Chapter 4

Restrictions on the Fundamental Rights
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i). Fundamental Rights –not absolute-but subject to restrictions

After having declared the fundamental rights, our Constitution says that all laws in force in the territory of India immediately before the commencement of the Constitution, insofar as they are inconsistent with the said rights are, to the extent of such inconsistency, void. The Constitution also enjoins the State not to make any law, which takes away or abridges the said rights and declares such laws, to the extent of such inconsistency, to be void. As we have stated earlier, the only limitation on the freedom enshrined in Art. 19 of the Constitution is that imposed by a valid law operating as a reasonable restriction in the interests of the public.¹

A perusal of Art. 19 makes it abundantly clear that none of the seven rights enumerated in Clause(1), is an absolute right, for each of these right to liable to be curtailed by laws made or to be made by the State to the extent mentioned in the several clauses(2) to (6)

¹ Golak Nath vs. State of Punjab, AIR 1967 SC 1643
of that Article. Those clauses save the power of the State to make laws imposing certain specified restrictions on the several rights.\textsuperscript{2} No person can flout the mandate of law of respecting the Courts for the establishment of rule of law under the cloak of freedoms of speech and expression guaranteed by the Constitution. Such a freedom is subject to reasonable restrictions imposed by any law. Where a provision, in the law, relating to contempt imposes reasonable restrictions, no citizen can take the liberty of scandalising the authority of the institution of judiciary. Freedom of speech and expression, so far as they do not contravene the statutory limits as contained in the Act, are to prevail without any hindrance.\textsuperscript{3}

It was held by the Supreme Court in Chintaman Rao v. State of Madhya Pradesh\textsuperscript{4}, that the phrase "reasonable restriction" cannotes that the limitation imposed upon a person in enjoyment of a right should not be arbitrary or of an excessive nature beyond what is required in the interest of the public.

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\textsuperscript{2} A.K.Gopalan Vs. State of Madras, AIR 1950 S.C. 27,Para 216
\textsuperscript{3} Arundhati Roy, AIR 2002 S.C. 1375
\textsuperscript{4} Chintaman Rao v. State of Madhya Pradesh', AIR 1951 SC 118
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The concept of reasonableness has been clearly defined by Patanjali Sastri, C.J.I., in the State of Madras v. V. G. Row, in the following terms:

"It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern, of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict. In evaluating such elusive factors and forming their own conception of what is reasonable, in all the circumstances of a given case, it is inevitable that the social philosophy and the scale of values of the judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be
dictated by their sense of responsibility and self-restraint and the sobering reflection that the Constitution is meant not only for people of their way of thinking but for all, and that the majority of the elected representatives of the people have, in authorising the imposition of the restrictions, considered them to be reasonable."

These observations have been adopted by the Apex Court in later cases, e.g., State of West Bengal v. Subodh Gopal Bose, and Ebrahim Vazir Mavat v. State of Bombay. In this connection it will also be well to remember the observation of Mahajan J., in State of Bihar v. Kameshwar Singh of Dharbangha, that:

"The legislature is the best judge of what is good for the community, by whose suffrage it comes into existence.....". This should be the proper approach for the Court but the ultimate responsibility for determining the validity of the law must rest with the

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Court and the Court must not shirk that solemn duty cast on it by the Constitution.

In State of Madras v. V. G. Row, it was further observed that -

"In considering the reasonableness of laws imposing restrictions on fundamental right, both the substantive and procedural aspects of the impugned law should be examined from the point of view of reasonableness and the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned and no abstract standard or general pattern of reasonableness can be laid down as applicable to all cases."  

The phrase "reasonable restriction" connotes that the limitation imposed upon a person in enjoyment of a right should not be arbitrary or of an excessive nature beyond what is required in the interest of the public. Legislation, which arbitrarily or excessively invades the right, cannot be said to contain the quality of reasonableness, and unless it strikes a proper balance between the

freedom guaranteed under Article 19(1) (g) and the social control permitted by Clause (6) of Article 19, it must be held to be wanting in reasonableness. A law or order, therefore, which confers arbitrary and uncontrolled power upon the executive in the matter of regulating trade or business in normally available commodities cannot but be held to be unreasonable.

