RESCUING ARTICLE 19 FROM THE 'GOLDEN TRIANGLE': AN EMPIRICAL ANALYSIS OF THE APPLICATION OF THE EXCEPTION CLAUSES UNDER ARTICLE 19

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Article 19 (the right to freedom of speech and expression), Article 21(the right to life and liberty) and Article 14 (the right to equality) of the Indian Constitution, 1950, are collectively called the 'golden triangle'.The said provisions are used to challenge the constitutionality of various legislations that tend to infringe on Part III rights. This paper deals with the application of the aforesaid articles under the fundamental rights jurisprudence. It argues that the practice of reading Article 19 conjunctively with Articles 14 and 21 leads to neglection of consideration of the specific grounds on which Article 19 may be restricted, since that requirement is not present for laws restricting Article 14 or Article 21. This article substantiates this through an empirical analysis of all decisions between January 31, 2021, till August 31, 2022, involving Articles 14, 19 and 21. The result of the empirical analysis is that whenever Articles 14 and/or Article 21 are invoked, the probability of considering the specific exception grounds to Article 19 is reduced, which militates against the legal mandate. The normative significance of the said finding is that a conjunctive reading increases the probability of a rights-infringing law to pass the constitutional threshold, going against the Indian constitutional ethos. Therefore, this paper calls for a consideration of the exception grounds of Article 19 separate from the reasonability requirements under Articles 14, 19 and 21 read conjunctively.

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I. INTRODUCTION

In legal jurisprudence, the practice of reading multiple fundamental rights conjunctively is termed as an integrated reading of Articles 14, 19 and 21 of the Indian Constitution, 1950 ('the Constitution'),which was brought about in *Maneka Gandhi* v. *Union of India*[1] ('Maneka Gandhi'). It allows for overlapping rights, effectively broadening and strengthening the ambit of rights guaranteed under Part III of the Constitution.[2] This is possible since previously, rights were read *in silos*, i.e. only one particular right could operate at one instance.[3] For example, in the *in silos* approach, Article 21 would not apply where Article 19 applies, and *vice versa*.[4] This essentially limited the scope of application of the fundamental rights. However, post-Maneka Gandhi, the judicial practice has been to follow an integrated reading of fundamental rights, recognising the principle that they operate on similar spheres and often overlap.[5] While *prima facie* this appears as a rational mode of judicial scrutiny which expands access to such rights, it has run into practical difficulties.

B. Errabi has pointed out the potential difficulty of reconciling such an integrated reading with the suspension of fundamental rights during an

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1 Maneka Gandhi v. Union of India, (1978) 1 SCC 248, ¶¶6–7; *See also* Manoj Mate, *Globalization, Rights and Judicial Review in the Supreme Court of India*,Vol. 25,Washington International Law Journal, 643, 647 (2016) ("Maneka Gandhi recognised a new standard of non-arbitrariness review based on Articles 14 and 21. Under this new interpretive approach, the Court began to recognise a wide range of fundamental rights based on both the right to life and liberty and the rights contained in Article 19. In addition, the Court held that the rights contained in Articles 19 and 21 were not mutually exclusive and that deprivation of these rights would be reviewed under the standard of reasonableness under Article 19.").

2 *See* B. Uma Devi, *Shifting Trends in Approach to the Fundamental Rights: Impact of Reading Articles 19 and 21 Together*, in Arrest, Detention, and Criminal Justice System: A Study in the Context of the Constitution of India, 23 (Oxford Academic, 2012).

3 A.K. Gopalan v. State of Madras, AIR 1950 SC 27, ¶163.

4 *Id*.

5 Maneka Gandhi v. Union of India, (1978) 1 SCC 248 ('Maneka Gandhi').

emergency.[6] Similarly, Anup Surendranath has highlighted how the integrated 'reasonableness' standard is not adequate in protecting fundamental rights.[7] This is because it homogenises the standard of inquiry in all the tests, rather than looking at them independently.[8] Another difficulty that has arisen is that by allowing overlapping rights, it has also expanded their scope, which led to more situations of conflicts of fundamental rights claimed by different citizens.[9]

This article attempts to further this discussion on the integrated reading of Part III rights, by highlighting how the integrated reading of the golden triangle rights has 'in effect' lowered the threshold for the constitutionality of any law being tested against Article 19. This is because in the process of integrated reading, the focus shifts to whether the restrictions are 'reasonable', while the question of whether the basis of restrictions meets the grounds specified in Article 19(2)-(6) remains ignored.

In this paper, I argue that the conjunctive reading of these articles leads to a loss of independent testing of a statute/executive decision on these articles. This is most deleterious to Article 19, which typically has a higher threshold than Articles 14 or 21. This higher threshold exists because aside from the need for its restrictions to be reasonable, the restrictions to Article 19 can only be made on the grounds specified in Article 19(2)-(6), or other parts of the Constitution. For instance, Article 19(1)(a) can only be restricted on grounds such as the 'public order', or the 'sovereignty and integrity of India',[10] which naturally poses an additional burden over and above the reasonability requirement. However, as I shall seek to show through an empirical study, in practice, the court generally only refers to the requirement of reasonability and ignores the specificities of Article 19. Therefore, it is this reasonableness centric perspective of judicial scrutiny that this paper attempts to call attention to and problematise.

To clarify, the argument here is not that an integrated reading is undesirable. Instead, the paper seeks to highlight a substantive problem, i.e. in effect, the courts have not considered the specific grounds of restriction of Article 19 when reading Articles 14, 19 and 21 conjunctively. The consideration of Article 19 independently must be done in 'addition' to the conjunctive reasonability test, and

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6 B Errabbi, *The Right to Personal Liberty in India: Gopalan Revisited with a Difference* in Comparative Constitutional Law, 533 (Eastern Book Company, 2011).

7 Anup Surendranath, *Life and Personal Liberty* in Oxford Handbook of the Indian Constitution, 1007 (Oxford University Press, 2016).

8 *Id.*

9 The broadened ambit of rights leads to greater chances of conflicts between one right and the other. This is most commonly seen between Articles 21 and 19, *see* SEBI v. Sahara India Real Estate Corpn. Ltd., (2014) 8 SCC 751; Amit Sahniv. State, (2020) 10 SCC 439; Although this may appear *prima facie* contradictory, the rationale is that homogenising the standard leads to both limiting and expanding the scope of rights. Limiting in the sense that individual characteristics of the rights may be ignored, but the expansion has happened only on their common ground, i.e. reasonability.

10 The Constitution of India, Art. 19(2).

not as an 'alternative'. This is also the position of law, which has not been translated into practice, as the empirical study in this paper shall showcase.

One conceptual question that predates this inquiry is why is the focus on the distinct character of Article 19 that gets lost in the reasonability inquiry, and not on Articles 14 or 21? This is because, as examined above, Article 19(1) has the special feature of being restricted 'only' on the grounds provided in Articles 19(2)-(6). This is what distinguishes the 'procedure' of inquiry into any law that contracts a fundamental right. However, Articles 14 or 21 do not have any such special requirement or threshold. It might be argued that even Article 21 has a special threshold apart from the reasonability requirement, i.e. that it can only be restricted via a 'procedure established by law'. While this prima facie sounds attractive, this no longer holds. In *Kharak Singh* v. *State of U.P,*[11] the court held that a restriction on 'any' fundamental right must necessarily be through a statutory law, and executive orders, guidelines, etc. would not suffice. This broadly equalises the standard, hence the procedure established by law is no longer a special standard in Article 21. Similarly, the requirement that any restriction on a fundamental right be reasonable and proportionate is common in Articles 14, 19 and 21; the difference is in the substantive right they protect.[12] For example, the common tests of Article 14, such as the test of arbitrariness, is also included within reasonableness guaranteed in Articles 19 and 21.[13] In that light, it is therefore less helpful to consider them separately.

