

**1. What do you understand by the term 'liberty'? Discuss. What are the key constitutional provisions related to personal liberty? Examine.**

**Approach**

The above question has two parts, first part demands explanation of the term Liberty very comprehensively, also it is important to define the term in Indian context as well and its importance in constitutional democracy like India. In the second part of the question, detailed explanation of constitutional provisions related to liberty is needed.

**Introduction**

“I have never thought, for my part, that man's freedom consists in his being able to do whatever he wills, but that he should not, by any human power, be forced to do what is against his will.” **Jean-Jacques Rousseau**

The above quote from Rousseau underlines the importance of liberty as the epitome of human progress, and that individual is the master of his own will and liberty is the expression of the same human will which allows him to live freely without subjugation. In modern societies liberty is the backbone of a functional constitutional democracy which allows people to freely express their choices and opinions.

**Body**

- Liberty in its literal sense means the absence of restraints and rights to do whatever one likes. Liberty, therefore, means freedom to do everything provided it does not injure other's freedom. It implies necessary restraint on all to ensure the greatest possible amount of liberty for each. In this sense, Liberty can be maximized only when there is mutual respect and goodwill, and all follow a simple rule of social behaviour.
- The simple rule of man's sociability tends to harmonise his liberty with that of his fellows. It entails such restraints as reasonable and necessary to promote and ensure the greatest possible extent of liberty.
- Reasonable Restraints and restrictions do not destroy liberty; it is destroyed only when such restraints are arbitrary and unjust. It constitutes the enjoyment of those rights, and the creation of such opportunities as help man grow to be the best of himself, develop his faculties, and plan his life as he deems best. The true test of liberty lies in the laws of the State and the extent to which they help a citizen to develop all that is good in him. Liberty is, thus, a product of rights. It thrives best where rights are guaranteed to all without distinguishing sex, creed, caste, colour, or status in society.

**In Indian context-**

- Preamble of the constitution secures to all the citizens Liberty of thought, belief, faith, Expression and worship through their fundamental rights enforceable in the court of law. Liberty as elaborated in the preamble is very

essential for the successful functioning of the Indian democratic system and all-round development of the individual's capabilities.

