



## Disclosure of Journalistic Sources

**For Prelims:** Law Commission of India, Article 19, Press Council of India (PCI)

**For Mains:** Legal Protection for Disclosure of Journalistic Sources, Status of Press Freedom in India.

### Why in News?

Recently, while rejecting a closure report filed by the [Central Bureau of Investigation \(CBI\)](#), a Delhi court stated that **there is no statutory exemption in India to journalists from disclosing their sources to investigating agencies**.

### What is the Legal Protection for Disclosure of Journalistic Sources?

#### ▪ In India:

- In India, there is **no specific legislation** that protects journalists from being asked to disclose their sources.
  - However, [Article 19](#) of the Constitution **guarantees the right to freedom of speech and expression to all citizens**.
- Investigative agencies **can issue notices to anyone, including journalists, to provide information**.
  - Like any citizen, a journalist can be compelled to give evidence in Court. If she does not comply, **the journalist can face charges of Contempt of Court**.

#### ▪ Globally:

- **United Kingdom:** The Contempt of Courts Act 1981 creates a presumption in favour of journalists who want to protect the identity of their sources. However, that right is subject to certain conditions in the “interest of justice”.
  - An attempt to force a journalist to reveal his source for a news story **violated his freedom of speech and expression guaranteed under the European Convention on Human Rights**.
- **United States:** Although the First Amendment guarantees free speech in the United States specifically mentions the press, the Supreme Court has held that journalists do not have the right to refuse to testify in a federal grand jury proceeding and disclose sources.
  - However, **several states in the US have shield laws that protect the rights of journalists** to varying degrees.
- **Sweden:** The Freedom of the Press Act in Sweden is a broad protection of the rights of journalists and even extends to state and municipal employees who might share information with journalists freely. **A journalist who reveals his or her source without consent may be prosecuted at the behest of the source**.

### What are the Constitutional Provisions Related to Press Freedom in India?

- **Fundamental Right Under Article 19:** The Indian Constitution guarantees freedom of speech and expression under Article 19, which deals with **‘Protection of certain rights regarding freedom of speech, etc.**

- **Implicit Right:** Freedom of the press is not expressly protected by the Indian legal system but it is impliedly **protected under article 19(1) (a)** of the constitution.
  - However, **Freedom of the press is also not absolute.**
  - A law could impose only those restrictions on the exercise of this right, it faces **certain restrictions under article 19(2), which is as follows:**
    - Sovereignty and integrity of India,
    - Security of the State,
    - Friendly relations with foreign States,
    - Public order, decency or morality or in
    - Contempt of court,
    - Defamation
    - Incitement to an offence.

## What're some of the Legal Opinions on this Issue?

- While the [Supreme Court](#) broadly recognises the freedom of the press, including the right of journalists to ensure the protection of their sources, **various courts have ruled differently on this issue.**
- During the investigation of [Pegasus spyware](#), the Supreme Court in 2021 stated that one of the fundamental conditions for the media to exercise its **right to freedom of speech and expression under Article 19 is the protection of 'journalistic sources'.**
- The protection of journalistic sources is one of the basic conditions for the freedom of the press. Without such protection, **sources may be prevented from assisting the press in informing the public on matters of public interest.**
- Under the [Press Council of India \(PCI\) Act, 1978](#), the Press Council has the powers of a civil court to deal with complaints **when a newspaper has offended the standards of journalistic ethics** or when an editor or working journalist has committed any professional misconduct.
  - However, the **Council cannot force a newspaper, news agency, journalist, or editor to reveal their sources during the proceedings.**
- In **Romesh Thappar v. State of Madras case, 1950** the [Supreme Court](#) observed that freedom of the press lay at the foundation of all democratic organisations.

## What is the Press Council of India?

- **About:**
  - It was **first set up in 1966** under the Indian Press Council Act, 1965, on the **recommendations of the first Press Commission**, with the two-fold objective of preserving the freedom of the press by **maintaining and improving the standards of newspapers and news agencies** in India
  - As a **quasi-judicial autonomous authority**, it was re-established in the year **1979 under an Act of Parliament, Press Council Act, 1978.**
  - The Press Council of India is the only body to exercise authority even over the **instruments of the State in its duty** to safeguard the independence of the press.
- **Structure:**
  - The Council is a body corporate having perpetual succession **consisting of a Chairman and 28 members.**
    - The Chairman is **selected by the Speaker of the Lok Sabha**, the **Chairman of the Rajya Sabha** and a member elected amongst themselves by the **28 members of the Council.**

## What are the Recommendations?

- The [Law Commission of India](#) in its 93<sup>rd</sup> Report, 1983 recommended recognising journalistic

privilege by amending the **Indian Evidence Act, 1872**. The report suggested the insertion of a new provision:

- **No court shall require a person to disclose the sources of information contained in a publication** for which he is responsible, where such information has been obtained by him on the express agreement or implied understanding that the source will be kept confidential.

**Source: IE**

PDF Reference URL: <https://www.drishtiias.com/printpdf/disclosure-of-journalistic-sources>