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**RIGHT TO FREEDOM IS NOT AN ABSOLUTE RIGHT: A CRITICAL
ANALYSIS IN REFERENCE TO SUPREME COURT LANDMARK
JUDGMENTS**

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1.1 BACKGROUND OF THE STUDY

The Indian Constitution's fundamental rights are an essential collection of civil liberties that guarantee people the ability to live in equality, dignity, and peace. Particularly addressing many facets of personal freedom, Articles 19 through 22 together provide a fundamental framework for the defense of individual rights. These rights are limited, even though they are essential to upholding democratic principles. The state has the power to impose limits as long as they are legal and considered reasonable. Particularly, Article 19 lists fundamental liberties including speech, expression, and mobility together with the justifications for their legal restriction.

Articles 19 to 22 of the Indian Constitution establish the right to freedom as a basic right. The freedom of speech and expression, the right to peaceful assembly, the ability to establish associations, the freedom to travel across the nation, the freedom to choose where to live, and the freedom to pursue any legal profession or occupation are just a few of the fundamental liberties that citizens are granted under these laws. These rights, which allow people to participate freely in political, social, and economic life without excessive state interference, are the cornerstone of a democratic system. However, the Constitution also

recognizes the equal importance of upholding national security, public order, and respect for others' rights.

Despite being a fundamental component of democracy, the right to freedom is not unrestricted. Under some conditions, the state has the authority to put reasonable restrictions on these rights. For instance, issues pertaining to defamation, public decency, or sovereignty may result in restrictions on the right to free expression. In a similar vein, the freedom to assemble in peace may be curtailed in order to avoid chaos or violence. These measures are intended to preserve social peace and ensure the general welfare. In order to ensure that these limitations are applied fairly, rationally, and in accordance with constitutional principles, the judiciary is essential.

While Article 19 of the Indian Constitution guarantees fundamental liberties, Article 19(2) allows for some justifiable restrictions. These limitations are intended to preserve a just equilibrium between individual freedom and the broader national interests, which include social harmony, morality, and public safety. The Constitution outlines the conditions under which these rights may be restricted, including those pertaining to public order, decency, morality, judicial respect, and national integrity. The SCI has played a crucial role in interpreting these clauses, ensuring that any restrictions imposed by the government adhere to the reasonable and democratic values outlined in the Constitution.

Among the fundamental liberties granted to citizens by Article 19 are the freedoms of expression, peaceful assembly, association or union formation, national mobility, and participation in any trade, business, or vocation. These rights are not unrestricted, though, and the State may impose reasonable limitations in order to protect national interests. Such limitations may be put in place to safeguard India's integrity and sovereignty, national security, good relations with other countries, public order, morality, and decency, to stop incitement to crime, to prevent defamation or contempt of court, and to safeguard the rights of Scheduled Tribes.

One key reason for imposing limits is to stop any speech or expression that promotes the separation of a region from the Indian Union, thereby aiming to preserve the country's unity rather than that of individual states.

The term “security of the State” refers to activities like encouraging rebellion, attempting to overthrow the government, or inciting foreign aggression. In the *Romesh Thappar v. State of*

Madras case, the Supreme Court emphasized that minor disturbances that do not threaten state security cannot be included under this category.

This landmark case also played an important role in recognizing "public order" as a separate ground for restricting freedom of speech. It includes speech that either causes or has the potential to cause disruption and unrest in society.

The State may impose reasonable limitations on the right to free speech and expression under Article 19(2), especially in order to preserve moral and decency standards. The purpose of these restrictions is to uphold moral standards and social order. Sections 292 to 294 of the Indian Penal Code, for example, show how the right to free speech can be restricted when it is deemed offensive or in violation of public morals.

Indian courts now rely on the "Community Standards Test" to judge obscenity. This test evaluates whether material is offensive by considering what the average person, reflecting current societal values, would find inappropriate. As societal attitudes evolve, so does the legal understanding of what constitutes obscenity.

Despite their close relationship, the concepts of contempt of court and freedom of speech operate separately. Although the freedom to express one's thoughts is guaranteed by Article 19(1)(a), this right is not unrestricted. It might be legally limited to safeguard the judiciary's authority and integrity. The purpose of contempt of court statutes is to protect the legal system against remarks or acts that can harm its standing or obstruct its ability to operate effectively, such as attempts to disparage or offend the court.

Likewise, it is acknowledged that defamation is an exception to the rule of free speech. Even while people are free to express themselves, they are not allowed to damage the reputation of others. Defamation laws can limit speech that unfairly harms someone's reputation or exposes them to hostility or mockery.

The term "incitement" in the context of Article 19(2) refers to expressions that directly provoke others to engage in illegal or dangerous activities. This includes encouraging violence, promoting hatred, or disturbing public peace. When speech poses such risks, the State is justified in imposing restrictions.

