INTRODUCTION

"The press [is] the only tocsin of a nation. [When it] is completely silenced... all means of a general effort [are] taken away.""  
- Thomas Jefferson

Freedom of the press or freedom of the media is the freedom of communication and expression through mediums including various electronic media and published materials. While such freedom mostly implies the absence of interference from an overreaching state, its preservation may be sought through constitutional or other legal protections.

With respect to governmental information, any government may distinguish which materials are public or protected from disclosure to the public based on classification of information as sensitive, classified or secret and being otherwise protected from disclosure due to relevance of the information to protecting the national interest. Many governments are also subject to sunshine laws or freedom of information legislation that are used to define the ambit of national interest.

The 1948 Universal Declaration of Human Rights states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference, and impart information and ideas through any media regardless of frontiers."  
Freedom of the press is the right to circulate opinions in print without censorship by the government. In the American Legal system they enjoy freedom of the press under the First Amendment to the Constitution, which states: 'Congress shall make no law...abridging the freedom of speech or of the press.' In India, the right extends from Article 19(1)(a) of the Constitution of India which is a fundamental right of the citizens of India. The provision is so wide in possibility that Freedom of the Press is under this section. Further, it includes the
right of free propagation and free circulation without any previous restraint on publication. The freedom of the press protects the right to publish information and to express ideas in these various media. It is an important right in a free society. To make sure government is running properly, citizens need to be informed. People do not have the time or ability to watch everything the government does. The press serves this function by investigating and reporting on the government's activity. If the citizens do not like what they see, they can remove politicians from office and elect new ones to do a better job.

HISTORY OF THE FREEDOM OF THE PRESS

The similarity of the history of this right in the Indian and US legal system ends with the point that the both jurisdiction was ruled by the British Crown.

- United States legal Systems:

The United States adopted freedom of the press primarily in reaction to the press's history in England. Much before the invention of the printing press in the fifteenth century, government and church leaders in England regularly banned handwritten books that threatened their power. After the invention of the printing press, the government stated that there was a requirement that printers should get a license from a government or church official before publishing anything. The control of power was so grave that by the mid-1600s, anyone found with a book that criticized the British government could be executed. In 1585, Queen Elizabeth I of England enacted a set of laws to control the press in her country. Printing was only permitted at approved presses in Oxford, Cambridge, and London. Further, all material to be printed had to be approved beforehand by the Archbishop of Canterbury or the Bishop of London. Violators faced imprisonment or destruction of their printing equipment. Although these laws expired in 1695, the British government continued to enforce laws against sedition. These laws prevented anyone from printing something that criticized the government, even if it was true.

Printing was introduced in the American colonies in 1639 in Cambridge, Massachusetts. By 1765 more than thirty newspapers were printed in the colonies. The press, however, faced controls similar to those in England. Many colonies had censorship laws controlling what could be published. They also had sedition laws to punish people for speaking against the government. In 1765 the British government passed the Stamp Act, which placed a tax on colonial newspapers.

The debate of the freedom of press began in 1735, there was a case involving John Peter Zenger, he was a journalist and publisher of the New York Weekly Journal and was sued for libel after publishing critical stories about public officials. This case established the right of the press to criticize public officials, and it also indicated that true statements are a valid defence when sued for libel. Thereafter, in 1791, the First Amendment...
was established. This Amendment is the basis of the freedom of the press. When the United States adopted the First Amendment in 1791, it was trying to prevent all of these practices from controlling the press in America.

In the United States, the government may not prevent the publication of a newspaper, even when there is reason to believe that it is about to reveal information that will endanger national security. By the same principle, the government cannot:

- Pass a law that requires newspapers to publish information against their will.
- Impose criminal penalties, or civil damages, on the publication of truthful information about a matter of public concern or even on the dissemination of false and damaging information about a public person except in rare instances.
- Impose taxes on the press that it does not levy on other businesses.
- Compel journalists to reveal, in most circumstances, the identities of their sources.
- Prohibit the press from attending judicial proceedings and thereafter informing the public about them.

The above defined bundle of rights was largely developed by U.S. Supreme Court decisions, defines the “freedom of the press” guaranteed by the First Amendment. This is an evolving concept that is informed by the perceptions of those who crafted the press clause in an era of pamphlets, political tracts and periodical newspapers, and by the views of Supreme Court justices who have interpreted that clause over the past two centuries in a world of daily newspapers, books, magazines, motion pictures, radio and television broadcasts, and now Web sites and Internet postings.