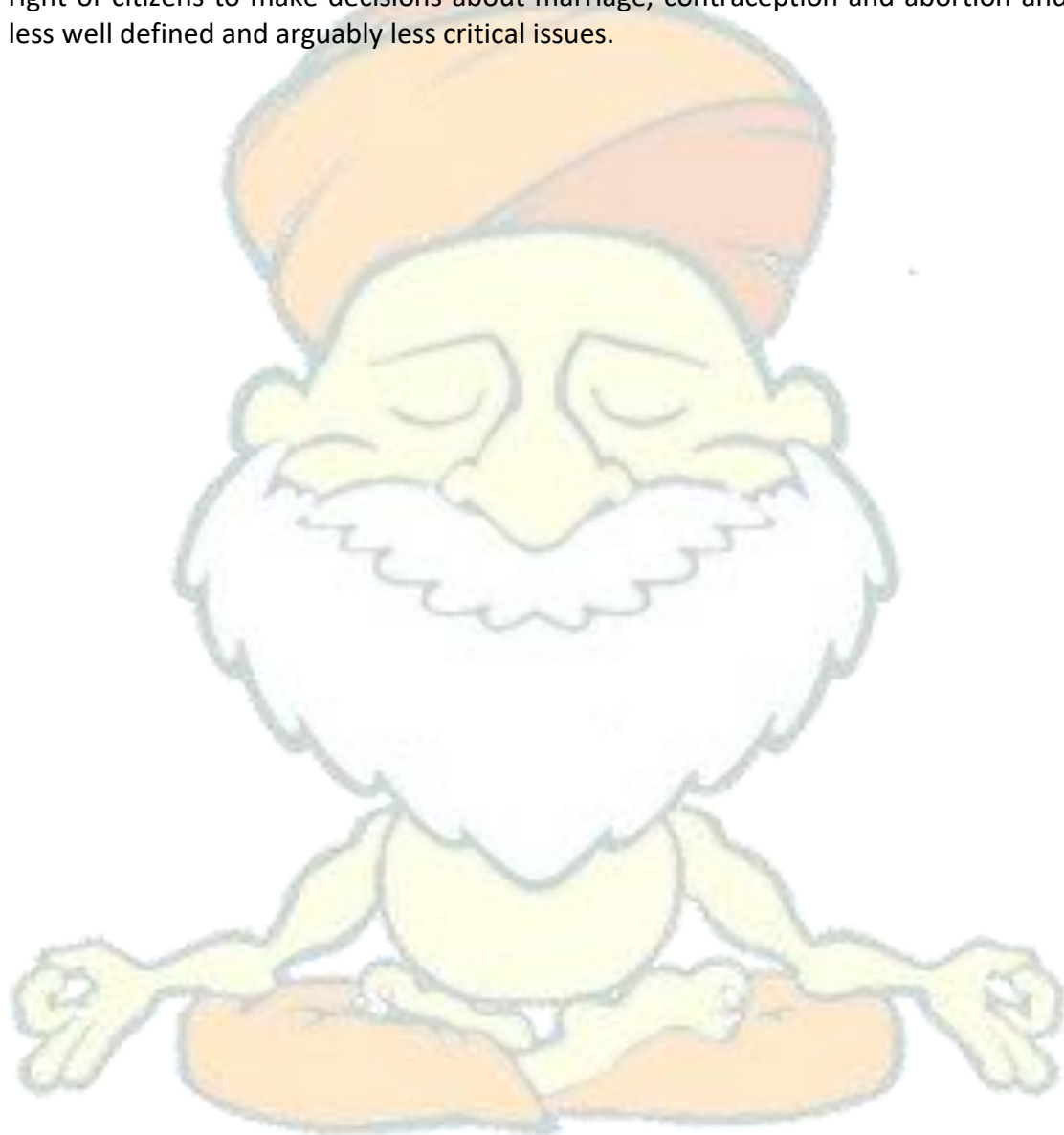
### Constitutional Provisions-

- Liberty is the basis on which the pivots of our own freedom struggle stood, therefore, our forefathers ensured that the future generations immerse in this beautiful concept which enables every individual the right life with dignity.
- The Preamble of the Indian Constitution too proclaims that one of its objectives is to secure Liberty "Liberty of thought, expression, belief, faith and worship".
- Article 19 is the most important and key article which embodies the "basic freedoms". Article 19 provides that all citizens shall have the right to:
  - Freedom of speech and expression.
  - Assemble peaceably and without arms.
  - To form associations or unions.
  - Move freely throughout the territory of India.
  - Reside and settle in any part of the territory of India.
  - Practice any profession, or to carry on any occupation, trade or business.
- Article 21-Protection of Life and Personal Liberty- No person shall be deprived of his life or personal liberty except according to procedure established by law. This fundamental right is available to every person, citizens and foreigners alike. Article 21 provides two rights-Right to life and Right to personal liberty. The Supreme Court of India has described this right as the 'heart of fundamental rights. The right specifically mentions that no person shall be deprived of life and liberty except as per the procedure established by law. This implies that this right has been provided against the State only. State here includes not just the government, but also, government departments, local bodies, the Legislatures, etc.
- Right to Freedom of Religion (Articles 25 – 28)- This indicates the secular nature of Indian polity. There is equal respect given to all religions. There is freedom of conscience, profession, practice and propagation of religion. The State has no official religion. Every person has the right to freely practice his or her faith, establish and maintain religious and charitable institutions.
- Preventive Detention (Article 22)- Preventive detention means detention of a person without trial and conviction by a court but merely on suspicion in the minds of the executive authority. Preventive detention is a specific law in which the executive is authorized to impose restraint upon the liberty of a man who may not have committed a crime but who it is apprehended, is about to commit acts that are prejudicial to the public safety etc.

### Conclusion

In India the concept of liberty has received a far more expansive interpretation. The Supreme Court of India has rejected the view that liberty denotes merely freedom from bodily restraint and has held that it encompasses those rights and privileges that

have long been recognized as being essential to the orderly pursuit of happiness by free men. The meaning of the term personal liberty was considered by the Supreme Court in the Kharak Singh's case, which arose out of the challenge to Constitutional validity of the U. P. Police Regulations that provided for surveillance by way of domiciliary visits and secret picketing. The concept of personal liberty is not a simple or isolated issue. Its protection through law inevitably conflicts with other important values. Personal liberty is an unusually broad term, encompassing both fundamental Constitutional rights such as freedom from government intrusions into homes and the right of citizens to make decisions about marriage, contraception and abortion and less well defined and arguably less critical issues.



