

Freedom of Literature Bill, 2018

Why in news?

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Congress MP Shashi Tharoor recently introduced the "Freedom of Literature Bill" in the Lok Sabha as a private member bill.

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What is the Bill on?

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- The Bill seeks to amend certain provisions in -

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- i. the Indian Penal Code

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- ii. the Code of Criminal Procedure

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- iii. the Customs Act

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- iv. Indecent Representation of Women (Prohibition) Act

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- The specified provisions largely affect the literary and artistic freedom in the country.

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- The objective is to amend and remove the existing provisions of the laws which can be misused to harass authors by vested interests.

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What are the key proposals?

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- The Bill seeks the omission of **Section 295A and 298 of IPC**, which punish acts done to outrage or wound religious feelings.
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- These provisions, in effect, act as a blasphemy law and are worded in wide and vague terms.
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- The provisions are mostly used to suppress alternate views expressed by writers, thinkers and scholars.
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- Notably, Section 153A of IPC already deals with speeches and acts intended to disrupt communal harmony.
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- Therefore, Sections 295A and 298 are proposed to be omitted as redundant.
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- Further, the wide ambit of obscenity laws acts as a major deterrent to literary freedom in the country.
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- Thus, **Section 292 IPC**, which punishes publication of obscene material, is sought to be omitted wholly.
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- The section imposes “social norms of the majority and the orthodoxy” and is “not in consonance with a liberal state.”
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- This is a classic case of morals being imposed on the citizens through the rigours of criminal law.
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- The Courts too have failed to explain why the arousal of sexual feelings due to some book or painting is a criminal act.
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- **Section 293 IPC**, which deals with distribution of obscene material, is also sought to be amended.
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- This is to make such distribution an offence only if it is targeted at children below the age of 18 years.
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- Also, **Sec 67 of the IT Act** (Information Technology Act), dealing with online obscenity is proposed to be amended to cover only child pornography.
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- The **Indecent Representation of Women (Prohibition) Act, 1986** is also sought to be amended.
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- The Bill states that indecent representation is any depiction which is derogatory to women, i.e. encouraging misogyny or discrimination.

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- The obscenity element is thus proposed to be removed from the definition as given in the Act.

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- The Bill further seeks to amend **Section 11 of the Customs Act**.

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- This is to state that the import of a book cannot be banned, barring exceptional circumstances.

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- This refers to cases where distribution of the book is likely to lead to a break down in public order despite the State taking all reasonable measures to prevent the same.

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- The Bill also amends **Sections 95 and 96 of the CrPC**, which enables Government to ban and forfeit books.

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- A new procedure is proposed, whereby the suspension of shipping in any book can be imposed only for 30 days.

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- Within this period, the Government has to get the ban order ratified by the High Court.

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- It thus removes the government's right to ban books indefinitely and also puts on it the onus of explaining the rationale for the ban.

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What is the need for the Bill?

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- In recent times, several attempts were made to get books withdrawn, pulped or sanitised of offending content.

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- Some of the instances include the following:

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1. Wendy Doniger's 'The Hindus: An Alternative History' was withdrawn from circulation

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2. A.K. Ramanujan's essay 'Three Hundred Ramayanas' was dropped from a Delhi University syllabus

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3. Tamil writer Perumal Murugan's 'Madhorubagan' (One Part Woman) was withdrawn by the author under mob pressure (resurrected by a Madras High Court verdict)

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- The principles of public order, national unity and social or religious harmony are being invoked against the practice of literary freedom.

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- These have, over the period, evolved as threats to free expression, especially artistic freedom.

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- It is in this context that the Freedom of Literature Bill was introduced.

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- The Bill is a welcome step towards removing or diluting penal provisions that inhibit literary freedom.

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Source: Live Law, The Hindu

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