The Constitutional frame worker’s idea freedom of the press has been the subject of historical debate. At the very least, those who drafted and ratified the Bill of Rights purported to embrace the notion which was derived from William Blackstone, that a free press may not be licensed by the sovereign, or otherwise restrained in advance of publication. And, although the debate has not been laid rest, the Apex court itself reviewed it in the matter of *New York Times Co. v. Sullivan* and concluded that the “central meaning of the First Amendment” embraces as well a rejection of the law of seditious.

The definition of the freedom of the press in US was primarily shapes by a spree of Supreme Court decisions beginning in the above defined case and ending with the matter *Cohen v. Cowles Media Co*. During this period, the Court ruled in at least 40 cases involving the press and fleshed out the skeleton of freedoms addressed only rarely in prior cases. In contrast, although the Court in the early part of the last century had considered the First Amendment claims of political dissidents with some frequency, it took nearly 150 years after the adoption of the Bill of Rights, and the First Amendment along with it, for the Court to issue its first decision based squarely on the freedom of the press.

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8 Available at http://ic.galegroup.com/ic/uhic/ReferenceDetailsPage/Reference (last visit on 25/3/2016)
9 New York Times Co. v. United States, 1971
Further, in cases such as Near v. Minnesota and the “Pentagon Papers” case *New York Times Co. v. United States*\(^{11}\), the Court established that freedom of the press from previous restraints on publication is nearly absolute, incorporating the right to publish information that a president concluded would harm the national security, if not the movements of troopships at sea in time of war. In *Miami Herald Publishing Co. v. Tornillo*\(^{12}\), the Court embraced the analogous proposition that the government has virtually no power to compel the press to publish that which it would prefer to leave on the proverbial “cutting room floor.”

Also, it must be noted that when it comes to benefits of the full protection as per the First amendment, not all media are equal. The Court has held that the Congress and the Federal Communications Commission has the power to regulate the activities which operates over public airwaves, this was held so in Red Lion Broadcasting v. FCC\(^{10}\). In this matter, the Court held the “fairness doctrine” and “personal attack rule”.

Even in the context of broadcast, the Sullivan cases and the cases that followed it stand for the proposition that the First Amendment protects the publication of truthful information about matters of public concern, not just from prior restraint, but also from subsequent punishment. This formulation has come to be known as “the Daily Mail principle,” after the Supreme Court’s 1979 decision in *Smith v. Daily Mail Publishing Co*\(^{14}\), in this matter the Court held that a newspaper could not be liable for publishing the name of a juvenile offender in violation of a West Virginia law declaring such information to be private. The protections against subsequent punishments for reporting the truth afforded by the Daily Mail principle are not absolute, but the barriers to such government regulation of the press are set extremely high.

It must be noted that post Sullivan, the cases did hold that the First Amendment protects the publication of false information about matters of public concern in a variety of contexts, although with considerably less vigor than it does dissemination of the truth. By the same principle, the Apex Court has been considerably less decisive in articulating the degree of First Amendment protection to be afforded against restraints on the freedom of the press that are indirect and more subtle than the issuance of a prior restraint or the imposition of criminal or civil sanctions subsequent to publication.

To substantiate the above, we can cite the 1978 decision *Zurcher v. Stanford Daily*\(^{15}\), the Court held that the First Amendment does not protect the press and its newsrooms from the issuance of otherwise valid search warrants. Similarly, in 1979 in *Herbert v. Lando*\(^{16}\), the Court held\(^{11} 12 13 14 15\) that When a member of the press is alleged to have circulated damaging falsehoods and is sued for injury to the plaintiff's reputation, there is no privilege under the First Amendment's guarantees of freedom of speech and freedom of the press barring the plaintiff from inquiring into the editorial processes of those responsible for the publication where the inquiry will produce evidence material to the proof of a critical element of the plaintiff's cause of action.

