especially in the West, have a very wide interpretation of the freedom of speech and expression. There is plenty of leeways for people to express dissent freely.

- However, most countries (including liberal democracies) have some sort of censorship in place, most of which are related to defamation, hate speech, etc.
- The idea behind censorship is generally to prevent law and order issues in the country.

The Need to Protect Freedom of Speech

There are four justifications for freedom of speech. They are:

- For the discovery of truth by open discussion.
- It is an aspect of self-fulfilment and development.
- To express beliefs and political attitudes.
- To actively participate in a democracy.
- Restriction on Freedom of Speech

Freedom of speech is not absolute. Article 19(2) imposes restrictions on the right to freedom of speech and expression. The reasons for such restrictions are in the interests of:

- Security
- Sovereignty and integrity of the country
- Friendly relations with foreign countries
- Public order
- Decency or morality
- Hate speech
- Defamation
- Contempt of court

The Constitution provides people with the freedom of expression without fear of reprisal, but it must be used with caution, and responsibly.