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ARTICLE 19 OF INDIAN CONSTITUTION

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ABSTRACT

Fundamental rights are the heart of constitutional democracy and act as a check on arbitrary¹ exercise of state power. Among them is Article 19 of the Constitution of India which occupies a special and unique position in guaranteeing a group of freedoms which are basic to the preservation of individual liberty and the effective working of democratic governance. Freedom of speech and expression, peaceful assembly, association, movement, residence and profession. These freedoms together form the legal and moral basis for the right of citizens to participate in public life. They do not merely protect personal autonomy, but reinforce the bond between the individual and the State by ensuring accountability, transparency and constitutional discipline.

The present paper attempts a study of Article 19 as a whole in respect of its constitutional² philosophy, legislative intent and practical significance in present day India. It discusses the framers of the Constitution's view of liberty as an essential democratic value and how they incorporated Article 19 as a vehicle to protect that liberty against excessive state intervention. The study also analyses the doctrine of reasonable restrictions under clauses (2) to (6) reflecting the constitutional balance between safeguarding fundamental freedoms and protection of larger societal interests such as public order, morality, security of the State and sovereignty of the nation.

The paper also critically analyses the changing judicial interpretation of Article 19 through different landmark judgments given by the Supreme Court of India which have greatly widened its scope and have also strengthened its application. Special emphasis is given to the expansion of freedom of speech and expression in the contemporary digital age, where online platforms, social media and technological advances have opened new dimensions of constitutional discourse as well as new challenges in terms of regulation and misuse.

³By doctrinal analysis and judicial scrutiny the paper emphasizes that Article 19 is not a mere constitutional text but a living and evolving guarantee of democratic freedoms. Its significance is in the maintenance of a delicate balance between liberty and regulation, individual rights and collective welfare, and constitutional morality and governance. The study concludes that the

¹ M.P. Jain, Indian Constitutional Law 1123–1138 (8th ed. 2018).

² V.N. Shukla, Constitution of India 215–228 (13th ed. 2017).

³ D.D. Basu, Introduction to the Constitution of India 167–175 (24th ed. 2021).



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continued safeguarding and progressive interpretation of article 19 is essential for the protection of democratic values, the rule of law and the constitutional promise of justice, liberty and equality in India.

INTRODUCTION ⁴

India has one of the largest written constitutions in the world. It lays the foundation for liberty, equality, justice, and democracy. The constitution's centerpiece is Article 19. As it is included in Part 3 of the Indian Constitution, it is acknowledged as a basic right. All inhabitants of our country have received this privilege. Due to the fact that it protects the basic rights that allow people to live with dignity and voice themselves freely, this Article 19 is particularly important. These liberties are the cornerstone of a democratic society because they allow citizens to express their ideas, assemble peacefully, form organizations, travel freely, live anywhere in the nation, and practice any trade or business, in addition to being legal rights. Freedom is necessary for a real democracy, as the Constitution-makers understood, and Article 19 reflects their vision. ⁵It guarantees that every citizen may participate in public life and help in the nation's development. However, these rights are not unlimited. The Constitution permits the State to establish reasonable limitations in the interest of public order, morality, and the nation's sovereignty and security. Article 19 is one of the Constitution's most significant provisions because it balances individual liberty with social order. The judiciary has interpreted and expanded Article 19 through a series of landmark judgments over the years, transforming it into a dynamic and evolving right. Article 19's importance has increased in recent times as a result of the advancement of media, technology, and public discussion. By ensuring that the voices of its citizens are heard and preserved, it protects individual freedom as well as strengthens India's democratic system.

Article 19 provides 6 fundamental rights as following-

1. Right of freedom of speech and expression;
2. Right to assemble peaceably and without arms;
3. Right to form associations or unions or co-operative societies
4. Right to move freely throughout the territory of India;
5. Right to reside and settle in any part of the territory of India
6. Right to practise any profession, or to carry on any occupation, trade or business.

⁴ INDIA CONST. art. 19.

⁵ Sneha Mahawar, Article 19 of the Indian Constitution, iPleaders (May 3, 2024)



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19 (1)(a)

Right of freedom of speech and expression

Article 19 (1) provides freedom of speech and expression which means every individuals have right to speak, write, publish and communicate their thoughts and opinions without unnecessary interference. That includes freedom of press, artistic expression and even the right to be told. Basically, it allows people to challenge the state, to share information and to take part in public debate – all of which are essential for a healthy democracy. But this freedom is not absolute and can be restricted on grounds of public order, morality or national security

The right is made up of-⁷

- Freedom of the press
- Right to know and receive information
- Right to previous history
- Reply right.
- Silence rights
- Right to fly the National flag

- **Right to press**

The Indian constitution's Art 19 does not specifically mention the rights of the press, but many judicial interpretations have accepted it as part of 19 (1).

