



## Mains Practice Question

**Q.** Discuss the legal implications of bandhs in India, with reference to landmark judicial pronouncements and committee recommendations. Suggest measures to balance the right to protest with the need to maintain public order and safeguard citizens' rights. **(250 words)**

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### Approach:

- Introduce the answer by briefing about the Bandhs
- Give Legislative and Constitutional Provisions Related to Bandhs
- Highlight the Judicial Pronouncements on Bandhs
- Delve into the Committee Recommendations
- Highlight the impact of Bandhs and Suggest Measures to Balance the Right to Protest and Public Order
- Conclude suitably.

### Introduction:

**Bandhs** are aggressive forms of protest where **organizers enforce shutdowns, disrupting public life, business, and essential services**. While the Indian Constitution guarantees certain rights related to protest under **Article 19**, bandhs often conflict with these rights by infringing on citizens' freedom of movement, livelihood, and public order.

### Body:

#### Legal Framework Governing Bandhs

- **Legislative Provisions:** The **Prevention of Damage to Public Property Act, 1984**, penalizes damage to government or public property with imprisonment and fines.
  - Citizens or organizations can file PILs for judicial action in such cases.
- **Constitutional Provisions**
  - **Article 19(1)(a): Freedom of Speech and Expression**
    - Protests are recognized as a form of expression.
    - However, under Article 19(2), this right is subject to restrictions in the interest of public order, decency, and morality.
  - **Article 19(1)(b): Right to Assemble Peacefully**
    - Peaceful assemblies are constitutionally protected but must not disrupt public order or encroach on the rights of others.
  - **Article 19(1)(c): Right to Form Associations**
    - While this right allows citizens to form unions, the **judiciary has clarified that it does not include the right to strike or call for bandhs**.

#### Judicial Pronouncements on Bandhs:

- **Kameshwar Prasad v. State of Bihar (1962):** Clarified that the right to form associations does not inherently include the right to strike or disrupt public order.

- **Bharat Kumar K. Palicha v. State of Kerala (1997):** Declared **bandhs unconstitutional**, emphasizing their coercive nature and infringement on fundamental rights like freedom of movement and the right to trade.
- **T. K. Rangarajan v. Government of Tamil Nadu (2003):** Categorically stated that the **right to strike is not a fundamental right**, particularly for government employees.
- **James Martin v. State of Kerala (2004):** Held that **organizers of bandhs could be held liable for damages** to public and private property.
  - Reinforced the state's responsibility to maintain order during protests.
- **In Re: Destruction of Public & Private Properties v. State of A.P. (2009):** Recommended imposing **strict liability on organizers for damages** and proposed legislative measures for better control of protests.

### Committee Recommendations

- **Justice K. T. Thomas and Fali S. Nariman Committee:** Proposed **videographing** protests to identify offenders.
  - Advocated **imposing strict liability** on organizers for damages.

### Impact of Bandhs:

- **Violation of Fundamental Rights** Infringes on citizens' **freedom of movement and right to livelihood**.
  - Affects the **right to access essential services, which is integral to Article 21**.
- **Economic Consequences:** Losses to businesses, daily-wage workers, and overall economic productivity.
  - Disruption of trade and industry, particularly in urban centers.
- **Threat to Public Order:** Bandhs often lead to **violence, property damage, and social unrest**. Creates administrative challenges for law enforcement.
- **Erosion of Democratic Principles:** Coercion and intimidation undermine the voluntary nature of protests, **diluting democratic values**.

### Suggestions to Balance the Right to Protest and Public Order:

- **Strengthening Legal Framework:** Enact comprehensive legislation defining **permissible limits for protests**.
  - Implement strict penalties for coercive or violent protests.
- **Encouraging Peaceful Protests:** Promote **designated protest zones to minimize disruption**.
  - Ensure mechanisms for prior intimation and approval of protests.
- **Accountability and Compensation:** Make organizers liable for damages caused during bandhs. Establish a compensation fund to address public and private losses.
- **Public Awareness and Education:** Conduct campaigns to highlight the impact of bandhs on public life. **Encourage non-disruptive forms of protest** that respect others' rights.
- **Dialogue and Mediation:** Institutionalize platforms for dialogue between **authorities and protesters to address grievances constructively**.

### Conclusion:

Bandhs, **while rooted in the democratic right to protest**, often infringe upon constitutional rights, disrupt public order, and cause economic and social harm. Judicial interventions and legislative measures have sought to mitigate these impacts. A balanced approach **ensuring accountability, safeguarding public order, and promoting peaceful protests** can harmonize the right to dissent with the rights and welfare of the wider population.

