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**ROLE OF DEMOCRACY AND IMPORTANCE OF FREEDOM OF
SPEECH AND EXPRESSION**

- Anushka Kaushik¹

ABSTRACT

Democracy is the government of the people, by the people and for the people is said by Abraham Lincoln, 16th President of the United States of America. Democracy is the backbone of electoral government where the people of the country have the most precious power to choose the government by the way of voting and freedom of speech and expression is the weapon for the citizens of this country because by expressing the thoughts and expression the citizen has power to remove the government and ask for fresh elections. By applicability of Democracy, it helps to protect the fundamental right of freedom of speech and expression. Digital era of freedom of speech and expression emerged nowadays by using the networking services but it is necessary to put certain restrictions on the part of freedom of speech and expression because it is possible that the right may be misused for some political, social and economic purposes. Article 19 of the constitution is provided for the development of the nation and not for armed rebellion, the article should be used in the peaceful, harmony and legal manner so the rest of the citizens would not suffer any loss.

KEYWORDS:

DEMOCRACY, ARTICLE 19, FREEDOM OF SPEECH AND EXPRESSION, SEDITION,
RECENT DEVELOPMENTS, UPCOMING DEVELOPMENTS, DIGITALIZATION,
ARMED REBELLION

INTRODUCTION

¹ Student at Asian Law College Affiliated to Chaudhary Charan Singh University, Meerut

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Democracy is a method where the country provides to the citizens a good political environment which should be considered an appropriate method and accepted by all people of the country specially for recent newly developed and upcoming countries. Democracy can be considered as a form of government where people have the right to vote and choose their own government for a particular time period so that improvement and development of the country should be done in proper manner and current generations and upcoming generations will get better opportunities.

MEANING OF THE WORD DEMOCRACY

The word Democracy is derived from the Greek words, “*Demos*”, and “*Kratos*”. *Demos* means the people or audience and *Kratos* means the government. There are several definitions of democracy according to experts, as follows:

According to C.F. Strong

Democracy as a system of government in which the majority of the adult population participates in politics on the basis of a representative system.

According to Abraham Lincoln

Democracy as a system of government of the people, by the people, and for the people.

According to Aristotle

Democracy is the freedom of every citizen.

According to Harris Soche

democracy as a form of people’s government. In other words, the people are the holders of power in the government who have the right to regulate, defend, and protect themselves from coercion from their representatives.

Making the reference from above mentioned definitions it is stated that the idea of democracy has the same meaning as voice of people and voice of God.

Purpose of Democracy

The purpose of democracy which states the functions of government are as follows:

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In the country, the government is elected by the people of the country and the government has a duty to take care of the public interest.

The government has a duty to follow the norms and basic principles of the constitution of India regarding the social, secular, political, economic etc. interest of the people.

The administration has a duty to follow the concept of representation, maintain the quality of the basic principle of democracy regarding freedom of speech and expression, and sovereignty that shows the representation by several citizens who have been elected by the people themselves.

Another purpose of democracy is to conduct the general elections in the state, which promote the basic principle of freedom of speech and expression given under article 19 of the Indian constitution to choose the one of the parties in government.

Democracy is the medium to implement the features of democracy in the state. In the principle of democracy there is another function which is called separation of power.

In the concept of democracy, the government has a duty to implement the functions of democratic government and take decisions for the welfare of the public.

The basic five principle of democracy in the the International Conference of fists was held in Bangkok in 1965, in this conference the basic principles were given for the democratic state, should have these principles of democracy

1. The law is the Supreme in the country.
2. There should be equality before law
3. The right of constitutional remedies regarding the human rights should be there
4. Unbiased administration
5. Promote the Public Education

VARIOUS KINDS OF DEMOCRACIES

In present world this can be stated that there are various kinds of democracies with the help of famous jurists and other authors this is get to know that the concept of democratic structure

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is rigid in nature because according to various centuries this is found that there are various kinds of democracies which are differ from the basic principles of democracies.

Based on the opinion of **Encik Muhammad Fauzan** in his book entitled “*Hukum Tata Negara Indonesia*”, democracy is said to be divided into two types are Direct democracy and indirect or representative democracy.