In 1991 in *Cohen v. Cowles Media Co*\(^{18}\), the Court effectively concluded the treatise on the freedom of the

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\(^{10}\) 395 U.S. 367 (1969)  
\(^{11}\) 443 U.S. 97 (1979)  
\(^{12}\) 436 U.S. 547  
\(^{13}\) No. 77-1105  
\(^{14}\) Available at http://caselaw.findlaw.com/us-supreme-court/441/153.html (last visit on 25/3/2016)  
\(^{15}\) 501 U.S. 663 (1991)
press it began in Sullivan; it did so when it emphasized that the press is properly subject to liability under the “generally applicable” law of contracts when it breaks a promise to keep a source’s identity confidential, even when it does so in order to report truthful information about the source’s involvement in a matter of public concern. As the 21st century approached, the silence of the debate was broken to revisit the extent to which a “generally applicable” law such as the federal wiretap statute can constitutionally impose criminal penalties and civil liability on the dissemination by the press of the contents of unlawfully recorded telephone conversations, at least when the information so disseminated is the truth about a matter of public concern.

In 2001 in Bartnicki v. Vopper\(^\text{16}\), the Court held that, even when a statute is directed at deterring unlawful conduct and not at penalizing the content of press reports, it nevertheless constitutes a “naked prohibition” on the dissemination of information by the press that is “fairly characterized as a regulation of pure speech” in violation of the First Amendment. In so holding, the Court ushered in a new century of First Amendment jurisprudence by reaffirming both the Daily Mail.

Namely, once in this country that now seems far away, radio and television broadcasters had an obligation to operate in the public interest. That generally accepted principle was reflected in a rule known as the Fairness Doctrine. The rule, formally adopted by the Federal Communications Commission in 1949, required all broadcasters to devote a reasonable amount of time to the discussion of controversial matters of public interest. It further required broadcasters to air contrasting points of view regarding those matters. The Fairness Doctrine arose from the idea imbedded in the First Amendment that the wide dissemination of information from diverse and even antagonistic sources is essential to the public welfare and to a healthy democracy.\(^\text{17}\)

**FREEDOM OF PRESS DURING WAR**

Right to freedom of press is in turn a right of the general public more than anything else, the public has the right to know and it is the press that makes this Right a reality. This Right gets further emphasized during war times. The United States has an individual sovereignty has been a part of wars and it is this fact that strengthened the right of the press.

During the period of the early 1900s and World War I, the US legal system enforced two Acts which were passed to regulate free speech. These acts, the Espionage Act and the Sedition Act, were in fact enacted so as to censor pro-German, socialist, or pacifist publications. However, in 1931, the Apex Court held that fundamentally all forms of restraint on free speech were unconstitutional. Further, During the Cold War, news organizations worked to disclose information such as public records relating to wars. These efforts were designed to promote the policy that failing to release information to the public constitutes a threat to the freedom of the press.\(^\text{18}\)

Also, During 1970s, during Vietnam and the Nixon administration, frequent discussions occurred between news agencies and the government and in 1971, the Apex Court case entitled *New York Times v. United*

\(^{16}\) 532 U.S. 514 (2001)

\(^{17}\) Available at [http://www.lincoln.edu/criminaljustice/hr/Speech.html](http://www.lincoln.edu/criminaljustice/hr/Speech.html) (last visit on 25/3/2016)

States\textsuperscript{19} established the significant rights of the press. In this case, the government sought to suppress classified documents known as the Pentagon Papers. These papers included classified information about the Vietnam War. The New York Times fought against the government's effort to prevent publication, and the Supreme Court upheld the freedom of the press and its First Amendment rights to speech.

**FREEDOM OF THE PRESS AND CENSORSHIP**

The first amendment to the US constitution in facts gives the duty to the State not to create any censorship power, that is to say, it cannot control what is to be published and what not to be. In the 1931 case of Near v. Minnesota\textsuperscript{20}, the US Apex court formally dictated that the first amendment prohibits the government from using prior restraint. Also, in Grosjean v. American Press Co\textsuperscript{21}, the Supreme Court also outlawed taxes that apply only to the press and not to businesses generally. Such taxes act as a form of prior restraint by making it more difficult for the press to report the news.

The above being said, no value in the flow of information in society. The government has the power to ban the circulation of material which could harm national security. For example, the government may it is not to say that the right to no censorship is absolute. The Supreme Court has also acknowledged a number of immunities to the rule against censorship. The Court stated that the government may ban the printing of obscene material, which is sexual material that is offensive and the Court went on to say that obscenity is not protected by the First Amendment because it has prevent people from printing material to start a violent revolution. During wartime, the government may prevent publishers from revealing information such as the location of U.S. troops and their battle plans.

