

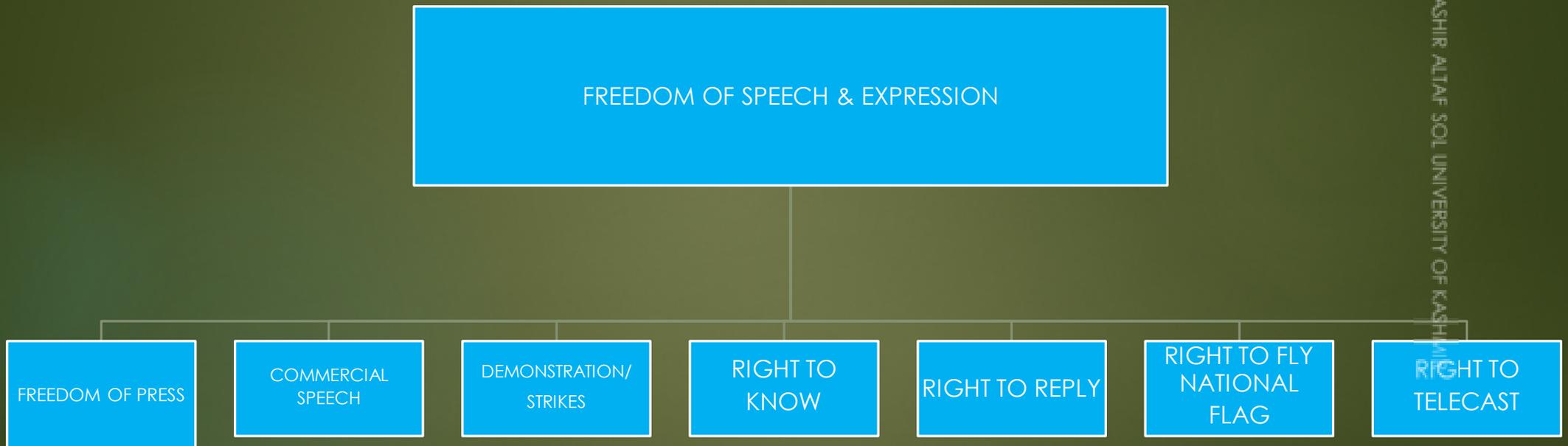
ARTICLE 19 FUNDAMENTAL FREEDOMS

- ▶ **ARTICLE 19(1) All CITIZENS 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;**
- ▶ **(g) to practise any profession, or to carry on any occupation, trade or business.**

ARTICLE 19(1)(a) FREEDOM OF SPEECH & EXPRESSION

- ▶ Article 19(1)(a) guarantees to the citizens of India the freedom of Speech and Expression which lays at the foundation of all democratic nations.
- ▶ Article 19(1)(a) guarantees every citizen the right to express one's view or ideas by words of mouth, writing, printing, pictures or any other medium of expression.
- ▶ “bulwark of a healthy, progressive and democratic society”

ARTICLE 19(1)(a) FREEDOM OF SPEECH & EXPRESSION



FREEDOM OF PRESS

- ▶ FIRST AMENDMENT OF US CONSTITUTION- “Congress shall not make any law abridging the freedom of speech, or of the press”
- ▶ FRAMERS- OBJECTIONS, AMBEDKAR’S ASSURANCE
- ▶ BLACKSTONE- The liberty of the press is indeed essential to the nature of a free state: but this consists in laying no previous restraints upon publications, and not in freedom from censure for criminal matter when published. **Every freeman has an undoubted right to lay what sentiments he pleases before the public: to forbid this, is to destroy the freedom of the press: but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity.”** (Commentaries on the Laws of England)

FREEDOM OF PRESS

- ▶ Anuradha Bhasin v. Union of India, (2020) SCC Online SC 25,
- ▶ Responsible governments are required to respect the freedom of the press at all times.....journalists are to be accommodated in reporting and there is no justification for allowing a sword of Damocles to hang over the press indefinitely.