Clause (6) of Art. 19 protects a law which imposes in the interest of the general public reasonable restrictions on the exercise of the right conferred by sub-clause (g) of clause (1) of Art. 19. Quite obviously it is left to the Court, in case of dispute, to determine the reasonableness of the restrictions imposed by the law. In determining that question the Court, we conceive, cannot proceed on a general notion of what is reasonable in the abstract or even on a consideration of what is reasonable from the point of view of the person or persons on whom the restrictions are imposed. The right conferred by sub-clause (g) is expressed in general language and if there had been no qualifying provision like clause (6), the right so conferred would have been an absolute one. To the person who has this right any restriction will be irksome and may well be regarded

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by him as unreasonable. But the question cannot be decided on that basis. What the Court has to do is to consider whether the restrictions imposed are reasonable in the interests of the general public.\textsuperscript{10}

There is no doubt that procedural provisions of a statute also enter into the verdict as to its reasonableness; but at the same time there can be no abstract or general principles which would govern the matter and each statute has to be examined in its own setting. It is undoubtedly correct that no provision has been made for giving a hearing to a person applying for a licence and the Commissioner has not to give reasons when refusing the licence; but it cannot be laid down as a general proposition that where in the case of licensing statute no provision is made for hearing and there is no provision for giving reasons for refusal the statute must be struck down as necessarily an unreasonable restriction on a fundamental right.\textsuperscript{11}

\textsuperscript{10} Mohd. Hanif Qureshi Vs. State of Bihar, AIR 1958 SC 731, Para.21
\textsuperscript{11} Kishan Chand Arora Vs. Commr. Of Police, AIR 1961 SC 705 Para 5
The Rights guaranteed under Part III of the Constitution are not absolute, in terms. They are subject to reasonable restrictions and, therefore, in case of non-citizen also, those Rights will be available subject to such restrictions as may be imposed in the interest of the security of the State or other important considerations. Interest of the Nation and security of the State is supreme. Since 1948 when the Universal Declaration was adopted till this day, there have been many changes - political, social and economic while terrorism has disturbed the global scenario. Primacy of the interest of Nation and the security of State will have to be read into the Universal Declaration as also in every Article dealing with Fundamental Rights, including Art. 21 of the Indian Constitution.\textsuperscript{12}

Under Articles 25 & 26, religious freedom is guaranteed, but undisputedly no religion prescribes that prayers should be performed by disturbing the peace of others nor does it preach that they should be through voice-amplifiers or beating of drums. In our view, in a civilized society in the name of religion, activities which disturb old or infirm persons, students, or children having their sleep in the early hours or during day-time or other persons

\textsuperscript{12} Chairman, Railway Board Vs. Mrs. Chandrika Das, AIR 2000 SC 988,Para.36
carrying on other activities cannot be permitted. It should not be forgotten that young babies in the neighbourhood are also entitled to enjoy their natural right of sleeping in a peaceful atmosphere. A student preparing for his examination is entitled to concentrate on his studies without their being any unnecessary disturbance by the neighbours. Similarly, old and infirm are entitled to enjoy reasonable quietness during their leisure hours without there being any nuisance of noise pollution. Aged, sick, people afflicted with psychic disturbances as well as children up to 6 years of age are considered to be very sensible to noise. Their rights are also required to be honoured.\textsuperscript{13}

On account of a Chapter on Fundamental Rights in Part III of our Constitution right from 1950, Indian Courts did not suffer from the disability similar to the one experienced by English Courts for declaring as unconstitutional legislation on the principle of proportionality or reading them in a manner consistent with the charter of rights. Ever since 1950, the principle of 'proportionality' has indeed been applied vigorously to legislative (and

\textsuperscript{13} Church of God (FullGospel) in India Vs.K.K.R.Majestic Colony welfare, AIR 2000 SC 2773, Para.2
administrative action) in India. While dealing with the validity of legislation infringing fundamental freedoms enumerated in Art. 19(1) of the Constitution of India, - such as freedom of speech and expression, freedom to assessable peaceably, freedom to form associations and unions, freedom to move freely throughout the territory of India, freedom to reside and settle in any part of India, - this Court had occasion to consider whether the restrictions imposed by legislation were disproportionate to the situation and were not the least restrictive of the choices. The burden of proof to show that the restriction was reasonable lay on the State. 'Reasonable restrictions' under Art. 19(2) to (6) could be imposed on these freedoms only by legislation and Courts had occasion throughout to consider the proportionality of the restrictions. In numerous judgments of this Court, the extent to which 'reasonable restrictions' could be imposed was considered.