## 2. What were the objectives of including fundamental duties in the Indian Constitution? Discuss. Have those objectives been met? Critically examine.

### Approach

A straightforward question where in you need to discuss the objectives of including fundamental duties in the Indian constitution while in the second part you need to critically examine whether those objectives have been met or not.

### Introduction

The Constitution of India, the longest written Constitution of the world, has envisaged a holistic approach towards civic life in a democratic polity. Since human conduct cannot be confined to the realm of Fundamental Rights, the Constitution has envisaged certain duties, which are correlated to the rights, and those duties have been described as Fundamental Duties

### Body

Constitution is the supreme law of India. Fundamental Duties of the citizens of India are mentioned in Article 51A of the Indian Constitution. By the 42nd Amendment of the Constitution, adopted in 1976, Fundamental Duties of the citizens have been enumerated after the Swaran Singh Committee suggested for inclusion in the Constitution of certain Fundamental Duties and obligations which every citizen owes to the nation. In this regard, the objectives for including fundamental duties in the Indian constitution can be seen from the following points –

- The Fundamental duties have been incorporated in the constitution to remind every citizen that they should not only be conscious of their rights but also of their duties. The concept of Fundamental Duties was taken from the constitution of USSR along with the concept of Five Year Plan.
- No democratic polity can ever succeed where the citizens are concerned only about their rights and are not willing to be active participants in the process of governance by assuming responsibilities, discharging citizenship duties and coming forward to give their best to the country.
- The Government thought that non-declaration of citizen's duty was a missing part of the 'social contract' which the citizens' are deemed to have entered into with the Government under the framework established by and under the Constitution of India.
- The general objectives behind were also to "remove the difficulties in achieving the objective of socio-economic revolution, to end poverty, ignorance, disease, inequality, etc."
- The incorporation of Fundamental Duties in the Constitution was an attempt to balance an individual's civic 'freedoms' with his civic obligations. It is expected that a citizen of India, while enjoying Fundamental Rights, should also perform these duties.

- Inclusion of this Article has brought our Constitution in line with Article 29(1) of the Universal Declaration of Human Rights which provides that: “Everyone has duties to the community in which alone the free and full development of the personality is possible.”

While examining whether the objectives of fundamental duties have been met, following points can be considered –

- Fundamental duties act as a constant reminder that the citizens while enjoying their fundamental rights should not forget about their duties towards the nation. These duties act as a warning signal for the people against any type of antisocial activities.
- Some duties are of such a nature that they are being performed by the citizen in each and every case like paying respect to the National Flag and National Anthem.
- These duties have given a chance to the people to have an active participation in the society rather than being a spectator. These duties promote a sense of discipline and commitment towards the society.
- For example, the Supreme Court of India ordered cinema halls to play National Anthem while portraying the Nation Flag. This was a remarkable step taken by the Supreme Court while giving the importance to the fundamental duties.
- The courts use fundamental duties for determining constitutionality of law. If any law is challenged in court for its constitutional validity and if that law is providing force to any of the fundamental duties then that law has been held reasonable.
- For example, in *AIIMS Students Union v. AIIMS (1983)*, it has been held that Fundamental Duties though not enforceable by writ of the court, yet provide a valuable guide and aid to interpretation of constitutional and legal issues.

At the same time, it is pertinent to note that most of the objectives of fundamental duties are far from being achieved, as is evident from the following points –

- Some of the duties are vague and terms used therein are complex which even a highly educated man would find difficult to grasp like it is difficult to identify the noble ideas that inspired our national struggle for freedom. Thus, some duties are ambiguous in nature.
- There has been very less awareness in the general public with regards to fundamental duties where focus in general discourse is provided to fundamental rights but hardly anyone focuses on fundamental duties.
- There is no specific provision nor any sanction as to implementation and enforcement of Fundamental Duties. Thus, these duties cannot be enforced by a court of law so, many feel that it is of no use to include these duties in the Constitution.
- Critics don't consider the list of fundamental duties as exhaustive. They feel that many more important duties like paying taxes, casting votes that were also suggested by the Swaran Singh Committee were not included in this list.

- These duties are placed in Part IV-A of the Indian Constitution that is after the Directive Principles of the State Policy, that's why not much importance is given to them. According to the experts, it should be placed in Part III after the Fundamental Rights.
- Lip service is being paid to the doctrine of gender equality. The fact remains that generally women are still regarded as inferior both at home and workplace although there has been an improvement, however the degree of the improvement has been minimal.

