



DELHI LAW ACADEMY

CONSTITUTION OF INDIA

FUNDAMENTAL RIGHTS

RIGHT TO FREEDOM & RIGHT TO LIFE

The topic of Fundamental Rights, being one of the most important topics of our Constitution, has been discussed and explained by DLA in three parts.

This second part deals with the Right to Freedom & the Right to Life in 13 pages.

In this sample we present the first 3 pages.....

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RIGHT TO FREEDOM

THE 6 FREEDOMS : [Article 19(1)]

- All **citizens** shall have the **right**
 - (a) to **freedom of speech and expression**
 - (b) to assemble peaceably and without arms
 - (c) to form associations, unions or cooperatives
 - (d) to move freely throughout India
 - (e) to reside and settle in any part of India
 - (g) to practise any profession or to carry on any occupation, trade or business

DLA Note

- Right to acquire, hold and dispose of property was deleted by the 44th Amendment 1978
- This right is now incorporated in article 300A

Restrictions on these Freedoms

Restrictions on freedom of speech

- State can impose **reasonable restrictions** by **law** on grounds of
 - Sovereignty and integrity of India, Security of State, Friendly relations with foreign states
 - Public order, Decency, Morality
 - Contempt of court, Defamation, Incitement to offence

Restrictions on right to assemble peaceably

- State can impose *reasonable restrictions* by law on grounds of
 - Sovereignty and integrity of India, Public order

Restrictions on freedom of profession, trade etc.

- State can impose *reasonable restrictions* by law
 - *in the interest of general public*
- State can by law



- specify professional or technical qualifications necessary for any profession or trade
- carry on any trade, business, etc. to the exclusion of citizens or otherwise

Freedom of speech and expression is a basic human right

- Freedom of speech is the bulwark of a democratic Government
- This freedom is essential for proper functioning of the democratic process
- It has been described as a “basic human right” or “a natural right”

Reasonableness of restrictions

- In judging reasonableness of the restrictions imposed u/a 19(6), Court has to bear in mind the Directive Principles of State Policy
- A restriction which has the effect of promoting a directive principle can be presumed to be a reasonable restriction in public interest

Constitutional validity of laws restricting Freedom of Speech and Expression:

(i) The Law of Sedition

- The restrictions are *in the interest of public order* and are within the ambit of permissible legislative interference with the fundamental right.
- A citizen has a right to say or write whatever he likes about the Govt or its measures by way of criticism or comment so long as he does not incite people to violence against the Govt or with the intention of creating public disorder.

Authority: **Kedar Nath Singh v. State of Bihar** [1962 SC]

(ii) The Law of Defamation:

- In essence, the offence of defamation is the harm caused to the reputation of a person.
- **Reputation being an inherent component of Article 21**, it should not be allowed to be sullied solely because another individual can have its freedom.



- *Right to free speech cannot mean that a citizen can defame the other. “Reputation” of one cannot be allowed to be crucified at the altar of the other’s right of free speech.*

Authority: **Subramanian Swamy v. Union of India** [2016 SC]

Other Rights and Freedoms flowing from Article 19

1. FREEDOM OF PRESS

- **Freedom of speech and expression includes freedom of press**
- Liberty of the press has been treated as inseparable and essential for the right to freedom of speech and expression

2. RIGHT TO INFORMATION

- **Freedom of speech and expression includes**
 - **right to acquire information and to disseminate it**
- Freedom of speech and expression is necessary for self-expression
 - which is an important means of free conscience and self-fulfilment

Protection against ex post facto penal law

Article 20(1)

- No **person** shall be convicted
 - for violation of a law not in force at the time of the offending act
- No person shall be subjected
 - to a penalty greater than that inflictible at the time of the offending act

Protection against double-jeopardy:

Article 20(2)

- No person shall be prosecuted and punished
 - for the same offence more than once

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