

# The Law of Press

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# Law and Press in INDIA

WHAT DO YOU THINK OF  
PRESS??

ANY PRE-SUPPOSE NOTIONS

CAN WE PROTECT PRESS  
WITHOUT ANY EXPRESS  
PROVISION IN THE  
CONSTITUTION??


+

IT

CHALLENGES

YOUR

PRUDENCE



+ There is again a true story of  
Imam Ali : A famous saint from  
Middle East

# DIVIDING 17 CAMELS BETWEEN 3 PEOPLE

*Sufi Comics*

*Arif & Ali*

## My Will

In the name of God...

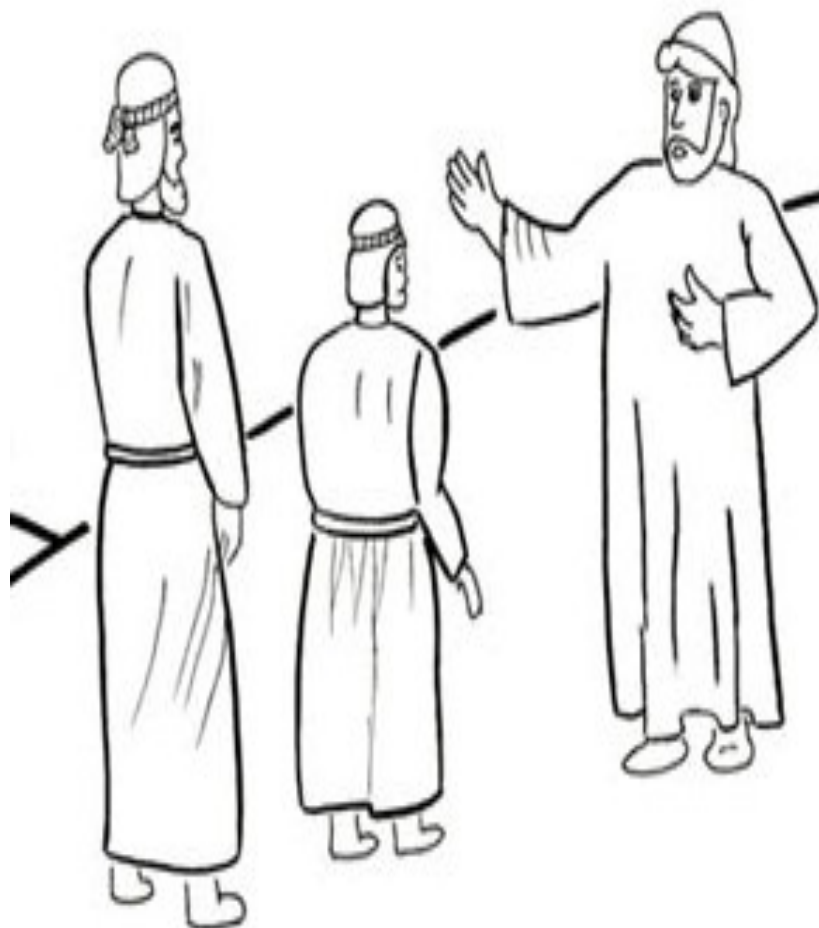
I have 17 Camels, and I have three sons. Divide my Camels in such a way that:

My eldest son gets half of them,

The second one gets  $\frac{1}{3}$ rd of the total,

My youngest son gets  $\frac{1}{9}$ th of the total number of Camels.

