



# AUDACIOUS INDIAN MUN STUDY GUIDE FOR LOK SABHA

# DEPUTY SPEAKER (LOK SABHA)

- ▶ Distinguished Members of Parliament,
- ▶ Subject: Retort regarding the liberties on Article 19(a) of the constitution with incumbent to public and press opinion.
- ▶ It is with great pleasure that the Executive Board of Lok Sabha invites you to AIMUN Bharuch 2020. With great efforts, we have compiled this Background Guide to serve as a supplement to your research. We wish to make it very clear at this stage that this is just a guide and should not hinder you from studying further about the agenda.
- ▶ As the Executive Board, we expect all the members to come prepared with an in depth understanding of the agenda and to stay true to their party policy, while being willing to put aside their personal opinions for the purpose of the simulation. It is only upon the fulfilment of the above prerequisites that we can meet our aim of a healthy debate.
- ▶ The Executive Board would also take this opportunity to express how dearly it expects a bipartisan solution to our agenda. Keeping in mind the importance of working together towards the welfare of the public, we keenly look forward to seeing this spirit of cooperation in all members.
- ▶ Kindly find the Background Guide attached below.
- ▶ Aman Thakkar,
- ▶ Speaker ,
- ▶ 8238837104

Jattin Sethi,  
Deputy Speaker,  
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# Article 19 of Constitution of India and some case studies.

# Article 19

*19(1) All Citizen shall have the right—*

- a) to freedom of speech and expression;*
- b) to assemble peaceably and without arms;*
- c) to form associations or unions;*
- d) to move freely throughout the territory of India;*
- e) to reside and settle in any part of the territory of India;*
- f) and to practise and profession, or to carry on any occupation, trade or business*

# Article 19(1)(a)

- ▶ Article 19(1)(a) □ All citizen shall have the right to freedom of speech and expression
- ▶ **Maneka Gandhi vs Union of India case**
- ▶ Right to receive and disseminate information Secretary,
- ▶ **Ministry of I & B vs Cricket Association of Bengal**
- ▶ Right to know
- ▶ **Union of India vs Association for Democratic Reforms**
- ▶ Right to remain silent
- ▶ **Right to hoist the National Flag freely ◦ Union of India v. Naveen Jindal**
- ▶ Freedom of Press

# 19(2) Reasonable Restrictions

1. Sovereignty and Integrity of India
  2. Security of State
  3. Friendly relations with foreign states
  4. Public Order
  5. Morality or Decency
  6. Contempt of court
  7. Defamation
  8. Incitement to an offence
- ▶ **Kharak Singh V state of Punjab**
  - ▶ **Romesh Thaper vs State of Madras**
  - ▶ **Babulal vs State of Maharashtra and State of Bihar v KK Mishra**

# Essential Elements of Restrictions

- ▶ Only by authority of Law
- ▶ Reasonable
- ▶ Purpose
- ▶ Judicial Review

# Tests of Reasonableness of a Restriction

1. Directive Principal of State Policy
2. Arbitrariness or Excessive Nature
3. No abstract or general pattern or a mixed principle to judge reasonableness of the restriction
4. Prevailing Social Values and Social Needs
5. Substantive and Procedural Reasonableness



# Press Freedom & Censorship

- ▶ There is no specific provision in the constitution. Under article 19 (1 )(a) freedom of expression means the freedom to express not only one's own views but also the views of others and by any means including printing.
- Indian Express v. Union of India
- Sakal Papers Ltd. v. Union of India
- Bennett Coleman and Co. v. Union of India
- Censorship of the press is not specially prohibited by any provision of the Constitution.
- Virendra Vs State of Punjab

## Article 19 (b)

*To assemble peacefully without arms*

## Article 19 (b) (3)..sub clause

*Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause*

# Reasonable restriction Art 19(b)

- ▶ Article 19(1)(b) recognises and guarantees the freedom of assembly. But it is not an absolute right. Restrictions are possible against this right too, as provided under article 19(3) and (4).
- ▶ Article 19(1)(b) guarantees to the citizens the right to assemble peacefully and without arms

# JUDGEMENTS

- ▶ **Babulal Parate vs State of Maharashtra**
- ▶ Upheld the citizen's right to take out procession or to hold demonstration or public meetings as part of the freedom to assemble peacefully and without arms and right to move freely anywhere in the territory of India.
- ▶ In this case the court held that section 144 or CrPC was constitutional and the magistrate had power to prevent such activities which would obstruct the public interest and peace.

# VALIDITY OF BANDHS

- Bharath kumar vs State of Kerala
- James martin vs State of Kerala
- CPI(M) vs Bharath kumar and others
- George Kurian vs State of Kerala
- Shivasena vs B C Deshmukh and others
- INC vs institute of social welfare and others

# COURT VS AUTHORITIES

- ▶ SC clarified that only peaceful demonstration is protected and not all forms of demonstrations.
- ▶ □ This fundamental right with reasonable restrictions in general interest was further consolidated by the decision of the SC in *Himmatlal vs. Police commissioner*.
- ▶ □ In this case the permission to hold a public meeting in street was denied.