The concept of Direct democracy is related to the majority that those people who are in the majority are having the power to make rules and regulations for the people rather than by people who elected representatives.

Indirect democracy is another kind of democracy where the elected representatives have the power to make rules and regulations for the people of the state. This kind is based on the political system where the elected members make laws for their people.

There are various other kinds of democracies as well which have different features. Mainly there are three kinds of democracies. Parliamentary Democracy, Presidential Democracy, and Mixed Democracy.

1. PARLIAMENTARY DEMOCRACY

Parliamentary Democracy is based on the concept of government in the country where it states that the parliament is having power to take care of the functions of the country. In the parliament democracy has the power to appoint the civil minister. Furthermore, the parliament has all law-making powers for the state. **Miriam Budiardo** in his book entitled “*Basics of Political Science*” said that there are two types in parliamentary democracy. The Executive (Administration) and Legislative Bodies (Parliament) they both are dependent on each other.

2. PRESIDENTIAL DEMOCRACY

Presidential democracy is a system of government where the head of government is authorised to follow the orders of the President of the country and the head of government is held by the president and has no responsibility parliament (Legislature). The Minister is responsible to the President of the country because the President has the authority to work as both head of state and head of government.

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According to Rod Hagus, presidential democracy has 3 (three) main elements, i.e., (1) the president is elected by the people and can appoint government officials, (2) the president has a fixed term of office, and (3) there is no overlapping status between the executive and legislative bodies.

3. MIXED DEMOCRACY

Mixed democracy is a system of government that draws the best from presidential and parliamentary systems of government. Based on the view of I Made Pasek Diantha, there are at least 3 (three) main characteristics of mixed democracy, among others:

- a. Ministers are elected by Parliament;
- b. The length of the executive's term of office is determined with certainty in the constitution
- c. Ministers are not responsible either to parliament or to the president.

MEANING OF FREEDOM OF SPEECH AND EXPRESSION

India plays a very vital role in the protection of citizens rights as well as the people who are not citizens of this country. Freedom of speech and expression is one of the major rights which shows that India is one of the democratic countries. Article 19 of the Indian constitution is the backbone of fundamental rights. By this fundamental right people are actually able to express their thoughts relating to the government policies and regulations. This right also has certain reasonable restrictions which are necessary for the sovereignty, integrity, to protect the peace of the nation etc. There are various judgements which are given to avoid injustice. The Indian courts play an important role to maintain the stability and integrity of the nation. There are various cases which describe the importance of article 19 of the constitution of India.

Landmark judgments on article 19:

Facts of the case: The present Petition arose from an order of a Division Bench of Madras High Court entertaining a petition under Article 226 of the Constitution to ensure that COVID-related protocols are followed concerning polling booths. During the hearings, the Division Bench alleged to have made certain remarks, attributing responsibility to the

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Election Commission (EC) for the present surge in the number of cases of COVID-19, due to their failure to implement appropriate COVID-19 safety measures and protocol during the elections. EC has alleged the remarks to be baseless, and tarnishing its image, it being also an independent constitutional authority.

Held: The Court ruled that freedom of speech and expression includes reporting on court proceedings, including oral observations made by judges. The court found no substance in the prayer of the EC for restraining the media from reporting on court proceedings. This Court stands as a staunch proponent of the freedom of the media to report court proceedings. This we believe is integral to the freedom of speech and expression of those who speak, of those who wish to hear and to be heard and above all, in holding the judiciary accountable to the values which justify its existence as a constitutional institution. appeal stands disposed of.²

Facts of the case: The Constitutional Order was issued by the President, applying all provisions of the Constitution of India to the State of Jammu and Kashmir. In light of the prevailing circumstances, on the same day, the District Magistrates, apprehending breach of peace and tranquillity, imposed restrictions on movement and public gatherings by virtue of powers vested under Section 144, Code of Criminal Procedure. Due to the said restrictions, the Petitioner claims that the movement of journalists was severely restricted. Aggrieved by the same, the Petitioners filed petition seeking issuance of an appropriate writ for setting aside or quashing any and all order(s), notification(s), direction(s) and/or circular(s) issued by the Respondents under which any/all modes of communication including internet, mobile and fixed line telecommunication services have been shut down or suspended or in any way made inaccessible or unavailable in any locality. Further, the Petitioners sought the issuance of an appropriate writ or direction directing Respondents to immediately restore all modes of communication including mobile, internet and landline services throughout Jammu and Kashmir in order to provide an enabling environment for the media to practice its profession.