#### Way Forward –

- The first and foremost step required by the Union and State Governments is to sensitise the people and to create a general awareness of the provisions of fundamental duties amongst the citizens on the lines recommended by the **Justice Verma Committee**.
- Further, the **NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION** recommends - Preamble to the Constitution of India and the 10 clauses of article 51A on Fundamental Duties to be appropriately displayed on all government publications, diaries, calendars and at public places so that they always remain in the focus of the citizens.
- It also recommends that Article 51A be shifted to Part II (Citizenship) of the Constitution and suitable changes may be carried out to make Fundamental Duties to form a compendium with the Fundamental Rights.
- Need to set up an autonomous body to act like ombudsman on Citizenship Values which could create a mechanism to act as catalyst towards overseeing operationalization of Fundamental Duties.

#### Conclusion

In modern context, it has become increasingly important to instil a reinvigorated sense of civic responsibility among Indian citizens. This can be achieved by adding new duties to the existing list of Fundamental Duties while also laying emphasis on the performance of the existing ones. Awareness of our citizenship duties is as important as awareness of our rights. Thus, the Fundamental Duties act as the foundation of human dignity and national character. Those duties actually constitute the conscience of our Constitution.

### 3. Discuss the underlying principles of the DPSP? How relevant are the Gandhian principles for a free market democracy? Comment.

#### Approach

Students are expected to write about the DPSP in the introduction and underlying principles of the DPSP in 1<sup>st</sup> part of body. And also write about how much Gandhian principles are relevant for a free market democracy.

#### Introduction

The Directive Principles of State Policy are guidelines to the central and state governments of India, to be kept in mind while framing laws and policies. These provisions, contained in Part IV of the Constitution of India, are not enforceable by any court, but the principles laid down therein are considered fundamental in the governance of the country, making it the duty of the State to apply these principles in making laws to establish a just society in the country.

#### Body

Underlying principles of DPSP:

- Many scholars believe that DPSPs is the kernel of the Constitution. The DPSPs lay down the guidelines for the state and are reflections of the overall objectives laid down in the Preamble of Constitution.
- The expression “Justice- social, economic, political” is sought to be achieved through DPSPs. DPSPs are incorporated to attain the ultimate ideals of preamble i.e. Justice, Liberty, Equality and fraternity. Moreover, it also embodies the idea of the welfare state which India was deprived of under colonial rule.
- The provisions contained in this Part cannot be enforced by any court, but these principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

Gandhian principles are based on Gandhian ideology used to represent the programme of reconstruction enunciated by Gandhi during the national movement. Relevance of Gandhian principles for a free-market democracy are as follows:

- Gandhi was a first-rate egalitarian and a socialist whose ideas on socialism were an improvement on present-day notions of socialism and communism. His idea was that power is to be as decentralised as possible. Gandhi had a different take on diffusing powers to the grass-root level later it culminated into 73<sup>rd</sup> and 74<sup>th</sup> constitutional amendment as directed under Article 40. And 97<sup>th</sup> Amendment Act for cooperative societies as per Article 43B. The powers were decentralised and the responsibility of every individual was to be performed effectively.

- Globalisation has turned the world into a global village while Gandhi wanted to promote a Globe of Villages. He said that developing a village is to make it self sufficient and capable enough to develop itself against the world. The village industries are still abiding by the Gandhian Model of development. As directed under Article 43.
- Globalisation and consumerism have in fact made people's lives tougher. The gulf between the rich and poor is widening day by day. Gandhian principle of self-sustenance and serving others is a significant requirement in present times as ever. But some people repudiate the Gandhian idea of self-reliance. They are of the view that this principle has become obsolete in contemporary times, as it seems like a form of a protectionist barrier. But his values of self-empowerment and self-control are crucial in current times because people seem to have succumbed under the worldly temptations.
- Social justice is also one of the basic principle of Gandhianism. He was of the view that absolute equality is impossible but we can try to bridge the gap between the rich and poor as far as possible. Starting from universal healthcare under Ayushman Bharat, Reservation programmes for SC, ST and other weaker section of society as directed under Article 46, scheme like Sarva Shiksha Abhiyan to Obamacare policy in the United States of America, the contemporary world has adopted the concept of social justice as a guiding principle in recent times.
- His principle of Swadeshi is quintessential in times of globalisation. Globalisation results in local producers being harmed. Gandhi always said to wear Khadi and use products which are made in India, but in present times this is not the case. Government and even the citizens need to work and encourage the producers to use local resources and make local products. The central government's initiative of Make in India and Atmanirbhar Bharat is one step ahead to achieving self-sufficiency.
- The main tenet that he propagated was Satya. As opposed to this, in contemporary times, people are not truthful and they are not presented with the existing reality of the system. Here, technology plays its part. Technology can help bring the reality and truth out of the systems. It can curb our main evil, corruption. Information and Communications Technology plays a significant role in this.