It is acknowledged that some doctrines of Article 14, such as substantive equality, or indirect discrimination are not present within the reasonableness inquiry in Articles 19 or 21. However, these doctrines are *first* only used in a handful of decisions till now, making an empirical inquiry less useful and *second* these doctrines do not impose 'necessary' thresholds for each case, and can only be invoked in certain circumstances.[14] For example, indirect discrimination can only be invoked in cases where a facially neutral law has a disproportionate impact.[15] In contrast, Articles 19(2)-(6) grounds for a necessary condition for every case where Article 19(1) is infringed. Therefore, this paper shall limit its inquiry to cases where the specific exceptions under Article 19 are not considered when Articles 14, 19 and 21 are read together.

Part II of the paper discusses how the current constitutional interpretation demands an independent consideration of Article 19's exception clauses, in addition to the reasonability test. Part III discusses the methodology and limitations in the collection and analysis of data for the empirical study, which aims to

[11] Kharak Singh v. State of U.P., 1962 SCC OnLine SC 10.

[12] K.S. Puttaswamyv. Union of India, (2017) 10 SCC 1,¶¶358-365.

[13] *Id*.

[14] Nitisha v. Union of India, (2021) 15 SCC 125, ¶¶83-87.

[15] *Id*.,¶86 (Chandrachud J. limited indirect discrimination to cases where there is "disproportionate impact of the impugned provision, criteria or practice on the relevant group, as well as the harm caused by such impact.").

confirm the hypothesis that when reading Article 19 conjunctively with Articles 14 and/or Article 21, courts do not in reality consider whether the ground for the law is based on one of the grounds under Articles 19(2)-(6).

Part IV describes the conclusions and the inferences from the empirical study. The paper under Part V focuses on the constitutional implications of non-consideration of the exception clauses and why it is normatively desirable for them to be considered. Part VI takes significant cases from the empirical study conducted, and attempts to highlight how the decision may have been different had the court properly considered the exception clauses. Part VII offers concluding remarks. The paper under Part VIII provides the annexures containing the list of cases covered and analysed in the empirical study.

II. THE LEGAL POSITION: EXCAVATING THE CORRECT MODE OF INTEGRATED READING

In this part, I attempt to highlight the legal position of an integrated reading, i.e. appraising the thresholds of all fundamental rights independently, in order to juxtapose this correct position with the flawed practice in subsequent parts. The case of *A K Gopalan* v. *Union of India*,[16] ('A. K. Gopalan') advocated what is now known as the '*silos* approach', where only the right most directly impacted would be used to test any law affecting multiple rights. Therefore, the rights were to operate in different spheres, and an integrated reading would not be permissible.[17]

This holding of A.K. Gopalan was overruled by *R.C. Cooper* v. *Union of India*,[18] and Maneka Gandhi. This was largely brought about because the court observed that rights are not unidimensional, and have multiple and overlapping facets, which would be incompatible in A. K. Gopalan's *silos* approach.[19] Justice P. N. Bhagwati laid down an integrated approach to reading Article 21 in conjunction with Articles 14 and 19.[20] This is because although Article 21 itself does not have a 'reasonable' restriction provision, any law restricting it would still have to

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16 A.K. Gopalan v. State of Madras, AIR 1950 SC 27.

17 *Id*., ¶194.

18 Rustom Cavasjee Cooper v. Union of India, (1970) 1 SCC 248, ¶¶49-52.

19 *See* Maneka Gandhi, *supra* note 5,¶5 ("We shall have occasion to analyse and discuss the decision in R.C. Cooper case a little later when we deal with the arguments based on infraction of Articles19(1)(a) and 19(1)(g), but it is sufficient to state for the present that according to this decision, which was a decision given by the Full Court, the fundamental rights conferred by Part III are not distinct and mutually exclusive rights. Each freedom has different dimensions and merely because the limits of interference with one freedom are satisfied, the law is not freed from the necessity to meet the challenge of another guaranteed freedom. The decision in A.K. Gopalan case gave rise to the theory that the freedoms under Articles 19, 21, 22 and 31 are exclusive […] the assumption in A.K. Gopalan case that certain articles in the Constitution exclusively deal with specific matters — cannot be accepted as correct.").

20 Maneka Gandhi, *supra* note 5,¶¶202-204.

be reasonable in order to be valid. Hence, Article 21 is read along with Articles 14 and 19, forming the famous 'golden triangle' of rights.[21]

This was considered to essentially equate India's procedure established by law standard with the due process standard since any law would have to be "right and just and fair".[22] Therefore, a perspective arose of seeing the three as packaged rights, which entails that the law restricting any of them must be reasonable.

The manner of conducting the integrated reading was explicitly clarified in the Puttaswamy judgements. In *K.S. Puttaswamy*v. *Union of India*,[23] Justice Chandrachud, for the majority opinion wrote, "State action can be restrained under Article 21 read with Article 14 if it is arbitrary and unreasonable; and under Article 21 read with Article 19(1)(a) only if it relates to the subjects mentioned in Article 19(2)".[24] Similarly, Justice Sikri in *K.S. Puttaswamy*v. *Union of India*,[25] ('Puttaswamy') held that in an integrated reading of Articles 19 and 21, the law must first "satisfy the test of judicial review under (i) one of the eight grounds mentioned under Article 19(2); and (ii) the restriction should be reasonable".[26] This clearly highlights that even an integrated reading of Articles 14, 19 and 21 must test them separately. Therefore, it must be noted, that while integrated reading typically refers to reading all three – Articles 14, 19, 21 together, considering any two of them together would also come under the umbrella of an integrated reading for the purposes of this piece. Similarly, as mentioned in the empirical study, the use of either Article 14 'and/or' Article 21 along with Article 19 was considered be a case of integrated reading.

This is particularly relevant in light of the recent decision in *Kaushal Kishore* v. *State of U.P.*,[27] where the court emphatically cleared the air on the exception grounds to Article 19, declaring them to be exhaustive and that even other fundamental rights, such as Article 21, cannot be used to substitute the grounds enumerated in Articles 19(2)-(6).[28] This underscores the importance of considering the exception grounds of Article 19 as a distinct threshold. The following empirical study will emphasise that this has not been followed in practice, leading to the weakening of the threshold for passing Article 19.

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21 Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625, ¶74.

22 Sunil Batra v. Delhi Admn. (1978) 4 SCC 494,¶52 (this is significant because India had explicitly rejected the due process standard in its Constituent Assembly Debates, however, as noted in Sunil Batra, the same result was reached through judicial interpretation and conjunctive reading).

23 (2017) 10 SCC 1.

24 *Id*.,¶526.

25 (2019) 1 SCC 1 ('K.S. Puttaswamy').

26 *Id*., ¶115.

27 Kaushal Kishor v. State of U.P.,(2023) 4 SCC 1.

28 *Id*., ¶32.

III. EMPIRICAL RESEARCH: METHODOLOGY AND LIMITATIONS

To verify the hypothesis proposed in the above part, this paper shall attempt to empirically test this through an analysis of recent High Court and Supreme Court decisions. In this part, I shall explain the methodology and limitations of the data collection and analysis procedure for the study. The hypothesis of this study is that during an integrated reading of the three articles under the golden triangle, the unique nature of Article 19, i.e. it can only be restricted in accordance with the exception grounds mentioned under Articles 19(2)–19(6), would be lost in the process.