FREEDOM OF PRESS

- ▶ EXPRESS NEWSPAPER V UNION OF INDIA AIR 1958 SC 578 - the freedom of press is implicit within the mandate of Article 19(1)(a) of the Constitution
- ▶ BENNETT COLEMAN V UNION OF INDIA AIR 1972 SC 106 –‘the Ark of the Covenant of Democracy’”
- ▶ PRECENSORSHIP- Brij Bushan v State of Delhi AIR 1950 SC 129
- ▶ the Supreme Court invalidated an order issued Section 7(1)(c) of the East Punjab Safety Act 1950, directing the editor of the newspaper to submit for scrutiny all communal matters and news and views about Pakistan. According to the court the government order directing the editor to submit the material before publication amounted to imposing pre-censorship on publication which is an un-reasonable restriction under clause 2 of Article 19.
- ▶ FREEDOM OF CIRCULATION & CONTENT
- ▶ Romesh Thappar v State of Madras, AIR 1950 SC 124- FREEDOM OF CIRCULATION
- ▶ Bennett Coleman v Union of India AIR 1972 SC 106

FOUNDATION FOR MEDIA PROFESSIONALS v UT OF J&K
11TH MAY, 2020

- ▶ One of the criteria for testing the proportionality of the orders is the territorial extent of the restrictions. In view of the observations made in *Anuradha Bhasin* (supra), for meaningful enforcement of the spirit of the judgment, inter alia, the authorities are required to pass orders with respect to only those areas, where there is absolute necessity of such restrictions to be imposed, after satisfying the directions passed earlier.

COMMERCIAL ADVERTISEMENT

- ▶ The publication through the press or other means of advertisements to promote sale of goods is a part of freedom of speech and expression guaranteed under Article 19(1)(a).
- ▶ In **Tata Press Ltd. v MTNL**, AIR 1995 SC 2438
- ▶ **the Supreme Court held that advertising which is no more than a commercial transaction, is nonetheless dissemination of information regarding the product-advertised as the public at large is benefitted by the information made available through the advertisement. According to the court in a democratic country the free flow of commercial information is indispensable.**

DEMONSTRATION, STRIKES OR BANDHS

- ▶ In **Kameshwar Prasad v State of Bihar**, AIR 1962 SC 116
- ▶ the Supreme Court held that orderly demonstration being visible expression of ideas come within the ambit of Article 19(1)(a). However, the court held that acts of resorting to strike or *bandhs* is not protected under Article 19(1)(a).

RIGHT TO KNOW

- ▶ In **PRABHU DUTT V UNION OF INDIA**, AIR 1982 SC 6
- ▶ The Supreme Court of India laid down that the freedom of speech and expression includes within its ambit the right to know.
- ▶ **S.P.GUPTA V UNION OF INDIA**, AIR 1982 SC 149
- ▶ the Supreme Court held that right to know, receive, and impart information is a part of the freedom of speech and expression.

SOME OTHER RIGHTS FLOWING FROM ARTICLE 19(1)(a)

- ▶ RIGHT TO REPLY -In **L.I.C vs Manubhai D.Shah**, (1992) 3 SCC 637
- ▶ the Supreme Court held that the phrase 'Freedom of Speech and Expression' includes the freedom to circulate and propagate views through any media subject to reasonable restrictions. More importantly the court held that this right extends to use the media to reply the criticism leveled against one's propagated view.
- ▶ RIGHT TO FLY NATIONAL FLAG- in **Union of India v Naveen Jindal** AIR 2004 SC 1559- The right to fly the national flag has been recognized as a form of expression within the ambit of Article 19(1)(a)

SOME OTHER RIGHTS FLOWING FROM ARTICLE 19(1)(a)

- ▶ RIGHT TO TELECAST
- ▶ In **Ministry of Information and Broadcasting , Govt. of India v Cricket Association of Bengal**, AIR1995 SC 1236 - the Supreme Court observed that while an individual has the right under Article (1)(a) to have an access to telecasting, this right is subject to the reasonable restrictions contemplated under Article 19(2).

