

Right to Protest in India: Constitutional Basis, Legal Limits and Supreme Court Guidelines

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Right to Protest in India Latest News

- Police cracked down on the Cockroach Janta Party (CJP) and its supporters as thousands joined a planned march to Parliament, leading to the shutting of Parliament complex gates.
- The government engaged with protesters, with CJP submitting a written letter of demands to a senior ruling party leader. The episode has revived the debate: is staging a protest legal in India, and what forms of protest are permitted?

Constitutional Basis for the Right to Protest

- The right to protest is protected under the **Fundamental Right to Freedom**:
 - **Article 19(1)(a)**: Guarantees “freedom of speech and expression.”
 - **Article 19(1)(b)**: Guarantees the right to “assemble peaceably and without arms.”
- However, these rights are subject to “**reasonable restrictions**” in the interest of:

- Sovereignty and integrity of India
- Security of the State
- Friendly relations with foreign States
- Public order, decency, or morality
- Contempt of court, defamation, or incitement to an offence

How Protests Are Regulated

- While citizens have the right to organise protests, this must be exercised within constitutional restrictions.
- The common regulatory practice in India includes:
 - Designating specific spots for protests
 - Making **police permission mandatory**
 - Imposing prohibitory orders under **Section 163** of the Bharatiya Nagarik Suraksha Sanhita (earlier **Section 144 of the CrPC**)

India's Position at the UN

- At the **47th Session** of the UN Human Rights Council (Geneva, 2021), India's representative affirmed that peaceful assembly and marches are a "cherished and valuable aspect" of India's democratic tradition, tracing this practice back to the independence struggle.
- It was noted that Article 19 guarantees the right to assemble peacefully without arms and to form associations and unions, and that the Supreme Court has recognised peaceful protest as a constitutional right.
- India also emphasised that the government must balance citizens' rights with its duty to protect the right to life.

Key Supreme Court Rulings on Protest Rights

- The Supreme Court has, over the years, upheld both the right to protest and reasonable limits on it.

Hitat Lal K. Shah v. Commissioner of Police (1973)

- The Court held that freedom of assembly is essential to democracy, enabling citizens to meet and discuss religious, political, economic, or social issues.
- It clarified that while the State can regulate its property for public purposes, there is a constitutional difference between "**reasonable regulation and arbitrary exclusion.**"

Mazdoor Kisan Shakti Sangathan v. Union of India (2018)

- This case challenged the repeated imposition of Section **144 CrPC** banning assembly near Parliament House, North and South Block, Central Vista Lawns, and surrounding areas in Delhi.
- The Court laid down specific guidelines:
 - Regulating the number of participants

- Maintaining minimum distance from Parliament House, North/South Blocks, the Supreme Court, and dignitaries' residences
- Prohibiting demonstrators from carrying firearms, lathis, spears, swords, etc.
- This ruling effectively reaffirmed **Jantar Mantar** as Delhi's designated protest site while clarifying that regulation must not amount to prohibition.

Amit Sahni v. Commissioner of Police (2020) - The Shaheen Bagh case

- The Supreme Court ruled that protests must be held in **"identified areas"** and that protesters cannot block public roads or cause public inconvenience.
- The Court stated clearly: "You cannot block public roads. There cannot be indefinite period of protest in such an area... You cannot create inconvenience for the people."

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