Brij Bhushan v. State of Delhi (1950)⁸

The Supreme Court has delivered its judgment in Brij Bhushan v. State of Delhi on the question of pre-censorship on the weekly newspaper Organiser. The government had ordered that some communal items would have to be cleared before publication. The Court said that such pre-censorship was a direct intervention with the freedom of speech and expression guaranteed under Article 19(1)(a). It concluded that the freedom of the press could not exist if the State controlled

⁶ INDIA CONST. art. 19.

⁷ Article 19 of the Indian Constitution, iPleaders

⁸ Ajitesh Singh, Has the Supreme Court Done Enough to Protect Press Freedom?, Supreme Court Observer



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the content prior to publication. This was one of the first constitutional protections against prior restraint.

Romesh Thappar v. State of Madras, (1950) SCR 66

Romesh Thapar v. State of Madras : Here, the State of Madras banned the circulation of a journal, Cross Roads, in the interest of public safety. The Supreme Court overturned the ban, ruling that freedom of speech included not only publication but distribution as well. The Court observed that the limitation on the scope of ideas is as severe as the limitation on their expression. This case taught us that a free exchange of ideas and opinions is vital to a democratic society.

Indian Express Newspapers v. Union of India, (1984)⁹

The question in Indian Express Newspapers v. Union of India was whether customs and import duties on newsprint infringed on press freedom. The Supreme Court said that taxation is a governmental function, but the financial burden could have a chilling effect on the press. Thus, the Court emphasized the need to balance economic policies that affected newspapers with the constitutional value of free expression.

- **Right to access information**

The Supreme Court has upheld the citizen's right to know about the actions and decisions of the government under freedom of speech and expression under Article 19(1)(a) In a democracy you cannot participate effectively without being informed.

Raj Narain Vs State of U.P.¹⁰

The Court held that transparency is a prerequisite to accountability and that the people have the right to know all public acts performed by their public officials. This judgment laid down the foundation of the growth of the Right to Information in the coming years.

- **Right of Antecedents**

⁹ Ajitesh Singh, Has the Supreme Court Done Enough to Protect Press Freedom?, Supreme Court Observer

¹⁰ State of U.P. v. Raj Narain, (1975) 4 S.C.C. 428; The Genesis of Right to Information in India, Juris Codex



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The right to know includes the background of public office candidates.

In *Union of India v. Association for Democratic Reforms*¹¹

The Supreme Court has held that the voters should be informed about the criminal record, assets, liabilities and educational qualifications of the candidates contesting elections. The Court recognized that informed voting is a significant component of freedom of expression.

- **Right to Reply**

The right of reply is seen as a key element of fairness in public communications. It requires that where a person's reputation or views have been misrepresented in the media, they should be afforded an opportunity to respond. While not enshrined as a fundamental right per se, Indian courts have viewed it as being connected to the broader tenets of natural justice and fair expression

- **Right of Silence**

Freedom of speech also the freedom not to speak.

*Bijoe Emmanuel v. State of Kerala*¹²

The Supreme Court protected students who refused to sing the National Anthem on the grounds of their religious beliefs. The Court held that compelling any person to speak or express anything against his conscience is a violation of Art. 19(1)(a). The case set the constitutional precedent that the right to remain silent is recognized

- **Right to Display the National Flag**

Union of India v. Naveen Jindal

The Court held that flying the National Flag with dignity and respect constitutes a form of expression within the scope of Article 19(1)(a). The Court found that the display of the flag is a symbolic exercise of free speech, an expression of patriotism and personal identity.

*Bijoe Emmanuel v. State of Kerala*¹³

¹¹ *Union of India v. Ass'n for Democratic Reforms*, (2002) 5 S.C.C. 294; *Union of India v. Association for Democratic Reforms*, *Lekha News*

¹² *Bijoe Emmanuel v. State of Kerala*, (1986) 3 S.C.C. 615; *Bijoe Emmanuel v. State of Kerala*, *Lekha News*

¹³ *Emmanuel v. State of Kerala*, *Global Freedom of Expression*, Columbia University



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The Supreme Court ruled that the right to freedom of speech and expression under Article 19(1)(a) includes the right to remain silent and not only the right to speak. The Court ruled that forcing the schoolchildren to sing the National Anthem against their religious beliefs was unconstitutional. The students stood with respect and did not show disrespect to the nation and, therefore, their conduct could not be considered as an insult to the nation.” The verdict showed that freedom of personal conscience and freedom of personal choice are part of constitutional freedom.