RESTRICTIONS ON ARTICLE 19(1)(a)

GROUND UNDER CLAUSE 2 OF ARTICLE 19

SOVEREIGNTY & INTEGRITY OF INDIA-16TH AMENDMENT, 1963

SECURITY OF STATE

FRIENDLY RELATIONS WITH FOREIGN STATES 1ST AMENDMENT, 1951

PUBLIC ORDER 1ST AMENDMENT, 1951

DECENCY OR MORALITY

CONTEMPT OF COURT

DEFAMATION

INCITEMENT OF OFFENCE

RESTRICTIONS UNDER ARTICLE 19(2) TO 19(6)

- ▶ FRAMERS ON RESTRICTIONS
- ▶ RESTRICTIONS- REASONABLE
- ▶ V.N.Shukla, “the requirement that a restriction should be reasonable is of great constitutional significance, for it acts as limitation on the powers of the legislature and consequently widens the scope of judicial review of laws restraining the exercise of freedoms guaranteed by Article 19”.
- ▶ RESTRICTIONS- ONLY BY LAW NOT BY EXECUTIVE ORDERS

TEST OF REASONABLENESS

Patanjali Sastri. J in Madras v V.G. ROW AIR 1952 SC 196

- ▶ It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned, and no abstract standard. or general pattern, of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict.

Mahajan.j., in **CHINTAMAN RAO VS THE STATE OF MADHYA PRADESH AIR 1951 SC 118**

- ▶ The phrase "reasonable restriction" connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word "reasonable" implies intelligent care and deliberation, that is, the choice of a course which reason dictates.
- ▶ HM SEERVAI- the test to be applied is not whether a judge personally considers particular restrictions unreasonable, but whether a reasonable man would necessarily consider them unreasonable. (Constitutional Law of India)

RESTRICTIONS

▶ SOVEREIGNTY & INTEGRITY OF INDIA

- ▶ Introduced by 16th constitution amendment (1963)
- ▶ Guard against freedom of speech & expression being used to assail the territorial integrity of India
- ▶ Territorial integrity of India and not the states (Article 3)

▶ SECURITY OF THE STATE

- ▶ Crimes of violence intended to overthrow the government, waging of war and rebellion
- ▶ External aggression or war
- ▶ All utterances intended or calculated to have the above effect can be restrained
- ▶ Does not include within its sweep ordinary breaches of public order

▶ FRIENDLY RELATIONS WITH FOREIGN STATES

- ▶ First Constitution Amendment Act, 1951.
- ▶ International Relations

RESTRICTIONS contd.....

▶ PUBLIC ORDER

- ▶ First Constitution amendment (1951)
- ▶ Reason: Supreme Court's ruling in Romesh Thapar v State of Madras AIR 1950 SC 124
- ▶ Public Order- synonymous with public peace, safety and tranquility.
- ▶ SUPDT. CENTRAL PRISON V RAM MANOHAR LOHIA AIR 1960 SC 633.
- ▶ K.Suba Rao.J., Public order. "ordinarily read in an exclusive sense to mean public peace, safety and tranquility in contradistinction to national upheavals, such as revolution, civil strife and war, affecting the security of the State.
- ▶ We cannot accept the argument of the learned advocate general that instigation of a single individual not to pay tax or dues is a spark which may in the long run ignite revolutionary movement, destroying public order. We can only say that the fundamental rights cannot be controlled on such hypothetical and imaginary consideration.

RESTRICTIONS contd.....

- ▶ BABULAL PARATE V STATE OF MAHARASHTRA- AIR 1961 SC 884
- ▶ Constitutionality of Section 144 Cr.PC
- ▶ Petitioner: Challenged the constitutional validity of s.144 of the Code on the ground that it conferred wide and unguided powers on the District Magistrate and thus contravened Art. 19(i)(a) and (b) of the Constitution.
- ▶ SC- that the attack on the constitutional validity of s.144 of the Code of Criminal Procedure must fail, read as a whole, the section clearly showed that it was intended to secure the public weal by preventing disorders, obstructions and annoyances. The powers conferred by it were exercisable by responsible Magistrates who were to act judicially and the restraints permitted by it were of a temporary nature and could be imposed only in an emergency. The restrictions which the section authorizes are not beyond the limits prescribed by cls. (2) and (3) of Art. 19 of the Constitution. (Anuradha Bhasin judgement 2020)

RESTRICTIONS contd.....