A. DATA COLLECTION METHODOLOGY

a) Parameters for Research:

1. Search Engine: SCC Online

2. Search Type: "Article 19" was selected in the "Find Case Law by Section" feature in SCC.

3. Time Span Parameter: Only cases between February 31, 2021,and August 31, 2022, (18 months) were considered.[29]

4. Jurisdiction Parameter: High Courts and Supreme Court decisions only.

a) Collection Method: Universal sampling, i.e. every case within the parameters defined was checked. From within those, relevant cases were picked based on a pre-defined criterion. All cases passing these criteria were included in the final sample.

b) Pre-defined criterion to remove irrelevant cases from the universal sample:

1. Cases with only trivial mentions of Article 19 were not considered. For example, if Article 19 was mentioned passingly to indicate a presence of a right, rather than challenging a law/order would not be considered.

[29] The reason for choosing a relatively small time period (1.5 years) was to ensure the most reliable method. This is because, it allowed for 'universal sampling', i.e. a perusal of every single decision given in any time frame allowing no scope for bias. Even in a time span of 1.5 years, 457 relevant decisions were present. If a longer time span were taken, say since Maneka Gandhi, then there would likely be thousands of such decision which would make universal sampling impossible. Therefore, there is no reason to believe this result is not representative.

2. Where only interim orders were given, or if an order was given mechanically (in less than 15 paragraphs as per SCC) the case was not considered.

B. DATA COLLECTION INITIAL RESULTS

a) Search Results:

Search Type	**Number of Cases**
Article 19 Sectional Search	457
Past Criterion-1	71
Past Criterion-2 (final sample)	43

b) Article-Wise Results (Criterion-II)

Articles	**Number of Cases**[30]
Articles 19(1)(a) and 19(1)(b)	22
Article 19(1)(g)	24

C. POST-COLLECTION ANALYSIS METHODOLOGY

This paper followed a uniform manner in which information pertinent to the study was extracted and organised from the cases. The three-step process mentioned below describes how the same was performed.

1. Create 'analytical categories' to organise information of every case. This can be such as "checking the exception clauses or not" or "was there an integrated reading of Articles 14, 19 and 21 or not". This paper had three such categories:

   a) Grounds of Exception of Article 19: Considered or not?

   b) Integrated Invocation of Articles 14, 19 and 21: Argued or not?

   c) The Article forming the basis of the challenge: Article 19(1)(a) or Article 19(1)(g)?

2. Convert the qualitative data into binary 'yes'/'no' responses for the analytic categories

[30] Total cases in this table are more than forty-three because of some cases where there was an overlapping invocation of Articles 19(1)(a) and 19(1)(g).

3. Convert the binary 'yes/'no' data into quantitative data using "0" and "1" as dummy variables, and use that to calculate the correlation coefficient to assess the relationship between the variables

Explanation – for conversion to quantitative data, in all three of the sets, both the analytic categories will be assigned a value of "0" or "1" as dummy variables. For example, if there was an integrated reading of Articles 21 or 14 with Article 19, that would be assigned a value of 1 while if there was not, that would be assigned a value of 0. Similarly, for other analytic categories, if the law did test consider Article 19 separately as required, that would be assigned a value of 1, and if not, that would be 0.

Post-conversion into numerical values,I shall calculate the correlation coefficient[31] to assess the relationship between the variables. The goal in calculating this is to allow us to assess quantitatively the relationship between variables like "checking the exception clauses" and "whether there is an integrated reading of the golden triangle or not".

D. LIMITATIONS

While there was an attempt to minimise extraneous variables and ensure objectivity, some limitations remain in this methodology.

First, in the conversion of qualitative data to quantitative some valuable data may have been lost. For example, if say the court does not consider the exception clauses because it is so evident that it falls under one that the court does not even mention it. In such cases, although the court has considered the exception clauses, they would not be counted in the data. Although efforts were made to avoid such situations, it is almost impossible to prevent that completely. For instance, very simple, short decisions (less than 15 paragraphs) of violations of Article 19, which did not require going beyond the reasonability threshold were not considered in the original sample.

Second, the presence of extraneous variables would weaken the result to some extent. These extraneous variables include any factor which can affect

[31] JMP, *Correlation Coefficient*, 2022,available at https://www.jmp.com/en_in/statistics-knowledge-portal/what-is-correlation/correlation-coefficient.html (Last visited September 5, 2022) (Correlation coefficient takes a number value between -1 to +1 to establish the relationship between two variables. If the correlation coefficient takes a value close to 0 (less than 0.25), then that implies the two variables do not have a close relationship. However, if the correlation coefficient takes a value closer to 1, or -1, that indicates a strong relationship between the two variables. If the value is positive, it means that there exists a direct relation, i.e., when variable 'a' occurs, 'b' occurs. If the value is negative, it implies that when 'a' occurs, 'b' is unlikely to occur, and vice versa. In the context of this paper, the goal is to calculate the relationship between "was there a checking of the exception clauses" with "was there an integrated reading of Article 14 with Article 19 or 21.").

the variables being tested, without being accounted for.[32] In this case, they could include instances where the exception grounds were not considered because the restrictions were *prima facie* unreasonable so there was no need to go into the exception grounds at all. Similar to the limitation above, while this could not be avoided entirely, in cases of very simple, short orders of violation was not considered in the original sample.

Third, correlation does not equal causation.[33] Therefore, there always exists the possibility that the results of this study may not conclusively reflect causation. This essentially means, that simply because an event 'a' happens when event 'b' happens (correlation) does not necessarily mean 'a' happened 'because' 'b' happened (causation). In essence, the fact that two events typically occur together does not necessarily imply that one event is the cause of the other. For example, here, merely because the variables "Article 14/21 invoked?" and "exception grounds checked" occur together, does not necessarily mean one was the 'reason' for the others' occurrence. However, the empirical study here is to confirm an existing hypothesis, and not itself the reason for believing in the causation in the first place, which reduces the force of this limitation.

IV. CONCLUSIONS AND INFERENCES FROM THE EMPIRICAL ANALYSIS

This part describes the broad conclusions reached by the study. Aside from confirming the hypothesis, it also uncovered a pertinent point concerning the differential consideration of exception clauses in Article 19(1)(a) as against Article 19(1)(g).

A. CONCLUSION (I): DIMINISHING IMPORTANCE OF THE EXCEPTION CLAUSES OF ARTICLE 19 WHEN READ CONJUNCTIVELY WITH ARTICLE 14/21

Conclusion reached –all other things equal, it is significantly less likely for a constitutional court to consider the exception clauses of Article 19 when it is invoked conjunctively with Article 14 or Article 21, as compared to when it is invoked alone.

Inference from the conclusion –when Articles 14, 19 and 21 are invoked together, the courts tend to see the common thread in them, i.e. the test of reasonability. When applying them in this integrated way, they tend to not consider their individual tests. For Article 19 rights, they can only be restricted on the basis of grounds given in Articles 19(2)-(6), but this aspect tends to get diminished

[32] Brian Haig, *The Philosophy of Quantitative Methods* in The Oxford Handbook of Quantitative Methods, Vol.1, 8 (Oxford University Press, 2013).

[33] *Id*., 21.

in a conjunctive reading. Therefore, in such situations, courts tend to perform only one part of the Article 19 restriction test (the element of whether the restrictions are 'reasonable') and neglect the other part (that the restriction must be based on one of the grounds mentioned under Articles 19(2)-(6)).

