

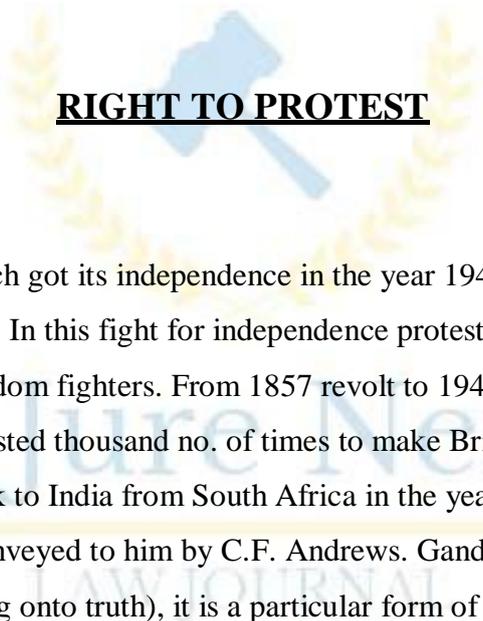
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**RIGHT TO PROTEST****INTRODUCTION**

We are a part of nation which got its independence in the year 1947 after struggling with the Britisher for over 200 years. In this fight for independence protest had been the greatest weapon for our mighty freedom fighters. From 1857 revolt to 1942 Quit India Movement, freedom fighters have protested thousand no. of times to make Britisher out from our nation. Mahatma Gandhi came back to India from South Africa in the year 1915 at the request of Gopal Krishna Gokhale, conveyed to him by C.F. Andrews. Gandhiji coined and developed the term Satyagraha (holding onto truth), it is a particular form of nonviolent resistance or civil resistance protest. The Champaran Satyagraha of 1917 was the first satyagraha movement led by Gandhiji in India and is considered a historically important revolt on the Indian Independence Movement. Satyagraha theory influenced Martin Luther king Jr. and James Bevel's campaigns during the civil rights movement in the United States, as well as Nelson Mandela's struggle against apartheid in South Africa and many other social justice and similar movements. Protest was the only weapon that our freedom fighter possessed while struggling to gain independence.

Protest has been conducted by the section of society or by an individual when they observe discrimination or when any wrong has happened to them. If citizens found any action, policy or the legislation of government not proper or arbitrary, they have right to oppose and criticize and right to express their views or opinions in front of government which can be expressed by a peaceful protest. Therefore, right to protest becomes a very important right for

the society and it is the responsibility of the state to ensure that this right should not be curtailed in any circumstances. The state has also the responsibility to check that this right should not be misused. To fulfill this obligation, architects of our constitution inserted Article 19 which gives the right to protest to the citizen of India. It is not an absolute right, reasonable restriction can be imposed by the state.

RIGHT TO PROTEST A FUNDAMENTAL RIGHT

Fundamental rights have been enshrined in the Part III of Constitution of India, they have been considered very important part of the constitution, falls under the ambit of basic structure of constitution. State has the onus that these rights should not be curtailed except according to procedure established by law.

Right to protest has not been mentioned explicitly in the constitution however, it has been mentioned implicitly in the Article 19 of constitution of India i.e. “protection of certain rights regarding freedom of speech – All citizens shall have the right:-

- to freedom of speech and expression;
- to assemble peaceably and without arms;
- to form associations or unions;
- to move freely throughout the territory of India;
- to reside and settle in any part of the territory of India; and
- to practice any profession, or to carry on any occupation, trade or business

In protest we express our disagreement with the state or any organization, this can be done by expressing our views to the public and respective authority. Several methods can be used to express ourselves, which includes interacting with people, making them aware about the situation or the wrong that has been happening to them, writing articles or by giving interviews to the electronic as well as print media. It is Article 19(1) (a) that gives the right to freedom of speech expression, which allows citizens of India to express themselves candidly without being frightened of any action by the state or any other organization.

While protesting people often gathered at one place or took out the rallies or sit on hunger strikes, in other words people assemble to make their views apparent to the general public and the respective authorities. In pre-independence era, even Gandhiji went on to hunger strike in jail against the Britishers to fulfill his demands. It is Article 19(1) (b) which gives

the right to citizens of India to assemble peaceably without arms i.e. they have the freedom to assemble or gather people at a particular area on conditions that it should not involve arms and ammunitions and the object of the assembly shall not consist of provoking any disharmony or feeling of enmity in the society.

Protestors often forms associations, union, clubs which helps them to put their views in public and those who got influence by these associations, can join them in the protest. This is a very common way that is used by the people to involve as much people as it is possible. It is Article 19(1) (c) which gives the right to citizens of India to form association or unions, by exercising this right people of India can easily form group which eventually helps them to convey their disagreements to the respective authorities.

Therefore, right to protest becomes a fundamental right because of the provisions enshrined in Article 19 of constitution of India. It is a very important right as it provides people of India to raise their voice against the injustice that has happened to them and allows people to feel liberated, which is the one of the most essential thing in democracy. Such protests help in strengthening Indian democracy and allow space for peaceful dissent which not only protects the right of the citizen but also helps in rectifying the loophole. The right to protest is an essential component in a free democracy to safeguard the interest of citizens.

