

COMPARATIVE ANALYSIS OF FREEDOM OF PRESS BETWEEN INDIA AND UNITED STATES OF AMERICA

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Abstract

This comparison highlights the key differences in press freedom between India and the USA, shaped by their distinct legal frameworks, political environments, and cultural contexts. While the U.S. enjoys strong protections under the First Amendment, offering robust freedom and limited government interference, India's media operates under Article 19(1)(a) with more restrictions related to security, morality, and public order. Though both countries have laws and judicial precedents backing freedom of press yet have a significant difference in the rankings of World Freedom of Press Index, with India far below USA. This paper, with the method of doctrinal research aims to highlight the differences between press freedom in India and USA and highlight the shortcomings in Indian system, which makes US media more independent and free from restrictions.

Keywords: India, USA, Media, Freedom, Speech, Expression, Comparison.

Introduction

Freedom of the press safeguards the right to share thoughts, ideas, news, and opinions through publication. It means that, in most cases, the government cannot restrict information from being published. This freedom is closely linked to the right to free speech⁴⁰². The press serves as a platform for a wide range of voices to be expressed. At national, regional, and local levels, it acts as the public's watchdog, advocate, and protector, as well as a source of education, entertainment, and record of current events. Press freedom is a vital foundation of any democracy. As the eyes and ears of society, journalists must have the freedom to report on matters of public interest without fear of arrest or interference⁴⁰³.

The press was to serve the governed, not the governors⁴⁰⁴. Freedom of the press is the

principle that communication and expression through media is a fundamental right⁴⁰⁵. Article 19 of the 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 to seek, receive and impart information and ideas through any media and regardless of frontiers."⁴⁰⁶ In countries lacking press freedom protections, journalists, bloggers, political commentators, and others often face threats. UNESCO reports that over 1,200 media professionals were killed between 2006 and 2020, with their killers going unpunished in 90% of cases⁴⁰⁷.

Though the UDHR enshrined freedom of the press in 1948, the idea dates back much further. In 1766, Sweden enacted what is regarded as

⁴⁰² FREEDOM FORUM, Freedom of Press, <https://www.freedomforum.org/freedom-of-press/> (accessed on Oct. 4, 2024).

⁴⁰³ NEWS MEDIA ASSOCIATION, Press Freedom, <https://newsmediauk.org/topics/press-freedom/> (accessed Oct. 4, 2024).

⁴⁰⁴ U.S. Supreme Court Justice Hugo Black in *New York Times Co. v. United States* (1971).

⁴⁰⁵ HUMAN RIGHTS CAREERS, Freedom of the Press 101: Definition, Examples, Significance, <https://www.humanrightscareers.com/issues/freedom-of-the-press-101-definition-examples-significance/> (accessed, Oct. 4, 2024).

⁴⁰⁶ Universal Declaration of Human Rights, art. 19, General Assembly resolution 217 A (United Nations).

⁴⁰⁷ UNESCO, Threats to freedom of press: Violence, disinformation & censorship, <https://www.unesco.org/en/threats-freedom-press-violence-disinformation-censorship> (accessed on Oct. 4, 2024).

the world's first law safeguarding press freedom, ending government censorship of printed information⁴⁰⁸. This law also affirmed that citizens should have the right to express and share information without fear of retaliation. Twenty-five years later, the U.S. Constitution included free speech and a free press in the First Amendment⁴⁰⁹.

Freedom of the press is essential to a strong democracy. Without it, the public struggles to access information free from government interference, corruption, or propaganda. It also limits the ability of individuals and organizations to form independent views, learn from diverse perspectives, understand how to protect human rights, and expose corruption. Authoritarian regimes, such as Nazi Germany under Hitler, Cuba under Castro, and contemporary North Korea, China, and Russia, strictly control the media for this reason. When governments or corporations control the press, they control information flow, shaping reality to suit their interests and suppressing dissent⁴¹⁰.

The 2023 World Press Freedom Index, which assesses the conditions for journalism across 180 countries and territories and is published annually on World Press Freedom Day (May 3), reveals that the situation for press freedom is "very serious" in 31 countries, "difficult" in 42, "problematic" in 55, and "good" or "satisfactory" in 52. In short, journalism faces challenging conditions in 70% of countries, with only 30% providing a satisfactory environment for press freedom⁴¹¹.

freedom of the press is essential for democracy, empowering citizens to access accurate information, form independent ideas, and hold power accountable. While enshrined in documents like the UDHR, press freedom

remains under threat worldwide, as evidenced by the 2023 World Press Freedom Index, which shows that journalism faces severe challenges in most countries. Authoritarian governments and vested interests often control or suppress the media, shaping narratives to stifle dissent and manipulate public perception. Protecting press freedom is thus not only about preserving a fundamental human right but also about sustaining informed, resilient societies. Information, indeed, is power, and its freedom is essential.