In Chintaman Rao v. State of M.P., 1950 SCR 759 : (AIR 1951 SC 118), Mahajan, J. (as he then was) observed that 'reasonable restrictions' which the State could impose on the fundamental rights 'should not be arbitrary or of an excessive nature, beyond what is required for achieving the objects of the legislation.'
'Reasonable' implied intelligent care and deliberations, that is, the choice of a course which reason dictated. Legislation which arbitrarily or excessively invaded the right could not be said to contain the quality of reasonableness unless it struck a proper balance between the rights guaranteed and the control permissible under Art. 19(2) to (6). Otherwise, it must be held to be wanting in that quality.\textsuperscript{14}

Patanjali Sastri, C.J.I., in State of Madras v. V. G. Row, observed that the Court must keep in mind the 'nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions of the time.\textsuperscript{15}

This principle of proportionality vis-a-vis legislation was referred to by Jeevan Reddy, J. in State of A.P. v. Mc Dowell & Co.\textsuperscript{16} recently. This level of scrutiny has been a common feature in the

High Court and the Supreme Court in the last fifty years. Decided cases run into thousands.\textsuperscript{17}

So far as Art. 14 is concerned, the Courts in India examined whether the classification was based on intelligible differentia and whether the differentia had a reasonable nexus with the object of the legislation. Obviously, when the Court considered the question whether the classification was based on intelligible differentia, the Courts were examining the validity of the differences and the adequacy of the differences. This is again nothing but the principle of proportionality. There are also cases where legislation or rules have been struck down as being arbitrary in the sense of being unreasonable.\textsuperscript{18} But this latter aspect of striking down legislation only on the basis of 'arbitrariness' has been doubted in State of A.P. v. Mc Dowell and Co.,\textsuperscript{19} where, an administrative action is challenged as 'arbitrary' under Art. 14 on the basis of Royappa\textsuperscript{20} (as in cases where punishments in disciplinary cases are challenged), the question will be whether the administrative order is 'rational' or

\textsuperscript{17} Om Kumar Vs. Union of India, AIR 2000 SC 3688,Para.20
\textsuperscript{18} Air India v. Nergesh Meerza (1981) 4 SCC 335 at 372-373 : (AIR 1981 SC 1829 at p. 1854
'reasonable' and the test then is the *Wednesbury* test. The Courts would then be confined only to a secondary role and will only have to see whether the Administrator has done well in his primary role, whether he has acted illegally or has omitted relevant factors from consideration or has taken irrelevant factors into consideration or whether his view is one which no reasonable person could have taken. If his action does not satisfy these rules, it is to be treated as arbitrary. In G. B. Mahajan v. Jalgaon Municipal Council,²¹ Venkatachaliah, J. (as he then was) pointed out that 'reasonableness' of the Administrator under Art. 14 in the context of Administrative Law has to be judged from the standpoint of *Wednesbury* rules. In Tata Cellular v. Union of India, Indian Express Newspapers v. Union of India, Supreme Court Employees' Welfare Association v. Union of India and U.P. Financial Corporation v. GEM CAP (India) Pvt. Ltd.,²² while judging whether the administrative action is 'arbitrary' under Art. 14 (i.e.

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otherwise than being discriminatory), the Supreme Court has confined itself to a *Wednesbury* review always.  

