



## First Amendment to the Indian Constitution

**For Prelims:** Right to Freedom of Speech, Article 19, National Security, PIL, Supreme Court, Sedition.

**For Mains:** First Amendment to the Indian Constitution 1951, and its implications.

### Why in News?

The [Supreme Court \(SC\)](#) has agreed to examine a [PIL \(Public Interest Litigation\)](#) challenging changes made to the [right to freedom of speech and expression](#) by the first amendment to the Constitution in 1951.

### What are the Petitioner's Arguments?

#### ▪ **Objectionable Insertions:**

- **Section 3(1) of the amending Act substituted original Clause (2) of [Article 19](#) with a new Clause (2), which contained **two objectionable insertions**.**
- Original Clause (2) of Article 19 was dealing with reasonable restrictions on the freedom of speech and expression guaranteed under Article 19(1)(a).
- New Clause (2), contained “two objectionable insertions” allowing restrictions also “in the interest of public order” and “in relation to incitement to an offence”.
- Section 3 (2) of the amending Act effected validation of certain laws even if they took away or abridged the right to freedom of speech and expression.

#### ▪ **Neglects National Security:**

- The amendment also neglects **national security** by dropping the expression ‘**tends to overthrow the State**’ which raises **grave concern in the context of the dangers posed to the concept of secular democratic republic** by [radicalism, terrorism](#) and religious fundamentalism.

#### ▪ **Insertions Protect Sections of the IPC from the vice of Unconstitutionality:**

- **124A:** [Sedition](#)
- **153A:** Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.
- **295A:** Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs)
- **505:** Statements conducing to public mischief) of the Indian Penal Code from the vice of unconstitutionality.

#### ▪ **Section 3 (1)(a)- 3 (2) Void:**

- The plea urged the **court to declare Section 3 (1)(a) and 3 (2) of the First Amendment “beyond the amending power of Parliament”** and void since the “same damage the basic or essential features of the Constitution and destroy its [basic structure](#)”.

### What was the Constitution First Amendment Act, 1951?

#### ▪ **About:**

- The First Amendment was passed in **1951 by the Provisional Parliament, members of who had just finished drafting the Constitution as part of the Constitutional Assembly.**
- The First Amendment Act amended **articles 15, 19, 85, 87, 174, 176, 341, 342, 372 and 376.**
- Provided for the saving of laws providing for the acquisition of estates, etc.
- Added **Ninth Schedule** to protect the land reforms and other laws included in it from the judicial review. After Article 31, Articles 31A and 31B were inserted.
- **Reason for Amendments:**
  - The immediate reason for the amendments were a series of Supreme Court and High Court judgments that had struck down provisions of public safety laws, press related laws and criminal provisions that were deemed to be incompatible with the constitutional right to freedom of speech.
- **Implications:**
  - Under the **provisions of Article 31**, laws placed in the Ninth Schedule **cannot be challenged in a court of law** on the ground that they violated the fundamental rights of citizens.
  - Article 31(A), has vested enormous power to the State with respect to the acquisition of **estates or taking over management of any property or corporation in public interest.** It sought to exclude such acquisitions or from the **scope of judicial review under Articles 14 and 19.**
  - The Ninth Schedule was widely misused. Ninth Schedule contains more than **250 legislations receiving protection under Ninth Schedule** from judicial scrutiny.

## Way Forward

- The power to introduce amendments is with the Parliament/Executive. Several times, **this power is exercised to assert its supremacy.** Therefore, it is crucial that the **Supreme Court performs the simultaneous role** of interpreting and evaluating them judiciously. It is the role of the judges to limit these powers or declare the arbitrary and flawed amendments unconstitutional.
- The implications of the first amendment act 1951 have been a **reason for numerous political debates on the relevancy** and sanctity of democracy.
- The ninth schedule has become controversial due to its absolute exemption from judicial scrutiny. This has led to the misuse of the laws several times.
- Hence, **it is a positive approach to revisit the amendment to rectify the shortcomings.**

## UPSC Civil Services Examination, Previous Year Question

**Q. The Ninth Schedule was introduced in the Constitution of India during the prime ministership of (2019)**

- (a) Jawaharlal Nehru
- (b) Lal Bahadur Shastri
- (c) Indira Gandhi
- (d) Morarji Desai

**Ans: (a)**

**Source: TH**

