



ILE MULTIDISCIPLINARY JOURNAL

VOLUME 4 AND ISSUE 2 OF 2025

INSTITUTE OF LEGAL EDUCATION



ILE MULTIDISCIPLINARY
JOURNAL

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ILE MULTIDISCIPLINARY JOURNAL

APIS – 3920 – 0007 | ISSN – 2583-7230

(OPEN ACCESS JOURNAL)

Journal's Home Page – <https://mj.iledu.in/>

Journal's Editorial Page – <https://mj.iledu.in/editorial-board/>

Volume 4 and Issue 2 (Access Full Issue on – <https://mj.iledu.in/category/volume-4-and-issue-2-of-2025/>)

Publisher

Prasanna S,

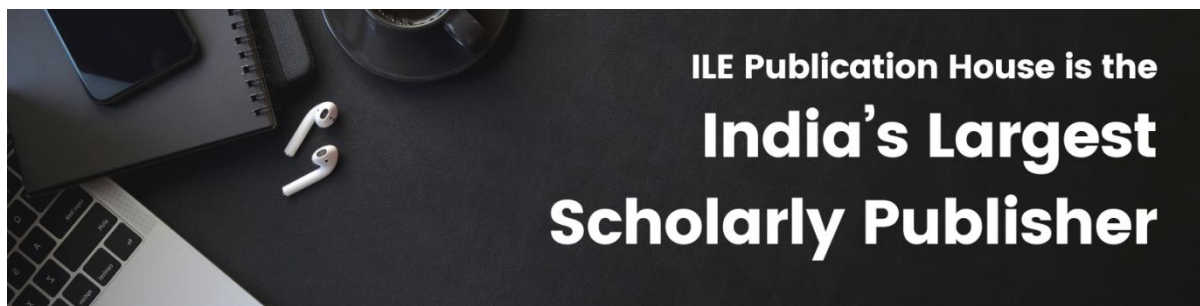
Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



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REASONABLENESS OF RESTRICTIONS UNDER ARTICLE-19 OF THE CONSTITUTION OF INDIA: A CRITICAL STUDY

AUTHOR – RUSHIKESH JALINDAR WALKE, LL.M STUDENT AT NAVLMAL FIRODIA LAW COLLEGE

BEST CITATION – RUSHIKESH JALINDAR WALKE, REASONABLENESS OF RESTRICTIONS UNDER ARTICLE-19 OF THE CONSTITUTION OF INDIA: A CRITICAL STUDY, ILE MULTIDISCIPLINARY JOURNAL, 4 (2) OF 2025, PG. 341-347, APIS – 3920-0007 | ISSN – 2583-7230.

Abstract

In a democracy, freedom is both a right and a responsibility understanding the reasonableness of restrictions can illuminate the delicate balance between individual liberties and societal order. Article 19 of the Constitution of India enshrines fundamental freedoms, allowing citizens to express, assemble, and associate freely. However, these rights are not absolute; the Constitution permits reasonable restrictions to maintain public order, morality, and other crucial interests. The application of these restrictions has evolved over time, reflecting changing social dynamics and legal interpretations. Recent judicial pronouncements highlight the tension between safeguarding freedoms and addressing societal concerns. Restrictions must be justifiable and proportionate, serving a legitimate aim without undermining the essence of the freedoms guaranteed. The Supreme Court has consistently emphasized the need for a nuanced approach in adjudicating these restrictions. Ambiguities in what constitutes "reasonable" often lead to conflicting interpretations, potentially infringing upon rights and stifling dissent. A comprehensive framework assessing reasonableness against established benchmarks can ensure that restrictions are both fair and justified. Strengthening judicial review mechanisms and establishing clearer guidelines for imposing restrictions will enhance accountability and transparency. This study aims to critically analyse the nature and scope of restrictions under Article 19, examining judicial precedents and advocating for a balanced approach that protects individual rights while addressing societal needs.

Key Words:

Article 19, Freedom of Speech, Reasonable Restrictions, Constitutional Law

Introduction

The Fundamental Rights outlined in Part III of the Indian Constitution are often called the "Magna Carta" of India, representing the foundation of individual freedoms and democracy. Among these rights, Article 19 is crucial, guaranteeing key freedoms such as speech, assembly, association, movement, residence, and profession. These rights are not just legal privileges; they are essential for a free society, reflecting natural law principles that allow citizens to express themselves and engage fully in democracy.

