

Freedom of Speech - Article 19(1)(a)

The Constitution of India guarantees freedom of speech and expression to all citizens. It is enshrined in Article 19(1)(a). This topic is frequently seen in the news and is hence, very important for the [UPSC IAS exam](#). In this article, you can read all about Article 19(1)(a) and its provisions.

Article 19(1)(a)

According to Article 19(1)(a): All citizens shall have the **right to freedom of speech and expression**.

- This implies that all citizens have the right to express their views and opinions freely.
- This includes not only words of mouth, but also speech by way of writings, pictures, movies, banners, etc.
- The right to speech also includes the right not to speak.
- The [Supreme Court of India](#) has held that participation in sports is an expression of one's self and hence, is a form of freedom of speech.
- In 2004, the SC held that hoisting the national flag is also a form of this freedom.
- Freedom of the press is an inferred freedom under this Article.
- This right also includes the right to access information because this right is meaningless when others are prevented from knowing/listening. It is according to this interpretation that the **Right to Information (RTI)** is a fundamental right.
- The SC has also ruled that freedom of speech is an inalienable right adjunct to the right to life (Article 21). These two rights are not separate but related.
- Restrictions on the freedom of speech of any citizen may be placed as much by an action of the state as by its inaction. This means that failure of the State to guarantee this freedom to all classes of citizens will be a violation of their fundamental rights.
- The right to freedom of speech and expression also includes the right to communicate, print and advertise the information.
- This right also includes commercial as well as artistic speech and expression.

You can read all about [Fundamental Rights](#) at the linked article.

Importance of Freedom of Speech and Expression

A basic element of a functional democracy is to allow all citizens participation in the political and social processes of the country. There is ample freedom of speech, thought and expression in all forms (verbal, written, broadcast, etc.) in a healthy democracy.

Freedom of speech is guaranteed not only by the Indian Constitution but also by international statutes such as the [Universal Declaration of Human Rights](#), the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Fundamental Freedoms, etc.

- This is important because democracy works well only if the people have the right to express their opinions about the government and criticise it if needed.
- The voice of the people must be heard and their grievances be satisfied.
- Not just in the political sphere, even in other spheres like social, cultural and economic, the people must have their voices heard in a true democracy.
- In the absence of the above freedoms, democracy is threatened. The government will become all-too-powerful and start serving the interests of a few rather than the general public.
- Heavy clampdown on the right to free speech and free press will create a fear-factor under which people would endure tyranny silently. In such a scenario, people would feel stifled and would rather

suffer than express their opinions.

- Freedom of the press is also an important factor in the freedom of speech and expression.
- The second Chief Justice of India, M Patanjali Sastri has observed, “*Freedom of Speech and of the Press lay at the foundation of all democratic organizations, for without free political discussion no public education, so essential for the proper functioning of the process of Government, is possible.*”
- In the Indian context, the significance of this freedom can be understood from the fact that the Preamble itself ensures to all citizens the liberty of thought, expression, belief, faith and worship.
- Liberal democracies, especially in the West, have a very wide interpretation of the freedom of speech and expression. There is plenty of leeway for people to express dissent freely.
- However, most countries (including liberal democracies) have some sort of censorship in place, most of which are related to defamation, hate speech, etc.
- The idea behind censorship is generally to prevent law and order issues in the country.

The Need to Protect Freedom of Speech

There are four justifications for freedom of speech. They are:

1. For the discovery of truth by open discussion.
2. It is an aspect of self-fulfillment and development.
3. To express beliefs and political attitudes.
4. To actively participate in a democracy.

Restriction on Freedom of Speech

The freedom of speech is not absolute. Article 19(2) imposes restrictions on the right to freedom of speech and expression. The reasons for such restrictions are in the interests of:

1. Security
2. Sovereignty and integrity of the country
3. Friendly relations with foreign countries
4. Public order
5. Decency or morality
6. Hate speech
7. Defamation
8. Contempt of court

In the A K Gopalan Case, Justice Patanjali Sastri stated that “*man as a rational being desires to do many things, but in a civil society his desires will have to be controlled with the exercise of similar desires by other individuals.*” This implies that the **liberty of one person must not offend the liberty of other people.**

The Constitution provides people the freedom of expression without fear of reprisal, but it must be used with caution, and responsibly.

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](#).

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

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](#).

UPSC Questions related to Freedom of Speech

Is freedom of speech a fundamental right in India?

Yes, freedom of speech is a fundamental right guaranteed under Article 19(1)(a).

What is Article 19 of the Constitution of India?

Article 19 of the Constitution guaranteed the right to freedom. Read more [here](#).

What are the 7 fundamental rights of India?

The 7 fundamental rights are:

1. Right to equality
2. Right to freedom
3. Right against exploitation
4. Right to freedom of religion
5. Cultural and educational rights
6. Right to constitutional remedies