- ▶ DECENCY OR MORLAITY
- ▶ Lack of Obscenity
- ▶ S. 292-296 IPC
- ▶ Morality –Varies
- ▶ CONTEMPT OF COURT-CIVIL CONTEMPT OR CRIMINAL CONTEMPT;
- ▶ (b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court;
- ▶ (c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which—
 - (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or
 - (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
 - (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

RESTRICTIONS contd.....

▶ CONTEMPT OF COURT

- ▶ Lord Atkin- Justice is not a cloistered virtue: She must be allowed to suffer the scrutiny and respectful even though outspoken comments of ordinary men.
- ▶ Lord Denning- Let me say at once that we will never use this jurisdiction as a means to uphold our dignity. That must rest on surer foundations. Nor will we use it to suppress those who speak against us. We do not fear criticism nor do we resent it. For there is something more at stake. It is no less than freedom of speech and expression itself.
- ▶ EMS Namboodiripad v T.N.Nambiar AIR 1970 SC 2015
- ▶ Hidayatullah C.J., “Although Art. 19(1)(a) guarantees complete freedom of speech and expression, it also makes an exception in respect of contempt of court. While the right is essential to a free society, the Constitution has itself imposed restrictions in relation to contempt of court and it cannot therefore be said that the right abolishes the law of contempt or that attacks upon judges and courts will be condoned”.

RESTRICTIONS contd.....

▶ CONTEMPT OF COURT

▶ In re, Vijay Kurle (27th April, 2020).

▶ Deepal Gupta J.,

▶ “The purpose of having a law of contempt is not to prevent fair criticism but to ensure that the respect and confidence which the people of this country repose in the judicial system is not undermined in any manner whatsoever. If the confidence of the citizenry in the institution of justice is shattered then not only the judiciary, but democracy itself will be under threat. Contempt powers have been very sparingly used by the Courts and rightly so. The shoulders of this Court are broad enough to withstand criticism, even criticism which may transcend the parameters of fair criticism. However, if the criticism is made in a concerted manner to lower the majesty of the institution of the Courts and with a view to tarnish the image, not only of the Judges, but also the Courts, then if such attempts are not checked the results will be disastrous”.

DISTRICT BAR ASSOCIATION , DEHRADUN V ISHWAR SHANDILYA FEBRUARY, 28TH, 2020

- ▶ JUSTICE M.R.SHAH ON STRIKE/ BOYCOTT OF COURT
- ▶ right to freedom of speech cannot be exercised at the cost of the litigants and/ or at the cost of the Justice Delivery System as a whole. To go on strike/boycott courts cannot be justified under the guise of the right to freedom of speech and expression under Article 19(1)(a) of the Constitution.

ARTICLE 19(b) -ALL CITIZENS SHALL HAVE THE RIGHT TO ASSEMBLE PEACEABLY AND WITHOUT ARMS

- ▶ RIGHT TO ASSEMBLE
- ▶ to meet together, "to flock together," and "to convene, as a number of individuals.
- ▶ PEACFUL & WITHOUT ARMS
- ▶ REASONABLE RESTRICTIONS 19(3) –LAW-PUBLIC ORDER
- ▶ US-FIRST AMENDMENT- the right of the people peaceably to assemble, and to petition the government for a redress of grievances.
- ▶ **MORRISON WAITE CJ., "the very idea of a government, republican in form, implies a right on the part of the citizens to meet peaceably for consultation in respect of public affairs (US v CRUIKSHANK 92 US 542(1875)**
- ▶ **CHARLES EVAN HUGHES- [Freedom of assembly] cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all civil and political institutions.(De Jonge v Oregon (299 U.S. 353 (1937)**

ARTICLE 19(b) -ALL CITIZENS SHALL HAVE THE RIGHT TO ASSEMBLE PEACEABLY AND WITHOUT ARMS

▶ HIMATLAL SHAH V COMMR. OF POLICE AIR 1973 SC 87

- ▶ **REASONABLE RESTRICTIONS-** While prior to the coming into force of the Constitution, the right to assemble could have been abridged or taken away by law, after the coming into force of the Constitution, the right cannot be abridged except by imposing reasonable restrictions.
- ▶ **PROIR PERMISSION:** There is nothing wrong in requiring prior permission to be obtained before holding a public meeting a public street, for the right which flows from Art. 19(1)(b) is not a right to hold a meeting at any place and time.
- ▶ **PUBLIC ORDER:** the State can only make regulations in aid of the right of assembly of each citizen and can only impose reasonable restrictions in the interest of public order.