# COURT VS AUTHORITIES

- ▶ SC held that authorities should not be left with controlled discretion to regulate the freedom of assembly, though this right was subject to the control of the appropriate authority.
- ▶ In the absence of guidelines, banning public meetings on public streets was held to be arbitrary.



# Ramlila Maidan on the midnight of 4/5 June 2011

# THE SUPREME COURT'S VERDICT Delhi Police action against Baba Ramdev and his supporters

- ▶ Police and the state could have avoided the violent incident
- ▶ There was abuse of power by the Delhi Police and violation of fundamental rights of people
- ▶ The incident was a reflection of the might of the state which struck at the foundation of democracy
- ▶ It is a glaring example of trust deficit between the people governing and the people being governed
- ▶ A person of the stature of Ramdev was expected to urge his supporters to leave the ground. He is bound by legal and moral obligations

# SC ORDER

- ▶ The prosecution of police personnel and Ramdev's supporters who behaved violently during the incident □ Compensation of Rs 5 lakh for a deceased person, Rs 50,000 to the grievously injured and Rs 25,000 for those with simple injuries

# Article 19 (1)(c)... Right to form Associations or Unions

# EVOLUTION / ASPECTS... ASSOCIATION / TRADE UNION

- ▶ COMBINATION OF PROHIBITION ACT 1799
- ▶ 1824 British Govt Parliament..
- ▶ 1906- Trade Dispute Act
- ▶ Kahnu Freund
- ▶ 1. Absence of Restraints
- ▶ 2. Presence of Positive Guarantees

# Some case study

- ▶ Rastrabhasha prachar samity Assam case
- ▶ Damyanti Vs Union                      NAACP
- ▶ Ramkrishna Vs President Distt board Nellor
- ▶ L.N. Mishra institute for social change Vs Bihar state
- ▶ A Paradox...
- ▶ Right to Association doesn't carry the meaning of...
- ▶ Right to recognition..
- ▶ Raj kulkarni vs State of Bombay case
- ▶ All- India Bank Employees Association v. National Industrial Tribunal (Bank Disputes), Bombay
- ▶ Right to strike..
- ▶ T. K. Rangarajan Vs Tamilnadu

# Article 19 (c) (4)..sub clause RESTRICTIONS...

- ▶ Empowers the state to impose reasonable restriction on the right of freedom of association & union in the interest of
  - ▶ public order
  - ▶ morality
  - ▶ sovereignty
  - ▶ and integrity

# Now what is the Significance? Art 19 C/4

*In the present context Some Positive Changes...*



## Article 19(1)(d)

- ▶ All citizens shall have the right to move freely throughout the territory of India

# Article 19(1)(d): Move freely

- ▶ Right to "move" denotes nothing more than a right of locomotion, and
- ▶ "freely" would only connote that the freedom to move is without restriction
- ▶ i. e., to move wherever one likes, whenever one likes and however one likes.
- ▶ Available only to Indian citizens.

## Article 19(5)

*Reasonable restriction can be imposed in interests of the general public or for the protection of the interests of any Scheduled Tribe*

# Article 19(5): Restrictions

- ▶ Restrictions can be imposed only by or under the authority of law. Restrictions can not be imposed by the executive action without legal authority.
- ▶ Restrictions must be reasonable.
- ▶ Restrictions must be related to the purpose specifically mentioned in these clauses.

# Article 19(5): Reasonable Restriction

"reasonable restriction" connotes the limitation imposed on a person in enjoyment of the right-

- ▶ Should not be arbitrary,
- ▶ of an excessive nature, beyond what is required in the interests of the public,
- ▶ intelligent care and deliberation, that is, the choice of a course which reason dictates.

# Suggested moderated caucus topics

- ▶ Discuss the importance of Article 19(a) in the constitution
- ▶ Discuss the disturbances caused during CAA protests
- ▶ Discuss teasing the right of the state in accordance to article 19
- ▶ Discuss media trying to be considered personal public sedition
- ▶ Discuss the credibility of the sedition act keeping in mind article 19(a).
- ▶ Discuss how the rights guaranteed by article 19 can be misused.
- ▶ Discuss the role of press/media in strengthening the right to freedom to speech or expression.
- ▶

# Conclusion

- ▶ India is the largest democracy of the world and the right to free speech and expression is an essential ingredient of democracy.
- ▶ Keeping in mind India is a democracy it should be made sure that the rights guaranteed by Article 19 should not be misused by any citizen of the country in order to break the integrity and unity of the diverse culture.