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## INTRODUCTION

The peaceful protests can make difference as they lead to healthy debates, offering changes/ solutions in governmental policies, their implementations and laws and even to the success and failure of governments. They motivate people to come and emerge together as a society offering to discuss issues of political, social and economic importance. As protests have the capacity to create awareness, they galvanize public conscience and effectively establish a sense of continuity and currency for the basic and exclusive human rights movement in general.

Basically, peaceful protests can be seen as a barometer to identify the commitment of a State to an open and transparent society, allowing people to bring their grievances to the public places in general. They reveal and make it public to the readiness of a country to enter into dialogue with its people and society. The peaceful protests do underscore the social importance of a public debate in the press and in politics, as well as in discussion in the homes of the people, presenting a healthy society. For example, the protests by disabled persons in Germany in 1980 galvanized and inspired the State in the context of preparations for the UN International Year of the Disabled 1981.

Peaceful protests have been the cause of change and they have contributed to the advancement of human rights throughout the world history, and Indian history in particular. The end of colonialism in India could have been unthinkable without the Satyagraha-movement led by Mahatma Gandhi. The end of racial oppression and the introduction of a Civil Rights Act in the USA can be inevitably linked with the name and peaceful protest proposed by Martin Luther King Junior. The Vietnam War also ended with continues protests, as this time it was a group of mothers from the State of Iowa (USA) who lost their sons to the war and used their protest as an indictment to make the Government change its decisions.

In India and elsewhere, much of the method can be followed through Mahatma Gandhi, who used his way of demonstration as a means of bringing change into action within the law, when law's normal procedures were less effective/ functional or held captive by anti-legal forces. Thus, bringing about important and necessary change in a democratic, acceptable and non-violent way- a method he used prior to his moving to India, when he lived and worked as an advocate in South Africa. He was moved and inspired by the writings of Henry David Thoreau. We should also learn that peaceful freedom fighters/campaigners such as Nelson Mandela and Martin Luther King were inspired more due to their study of Mahatma Gandhi. The peaceful protests are destined to face constraints, as due to reservations of the State and law on the one hand and of the protesting citizens on the other. During the recent times, peaceful protesters and human rights protectors have confronted with more aggressive response, resulting as repression in many countries. There is escalation found in the employment of mass unlawful detention, use of aggressive response (rather forceful), the deployment of toxic/harmful chemicals against protesters and also increased criminalization of protest movements.

## THE CHALLENGES, CONFLICTS AND OPPORTUNITIES

Using the force to uphold 'public order' has an inevitable impact on the exercise of peaceful protests, as the law enforcement bodies/officials are often granted very strong powers and discretion in policing prudence, which form key elements of practical response to protests, including the possibilities for officers to resort to the required/proportionate use of force. Ways of harassment, intimidation and arbitrary arrests are often employed to restrict peaceful protest. The problem condition arises with the widespread use of tear-gas, rubber bullets, and also suddenly planned police strategies provoking protestors, deteriorate the situation and trigger disproportionate responses by security forces. Using force to drive people off the streets weakens governments and causes a climate of fear, anger and continuum of violence.

The human rights protectors, in majority regions of the world, are often subject to violations of their struggle for human rights. They are often targets of executions, torture, beatings, frequent arrest and detention, death threats, harassment and defamation. There are restrictions on their freedoms of speech, movement, expression.

The special rapporteur on the situation of human rights defenders needs to continuously draw attention to violence and reprisals against human rights defenders. A pluralistic society is bound to confront with political views, which are not always in conformity with democratic principles. Our society struggles finding a delicate balance of divergent opinions, which allows those views to be discussed and reflected in the public debate. Civil society, protestors and the State must be vigilant to confirm that extreme views are always challenged and debated and made clear at intentional level. Here again, police forces do play vital role in ensuring appropriate public space for the articulation of the versatile and divergent views, enabling protestors representing their views (sometimes extremist views) and counter-protestors to express their positions, whilst recalling that restriction on peaceful protest must be the exception rather than the rule. In this concern, the use of symbols and signs in protests is considered and treated outlawed in various states, religion, caste and region. If we talk about the West, the use of Nazi-symbols is prohibited in many European countries. The attempt here, is to protect the democratic rule by not allowing the revival of fascist associations disturbing the normalization. Regarding this, some critics say that prohibitions may wrongly obstruct the public dialogue and that may even display provocative signs and symbols, which should be permitted, whereby society can reflect critically on and deal continuously with its history and past.