Supporting Data:

a) Analytic-Category Organisation: Exception Clauses with the Presence/ Absence of Articles 14/21 (Annexure I)

Were Articles 14, 19 and 21 Read Conjunctively?	**Total Cases**	**Exception Clauses Tested**	**Exception Clauses Not Tested**	**Percentage of Cases in which the Court did 'not' look into the exception clauses as necessary objectives for the impugned law**
Integrated Reading of Article 14/21 with Article 19	30	9	21	70%
No Integrated Reading of Article 14/21 with Article 19	13	11	2	15.38%
Total	43	20	23	53.48

This table highlights that it is far less likely for the judiciary to separately consider Article 19 in terms of its exception clauses when Article 14 or 21 are invoked conjunctively with it. In this sample of forty-three cases, when there was an integrated reading, seventy percent of the decisions did not consider the exception clauses, while when there was no integrated reading, only 15.38 percent of the decisions failed to consider the exception clauses.

b) Correlation Coefficient: -0.502 (Annexure 2)

This value reflects the relationship between the variables "Article 14/21 invoked?" and "exception grounds checked" by converting the yes/no responses into dummy variables. The coefficient of -0.502 indicates two things between this relationship. *First*, it indicated that it is a strong relationship and *second* that they are negatively related. This implies, that there is a strong likelihood for the exception grounds not to be checked when Articles 14 and/or 21 are concomitantly invoked with Article 19 and *vice versa*.

Both the above data verify the original hypothesis that the integrated reading of Articles 14 and 21 along with Article 19 in practice leads to the courts

often failing to check them for their tests independently. This translates into the non-consideration of the exception clauses under Article 19, weakening the threshold for any statute to satisfy Article 19.

B. CONCLUSION (II): ARE THE EXCEPTION GROUNDS TO ARTICLE 19(1)(G) LESS LIKELY TO BE CONSIDERED NECESSARY GROUNDS FOR ANY LAW RESTRICTING IT, COMPARED TO ARTICLE 19(1)(A)?

Conclusion reached –all other things equal, it appears to be statistically more likely for the court to omit consideration of 19(6)'s specific grounds of restriction when Article 19(1)(g) is restricted, compared to the likelihood of consideration of 19(2)'s specific grounds of restriction when 19(1)(a) is restricted.

Inference from the conclusion –the inference is that the judiciary may consider Article 19(6)'s ground of 'in the general public interest' too broad to merit further enquiry, while Article 19(1)(a) has narrow grounds for restricting it. Therefore, the judiciary, in most cases simply assumes that any restriction of Article 19(1)(g) is done in the interest of the general public.

Supporting Data:

a) Analytic-Category Organisation: Article types with Exception Clause Invocation (Annexure I)

Article Type	**Total Cases34**	**Exception Clauses Tested**	**Exception Clauses Not Test**	**Percentage of Cases in which the Court did 'not' look into the exception clauses as necessary objectives for the impugned law**
Article 19(1)(a)/ (b)	22	13	9	40.90%
Article 19(1)(g)	24	8	16	66.67%
Total	46	21	25	54.37[35]

This table shows a significant difference between the likelihood of the judiciary evaluating the exception grounds of Article 19(1)(g) and Article 19(1)

[34] Total cases in this table are more than 43 because of some cases where there was an overlapping invocation of Article 19(1)(a) and Article 19(1)(g).

[35] This value is different from 53.48 percent because of overlap in some cases between Article 19(1)(a) and Article 19(1)(g).

(a). It is far more likely for the exception grounds to not be considered in cases concerning Article 19(1)(g) (66.67 percent) when compared to Article 19(1)(a) (40.9 percent). The inference is that in Article 19(1)(g), the judiciary does not feel the need to consider if the exception falls into the ground mentioned in 19(6), as compared to Article 19(1)(a) and 19(2).

This inference is based on an understanding of the wording of the restriction clauses. Article 19(1)(g) requires a law restricting it to be based on 'general public interest', while Article 19(1)(a) or Article 19(1)(b) can only be restricted on the exhaustive eight grounds mentioned here. It thereby seems likely that since most laws could be stated to promote the general public interest in some way or the other, the courts have neglected the exercise of actively proving the same.[36] Regardless, it is impossible to corroborate this hypothesis conclusively, and the same does not affect this paper's thesis.

V. CONSTITUTIONAL IMPLICATIONS OF THE CONCLUSIONS FROM THE EMPIRICAL STUDY

This part examines the implications of the conclusions of Part IV, and how that can affect the manner of adjudication of constitutional cases. Aside from it being the legal mandate as per Puttaswamy,[37] it attempts to provide a normative justification for why it is desirable for the court to test the exception grounds of Article 19 in the first place.

Both the conclusions have important, and perhaps negative consequences on judicial decision-making while testing laws on the anvil of Article 19. The inference from Conclusion (I) was that in an integrated reading of the golden triangle rights, the courts often tend to neglect to examine whether the law was based on one of the grounds in Articles 19(2)-(6), focusing on the broader theme of reasonability. The inference from Conclusion (II) was that the judiciary regularly fails to evaluate whether the basis for restriction is one of the grounds in Article 19(1)(g)., *vis-à-vis* Article 19(1)(a).

This has two relevant consequences. *First*, with regards to the problematic consequences of failing to test Article 19 separately in addition to the

[36] The idea that most laws promote some form of public interest is fairly well accepted in India. The question is not 'whether' a law promotes public interest, but how to balance the public interest with the right, *see* Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 ¶62 ("Once we accept the aforesaid theory (and there cannot be any denial thereof), as a *fortiori*, it has also to be accepted that democracy is based on a balance between constitutional rights and the public interests. In fact, such a provision in Article 19 itself on the one hand guarantees some certain freedoms in clause (1) of Article 19 and at the same time empowers the State to impose reasonable restrictions on those freedoms in public interest. This notion accepts the modern constitutional theory that the constitutional rights are related. This relativity means that a constitutional license to limit those rights is granted where such a limitation will be justified to protect public interest or the rights of others").

[37] K.S. Puttaswamy (Aadhaar-5J.), *supra* note 25, ¶115.

integrated test under Articles 14, 19 and 21, and the *second* concerns the judicial nonchalance in disregarding the 'public interest' limitation when testing a law through Article 19(1)(g).

A. GROUNDS OF EXCEPTIONS TO ARTICLE 19(1)(A)-(E)

The non-consideration of the specific grounds enumerated in Article 19 can make it easier to restrict the rights than desirable, or even as envisaged and mandated by the constitution. This is because, even if a restriction appears to be *prima facie* reasonable in terms of its severity and application, the grounds for having the restriction in the first place can still be outside those enumerated in Article 19(2)-(6). This is particularly true in cases of Article 19(1)(a) and 19(1)(b), where the exception grounds are relatively narrow,[38] with only eight specified grounds.[39] In fact, a large part of free speech jurisprudence has relied on how 'public order', one of the eight grounds in Article 19(2) should be interpreted.[40] The rationale was that, regardless of whether the restrictions are reasonable or not, the burden exists on the State to prove that the restriction is only on the grounds mentioned in Article 19(2).[41] Therefore, the burden of the reasonability of restrictions is distinct from the burden to prove whether the restrictions are grounded in the exception clauses or not, which is a requirement independently.

