

# NO FUNDAMENTAL RIGHT TO STRIKE

Relevant for: Developmental Issues | Topic: Government policies & interventions for development in various Sectors and issues arising out of their design & implementation incl. Housing

Recently, the Minister of Defence introduced the [Essential Defence Services Bill, 2021](#), in the Lok Sabha to provide for the maintenance of essential defence services so as “to secure the security of nation and the life and property of the public at large” and prevent staff of the government-owned ordnance factories from going on strike. The Bill seeks to empower the government to declare services mentioned in it as “essential defence services” and prohibit strikes and lockouts in any industrial establishment or unit engaged in such services. The Minister, however, assured the Ordnance Factory Board (OFB) employees that their service conditions will not be affected.

This is not for the first time that strikes by government employees are being made explicitly illegal by the government. The Madhya Pradesh (and Chhattisgarh) Civil Services Rules, 1965, prohibit demonstrations and strikes by government servants and direct the competent authorities to treat the durations as unauthorised absence. A strike under this rule includes “total or partial cessation of work”, a pen-down strike, a traffic jam, or any such activity resulting in cessation or retardation of work. Other States too have similar provisions.

## Defence service workers barred from strike

Under Article 33 of the Constitution, Parliament, by law, can restrict or abrogate the rights of the members of the armed forces or the forces charged with the maintenance of public order so as to ensure the proper discharge of their duties and maintenance of discipline among them. Thus, for the armed forces and the police, where discipline is the most important prerequisite, even the fundamental right to form an association can be restricted under Article 19(4) in the interest of public order and other considerations.

The Supreme Court in *Delhi Police v. Union of India* (1986) upheld the restrictions to form association by the members of the non-gazetted police force after the Police Forces (Restriction of Rights) Act, 1966, and the Rules as amended by Amendment Rules, 1970, came into effect. While the right to freedom of association is fundamental, recognition of such association is not a fundamental right. Parliament can by law regulate the working of such associations by imposing conditions and restrictions on their functions, the court held.

In *T.K. Rangarajan v. Government of Tamil Nadu* (2003), the Supreme Court held that the employees have no fundamental right to resort to strike. Further, there is prohibition to go on strike under the Tamil Nadu Government Servants' Conduct Rules, 1973. Also, there is no moral or equitable justification to go on strike. The court said that government employees cannot hold the society to ransom by going on strike. In this case, about two lakh employees, who had gone on strike, were dismissed by the State government.

## CPI seeks withdrawal of 'draconian' ordinance that bans strikes in ordnance factories

A police havildar was convicted of contempt of court by the sub-divisional officer, Gaya. The Gaya police, thereupon, gave notice of strike unless redress was given to the havildar and the sub-divisional officer punished. Though an inquiry was ordered immediately, the strike commenced on March 24, 1947. When some representatives of policemen met Gandhi at Jehanabad on the March 28, he told them that their strike was ill-advised. They were not mere wage-earners but the members of an essential service. They should immediately and

unconditionally call off the strike. In his speech on March 27, Gandhi said that “the police... should never go on strike. Theirs was an essential service and they should render that service, irrespective of their pay. There were several other effective and honourable means of getting grievances redressed...”

There is no fundamental right to strike under Article 19(1)(a) of the Constitution. Strikes cannot be justified on any equitable ground. Strike as a weapon is mostly misused which results in chaos. Though the employees of OFB have threatened to go on strike, Parliament, which has the right to restrict even the fundamental rights of the armed forces, is well within its right to expressly prohibit resorting to strike.

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To reassure Indian Muslims, the PM needs to state that the govt. will not conduct an exercise like NRC

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