Article 19 offers a strong framework for individual rights, enabling citizens to share their opinions, gather peacefully, form unions, and pursue their professions. However, exercising these freedoms is subject to "reasonable restrictions" set by the state to protect public order, morality, and national security. The Constitution permits these limitations, recognizing the need to balance individual freedoms with the collective good. This balance raises important questions about what is considered reasonable and the potential for abuse of these restrictions.



Judicial interpretations have significantly influenced how reasonable restrictions under Article 19 are understood. Landmark cases like *Romesh Thapar v. State of Madras* and *Navtej Singh Johar v. Union of India* highlight the importance of protecting fundamental rights while acknowledging the state's role in maintaining order. Courts consistently emphasize that any restrictions must be justified, proportionate, and fair, ensuring that the core freedoms guaranteed are not compromised.

Despite this legal structure, applying reasonable restrictions often leads to challenges. The unclear definition of "reasonable" can result in conflicting interpretations and arbitrary enforcement, which may infringe upon citizens' rights. Recent controversies, such as the use of Section 66A of the Information Technology Act, illustrate the tension between state interests and individual freedoms, sparking public protests and debates about the limits of free expression.

Moreover, the political environment in India complicates discussions about reasonable restrictions. The rise of hate speech and politically motivated censorship raises doubts about the commitment to uphold the rights guaranteed in Article 19. Balancing societal interests with individual freedoms requires continuous examination and reform.

This seminar paper seeks to critically analyse the nature and extent of reasonable restrictions under Article 19 of the Indian Constitution. By looking at judicial rulings, legislative frameworks, and current issues, the study will explore how these restrictions can be applied fairly without undermining the fundamental freedoms vital to a healthy democracy. Through this analysis, the paper will advocate for an approach that protects individual rights while addressing the legitimate concerns of the state, contributing to a deeper understanding of freedom in a diverse and dynamic society.

Historical Context

The historical context of Article 19 of the Indian Constitution is deeply rooted in India's struggle for independence and the aspiration to establish a democratic society. The framers of the Constitution were influenced by various philosophical, legal, and historical traditions, particularly the principles of individual liberty and democratic governance. They sought to create a framework that would not only safeguard fundamental rights but also balance them with the needs of the state and society.

Before India gained independence in 1947, the Indian subcontinent was under British colonial rule, which often imposed severe restrictions on civil liberties. The British government enacted several laws aimed at curbing dissent, controlling the press, and suppressing free speech. Notable among these were the Rowlatt Act of 1919, which allowed for the arrest and detention of individuals without trial, and the Press Act, which imposed strict censorship on newspapers. These oppressive measures ignited widespread protests and a fierce struggle for freedom, highlighting the necessity of protecting individual rights in a democratic society.

When drafting the Constitution, the leaders of the Indian National Congress, influenced by global movements advocating for human rights, recognized the importance of enshrining fundamental rights. They drew inspiration from the American Bill of Rights and the Universal Declaration of Human Rights. The need to ensure freedoms such as speech, assembly, and association was paramount to foster a vibrant democracy. Article 19 emerged as a crucial component, providing citizens with the right to express their opinions, gather peacefully, form unions, and pursue their livelihoods.

However, the framers also understood that these rights could not be absolute. The experience of colonial rule underscored the potential dangers of unrestricted freedoms, which could lead to disorder and violence. Thus,



the Constitution explicitly allows for "reasonable restrictions" on these rights to protect interests such as national security, public order, and morality. This dual approach reflects a pragmatic understanding of the complexities involved in governing a diverse nation.

The historical context further reveals that the framers were keenly aware of the varied social, cultural, and political landscapes of India. With a population comprising multiple religions, languages, and ethnicities, the framers sought to create a legal framework that balanced individual rights with the collective needs of society. Article 19 was designed to promote not only individual freedom but also social harmony, recognizing that unchecked freedom could lead to conflict in a pluralistic society.

Over the years, judicial interpretations of Article 19 have played a significant role in shaping the understanding of reasonable restrictions. Landmark judgments have established the principle that restrictions must be justifiable, necessary, and proportionate to the aims they seek to achieve. The judiciary has underscored the importance of safeguarding freedoms while allowing the state to act in the interest of public order and national security.

