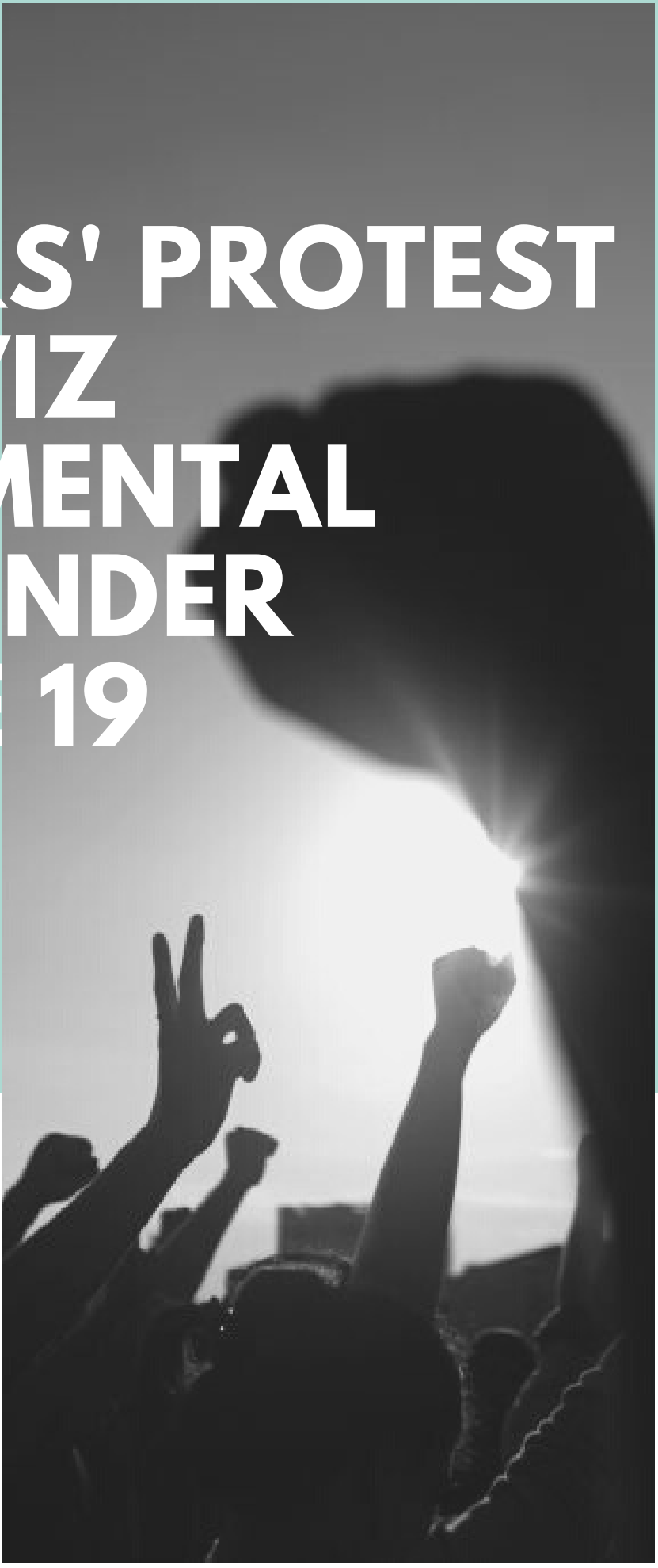
FARMERS' PROTEST VIZ-A-VIZ FUNDAMENTAL RIGHT UNDER ARTICLE 19



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Article 19 under the Indian Constitution recognizes the 'basic freedoms' guaranteed to every citizen of this country. It states that every citizen shall have the right to freedom of speech and expression, assembly, associations, movement, residence and practicing any trade, business, occupation or profession.