Finally, the Court has held that the First Amendment affords the press and public affirmative rights of access to at least some government proceedings. In a series of decisions beginning with 1980's Richmond Newspapers, Inc. v. Virginia\textsuperscript{22}, the Court established that the First Amendment not only protects the press from prior restraints and other government-imposed penalties, but it further goes on to say that it invests the press and public with a right to attend criminal trials and other judicial proceedings. This right, however, is not absolute and is routinely balanced against other competing interests articulated by the proponents of secret proceedings.

**FREEDOM TO GATHER NEWS**

It must be understood that the freedom of the press does not only mean the right to report news but it also

\[\textsuperscript{19} 403 \text{ U.S.} 713\]
\[\textsuperscript{20} 283 \text{ U.S.} 697\]
\[\textsuperscript{21} 297 \text{ U.S.} 233\]
\[\textsuperscript{22} 448 \text{ U.S.} 555 (1980)\]
gives the media, the power to investigate and gather it.

The matter of *Branzburg v. Hayes*\(^{23}\) concerned some news reporters who interviewed drug users and gang members to write stories for their newspaper. The journalists promised not to reveal the names of the people they interviewed. The government, however, wanted the journalists to reveal the names to grand juries that were investigating criminal activity.

The journalists refused. They said freedom of the press gives them the privilege, or right, to keep secrets when they learn things while gathering the news. Without such a privilege, the journalists said they would not be able to get people to talk to them, and so would not be able to gather and report the news. The Supreme Court rejected this argument. It ruled that when journalists have knowledge of criminal activity, they must share it with grand juries just like every other citizen.

Criminal trials also create news gathering problems. The Sixth Amendment to the U.S. Constitution says criminal defendants have a right to a fair trial. Under the First Amendment, however, the press has a right to report criminal trials to inform the public about them. In some cases, the press's coverage of a trial can be so great that it hurts the defendant's Sixth Amendment right to a fair trial. For example, if people who are going to serve on the jury hear about the case from the press, they might make up their minds about whether the defendant is guilty before hearing the case as a juror. That would be unfair to the defendant.

*Nebraska Press Association v. Stuart*\(^{27}\) involved a criminal trial that was getting a lot of press coverage. To protect the defendant's right to a fair trial, the trial judge issued a "gag order." The order prevented the press from reporting about the trial. The press appealed the order all the way to the U.S. Supreme Court. This time the journalists won. The Supreme Court decided that a "gag order" is a prior restraint that violates the freedom of the press. The Court said there are many ways trial judges can protect the right to a fair trial without violating the freedom of the press. For example, judges can transfer trials to other communities, postpone trials until press coverage slows down, and be careful to select jurors who have not already made up their minds from listening to the press. Television also has created news whilst gathering issues. Now the question arises whether television reporters have a right to attend criminal trials and to televise them to the public? In *Richmond Newspapers, Inc. v. Virginia*\(^{28}\), the Court ruled that reporters do have a right to attend criminal trials. In *Chandler v. Florida*\(^{29}\), it said trial judges may allow reporters to televise trials if they make sure it does not interfere with the defendant's right to a fair trial. Because of this, the public sometimes gets to watch important trials on television as they happen.

**INDIAN LEGAL SYSTEM**

The Freedom of the Press is not a concept that is expressible defined in the Constitution. The Right to Freedom

\(^{23}\) 408 U.S. 665
of Speech and Expression is provided in Article 19 of the Indian Constitution is from where we derive our freedom of press in the Indian Legal system. Again, this does not give press any special right but it gives it on the same footing that if a citizen of India. Article 19(1)(a) enables one to express one's own voices as well as those of others. But freedom of the press must be subject to those restrictions which apply to the freedom of speech and expression. The restrictions mentioned in Article 19(2) of the Constitution. The status of freedom of the press is the same as that of an ordinary citizen. The press cannot claim any immunity from taxation, is subject to the same laws regulating industrial relations, and press employees are subject to the same laws regulating industrial employment. 24 The commencements of the fight for free speech in India date back to 18th century British India. The history of the freedom of press in India is inseparable from the history of the nationalist movement. The nationalist movement for a free India was fought with repression of the freedom of speech and expression through a series of legislations aimed at stifling the possibility of a consolidated outcry against colonial subjugation. That the press played an invaluable role in generating political consciousness is evident from the fact that the British government found it necessary to introduce repressive enactments from time to time neutralize the power of the print medium.