Evolution of Judicial Interpretations

The judicial interpretation of Article 19 of the Indian Constitution has evolved significantly since its enactment, reflecting the ongoing balance between individual freedoms and the state's authority to impose reasonable restrictions. The Supreme Court of India has played a crucial role in shaping the understanding of these rights, navigating through various socio-political contexts to ensure that fundamental rights are upheld while also considering the interests of public order and national security.

One of the foundational cases in this evolution is *Romesh Thapar v. State of Madras* (1950).⁵³¹ In this landmark decision, the Supreme Court struck down a law that banned the circulation

of a specific journal. The court ruled that freedom of speech and expression is a fundamental right that cannot be curtailed without sufficient justification. This case set a precedent that any restriction imposed on free expression must be reasonable and serve a legitimate purpose, thereby establishing a critical interpretation that would guide future rulings.

Following this, the case of *Brij Bhushan v. State of Delhi* (1950)⁵³² further underscored the importance of freedom of the press. The Supreme Court held that freedom of the press is an integral part of the right to free speech. The court emphasized that the state could not impose arbitrary restrictions on the press, affirming that any limitations must be based on clear and reasonable grounds. This judgment reinforced the judiciary's role as a guardian of fundamental rights, particularly in the context of media freedom.

In *Kedar Nath Singh v. State of Bihar* (1962)⁵³³, the Supreme Court addressed the constitutionality of sedition laws. The court ruled that while the state has the authority to impose restrictions for maintaining public order, it must not suppress legitimate criticism of the government. This case marked a significant shift in judicial interpretation by affirming that dissent is a vital aspect of a democratic society, thereby placing limits on the state's power to curtail free speech.

Another pivotal moment came during the Emergency period in India, highlighted in the case of *Kesavananda Bharati v. State of Kerala* (1973).⁵³⁴ Here, the Supreme Court articulated the "basic structure doctrine," asserting that fundamental rights, including those under Article 19, form part of the Constitution's core framework. This doctrine limits the power of Parliament to amend the Constitution in a way that would undermine these rights, thus

⁵³² *Brij Bhushan v. State of Delhi* (1950) - AIR 1950 SC 129

⁵³³ *Kedar Nath Singh v. State of Bihar* (1962) - AIR 1962 SC 955

⁵³⁴ *Kesavananda Bharati v. State of Kerala* (1973) - AIR 1973 SC 1461

⁵³¹ *Romesh Thapar v. State of Madras* (1950) - AIR 1950 SC 124



providing a robust safeguard against potential abuses of power.

The 1990s witnessed a significant transformation in the interpretation of Article 19 with the case of *Vishaka v. State of Rajasthan* (1997).⁵³⁵ The Supreme Court recognized the need for gender-sensitive laws and laid down guidelines to prevent sexual harassment in the workplace. This judgment highlighted that the state has a responsibility to ensure that fundamental rights are not only preserved in theory but are also actively protected in practice.

More recently, in *Navtej Singh Johar v. Union of India* (2018)⁵³⁶, the Supreme Court decriminalized consensual same-sex relationships, asserting that the right to express one's sexual identity falls under the ambit of Article 19. This landmark decision reaffirmed the court's commitment to expanding the interpretation of individual freedoms in line with evolving societal values.

Throughout these cases, the Supreme Court has consistently emphasized the necessity for any restrictions imposed under Article 19 to be reasonable, justifiable, and proportionate. The principle of proportionality has emerged as a vital tool for evaluating the validity of state-imposed restrictions, ensuring that individual rights are not unduly compromised in the pursuit of public interest.

The Concept of Reasonableness

The concept of reasonableness is pivotal in understanding the restrictions imposed under Article 19 of the Indian Constitution. Article 19 guarantees fundamental rights, including freedom of speech and expression, assembly, association, movement, residence, and profession. However, these rights are not absolute; they are subject to "reasonable restrictions" aimed at protecting various interests such as public order, morality, and national security.

Reasonableness, in this context, implies that any restriction must be justifiable and proportionate. It requires a careful balance between individual freedoms and the interests of society. The rationale behind this principle is to ensure that the state does not impose arbitrary or excessive limitations that infringe upon the essence of the rights guaranteed.

Judicial interpretations have emphasized that restrictions must be based on clear, well-defined grounds and cannot be implemented without a legitimate purpose. For instance, in **Kedar Nath Singh v. State of Bihar**, the Supreme Court highlighted that while the state may curtail free speech to maintain public order, it must not suppress constructive criticism of the government.