**ii). Reasonableness of the Restrictions:**

It would appear that a real proximate and reasonable connection must exist in the circumstances of the case for restriction of the guaranteed freedom as also the urgent necessity to restrict it. The means adopted to meet this need must also be not arbitrary. The word ‘reasonable arms the courts to interfere when the state creates new offences for acts which heater to had never been held to illegal. This is to prevent unreasonable curtailment of the right guarantee under Article 19 (1)(a). As regards the means of restriction, it should itself be reasonable and not arbitrary. Honourable Pandit Hriday Nath Kunzru argued in the constituent Assembly:

“But his fundamental rights have all be made subject to certain safeguards which generally taking have been considered necessary in every country. But it is well known, Sir, that these safeguards practically make the rights that I have just mentioned not justiciable. You

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23 Om Kumar Vs. Union of India AIR 2000 SC 3689, Para.87
may confer general rights on the citizens of India, but if they are to be surrounded with the restrictions mentioned here – and I submit that they will have to be surrounded with some such restriction – then the rights will in practice she is to be justiciable. They will be no more than directive principles of policy and there seems to be no advantage in considering such matters at this stage. According to Mr. Patel, we should be considering only those rights that are strictly speaking enforceable by courts”.

If restrictions there be it is again a question for the courts to determine if they are “reasonable restrictions”. In the Supreme Court of India and in the High Courts is, therefore, vested this sacred duty of interpreting the constitution according to law and justice. For they are the bulwark on which the whole edifice of our freedoms structure rests.

a) Substantive Reasonableness.

A law providing reasonable restrictions on the exercise of the right conferred by Article 19 may contain substantive provisions as well
as procedural provisions. The reasonableness of the restriction whether substantively or procedurally has to be judged from the point of view of the right that has been in fact restricted.\textsuperscript{24}

In State of Madras v. V. G. Row, it was observed that:

"In considering the reasonableness of laws imposing restrictions on fundamental right, both the substantive and procedural aspects of the impugned law should be examined from the point of view of reasonableness and the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned and no abstract standard or general pattern of reasonableness can be laid down as applicable to all cases."\textsuperscript{25}

If the acquisition is for a public purpose, substantive reasonableness of the restriction which includes deprivation may, unless otherwise established, be presumed, but enquiry into reasonableness of the procedural provisions will not be excluded.

\textsuperscript{24} Press Trust of India Vs. Union of India, AIR 1974 SC 1044
\textsuperscript{25} State of Madras v. V. G. Row, 1952 SCR 597 :AIR 1952 SC 196
For instance if a tribunal is authorised by an Act to determine compensation for property compulsorily acquired, without hearing the owner of the property, the Act would be liable to be struck down under Article 19 (1) (f).^{26}

b). Procedural Reasonableness:

There is no doubt that procedural provisions of a statute also enter into the verdict as to its reasonableness; but at the same time there can be no abstract or general principles which would govern the matter and each statute has to be examined in its own setting.^{27}

In Dr. N. B. Khare v. The State of Delhi, Kania, C.J., said:^{28}

"The law providing reasonable restrictions on the exercise of the right conferred by Article 19 may contain substantive provisions as well as procedural provisions. While the reasonableness of the restrictions has to be considered with regard to the exercise of the right, it does not necessarily exclude

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26 Rustoom Cavasjee Cooper Vs. Union of India, AIR 1970 SC 564
27 Kishan Chanda Arora Vs. Commissioner of Police, Calcutta, AIR 1961 SC 705
28 Dr. N. B. Khare v. The State of Delhi, 1950 SCR 519; at p. 524
from the consideration of the Court the question of reasonableness of the procedural part of the law. It is obvious that if the law prescribes five years externment or ten years externment, the question whether such period of externment is reasonable, being the substantive part, is necessarily for the consideration of the Court under clause (5). Similarly, if the law provides the procedure under which the exercise of the right may be restricted, the same is also for the consideration of the Court, as it has to determine if the exercise of the right has been reasonably restricted. I do not think by this interpretation the scope and ambit of the word "reasonable" as applied to restrictions on the exercise of the right, is in any way unjustifiably enlarged".²⁹

Deprivation of the personal liberty without ensuring speedy trial would also not be in consonance with the right guaranteed by Article 21. Of course, some amount of deprivation of personal liberty cannot be avoided in such cases; but if the period of

²⁹ Dr. N. B. Khare v. The State of Delhi, 1950 SCR 519; AIR 1950 SC 211
deprivation pending trial becomes unduly long, the fairness assured by Article 21 would receive a jolt. It is because of this that we have felt that after the accused persons have suffered imprisonment which is half of the maximum punishment provided for the offence, any further deprivation of personal liberty would be violative of the fundamental right visualised by Article 21, which has to be telescoped with the right guaranteed by Article 14 which also promises justness, fairness and reasonableness in procedural matters".30

