

First Amendment at 75: The bargain that still shapes India's rights

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On June 18, 1951, the First Amendment to the Indian Constitution came into force. Few constitutional changes have had a deeper impact on the Republic. Introduced less than 16 months after the Constitution's adoption, it reshaped the relationship between the State, the judiciary and citizens at a formative moment in India's democratic life.

The amendment altered the scope of three fundamental rights: freedom of speech, equality and property rights. It also created a new constitutional mechanism through which certain laws could be protected from challenge on the ground that they violated fundamental rights. Significantly, these changes were enacted before independent India's first general elections.

The First Amendment expanded the grounds on which the State could impose reasonable restrictions on free speech under Article 19(2), including public order and friendly relations with foreign states. It enabled special provisions for socially and educationally backward classes under Article 15(4). It also inserted Articles 31A and 31B and created the Ninth Schedule, initially to protect land reform laws from being invalidated on fundamental-rights grounds.

The amendment arose from a clash between constitutional rights and the social and political priorities of a newly independent nation. To its supporters, it was a pragmatic response to urgent demands of reform and nation-building. To its critics, it marked an early narrowing of the liberal promise of fundamental rights. Seventy-five years later, debates over speech, affirmative action, property, Parliament and judicial review still carry the imprint of choices made in 1951.

When speech met public order

The central question before the young Indian State and the Supreme Court was stark that how far could speech, especially press freedom, be restricted in the interest of public order?

In *Brij Bhushan v State of Delhi*, the Supreme Court struck down a pre-censorship order against the *Organiser* under the East Punjab Public Safety Act, holding that prior restraint violated press freedom under Article 19(1)(a). In *Romesh Thappar v State of Madras*, it invalidated a ban on the magazine *Cross Roads* under the Madras Maintenance of Public Order Act, ruling that the restriction went beyond the then-existing limits under Article 19(2).

“ Speech and the State

How the 1951 First Amendment
widened the grounds for
restricting speech



After Brij Bhushan
and Romesh Thappar,
Parliament amended
Article 19(2).



The amendment
broadened the
framework for
'reasonable restrictions'
on speech.



Public order became
a central constitutional
ground in later
speech disputes.



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These judgments prompted a constitutional response. The First Amendment expanded Article 19(2), giving the State wider grounds to impose reasonable restrictions on speech.

The contrast with the United States is often noted. The American First Amendment is framed as a restriction on Congress's power to abridge speech or press freedom. India's First Amendment moved in a different direction: it recalibrated the balance between freedom and regulation, placing greater emphasis on constitutionally recognised grounds for restriction.

Critics have long argued that this altered the liberal architecture of the original Constitution. Historian Tripurdaman Singh, in *Sixteen Stormy*

Days, describes the First Amendment as a moment that narrowed individual liberty and civil rights. Others, including advocate Abhinav Chandrachud, have argued that the amendment must be understood against the anxieties of a newly independent country still dealing with Partition, communal violence and the challenge of maintaining order. Chandrachud has also noted that the insertion of the word “reasonable” gave courts a standard by which to test disproportionate restrictions.

The legacy of this compromise remains visible. Modern disputes over speech, censorship, platform restrictions, films, books and public order continue to be argued within a framework in which free expression is constitutionally guaranteed but also subject to defined restrictions. The enduring question is whether that framework remains balanced in an age of instant communication, digital mobilisation and expanding State capacity.

When reform was shielded from courts

The most far-reaching provisions of the First Amendment related to land reform and judicial review. The abolition of the zamindari system was a major political and social project for governments at the Centre and in the states, but early land reform laws faced constitutional challenge.

A key moment came when the Patna High Court struck down the Bihar Land Reforms Act in *Kameshwar Singh*. Concerned that similar laws could be vulnerable to judicial invalidation, the government introduced Articles 31A and 31B. Article 31B created the Ninth Schedule, which initially included 13 land reform laws.

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Land reform vs rights

The First Amendment created
a shield for key reform laws



Articles 31A
and 31B were
inserted in 1951.



The Ninth
Schedule initially
covered 13 land
reform laws.



The goal was to
protect agrarian
reform from
rights-based
challenges.



In *I.R. Coelho*
(2007), the
Supreme Court
reaffirmed
constitutional
limits.



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The stated purpose was to protect a major programme of agrarian reform from being stalled by litigation over property rights. Nehru expressed this concern in letters to chief ministers, writing that urgent social change could not be indefinitely delayed because the Constitution stood in the way, and that a remedy might require a constitutional change.

The deeper constitutional question was larger than land reform. Could Parliament place certain laws beyond ordinary fundamental-rights scrutiny in pursuit of social and economic transformation? The First Amendment answered that question by creating a special shield for selected laws.

A comparison is sometimes drawn with Franklin D Roosevelt's New Deal struggle with the United States Supreme Court. Both Roosevelt and Nehru faced judicial resistance to transformative socio-economic programmes.

But the constitutional routes differed. Roosevelt's confrontation unfolded within the existing constitutional framework, while Nehru's government amended the Constitution to reduce the vulnerability of land reform laws to rights-based challenge.

Over time, the Ninth Schedule expanded far beyond its original land-reform setting. Laws relating to areas such as industrial regulation, reservations, electoral matters and taxation were also placed in it. This growth sharpened the tension between parliamentary power and constitutional supremacy.

The Supreme Court addressed that tension in *I.R. Coelho* in 2007. A nine-judge bench held that laws placed in the Ninth Schedule after the *Kesavananda Bharati* judgment could still be tested if they damaged or destroyed the basic structure of the Constitution. In effect, the Court restored a constitutional limit: the Ninth Schedule could not become a blanket route to avoid judicial review.

