

PIL challenging First Amendment Act 1951

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In news—India's Apex Court has recently agreed to examine a PIL challenging changes made to the right to freedom of speech and expression by the first amendment to the Constitution in 1951,

What are the challenges?

- In his plea, the petitioner, Senior Advocate K Radhakrishnan, contended that the amendment damages the basic structure doctrine. He objected to the following insertions-
 - **Section 3(1) of the 1951 Amending Act substituted original Clause (2) of Article 19** – dealing with reasonable restrictions on the freedom of speech and expression guaranteed under Article 19(1)(a) – with a new Clause (2), which **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.
- **The petition contended that these two insertions protect Sections 124A (sedition), 153A** (promoting enmity between different groups on grounds of religion, race, place of birth, residence, language), **295A (deliberate and malicious acts, intended to outrage religious feelings** of any class by insulting its religion or religious beliefs) and **505 (statements conducing to public mischief)** of the Indian Penal Code **“from the vice of unconstitutionality”**.

- The petition further said that the two questionable expressions inserted unduly abridge the fundamental right under Article 19 (1)(a).
- This undue abridgement “does not advance or sub serve any constitutional objectives” but “damages, inter alia democracy and republicanism and supremacy of the Constitution.
- **The amendment also neglects national security** by dropping the expression ‘tends to overthrow the State’.
- **The glaring omission of the expression ‘tends to overthrow the State’** raises grave concern in the context of the dangers posed to the concept of secular democratic republic by radicalism, terrorism and religious fundamentalism.
- **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 is the 1st Amendment act 1951?

- The Constitution (First Amendment) Act, 1951, enacted in 1951, made several changes to the Fundamental Rights provisions of the Indian constitution.
- The First Amendment Act amended articles 15, 19, 85, 87, 174, 176, 341, 342, 372 and 376.
- It added the 9th Schedule to Indian constitution that contains a list of central and state laws which cannot be challenged in courts.
- It also inserted articles 31A and 31B.
- In total, it provided means to restrict freedom of speech and expression, validation of *zamindari* abolition laws, and clarified that the right to equality does not bar the enactment of laws which provide “special consideration” for weaker sections of society.