Procedural reasonableness cannot have any abstract standard or general pattern of reasonableness. The nature of the right infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, all provide the basis for considering the reasonableness of a particular provision. The procedure embodied in the Act has to be judged in the context of the urgency and the magnitude of the problem, the underlying purpose of the restrictions and the

30 Supreme Court Legal Aid Committee Representing Under-trial Prisoners v. Union of India, (1994) 6 SCC 731 : 1994 AIR SCW 5115
prevailing conditions. Principles of natural justice are an element in considering the reasonableness of a restriction where Article 19 is applicable. Article 22 which provides for preventive detention lays down substantive limitations as well as procedural safeguards.  

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c) Reasonableness of Restrictions:

In deciding the reasonableness of restrictions imposed on any fundamental right the Court should take into consideration the nature of the right alleged to have been infringed. The underlying purpose of the restrictions imposed, the disproportion of the imposition and the prevailing conditions including the social values whose needs are sought to be satisfied by means of the restrictions. 32

The fundamental freedom under Article 19(1) (a) can be reasonably restricted only for the purposes mentioned in Article 19(2) and the restriction must be justified on the anvil of necessity and not the quicksand of convenience or expediency. Open

31 Haradhan Shah Vs. State of West Bengal, AIR 1974 SC 2154
32 Secretary, Ministry of I & B Vs. Cricket Association Bengal, AIR 1995 SC 1236
criticism of Government policies and operations is not a ground for restricting expression.\textsuperscript{33}

It is reasonable to think that the makers of the Constitution considered the word 'restriction' to be sufficiently wide to save laws inconsistent with Art. 19 (1), or taking away the rights conferred by the Article, provided this inconsistency or taking away was reasonable in the interests of the different matters mentioned, in the clause. There can be no doubt, therefore, that they intended the word 'restriction' to include cases of prohibition also. The contention that a law prohibiting the exercise of a fundamental right is in no case saved cannot, therefore, be accepted.

It is undoubtedly correct, however, that when, the restriction reaches the stage of prohibition, special care has to be taken by the Court to see that the test of reasonableness is satisfied. The greater the restriction, the more the need for strict scrutiny by the Court. Case law referred.\textsuperscript{34}

\textsuperscript{33} S.Rangrajan Vs. P.Jagjivan Ram, (1989) 2 SCC 574

\textsuperscript{34} Narendra Kumar Vs. Union of India, AIR 1960 S.C.430 Para 18
Article 21 of the Constitution mandates the state that no person shall be deprived of his life or personal liberty except according to the procedure established by law. In Maneka Gandhi v. Union of India\textsuperscript{35}, the Apex Court gave a new dimension to Article 21. The seven judge bench held that a statute which merely prescribes some kind of procedure for depriving a person of his life or personal liberty cannot meet the requirements of Article 21. Bhagwati, J., as he then was, while explaining the nature and requirement of procedure under Article 21 observed:

"We must reiterate here what was pointed out by the majority in E.P. Royappa v. State of Tamil Nadu (1974) 2 SCR 348: 1974 SCC (Lab) 165 : (AIR 1974 SC 555), namely, that "from a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic, while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and

\textsuperscript{35} Maneka Gandhi v. Union of India (1978) 1 SCC 248 : AIR 1978 SC 597
constitutional law and is, therefore, violative of Article 14". Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence and the procedure contemplated by Article 21 must answer the test of reasonableness in order to be in conformity with Article 14. It must be "right and just and fair" and not "arbitrary, fanciful or oppressive", otherwise, it would be no procedure at all and the requirement of Article 21 would not be satisfied.\(^{36}\)

If one prefers to go yet further back, the procedural fairness in the defiance of liberties was insisted upon even in 1952. In State of West Bengal v. Anwar Ali,\(^{37}\) 1952 SCR 284: (AIR 1952 SC 75) Bose, J., remarked:

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\(^{36}\) Maneka Gandhi v. Union of India\(^{36}\) (1978) 1 SCC 248 at p. 283 : AIR 1978 SC 697 at p. 624

"The question with which I charge myself, is, can fair-minded, reasonable, unbiased and resolute men, who are not swayed by emotion or prejudice, regard this with equanimity and call it reasonable, just and fair, regard it as that equal treatment and protection in the defence of liberties which is expected of a sovereign democratic republic in the conditions which obtain in India today? I have but one answer to that. On that short and simple ground I would decide this case and hold the Act bad."