Shyam Narayan Chouksey v. Union of India¹⁴

Supreme Court said it is not mandatory to play National Anthem in cinema halls and must be voluntary. It did say, however, that when the Anthem is played, citizens are expected to stand and show due respect. In so doing, the Court struck a balance between constitutional patriotism and individual freedom, emphasizing that patriotism cannot always be compelled.

2. 19 (1)(b)

Freedom to Assemble Peacefully¹⁵

Article 19(1)(b) of the Constitution of India provides that every citizen shall have the right to assemble peaceably and without arms. This right allows people to meet together for lawful purposes such as public meetings, demonstrations, protests or discussions. It is a bellwether for the democratic principle that people should be free to convey opinions and concerns collectively. The right to peaceful assembly is an important tool of participatory democracy, through which citizens can voice their concerns on social, political and public issues.

But this liberty is not unfettered. The State may impose reasonable restrictions in the interest of public order, sovereignty and integrity of the India and such gatherings shall not disturb peace or threaten the security of the nation.

Himmat lal v. Police commissioner bombay (1972)¹⁶

Here the Supreme Court defined the limits of this right by striking down a rule which conferred upon the police unlimited power to prohibit all public meetings and processions. The Court held that the state could regulate assemblies to maintain public order but could not deny citizens their

¹⁴ Shyam Narayan Chouksey v. Union of India, (2018) 18 S.C.C. 497

¹⁵ INDIA CONST. art. 19, cl. 1(b), available at indiankanoon

¹⁶ Himmat Lal K. Shah v. Commissioner of Police, Ahmedabad, (1973) 1 S.C.C. 227



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constitutional right to assemble altogether. The Court in its ruling reiterated that regulation should protect the exercise of the right not destroy it.

3. 19(1)(c)

Freedom to form Associations and Union¹⁷

Article 19(1)(c) of the Constitution of India enshrines the right of every citizen to form associations or unions or cooperative societies. It confers the right to associate for a common purpose, social, political, economic or professional. Its scope is wide and covers different forms of organisations like political parties, trade unions, clubs, societies, companies and other collective bodies. This freedom is intended to promote collective participation in a democratic society and to enable citizens to pursue common interests.

But this right is not unlimited. Article 19 (4) empowers the State to impose reasonable restrictions on this freedom in the interest of public order, morality and the sovereignty and integrity of India. It is to be noted that while the citizens have the right to form associations, this does not always mean the right to recognition, collective bargaining and the right to strike, as these may be subject to labour and industrial laws.

Ghosh v. Joseph, E.X.

The Supreme Court discussed the rights of Government servants under Article 19(1)(c). The case emerged when disciplinary proceedings were initiated against a government servant for participating in demonstrations in connection with a strike. The Court noted that peaceful demonstrations are a part of freedom of speech and assembly and cannot be unreasonably prohibited. It also held that the restriction on government servants from joining unrecognised associations was unconstitutional because such restrictions were not reasonable under Article 19(4). The judgment clarified that the right of freedom of association is available to government servants too but is subject to reasonable restrictions.

Damyanti Naranga v. Union of India¹⁸

This is a landmark case in which the Supreme Court widened the scope of Article 19(1)(c) and held that right to form an association is not limited to just forming it. The Court clarified that this right also includes the freedom of the members to continue the association with the same composition and structure as originally agreed upon. The dispute arose when the government enacted a law that changed the structure of the Hindi Sahitya Sammelan and introduced new

¹⁷ Dr. Marri Channa Reddy Human Resource Development Institute of Telangana, Fundamental Freedoms under Article 19 of the Constitution of India, at 221

¹⁸ Damyanti Naranga v. Union of India, (1971) 1 S.C.C. 678.



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members into the association without the consent of its original members. The Court held that such forced alteration directly interfered with the members' freedom of association.

The Supreme Court noted that if the State is allowed to alter the identity and composition of an association against the wishes of its members the very object of Article 19(1)(c) would be frustrated. It therefore held that the State cannot impose unwanted members or alter the voluntary nature of an association so as to destroy its autonomy. This decision set a strong precedent that freedom of association also entails the right to establish the association and the right to preserve the identity and continuity of the association.

