

THE RIGHT TO PROTEST IN A FREE SOCIETY

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

We are witnessing unprecedented public protests in India. Thousands continue to assemble on the streets to demand that the government rethink the Citizenship (Amendment) Act and the National Register of Citizens. Such public protests are the hallmark of a free, democratic society, whose logic demands that the voice of the people be heard by those in power and decisions be reached after proper discussion and consultation. For this, the right to freedom of expression, association and peaceful assembly are necessary. Any arbitrary restraint on the exercise of such rights — for instance, imposing Section 144 — shows the inability of the government to tolerate dissent. It shows not the propensity of people to riot but rather the incapacity of the government to discuss, deliberate or listen. An unreasonable limitation on protest is an affront to the very people in whose name a government is allowed to temporarily govern.

One must be grateful to the courts for having reiterated that the right to protest is a fundamental right. An innocent student of the Constitution may examine it and find that the word 'protest' is missing. He may read the relevant articles of the Constitution, particularly Article 19, altogether non-politically. For example, the right to free speech and expression may be taken to mean that everyone has a right to express their personal opinion on, say, a film, or on the condition of the city they inhabit; the right to associate to mean the right to form self-regulating clubs, professional associations or societies; and the right of peaceful assembly to mean the right to have a picnic in a park or to participate in a religious festival such as the Kumbh Mela. Important as these rights are — in authoritarian, illiberal states, even these rights are not guaranteed — this view is too narrow because in a democracy each of these embodies active not passive citizenship. They constitute our political freedoms. The right to free speech and expression transforms into the right to freely express opinion on the conduct of the government. The right to association becomes the right to associate for political purposes — for instance, to collectively challenge government decisions and to even aim, peacefully and legally, to displace the government, to not merely check abuse of power but to wrest power. This is the basis of our multiparty system where Opposition parties are valuable adversaries, not enemies, and compete healthily for political power. Finally, the right to peaceably assemble allows political parties and citizenship bodies such as university-based student groups to question and object to acts of the government by demonstrations, agitations and public meetings, to launch sustained protest movements. In short, each of these rights has two interpretations. On the first, these are exercised largely by people for private purposes, free from government interference, in a classically liberal, non-political public space. On the second, rights are strongly associational, exercised to influence or gain power, and are therefore fundamentally political rights basic to a democratic society.

The constitution of any country gets its substance not just from the letter but from the historically distilled lived experience, referred to as its spirit. The second interpretation, therefore, flows directly from our history. Undoubtedly, the background of the Indian Constitution is formed by its anti-colonial struggle, within which the seeds of a political public sphere and democratic Constitution were sown. The Indian people fought hard and long to publicly express their views on colonial policies and laws, to dissent from them, to shape minds and form public opinion against them, to speak to and against the government, to challenge it. People not only signed writ petitions but staged dharnas, held large public meetings, peaceful protests and demonstrations and even, for instance in Gandhi's satyagraha, launched civil disobedience movements. None of these are literally found in the Articles of the Constitution but are presupposed by it. That is why the Preamble states that India is a democratic republic.

This cluster of inter-related political rights (expression, association, assembly, petition and protest) is meant to ensure that even when the government works in our interests, we don't sit back and allow it to conduct business as usual. We act as watchdogs and constantly monitor its acts, for even such governments can falter and then it is up to us, through consultation, meetings and discussion, to recognise and rectify its mistakes. However, another serious situation can easily arise. An elected government may stray from the constitutional course, go against the interests of the people, become unresponsive and refuse to listen. Here pressure against the government must be built by still stronger public methods. Protests may take the form of street assemblies — the occasional, temporary gathering of a group to parade or demonstrate or become a sustained movement, necessary to complement or reinforce more conventional forms of politics. Remember Potti Sreeramulu starving himself to death in order to draw attention of the Madras State government to the urgency of creating a new Telugu-speaking state of Andhra or the Chipko movement in which Gaura Devi, Chandi Prasad Bhatt and others began to hug trees to prevent the then U.P. government from awarding contracts to commercial loggers? Such movements are particularly important for those outside the mainstream, or those not educated formally. After all, any disaffected person, no matter how illiterate or powerless, can shout a slogan, hold up a placard, go on a silent march and oppose the government. Meetings around a table rarely involve as many people as street protests do. It is not for nothing that Abraham Lincoln called "the right of the people to peaceably assemble, a constitutional substitute for revolution".

Democracies everywhere are founded on two core political rights. The first, the right of every citizen to freely elect their government and when dissatisfied with its performance, to vote it out of power in a legitimately held election (Article 326). This remains the only proper constitutional procedure to get rid of a government and rightly so. Indeed, peaceful transfer of power is one of the great strengths of democracies. But short of displacing it, and as long as it is done peacefully, any form of public action to challenge the government's proposals or decisions is also constitutionally legitimate, forming the second core political right: to politically participate not only during but between elections.

The right to protest, to publicly question and force the government to answer, is a fundamental political right of the people that flows directly from a democratic reading of Article 19. If so, one is left speechless at the way in which the current government sidesteps issues, ducks questions, and wilfully obstructs any attempt to discuss. It has become a habit with it to take decisions secretly, foist them on an unprepared people and then, when challenged, to campaign in order to retrospectively justify its opaque, midnight decisions. Will a government that promised 'sabka saath, sabka vikas, sabka vishwas' demonstrate its legitimacy by really listening to everyone, especially its critics, or will it continue to vilify all opponents as traitors or anti-nationals?

Rajeev Bhargava is Professor, Centre for the Study of Developing Societies, New Delhi

You have reached your limit for free articles this month.

Register to The Hindu for free and get unlimited access for 30 days.

Already have an account ? [Sign in](#)

Sign up for a 30-day free trial. [Sign Up](#)

Find mobile-friendly version of articles from the day's newspaper in one easy-to-read list.

Enjoy reading as many articles as you wish without any limitations.

A select list of articles that match your interests and tastes.

Move smoothly between articles as our pages load instantly.

A one-stop-shop for seeing the latest updates, and managing your preferences.

We brief you on the latest and most important developments, three times a day.

*Our Digital Subscription plans do not currently include the e-paper ,crossword, iPhone, iPad mobile applications and print. Our plans enhance your reading experience.

Why you should pay for quality journalism - [Click to know more](#)

Please enter a valid email address.

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

Subscribe to The Hindu now and get unlimited access.

Already have an account? [Sign In](#)

Sign up for a 30-day free trial. [Sign Up](#)

To continue enjoying The Hindu, You can turn off your ad blocker or Subscribe to The Hindu.

[Sign up for a 30 day free trial.](#)

END

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com