



# Fundamental Rights to Reside and to Move About Freely

## Why in News

Recently, while setting aside an externment order against a journalist, the [Supreme Court \(SC\)](#) ruled that **a person's fundamental right to reside and to move about freely anywhere in India cannot be refused on "flimsy grounds"**.

- **Externment orders** prevent the movement of a person in certain areas.
- According to the SC, the drastic action of externment should only be taken in exceptional cases, to maintain law and order in a locality and/or prevent a breach of public tranquility and peace.

## Key Points

- **Freedom to Move Freely Throughout the Territory of India:**
  - **Article 19(1)(d) of the Indian Constitution** entitles every citizen to move freely throughout the territory of the country.
  - This right is protected **against only state action and not private individuals**.
  - Moreover, it is **available only to the citizens and to shareholders of a company** but not to foreigners or legal persons like companies or corporations, etc.
  - The freedom of movement has **two dimensions**, viz, internal (right to move inside the country) and external (right to move out of the country and right to come back to the country).
    - **Article 19 protects only the first dimension.**
    - The second dimension is dealt by Article 21 (Right to life and personal liberty).
  - **Restrictions** on this freedom can only be **imposed on two grounds** which are mentioned in the **Article 19(5)** of the constitution itself, namely, the interests of the general public and the protection of interests of any scheduled tribe. For example:
    - The Supreme Court held that the freedom of movement of prostitutes can be restricted on the grounds of public health and in the interest of public morals.
    - The entry of outsiders in tribal areas is restricted to protect the distinctive culture, language, customs and manners of scheduled tribes and to safeguard their traditional vocation and properties against exploitation.
- **Freedom to Reside and Settle in any part of the Territory of India:**
  - According to **Article 19(1)(e) of the Constitution**, every citizen of India has the right "to reside and settle in any part of the territory of India."
  - The object of the clause is **to remove internal barriers** within India or any of its parts.
  - This right is also **subject to reasonable restrictions mentioned in clause (5) of Article 19**.
  - **Right to reside and the right to move freely** throughout the country **are complementary** and often go together.

## Article 19 of the Constitution

- Article 19 entails **freedom of speech and expression**.
- It implies that every citizen has the **right to express his views, opinions, beliefs and convictions freely by word of mouth, writing, printing, picturing** or in any other manner.
- Article 19 guarantees to all citizens the **six rights**. These are:

- Right to freedom of speech and expression.
- Right to assemble peaceably and without arms.
- Right to form associations or unions or co-operative societies.
- Right to move freely throughout the territory of India.
- Right to reside and settle in any part of the territory of India.
- Right to practice any profession or to carry on any occupation, trade or business.
- **Restrictions on Freedom of Speech and Expression (Article 19(2)):**
  - The reasons for such restrictions are in the interests of: Security, Sovereignty and integrity of the country, Friendly relations with foreign countries, Public order, Decency or morality, Hate speech, [Defamation](#), [Contempt of court](#).
- **SC Judgments Regarding Article 19:**
  - [Right to Protest](#): While hearing the case of Shaheen Bagh protests, the SC declared that there is **no absolute right to protest**, and it could be subjected to the orders of the authority regarding the place and time.
  - [Truth and Hate Speech](#): In the context of **discussing the limits of free speech and what may tantamount to hate speech**, the SC has recently held that “Historical truths must be depicted without in any way disclosing or encouraging hatred or enmity between different classes or communities.”
  - [Internet as a Medium of Information Diffusion](#): **While hearing the case of Internet shutdown in Jammu and Kashmir**, the SC refrained from the view on declaring the right to access the Internet as a fundamental right but still went on to make the Internet as an integral part of the freedom of expression guaranteed under Article 19(1) of the Constitution.
  - **Freedom of Press: Romesh Thappar v. State of Madras case 1950**, was amongst the earliest cases to be decided by the SC declaring freedom of press as a part of freedom of speech and expression.
  - **Right to Information**: SC in **Union of India v. Assn. For Democratic Reforms case 2002**, held that the freedom of 'speech and expression' comprises not only the right to express, publish and propagate information, its circulation but also to receive information.
  - **Right to Expression Beyond National Boundaries**: In **Maneka Gandhi vs Union of India case 1978**, the SC considered whether Article 19(1)(a) of Indian Constitution was confined to Indian territory and held that the freedom of speech and expression is not confined to National boundaries.
  - **Right to Silence**: The SC in **Bijoe Emmanuel v. State of Kerala 1986** held that the right not to speak or Right to silence is also included in the Right to speech and expression.

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