Freedom of Press in India

According to the *Indian Newspapers v. Union of India*⁴¹² case, the purpose of the press is to serve the public interest by disseminating facts and opinions that enable citizens to make informed and rational decisions. Freedom of the press is central to social and political discourse. It is the primary responsibility of the judiciary to uphold press freedom and reject any laws or executive actions that undermine it in violation of constitutional provisions.

Freedom of the press is implicit under Article 19(1)(a) of the Indian Constitution⁴¹³, which provides for the freedom of speech and expression under Part III (fundamental rights). It does not explicitly provide the term "freedom of the press". In the case of *Anuradha Bhasin v. Union of India*⁴¹⁴, the Supreme Court addressed the ongoing internet shutdown in Kashmir. While the Court did not mandate the restoration of internet services, it acknowledged the internet as a means of exercising fundamental rights. The judgment also touched upon the claim of press freedom, asserting that although it is not explicitly mentioned in the Constitution, the right to freedom of the press is inherently encompassed within Article 19(1)(a)⁴¹⁵.

Without this freedom, press freedom becomes meaningless. While this right is also included in

⁴⁰⁸ HUMAN RIGHTS CAREERS, Freedom of the Press 101: Definition, Examples, Significance, <https://www.humanrightscareers.com/issues/freedom-of-the-press-101-definition-examples-significance/> (accessed, Oct. 4, 2024).

⁴⁰⁹ *Id*

⁴¹⁰ *Id*

⁴¹¹ REPORTERS WITHOUT BORDERS, 2023 World Press Freedom Index – journalism threatened by fake content industry, <https://rsf.org/en/2023-world-press-freedom-index-journalism-threatened-fake-content-industry> (accessed Oct. 4, 2024).

⁴¹² *Indian Newspapers v. Union of India* (1986 AIR 515).

⁴¹³ INDIA CONST., art. 19, cl. 1 (a).

⁴¹⁴ *Anuradha Bhasin v. Union of India* (AIR 2020 SUPREME COURT 1308).

⁴¹⁵ Kruthika R., Freedom of the press: A Constitutional History, CENTRE FOR LAW AND POLICY RESEARCH, <https://clpr.org.in/blog/freedom-of-the-press-a-constitutional-history/> (accessed Oct. 4, 2024, 16:03).

the broader concept of freedom of expression, the case of *Romesh Thappar v. State of Madras*⁴¹⁶ makes it clear. The key difference between freedom of the press and individual freedom of expression is that a person can't reach a large audience on their own, but the press can share information through various platforms like print, broadcasts, and online media. Therefore, the ability to share information is a fundamental aspect of press freedom.

In the case of *Bennett Coleman & Co. v. Union of India*⁴¹⁷, the Hon'ble Supreme Court affirmed that the freedom of the press encompasses the people's right to free speech and expression. The Court emphasized that "freedom of the press is both qualitative and quantitative," meaning that freedom exists in both the circulation and content of the press. This landmark judgment underscores the urgent need to prevent unjustifiable restrictions on the press, as failure to do so would hinder its effective functioning.

In the case of *Sahara India Real Estate Corporation Ltd. v. SEBI*⁴¹⁸, the Supreme Court ruled that the media has the right to report on judicial proceedings. Similarly, in *Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine*⁴¹⁹, the Court affirmed that the right to publish accurate reports of legal proceedings applies even to quasi-judicial tribunals. The freedom of press also includes freedom to conduct interviews, freedom of criticize, freedom to receive information, freedom to broadcast, etc.

It was after *Tata Press v Mahanagar Telephone Nigam*⁴²⁰, the Supreme Court included the right to advertise in freedom of press. Hence, thought these all freedoms are not mentioned anywhere in our constitution, but have been incorporated

and developed time to time with the help of landmark judgements.

However, the freedom of the press, like the freedom of speech, is not absolute and is subject to the restrictions under Article 19(2) of the Constitution⁴²¹. Therefore, the right under Article 19(1)(a) has certain exceptions which are limited on the grounds mentioned under Article 19(2). These are sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, in relation to contempt of court, defamation and incitement to an offence⁴²².