Mathew.J., in Himatlal's case

- ▶ Freedom of assembly is an essential element of a democratic system. The basic assumption in a democratic polity is that Government shall based on the consent of the governed. But the consent of the governed implies not only that the consent shall be free but also that it shall be grounded on adequate information and discussion.
- ▶ At the root of this concept lies the citizens right to meet face to face with others for the ,discussion of their ideas and problems, and public streets are the 'natural' places for expression of opinion and dissemination of ideas.

19(1)(c) RIGHT “TO FORM ASSOCIATIONS AND UNIONS.”

- ▶ REASONABLE RESTRICTIONS- PUBLIC ORDER, MORALITY OR SOVEREIGNTY AND INTEGRITY OF INDIA.
- ▶ SCOPE OF ARTICLE 19(1)(C)-
 - ❖ NOTICE PRIOR TO DESIGNATION AS AN UNLAWFUL ASSOCIATION
 - ▶ STATE OF MADRAS V V.G.ROW
 - ❖ DETERMINATION OF UNLAWFUL ASSOCIATION
 - ▶ JAMAT E ISLAMI HIND V UOI
 - ❖ MEMBERSHIP OF BANNED ORGANISATION
 - ▶ ARUP BHUYAN V ASSAM
 - ❖ COMPOSITION & CONTROL
 - DELHI POLICE, NON GAZZETTED KARAMCHARI SANGH (1987) 1SCC 115.

NOTICE

State of Madras v VG.ROW AIR 1958 SC 332

- ▶ Indian Criminal Law Amendment (Madras) Act, 1950, ss. 15(2)(b), 16- empowering State to declare associations illegal by notification-No provision for judicial inquiry or for service of notification on association or office-bearer.
- ▶ SC: (Law) imposed restrictions on the fundamental right to form associations guaranteed by art. 19 (1) (c), which were not reasonable within the meaning of art. 19 (4) and was therefore unconstitutional and void.

REQUIREMENT OF NOTICE

Patanjali Sastri in *State of Madras v VG.ROW* AIR 1958 SC 332

- ▶ The right to form associations or unions has such wide and varied scope for its exercise, and its curtailment is fraught with such potential reactions in the religious political and economic fields, that the vesting of authority in the executive government to impose restrictions on such right, without allowing the grounds of such imposition, both in their factual and legal aspects, to be duly tested in a judicial inquiry, is a strong element which, in our opinion, must be taken into account in judging the reasonableness of the restrictions

DETERMINATION OF UNLAWFUL ASSOCIATION

JAMAT E ISLAMI HIND V UOI 1995 SCC (1) 428

- ▶ FACTS- JEI, Hind declared unconstitutional under Unlawful Activities Act, 1967.
- ▶ One member tribunal confirmed the order of the ban.
- ▶ JUSTICE J.S.VERMA
- ▶ To satisfy the minimum requirements of a proper adjudication, it is necessary that the Tribunal should have the means to ascertain the credibility of conflicting evidence relating to the points in controversy. Unless such a means is available to the Tribunal to determine the credibility of the material before it, it cannot choose between conflicting material and decide which one to prefer and accept.

Justice Verma in JAMAT E ISLAMHI HIND V UOI

- ▶ The decision to be made by the Tribunal is "whether or not there is sufficient cause for declaring the association unlawful". Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.