### Conclusion

All the climate deals, environment conservation treaties and Sustainable Development Goals follow the Gandhian principle of self-sustenance directed in DPSP. The Gandhian idea of trusteeship is one of the most significant principles in these dire times. We need to realize that we don't own the universe and how our behaviour disrupts nature and sustainable living is the need of the hour.



#### 4. What are your views on the ongoing farmers protest over the farm bills? Substantiate your views.

##### Approach

Candidate is required to give a brief about background of protests, what are the farmer's demands, what is the objective behind. With the analysis of current agrarian crisis and farm reforms views can be put suggesting a way forward in the end.

##### Introduction

Since 26<sup>th</sup> November 2020, the borders of Delhi have been witnessing a huge agitation being carried out by farmers, most of them from Punjab and Haryana.

The farmers are protesting against 2 Farm Bills that the Rajya Sabha recently passed: (1) the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020, and (2) the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020.

##### Body

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020: This Bill allows the farmers to sell their produce outside the Agricultural Produce Market Committee (APMC) regulated markets. So, the farmers clearly have more choice on who they want to sell.

The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020:

This Bill makes provisions for the setting up of a framework for contract farming. The farmer and an ordained buyer can strike a deal before the production happens. According to PRS India, a "Standing Committee on Agriculture (2018-19)" observed the APMC laws needed reforms as cartelization had begun to crystallise due to a limited number of traders in mandis.

What are objections of farmers?

- There was no consultation undertaken by the central government at the time of promulgating the ordinances, and subsequently while pushing the bills through the Parliament.
- The global experience across agricultural markets demonstrates that corporatisation of agriculture without a concomitant security net in the form of an assured payment guarantee to the farmers results in the exploitation of farmers at the hands of big business. This poses threat to small and marginal farmers who constitutes 86% of total farmers.
- Dismantling of the APMC mandis, which have stood the test of time and have provided farmers the remuneration to keep themselves afloat.

- The farm laws open the field to an alternate set of markets/private yards, where the buyer will have no statutory obligation to pay the minimum support price (MSP).

What can be negotiated?

- According to Harish Damodaran agriculture economist, Agreement on Price Assurance and Farm Services Act has to do with providing a regulatory framework for contract cultivation. This specifically concerns agreements entered into by farmers with agri-business firms.
- There is little rationale for objecting to an Act that merely enables contract farming. Such exclusive agreements between companies and farmers are already operational in crops of particular processing grades, for example potatoes, tomatoes.
- contract cultivation is voluntary in nature and largely for crops not amenable to trading in regular APMC or meant for exports. Act formalises contract cultivation through a “national framework” and explicitly prohibits any sponsor firm from acquiring the land of farmers – whether through purchase, lease or mortgage. Hence this provision is reformative in nature.
- When it comes to APMC, Farmers, for their part, would want no restrictions on the movement, stocking and export of their produce. In case of marketing – especially dismantling of the monopoly of APMCs – farmers, especially in Punjab and Haryana, aren’t very convinced about the “freedom of choice to sell to anyone and anywhere.
- The reason for this contention is Much of government procurement at minimum support prices (MSP) of paddy, wheat and increasingly pulses, cotton, groundnut and mustard happen in APMC. In a scenario where more and more trading moves out of the APMCs, these regulated market yards will lose revenues.
- Additional demand of making MSP legal right will cause a big burden on fiscal calculations. FCI which is responsible for procurement at MSP is debt ridden with total debt of \$5.8 billion which is out of proportion.

### **Conclusion**

Way ahead can only be found if farmers and government compromise to find a middle ground. Elephant in the room is legal right of MSP, which is economically not prudent and should be negotiated hardily. Earlier laws related to agriculture were product of the times when drought and external calamities were regular. New farm laws are in coherence with changing times, for next revolution in agriculture a leap of faith has to be taken with a compromise made by both parties.

