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Q2

"Right of movement and residence throughout the territory of India are freely available to the Indian citizens, but these rights are not absolute. " Comment.

UPSC Civil Services Mains 2022 · GS II · 10 marks · Transparency and e-Governance

Important aspects of governance, transparency and accountability, e-governance - applications, models, successes, limitations, and potential; citizens charters, transparency and accountability and institutional and other measures.

Core demand of the question

- Comment on the statement that the right of movement and residence throughout the territory of India is freely available to Indian citizens but is not absolute

Revision summary

Article 19(1)(d) and (e) give citizens free movement and residence throughout India.

Article 19(5) permits reasonable restrictions in the public interest and for Scheduled Tribe protection.

Inner Line and special State provisions show those limits in operation.

Foreigners have no Article 19 mobility rights; they rely on Article 21.

Foreign travel is Article 21, not 19(1)(d), after Maneka Gandhi.

Introduction

Article 19(1)(d) and 19(1)(e) give citizens the rights to move freely throughout the territory of India and to reside and settle in any part of it. Those rights are expressly limited by Article 19(5), and they are not available to foreigners, whose bodily liberty rests on Article 21.

Body

What is freely available, and to whom

- Only citizens hold Article 19 freedoms; the text of Article 19 opens with "all citizens."
- Movement under 19(1)(d) is intra-India mobility; residence and settlement under 19(1)(e) is the right to make a home in any part of the territory, subject to law.
- Foreigners, including those on visa or facing deportation, cannot claim 19(1)(d) or (e); they may invoke Article 21 against arbitrary detention or expulsion, as in the Louis De Raedt and later foreigner-liberty line, but that is a different and narrower protection.
- Travel abroad is not 19(1)(d); *Maneka Gandhi v. Union of India* treated passport and foreign travel as personal liberty under Article 21, which is why a comment must not collapse the two Articles.

Why the rights are not absolute

- **Article 19(5)** allows reasonable restrictions, in the interests of the general public or for the protection of the interests of any Scheduled Tribe, on the rights in 19(1)(d) and (e).
- Inner Line arrangements under the **Bengal Eastern Frontier Regulation, 1873**, and related State rules in Arunachal Pradesh, Nagaland and Mizoram (and later Manipur) limit entry and stay of non-residents in order to protect tribal land and social systems; they are a living illustration of the Scheduled Tribe limb of 19(5).
- Special constitutional settlements such as **Article 371A** for Nagaland, and land-and-allotment restrictions in several Fifth and **Sixth Schedule** areas, similarly fence settlement even for Indian citizens from outside the area.
- Public-order, epidemic, and disaster laws can restrict movement if they satisfy reasonableness; a blanket, indefinite internal passport for all citizens would not.
- **Reasonableness after Maneka Gandhi is not a rubber stamp:** the restriction must be fair, and it must have a rational connection with the 19(5) objects.

Comment that is balanced

- **The statement is correct as a statement of Part III:** citizens have a nationwide freedom of movement and residence that foreigners do not, and that freedom is qualified.
- The comment should add that the qualification is itself constitutional, not a favour of the executive, and that tribal-protection limits are part of the original design, not an afterthought.
- Abuse of inner-line or domicile rules to keep out labour or to punish political opponents would fail 19(5); the existence of limits is not a licence for arbitrary exclusion.

Flow diagram

Citizens -> Art 19 1 d e
 Art 19 1 -> Art 19 5 reasonable restrictions
 Art 19 5 -> ST e inner line
 Foreigners -> Art 21 only
 Art 19 1 -> Art 21 only

Conclusion

Citizens enjoy nationwide movement and residence under **Article 19(1)(d) and (e)**; foreigners do not. Those citizen rights yield to reasonable restrictions under **Article 19(5)**, including inner-line and Scheduled Tribe protections, so the freedom is real and still not absolute.

Facts & figures

Article 19(1)(d) and (e)

Citizen rights to move freely throughout the territory of India and to reside and settle in any part of it.

Article 19(5)

Allows reasonable restrictions on those two rights in the interests of the general public or for protection of Scheduled Tribes.

Bengal Eastern Frontier Regulation, 1873

Colonial inner-line statute still used, with later State rules, to regulate entry into specified North-Eastern areas.

Maneka Gandhi v. Union of India (1978)

Treated the right to go abroad as personal liberty under **Article 21**, not as **Article 19(1)(d)** intra-India movement.

Article 371A

Special provision for Nagaland on religious and social practices, customary law and land, which conditions outsider settlement.

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