CONSTITUTIONAL ASPECT OF THE FREEDOM

The Indian Constitution, while not mentioning the word "press", provides for "the Right to Freedom of Speech and Expression" (Article 19(1) a). However this right is subject to restrictions under sub clause (2), whereby this freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt, court, defamation, or incitement to an offense". Laws such as the Official Secrets Act, Armed Forces Special Powers Act (AFSPA) Disturbed Areas Act (DDA) and Prevention of Terrorist Activities Act (POTA) have been used to limit press freedom. Under POTA, person could be detained for up to six months for being in contact with a terrorist or terrorist group. POTA was repealed in 2006, but the Official Secrets Act, AFSPA, DDA continue to be an impediment towards the freedom of press in some parts of India especially Jammu & Kashmir. Pertinent to mention here that Right to Information Act (RTI) has an overriding effect over Official Secrets Act of 1923.

For the first half-century of India’s independence, media control by the state was the major constraint on freedom of press in India. Indira Gandhi famously stated in 1975 that All India Radio is "a Government organ, it is going to remain a Government organ. With the liberalization starting in the 1990s, private control of media has burgeoned, leading to increasing independence and greater scrutiny of government

FREEDOM OF PRESS DURING EMERGENCY

One of the greatest drawbacks of the Indian Constitution is the power given to circumvent certain fundamental

24 427 U.S. 539
rights. In 1976, during the emergency, the Parliament enacted the Prevention of Publication of Objectionable Matter Act. The Government in 1978 repealed the Act. However, the 44th amendment adopted in 1978 has given the Parliament substantial powers to regulate press freedom. A new article, Article 361A has been added to the constitution with this object in view.

The censorship of the Press is a very crucial and sensitive issue in every democracy. In general press censorship is regarded as very unhealthy check on the freedom of free expression of views. In India, the constitution does not specifically forbid press censorship. Hence only check on the state in resorting to censorship is that it should be reasonable. Even this check on the government was not there before the 1st amendment of the constitution in 1951. But in two cases, Brij Bhusan vs. the State of Delhi and Ramesh Thapar vs. State of Madras, the Supreme Court held that censorship imposes obvious restrictions on freedom of speech and expression. After the last amendment, censorship is permitted if it is reasonable and if it is called for in the interest of public order. Thus the present position is censorship is valid in times of emergency if it is reasonable and if in the interest of public order. In times of emergency under Article 352 censorship is valid when Article 19 itself stands suspended under Article 358 of the constitution.

ANALYSIS OF BOTH LEGAL SYSTEMS

Two great democracies of the modern world, America and India doing poetic justice has recognized the right of freedom of speech and expression which extends to the freedom of the Press. The provision with regard to this freedom is quite similar in both legal systems, that being said, the freedom of the Press in the US constitution has two positive features, that is:

> freedom of press is specifically mentioned therein,

> No restrictions are mentioned on the freedom of speech.

With respect to India, the Apex Court of India has held that there is no specific provision ensuring freedom of the press separately but this freedom of the press is regarded as a “species of which freedom of expression is a genus”. Therefore, press cannot be subjected to any special restrictions which could not be imposed on any private citizen, and cannot claim any privilege (unless conferred specifically by law), as such, as distinct from those of any other citizen.

In the landmark case of Express Newspapers (Private) Ltd. v. Union of India, Justice Bhagwati stated, "[that] the fundamental right to the freedom of speech and expression enshrined in our constitution is based on (the provisions in) Amendment I of the Constitution of the United States and it would be therefore legitimate and proper to refer to those decisions of the Supreme Court of the United States of America in order to appreciate the true nature, scope and extent of this right in spite of the warning administered by this court against use of American and other cases."

Despite similarities in their constitutional provisions, the United States and India have their own distinctive
jurisprudence on freedom of speech. To add to that, they also differ in what actually includes and is accepted as free speech.

The premier difference among the systems is the extent of the freedom, the US legal system gives the Press absolute freedom whereas in India is more of a right which extends to certain levels and the restrictions are well defined. This difference is attributable to the reasonable restrictions provision and the moral standard of the communities. India has progressed from an authoritarian system of control and is now attempting a legislative model of control, quite similar to that of the United States.

Free speech is meaningless unless it has space to breathe. It is important to note that false statements made honestly are equally a part of freedom of speech. The supreme court of India applied the famous doctrine of New York Times v Sullivan\(^{25,26}\) standard of American constitutional law against public officials. Accordingly, statements made against persons in the public eye cannot be considered defamatory unless they were made with “actual malice”. The reason for this is very simple, democratic governance mandates the strict scrutiny of public official duties.

