



Rights to Freedom

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This article is based on “**Beating down critical journalism, creative freedom**” which was published in The Hindu on 02/02/2021. It talks about the issues related to rights to freedom.

Farmers protesting on the borders of New Delhi and the Union Government are engaged in a tussle regarding **three farms laws**. After the protest turned into chaos on Republic day, the government has tightened the security.

However, the level of barricading that has been done by the government has been questioned by civil society nationally and internationally. Moreover, there have been active efforts by the government to deter critical reporting.

This can be reflected in instances like nine senior journalists were charged under the law of sedition, a young freelance journalist was arrested, a number of social media pages run by newspapers were blocked and executive order stating that employees of the social media company, Twitter, could face arrest for failure to comply.

These steps may be constituted as an assault on the “rights to freedom” granted under Article 19 of the Constitution.

Issues Related With Rights to Freedom

- **Non-Obstante Clause:** Like several other articles in the Fundamental Rights chapter of the Indian Constitution, Article 19 includes a non-obstante clause, which means these rights are qualified by reasonable restrictions like law & order, sovereignty & security of the country, etc.
 - These clauses under article 19(2) were for the most part inserted by the First Amendment to the Indian Constitution.
 - However, many times when the government has to balance out the fine line between freedom of citizens and reasonable restrictions, it results in a conflicting condition and compromise on the rights to freedom.

- **Broad-Terms & Negligence:** Often the dichotomy between freedom of citizens and reasonable restrictions, result in misuse of power by the government, through **Sedition law under section 124A of IPC.**
 - Taking this in cognizance, the Supreme Court in Kedar Nath Singh vs State Of Bihar, 1962 held that sedition will be applicable only to activities intended to create disorder or disturbance of public peace by resort to violence”.
 - However, as these terms are vague, it leads to often misuse of sedition law and neglect of Supreme Court guidelines.
- **Dis-Proportionate Judicial Remedy:** In recent years the judicial system has emerged as a luxury, whereby rich and influential media houses & journalists get bail quickly and bail gets delayed or denied to independent journalists and smaller media houses.
- **New Legal Weapon:** Apart from being charged with sedition and other offenses, the free press now has to deal with more stringent the **Unlawful Activities (Prevention) Act, 2019** which could potentially result in indefinite detention.
- **Angle of Religion:** Even if religion finds no specific mention as reasonable restrictions under Article 19(2), the politics of religious offense constitute another clear threat to freedom of speech and expression.

This can be reflected in the recent case of the web series, whose producers and cast face charges despite multiple apologies.

Way Forward

- **Active Role of Judiciary:** The higher judiciary should use its supervisory powers to sensitize the magistracy and police to the constitutional provisions protecting free speech.
- **Narrowing Down Sedition Law:** The definition of sedition should be narrowed down, to include only the issues pertaining to the territorial integrity of India as well as the sovereignty of the country.
- **Adherence to Media Ethics:** Regarding the responsibility of media, it is important that the media stick to the core principles like truth and accuracy, transparency, independence, fairness and impartiality, responsibility, and fair play.
- **Strengthening Institutional Framework:** Rather than the government, news regulatory bodies (the Press Council of India & News Broadcasters Association), should be empowered to put effective checks & balances over media.

Conclusion

There is the need to maintain a balance between free expression of individual rights and collective security of the society and state; this responsibility should not be borne by the government alone, but by all those who enjoy these rights.

Drishti Mains Question

Punitive measures as the first recourse against critical journalism are against the right of freedom enshrined under the Indian Constitution. Discuss.



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This editorial is based on **“Shot in the arm for banking reform”** published in The Economic Times on February 4th, 2020. Now watch this on our Youtube channel.