MEMBERSHIP OF BANNED ORGANISATION

- ▶ ARUP BHUYAN V ASSAM 2011 (3) SCC 377,
- ▶ Elfbrandt Vs. Russell, 384 U.S. 17 (1966)-GUILT BY ASSOCIATION
- ▶ Markenday Katju
- ▶ Mere membership of a banned organization will not incriminate a person unless he resorts to violence or incites people to violence or does an act intended to create disorder or disturbance of public peace by resort to violence

Composition & Control

Damyanti Naranga v UOI AIR 1971 SC 966

- ▶ Justice V BHARGAVA- the right to form association necessarily implies that the persons forming the society have also the right to continue to be associated with only those whom they voluntarily admit in the association. Any law by which members are introduced in the voluntary association without any option being given to the members to keep them out or any law which takes away the membership of those who have voluntarily joined. it will be a law violating the right to form association.

FREEDOM OF MOVEMENT AND RESIDENCE

Article 19(1)(d) & 19(1)(e)

- ▶ FREEDOM OF MOVEMENT: Article 19(1)(d) freedom to move freely throughout the territory of India;
- ▶ REASONABLE RESTRICTIONS: in the interests of the **general public** or for the protection of the interests of any **Scheduled Tribe**.

WEARING A HELMET- AJAY CANU V UOI AIR 1988 SC 2027

SC- There can be no doubt that rule 498-A is framed for the benefit, welfare and the safe journey by a person in a two-wheeler vehicle. It aims at prevention of any accident being fatal to the driver of a two-wheeler vehicle causing annoyance to the public and obstruction to the free flow of traffic for the time being.

EXTERMENT ORDERS- N.B.KHARE V STATE OF DELHI AIR 1950 SC 211

SC- HJ. KANIA J., there was nothing unreasonable in the provision empowering the Provincial Government or the District Magistrate to make an externment order, and making their satisfaction as to the necessity of making such an order final,

POLICE SURVEILANCE- KHARAK SINGH V STATE OF UP AIR 1963 SC 1295

UP POLICE REGULATION 236-Domicilliary Visits at Night- SC- Violative of Article 21 of the Constitution.

FREEDOM TO PRACTICE ANY PROFESSION, OR TO CARRY ON ANY OCCUPATION, TRADE OR BUSINESS

- ▶ **'PROFESSION'** means an occupation carried on by a person by virtue of his personal and specialized qualifications, training or skill.
- ▶ **OCCUPATION**- any regular work, profession, job, principal activity, employment, business or a calling in which an individual is engaged
- ▶ **TRADE**- any bargain or sale, any occupation or business carried on for subsistence or profit, it is an act of buying and selling of goods and services. It may include any business carried on with a view to profit whether manual or mercantile.
- ▶ **BUSINESS**: anything which occupies the time, attention and labour of a man for the purpose of profit. It may include in its form trade, profession, industrial and commercial operations, purchase and sale of goods, and would include anything which is an occupation as distinguished from pleasure.

FREEDOM TO PRACTICE ANY PROFESSION, OR TO CARRY ON ANY OCCUPATION, TRADE OR BUSINESS.

- ▶ RESTRICTIONS- IN THE INTERESTS OF GENERAL PUBLIC.
- ▶ QUALIFICATIONS & STATE MONOPOLY
 - ▶ UNNI KRISHNAN V STATE OF AP AIR 1993 SC 2178
- ▶ RIGHT TO ESTABLISH EDUCATIONAL INSTITUTIONS- ART. 19(1)(g)
- ▶ SC-Imparting of education has never been treated as a trade or business in the country since times immemorial. It has been treated as a religious duty, and a charitable activity, but never as trade or business. Education in its true aspect is more a mission and a vocation rather than a profession, trade or business.
- ▶ EDUCATION- AS OCCUPATION

Sodan Singh v NDMC AIR 1988 SC 1988

- ▶ STREET HAWKING- LM SHARMA- The right to carry on trade or business mentioned in Article 19(1)(g) of the Constitution, on street pavements, if properly regulated, cannot be denied on the ground that the streets are meant exclusively for passing or re-passing and for no other use. Proper regulation is, however, a necessary condition as otherwise the very object of laying out roads--to facilitate traffic--may be defeated. Allowing the right to trade without appropriate control is likely to lead to unhealthy competition and quarrel between traders and traveling public and sometimes amongst the traders themselves resulting in chaos. The right is subject to reasonable restrictions under clause (6) of Article 19