An example of this is the jurisprudence surrounding §124A of the Indian Penal Code ("IPC").[42] §124A deals with sedition, which refers to the crime of voluntarily raising disaffection against the state or the elected government. Even if sedition is *arguendo* reasonable in terms of procedure, punishment and the manner and degree of enforcement, it would still fall afoul of Article 19 if not read down.[43] This is because the original grounds for restriction, based on disaffection towards the extant government, would simply not fall in any of the eight restrictions under Article 19(2).[44] The debate on whether sedition is reasonable or proportional is merely a part of whether §124A is constitutional or not. The basis of restriction (as per Article 19(2)) is an independent element of testing

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[38] Article 19(1)(a) and Article 19(1)(b) can only be validly restricted, if the purpose of the law falls within the eight grounds, namely "the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence".

[39] It is relevant to note why Article 19(1)(b) is not dealt separately. *First*,Article 19(1)(b) has largely similar grounds for restriction as Article 19(1)(a), including 'public order' and 'sovereignty and integrity.'*Second*,its use is a subset of Article 19(1)(a). This is because the right to protest (Article 19(1)(b)) is a 'form' of freedom of speech, autonomically bringing it in the fold of Article 19(1)(a). Consequently, judicial decisions typically club these rights when referring to them. Hence, Article 19(1)(b) is not dealt with separately and is implicit in the examination of Article 19(1)(a).

[40] *See* Supdt. Central Prison v. Ram Manohar Lohia, AIR 1960 SC 633, ¶¶10-14; S. Rangarajan v. P. Jagjivan Ram, (1989) 2 SCC 574,¶8, ¶15; Ramji Lal Modi v. State of U.P., AIR 1957 SC 620, ¶3.

[41] Shreya Singhal v. Union of India, (2015) 5 SCC 1, ¶4.

[42] The Indian Penal Code, 1872, §124A.

[43] Kedar Nath Singh v. State of Bihar, 1962 SCC OnLine SC 6.

[44] *Id*., ¶26.

its constitutionality is separate from the aforementioned reasonability discussion. Consequently, as noted in *Kedar Nath* v. *State of Bihar*, provoking disaffection against the elected government would not match any of the grounds given in Article 19(2).[45] Therefore, applying Article 19(2) 'disaffection against the elected government' was read down to mean only the cases where immediately violence could occur threatening 'public order', which is a ground for restriction under Article 19(2).[46]

Failure to consider these grounds, even if Article 19 rights are invoked alongside others, lowers the threshold for laws to pass Article 19, more or less bringing it at par with Articles 14 and 21. Therefore, it is pertinent that courts follow the two-step process in cases of conjunctive reading of the three provisions. It must *first* consider if the basis of the restrictions is one of the grounds in Articles 19(2)-(6), and *second* 'also' consider the reasonability of the restrictions in line with Articles 14, 19 and 21.

It is relevant to note, that apart from Articles 19(1)(a), 19(1)(b) and 19(1)(g), which would be explained subsequently, the findings here could largely apply to decisions relating to Article 19(1)(c), Article 19(1)(d) and Article 19(1)(e) as well. This is because their exception groups enumerated in Article 19(4) and 19(5) are largely similar to Article 19(2)and Article 19(6).[47] However, they have not been individually focused on since they invocation is rather infrequent, and almost negligible compared to restraints on speech (Articles 19(1)(a)) and on trade (Article 19(1)(g)).

B. GROUND OF EXCEPTION TO ARTICLE 19(1)(G).

Article 19(1)(g) is restricted on the basis of 'in the interests of the general public',[48] which, as indicated by the empirical study, is largely ignored by the court. Even if the term 'in the interest of general public' is broader as compared to other restrictions like 'public order', that does not warrant non-consideration of the exception clauses in any case. The stipulation that a law restricting Article 19(1)(g) must be 'in the interests of the general public' is a valuable limiter in itself, even if a law is *prima facie* reasonable. It must, therefore, be proved on a case-to-case basis that the restriction is indeed in the interest of the general public,

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[45] *Id*.

[46] *Id*.

[47] Article 19(2) correlates to Article 19(4) because of the presence of the grounds public order and sovereignty and integrity of the nation, while 19(6) correlates to Article 19(5) since both include the 'in the interests of general public' limiter; *See* The Constitution of India, 1950, Arts. 19(2), 19(4), 19(5), 19(6).

[48] The Constitution of India, 1950, Art.19(6) ("Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right.").

regardless of how broad that limiter may be.[49] This burden serves a very important function, it ensures that not only is the law purported to be in the public interest, but also that it in effect serves the public interest, and only then would it be a valid ground for restriction.[50]

This burden has been recognised by the judiciary. In *Mohd Faruk* v. *State of M.P.*,[51] ('Mohd Faruk') the Supreme Court held that in restricting Article 19(1)(g), the burden of proving that the restriction "ensures the general public interest lies heavily on the State."[52] Similarly, in *Deena* v. *Union of India*,[53] the court clarified that "in cases arising under Article 19, the burden is never on the petitioner to prove that the restriction is not reasonable or that the restriction is not in the interests of matters mentioned in clauses (2)-(6)".[54] The merit in checking Article 19(6) is not limited to merely the reasonability of the restrictions, but must also involve a technical consideration of whether the basis for the restriction is actually public interest. Essentially, this means that any law restriction Article 19(1)(g) must meet the ground of 'public interest', which is the exception clause in Article 19(6), and consequently needs to be satisfied 'independently' of reasonability.

This was affirmed in *M.M. Dinesh* v. *Union Territory of Pondicherry*,[55] where the court held that a *prima facie* reasonable restriction also requires to necessarily be in the interest of the general public, as opposed to the specific interests of a group. Specifically, it relied on the holding in Mohd Faruk that "if the restriction is imposed not in the interest of the general public, but merely to respect the susceptibilities and sentiments of a section of the people whose way of life, belief or thought is not the same as that of the claimant,"[56] then the restriction would be violative of Article 19(6).

To conclude, there are two reasons why the 'public interest' ground must be tested independently and in addition to the reasonability of restrictions. *First*, there is a burden to prove that the impugned law does, in fact, have a strong nexus with furthering public interest, and that nexus must not be weak or illusory. *Second*, the interest furthered must be of the general public at large, and not to appease specific sections.[57] As highlighted in the empirical study, this burden is not being discharged by the judiciary at present, and its approach must consequently be re-evaluated.

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49 Dharmendra M. Jani v. Union of India,2021 SCC OnLine Bom 839, ¶115.

50 *Id*., ¶115, ¶45.

51 Mohd. Faruk v. State of M.P., (1969) 1 SCC 853 ('Mohd. Faruk').

52 *Id*., ¶8.

53 Deena v. Union of India, (1983) 4 SCC 645.

54 *Id*., ¶17.

55 M.M. Dinesh v. UT of Pondicherry, 2006 SCC OnLine Mad 141, ¶24.

56 Mohd. Faruk, *supra* note 51, ¶11.

57 Some versions of proportionality already include the (i) within its ambit, however, considering the rarity with which proportionality is applied, the Article 19(6) burden cannot be overlooked merely because of the possibility that this forms an element of proportionality.

VI. TESTING ILLUSTRATIONS

In this part, I shall attempt to use illustrations to underscore why it is necessary to independently consider the exception clauses to Article 19 as the only grounds to restrict a law separately from the reasonability thread of Articles 14, 19 and 21. To this end, I shall select some of the important decisions from the sample, and highlight how they could have yielded a different result had the exception clauses been considered separately. Therefore, to consider the cases here *first* the plea challenging the law must have failed *second* Articles 14 and/or 21 must have been invoked along with Article 19 and *third* the exception clauses must not have been checked.

