

## General Article

## ARTICLE 19 OF INDIAN CONSTITUTION

<sup>1</sup>Kalyan Kanti Majumdar

Deputy Inspector General,  
Border Security Force, Sector HQ BSF Aizawl, Mizoram

## ABSTRACT

Article 19 of the Indian Constitution ensures six fundamental freedoms, forming the core of individual liberties in a democratic society. These freedoms include the freedom of speech and expression, the right to assemble peacefully, the right to form associations, freedom of movement and residence across India, and the freedom to practice any profession or trade. While these rights are fundamental, they are subject to reasonable restrictions to maintain public order, sovereignty, and morality.

**Keywords:** Democratic society, Fundamental freedoms, Freedom of speech, Reasonable restrictions, Public order.

## INTRODUCTION

In this year Lok Sabha elections, opposition did fairly well as compared to what they did in the year 2019. What the opposition did was to highlight ruling party's fervent desire to win more than 400 seats so that they can make amendments in the Constitution that would help them to quell opposition and remain in power, forever. Many people in this great country, apprehended that their rights will go forever and the Capitalists of this country will take over everything what so ever they have which will include among other things their basic 'Human Rights'. This is the era where 'Human Rights' are becoming top priority for any nation. The Indian Constitution is one of the largest Constitutions of the world have provided citizens with certain Fundamental Rights and liberties which is very important to them. The Constitution of India is drawn from various sources i.e. mainly Government of India Act 1935 and extracts from Constitutions from various other countries namely USA, USSR, UK, South Africa, Germany, France, Canada, Ireland, Australia and have created a unique constitution which was amended from time to time by our politicians. Whether these amendments made in our Constitution is for betterment is a matter of debate and I feel research should be done by some scholars regarding the matter [1].

Part-III of the Constitution contains Fundamental Rights (Article 12 to 35) which entails its citizen's basic rights which acts as a shield from any undue interference by Capitalists with the help of State Authorities/Politicians in their private and professional lives. One such article of Fundamental Rights is Article-19 of the Indian Constitution that provides certain important rights which guaranties its citizens the rights to express their thoughts in a free and liberal environment. However, this freedom also comes with certain exceptions. I will come to the various rights extended to citizens under Article-19 of Constitution but I would like to mention that in order to run the society in democratic manner, these Fundamental Rights play a very essential role by allowing its citizens to engage in the activities of the nation more freely. After a long spell of Colonial Rule, people of this part of world required some breather. Therefore, these rights were required to be extended which was necessary to form a developing society which is participatory and vibrant, a society where people can easily share their thoughts and express them without fear and be able to contribute positively to the society [2].

## Article 19

Protection of certain rights regarding freedom of speech etc:

All citizens shall have the right

- A. To freedom of speech and expression;
- B. To assemble peaceably and without arms;
- C. To form associations or unions;
- D. To move freely throughout the territory of India;
- E. To reside and settle in any part of the territory of India; and
- F. To protects a person's right against their property (Later Omitted by the 44th Amendment Act)
- G. To practice any profession, or to carry on any occupation, trade or business.

### **Freedom of speech and expression (article 19(1)(a))**

Article 19(1) (a) talks about freedom of speech and expression to the citizens of this country. How far it is successful in guarantying the right to citizen is a matter of debate. Freedom of speech and expression is the basic foundation of democracy as it empowers the citizens to express their views and thoughts without any fear, thus contributing positively towards the development of the nation. Various mediums like Media, Newspapers and Articles are other means of communication to express share opinions. These days almost all media houses and newspapers have been purchased by Capitalists. Even Articles are being written by people in their pay roll. The expression, freedom of speech and expression has a wide connotation as it includes the freedom of propagation of ideas, their publication and circulations [3]. There are various facts of freedom of speech and expression which have been recognized by the Courts. Some of them are mentioned below:

- Freedom of Press
- Right to know and obtain information
- Right to know antecedents of candidates participating in elections
- Right to reply
- Right to silence
- Right to fly the national flag

However, the above-mentioned rights are not absolute. All rights come with certain reasonable restrictions in order to protect other rights including misuse of rights guaranteed under this right as per Article 19(2) which are mentioned as under in the interest of:

- Sovereignty and Integrity of India
- The security of the State
- Friendly relations with foreign nations
- Public order, decency or morality

(This seems to be quite vague. The quantum of each word should have been mentioned explicitly)

- (v) In relation to contempt of Court
- (vi) Defamation
- (vii) Incitement to an offence.

Indian Politicians often abuse above mentioned restrictions.