Held: The internet is also a very important tool for trade and commerce. The globalization of the Indian economy and the rapid advances in information and technology have opened up vast business avenues and transformed India as a global IT hub. There is no doubt that there are certain trades which are completely dependent on the internet. Such a right of trade through the internet also fosters consumerism and availability of choice. Therefore, the

² The Chief Election Commissioner of India versus. M.R. Vijayabhaskar and Ors. [MANU/SC/0341/2021](#)
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freedom of trade and commerce through the medium of the internet is also constitutionally protected under Article 19(1)(g), subject to the restrictions provided under Article 19(6).³

Freedom of Press and Media under Article 19

Facts of the case: During the hearings regarding Covid Protocols to be followed at polling booths, the Division Bench of Madras High Court alleged to have made certain remarks, attributing responsibility to the Election Commission (EC) for the present surge in the number of cases of COVID-19, due to their failure to implement appropriate COVID-19 safety measures and protocol during the elections. EC has alleged the remarks to be baseless, and tarnishing of its image, it being also an independent constitutional authority. Hence, the present appeal.

Held: Freedom of speech and expression extends to reporting the proceedings of judicial institutions as well. Courts are entrusted to perform crucial functions under the law. Their work has a direct impact, not only on the rights of citizens, but also the extent to which the citizens can exact accountability from the executive whose duty it is to enforce the law. The power of judges must not be unbridled and judicial restraint must be exercised, before using strong and scathing language to criticize any individual or institution. However, these oral remarks are not a part of the official judicial record, and therefore, the question of expunging them does not arise. It is right to say that a formal opinion of a judicial institution is reflected through its judgments and orders, and not its oral observations during the hearing. Hence, in view of the above discussion, no substance found in the prayer of the EC for restraining the media from reporting on court proceedings. This Court stands as a staunch proponent of the freedom of the media to report court proceedings.⁴

Facts of the case: The Petitioner highlighted the incident of telephone tapping which was permissible under section 5(2) of Telegraph Act and contended unless such tapping comes under reasonable restrictions put up by Article 19 of the Indian constitution it is infringing the right to privacy of people.

³ Anuradha Bhasin and Ors. vs. Union of India (UOI) and Ors. [MANU/SC/0022/2020](#)

⁴ The Chief Election Commissioner of India vs. M.R. Vijayabhaskar and Ors. :[MANU/SC/0341/2021](#)
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Held: The court directed the authorities to maintain records of the intercepted messages and limited the terms of usage of such records to Section 5(2) of the Act and provided for a review committee.⁵

Facts of the case: In this case the Municipal Corporation decided to evict the pavement dwellers and those who were residing in slums in Bombay. To this the inhabitants claimed that such act deprived their right to life. The question which arose in this case was whether the right to life includes the right to livelihood? Constitution does not provide for an absolute embargo on the deprivation of life or personal liberty. Under Article 21, such deprivation must be in accordance with the procedure established by law. No one has right to encroach on trails, pavements or sidewalks which is reserved for public use.

Held: The court refused alternative site for expelled inhabitants however the State Government assured Court that alternative would be provided to slum dwellers who were caused to be evicted.⁶

DIGITAL ERA OF FREEDOM OF SPEECH AND EXPRESSION

Importance of the Internet in upholding the Right to Information

The Landmark judgment by the Supreme Court of India on whether the internet shutdown and restrictions on movement by the Government in the State of Kashmir where it dealt with whether the fundamental right to freedom of speech and expression extended to the internet as well and questioned the validity of the internet shutdown in light of the same keeping in mind the restrictions under Article 19(2).⁷

The court observed the restrictions which are given under clause (2) of article 19 these restrictions are imposed on the freedom of speech and expression and how the right to information is connected with the right to freedom of speech and expression. The nature of the court's judgement was positively giving directions that it is a true fact that the right to freedom of speech and expression is people's right but the restrictions for the same are given and should be followed to protect the peace, integrity and sovereignty of the state.