There are twenty-one such cases, from which I shall evaluate two decisions. These are not through random sampling but deliberately chosen in order to highlight the normative importance of testing exception clauses. The purpose of this testing is not to make an empirical claim that all cases where the exception clauses have not been considered can be overturned, but to show that at least some decisions could have been different had the exception grounds under Articles 19(2)-(6) been correct applied.

A. TESTING: NOEL HARPER V. UNION OF INDIA

In *Noel Harper* v. *Union of India*,[58] popularly known as the Foreign Contribution (Regulation) Amendment Act ('The FCRA')verdict, various restrictions under the FCRA amendment[59] were under challenge. This included limiting the inflow of funds, allowing access to funds only in a specific State Bank of India ('SBI') branch, amongst others. The challenge was based on Articles 14, 19(1)(a) and 21.[60] The Article 19(1)(a) challenge was largely based on the fact that loss in funding of the NGOs directly affects their freedom of speech and expression. I argue that this decision made a similar error as the one highlighted in the empirical study. It did not test Article 19 separately and sufficiently, perhaps due to its conjunctive invocation with Articles 14 and 21.

The court largely dismissed the 19(1)(a) challenge in paragraph eighty-five on hazy grounds, conflating the reasonability of the restrictions with the grounds for restriction. This excerpt below is helpful to excavate this conflation.

> "Keeping in mind the objective of the principal enactment being to uphold the values of sovereign democratic republic, the dispensation as altered to make it more strict compliance mechanism for ensuring that the foreign funds are accepted in the prescribed manner and utilised by the recipient itself and more

[58] Noel Harper v. Union of India, (2023) 3 SCC 544 ('Noel Harper').
[59] The Foreign Contribution (Regulation) Amendment Act, 2000.
[60] Noel Harper, *supra* note 58, ¶1.

> so, for the purposes for which it was allowed to be received by that person, the amended provisions ought to pass the muster of reasonable restriction. Certainly, such a change cannot be labelled as irrational much less manifestly arbitrary, especially when it applies uniformly to a class of persons without any discrimination"[61] (emphasis added).

From this excerpt, the conflation becomes more evident. While discussing the objective, or the ground for the restriction, the court mentions a rather ambiguous ground i.e., to "uphold the values of sovereign democratic republic". It is unclear how that meets any of the eight grounds under Article 19(2). While justifying this, the court confuses the basis for restriction with whether the restriction is 'reasonable' or 'arbitrary'. Although the restrictions may or may not be reasonable or arbitrary, the question of whether the restrictions are based on a ground in Article 19(2) is independent of the arbitrariness/reasonableness of the restriction itself.

Arguments can be made as to whether this regulation of foreign funds can be necessary for maintaining national security. However, this burden has to be discharged by providing that in the absence of such regulations; national security or public order would indeed be threatened. This burden has not been discharged in the decision. Moreover, discharging this burden would be a particularly uphill task for some regulations in the FCRA amendment, such as the requirement to only receive funds from SBI's Delhi branch.[62] This is a difficult and cumbersome burden for the NGOs, since their mode of receiving funds is severely restricted, as they can only receive funds from one specific branch within a State. It is doubtful whether such a restriction can be grounded in having a nexus in protecting public order or security, and as discussed upholding the 'values of a sovereign democratic republic' is not a valid ground for restricting Article 19(1)(a).

One response to this could be, that albeit without substantiation, the grounds of 'public order' and 'sovereignty and integrity of the nation' were mentioned by the court, which are legitimate grounds under Article 19(2). In that light, must not the inquiry into the exception clauses of Article 19(1) be deemed completed? This can be rebutted for two reasons. *First,* the argument was not 'grounded' in the understanding that a restriction on Article 19(1)(a) must necessarily be based on a ground in Article 19(2). The court held that the "rights enshrined in Part III of the Constitution must give way to the interests of general public much less public order and the sovereignty and integrity of the nation."[63]

This invocation of the 'interests of general public' makes it evident here, that the grounds are invoked on a philosophical basis, rather than them being

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61 *Id.*, ¶85.

62 The Foreign Contribution (Regulation) Amendment Act, 2000, §17.

63 Noel Harper, *supra* note 58, ¶80.

in Part III. Indeed, the distinction between public order and public interest has been clearly demarcated in *Ramji Lal Modi* v. *State of U.P.*,[64] where it was held that public interest is not a ground in Article 19(2), and consequently no law restricted Article 19(1)(a) could be made on the basis of general public interest.

Second,even if the first contention is ignored, it is clear that the court did not engage in an appropriate enquiry of Article 19(2) grounds. It was not substantiated how FCRA has any clear nexus with sovereignty/public order. The burden of an inquiry into the exception grounds in not merely to state them, but to highlight how they are attracted by the impugned law. The real rationale, as repeatedly mentioned in the judgement, remains an abstract ground of values of a 'sovereign democratic republic'. These values very evidently fail to meet the threshold of public order or sovereignty, since as discussed above the same is a very high standard which cannot be met by the invocation of an abstract value.

B. TESTING: RIT FOUNDATION V. UNION OF INDIA

The Delhi High Court decision in *RIT Foundation* v. *Union of India*,[65] ('RIT Foundation')is another interesting example to portray the consequences of a conjunctive reading which ignores the specificities of Article 19. In this, the marital rape exception ('MRE') was challenged for violation of Articles 14, 15(1), 19 and 21.[66] Justice Rajiv Shakdher ruled affirmatively that Article 19(1)(a) is unreasonably restricted by the MRE. In contrast, Justice Hari Shankar's opinion rebutted the idea that Article 19(1)(a) is unreasonably contracted by the MRE. I shall attempt to highlight that if the exception clauses of Article 19(2) are properly construed, Justice Hari Shankar's conclusion can be reconsidered.

The Article 19(1)(a) argument, put simply, was that the right to refuse sex was a part of expression under freedom of speech and expression.[67] For this, the reliance was on *Navtej Singh Johar* v. *Union of India*,[68] where intimate sexual acts were considered to be 'expression' within the domain of expression as per Article 19(1)(a).[69] Interestingly, in reply to the Article 19(1)(a) challenge, Justice Hari Shankar only devotes a single paragraph,

> "Learned Counsel for the petitioners have chosen to submit that the impugned Exception compromises the wife's right of sexual self-expression, by compromising on her right to consent, or deny consent, to sex with her husband. Clearly, it does not. The foregoing discussion sufficiently answers the point which,

[64] Ramji Lal Modi v. State of U.P., AIR 1957 SC 620.
[65] RIT Foundation v. Union of India, (2022) 3 HCC (Del) 572 ('RIT Foundation').
[66] *Id*., ¶14.
[67] *Id*., ¶¶96-98.
[68] Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.
[69] *Id*., ¶641.1.

> therefore, to my mind, is completely misconceived" (emphasis added).

The 'foregoing discussion' did not discuss Article 19 or its exception clauses in any significant way. Only two aspects of the foregoing discussion had any nexus to Article 19, neither of which discussed whether the restriction was grounded in restrictions given in Article 19(2). The two aspects were largely centred around *first* 'reasonability' with regards to Article 14 and the *second* 'direct and inevitable consequence'.[70] For this paper, I shall focus on the reasonability ground. Here, we see a similar fallacy. Justice Hari Shankar broadly accepts the counsel's submission as to why Article 19(1)(a) is not violated. This, as we shall see, commits the same fallacy in the integrated reading of Articles 14, 19 and 21, The excerpt below provides clarity on this,

> "The distinction carved out by the legislature in labelling and treatment of spousal sexual violence, he submits, is grounded in respect for the complexity of the institution of marriage, and is both reasonable and based on intelligible differentia, which satisfy Articles 14, 15, 19 and 21 of the Constitution"[71] (emphasis added).