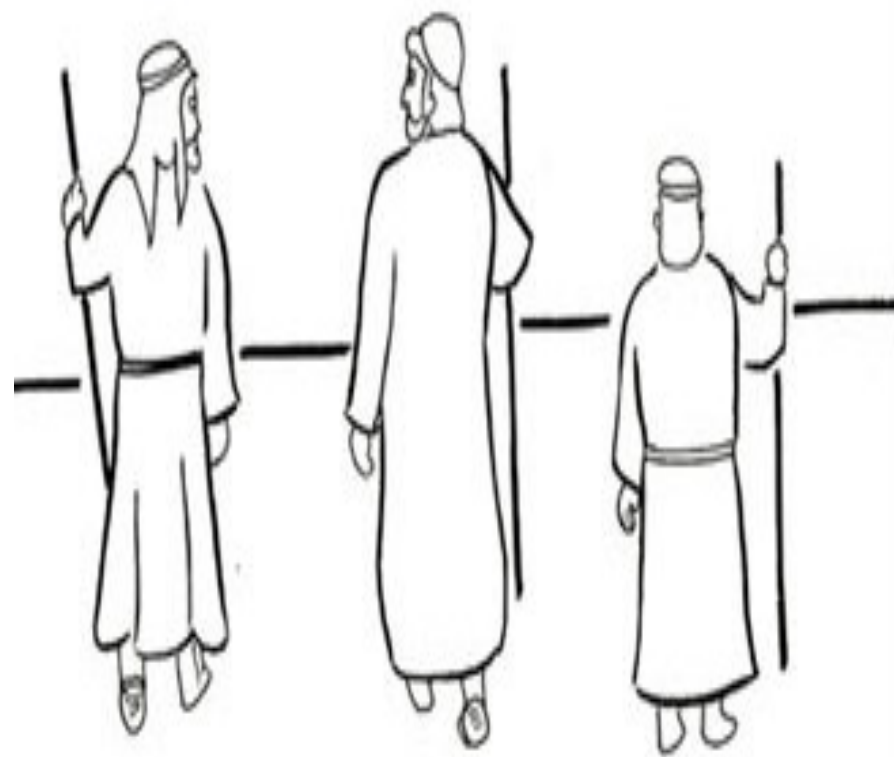
OUR FATHER HAS ASKED TO DIVIDE 17  
CAMELS BETWEEN THE 3 OF US IN A WAY  
THAT IS IMPOSSIBLE.



I'VE HEARD OF IMAM  
ALI'S BRILLIANCE, HE'S  
THE ONLY MAN IN ARABIA  
WHO CAN HELP US.



SO THE 3 OF THEM SET OUT MEET IMAM ALI



AND THEY EXPLAIN TO HIM THEIR PROBLEM...

OK, I WILL LEND ONE OF MY CAMELS TO THE TOTAL WHICH MAKES IT 18 (17+1=18), NOW LETS DIVIDE AS PER HIS WILL....





THE ELDEST SON GETS  $1/2$  OF 18 = 9  
THE SECOND ONE GETS  $1/3$  OF 18 = 6  
THE YOUNGEST GETS  $1/9$  OF 18 = 2

NOW THE TOTAL NUMBER OF CAMELS  
= 17 ( $9+6+2=17$ )

NOW I WILL TAKE MY CAMEL BACK.

O IMAM, YOU ARE TRUELY  
BRILLIANT! I HAVE NOT BEEN  
LET DOWN.





# Law of PRESS : Certain Propositions

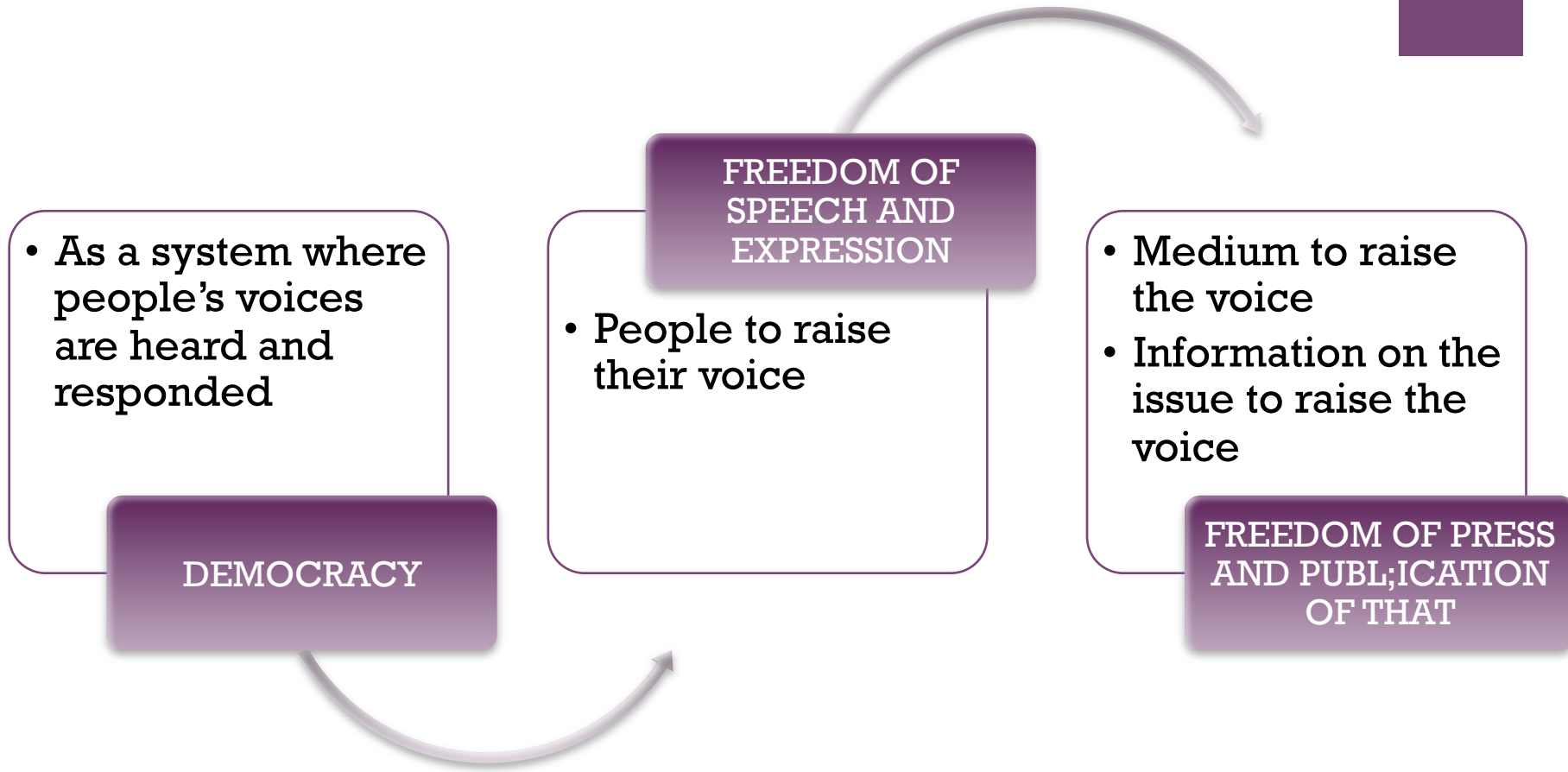
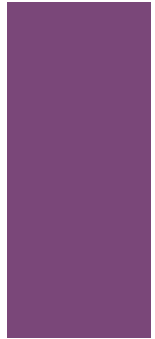


