
WHEN THE PYRE BECOMES THE PROTEST: KEN-BETWA PROTEST AND LIMITS OF CONSTITUTIONAL RIGHTS UNDER ARTICLE 19

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ABSTRACT

When Madhya Pradesh police cleared the Barana riverbank on July 19, 2026, ending a fifteen-day protest against the Ken-Betwa link project, it did more than disperse a crowd. It raises a question of constitutional limitation which has not been fully settled: when does protecting protesters become a pretext for silencing them? The protagonist of this protest was tribal women lying on bamboo platforms built to resemble funeral pyres, were protesting displacement, unfair compensation, and the loss of ancestral land. The dam which was proposed under 1980 National Perspective Plan which included now cutting through the Panna Tiger Reserve. Their leader, Amit Bhatnagar, had been on hunger strike for eleven days when police moved in at dawn, citing rising river levels as the reason. The timing is hard to ignore as the clearance came just before Bhatnagar was expected to disclose evidence of financial irregularities in the project. Analyzing multiple judicial precedents to understand, up to what extent right to protest can be exercised and this time the nature of protest is different. This article looks closely whether this time the force used by the administration was arbitrary or does falls under the limitations of Article 19 of Indian Constitution.

On the morning of July 19, 2026, Madhya Pradesh police cleared a 15-day protest against the Ken-Betwa link project from the banks of Barana River in Chhatarpur district of Madhya Pradesh. The protest was led by a social activist, Amit Bhatnagar, who went on a hunger strike and continued till 11 days, until he was shifted to hospital after his health worsened. He publicly alleged what he described as 400 Crore irregularities in the project's execution, highlighting the alleged corruption in the Ken-Betwa linkage project. The police cited the reason of clearance of protesters as the rising river level made the site unsafe for occupancy, but on the other hand, protest leaders Divya Ahirwar disputed on both the timings and the motives of the administration in the removal of the protest. These claims are yet to be verified, opening doors for fresh debate around constitutional rights and right to protect protesters along with the right to protest.

The Ken-Betwa River linkage project is independent India's first river linkage scheme under the National Perspective Plan of 1980 and administered through the National Water Development Agency, set up in 1982. Decades of water sharing dispute between Madhya Pradesh and Uttar Pradesh delayed the planning and execution until finally a Memorandum of Understanding was signed on March 22, 2021, marking the celebration of World Water Day between Union Ministry of Jal Shakti, and two states, also witnessed by the PM of India. The approximate expense was evaluated as Rs. 45,000 Crore, with Finance Minister announcing it in the budget speech alongside 103 MW of hydropower. The prominent step for execution of the project is the creation of 2 km wide Dhaudan dam, which is to be built within the Panna Tiger Reserve with an area of about 543 square kilometer and Madhya Pradesh being called the world's tiger capital. This brings environmental concern as well as the protection of "Tiger Safaris" and illegal constructions. In *Godavarman Thirumulpad vs. Union of India & Others*¹, The Supreme Court of India highlighted the need for comprehensive environmental impact assessment and discussed the role of expert bodies in the interpretation of the Wildlife Act, 1972 concerning tiger reserve and buffer zone, and application of eco-centric and ecological restitution.

The protest ended on 19 July was not the first round. In April 2026, the tribal women came together for the demand to halt construction and protection of Ken River and their cultural identity, along with that asking for an adequate compensation and a proper land for land rehabilitation. They were assured their demands would be looked into, but nothing was done

¹ Godavarman Thirumulpad vs. Union of India & Others, MANU/SC/0278/1997.

which ultimately became the cause of executing the second phase on July. Right beside the river, 15 women lay on a long wooden platform, spread in a line, made up of bamboos. It looked like they were lying on a funeral pyre, waiting to be burned. Not just women but children were also spotted portraying their dependency on the water of Ken River. There were pyres with living human beings, which form a symbolic protest of displaying their live dependency on water and continuous slogans of, "Give us justice or kill us." The women were seen draping clothes around their necks as a symbolic form of protest near the river, and some women sat nearby and lied down in the shallow water. Amit Bhatnagar, the leader of the protest, went on hunger strike by staging a "fansi satyagraha". The two main causes for the protest was their ancestral land and displacement of people with unfair compensation. Such protest highlights the limitation of gathering and protest under Article 19(1)(a) "Freedom of speech and expression" and, the "right to assemble peacefully without arms" Under 19(1)(b)². The people exercise their right to protest, but the contention is up to what extent and the power exercised by the authority to limit such constitutional rights. The unequal fight between protester and the police authority, where one part remains armless and without any weapons, and on the other hand, rest the bureaucracy with water cannons, barriers, lathis, and the permission to use the force against the innocent protesters when and whenever authorities make it legal.

