



IMPORTANCE OF DISSENT IN DEMOCRACY - GS II MAINS

Q. 'To question, to challenge, to verify, to ask for accountability from the government is the right of every citizen under the constitution.' Elucidate the above statement in the light of 'right to dissent' in a democracy. (10 marks, 150 words)

News: *The Right to Dissent is the Most Important Right Granted by the Constitution: Justice Gupta*

What's in the news?

- To question, to challenge, to verify, to ask for accountability from the government is the right of every citizen under the constitution.
- These rights should never be taken away otherwise we will become an unquestioning moribund society, which will not be able to develop any further.

Importance of Dissent in Democracy:

1. Fundamental Right:

- The Right to protest peacefully is enshrined in the Indian Constitution such as
 - **Article 19(1)(a)** guarantees the freedom of speech and expression.
 - **Article 19(1)(b)** assures citizens the right to assemble peaceably and without arms.

2. Historical Context:

- 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 and form a public opinion against them.

3. Checking Abuse of Power:

- The **Right to the association** is required to form associations 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.



4. 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.

5. People as Watchdogs:

- People act as watchdogs and constantly monitor governments acts, which provides **feedback to the governments** about their policies and actions after which the concerned government, through **consultation, meetings and discussion, recognizes and rectifies its mistakes.**

6. Supreme Court's Observation:

- In **Ramlila Maidan Incident v. Home Secretary, Union Of India & Ors. case (2012)**, the Supreme Court had stated, "Citizens have a fundamental right to assembly and peaceful protest which cannot be taken away by an arbitrary executive or legislative action."

Challenges to Right to Dissent:

- Any form of public action to challenge the government's proposals or decisions is also constitutionally legitimate, as long as it is done peacefully. **Article 19(2) imposes reasonable restrictions on the right to assemble peaceably and without arms.**
- These reasonable restrictions are imposed in the interests of the **sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation, or incitement to an offense.**
- However, in the recent review petition, the petitioners apprehended that the observations in the Shaheen Bagh judgment against the indefinite occupation of public space may prove to be a license in the hands of the police to commit atrocities on the legitimate voice of protest.
- Recently, not only the protesting farmers but also their supporters, including comedians and journalists, were charged with the Sedition.
- Further, any **arbitrary restraint** on the exercise of such rights — for instance, imposing **Section 144** — shows the inability of the government to tolerate dissent.

WAY FORWARD:

1. Pro-Active Judiciary:

- A fair and effective adjudicative mechanism in constitutional matters can meaningfully prevent agitation on the street.
- Studies have shown that social movements could be less radical and less oppositional when the issues could be effectively sorted out by way of fair litigation means.



- Further, courts need to ensure timely agitation, because had there been a timely adjudication of the validity of the laws which was questioned by the process recognized by the law, the agitation on the street could have been probably reduced.

2. Establishing Public Enquiry System:

- In the United Kingdom there exists a robust public enquiry system that processes ecological demands, integrates them into the political system, and minimizes radicalization of the movement arising out of exclusion and marginalization.

3. Imbibing Civic Culture:

- On the part of citizens, there is a need to imbibe a civic culture that is characterized by the acceptance of the authority of the state and a belief in participation in civic duties.

In order to participate in public protest, the right to freedom of speech & expression, association, and peaceful assembly are necessary. In this context, there is a need for debate in public discourse that it is time when reasonable restrictions outlined in Article 19(2) should be brought under review.