Through its judgement, the Supreme Court has significantly shaped how permissible restrictions on fundamental freedoms are understood and applied. It has introduced vital legal tests and doctrines - like the proportionality test, the nexus requirement, and the doctrine of

minimum interference - to determine whether restrictions on rights are constitutionally valid. These systems are used to ensure that state actions are not arbitrary and that any curtailment of individual freedoms remains within justified limits. The judiciary's oversight has been essential in preserving the integrity of fundamental rights while also addressing collective concerns like security, order, and ethical standards, thereby preventing misuse of power by the state.

The scope and meaning of the fundamental freedoms protected by the Constitution have been significantly shaped over time by the SCI. In a number of seminal rulings, the Court has examined and defined "reasonable restrictions," determining whether legislative or executive actions by the government infringe upon constitutionally guaranteed rights. *Maneka Gandhi v. UOI* and *Bennett Coleman & Co. v. UOI* are two notable instances that have had a big impact on how constitutional law has developed in this field. These rulings establish the acceptable bounds within which the state may function when restricting democratic freedoms, in addition to reaffirming their preservation.

This research intends to conduct a critical examination of the Supreme Court's handling of restrictions placed on the right to freedom. It will explore the judicial standards and doctrines established by the Court to evaluate the validity and fairness of such limitations. By analyzing prominent judgement, the study aims to shed light on how the judiciary navigates the tension between protecting individual liberties and maintaining public order or national interest. The goal is to assess whether the Court's interventions have ultimately strengthened the system of civil rights or allowed greater leeway for state control.

1.2 STATEMENT OF THE PROBLEM

By ensuring fundamental civil freedoms, the right to freedom, as stated in Articles 19 to 22 of the Indian Constitution, is an essential component of the country's democratic system. However, in the interest of state security, decency, morality, public order, and national integrity, these rights may be legitimately limited. Finding a balance between individual liberties and larger communal and national objectives is a constant struggle. In this regard, the Supreme Court of India has been crucial in interpreting these clauses, establishing the boundaries and validity of restrictions imposed by the state, and influencing the development of basic rights law.

The way limits are implemented has frequently generated discussions about state overreach and the weakening of individual rights, despite the Constitution's protections for personal freedoms. The relationship between maintaining public order and defending democratic values is intricate and constantly changing, as demonstrated by Supreme Court rulings. The goal of this study is to critically analyze how the judiciary has managed this equilibrium, especially with regard to freedoms of association, peaceful assembly, and speech. The study will evaluate the fairness and coherence of the Court's interpretations as well as their influence on the exercise of the right to freedom in India by examining seminal cases.

1.3 REVIEW OF LITERATURE

Ashok Kumar (2023)¹ In India, the right to freedom of speech and expression is a fundamental right granted under Article 19(1)(a). This right allows individuals to express their views freely through different means like speaking, writing, printing, or any other form of communication. This freedom is subject to some reasonable restrictions, nevertheless, and is not unqualified. These legal limitations are put in place to protect the nation's integrity and sovereignty, keep public order, protect national security, maintain goodwill with foreign countries, and defend morality and decency. Additionally, speech that can be construed as defamatory, inciting criminal activity, or contempt of court is restricted. In India, many laws restrict speech and expression in order to strike a balance between the right of the person to voice their thoughts and the requirement to preserve public safety and order.

Srishti Murali and Nrupalaa (2024) The ambiguity around the meaning of "public order" as defined by Article 19(2), which permits justifiable limitations on the basic right to freedom of speech and expression protected by Article 19(1)(a), is examined in this essay. It looks at the definition of "public order," its historical background, court decisions, and contemporary perspectives, highlighting how ambiguous and expansive the phrase is, leading to different interpretations and legal issues. This term's vagueness has sparked worries about the possible abuse of laws with ambiguous wording to stifle free expression, stifle dissent, and silence critics of government acts.

The purpose of the article is to provide a thorough examination of the various interpretations that the courts have offered as well as the ways in which the legal definition of "public order"

¹ Ashok Kumar, Restriction on Freedom of Speech and Expression in India, LAWYERED (2023)

has changed over time. The study aims to draw attention to the difficulties in striking a balance between the demands of maintaining public order and individual liberties by examining both recent viewpoints and previous court decisions. It comes to the conclusion that maintaining democratic norms and ensuring a strong basis for freedom of speech and expression in India depend on resolving the ambiguity around the definition of "public order" in Article 19(2).

Pratap, Nikhil (2022)² The Constitution of India guarantees a broad range of fundamental rights, comprising civil and political rights, socio-economic rights, and group rights. Conflicts between these rights are not uncommon. However, the approach of the SCI in resolving such conflicts has often been inconsistent, unclear, and lacking in clarity. The Court seldom identifies the conflict at a detailed level, and when it does, its decisions are sometimes accompanied by insufficient reasoning. This paper seeks to highlight the doctrinal, structural, and reasoning gaps in the Court's approach to these conflicts. It does so by examining a select group of cases where the Court has addressed clashes between the right to life and dignity and the right to freedom of speech and assembly.

Nanditha Ravindar and Greeshma (2022)¹¹ India's internet filtering has generated a lot of discussion and controversy. Critics argue that it can be used to restrict freedom of speech and stifle dissent, particularly against political opponents, journalists, and activists. On the other hand, proponents contend that specific limitations are necessary to preserve social harmony and stop the spread of hate speech and false information. Cases involving internet censorship and freedom of speech have been decided by Indian courts. Courts have occasionally struck down government orders or laws that were thought to infringe upon the right to free speech.