The right to protest is protected under Article 19(1)(a)- freedom of expression, Article 19(1)(b) right "to assemble peaceably and without arms" and Article 19(1)(c) the right to form associations or trade unions. These three articles constitute the right of protest and Article 19 (1)(d) guarantees free movement throughout the territory of India. However, the right to hold meetings and to take out processions is subject to the following restrictions:

1. The assembly must be peaceful and harmonious;
2. It must be unarmed and not threatening the safety of the people;

Right to protest is an essential facet of a free democratic nation as this protects the interest of citizens and also plays an important role in correcting errors in actions or policies of the government.

The Central Government promulgated three Farm Ordinances in the month of June, 2020 and the farmers in Punjab and Haryana had made their resentment clear even at that time. Still the Central Government did not take into account the same and introduced the three Agri Bills in Lok Sabha in third week of September 2020 and which were passed by the Lok Sabha as the NDA government enjoys clear majority in Lok Sabha. Further, on 20 September bills were presented in the Rajya Sabha. In Rajya Sabha, NDA does not enjoy clear majority and the bills faced stiff opposition from almost all opposite parties and opposition demanded that the Bills be put to vote. However, the Government got these Bills passed through voice vote on 23 September. The manner in which these Bills were declared as passed through voice vote is still being questioned by opposition and political commentators and legal experts. The President of India gave his assent by signing the bills on 24th September, 2020 and was published on Sept. 27th, 2020 for general information. Thus, the Agri Acts namely the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, Farmers (Empowerment and Protection) Agreement of Price Assurance, Farm Services Act, 2020, and the Essential Commodities (Amendment) Act, 2020 became law.

This bull dozing of Farm Bills hurt the farmers as they were not consulted at any stage by the Central Government. The three Acts adversely affects farmers of Punjab and Haryana in many ways as both the States have robust Mandi system from where the Central Government purchases wheat and paddy through FCI at MSP. Farmers in Punjab and Haryana have legitimate apprehension that these Acts will slowly kill the Mandi system and that the Central Government has long term intention to stop MSP purchase from the farmers and corporate houses will take over. After passing of the Bills the protests intensified all over Punjab with the Rail Roko campaign trains under which the train services to and from Punjab were affected. But despite protesting for two months in Punjab when the Central Government paid no heed then the Farmers of Punjab gave a call to march towards Delhi on 26th November. As the farmers passed through the State of Haryana, the police put barricades, dug up roads, sprayed the farmers will water canons, fired tear gas shells and also lathi charged these farmers in order to stop them from going towards Delhi. It is puzzling that when the farmers were marching for a peaceful protest to Delhi why force was used against them. How the citizens of India can be stopped from approaching their national capital? The peaceful protests are constitutional right provided to citizens of India.

Now the farmers are not being allowed to enter the National Capital of Delhi for peaceful protest against these farm Acts. Thousands of farmers mainly form Punjab, Haryana and Western U.P. are at the borders of Delhi since last two weeks. The protest sites are like camps where protesters are spending days and nights in open in this winter season during the time of razing pandemic. This protest of farmers reminds me of the Shaheen Bagh protest that took place from December 2019 to March 2020, against the Citizenship (Amendment) Act (CAA). In October 2020, disposing a plea in the against Shaheen Bagh protesters, a Bench of three judges recognised that the right to peaceful protest against legislation exists, but such demonstrations and protest for expressing dissent have to be in designated places alone and public spaces cannot be occupied indefinitely. A petition has been filed against in the SC seeking a review of the said judgement delivered on October 7, 2020, which is still pending with it.

Protests erupt when the voices are not heard or are tried to be muffled and hushed. The farmers from the state of Punjab and Haryana, men and women, old, middle- aged and young, all are protesting peacefully braving the chill of Delhi winter nights. They want their voices to be heard as the government has been unresponsive since months. The protest is getting bigger as farmers from all across the country have started showing their support and are joining the movement.

Meanwhile, petition has been filed in the Apex Court for allowing the farmers who have been protesting peacefully to enter in Delhi and allow them to protest at the Jantar Mantar, The plea said States have an obligation to respect the right of protest and should not prevent, hinder or restrict right to protest. Now the court has to see how it protects the rights of the farmers who have been peacefully protesting against the three Agri Laws.

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