4. 19(1)(d)

Freedom of Movement – Article 19(1)(d)¹⁹

Article 19(1)(d) of the Constitution of India guarantees every citizen the right to move freely throughout the territory of India. This right ensures that a person can travel from one State to another or from one place to another without unnecessary restrictions. It reflects the constitutional idea of India as one unified nation where citizens enjoy mobility and equal access across its territory. However, this freedom is not absolute and may be reasonably restricted under Article 19(5) in the interest of the general public.

Kharak Singh v. State of U.P. (1963)²⁰

In this instance, the Supreme Court examined the constitutionality of police surveillance of a suspect. The Court found that certain forms of surveillance, notably domiciliary visits at night, constituted a direct interference with personal liberty and freedom of movement. It noted that compelling a person to live under constant surveillance engenders fear and inhibits natural freedom of movement. The significance of the decision was the recognition that personal liberty includes freedom from undue state intrusion.

Chambara Soy v. Union of India(2007) ²¹

Here in this case Supreme Court took up the issue of road blockages which led to child not reaching the hospital in time and resulting in death. The Court has observed that “freedom to move on public roads is an essential part of constitutional liberty and where the State does not provide that freedom and as a result serious consequences follow, the State can be held liable”.

¹⁹ Constitutional Law of India: Right to Freedom, ch. 8, Freedom of Movement (Art. 19(1)(d) & 19(5)), Manupatra Academic

²⁰ Kharak Singh v. State of Uttar Pradesh, A.I.R. 1963 S.C. 1295.

²¹ Chambara Soy v. Union of India, (2007) 8 S.C.C. 568.



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The decision reaffirmed that free movement is not a formal right, but a right to be practically protected.

N.B. Khare v. State of Delhi²²

The Supreme Court upheld an externment order directing the petitioner to leave Delhi for a temporary period. The Court ruled that such restrictions can be valid if imposed for maintaining public peace and safety. It clarified that freedom of movement under Article 19(1)(d) is subject to reasonable restrictions under Article 19(5), especially in emergency situations.

5. 19(1)(e)

Freedom to Reside and Settle – Article 19(1)(e)

Article 19(1)(e) of the Constitution of India guarantees every citizen the right to reside and settle²³ in any part of the territory of India. This provision ensures that citizens are free to choose their place of residence without facing internal barriers or discrimination. It reflects the constitutional vision of national unity by treating India as one common territory for all its citizens. Whether for education, employment, or personal reasons, an individual has the liberty to settle in any State of the country.²⁴

However, this right is not absolute. Under Article 19(5), the State can impose reasonable restrictions in the interest of the general public or for the protection of the interests of Scheduled Tribes. Such restrictions aim to balance personal liberty with public welfare and social protection.

N.B. Khare v. State of Delhi²⁵

the Supreme Court upheld an externment order passed against the petitioner and observed that restrictions on residence may be valid if they are necessary for maintaining public safety and order. The judgment clarified that such limitations must be reasonable and not arbitrary.

U.P. Avas Evam Vikas Parishad v. Friends Co-operative Housing Society Ltd²⁶

²²N.B. Khare v. State of Delhi, A.I.R. 1950 S.C. 211

²³ INDIA CONST. art. 19, cl. 1e

²⁴ Article 19 in The Constitution of India, Indian Kanoon

²⁵ Article 19 of the Indian Constitution, iPleaders

²⁶ Article 19 of the Indian Constitution, iPleaders



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The Court broadened the scope of Article 19(1)(e) by stating that the right to reside also includes the right to shelter. It recognized that having a place to live is essential to living with dignity and constitutes an important aspect of constitutional freedom.

Thus, Article 19(1)(e) protects not only the freedom to live anywhere in India but also the broader idea of human dignity, shelter, and equal opportunity across the country.

6. 19(1) (g)

Freedom to Practice Profession, Occupation, Trade, or Business ²⁷

Article 19(1)(g) of the Constitution of India guarantees every citizen the freedom to practice any profession or to carry on any occupation, trade, or business of their choice. This right ensures economic freedom and allows individuals to choose their livelihood according to their abilities and interests. It plays a significant role in promoting personal independence and economic growth. However, under Article 19(6), the State can impose reasonable restrictions in the interest of the general public and may regulate certain professions through qualifications or licensing

Chintaman Rao v. State of Madhya Pradesh²⁸

In this case, the Supreme Court examined a law that imposed a ban on bidi manufacturing during agricultural seasons. Since bidi-making was an important source of additional income for many families, especially women, the Court found that the restriction was excessive and unreasonable. It held that although the State can regulate professions in the public interest, it cannot impose restrictions that completely take away a person's means of livelihood. The law was therefore declared unconstitutional.

