

Internet access a fundamental right, Supreme Court makes it official: Article 19 explained

The Supreme Court has declared access to internet a fundamental right. The ruling is in sync with the United Nations recommendation that every country should make access to Internet a fundamental right.

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The Supreme Court has on many occasions expanded the scope of the right to freedom of speech and expression. (Photo: PTI)

The Supreme Court has declared access to internet a fundamental right. A government cannot deprive the citizens of fundamental rights except under certain conditions explicitly mentioned in the Constitution. The ruling came on hearing of a plea in connection with Internet blockade in Jammu and Kashmir since August 5 -- in the view of revoking of Article 370 in the Union Territory.

Indian constitution makes the right to freedom of speech and expression a fundamental right for all citizens. It has been listed in Article 19 (1)(a) of the Constitution. The Supreme Court has on many occasions expanded the scope of the right to freedom of speech and expression.

The latest expansion makes the constitutional provision keep pace with innovation of technology. Internet is the primary source of information to millions of Indian citizens. A non-citizen can avail the same benefits but cannot claim it as her fundamental right.

The Supreme Court ruling is also in sync with the United Nations recommendation that every country should make access to Internet a fundamental right. In India, [Kerala had become the first state in 2017 to declare access to Internet "a basic human right"](#).

A state cannot technically declare a service, facility or a kind protection as fundamental right as it requires interpretation of (by high courts and/or the Supreme Court) or amendment to the Constitution by Parliament.

Article 19 of the Constitution lists the following as fundamental rights under "Protection of certain rights". It says:

(1) All citizens shall have the right

(a) to freedom of speech and expression;

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(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 (the right to property)

(g) to practise any profession, or to carry on any occupation, trade or business

The Supreme Court on previous instances had deduced freedom of the press from freedom of speech and expression and asserted that it is a guarantee. In the landmark Sakal Papers judgment, the Supreme Court ruled that freedom of the press cannot be curtailed, unlike the freedom to carry on business, in the interest of the general public.

The only restrictions which may be imposed are those mentioned in clause (2) of Article 19.

These are:

- the interests of the sovereignty and integrity of India,

- the security of the State,
- friendly relations with foreign States,
- public order, decency or morality
- in relation to contempt of court, defamation or
- incitement to an offence

Delivering another milestone judgment, the Supreme Court on Friday directed the Jammu and Kashmir restore Internet services in institutions providing essential services like hospitals and educational places, and to review all orders imposing curbs in the Union Territory within a week.

Reference: India Today