SUPREME COURT ON RIGHT TO PROTEST

In **Re-Ramlila Maidan Incident Dt 4/5.06.11 V. Home Secretary And Ors.**, famous Yoga Guru Baba Ramdev started his hunger strike with the motto of “bhrashtachar mitao satyagraha”. The event was converted into Anshan. In the midnight police personal reached the spot and stopped this protest. The matter reached to the Supreme Court of India which held that the right to assembly and peaceful agitations were basic features of a democratic system and the Government should encourage exercise of these rights:

“245. Freedom of speech, right to assemble and demonstrate by holding dharnas and peaceful agitations are the basic features of a democratic system. The people of a democratic country like ours have a right to raise their voice against the decisions and actions of the Government or even to express their resentment over the actions of the Government on any subject of social or national importance. The Government has to respect and, in fact, encourage exercise of such rights. It is the abundant duty of the State to aid the exercise of the right to freedom of speech as understood in its comprehensive sense and not to throttle or frustrate exercise of

such rights by exercising its executive or legislative powers and passing orders or taking action in that direction in the name of reasonable restrictions.”

In **Maneka Gandhi v. Union of India**, Justice Bhagwati had said, “If democracy means the government of the people, by the people, it is obvious that every citizen must be entitled to participate in the democratic process and to enable him to intelligently exercise his rights of making a choice, free and general discussion of public matters is absolutely essential.”

Last year parliament passed the **Citizenship (Amendment) Act, 2019**. It amended the the Citizenship Act, 1955 by providing a path to Indian citizenship for illegal migrants of Hindu, Sikh, Buddhist, Jain, Parsi and Christian religious minorities, who had fled persecution from Pakistan, Bangladesh and Afghanistan before December 2014. Muslim from those countries was not given such eligibility. The act was the first time religion had been overtly used as a criterion for citizenship under Indian Law. The amendment was widely criticized as discriminating on the basis of religion particularly for excluding Muslims. Lots of protest had happened against this amendment by political parties as well as by non political groups. In these protests, the most prevalent was the Shaheen Bagh protest, in which the no. of women blocked the road and started their protest against this amendment. Against this protest no. of petitions were filed before the Hon’ble Supreme Court of India seeking guidelines and other directions on the right to protest.

The Supreme Court observed that there cannot be a “universal policy” on right to protest and possible curbs as the situation may vary from case to case. Protests should be at designated places, authorities should remove protests which are not being staged at designated places.

“Occupation of public places or roads by demonstrations, which cause inconvenience to a large no. of people and violate their rights is not permissible under law” the SC bench, headed by Justice Sanjay Kishan Kaul and also comprising Justices Aniruddha Bose and Krishna Murari said.

The court also observed that right to peaceful protest is a constitutional right and it has to be respected. But that does not mean agitating people should adopt means and modes of protest that was used against colonial rulers during struggle for independence.

REASONABLE RESTRICTIONS ON RIGHT TO PROTEST

Article 19 of constitution India gives the right to protest however, it is not an absolute right and reasonable restriction can be imposed by the state in the interest of security of the state, friendly relations with foreign states. Imposing restrictions becomes necessary because unrestricted and absolute freedom would lead to social disorder and public inconvenience. We have witnessed several times when the situation became out of control, peaceful protest became violent and lots of people lost their lives in these incidences. In the protests against Citizenship (Amendment) Act, 2019, Delhi had witnessed bloodbath on its roads therefore it becomes necessary to impose reasonable restrictions on right to protest.

A limitation was observed by the Supreme Court in the case **Railway Board v. Niranjan Singh**. The limitation stated one's right to protest/assemble does not extend to someone else's right to property.

All reasonable restrictions are imposed for the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order and cannot be arbitrary in nature. So, the citizens need to remember and fulfill their duties as well while exercising their rights.

PERMISSIONS NEEDED TO HOLD A PROTEST

As 'Law and Order' is a State subject under constitution, the premises to organize a protest will differ from state to state. Broadly some permission includes:

- No-Objection Certificate (NOC) from the police. If police thinks that the protest or demonstration will lead to unrest and go against public order, permission can be denied.
- We need to mention all the details of the protest in the petition submitted to the police which must include the grounds for the protest, its date and duration, the number of people expected to participate, and the route that the protestors will follow.
- The documents that must be submitted include identity proof, residence proof, a photograph, and an affidavit.

CONCLUSION

The right to protest is one of the most important right for a society to cherish as it provides the citizens of a country to have disagreement with the policy formed by the state or to raise their voice against the injustice that has been happening to them. We come from a nation

which has gained his independence from colonial rule by protesting for over 200 years therefore, right to protest has been valued very precious IN our society.

It is the responsibility of the state to make sure that this right should not be misused by any individual or group of people. Certain guidelines should be issued from the state which apparently mentions the process according to which the protest can be conducted. These restrictions should be reasonable and just, must not give excess power to the authorities. The government must welcome the reasonable demands and constructive criticism of the people, and in any case, the right to dissent must not be quashed as the Protests is the way by which public as a watchdog of the Government activities can point out the working of government or policies which they don't like or can ask for those regulations needed by them. On the other hand, it is also a duty of a responsible citizen of the country to use any right whenever necessary and not oppose government actions and policies every time baselessly which affects the functioning of the whole country and prevails instability in society.

So, right to protest is an essential component in a democratic country and it should be used appropriately when required and the government also must help the citizens to use their fundamental rights instead of curbing this fundamental right.