Vishaka v. State of Rajasthan²⁹

In this landmark judgment, the Supreme Court held that sexual harassment at the workplace violates the fundamental rights of women, including their right to practice any profession under Article 19(1)(g). The Court recognised that a safe working environment is necessary for exercising professional freedom with dignity. To address this issue, the Court laid down the Vishaka Guidelines, which became the foundation for workplace safety laws in India.

²⁷ INDIA CONST. art. 19, cl. 1(g)

²⁸ Chintaman Rao v. State of Madhya Pradesh, A.I.R. 1951 S.C. 118.

²⁹ Vishaka v. State of Rajasthan, (1997) 6 S.C.C. 241



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Excel Wear v. Union of India³⁰

In this landmark case, the Supreme Court recognised that the freedom to carry on any business under Article 19(1)(g) also includes the freedom to close down that business. The Court observed that no person can be compelled to continue a business against their will if it has become impractical or unviable. It struck down Section 25-O of the Industrial Disputes Act, which required prior government permission for closure, holding that such a condition imposed an unreasonable restriction on the employer's fundamental right. The judgment established that economic freedom includes both the right to start and the right to discontinue a business.

Harinagar Sugar Mills Ltd. V. State of Maharashtra³¹

In this recent judgment, the Supreme Court reaffirmed the principle laid down in Excel Wear. The Court held that the right to carry on a trade or business naturally includes the right to voluntarily shut it down. It observed that forcing an enterprise to continue functioning without justification would amount to arbitrary interference with economic liberty under Article 19(1)(g). At the same time, the Court emphasised that while business closure is protected, the rights of workers and statutory obligations must also be respected.

Right to property

Former Article 19(1)(f)³²

Before Article 19(1)(f) of the Constitution of India guaranteed every citizen the fundamental right to acquire, hold, and dispose of property. Along with Article 31, it protected private property from arbitrary State interference. This right was considered essential in the early constitutional framework as it secured economic freedom and individual ownership.

However, over time, conflicts arose between this right and the government's land reform policies aimed at reducing inequality and redistributing resources. To remove these obstacles and promote social justice, the Parliament enacted the Forty-Fourth Constitutional Amendment Act, 1978, which deleted Article 19(1)(f) and Article 31 from Part III of the Constitution.

After this amendment, the Right to Property ceased to be a Fundamental Right and was reintroduced as a constitutional/legal right under Article 300A. This means that while a person

³⁰ Excel Wear v. Union of India, (1979) 1 S.C.C. 224

³¹ Harinagar Sugar Mills Ltd. (Biscuit Division) v. State of Maharashtra, 2025 INSC 801

³² The Constitution (Forty-Fourth Amendment) Act, 1978, No. 44 of 1978, INDIA CODE



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can still own property, such right no longer enjoys the same constitutional protection as fundamental rights and can be restricted by authority of law.

CONCLUSION³³

Article 19 occupies a central position in the constitutional framework of India as it embodies the essence of democratic liberty and individual autonomy. By guaranteeing essential freedoms such as speech and expression, peaceful assembly, association, movement, residence, and profession, it ensures that citizens actively participate in the democratic process and contribute to the nation's social and political development. These freedoms are not merely legal entitlements but the foundation upon which a free and progressive society is built.

The constitutional vision behind Article 19 is one that seeks to strike a delicate balance between individual rights and collective interests. While it secures liberty, it simultaneously permits reasonable restrictions to maintain public order, morality, and the sovereignty and integrity of the nation. This balance demonstrates the foresight of the framers in creating a framework where freedom is protected without compromising societal harmony.³⁴

The scope of Article 19 has been further expanded by judicial interpretation so as to make it dynamic and responsive to the changing needs of the society. The Supreme Court of India, in its landmark decisions, has reiterated that freedom is the bedrock of democracy and any unreasonable interference with these rights must be jealously guarded. In an age of fast-paced technological change and digital communication, Article 19's applicability has transcended traditional boundaries and is an indispensable bulwark of expressions of liberty in the physical and virtual world.

Thus, Article 19 continues to be not only a constitutional guarantee but also a living witness to the democratic ideals of justice, equality and liberty. Protecting it is essential to uphold the spirit of the Constitution and ensure that democracy in India remains vibrant, inclusive and resilient.

³³ Constitution of India, Article 19, Constitution of India

³⁴ Article 19 — Protection of Certain Rights Regarding Freedom of Speech, etc., Corpus Juris Legal