

Lecture- 08



CONSTITUTIONAL FRAMEWORK OF FREEDOM OF SPEECH AND EXPRESSION IN INDIA

Freedom of Speech and Expression is defined under Article 19(1)(a) of the Constitution of India which states that all the citizens of India have a right to freedom of speech and expression. The philosophy behind this Article lies in the Preamble of the Constitution of India- 'where a solemn resolve is made to secure to all its citizen, their liberty of thought and expression'. The exercise of this right is, however, subjected to reasonable restrictions for some purposes being imposed under Article 19(2) of the Constitution of India.

What are the main elements of freedom of Speech and Expression?

These are the following essential elements of the freedom of Speech and Expression:

This right is solely available to a citizen of India and not to persons belonging to other nations i.e. foreign nationals.

The freedom of speech under Article 19(1)(a) includes the right to express one's views and opinions about any kind of issue and it can be done through any kind of medium, such as by words of mouth, by writing, by printing, through picturisation or through a movie.

This right is not absolute as it allows the Government of India to frame laws which can impose reasonable restrictions in the cases which are involved with the sovereignty and integrity of India or the security of the state, or friendly relations with foreign nations, even public order, decency and morality and contempt of court, defamation and incitement to an offence.

Such a restriction on the freedom of speech of any citizen may be imposed as much by an action of the State as by its inaction. Thus, if failure is found on the part of the State to guarantee to all its citizens the fundamental right to freedom of speech and expression would also constitute a violation of Article 19(1)(a).

How is Freedom of Speech important?

In a democracy like India, the concept of freedom of speech & expression opens up channels of free discussion of issues. Freedom of speech plays a very important role in the formation and the showcasing of the public opinion on social, economic & political matters throughout the country. It ensures within its scope, the freedom related to propagation and interchangement of ideas, dissemination of information which would, later on, help the formation of one's opinion along with their viewpoint on certain issues and give rise to debates on matters which involve the public. So long as the expression is confined to nationalism, patriotism & love for our nation, the use of National flag by the way of expression of those sentiments would be a Fundamental Right.

The independent judiciary of India has held and stated it's an opinion that the right to receive any information is another part of the right to freedom of speech and expression and the right to communicate and receive any kind of information without any sort of interference is a crucial aspect of this right. This is because, a person cannot form an informed opinion or make an informed choice and effectively participate socially, politically or culturally without receipt of adequate information.

A print medium is a powerful tool for broadcasting any kind of information to any citizen of the nation. Thus, access to printed material is very crucial for the satisfaction of a person's right to freedom of speech and expression guaranteed to him under the Constitution. If any failure is found on the part of the State to make legislative provision for enabling access to people having print impairment of material in alternative accessible formats would constitute a deprivation of their right to freedom of speech and expression and such an inaction on the part of the State shall fall in the wrong place of the Constitution. It is an obligation on the part of the State to make sure that sufficient provisions are made in the law which enables people with a print impairment to access printed material in accessible formats.

Under the Freedom of Speech and Expression, there is no separate guarantee of freedom of the press as it is already included in the freedom of expression, which is given to all the citizens of the nation.