But as we have discussed below, mere reasonability is not a sufficient criterion for restricting Article 19(1)(a). It is also important that the restriction be grounded in one of the eight grounds given in Article 19(2). As per the excerpt, it is grounded instead in "respect for the complexity of marriage". The constant respect for marriage as an institution and its societal benefits have been repeatedly invoked. An almost eulogistic account of marriage is created, going as far as calling it the "entire bedrock of the society".[72] The inference seems to be, that the importance of marriage by itself can be ground for imposing reasonable restrictions. This does not seem to fall under any of the eight grounds under Article 19(2). Even if hypothetically, it could, that burden of proving that has not been discharged by the state.

This points us to the key distinction in restricting Article 19 versus restricting Articles 14 or 21. Article 19 has the added security that any restriction

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[70] RIT Foundation,*supra* note 65,¶¶597-607.

[71] *Id*., ¶507.

[72] *Id*., ¶546 (In this paragraph, it was further discussed that "There can be no comparison, whatsoever, between the relationship between a husband and a wife, with any other relationship between man and woman. It is for this reason that there is an enforceable legal right - which even Ms. Nundy acknowledges - of each party in a marriage, to cohabit with, and for the consortium of, the other. Fostering the sustenance of a marriage is, in the law as it exists in this country, not just advisable; it is, even for courts, a binding legal obligation. A court hearing a petition for divorce, even by mutual consent is, in our legal system, not entitled to grant divorce straightaway, even if both parties appear to be irreconcilably at odds. The judge is bound, by his oath, to confer and interact with the warring couple, and to make every possible effort to save, rather than sever, the marital bond.").

on it must be based on a ground in its exception clauses, aside from being reasonable. In RIT Foundation, this ground was largely based on the sanctity of marriage, which does not meet Article 19(2) requirements, even if MRE is otherwise assumed to be reasonable. Therefore, RIT Foundation is a case-in-point in relation to why the exception grounds of Article 19(2) must not be overlooked, even in an integrated reading.

VII. CONCLUSION

In this paper, I highlighted how the exclusion clauses of Article 19 tend to get ignored in the conjunctive reading of the golden triangle rights. The purpose was not to discredit a conjunctive reading *per se*, but to emphasise the need for individually testing the statute on the exception grounds mentioned under Article 19 in addition to the integrated test.

I attempted two largely satisfy two burdens for this. The *first* burden was to prove that the exclusion grounds of Article 19 have indeed been neglected in a conjunctive reading. This is a question of fact which I attempted to answer through the empirical study, relying on quantitative data and the correlation coefficient in Parts III and IV. The *second* burden was to emphasise why such a neglection of the exclusion grounds is undesirable. This is a normative question, which I attempted to answer in Parts V and VI by describing how the neglection of the exclusion clauses effectively lowers the burden on the State to justify any right-restricting law and is against the mandated judicial stance.

In the broad scheme of things, the conclusion of this article represents a critical challenge in the judicial approach towards constitutionality of legislations. As discussed in the paper, a failure to recognise the need for independently testing Article 19 essentially reduces the constitutional thresholds and provides rights-restricting legislations greater leeway than is envisaged in our constitutional framework. Hence, now more than ever, it is essential that the judiciary not fall into the mistake of ignoring independent thresholds during an integrated reading.

ANNEXURES

A. ANNEXURE I

Case Name	**Clause of Article 19**	**Exception grounds checked?**	**Articles 14/21 Invoked?**
A. Ramakrishna Reddy v. *State of Telangana*, 2022 SCC OnLine TS 576	19(1)(a)	Yes (¶4)	No

Abhinav Kumar v. *Union of India*, 2022 SCC OnLine Del 2241	19(1)(g)	No	Yes(¶47)
Agij Promotion of Nineteenonea Media (P) Ltd. v. *Union of India*, 2021 SCC OnLine Bom 2938	19(1)(a), 19(1)(g)	Yes (¶14)	Yes (¶1)
Akshay N. Patel v. *RBI*, (2022) 3 SCC 694	19(1)(g)	Yes (¶24)	Yes (¶15)
All India Gaming Federation v. *State of Karnataka*, 2022 SCC OnLine Kar 435	19(1)(a), 19(1)(g)	Yes (¶4)	Yes (¶8)
All India Trinamool Congress v. *State of Tripura*, 2021 SCC OnLine Tri 507	19(1)(a) and 19(1)(b)	No	Yes (¶3)
AmaravathiParirakshna Samithi v. *State of A.P.*, 2021 SCC OnLine AP 3944	19(1)(a) and 19(1)(b)	Yes (¶7)	No
Anand Rai v. *State of M.P.*, 2022 SCC OnLine MP 1028	19(1)(a)	Yes (¶4)	No
Aravinth R.A. v. *Union of India*, 2022 SCC OnLine SC 612	19(1)(g)	No	Yes (¶56)
ASL Enterprises Ltd. v. *CST*, 2022 SCC OnLine Cal 554	19(1)(g)	No	Yes (¶2)
Associates of NCTE Approved Colleges Trust v. *National Council for Teacher Education*, 2021 SCC OnLine Del 2550	19(1)(g)	No	Yes (¶2)
Banka Sneha Sheela v. *State of Telangana*, (2021) 9 SCC 415	19(1)(a)	Yes (¶13)	Yes (¶13)
Dabur India Ltd. v. *Shree BaidyanathAyurved Bhawan (P) Ltd.*, 2022 SCC OnLine Cal 234	19(1)(a)	Yes (¶3, ¶4)	No
Dharmendra M. Jani v. *Union of India*, 2021 SCC OnLine Bom 839	19(1)(g)	No	Yes (¶13, ¶33 and ¶34)
Dinakaran Daily v. *D. Sakthivel*, 2021 SCC OnLine Mad 5318	19(1)(a)	No	Yes (¶6)
Equicom Financial Research (P) Ltd., In re, 2021 SCC OnLine SEBI 89	19(1)(g)	Yes (¶16)	No
Facebook v. *Delhi Legislative Assembly*, (2022) 3 SCC 529	19(1)(a)	No	Yes (¶19)

Hotel Priya v. *State of Maharashtra*, 2022 SCC OnLine SC 204	19(1)(a), 19(1)(g)	No	Yes (¶3)
Independent Schools' Assn. v. *Union of India*, 2021 SCC OnLine P&H 4433	19(1)(g)	Yes (¶101)	Yes (¶7)
Indian School v. *State of Rajasthan*, (2021) 10 SCC 517	19(1)(g)	No	No
K.G. Suresh v. *Union of India*, 2021 SCC OnLine Ker 1686	19(1)(g)	No	Yes (¶10, 17)
Kerala Union of Working Journalists v. *Union of India*, 2022 SCC OnLine Ker 1091	19(1)(a)	Yes(¶64)	Yes (¶9)
Krishna Kishore Singh v. *Sarla A. Saraogi*, 2021 SCC OnLine Del 3146	19(1)(a)	Yes (¶36)	No[73]
M. Himachalam Babu v. *Union of India*, 2021 SCC OnLine AP 2704	19(1)(g)	No	Yes (¶1)
M. Maridoss v. *State*, 2021 SCC OnLine Mad 13703	19(1)(a)	Yes (¶5)	No
M.C. Mehta v. *Union of India*, 2021 SCC OnLine SC 3144	19(1)(g)	No	Yes (¶4)
Malabar Educational and Charitable Trust v. *University of Kannur*, 2021 SCC OnLine Ker 2360	19(1)(g)	No	Yes (¶4)
Musaliar College of Engg. v. *State of Kerala*, 2021 SCC OnLine Ker 2955	19(1)(g)	Yes (¶47)	No
Newsclick.in Publisher of Article v. *Adani Power Rajasthan Ltd.*, 2022 SCC OnLineGuj 426	19(1)(a)	Yes (¶27, ¶28)	No.
Noel Harper v. *Union of India*, 2022 SCC OnLine SC 434	19(1)(a) and 19(1)(g)	No	Yes (¶37)
Peggy Fen. v. *CBFC*, 2022 SCC OnLine Ker 785	19(1)(a)	Yes (¶4)	No
PravinsinhIndrasinhMahida v. *State of Gujarat*, 2021 SCC OnLineGuj 1293	19(1)(g)	Yes (¶64)	Yes (¶16)
RIT Foundation v. *Union of India*, (2022) 3 HCC (Del) 572	19(1)(a)	No	Yes (¶63)