Additionally, the principle of proportionality has emerged as a critical tool in evaluating the reasonableness of restrictions. This principle requires that the means adopted to achieve a particular objective must be suitable, necessary, and not excessively detrimental to individual rights.

Ultimately, the concept of reasonableness serves as a safeguard against the misuse of power, ensuring that while the state can enact laws for the greater good, the fundamental rights of individuals remain protected. This delicate balance is essential for the functioning of a healthy democracy, where both individual liberties and societal interests are respected.

Case Law Analysis

The interpretation of reasonable restrictions under Article 19 of the Indian Constitution has been significantly shaped by various landmark judgments. These cases illustrate the judiciary's role in balancing individual rights against state interests, often serving as a barometer for assessing the reasonableness of restrictions.

In **Romesh Thapar v. State of Madras (1950)**, the Supreme Court struck down a law that prohibited the circulation of a particular journal. The Court held that freedom of speech and expression is a fundamental right and

⁵³⁵ *Vishaka v. State of Rajasthan* (1997) - AIR 1997 SC 3011

⁵³⁶ *Navtej Singh Johar v. Union of India* (2018) - (2018) 10 SCC 1



emphasized that any restrictions must serve a legitimate purpose and be based on reasonable grounds. This case established a foundational principle for future interpretations regarding freedom of expression.

Similarly, in **Brij Bhushan v. State of Delhi (1950)**, the Court reinforced the idea that the press is an integral part of free speech. It ruled against arbitrary restrictions, emphasizing that limitations must be justified and not merely based on administrative convenience.

In **Kedar Nath Singh v. State of Bihar (1962)**, the Court examined the sedition law, affirming that while the state has the authority to impose restrictions, it must not stifle dissent. The judgment clarified that criticism of the government is essential in a democracy and that restrictions should not suppress legitimate discourse.

More recently, the **Navtej Singh Johar v. Union of India (2018)** case highlighted the evolving understanding of rights under Article 19. The Supreme Court decriminalized consensual same-sex relationships, asserting that individuals have the right to express their identity without fear of retribution. This ruling reflects a broader interpretation of individual freedoms in contemporary society.

Overall, these cases underscore the necessity for a nuanced approach to restrictions, reinforcing that any limitations imposed must be reasonable, justified, and proportionate to the intended public interest. The evolving jurisprudence emphasizes the dynamic interplay between individual rights and state authority in a democratic framework.

Challenges and Ambiguities

The concept of reasonable restrictions under Article 19 of the Indian Constitution presents significant challenges and ambiguities, often complicating the balance between individual freedoms and state interests. While Article 19 guarantees fundamental rights such as freedom of speech, assembly, and association, the imposition of restrictions raises critical

questions about their nature, scope, and application. Judicial interpretations have provided some clarity, but the evolving socio-political landscape introduces complexities that can undermine the efficacy of these rights.

One of the prominent challenges lies in the interpretation of what constitutes "reasonable" restrictions. In **Kedar Nath Singh v. State of Bihar (1962)**, the Supreme Court ruled that while the state can impose limitations for maintaining public order, these restrictions should not inhibit legitimate dissent. The ambiguity remains, however, as the definition of "public order" can be subjective, allowing for potential misuse by authorities to stifle dissenting voices under the guise of maintaining order.

Similarly, the case of **Babulal Parate v. State of Maharashtra (1961)**⁵³⁷ highlighted the tension between individual rights and state security. The Supreme Court upheld the constitutional validity of Section 144 of the Criminal Procedure Code, which allows authorities to prohibit gatherings in certain situations. While the Court recognized the need for such restrictions, it also pointed to the necessity for clarity in their application to avoid arbitrary enforcement. This case exemplifies how the state's interpretation of public order can encroach upon fundamental rights, leading to conflicts between individual liberties and governmental authority.

Another significant challenge is the inconsistent application of restrictions across different contexts. In **Shayara Bano v. Union of India (2017)**,⁵³⁸ the Supreme Court addressed the issue of instant triple talaq, ultimately ruling it unconstitutional. This case raised questions about the intersection of personal law and fundamental rights. While the ruling aimed to protect women's rights, it also showcased how legal ambiguities can lead to uneven application of Article 19, depending on the socio-cultural context.

⁵³⁷ Babulal Parate v. State of Maharashtra, AIR 1961 SC 884.