Manali Singh (2021)³ Article 19's primary goal is to let people to participate in the democratic process by voicing their opinions, taking part in public debates, and holding the government and its representatives responsible. Speech, writing, printing, publishing, and even non-verbal forms like gestures and symbols are all included in this broad category of expressions. Article 19 recognizes that some limitations are reasonable even though it provides broad protection for the right to free speech and expression. The application of these restrictions can be justified by the need to protect India's integrity and sovereignty, national security, good relations with other countries, public order, and morality and respect. Instances of

² Pratap, Nikhil, "Conflicting Fundamental Rights Under the Indian Constitution: Analyzing the Supreme Court's Doctrinal Gap" (2022). LL.M. Essays & Theses. 7

³ Manali Singh, Right to Speech with Special Reference with Internet Censorship, IJCRT (2021)

defamation, incitement to criminal behavior, and contempt of court may also result in restrictions.

Janani (2019)⁴ The research paper provides an overview of the right to Freedom of Speech and Expression as enshrined in the Indian Constitution, and subsequently examines its application in the context of the internet. The Criminal Procedure Code (CrPC) is a procedural law that defines the steps for investigating and prosecuting criminal offenses in India. While the CrPC does not explicitly address online freedom of speech and expression, it is frequently applied in cases involving online content that is considered offensive or illegal. For instance, if a complaint is lodged against an individual for allegedly posting defamatory material on social media, the investigation and legal process would follow the procedures outlined in the CrPC. Similarly, the Civil Procedure Code (CPC) provides a procedural system for the administration of criminal justice in India. While the CPC is not tailored to internet-related crimes, it still serves as the guiding system for addressing criminal complaints involving online speech and expression, covering aspects like the registration of FIRs, law enforcement investigations, and the trial process.

Ruchi Rao⁵ (2023) points out that internet has significantly influenced freedom of speech and expression in the digital era. Section 79 of the Information Technology (IT) Act offers certain protections to intermediaries, like internet service providers and social media platforms, shielding them from liability for third-party content shared on their platforms. However, these intermediaries are obligated to adhere to due diligence requirements under the law, comprising the removal or blocking of illegal content upon receiving a notice from the relevant authorities. The IT Act of 2000, along with its amendments, establishes the legal system for regulating electronic communication and digital transactions in India. While its primary goal is to promote e-commerce and digital communication, it also includes provisions to address cybercrimes and regulate online content, which have implications for freedom of speech and expression in the digital space.

⁴ Janani, Freedom of Speech in Cyberspace, Cybertalk India (2019)

⁵ Ruchi Rao (2023), Internet and its Impact on Free Speech , JLRJS, <https://jlrjs.com/internet-and-its-impact-on-free-speech/>

1.4 OBJECTIVES OF THE STUDY

- To analyze how the Supreme Court interpret the scope and restrictions of the rights to freedom under the Indian Constitution.
- To examine the balance among individual rights and public interests in the context of freedom related judgments by the Supreme Court.
- To identify the effect of Supreme Court judgments on the expansion or contraction of the fundamental rights to freedom in India.
- To analyze how Supreme Court judgments have influenced legislative actions concerning the restrictions of freedom in India.

1.5 RESEARCH QUESTIONS

1. How does the Supreme Court define and interprets the scope of the right to freedom in association to constitutional provisions?
2. What are the major factors considered by the Supreme Court when imposing restrictions on the rights to freedom under Article 19 ?
3. In what ways have Supreme Court decisions influenced the association among individual rights and state security or public order?
4. How have Supreme Court judgments on the rights to freedom impacted the legal system governing civil liberties in India?

1.6 RESEARCH METHODOLOGY

The research methodology adopted for this study is doctrinal in nature, centered on a detailed examination of legal principles, judicial precedents, and constitutional provisions related to the right to freedom in India. Doctrinal research entails the systematic analysis of existing statutes, case law, legal commentaries, and constitutional texts to interpret the development of judicial decisions concerning fundamental rights. The study will involve the examination of the prevailing legal system, comprising relevant statutes, rules, notifications, byelaws, and official orders.

Key constitutional provisions like Articles 19, 21, and 22 - governing the right to freedom - will be critically analyzed, along with any judicially recognized exceptions or restrictions. In addition to primary legal sources, secondary data will be examined through different means, comprising books, magazines, case law analysis, judgments, legal journals, and bulletins. Online resources and web-based research will also serve as valuable tools for data collection.

This doctrinal approach facilitates a nuanced understanding of how the SCI has addressed the tension between individual liberties and state interests like national security, public order, and morality. By studying landmark judgments, the research will assess the Court's evolving interpretative strategies and legal reasoning in safeguarding or limiting the right to freedom. It will also highlight key doctrines and legal principles articulated by the judiciary, providing insights into how constitutional protections of individual rights are perceived and applied by legal scholars and practitioners in India.