[73] Art.21 is relied on as a competing right, not conjunctively.

Rungta Mines Ltd. v. *Commr. (CGST)*, 2022 SCC OnLineJhar 100	19(1)(g)	No	Yes (¶5, ¶9)
S. Krishnamurthy v. *Manivasan*, 2022 SCC OnLine Mad 3525	19(1)(g)	Yes (¶¶64-66)	No
S. Parthiban v. *District Collector*, 2022 SCC OnLine Mad 142	19(1)(g)	No	Yes (¶14)
Sanil Narayanan v. *State of Kerala*, 2021 SCC OnLine Ker 11608	19(1)(g)	No	Yes (¶12)
Santosh Kumar v. *Union of India*, (2022) 4 HCC (Del) 697	19(1)(a)	No	Yes (¶15)
Shaheed Teg Bhadur College of Pharmacy v. *Pharmacy Council of India*, 2022 SCC OnLine Del 684	19(1)(g)	No (only mentioned)	Yes (¶11-g)
Shri Hari Singh Senior Secondary School v. *State of Rajasthan*, 2022 SCC OnLine Raj 38	19(1)(a)	Yes (¶52)	Yes (¶53)
State Public Information Officer and Superintendent of Police v. *State Information Commission*, 2021 SCC OnLine Ker 1550	19(1)(a)	No	No
Udathu Suresh v. *State of A.P.*, 2022 SCC OnLine AP 1748	19(1)(a)	No	Yes (¶8)
Vinod Dua v. *Union of India*, 2021 SCC OnLine SC 414	19(1)(a)	Yes	Yes (¶59)

B. ANNEXURE II

Case Name	**Exception grounds checked? (Yes=1, No=0)**	**Articles 14/21 Invoked? (Yes=1, No=0)**
A. Ramakrishna Reddy v. *State of Telangana*, 2022 SCC OnLine TS 576	1	0
Abhinav Kumar v. *Union of India*, 2022 SCC OnLine Del 2241	0	1
Agij Promotion of Nineteenonea Media (P) Ltd. v. *Union of India*, 2021 SCC OnLine Bom 2938	1	1

Akshay N. Patel v. *RBI*, (2022) 3 SCC 694	1	1
All India Gaming Federation v. *State of Karnataka*, 2022 SCC OnLine Kar 435	1	1
All India Trinamool Congress v. *State of Tripura*, 2021 SCC OnLine Tri 507	0	1
AmaravathiParirakshna Samithi v. *State of A.P.*, 2021 SCC OnLine AP 3944	1	0
Anand Rai v. *State of M.P.*, 2022 SCC OnLine MP 1028	1	0
Aravinth R.A. v. *Union of India*, 2022 SCC OnLine SC 612	0	1
ASL Enterprises Ltd. v. *CST*, 2022 SCC OnLine Cal 554	0	1
Associates of NCTE Approved Colleges Trust v. *National Council for Teacher Education*, 2021 SCC OnLine Del 2550	0	1
Banka Sneha Sheela v. *State of Telangana*, (2021) 9 SCC 415	1	1
Dabur India Ltd. v. *Shree BaidyanathAyurved Bhawan (P) Ltd.*, 2022 SCC OnLine Cal 234	1	0
Dharmendra M. Jani v. *Union of India*, 2021 SCC OnLine Bom 839	0	1
Dinakaran Daily v. *D. Sakthivel*, 2021 SCC OnLine Mad 5318	0	1
Equicom Financial Research (P)Ltd., In re, 2021 SCC OnLine SEBI 89	1	0
Facebook v. *Delhi Legislative Assembly*, (2022) 3 SCC 529	0	1
Hotel Priya v. *State of Maharashtra*, 2022 SCC OnLine SC 204	0	1
Independent Schools' Assn. v. *Union of India*, 2021 SCC OnLine P&H 4433	1	1
Indian School v. *State of Rajasthan*, (2021) 10 SCC 517	0	0
K.G. Suresh v. *Union of India*, 2021 SCC OnLine Ker 1686	0	1
Kerala Union of Working Journalists v. *Union of India*, 2022 SCC OnLine Ker 1091	1	1

Krishna Kishore Singh v. *Sarla A. Saraogi*, 2021 SCC OnLine Del 3146	1	0
M. Himachalam Babu v. *Union of India*, 2021 SCC OnLine AP 2704	0	1
M. Maridoss v. *State*, 2021 SCC OnLine Mad 13703	1	0
M.C. Mehta v. *Union of India*, 2021 SCC OnLine SC 3144	0	1
Malabar Educational and Charitable Trust v. *University of Kannur,* 2021 SCC OnLine Ker 2360	0	1
Musaliar College of Engg. v. *State of Kerala*, 2021 SCC OnLine Ker 2955	1	0
Newsclick.in Publisher of Article v. *Adani Power Rajasthan Ltd.*, 2022 SCC OnLineGuj 426	1	0
Noel Harper v. *Union of India*, 2022 SCC OnLine SC 434	0	1
Peggy Fen. v. *CBFC*, 2022 SCC OnLine Ker 785	1	0
PravinsinhIndrasinhMahida v. *State of Gujarat*, 2021 SCC OnLineGuj 1293	1	1
RIT Foundation v. *Union of India*, (2022) 3 HCC (Del) 572	0	1
Rungta Mines Ltd. v. *Commr. (CGST)*, 2022 SCC OnLineJhar 100	0	1
S. Krishnamurthy v. *Manivasan*, 2022 SCC OnLine Mad 3525	1	0
S. Parthiban v. *District Collector*, 2022 SCC OnLine Mad 142	0	1
Sanil Narayanan v. *State of Kerala*, 2021 SCC OnLine Ker 11608	0	1
Santosh Kumar v. *Union of India*, (2022) 4 HCC (Del) 697	0	1
Shaheed Teg Bhadur College of Pharmacy v. *Pharmacy Council of India*, 2022 SCC OnLine Del 684	0	1
Shri Hari Singh Senior Secondary School v. *State of Rajasthan*, 2022 SCC OnLine Raj 38	1	1

State Public Information Officer and Superintendent of Police v. *State Information Commission*, 2021 SCC OnLine Ker 1550	0	0
Udathu Suresh v. *State of A.P.*, 2022 SCC OnLine AP 1748	0	1
Vinod Dua v. *Union of India*, 2021 SCC OnLine SC 414	1	1
Correlation Coefficient	**-0.502884655**	