# Freedom of Speech

Mains Syllabus: GS- II Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

**Why in the News?**

Recently, the Supreme Court has granted interim bail to Ashoka University professor on a case filed against him for his social media post commenting Operation Sindoor.

**What are the significances of freedom of speech and expression in a democracy?**

> *"Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties," said John Milton in his famous pamphlet, Areopagitica (1644)*

- **Lifeblood of Democracy** - Freedom of speech and expression, especially regarding political and public issues, is described as the "lifeblood" of democracy.
- **Integral Part of Human Dignity** - Freedom of speech and expression are fundamental human rights, recognized as integral to human dignity and necessary for a functioning democracy.
- **Self-fulfillment of Citizen** - If a citizen is not allowed to express his emotions, his opinions, his frustration, and his happiness he will not feel self-fulfilled.
- **Productivity** – An individual, whose liberty of thought and expression is restricted, will also have productivity and creativity restricted.
- **Thriving Society** - The free exchange of ideas allows for robust debates, fostering critical thinking, tolerance, and the evolution of societal norms.
- **Accountability and Justice** - Freedom of speech acts as a check on governmental power and enables citizens and the press to question, criticize, and demand accountability from those in authority, helping to prevent corruption and abuse of power.

> *John Stuart Mill, in his celebrated essay on liberty, said that '"If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind".*

- **Attaining Truth** - Exchange of information is essential for uncovering the truth, as different viewpoints can reveal insights that might otherwise be missed.

*Milton said, "Though all winds of doctrine were let loose to play upon the earth, so truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and falsehood grapple, who ever knew truth put to the worse, in a free and open encounter".*

## What is the significance of liberty in universities?

- **Foundation for Teaching and Research** - Academic freedom protects the right of faculty and students to teach, learn, research, and publish without fear of censorship or sanction from university officials or external authorities.
- **Promotion of Innovation and Critical Thinking** - Liberty in universities is a necessary precondition for experimentation, innovation, and challenging established orthodoxy
- **Societal Benefit and the Common Good** - Academic freedom enables universities to serve the common good by searching for and disseminating knowledge, fostering independent thinking, and promoting critical expression among both staff and students
- **Protection from External Interference** - Liberty in universities ensures independence from political, religious, or economic pressures, allowing teaching and research to remain morally and intellectually autonomous.
- **Diversity of Ideas** - Exposure to a diverse range of ideas, including those that compete or contrast, is fundamental for developing critical thinking and informed citizenship.

## What are the challenges to freedom of expression?

- **Lack of Clarity on Censorship Laws** - Overly broad definitions of terms like "extremism," "hate speech," and "defamation" are used to suppress legitimate expression and restrict public debate.
- These laws are frequently vague, granting authorities broad discretion to silence critics and dissenters.
- **Suppression of the Press** - Repression, legal harassment, and attacks faced by journalists and media outlets.
- **Surveillance** - Sophisticated surveillance technologies to monitor activists, journalists, and ordinary citizens undermines privacy and deters free expression.
- **Disinformation and Misinformation** - The spread of false information, through social media, undermines informed public debate and can be used to justify further restrictions on free expression.
- **Societal and Cultural Pressures** - Social intolerance, religious dogmatism, and cultural taboos can also limit freedom of expression, leading to self-censorship or the marginalization of minority voices.

## Constitutional Provisions on Freedom of Speech and Liberty

• **Preamble** - Liberty of thought and expression for all citizens is enshrined in the preamble of the constitution as one of the basic structure of the constitution.
• **Fundamental Right** - Article 19(1) (a) of the Constitution guarantees all citizens the right to freedom of speech and expression.
• This right covers expressing one's views and opinions through any medium—spoken words, writing, printing, visual representation, or any other means.

## Judicial Protection on Freedom of Speech and Liberty

• **Anuradha Bhasin vs Union of India (2020)** - Supreme Court not only held the right to Internet as a part of free speech but also reiterated that the restrictions on free speech can be imposed after considering alternative measures.
• It added that such restrictions must be legitimate, necessary and least intrusive.
• It is the state, which has the burden of proof in establishing that the restriction is proportionate, and thus reasonable.
• **Dr. Janet Jeyapaul vs S.R.M. University and Anr. (2015)-** The court had held private universities as 'state' because they too discharge 'public functions'.
• Any arbitrary dictate by them would be hit by Article 14, i.e., the right to equality, which includes the right against arbitrariness.
• **Shreya Singhal v. Union of India (2015)** - In this pivotal case, the Supreme Court struck down Section 66A of the Information Technology Act, 2000, which criminalized the sending of offensive messages through communication services, etc.
• The Court held that the provision was vague and overbroad, violating the right to freedom of speech and expression under Article 19(1) (a) of the Indian Constitution.

## Reasonable Restricts on Freedom of Speech and Expression

• Article 19(2) of the Constitution allows restrictions on freedom of speech and expression in the following cases.
• Sovereignty and Integrity of India - To prevent speech that threatens the unity and territorial integrity of the country.
• Security of the State - To prohibit speech that may incite violence, rebellion, or threaten the safety and stability of the State.
• **Friendly Relations with Foreign States** - To avoid statements that could harm diplomatic relations with other countries.
• **Public Order** - To maintain peace and prevent activities that could disturb public tranquility or incite disorder.
• **Decency or Morality** - To restrict obscene, indecent, or immoral expressions.
• **Contempt of Court -** To prevent speech that may lower the authority of courts or interfere with the administration of justice.
• **Defamation** - To protect an individual's reputation from false and damaging statements.
• **Incitement to an Offense** - To curb speech that encourages or provokes criminal acts.

## Nature of Restrictions

• **Reasonable Restrictions** - They should not be arbitrary or excessive and must have a logical connection to the interest being protected.
• Restrictions in the interests of 'sovereignty and integrity' were inserted by the Constitution (Sixteenth Amendment) Act, 1963.
• **Judicial Review** - The courts have the power to assess whether a restriction is reasonable and justified under Article 19(2).

## What lies ahead?

- Freedom of speech and liberty of thought and expression are indispensable to democracy.
- Balancing the right to freedom of speech and expression with the imperatives of state integrity and sovereignty is a fundamental challenge for democracies.
- This balance is achieved through constitutional safeguards, reasonable restrictions, and ongoing judicial and societal debate.

## Reference

[The Hindu | the university versus constitutionally protected speech]

