



Supreme Court Expands Article 19 Ambit

For Prelims: Article 19 ambit, Supreme Court, Fundamental Rights

For Mains: Important Judgements, Fundamental Rights

Why in News?

Recently, the [Supreme Court](#) has ruled that a fundamental right under [Article 19/21](#) can be enforced even against persons other than the State or its instrumentalities.

- The court took this view while ruling that the right of **free speech and expression guaranteed under the Article 19(1)(a) cannot be curbed by any additional grounds** other than those already laid down in Article 19(2).

What is Article 19?

- Article 19 of the Constitution of India guarantees the **right to freedom of speech and expression, and is typically invoked against the state.**
 - **Article 19(1)** in The Constitution Of India 1949, All citizens shall have the right
 - (a) to freedom of speech and expression;
 - (b) to assemble peaceably and without arms;
 - (c) to form associations or unions;
 - (d) to move freely throughout the territory of India;
 - (e) to reside and settle in any part of the territory of India; and
 - (f) omitted
 - (g) to practise any profession, or to carry on any occupation, trade or business.
 - **Article 19(2)** in The Constitution Of India 1949,
 - Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any **law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause** in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.
- Some fundamental rights, such as those prohibiting untouchability, trafficking, and bonded labor, **are explicitly against both the state and other individuals.**

What is the Reference for this SC's Ruling?

- **Enforcing Rights against Private Entities:**
 - This interpretation **brings an obligation on the state to ensure that private entities also abide** by Constitutional norms.
 - It opens up a **range of possibilities in Constitutional law, potentially allowing for the enforcement of privacy rights against a private doctor** or the right to free speech against a private social media entity.

▪ **Reference to Previous Court Rulings:**

- The Court referenced the **2017 verdict in Puttaswamy**, in which a nine-judge bench unanimously upheld **privacy as a fundamental right**.
- The government had argued **that privacy is a right enforceable against other citizens and, therefore, cannot be elevated** to the status of a fundamental right against the state.

▪ **International Perspectives:**

- The Court also looked to **foreign jurisdictions, contrasting the American approach with the European Courts**.
- The US Supreme Court's ruling in ***New York Times vs. Sullivan***, which found that **defamation law as applied by the state against The New York Times** was inconsistent with the Constitutional guarantee of freedom of speech and expression, was cited as an example of a shift in US law from a "purely vertical approach" to a "horizontal approach."
- A **vertical application of rights** would mean it can be enforced only against the state while a **horizontal approach** would mean it is enforceable against other citizens.
 - For example, a horizontal application of the right to life would enable a citizen to bring a case against a private entity for causing pollution, which would be a violation of the right to a clean environment.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q1. 'Right to Privacy' is protected under which Article of the Constitution of India? (2021)

- (a) Article 15
- (b) Article 19
- (c) Article 21
- (d) Article 29

Ans: (c)

Q2. Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement? (2018)

- (a) Article 14 and the provisions under the 42nd Amendment to the Constitution.
- (b) Article 17 and the Directive Principles of State Policy in Part IV.
- (c) Article 21 and the freedoms guaranteed in Part III.
- (d) Article 24 and the provisions under the 44th Amendment to the Constitution.

Ans: (c)

Mains

Q. Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. (2017)

Source: IE

