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# THE IMPORTANCE AND FEATURES OF ARTICLE 19 OF THE INDIAN CONSTITUTION

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## **Introduction**

Our Indian Constitution gives fundamental Rights to person or citizens of India under Part 3<sup>rd</sup> of Indian Constitution. From Article 12-35 we have fundamental Rights. Personal liberty is the most important aspect of fundamental rights. Article 19-22 together form Personal liberty. In Article 19, there are six golden fundamental rights guaranteed by Constitution. These fundamental rights are only available to citizens only. It is not available to any foreign person. Also, a corporation or a company who is a legal person cannot claim a right under Article 19. Because in Article 19, fundamental rights are guaranteed only to the natural person not a legal person. But if a shareholder in a company want to claim their FR, they can do so as an individual person. According to this concept, one case law is there – Bank Nationalization case. In this case, SC clarified that you cannot claim your right as a whole company under Article 19, but as an individual member of a company you can do so. In Article 19 there are 6 clauses. In first clause, 6 freedom rights are mentioned. And from clause (2) – (6) reasonable restrictions are available. These six golden freedom rights are not absolute. Because if people get absolute freedom rights then there may be chances of taking disadvantage from that. The state should impose some reasonable restrictions on freedom rights of the people for the proper functioning of the state. Hence, the freedom rights should be accompanied with some reasonable restrictions. Our Indian Constitution gives power to state for the imposing some reasonable restrictions by making some laws. Our Constitution makers had that farsightedness that there should be some reasonable restrictions along with freedom rights. There are some Test of Restrictions which are as follows:

### **Test of restrictions under Article 19(2)-19(6):**

- The court will decide whether the restriction is reasonable or not.
- Restriction must be reasonable for substantive as well as procedural law.
- There should be a rational relation with object of legislature & the restriction which are imposed by state.

In some situations, restrictions may amount to prohibition. E.g. trafficking of women. State can impose restrictions on trafficking of women and it is reasonable.

### **Features of Article 19:**

Article 19 of the Constitution guarantees to the citizen of India the following six freedom rights. These are explained as follows:

#### **1. Freedom of Speech & Expression {Article 19(1)(a) & 19(2)} :**

**Meaning** -Freedom of Speech & Expression is essential for the proper functioning of democracy. This Article 19(1) (a) provides freedom to express ourselves, our opinions freely in writing, speaking, printing, pictures or in any other form. It is our right that we can express our feelings, our own convictions with the help of any mode. Today social media become the most popular mode by which people can share, express their thoughts. In a democratic nation, everyone should have freedom of speech & expression.

#### **Scope of Freedom of Speech & Expression:**

**1)Right to Information:** Freedom of Speech & Expression includes Right to be informed. Because when we have knowledge or information about particular thing, only then we can speak about that thing. We would be able to express ourselves. That's why, Right to Information concept was derived from Freedom of Speech & Expression. The right to information states that every citizen can access the information which is under control of Public Authority.

In *state of U.P. Vs. Raj Narain (1975)* - SC held that right to know is derived from freedom of Speech & Expression.

**2)Right to Vote:** In *Union of India, vs. association for Democratic Reforms*- SC held that Election Commission should make it mandatory to all contestant to provide their information (education, caste, property, criminal antecedents) while filling the nomination form. It is a right of voters to know about their candidate to whom they are going to cast a vote.

**3) Freedom of Press:** Freedom of Press is a part of freedom of speech & expression. It is essential for the growth of democracy. Because we know that Media is the fourth pillar of democracy. Freedom of Press means having liberty to publish newspapers, periodicals, journals, pamphlets and circulars without previous permission. Freedom of Press means there

is a no pre-censorship is required. We have the freedom of circulation. There would be no excessive taxes on the press. But Freedom of Press has some restrictions also.

In *Romesh Thapper vs. State of Madras* – In this case, there was a ban on entry & circulation of journal “cross road”. The court held that it is invalid to ban on circulation of journal. Because freedom of circulation is important as the freedom of publication.

**4) Right to reply:** In *LIC v. Prof. Manubhai D. Shahi (1992)* - the SC held that the right to reply, including the right to get that reply published in the same news media in which something was published against or in relation to a citizen, is protected under Article 19(1) (a).

**5) Right to Privacy:** – Telephone Tapping case.

In *People’s Union for civil Liberties vs. Union of India* – SC held that telephone tapping violates Article 19(1) (a) unless it comes within ground of restrictions under Article 19 (2). Telephone conversation is a private matter unless there is “Occurrence of any public emergency” or “in the interest of public safety” government cannot do telephone tapping.

