

Article 19

Six Golden Freedoms

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Article 19

- ***19(1) All Citizen shall have the right—***
- ***(a) to freedom of speech and expression;***
- ***(b) to assemble peaceably and without arms;***
- ***(c) to form associations or unions;***
- ***(d) to move freely throughout the territory of India;***
- ***(e) to reside and settle in any part of the territory of India; and***
- ***(g) to practise and profession, or to carry on any occupation, trade or business***

19(2) Reasonable Restrictions

- 1. Sovereignty and Integrity of India
- 2. Security of State
- 3. Friendly relations with foreign states
- 4. Public Order
- 5. Morality or Decency
- 6. Contempt of court
- 7. Defamation
- 8. Incitement to an offence

Essential Elements of Restrictions

- Only by authority of Law
- Reasonable
- Purpose
- Judicial Review

Tests of Reasonableness of a Restriction

- Court has to judge reasonability
- It should not be arbitrary, excessive, beyond requirement and which dictates reasons
- Balance between rights and social control
- There is no exact standard or general pattern of reasonability ----- each case is to be judged on its own merit
- Substantive and Procedural Reasonableness ---- court will consider not only the duration and extent but also the circumstances under which and the manner of imposition

- Objective standards
- Rational relation between object and restriction through legislation
- Adequate safeguards against the abuse of power is not the test of reasonability
- Restriction may also amount to prohibition
- Directive Principal of State Policy are reasonable in nature for restrictions
- Arbitrariness or Excessive Nature
- Prevailing Social Values and Social Needs

- Freedom of speech and expression means the right to express one's own convictions and opinions freely by words of mouth, writing, painting, pictures or any other mode
- It includes the expression of one's ideas through any communicable medium---- representation, gestures signs and the like
- It also connotes publication and thus includes the freedom of the press
- Free propagation of ideas is the necessary objective and this may be done through press
- **Press – Publication – circulation**

- freedom to express not only one's own views but also the views of others and by any means including printing.

Purposes of Art. 19(1)(a)

- 1. it helps an individual to attain self fulfillment
- 2. it assists in the discovery of truth
- 3. it strengthens the capacity of an individual in participating in decision making
- 4. it provides the mechanism by which it would be possible to establish a reasonable balance between stability and social change

- Press Freedom & Censorship
- There is no specific provision in the constitution. Under article 19 (1)(a) freedom of expression means the

Freedom of Assembly Art. 19(1)(b)

- **19. (1) All citizens shall have the right—**
 - (b) to assemble peaceably and without arms;*
- (3) Nothing shall prevent the State from making any law imposing,
- ----- in the interests of the sovereignty and integrity of India
- -----public order,

Unlawful Assembly

- 41. Unlawful assembly.—An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is—
 - [\(First\)](#) — To overawe by criminal force the Government or any public servant in the exercise of the lawful power
 - [\(Second\)](#) — To resist the execution of any law, or of any legal process; or
 - [\(Third\)](#) — To commit any mischief or criminal trespass, or other offence;
 - [\(Fourth\)](#) — obtaining possession of any property by force
 - [\(Fifth\)](#) —to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.
- Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Section 129 of Cr.P.C

- Executive Magistrate may command any unlawful assembly, likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.
- Section 151 of IPC makes it an offence not to disperse after a lawful command to disperse has been given

- Section 107 of Cr.P.C empowers Magistrate to obtain security for keeping the peace from any person who is likely to commit a breach of peace
- Section 144 of Cr.P.C empowers an assembly to restrain an assembly, meeting or procession if there is risk of obstruction, annoyance or injury to any person lawfully employed or danger to human life, health or safety or a disturbance of the public tranquility

- The Police Act empowers a public officer to direct and prescribe the route and time of all assemblies and processions in the interest of public order
- Section 30 --- prior permission is to be taken by the members to take procession
- Law confers authority on magistrate to grant or refuse a license to hold a meeting or a law
- Arms Act preohibit possession and carrying of unlicensed offensive weapons

- Prevention of seditious Meeting Act Prohibits public meetings likely to promote sedition or cause a disturbance of public peace
- This act empowers the state government to declare the whole or any part of the state as proclaimed area. Thereupon no public meetings can be conducted

- **19. (1) All citizens shall have the right—**
- *(c) to form associations or unions*

Article 19(3)

- in the interests of the sovereignty and; integrity of India
- public order or
- morality,

Right to Move, Reside and Settle

- **19. (1) (d) All citizens shall have the right—**
- *to move freely throughout the territory of India;*
- **19. (1) (e) All citizens shall have the right to**
reside and settle in any part of the territory of
India
- **Reasonable Restrictions under Article 19(5)**
- *interests of the general public or*
- *for the protection of the interests of any*
Scheduled Tribe.

- **19. (1) (g) All citizens shall have the right—** *to practise any profession, or to carry on any occupation, trade or business*
- -----in the interests of the general public
- ----- *the professional or technical qualifications* necessary for practising any profession or carrying on any occupation, trade or business, or
- -----*the carrying on by the State, or by a corporation* owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise].

Protection in criminal cases

- **20. (1) No person shall be convicted of any offence** except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
- (2) No person shall be prosecuted and punished for the same offence more than once.
- (3) No person accused of any offence shall be compelled to be a witness against himself