- As a part of Art. 19(1) A of our constitution through freedom of speech and expression freedom of press is generated.
- Basic Human Right and Preferred Right (LIC V. Manubhai)
- Two fundamental aspects of law of press as observed in Hamdard Dawakhan V. Union of India
  - right to lay what sentiments press pleases, before the public or right to information and ideas
  - Right to receive ideas, information and links from any lawful sources and by lawful means



# LAW OF PRESS

## INTER-LINAGES AND DIMENTIONS



• As a system where people's voices are heard and responded

DEMOCRACY

FREEDOM OF SPEECH AND EXPRESSION

• People to raise their voice

• Medium to raise the voice

• Information on the issue to raise the voice

FREEDOM OF PRESS AND PUBLICATION OF THAT



# LAW OF PRESS

What is PRESS??



## ■ INDIAN POST ACT 1988 – Sec.9(2):

“every publication consisting wholly or great part of political or other news or articles relating to thereto or to other current topics with or without advertisement shall be deemed newspaper EXCEPT

1. Not more than 31 days gap

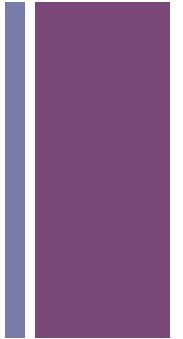
2. contains bona-fide list of subscribers

will be deemed as newsprint.



# Constitutional bifurcation of the Press :

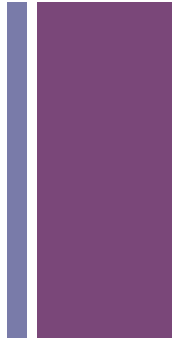
1. As an Expression
2. As a Business



- 1 It indicates whole range of EXPRESSION in a printed format. This format is ranged within freedom of speech and expression generated under Art. 19(1) A INHERENTLY.
- 2 It denotes press also a BUSINESS by means of a PRINTING ESTABLISHMENT and as an INDUSTRY. This aspect of press as a business unit is covered and protected under Art.19(1)G




# Freedom of Press as a medium of Expression and its protection under Art. 19(1) A



- No express and direct provision about Press Freedom in the constitution, deduced from the term “expression”
- Freedom of expression include right to express one’s convictions and opinion and to seek receive or impart information and ideas either orally or by written or by printed materials or by legally operated visuals or authority devices like Cinematograph, gramophone Radio or loud speakers.

