



# Lecture- 12



## **Freedom of Speech on Social Media**

The High Court of Tripura has held that posting on social media was virtually the same as a fundamental right applicable to all citizens, including government employees. It also asserted that government servants are entitled to hold and express their political beliefs, subject to the restrictions laid under the Tripura Civil Services (Conduct) Rules, 1988.

In another significant judgment, the HC of Tripura ordered the police to refrain from prosecuting the activist who was arrested over a social media post where he criticized an online campaign in support of the Citizenship Amendment Act (CAA), 2019 and warned people against it. The High Court held that these orders are in line with the very essence of the Indian Constitution.

## **Hate Speech**

The Supreme Court of India had asked the Law Commission to make recommendations to the Parliament to empower the Election Commission to restrict the problem of “hate speeches” irrespective of, whenever made. But the Law Commission recommended that several factors need to be taken into account before restricting a speech, such as the context of the speech, the status of the maker of the speech, the status of the victim and the potential of the speech to create discriminatory and disruptive circumstances.

## **Freedom of Speech in Art**

In relation to art, the court has held that “the art must be so preponderating as to throw obscenity into a shadow or the obscenity so trivial and insignificant that it can have no effect and may be overlooked.”

There are restrictions in what can be shown in cinemas and this is governed by the Cinematograph Act, 1952. You can read more about this and the Censor Board in India [here](#).

## **Safeguards for Freedom of Speech and Expression under Article 19(2)**

The Constitution of India guarantees freedom of speech and expression to all its citizens, however, these freedom are not absolute because Article 19 (2) of the constitution provides a

safeguard to this freedom under which reasonable restrictions can be imposed on the exercise of this right for certain purposes. Safeguards outlined are discussed below-

Article 19(2) of the Indian constitution allows the state to make laws that restrict freedom of speech and expression so long as they impose any restriction on the –

The state's Security such as rebellion, waging war against the State, insurrection and not ordinary breaches of public order and public safety.

**Interest Integrity and Sovereignty of India** – this was added by the 16th constitutional amendment act under the tense situation prevailing in different parts of the country. Its objective is to give appropriate powers to impose restrictions against those individuals or organizations who want to make secession from India or disintegration of India as political purposes for fighting elections.

Contempt of court: Restriction can be imposed if the speech and expression exceed the reasonable and fair limit and amounts to contempt of court.

**Friendly relations with foreign states:** It was added by the First Amendment Act, 1951 to prohibit unrestrained malicious propaganda against a foreign-friendly state. This is because it may jeopardize the maintenance of good relations between India and that state.

**Defamation or incitement to an offense:** A statement, which injures the reputation of a man, amounts to defamation. Defamation consists in exposing a man to hatred, ridicule, or contempt. The civil law in relating to defamation is still uncodified in India and subject to certain exceptions.

**Decency or Morality** – Article 19(2) inserts decency or morality as grounds for restricting the freedom of speech and expression. Sections 292 to 294 of the Indian Penal Code gives instances of restrictions on this freedom in the interest of decency or morality. The sections do not permit the sale or distribution or exhibition of obscene words, etc. in public places. However, the words

decency or morality is very subjective and there is no strict definition for them. Also, it varies with time and place.

#### Need of these Safeguards of Freedom of Speech & Expression

- In order to safeguard state security and its sovereignty as a speech can be used against the state as a tool to spread hatred.
- To strike a social balance. Freedom is more purposeful if it is coupled with responsibility.
- Certain prior restrictions are necessary to meet the collective interest of society.
- To protect others' rights. Any speech can harm a large group of people and their rights, hence reasonable restrictions must be imposed so that others right is not hindered by the acts of one man.

#### **Right to Information**

As mentioned before, the right to information is a fundamental right under Article 19(1). The right to receive information has been inferred from the right to free speech. However, the RTI has not been extended to the Official Secrets Act. For more on the RTI, [click here](#).