This time the protest is not on the street or on roads creating public nuisance, through what was stated in *Sadagopacharior v. A. Rama Rao (1903)*³, that every citizen exists with the right to use public highways, and both the magistrate and the police are empowered to regulate it in a manner that it does not hamper the right of an individual. But this time the situation and the mode of protest is different. Instead of organizing march on roads or creating public nuisance, the protesters are peacefully protesting on the bank side of the river, also in a symbolic manner, with zero disturbance to the public. But still, the police authority cleared the area and was alleged to do it intentionally. This happened even when it had already been agreed and promised to look after the demands of the protesters. But it remained unheard with no actions, and the innocent people were left with no option but to perform a symbolic fasting satyagraha to grab the attention of the people in power. The relocation of land ultimately means a threat to their culture and a demand for reasonable compensation. According to Pareto optimality, it is impossible to make one individual better off without making at least one other individual

² INDIA CONST. art. 19 (1)(a) & 19 (1)(b).

³ *Sadagopacharior v. A. Rama Rao*, (1903) I.L.R. 26 Mad. 376.

worsen off, but that does not give an absolute power to the authorities to worsen the environment and the land acquisition of the tribal people in the name of benefiting other sections. This needs not be used as a defense until there is no way out without making someone worse off. The social cost needs to be evaluated before taking such environmental development projects, and the social cost need not be necessarily to be monetary. Tribal peoples are not only just losing their culture but also their ancestral lands as on the asset they hold. For the justice, a fair compensation is a must.

In the case of *Amit Sahni Vs. Commissioner of Police and Ors*⁴, the apex Court directed that the authority has to keep in mind that they had all the power, jurisdiction, and authority to control traffic whenever protests or agitation were going on, in the larger public interest. Along with that, tracing the foundation of protest back to our freedom struggle, the Constitution of India, confers upon its citizens two treasured rights, i.e., the right to freedom of speech and expression “Under Article 19(1)(a)” and the right to assemble peacefully without arms “Under Article 19(1)(b)”. These rights, enables every citizen to assemble in a peaceful manner and protest against the actions or inactions of the state. In the amidst of protesting, the protestors and the cause should be respected and encouraged if the people are voicing up for a just and fair cause. But this does not allow an individual to create havoc and acts as an obstacle for others. These Rights are subject to reasonable restrictions, which, *inter alia*, pertain to the interests of the sovereignty and integrity of India and public order, and to the Regulation by the concerned police authorities in this regard. Along with that in *Mazdoor Kisan Shakti Sangathan v. Union of India and Anr.*⁵, it was held that the motive was to reach a solution where the right of protesters was to be balanced with the commute. But in this protest, the protest site was a river bank under an unfinished bridge, not on a road, not on a space any commutation takes place. The reasoning given for the evacuation of people was a safety rationale which is yet to be declared justified, as the other protesters are claiming it intentional. The police action took place around 5:00 AM which is an unusual time to take an action at the dawn of the morning. The morning clearance clearly raises a question of legitimacy of the state interest as it occurred before Bhatnagar’s disclosure about the corruption related to this River-linking projects and the facts do not fully satisfy the intention which administrative claim to have in order to justify the police action. Their claim of shifting Amit Bhatnagar due to health concern raises question of autonomy under Article 21 of Indian Constitution, which deals with

⁴ Amit Sahni vs. Commissioner of Police and Ors. MANU/SC/0742/2020.

⁵ Mazdoor Kisan Shakti Sangathan v. Union of India and Anr. MANU/SC/0762/2018.

the constitutional autonomy of a person's choice on their body and their decisions. The use of administrative power for the protection of the protesters demands a need for a balanced approach for upholding the dignity of a person and exercising of the authority in the name of serving people by providing them sufficient medical needs when required. The question arises that whether separation is a substitution for redress similarly to the case of Tehri dam protest and Sardar Sarovar where dispersal or resumption followed the unmet promises and unresolved grievances. And The appraisals assurance to Chita ambulance protest still remains unfulfilled. Then today's clearance repeats that exact substitution.

In Conclusion, Given the foregoing, the position worth landing on this issue, a safe based dispersal is legitimate only when the state can prove that the shift of protesters was independent, without any ulterior motive of infringing the constitutional Right of a person of peaceful protest. In India, protest was always part of fair action by the individual of our nation to remove the structural gaps and point out legislative, executive or judicial failure. It's just the protest should not become threat to the Sovereign Nation. This time the decision of evacuation should shift the burden towards the state in justifying the action that took place at the dawn morning, right before the intended discloser of alleged corruption. While constitutional freedoms are subject to reasonable restrictions, such restrictions must be strictly in accordance with the law and must satisfy the principle of necessity proportionality and procedural fairness. Public order and individual liberty are not competing values rather they must be balanced through lawful and measured action. Since protest is a part of Democracy not against it.

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