⁵³⁸ Shayara Bano v. Union of India, (2017) 9 SCC 1



The 2018 judgment in **Navtej Singh Johar v. Union of India** further emphasizes the challenges of balancing rights and restrictions. The Supreme Court decriminalized consensual same-sex relationships, affirming that sexual identity falls under the right to freedom of expression. While this was a significant step forward, it also opened discussions about the limits of state intervention in personal matters. The case illustrates the ongoing struggle to delineate where individual freedoms end and state interests begin.

Moreover, the recent application of Section 66A of the Information Technology Act, which penalized offensive online messages, underscores the complexities surrounding freedom of speech. In **Shreya Singhal v. Union of India (2015)**,⁵³⁹ the Supreme Court struck down Section 66A, ruling it unconstitutional for being vague and overbroad. The ambiguity surrounding what constitutes "offensive" content posed significant risks to free expression, leading to arbitrary enforcement and chilling effects on speech.

The evolving nature of digital communication presents additional challenges. Social media platforms are often arenas for political discourse, yet they can also be spaces for hate speech and misinformation. Courts have grappled with how to apply traditional principles of reasonable restrictions to the digital age, creating further ambiguity in enforcement.

Proposed Reforms

To enhance the balance between individual freedoms and state interests under Article 19 of the Indian Constitution, several reforms are essential. These reforms should aim to clarify the concept of "reasonable restrictions" and ensure that the exercise of fundamental rights is protected from arbitrary enforcement.

First, a comprehensive legislative framework is needed to define the parameters of reasonable restrictions. This framework should specify the

conditions under which restrictions can be imposed, ensuring that they are justified, proportionate, and non-discriminatory. Clear guidelines can help prevent misuse of laws intended to maintain public order and security.

Second, there is a pressing need for judicial guidelines to standardize the interpretation of reasonable restrictions. The judiciary should develop principles that provide clarity on what constitutes "public order," "national security," and "morality." These principles can help in setting consistent benchmarks for evaluating the legitimacy of state-imposed restrictions.

Third, enhancing public awareness and legal literacy regarding fundamental rights can empower citizens to assert their rights effectively. Awareness campaigns can help individuals understand the scope of their freedoms and the avenues available for redressal against violations. Additionally, creating more accessible legal support mechanisms can assist those whose rights are infringed.

Fourth, reforming the legislative provisions that regulate freedom of speech and expression in the digital realm is crucial. Given the rapid evolution of technology, laws should be updated to address contemporary challenges such as hate speech and misinformation without stifling legitimate discourse. Establishing a clear legal framework that distinguishes between harmful and protected speech can help maintain a vibrant democratic space.

Lastly, fostering dialogue between stakeholders—government, civil society, and the judiciary—can promote a more nuanced understanding of the interplay between rights and restrictions. Engaging diverse perspectives can lead to balanced policies that respect individual liberties while addressing legitimate state concerns.

Conclusion

The exploration of reasonable restrictions under Article 19 of the Indian Constitution reveals the

⁵³⁹ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.



complex interplay between individual freedoms and state interests. While Article 19 serves as a cornerstone for democracy, guaranteeing essential rights such as freedom of speech, assembly, and movement, the scope for reasonable restrictions necessitates careful scrutiny to prevent potential overreach by the state.

Judicial interpretations have played a pivotal role in shaping our understanding of these restrictions, emphasizing that they must be justified, proportionate, and non-arbitrary. Landmark cases have highlighted the need for a balanced approach, ensuring that the exercise of individual rights is not unduly compromised in the name of public order or national security.

However, the challenges and ambiguities surrounding the definition of "reasonable" restrictions remain a pressing concern. Instances of arbitrary enforcement and inconsistent applications of the law underscore the necessity for reform. A clear legislative framework, coupled with judicial guidelines, can provide much-needed clarity and prevent the misuse of state power.

Moreover, as society evolves and digital communication becomes increasingly prevalent, adapting legal frameworks to address contemporary issues is essential. Reforms that enhance public awareness and foster dialogue among stakeholders will contribute to a more robust protection of fundamental rights.

In conclusion, the path forward lies in finding a harmonious balance between protecting individual liberties and upholding state interests. By addressing the existing challenges and ambiguities, India can ensure that the freedoms enshrined in Article 19 remain vibrant and effective in promoting a democratic society that respects and cherishes individual rights. The ongoing commitment to refining these principles will be crucial for the future of democracy in India.

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