Figure 1 India on World Freedom of Press Index (Source: Reporters Without Borders)

In 2024, India has risen to 159th position in the World Press Freedom Index, from 161st position in 2023 which points towards the increasing freedom of press in the country⁴²³, but still below a lot of nations. This is due to the beating, prosecution and even deaths of journalists on the line of work. Undoubtedly, to safeguard democracy and foster an informed country, it is essential to grant the press reasonable freedom. However, the current government has attempted to restrict this freedom by amending the RTI Act, the Whistleblower Act, and

⁴¹⁶ Romesh Thappar vs The State of Madras (1950 AIR 124).

⁴¹⁷ Bennett Coleman & Co. v. Union of India (1973 AIR 106).

⁴¹⁸ Sahara India Real Estate Corp. Ltd.& Ors vs Securities & Exch. Board of India & Anr (AIR 2012 SUPREME COURT 3829).

⁴¹⁹ Saroj Iyer v. Maharashtra Medical (Council) of Indian Medicine (AIR 2002 BOM 97).

⁴²⁰ Tata Press Limited vs Mahanagar Telephone-Nigam Limited (1995 AIR 2438).

⁴²¹ INDIA CONST., art. 19, cl. 2.

⁴²² *Id*

⁴²³ REPORTERS WITHOUR BORDERS, World Press Freedom Index, <https://rsf.org/en/country/india> (accessed Oct. 5, 2024).

proposing the Sedition Act in Parliament. In the author's view, these actions undermine the fundamental principles of the Constitution and threaten the very fabric of democracy.

Freedom of Press in United States of America

Unlike India, the freedom of press is explicitly mentioned in the first amendment of the Constitution of United States. Freedom of the press, guaranteed by the First Amendment, is vital to a democracy where the government answers to the people⁴²⁴. A free press acts as a watchdog, uncovering and reporting on government misconduct. It also serves as a platform for people to share their views and access different information and opinions⁴²⁵. In the 1972 *Branzburg v. Hayes*⁴²⁶ case, freedom of the press was described as a basic personal right, not just limited to newspapers and magazines. In the 1938 case *Lovell v. City of Griffin*⁴²⁷, Chief Justice Charles Evans Hughes explained that "the press" includes any kind of publication that shares information and opinions. This right now covers things like newspapers, books, plays, movies, and even video games.

Before the United States became a nation, the American colonies were under British rule, and freedom of the press was limited. British authorities imposed strict censorship and control over what could be published. However, in 1735, a key event occurred that helped shape the future of press freedom in the U.S., the trial of John Peter Zenger. Zenger, a newspaper publisher, was charged with libel for criticizing the colonial governor of New York. His lawyer, Andrew Hamilton, successfully argued that the truth should be a defense against libel⁴²⁸. Zenger's acquittal became an important milestone in the fight for freedom of the press in USA.

After the American Revolution, the U.S. Constitution was drafted in 1787, and the Bill of Rights was added in 1791. The First Amendment, part of the Bill of Rights, explicitly protected freedom of speech and the press, stating "Congress shall make no law... abridging the freedom of speech, or of the press."⁴²⁹ This was the first formal recognition of press freedom in the new nation, ensuring that the government could not restrict the media from reporting and expressing opinions. In 1798, during tensions between the U.S. and France, Congress passed the Sedition Act, which made it illegal to publish "false, scandalous, and malicious" writings against the government. This law was used to silence critics of President John Adams administration and led to several prosecutions. The Sedition Act was highly controversial and seen as a violation of the First Amendment. It expired in 1801, and President Thomas Jefferson, who opposed the law, pardoned those convicted under it⁴³⁰. In the *New York Times Co. v. United States*⁴³¹, known as the "Pentagon Papers" case, this involved the Nixon administration's attempt to block the publication of classified documents about the Vietnam War. The Supreme Court ruled that the government could not use prior restraint to stop the *New York Times* and *Washington Post* from publishing the papers, emphasizing the importance of a free press in holding the government accountable⁴³².

⁴²⁴ U.S. Const. amend. 1.

⁴²⁵ ACLU, Freedom of the Press, <https://www.aclu.org/issues/free-speech/freedom-of-the-press> (accessed on Oct. 5, 2024).

⁴²⁶ *Branzburg v. Hayes*, 408 U.S. 665 (1972).

⁴²⁷ *Lovell v. City of Griffin*, 303 U.S. 444 (1938).

⁴²⁸ John Peter Zenger Trial 1735, <https://www.famous-trials.com/zenger> (accessed Oct. 5, 2024).

⁴²⁹ U.S. Const. amend. 1.

⁴³⁰ Sedition Act of 1798, ch. 74, 1 Stat. 596 (1798).

⁴³¹ *New York Times Co. v. United States*, 403 U.S. 713 (1971).