The consequence of the extent of the Freedom in the US constitution is that ideas or expression which may be offensive or hurtful or even racial can be expressed freely. The other side of the coin suggests that it leads to healthy debate on public issues and such. The government is not permitted to make decisions about what ideas may be expressed and what ideas may not be expressed. The constitutional guarantee of freedom of expression under the First Amendment then means freedom of expression in the fullest sense.

With regard to India, the debate of whether the freedom should be inserted into the Constitution as an individual right was heavily discussed by the Constituent Assembly. The Constituent Assembly came to the conclusion that such a provision was not necessary. Dr. B.R. Ambedkar, Chairman of the Constituent Assembly’s Drafting Committee argued:

“*The press is merely another way of stating an individual or a citizen. The press has no special rights which are not to be given or which are not to be exercised by the citizen in his individual Capacity. The editor of a press or the manager is all citizens and therefore when they choose to write in newspapers, they are merely exercising their right of expression and in my judgment therefore no special mention is necessary of the freedom of the press at all*”

Although the Constitution shows has no special provision to safeguard the rights of the press, the Judiciary has taken up the role and confirmed that the rights of the press are implicit in the guarantee of freedom of speech and expression under Article 19(1)(a) of the Constitution. In fact, multiple judgments of the Supreme Court of India have struck down laws that abridge the freedom of the press and have echoed the sentiment expressed in the First Amendment of the US constitution

*Ramesh Thappar v. State of Madras\(^{27}\)*, was one amongst the earliest cases to be decided by the Supreme Court and it involved a challenge against an order issued by the Government of Madras under Section 9(1-A) of the Madras Maintenance of Public Order Act, 1949 imposing a ban on the entry and circulation of the

\(^{25}\) 1986 AIR 872, 1985 SCR Supl. (3) 382
\(^{26}\) 76 U.S. 254 (1964)
\(^{27}\) 1950 AIR 124, 1950 SCR 594
journal, Cross Roads, printed and published by the petitioner. The Court struck down Section 9(1-A) holding that the right to freedom of speech and expression was paramount and that nothing short of a danger to the foundations of the State or a threat to its overthrow could justify a curtailment of the right to freedom of speech and expression. Similarly in *Brij Bhushan v. State of Delhi*\(^\text{28}\), the Court quashed a precensorship order passed against the publishers of the Organiser. The Court held that Section 7 (i)( c) which authorized such a restriction on the ground that it was necessary for the purpose of preventing or combating any activity prejudicial to the public safety or the maintenance of public order’ did not fall within the purview of Article 19 (2).

**LIBERTY TO COMMENT ON PENDING CASES**

There cases in where the Media does comment on matters which are pending before the Court, the situation graveness would increase where matter revolves around the life or liberty of a person is involved. The British law is that when a case is *sub judice*, no comment can be made on it, whereas U.S. law permits such comment. In India, the approach taken is not well defined as such. Yes, it is true that the here the question revolves around two fundamental rights but the problem arises where there exists no unity. The court, however, refrained from framing broad guidelines for reporting of *sub judice* court matters, saying it cannot be done "across the board"\(^\text{29}\).

**CONCLUSION**

In 1975’s *Cox Broadcasting Corp. v. Cohn*\(^\text{30}\), the Court has expressly recognized the structural role that the press plays as a “surrogate” for the larger public in gathering and disseminating information on its behalf and for its benefit. With respect to the above case, it is safe to say that Press is considered the watchdog of democracy. The Two big democracies of world have remarkably protected this right.

As far as India is concerned, this important right is mentioned in Article 19(1) (a), which falls in fundamental right category. Indian courts have always placed a broad interpretation on the value and content of Article 19(1) (a), making it subjective only to the restrictions permissible under Article 19(2).

The United States has a complex First Amendment jurisprudence that varies the protection offered free speech according to form. Similarly, India developed its own free speech jurisprudence that applies a "reasonable restrictions" test based on eight mentioned restrictions. The real difference in freedom of speech enjoyed in the United States and India is a question of degree. This difference in degree is attributable to the reasonable

\(^{28}\) 1950 AIR 129, 1950 SCR 605

\(^{29}\) Available at [http://indiatoday.intoday.in/story/supreme-court-media-guidelines/1/216832.html](http://indiatoday.intoday.in/story/supreme-court-media-guidelines/1/216832.html) (last visit on 25/03/2016)

\(^{30}\) 420 U.S. 469 (1975)
restrictions provision and the moral standard of the communities.