NASHIRWAR V STATE OF MP AIR 1975 SC 360

▶ **NO FUNDAMENTAL RIGHT TO CARRY ON TRADE/BUSINESS IN LIQUOR.**

- ❑ First, there is the police power of the State to enforce public morality, to prohibit trades in noxious or dangerous goods.
- ❑ Second, there is power of the State to enforce an absolute prohibition of manufacture or sale of intoxicating liquors.
- ❑ Third, the history of excise law in India shows that the State has the exclusive right or privilege of manufacture or sale of liquor

▶ **RESTRICTION UNDER CLAUSE 6 WOULD INCLUDE PROHIBITION**

- ▶ Trade in liquor has historically stood on a different footing from other trades. Restrictions which are not permissible with other trades are lawful and reasonable so far as the trade in liquor is concerned. That is why even prohibition of the trade in liquor is not only permissible but is also reasonable. The reasons are public morality, public interest and harmful and dangerous character of the liquor.

State Of Gujarat vs Mirzapur Moti Kureshi Kassab (2005) 8 SCC 534

▶ COW SLAUGHTER BAN & ARTICLE 19(1)(G)

▶ Justice R.C.Lahoti (6:1) 7member constitution bench

- ▶ Bombay Animal Preservation (Gujarat Amendment) Act, 1994 –total ban on slaughter of cow progeny
- ▶ (i) 'restriction' includes cases of 'prohibition';
- ▶ (ii) a total prohibition must also satisfy the test that a lesser alternative would be inadequate; and
- ▶ (iii) whether a restriction in effect amounts to a total prohibition is a question of fact which shall have to be determined with regard to the facts and circumstances.
- ▶ We hold that though it is permissible to place a total ban amounting to prohibition on any profession, occupation, trade or business subject to satisfying the test of being reasonable in the interest of the general public, yet, in the present case banning slaughter of cow progeny (bulls & bullocks) is not a prohibition but only a restriction.
- ▶ Scientific Evidence on utility of Cow and Its progeny. Directive Principles of State Policy (47, 48 and clause (b) and (c) of article 39) .

Justice A.K. Mathur's dissent

- ▶ one of the hallmarks of the law is certainty predictability and stability unless the ground reality has completely changed. In the present case, as discussed above, in my opinion the ground reality has not changed and the law laid down by this court holds good and relevant. (Hanif Qureshi AIR 1958 SC 731) (1958-1996)
- ▶ Some advancement in technology and more and more use of the cow dung and urine is not such a substantial factor to change the ground realities so as to totally done away with the slaughtering of the aged bulls and bullocks..... I do not think that there are compelling reasons for reversal of the earlier decisions either on the basis of advancement of technology or reason, or logic, or economic consideration. Therefore, in my humble opinion, there is no need to reverse the earlier decisions.

Alagaapuram R. Mohanraj & Others v Tamil Nadu Legislative Assembly Rep. by its Secretary & Another (Feb 12, 2016)

- ▶ **OFFICE OF MLA CANNOT BE TERMED AS OCCUPATION UNDER ART. 19(1)(G).**
- ▶ The right to contest an election to the legislative bodies established by the Constitution is held not to be a fundamental right. Therefore, logically it would be difficult to accept the submission that the right to participate in the proceedings of the legislative bodies can be a fundamental right falling under Article 19(1)(g).

Alagaapuram R. Mohanraj & Others v Tamil Nadu Legislative Assembly Rep. by its Secretary & Another (Feb, 12, 2016)

- ▶ Constitutional offices commencing from the office of the President of India are meant for and established for securing the goals adumbrated in the preamble to the Constitution. Each of these offices is a component in larger machinery established to make it possible for the people of this country to realise the goals indicated in the preamble of the Constitution.
- ▶ Any monetary benefit incidental to the holding of such offices is only to compensate for the time and energy expended by the holder of the office in the service of the nation. It is for this very reason that a member of a legislative assembly cannot be treated as holding office for the purpose of eking out a livelihood.