## 5. What role should electronic media play in a democracy like India? Are you satisfied with the present status of media in the country?

### Introduction

In the words of Benito Mussolini- “Democracy is a kingless regime infested by many kings who are sometimes more exclusive, tyrannical and destructive than one, if he be a tyrant”. It is the fear of being exposed by the media before the public that most of the politicians keep themselves under control to some extent”. Freedom of speech and expression subject to reasonable restrictions is a fundamental right guaranteed by the Indian Constitution.

The recent years saw a greater interface between the common man and media. It is the media which has become a part of the life of those people of India, who are mostly dependent on it for various wants including information and entertainment. Media keeps the peoples awakened and there is no denying the fact that it has become one of the major instruments of social change

### Body

#### WHAT ROLE SHOULD ELECTRONIC MEDIA PLAY IN A DEMOCRACY LIKE INDIA

- The media should work as a watchdog of the government and carry every report of the action of administration thereby keeping the people informed about the day-to-day happenings taking place around them.
- The media is considered as fourth pillar of democracy. It should make us aware of various activities like politics, sports, economic social and cultural activities etc. It should act like a mirror which shows the bare truth and sometimes it may be harsh.
- The media should also expose loopholes in the democratic society, which ultimately helps government in filling the vacuums of loopholes and making a system more accountable, responsive and democratic friendly. Thus, the democracy without media is like a vehicle without wheels.
- Media should act as a bridge between the people and the government and also a very powerful tool with the ability to make and break the opinion of the people. It has the capacity to swing perceptions or evoke emotions. This is why it has gained faith of the public. Media, through its various means of newspapers, television and cinema is what rules the heart and mind of people.
- The media should help to shape the democratic society by giving emphasis to issues that are at one point in time, would have been considered strictly private such as child birth, child care, domestic violence, and sexual harassment.
- Media in exercise of freedom of expression is essential to communicate the thoughts, views, ideas, philosophy, ideals and activities. Communication keeps society together and cohabitate. For healthy growth of civilization world, the free flow of information and ideas is essential.

- Modern Methods of interpersonal Media communication include seminars dramas, public meeting and workshops etc. these are effective media methods to address small and medium gatherings, which can be used as grounds for advocating the Human Rights and building public opinion.
- In any democratic country the media plays a vital role in creating moulding and relating public opinion. Over the years the media became so powerful that it soon acquires the status of forth state as it was aptly described by the British politician Edmund Burke.
- Media today touches almost every aspect of our public life. Media should play a very important and crucial role in enlisting and educating the people and aiding public involvement through advocating issues and transferring knowledge, skill and technologies to the people.

### SATISFACTION WITH THE PRESENT STATUS OF MEDIA IN THE COUNTRY

The present status media in the country is not at all satisfactory. The jingoism of a major section of the media is not new, nor is it unique to India. All democracies, at one time or another, get swept up by the rhetoric of revenge and war. People in the United Kingdom know this only too well. But what makes the blood lust of the Indian media especially alarming is the coming together of **three broad trends** that have adversely affected the independence and integrity of the news industry by allowing the government, the ruling party and big business houses a greater than ever role in shaping and determining the agenda of the media.

- The first is the increasing unviability of the existing business model as the move to digital reading habits has further undermined the revenue base for all but the biggest players. This has both increased the dependence of the media industry on advertisers and made them more vulnerable to government pressure of one kind or another.
- The second is the effective use of social media as a disciplining device whenever individual reporters or editors or even media houses stray too far from the officially mandated line.
- The third is the growing resort to legal means – sedition law, the Official Secrets Act, SLAPP suits etc – as well as extra-legal means as a way of penalising individuals and media who refuse to fall in line.

### Conclusion

The Media is considered as fourth pillar of democratic society. For better working of democracy free press is must. But it does not mean an unrestrained press. The question here arises how and who to control press. The simple answer is there shall be an uplifting the standards of journalism can only be solution. Every reporter must honourably and wilfully make an effort not to fall in any trap and raise the standard of journalism. India being a democratic country, where the decision of the masses is supreme, mass media is instrumental in ensuring that the people make informed

decisions. Further, it is through the media that the masses are able to voice their opinions. Appreciation of the role of the media in good governance is essential to societal development.

