

Right to Protest- Key Facts for UPSC

A protest is an event or activity in which individuals join with others to openly express their feelings about something happening in society. In recent years various protests have happened all across the country for different reasons, some examples can be the protests against the Citizenship (Amendment) Act (CAA), 2019 in Delhi's Shaheen Bagh or the farmers' year-long protest against the three farm laws from 2020 to 2021. The Constitution of India gives its citizens the Right to Protest peacefully. In this article, we will study in detail the Constitutional Right to Protest, certain restrictions related to the right, its significance and some SC judgements about the same.

This topic falls under the GS Paper 2 of the UPSC Exam and is very important for the Prelims as well as Mains point of the view.

Aspirants can go through the UPSC Syllabus to understand the relevance of the topic for the UPSC Exam.

Right to Protest in India - The Fundamental Right

The right to protest, to publicly challenge and try to persuade the government to respond, is a **fundamental political right** of the people that stems directly from a democratic interpretation of various provisions of Article 19. Although the Right to Protest is **not an explicit right** under the Fundamental Rights, it can be **derived from the Right to Freedom of Speech and Expression** under **Article 19**.

Right to Freedom of Speech - Article 19(1)(a):

The right to free speech and expression is translated into the freedom to publicly express one's opinion on the activities of the government.

Right to Freedom of Association- Article 19(1)(b):

It is vital to have the right to form political organisations. These can be organised in order to challenge government activities collectively.

Right to Freedom of Assembly- Article 19(1)(c):

Individuals have the freedom to peacefully congregate in order to question and object to government actions through demonstrations, agitations, and public assemblies, as well as to form long-term protest movements.

When these rights are combined, they allow anybody to peacefully gather and demonstrate against the State's action or inaction. The protests are for democracy, and the objective of the protest is to protect the integrity of flaws in the country. Read more about the Freedom of Speech and Expression here.

Reasonable Restrictions on Right to Protest

The right to protest, like other fundamental rights is **not absolute and is subject to reasonable restrictions** outlined in Articles 19(2) and 19(3) for the following reasons:

- The state's security
- In the interests of India's sovereignty and integrity
- Public order violation
- In terms of ethics or morality
- In connection to contempt of court, defamation, or encouragement to commit an offence
- Relations with other countries that are friendly

Restriction grounds based on violation of public order can be justified only if there is proof that protestors will inspire unlawful or disorderly activities and that such conduct is likely to occur.

According to a **UN Special Rapporteur's report** on the right to freedom of peaceful assembly, while restrictions on the right to peaceful assembly can be **imposed in the interests of national security or public order**, they must be legitimate, necessary, and reasonable to the goal pursued. It also states that these **restrictions are to be the exception**, not the rule and that they "**shall not undermine the essence of the right.**"

You can read more on Article 21 and the right to life and personal liberty here.

Importance of Right to Protest for Democracy

The active use of the right to protest guarantees that people play the role of watchdogs, continually monitoring the actions of the government and ensuring their justice. The significance of the protests is that:

- **Bring a Positive Social Change:** Protests have historically spurred constructive social change and the advancement of human rights, and they work to support identify and defend civic space across the world.
- **Human Rights Advancement:** Protests foster the growth of an involved and informed public.
- **Contributing to all aspects of life:** Protests have a significant role in all cultures' civic, political, economic, social, and cultural life.
- **Empowers Marginalised Section:** This is especially crucial for people whose interests are otherwise underrepresented or sidelined.
- **Strengthen Democracy:** They help to promote representative democracy by allowing direct engagement in public issues.
- **Increases Accountability:** They allow individuals and organisations to voice dissent and complaints, communicate ideas and opinions, uncover faults in governance, and openly demand that governments and other powerful institutions remedy issues and hold themselves accountable for their actions.

International Law on Right to Protest

- The right to peaceful protest is included in the Universal Declaration of Human Rights of the United Nations, which was ratified in December 1948.
- In international law, many treaties, particularly the International Covenant on Civil and Political Rights, recognise the rights to freedom of association, peaceful assembly, and speech.
- These rights create the right to protest when they are combined.

Concerns related to the Right to Protest

- **May become Violent:** Although citizens are permitted to assemble peacefully, marches and protest, these protests **can sometimes turn violent**, and damage lives and public property.
- **Political interference:** Political interference in the protest is usually done by the opposition government to support their own political agenda.
- **Impact on a day-to-day activity of people:** Protests may sometimes be a **public nuisance** for people who do not share the same viewpoint or simply wish to get on with their everyday routines.

To know more in detail about the Constitution of India, visit the linked article.

Supreme Court's Judgements on Right to Protest

The Supreme Court recognised the right to peaceful protest against the Act, stating that "**democracy and dissent go hand in hand**," but that "demonstrations expressing disagreement must be held only in specified places." The freedom to demonstrate and express dissent is protected by the Constitution, but it is accompanied by Fundamental Duties such as **Article 51A**, which states that every citizen has a fundamental responsibility **to defend public property and to abjure violence**.

- **Shaheen Bagh Judgement, 2019:** The court affirmed the right to peaceful protest against legislation, but cleared those public streets and public areas cannot be occupied forever. Fundamental rights do not exist in isolation. The right of the protestor must be weighed against the right of the commuter, and both must coexist in mutual regard.
- **Mazdoor Kisan Shakti Sangathan (MKSS) vs. Union of India (2018):** In this case, the Supreme Court recognised the basic right to assembly and peaceful protest, but directed that it be controlled so that it does not cause discomfort to residents of Jantar Mantar Road or the offices located there.
- **Ramlila Maidan Incident vs. Home Secretary, Union of India (2012):** The Supreme Court ruled that citizens have a basic right to assemble and demonstrate peacefully, which cannot be revoked by arbitrary administrative or legislative action.

Examples of Powerful Peaceful Protest in India

- **Chipko Movement, 1973:** The Chipko Movement was started on Gandhian nonviolent ideas. People, particularly women, protested deforestation by embracing trees. Thousands of people came out in support of the green movement across India. Get an answer to who started the Chipko Movement in the linked question. C
- **Narmada Bachao Andolan:** In **1985**, the Narmada Bachao Andolan was launched. This Andolan altered people's perceptions about development schemes. This demonstration was held to show opposition to a high number of dams being built along the Narmada River. It brought together a big group of Adivasis, farmers, environmentalists, and human rights advocates. The court ordered that development at the dam be halted immediately.
- **Lokpal (Jan Lokpal) Bill, 2011:** When anti-corruption campaigner Anna Hazare went on hunger strike at Jantar Mantar, the whole nation rallied behind him. This effort was a once-in-a-decade occurrence. Get an answer to what is Lokpal Bill in the linked question.
- **Nirbhaya Movement, 2012:** Following the 2012 Delhi Gang Rape, hundreds of people took to the streets to protest in various areas of the country. Finally, new legislation was enacted. The government also launched the Nirbhaya Fund to ensure the girls' protection.
- **Farmers' Protest, 2020:** The year-long protest by farmers all over the country against the three farm acts was successful, as the government withdrew the bills and formed a committee to review the MSP.

Conclusion

In a democracy, the rights to free expression and peaceful protest are "treasured" and must be nurtured and safeguarded. The most important argument made by the court specifically is that peaceful protest is a fundamental right of protestors, and that peaceful protest should be tolerated. However, the right to protest can be curtailed if it infringes the rights of others, causing severe issues for the common public such as the potential of a roadblock, discomfort, or a protest that disrupts everyday life.