Protests usually reflect the conflicting matters of the protestors, law enforcement officials and other persons. There are laws which ban face-covering during protests since police forces fails to identify protestors. The ban on face-covering can also create effect on free speech and peaceful protesters do unintentionally find themselves in an unlawful assembly. The other issue is of video surveillance by police forces. They can have a legitimate reason to intervene quickly in case of violent acts during protest, and also for fetching sufficient evidence against violent protestors. Video-surveillance by the police during protests can intimidate protestors, especially in the cases, where they wish to challenge the State power. The other case of clashes of interest concerns the extent to which peaceful protest can have a negative impact for shop keepers, local residents and other uninvolved bystanders. Elections in this regard, are a unique opportunity for the candidates and their supporters to voice their concerns. Free communication, information and ideas of public and political issues amongst voters, candidates and elected representatives is important, critical and essential. Protests/ voicing are an integral part of the whole election process, as they serve as instrument, helping to disseminate the various political standpoints, invigorating the political dialogue and building levels of awareness that then bring enrichment in the public debate.

Of particular significance are elections in new democratic societies. Widely divergent ideologies may be in conflict regarding the forms of structure of the new democratic institutions. The versatile political groups can produce various outputs, which constitute alternative visions for establishing good society – in such case, various opinion holders, especially those holding minority views may feel the requirement to engage and involve more in protest behaviour as they assume that much is at stake. It has been observed that the equal protection of the rights to peaceful assembly and association in the context of elections is of significant importance, as the potential for the exacerbation of vulnerabilities during this period is comparatively higher. In case, if election outcomes do not reflect the free will of the people, a sense of discontent and disenfranchisement can result and result into violence e.g. the Middle East countries. Free elections, held in the context of transitions or after multiple revolutions in nascent democracies, represent the unstable state of society, as people are not sure as to when or whether there will be any opportunity to determine who will be in power.

While under these circumstances, police and security forces must take all required measures to maintain the balance between public order and the desire of people to emphasize their electoral opinions through peaceful protests. Somehow, it is of high concern that, in the electoral context, State authorities have frequently invoked states of emergency to restrict peaceful protests, used excessive force to disperse protestors or obliged them to obtain prior authorization, making immediate gatherings impossible. Other important contemporary concern regards the identification of those elements in protest, whereby it can be classified as non-peaceful - *as violent*. Defining a violent protest -given the different manifestation of protest- is challenging: Can sit-ins be classified as violent? Good practice indicates that an assembly should be minimized peacefully, if its organizers and participants have peaceful intentions and do not use, advocate or incite violence.

Well, the rhythm of protests has been lauded by technology and has transformed the way protests are maintained and organized. Globalization and the modern technology have now, enabled social movements to spread across borders as rapidly as can ideas. Information technology and Social media in particular, have significant access and powers regarding peaceful protests. Social media as an organizational tool and an alternative press that generates awareness. Social media and smart phones did not replace face-to-face social bonds and confrontation but helped enable and fortify them, allowing protestors to mobilize more nimbly and communicate with one another and the wider world more effectively than ever before. But these modern

technologies have also changed local/traditional notions of the “human rights space” – here, in this regard it can be suggested that the right to peaceful assembly also applies to online protests.

When we talk of right based approach towards peaceful protests, suggesting that States should require that organizers merely provide notification rather than seeking formal authorization for peaceful protests. The need for notification should be understood as a way of ensuring that information regarding the time, place and manner of protests is appropriately conveyed. Advanced administrative requirements and procedures such as notification should not be used as a hidden obstruction to the exercise of the right to peaceful protests. Furthermore, provision should be made for the holding of a process without advanced notification in cases of spontaneous reaction to a rapidly changing condition. Need for prior notification of protests can be justified on such grounds as public order and safety and such measures may aid the peaceful nature of protests and ensure their smooth conduct. Many countries require forms of prior authorization that, in effect, narrow the scope of peaceful protests. Requirements for advance notification may also bring enjoyment of an essential character of the freedom of assembly whereby people may come together spontaneously and immediately following a triggering event. It is of concern that, in many countries such unorganized and spontaneous protests are outlawed with authorities entitled to disperse the protestors by force. Indications from different parts of the world confirm the contemporary scale of this form of *de facto* outlawing of protests.

### CONCLUSION: SCOPE OF THE RIGHTS INVOLVING PEACEFUL PROTEST

As a matter of empirical observation a peaceful protest does not need definition: it can be recognized when you see it and as such it can take up different forms. It is not protected by a single formulated right under the regime of international human rights law. In fact, as a matter of human rights law, the “human right of peaceful protest” is a construct, an amalgam of different rights, including, the right to freedom of peacefully assembly. The rights to freedom of peaceful assembly and of association serve as a vehicle for the exercise of many other civil, cultural, economic, political and social rights. The rights are essential and basic components of democracy as they can empower men and women to express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable. With regard to each of them the State is permitted to restrict the right in strict compliance with the limitation provisions of the respective provisions as set out in the relevant treaties. The protests may be peaceful, minor and sporadic incidents of violence do not make the overall protest violent. Furthermore, peaceful protests may involve conduct that troubles or offends or temporarily hinders, impedes or obstructs the activities of third parties. With regard to the use of force in restricting protest, The States must establish and control administrative functioning to ensure that in public protests force is only used where necessary and that measures for planning, prevention and investigation of cases in which abuse of force may have occurred should be perceived.

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