In Bachan Singh case\(^{38}\), Sarkaria, J., affirming this view said:

"No person shall be deprived of his life or personal liberty except according to fair, just and reasonable procedure established by valid law."

In Mithu v. State of Punjab\(^{39}\) Chandrachud, C.J., said:

".............that the last word on the question of justice and fairness does not rest with the legislature. Just as

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\(^{38}\) Bachan Singh case (at p. 730 of 1980 (2) SCC 684) : (at p. 930 of AIR 1980 SC 898)


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reasonableness of restrictions under clauses (2) to (6) of Article 18 is for the courts to determine, so it is for the courts to decide whether the procedure prescribed by a law for depriving a person of his life or liberty is fair, just and reasonable."

In Sher Singh v. State of Punjab, Chandrachud, C.J., again explained:

"The horizons of Article 21 are ever widening and the final word on its conspectus shall never have been said. So long as life lasts, so long shall it be the duty and endeavour of this Court to give to the provisions of our Constitution a meaning which will prevent human suffering and degradation. Therefore, Article 21 is as much relevant at the stage of execution of the death sentence as it is in the interregnum between the imposition of that sentence and its execution. The essence of the matter is that all procedure no matter the stage, must be fair, just and reasonable."

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In applying the test of reasonableness, the Court has to consider the question in the background of the facts and circumstances under which order was made, taking into account the nature of the evil that was sought to be remedied by such law, and the ratio of the harm caused to individual citizens, by the proposed remedy, to the beneficial effect reasonably expected to result to the general public. It will also be necessary to consider in that connection whether the restraint caused by the law is more than was necessary in the interests of the general public.\textsuperscript{41}

Article 21 thus received a creative connotation. It demands that any procedure which takes away the life and liberty of persons must be reasonable, just and fair. This procedural fairness is required to be observed at every stage and till the last breath of the life.\textsuperscript{42}

d) Relevance of Legislative Objects:
The constitutional validity of the law imposing restriction upon the above freedom is subject of judicial scrutiny and the scheme of our

\textsuperscript{41} Narendra Kumar Vs. Union of India, AIR 1960 S.C.430 Para 19
\textsuperscript{42} Smt. Triveniben Vs. State of Gujrat, AIR 1989 SC 1335 Para.57
constitution did not leave the matter to the exclusive domain of the legislature to impose such restriction.\textsuperscript{43}

The Supreme Court in Jagmohan’s case observed “So far as we are concerned in this country, we do not have, in our Constitution any provision like the Eighth Amendment nor are we at liberty to apply the test of reasonableness with the freedom with which the Judges of the Supreme Court of America are accustomed to apply "the due process" clause.”\textsuperscript{44}

In order to be reasonable, a restriction must have a rational relation to the object which the Legislature seeks to achieve and must not go in excess of that object. The test of reasonableness should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied, thereby the

\textsuperscript{43} Interpretation and Enforcement of Fundamental Rights by D.J.De 2000, P. No. 446 Para.2 line no. 10
\textsuperscript{44} AIR 1973 S.C.947
disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict⁴⁵.

Resort can be had to legislative intent for the purpose of interpreting a provision of law, when the language employed by the Legislature is doubtful or susceptible of meanings more than one. However, when the language is plain and explicit and does not admit of any doubtful interpretation, by reference to an assumed legislative intent, the meaning of an expression employed by the Legislature cannot be expanded and therein include such category of persons as the Legislature has not chosen to do.⁴⁶

⁴⁵ AIR 1951 SC 118, Re1. on AIR 1952 SC 198(200), Followed M.C.V.S. Arunachala Nadar Vs. State of Madras, AIR 1959 SC 300 (Para 5)
⁴⁶ Ombalika Das Vs. Hulsa Shaw, AIR 2002 S.C. Para 12