

Introduction

- Fundamental Rights are guaranteed to citizens and residents by the Constitution of India under Part III of the constitution of India.
- Article 19 outlines six freedoms.
 - Speech and Expression
 - Assemble Peaceably without Arms
 - Form Association
 - Move freely throughout territory of India
 - Reside and settle in any part of territory of India
 - Practice any profession or carry out any occupation, trade or business

Significance

- But all these are subject to restrictions known as “REASONABLE RESTRICTIONS”.
- This is based on the principle that one cannot take away someone’s else’s rights while exercising their rights.
- These reasonable restrictions are enlisted in Article 19 Clause (2) to Clause (6).

Reasonable Restrictions of Freedom of Speech and Expression

- Sovereignty and integrity of India (16th constitutional amendment act 1963)
- Security of State
- Friendly relations with foreign countries
- Public order
- Decency or morality
- Contempt of Court
- Defamation
- Incitement to an offence

Reasonable Restrictions on Freedom of Assembly

- Sovereignty and Integrity of India
- Public Order

Reasonable Restrictions on freedom to form association

- Sovereignty and integrity of India
- Public order
- Morality

Reasonable Restrictions on freedom of movement and residence

- Interest of general public
- Protection of interests of any Scheduled Tribe

Reasonable Restrictions on freedom of occupation

- Interest of general public
- Making law relating to professional or technical qualification necessary for practicing any profession

- Carrying on by the state or by corporation owned or controlled by state of any trade, business, industry or service.

Romesh Thapar V/S State of Madras 1950

- The Constitution (1st Amendment), Act, 1951 also added (public order) ground to the constitution, so as to meet the circumstances emerging from the Supreme Court's decision.
- In the case of **Romesh Thapar v. State of Madras**, the Supreme Court held that the public order is different from the security of the state and from the law and order.
- The Supreme Court said that public order is an expression of the public peace, public safety and tranquillity.
- In this case, there was a ban on a Journal by the law in the State of Madras in the interest of public order.
- The court held that the restrictions imposed by the government were only on the grounds mentioned in Article 19(2).
- So, in this case, the decision was taken by the Supreme court and the expression "public order" was added to Article 19 (2) to impose certain restrictions on the freedom of speech and expression.

1st Constitutional Amendment Act 1951

- Added three more grounds of restrictions on freedom of speech and expression, viz., public order, friendly relations with foreign states and incitement to an offence.
- Also, made the restrictions "reasonable" and thus, justiciable in
- Provided that state trading and nationalization of any trade or business by the state is not to be invalid on the ground of violation of the right to trade or business.

Decency or Morality

- Defined in **IPC Section 292-294**.
- **Obscene if it is lascivious** or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to **tend to deprave and corrupt person**.
- In the case of **Anuradha Bhasin v. Union of India** the petitioner challenged the internet shutdown in the state of Jammu and Kashmir.
- The Court held that the "freedom to access the internet" is a fundamental right and it is protected under Article 19 (1) (a); the freedom of speech and expression of the Indian Constitution.
- The requests of suspending the internet were put on hold under the Internet Suspension Rules were dependent upon judicial review, the court, however, avoided considering the shutdown in the Union Territory as illegal.