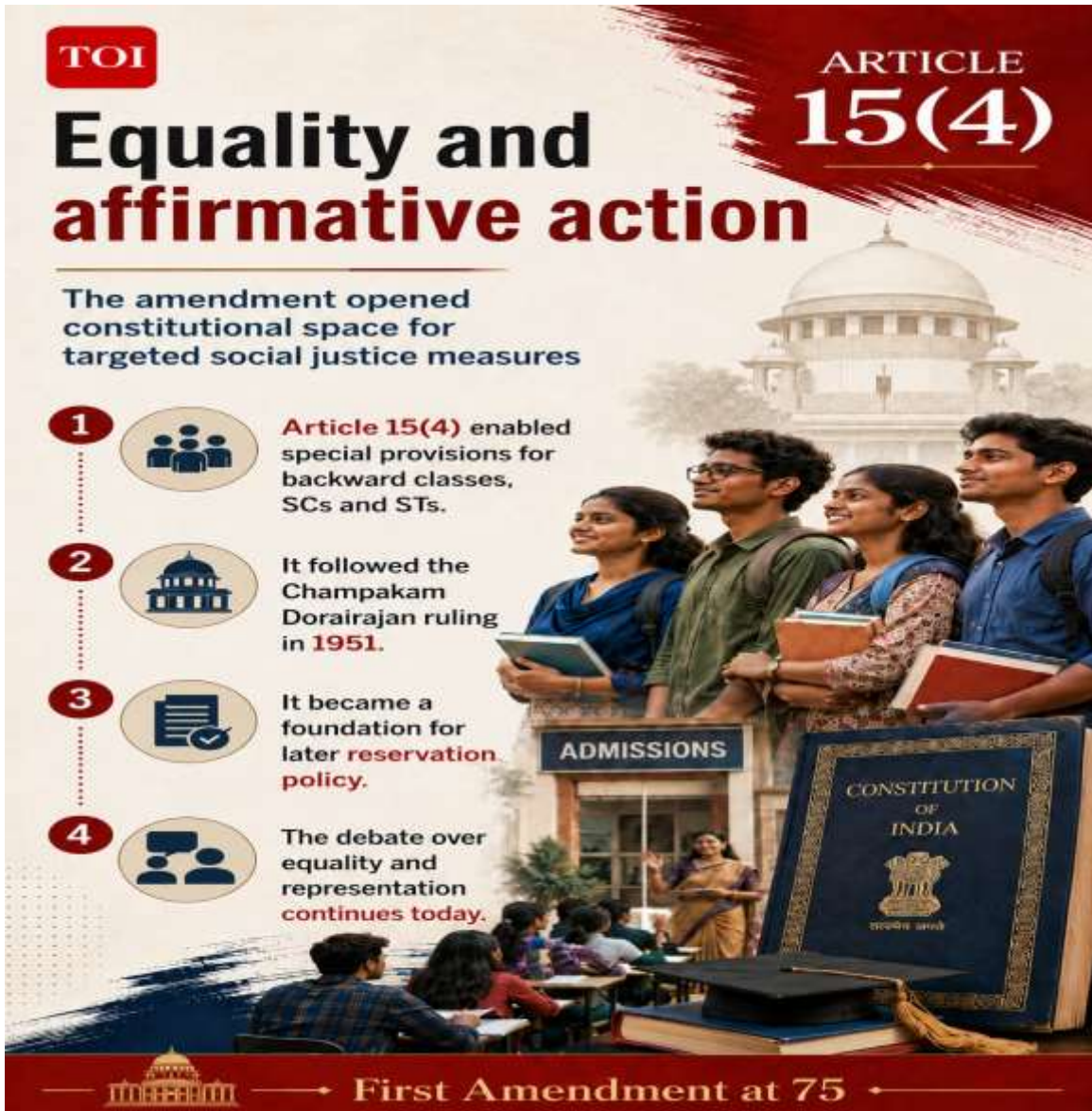
When equality made room for social justice

The First Amendment also inserted Article 15(4), allowing the State to make special provisions for socially and educationally backward classes, as well as Scheduled Castes and Scheduled Tribes. This change followed the Supreme Court's decision in *State of Madras v Champakam Dorairajan*, which struck down the Communal G.O. governing admissions in Madras on the ground that it violated the equality provisions of the Constitution. The case involved admissions to educational institutions and raised a foundational question: how should a constitutional promise of formal equality respond to deeply unequal social realities?

Equality and affirmative action

The amendment opened constitutional space for targeted social justice measures

- 1  Article 15(4) enabled special provisions for backward classes, SCs and STs.
- 2  It followed the Champakam Dorairajan ruling in 1951.
- 3  It became a foundation for later reservation policy.
- 4  The debate over equality and representation continues today.



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Article 15(4) became the constitutional basis for affirmative action in education. It later shaped the broader trajectory of reservation policy, including debates that culminated in the Mandal Commission and the Supreme Court's Indra Sawhney judgment.

The larger debate has never disappeared. India continues to wrestle with how to reconcile equality of opportunity, historical disadvantage, representation and social mobility. The First Amendment did not settle that argument. It created the constitutional space in which the argument would unfold.

The bargain that still governs India

The First Amendment remains one of the most consequential moments in Indian constitutional history. Its critics see it as the point at which the Constitution's promise of liberty was qualified by the imperatives of

governance. Its supporters see it as a necessary adjustment by a fragile new democracy confronting social inequality, public disorder and urgent reform.

Both readings contain a measure of truth. The amendment reminds us that constitutional democracies are sustained neither by rights alone nor by State power alone, but by a continuing negotiation between the two.

As India marks 75 years of the First Amendment, the question is not simply whether the amendment was right or wrong in 1951. The more urgent question is whether the balance it struck between freedom and regulation, reform and rights, Parliament and courts, remains adequate for a twenty-first-century democracy.

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