**6) Right to Silence:** Freedom of speech includes right to remain silent. In *Bijoe Emmanuel vs. State of Kerala*, in this case, 3 students of Jehovah’s community threw away from school because they refused to sing national anthem. But they stood up respectfully & they remain silent. SC held that If a person gives respect to national anthem & remains silent then no one can compelled them to sing a includes Freedom of not to speak or freedom of remain silent.

**7) Right to express gender identity:** Transgender persons has freedom to express about their gender identity. They can expressed in any way which they want.

**Reasonable restrictions on the right to freedom of speech & expression:**

Right to freedom of speech & expression are not absolute. Some reasonable restrictions are there. In Article 19(2), restrictions can be imposed upon freedom of speech & expression in the interest of –

- 1) Sovereignty & Integrity of India.
- 2) The security of the state
- 3) Friendly relations with foreign states
- 4) Public order, decency or morality
- 5) Contempt of Court
- 6) Defamation

7) Incitement to an Offence

## 2. Freedom of Assembly {Article 19(1)(b) & 19(3)}

Article 19(1) (b) guarantees to all citizens of India right “to assemble peacefully & without arms.” According to this Article 19 (1) (b), we can hold meetings, gathered, assemble.

### Restriction on freedom to assemble:

- The assembly must be peaceful.
- It must be unarmed.

## 3. Freedom to form Association {Article 19(1)(c) &19(4)} :

It guarantees to all the citizens the right to form association or unions or cooperative societies. Association is a group of people who have a common objective and they collectively worked for the fulfillment of that objective. We can form a company, partnership, political parties, trust etc.

### Restrictions on the Freedom of Association:

- Interest if sovereignty & integrity of India.
- Interests of public order or morality.

## 4. Freedom of Movement {Article 19(1)(d) &19(5)}

This clause gives right to move freely throughout the territory of India. We can go anywhere in the territory of India. We can go from one state to another state without any restrictions. This right includes the right to use roads & highways.

### Restriction on right to freedom of movement:

- In the interests of the general public.
- For the protection of Interest of any state.

In *state of U.P. vs. kaushalya*, SC held that the right of movement of prostitutes restricted on the ground of public health & in the interest of public morals.

In *Ajay Canu. Vs. Union of India* – petitioner said that wearing helmet is made compulsory and he was not comfortable to freely move with helmet. This was violated to Article 19(1) (d). But SC said that it is a reasonable restriction imposed on Article 19(1) (d) because it is for people’s safety.

## 5. Freedom of Residence { Article 19(1)(e) &19(5)}

Every citizen of India has the right to reside & settle in any part of the territory of India. Right to Freedom of movement & freedom of residence are complementary to each other. We can reside in any state /UT of India.

**Restrictions for freedom of Residence:**

- In the interest of the general public.
- For the protection of the interests of any state

*State of U.P. vs. Kaushalya* – The restriction was placed on the movement & residence of a prostitute. It was a reasonable restriction.

**6. Freedom of Profession, Occupation, Trade or Business {Article 19(1)(g) & 19(6)}**

It gives the right to all citizens to practice any profession, or to carry on any occupation, trade or business. Right to business also includes right to shut down the business. In *Excel Wear vs. Union of India (1978)* – SC held that nobody has got a right to carry on the business if he cannot pay even minimum wages to the laborers. He must then shut down his business. Right to business includes right to shut down the business.

No right of private practice to government doctors – In *Sukumar Mukherjee vs. state of West Bengal* - court held that government doctors are bound by terms & conditions & they are not allowed to private practice.

**Restrictions on freedom of profession, occupation, trade or business:**

- Interest of public.
- By state monopoly – Article 19(6) (2) enables the state to make laws for creating state monopolies either partially or completely in any trade or business.

**CONCLUSION**

The right to freedom is one of the most important Fundamental Rights given by Indian Constitution. If there is a freedom, only then democracy can grow. People have some freedom to do anything provided that there must be social control. State should impose reasonable restrictions on freedom so our government can function properly. The state thus acts as a source of limitations on freedom rights of people. Our constitution makers nicely mentioned freedoms along with restrictions. Freedom of rights & restrictions go in hand by hand. That's why, Article 19 in our constitution has a great importance. So there is all about the Importance of Article 19 in Indian constitution.