### **Freedom to assemble under article 19(1)(b)**

This article talks about freedom given to citizens to assemble peacefully without arms, which includes right to hold public meetings, demonstrations and processions [4]. We have taken this from Article-21 of Universal Declaration of Human Rights mentioning the right to assemble peacefully as an integral part of democratic societies. Article 19(1)(b) provides for the right to assemble peacefully and without arms. This includes right to hold public meetings, hunger strikes and the right to take out processions. However, right to strike is not a fundamental right. This judgement was given in the case of T.K. Rangarajan vs State of Tamil Nadu (2003) by the Hon'ble Supreme Court of India, wherein it was held that the government employees do not have such fundamental right to strike. It is pertinent to mention that there is no right to hold an assembly on government premises or private property belonging to others. Reasonable restrictions on right to freedom of assembly is mentioned in Article 19(3) i.e, the right to freedom of assembly could be restricted on the following grounds:

- In the interest of sovereignty and integrity of India.
- In the interest of public order.

## Landmark judgement

In *Himmat Lal Vs Police Commissioner, Bombay* (1972), the Supreme Court struck down a rule that empowered the Police Commissioner to impose total ban on all public meetings and processions. It was held that the state could enact regulations in order to support the right to assemble and could impose reasonable restrictions in the interest of public order but no rule could be prescribed prohibiting the meetings and processions altogether [5].

## Freedom to form associations, unions and co-operative societies (article 19 (1) (a) ) of the Indian constitution

This article mentions freedom to form associations, Union or co-operative society. This right is important as it allows its citizens to join hands together and from unions or associations formally or informally to achieve common goals. The right to form associations and unions includes the right to form companies, societies, trade unions, partnership firms and clubs etc [6]. This right extends to its establishment, administration and functioning some of the important aspects of the right to form associations are as follows:

- The right to form associations means the right to be a member of an association voluntarily. It also includes right to continue or not.
- Right to form an association includes the right not to be a member of an association
- The right does not prohibit the state from making reservations or nominating weaker sections into the cooperative societies.
- No prior restriction can be imposed
- No fundamental right of recognition of association by Government.
- Right to form an association includes no right to achieve the objects of the association.
- REASONABLE RESTRICTIONS ON THE RIGHT TO FORM ASSOCIATION
- In the interest of the sovereignty and integrity of India,  
or
- In the interest of public order and morality

## Freedom of movement and residence (article 19 (1)(d))

Article 19(1)(d) and Article 19(1)(c) are complementary to each other and confer a right upon the citizens to move freely or/and to reside anywhere in the country, without any problem.

Reasonable restrictions on right to freedom of movement and residence.

- In the interest of the general public
- For the protection of the interests of any Scheduled Tribe

Freedom of profession, occupation, trade or business (Article 19(1)(g) of the Indian Constitution Article 19(1)(g) provides for the fundamental right of the citizens to practice any profession or carry on any occupation, trade and business. This right basically allows its citizens and individuals the freedom to participate in economic activities.

## Scope

- The right to carry on a business also includes the right to shut down the business
- There is no right to hold a particular job of one's choice.
- There is no right to carry on dangerous activities or any antisocial or criminal activities.
- No one can claim a right to carry on business with the government.
- The right to trade does not include right trade does not include right of protection from competition in trade.

## REASONABLE RESTRICTIONS

- By imposing reasonable restrictions in the interest of the general public, or an Article 19(6) enables.
- By state monopoly the state to make laws for creating monopolies either partially or completely in respect of any trade or business or industry or service

Article 19(1)(f) of Indian Constitution was removed by the virtue of 44th Amendment in 1978. Undersigned considers this as debatable as the primary objective what the politicians, says for such major change was to

prohibit the misuse of this fundamental right and also prohibit possession of excessive lands in the hands of few people and to implement the land ceiling acts. The contrary view, is what if government takes over land from poor people and hand it over to corporate in the garb of development.

## CONCLUSION

The crux of Article 19 lies in granting individuals' liberty. The idea of this Article 19 must have been inspired by American Bill of Rights. Universal Declaration of Human Rights also talks about these rights. The rights is very essential as individual citizen gets liberty so that they can make their own choices and ensure the involvement of themselves in democratic process. However, this freedom is not absolute but curtailed by restrictions that is said to be reasonable. How far it is reasonable is a matter of debate. The judiciary assumes primary responsibility of interpreting this thin line between individual freedom on common good. This involves adjudicatory whether an act of restriction is legal, acceptable and indispensable in nature. The people have to decide who they want to make more powerful i.e, judiciary or legislature; or they should have equal power. Many amendments have been made in the past which have curtailed our fundamental rights, more may come in the future. Time has come that we should have a rigid Constitution.

## REFERENCES

1. The Constitution of India, Article 19.
2. Basu, D.D. (2016). Introduction to the Constitution of India. LexisNexis.
3. Jain, M.P. (2018). Indian Constitutional Law. LexisNexis.
4. Granville Austin (1999). The Indian Constitution: Cornerstone of a Nation. Oxford University Press.
5. Himmat Lal K. Shah v. Police Commissioner, Ahmedabad & Anr., AIR 1972 SC 87
6. T.K. Rangarajan vs Government of Tamil Nadu & Others on 6 August, 2003 Supreme Court of India.