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Protesting is a Fundamental Right: UN

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Why in News

Recently, the **United Nations (UN) Human Rights Committee** has reaffirmed that **protesting peacefully, online or in person, is a fundamental human right.**

This statement has come in the backdrop of **increasing demonstrations** over issues like **political rights and racial justice.**

Key Points

- **UN Human Rights Committee:** It is tasked with monitoring how countries implement the **International Covenant on Civil and Political Rights (ICCPR) 1976**, which under Article 21 guarantees the right to peaceful assembly.

- **Latest Interpretation of the Right to Peaceful Assembly:**
 - **Fundamental Human Right for People:** To gather **to celebrate or to air grievances** in **public** and in **private spaces**, outdoors, indoors and **online** is a fundamental human right.
 - **Protesters:** Everyone, including children, foreign nationals, women, migrant workers, asylum seekers and refugees, can exercise the right of peaceful assembly.
 - **Protection:** Protesters have the **right to wear masks or hoods to cover their face** and that Governments should not collect personal data to harass or intimidate participants.
 - **Role of Journalists and Human Rights Observers:** They have the right to monitor and document any assembly, including violent and unlawful ones.
 - **Government Obligations:**
 - Governments **could not prohibit protests by making “generalised references to public order or public safety**, or an unspecified risk of potential violence”.
 - Governments **cannot block internet networks** or close down any website because of their roles in organising or soliciting a peaceful assembly.
- **Significance:** The Committee’s interpretation will be **important guidance for judges in national and regional courts** around the world, as it now forms part of what is known as ‘soft law’.

The interpretation is a form of legal advice (not mandatory) from the Committee that monitors **the International Covenant on Civil and Political Rights (ICCPR) 1976**.

- **Indian Scenario:**

- India is a **state party to the International Covenant on Civil and Political Rights (ICCPR)**.
- The right to protest, to publicly question and force the government to answer, is a fundamental political right of the people that flows directly from a democratic reading of **Article 19 of the Constitution of India**.
 - **Article 19 (1) (a)** states that all citizens shall have the right to freedom of **speech and expression**.
 - **Article 19 (1) (b)** states that all citizens shall have the right to **assemble peaceably and without arms**.
 - However, the State can impose **reasonable restrictions** on the exercise of right of assembly on **two grounds**, namely, **sovereignty and integrity of India** and **public order** including the maintenance of traffic in the area concerned.
- Further, Indian courts have reiterated that the **right to protest is a fundamental right** (*Ramlila Maidan Incident v. Home Secretary, Union Of India & Ors. case -2012*).

International Covenant on Civil and Political Rights

- The ICCPR is a key international human rights treaty, providing a range of protections for civil and political rights.
- The **ICCPR**, together with the **Universal Declaration of Human Rights** and the **International Covenant on Economic Social and Cultural Rights**, are considered the **International Bill of Human Rights**.

The Bill influences the decisions and actions of Government, State and Non-State actors to make economic, social and cultural rights a top-priority in the formation and implementation of national, regional and international policy and law.
- The ICCPR obligates countries that have ratified the treaty to **protect and preserve basic human rights**, such as: the right to life and human dignity; equality before the law; freedom of speech, assembly, and association; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; right family life and family unity; and minority rights.
- The Covenant **compels governments** to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy.
- The Covenant was adopted by the UN General Assembly in 1966 and came into force in 1976. **173 countries including India** have ratified the Covenant.

Source:TH