⁴³² *Id*

INDEX 2024

55 / 180

Score : 66.59

POLITICAL INDICATOR **29**
69.03

ECONOMIC INDICATOR **33**
61.07

LEGISLATIVE INDICATOR **41**
74.49

SOCIAL INDICATOR **54**
72.06

SECURITY INDICATOR **118**
56.31

INDEX 2023

45 / 180

Score : 71.22

POLITICAL INDICATOR **28**
76.56

ECONOMIC INDICATOR **24**
69.76

LEGISLATIVE INDICATOR **40**
77.31

SOCIAL INDICATOR **43**
80.00

SECURITY INDICATOR **120**
52.49

Figure 2: USA on World Freedom of Press Index
(Source: Reporters Without Borders)

In 2024, USA has dipped to 55th position in World Press Freedom Index, from 45th position in 2023, which shows the reduction in the freedom of press overall⁴³³. But still, it is a lot better than a lot of countries. The freedom of the press in the United States is a cornerstone of its democratic framework, ensuring that the government remains accountable to its citizens. This right, enshrined in the First Amendment of the U.S. Constitution, has been repeatedly upheld and expanded by landmark Supreme Court rulings over time. From early protections established in *Near v. Minnesota*⁴³⁴ to modern-day interpretations in cases like *New York Times Co. v. United States*⁴³⁵, the press plays a critical role as a watchdog over governmental actions. Despite ongoing challenges such as evolving media landscapes and attempts at censorship, the courts have continuously affirmed the essential function of a free press in upholding transparency and fostering an informed public.

Comparative Analysis between both Countries

The basic difference between freedom of press in India and United States of America is that in India, freedom of press is not explicitly

mentioned in any statute but has been included in the ambit in the freedom of speech and expression⁴³⁶ with the help of landmark judgements. But, in United States it has been mentioned in the first amendment of the US Constitution⁴³⁷, along with backing of various precedents.

The freedom of press in India is subject to various reasonable restrictions which include sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, in relation to contempt of court, defamation and incitement to an offence⁴³⁸. In the United States, the press has very limited restrictions and has high protection from government interferences.

The rank of India and USA in the World Press Freedom Index is far near close. India stands at 159th rank, whereas USA stands at 55th rank, which shows great difference in the press freedom in both countries⁴³⁹. In India, we often come across news related to more and more journalists facing threats, legal actions and harassment, as compared to America. The legal framework of USA provides high protection to journalists but in India, journalists are often under fear of prosecution.

Basis	India	USA
Constitutional Basis	Article 19(1)(a) of the Constitution provides freedom of speech and expression, which includes the freedom of the press.	First Amendment to the Constitution guarantees freedom of the press as part of free speech.
Mentioning of Freedom of	Not explicitly mentioned in	Mentioned in the First

⁴³³ REPORTERS WITHOUR BORDERS, World Press Freedom Index, <https://rsf.org/en/country/india> (accessed Oct. 5, 2024).

⁴³⁴ *Near v. Minnesota*, 283 U.S. 697 (1931).

⁴³⁵ *New York Times Co. v. United States*, 403 U.S. 713 (1971).

⁴³⁶ INDIA CONST., art. 19, cl. 1 (a).

⁴³⁷ U.S. Const. amend. 1.

⁴³⁸ INDIA CONST., art. 19, cl. 2.

⁴³⁹ REPORTERS WITHOUR BORDERS, World Press Freedom Index, <https://rsf.org/en/country/india> (accessed Oct. 5, 2024).

Press	the Constitution.	Amendment.
Regulations	Subject to reasonable restrictions in the interest of public order, morality, and security, etc.	Very limited restrictions: press freedom is robust, with high protection against government interference.
World Press Freedom Index Ranking	159 th out of 180.	55 th out of 180.

Figure 3: Comparison of Press Freedom in India & USA.

Conclusion

The comparison between the freedom of the press in India and the USA reveals significant differences rooted in each country's legal, political, and cultural contexts. The USA, with its First Amendment, provides stronger constitutional protections and has a well-established tradition of press freedom, limited government intervention, and judicial independence. In contrast, while India guarantees freedom of speech under Article 19(1)(a), the press operates within a more restricted framework due to the presence of reasonable limitations like national security, public order, and morality. The media faces challenges from political influence, censorship, and threats to journalists' safety, particularly in investigative or critical reporting.

Both countries face evolving challenges, including the rise of digital media, misinformation, and threats to journalists. However, while the U.S. media enjoys greater independence and protection under law, India's press remains more vulnerable to political and regulatory pressures, which can hinder its role as a robust democratic institution. Overall, the two countries represent different approaches to balancing press freedom with state interests,

reflecting their distinct historical and socio-political landscapes.

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