**“ The freedom of expression is the genus and freedom of press is a species “**

(Romesh Thaper V. State of Madrass)

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- In *Indian Express News Papers V. UOI* and *Bannett Collman V. UOI* Honb. S.C. affirmed freedom of press was and is included in fundamental right of expression guaranteed in Art. 19(1) A
  - 1982 Law Commission also recommended there is no need of direct and separate provision for freedom of Press.
  - Art 19(1)a speaks out that “ ALL CITIZEN SHALL HAVE THE RIGHT –TO FREEDOM OF SPEECH AND EXPRESSION.”
  - Art 19(2 ) speaks out that “ NOTHING IN THIS ARTICLE SHALL PREVENT THE STATE FROM MAKING ANY LAW IN SO FAR SUCH LAW IMPOSE REASONABLE RESTRICTION IN RESPECT TO
    - SOVEREIGNTY AND INTEGRITY OF INDIA
    - SECURITY OF THE STATE
    - FRIENDLY RELATIONS WITH FOREIGN STATE
    - PUBLIC ORDER
    - DECENCY AND MORALITY
    - CONTEMPT OF COURT
    - DEFAMATION OR INCITEMENT OF ANY OFFENCE



# Freedom of Press

Freedom of Press : As an Expression U/A. 19(1)A

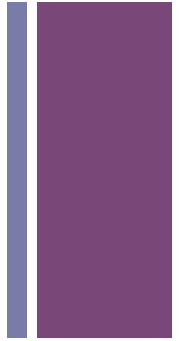


- Equal footing for citizen and press in respect of freedom of expression.
- A non-citizen running a press will not be entitled for this freedom as its only for citizen
- Not absolute but subject to Reasonable Restrictions
- The press is not immune from
  - Ordinary laws of taxation- Express Newspaper V. UOI
  - General laws of industrial application -Express Newspaper V. UOI
  - Laws of defamation and contempt of court – S P Gupta V. State
  - Laws of trespass and nuisance – S. Rajgopal V. State of TN
  - Liability of Unfair reporting – Sakal paper V. UOI
  - Regulating commercial activities of the press – Banett Collman V. UOI





# **Freedom of Press as a medium of Business and its protection under Art. 19(1) g and 19(6)**



- Press is a business as well, its sells news to its buyers and so far as the commercial activities of press are concerned, the ambit if rights and their limitation thereto are to be derived from Clause 1 (g) and (6) as follows
  - all citizen shall have the right to practice any profession or any occupation or any business.
  - nothing in this sub article shall prevent state to impose any law In the interest of general public in the interest of
    - The professional and technical qualifications necessary for practicing any profession or occupation trade or business
    - The carrying on by the state or a corporation trained and owned by the state of any trade, business industry or services whether to exclusion total or partial of citizen and otherwise.

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# Dynamism of Freedom of PRESS



Freedom of Press



Restriction-under A.19(2) AND 19(6)

Limits of Restrictions



Authority Test



Reasonability Test



Purpose Test

# Empirical Restraints to Freedom of Press

No rights are absolute but are subject of Reasonable Restrictions

Art 19(2) and Art. 19(6 )

Restraints on Press (on the basis when sanctions operate)

Prior Restraints

Post publication Restraints

With out subsequent punishments  
punishment

with subsequent

Re Licensing, censorships prohibition of publications, blacklisting prohibition of enteries, Registrations

sedition (S. 124 A)  
promotion of class hatered (S153 A)  
Obscenity (S. 292)  
Injury



Now a bit of Discussion



# **What do you think whether advertisement should be a part of Freedom of Speech and Expression ?**



**Cases :**

**HAMDARD DAWAKHANA Vs UNION OF INDIA**

**TATA PRESS V. MTNL**

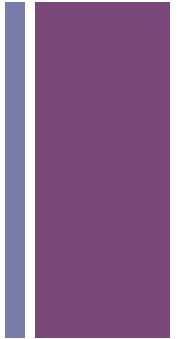


# Advertisement



**As an Information  
ENDORSEMENT**

**as a commercial**



➤ What do you want ADVERTISEMENT RUNNING JOURNALISM OR  
ADVERTISEMENT REQUIRED FOR JOURNALISM AND PRESS??

➤ INFORMATIVE JOURNALISM AND NOT YELLOW JOURNALISM

➤ BALANCE BETWEEN BETWEEN BOTH INFORMATION AND COMMERCIAL  
ENDORSEMENT

➤ UNDERSTAND IT ON TWO IMPORTANT ASPECT

1. Whether it's a part of Freedom of speech and expression

2. Whether it comes in the purview of freedom of business and trade and  
profession

I do not want to make you cristal clear on any concept I am there to add more and more confussion in your thoughts because I know you all will lead to clarity but on this path from confussion to clarity I will be always with you

Yours

Panch Rishi Dev Sharma



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