⁵ People's Union of Civil Liberties (PUCL) vs. Union of India (UOI) and Ors. (18.12.1996 - SC): MANU/SC/0149/1997

⁶ Olga Tellis and Ors. vs. Bombay Municipal Corporation and Ors. (10.07.1985 - SC): [MANU/SC/0039/1985](https://www.manuonline.org/SC/0039/1985)

⁷ Anuradha Bhasin Case

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But it is important that if the state is imposing certain restrictions, then states have to take absolute care to make sure that the restrictions would not harm the individual rights to freedom of speech and expression. The principles of democracy should not be harmed by the act of the state.

Article 19 is the dynamic right like article 21 by the changing of the time and technology article 19 evolving with new rights. In the 21st century it is stated that article 19 is also dealing with the digital era. The judgement clearly shows the validity of article 19 in the digital era.

Grounds Of Restrictions

- 1) Security of State
- 2) Friendly relations with foreign countries
- 3) No similar provision is present in any other Constitution of the world
- 4) Public Order: Next restriction prescribed by constitution is to maintain public order
- 5) Decency or morality
- 6) Contempt of Court:

It was held by the court that, "Truth based on the facts should be allowed as a valid defense if courts are asked to decide contempt proceedings relating to contempt proceedings relating to a speech or an editorial or article". The qualification is that such defense should not cover-up to escape from the consequences of a deliberate effort to scandalize the court.⁸

- 7) Defamation
- 8) Incitement to an offense
- 9) Sovereignty and integrity of India

DEMOCRATIC COUNTRIES

1. Hong Kong
2. Thailand

⁸ Indirect Tax Practitioners Assn. vs R.K.Jain

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3. Indonesia
4. Taiwan
5. Japan
6. Mongolia
7. South Korea
8. Singapore
9. Sri Lanka
10. Philippines
11. India
12. Timor-Leste (East Timor)
13. Malaysia
14. Israel

NON-DEMOCRATIC COUNTRIES

1. Saudi Arabia
2. United Arab Emirates
3. Qatar
4. Bahrain
5. Brunei
6. Morocco
7. Jordan
8. Venezuela
9. Cuba
10. Turkmenistan

CONCLUSION

Article 19 of the constitution is the one of the most major rights for the individual who is living in this country. This right provides the hope to the individuals to get justice by court of

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law. The article 19 ensures that individual enjoys his freedom in the territory of India. Constitution of India ensures that the rights of the individual should be protected and there is no dominating nature of the government. India is the democratic country which means the government is made for the people, by the people and of the people. By this democratic structure of the country, it is the duty of the government to ensure that every individual enjoys his right to freedom. there is the connection between the democracy and article 19 of the Indian Constitution. Democracy ensures that the government should be made for people to protect his rights and article 19 protects the freedom of speech and other various rights of individual. Indian constitution ensures that every individual enjoys his right without any dominating nature of the government. Article 19 is the golden right of people who are able to express their thoughts but there are certain restrictions which are imposed on the individual for the protection of the state. The reasonable grounds are necessary to protect the integrity, sovereignty and peace of the country these restrictions are imposed because there might some circumstances where the individual can misuse of this right to harm the state's security. To protect the state from this situation the reasonable restrictions are imposed. In the end Article 19 and democracy are interconnected and interlinked to each other because without article 19 the democracy will not be able to function properly and without article 19 the democracy is meaningless. . Article 19 of the constitution is important for the upcoming generations to express their opinions In Front of the government. The removal of the rule of sedition is a great achievement for the upcoming developments because citizens will now be able to give feedback, suggestions and opinions to respective governments and governments also try to implement the opinions of citizens. In the end the role of democracy and freedom of speech and expression is important for upcoming generations.

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