

**INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES**  
**[ISSN 2581-5369]**

---

**Volume 9 | Issue 5**

---

**2026**

© 2026 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [support@vidhiaagaz.com](mailto:support@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# From Public Order to Public Convenience? Reasonable Restrictions on the Right to Peaceful Assembly under Article 19(1)(b)

---

KEHA JANI\*

## ABSTRACT

*Article 19(1)(b) of the Constitution of India guarantees citizens the right to assemble peaceably and without arms, a right that may be restricted only in the interests of the sovereignty and integrity of India or public order. This article asks whether the standard now used to restrict protest has shifted from “public order” to “public convenience”, a change that would bear on the constitutionality of such restrictions and on the safety of those who protest. It traces the development of the doctrine from Romesh Thappar and the Ram Manohar Lohia cases to Himat Lal Shah, Madhu Limaye and Ramlila Maidan, and examines how protests have been dealt with in practice, with reference to the Ramlila Maidan incident of 2011, the Thoothukudi firing of 2018 and the events at Jantar Mantar in 2026. Applying the proportionality test laid down in Anuradha Bhasin, it argues that although the formal wording of the doctrine has not changed, administrative practice has moved away from its principles, drawing on the rulings against the prolonged occupation of public places, particularly highways. It also recognises the interest of the State in ensuring public safety at large gatherings, and considers how life and property can be safeguarded through fair management of protest. Finally, it proposes four reforms: narrowly framed restrictions on assemblies, a formal notification system for protests, limits on closures and shutdowns, and clear rules on the use of force, the identification of officers and the collection of evidence. These measures seek to balance the rights of protesters against the need for order and safety.*

**Keywords:** Right to Peaceful Assembly, Article 19(1)(b), Public Order, Protest Policing, Section 163 BNSS

## I. INTRODUCTION

The Constitution of India guarantees the right to assemble peaceably and without arms, but that right has never been tested only in courtrooms; it is tested on the road, in front of a line of police. A protest is a public expression of objection, disapproval or dissent against an idea, law, policy or action, and it is among the most widespread ways of opposing a government and seeking accountability. India's own independence grew out of mass disapproval of British rule,

---

\* Author is a Student at Symbiosis Law School, Hyderabad, Telangana, India.

expressed through the Salt March, the Civil Disobedience Movement and the Quit India Movement. The Constitution accordingly protects the right to assemble peaceably and without arms under Article 19(1)(b),<sup>1</sup> together with the freedom of speech and expression under Article 19(1)(a)<sup>2</sup> and the right to form associations or unions under Article 19(1)(c).<sup>3</sup> A line of landmark precedents has protected these freedoms. Given the place of protest, mass mobilisation and public dissent in the very foundation of India as an independent nation, restrictions that go beyond what the Constitution permits pose a serious threat to this fundamental right and weaken the accountability of the State.

Fundamental rights are not, however, absolute. Article 19(3)<sup>4</sup> permits the State to impose reasonable restrictions on the right of assembly in the interests of the sovereignty and integrity of India or public order. A problem arises when administrative bodies move away from these textual grounds and treat minor traffic congestion, public inconvenience and commuter discomfort as a basis to disperse or ban a protest. In several of the episodes examined below, a court, a commission of inquiry or a human rights organisation has found that the force used to disperse a gathering was excessive or disproportionate, which tests the scope of the “reasonable restrictions” the State may enforce. The question therefore arises: are protesters in India actually safe, and are democratic principles upheld in practice?

## II. DOCTRINAL EVOLUTION OF ARTICLE 19(1)(B) AND THE BOUNDARIES OF “REASONABLE RESTRICTIONS”

Article 19(3) sets out the grounds on which the State may impose reasonable restrictions on the right to assemble peaceably and without arms. There are only two: the sovereignty and integrity of India, and public order. A series of judicial precedents has explained the scope of Article 19(3) and, in doing so, has limited the powers of the State.

The foundation was laid in *The Superintendent, Central Prison, Fatehgarh v. Ram Manohar Lohia*,<sup>5</sup> where the Court held that “public order” is synonymous with public peace, safety and tranquillity, and distinguished breaches of local significance from national upheavals, such as revolution, civil strife and war, that affect the security of the State. The Court insisted that a restriction imposed in the interests of public order must have a proximate and reasonable nexus with public order; a connection that is far-fetched, hypothetical or too remote will not do.<sup>6</sup> Five

---

<sup>1</sup> INDIA CONST. art. 19, cl. 1(b).

<sup>2</sup> INDIA CONST. art. 19, cl. 1(a).

<sup>3</sup> INDIA CONST. art. 19, cl. 1(c).

<sup>4</sup> INDIA CONST. art. 19, cl. 3.

<sup>5</sup> *The Superintendent, Central Prison, Fatehgarh v. Ram Manohar Lohia*, (1960) 2 SCR 821, 833–34, 839 (India).

<sup>6</sup> *Id.* at 836.

years later, in *Ram Manohar Lohia v. State of Bihar*, the Court conceptualised the field as three concentric circles: law and order as the largest and least severe circle, public order as the middle circle, and the security of the State as the smallest and most severe.<sup>7</sup> An act may affect law and order without affecting public order, just as it may affect public order without affecting the security of the State.

Earlier, in *Romesh Thappar v. State of Madras*,<sup>8</sup> the majority opinion of Justice Patanjali Sastri had drawn a clear line between minor disturbances of public order and those that threaten the very fabric of the State. The Court observed that “public safety” and “public order” are expressions of wide connotation, which may cover comparatively minor and localised disturbances such as unlawful assemblies and affrays. The “security of the State”, by contrast, concerns serious and aggravated forms of public disorder, such as rebellion, insurrection and the waging of war, which may threaten the existence of the State. Not every act of public disorder, therefore, threatens the security of the State. Because Article 19(2), as it then stood, permitted restrictions on speech only for the graver danger, a law authorising restrictions for the wider purpose of maintaining public order was held unconstitutional. Parliament responded by adding “public order” to Article 19(2) through the Constitution (First Amendment) Act, 1951;<sup>9</sup> Article 19(3), which governs assembly, had included public order from the outset.

The right to protest was affirmed again in *Himat Lal K. Shah v. Commissioner of Police, Ahmedabad* (1973).<sup>10</sup> The Court recognised that public streets have long been used for public discussion and assembly, and held that the right of assembly under Article 19(1)(b) extends to holding meetings on public streets. The State may regulate such meetings, including by requiring prior permission, in the interests of traffic and public order, but it cannot ban them or abolish the right to assemble: the Court struck down Rule 7 of the rules framed under section 33(1)(o) of the Bombay Police Act, 1951, because it gave the officer an arbitrary, unguided power to refuse permission. The right was reiterated in *In re Ramlila Maidan Incident v. Home Secretary, Union of India* (2012),<sup>11</sup> which affirmed that peaceful protest is a fundamental right. More importantly, the Court held that the power to issue prohibitory orders under section 144 of the Code of Criminal Procedure is an emergent power, to be exercised for maintaining public order, sparingly and with great caution, and that a restriction, once imposed, must be enforced with “least invasion” of the rights of those affected.

---

<sup>7</sup> *Ram Manohar Lohia v. State of Bihar*, (1966) 1 SCR 709, 746 (India).

<sup>8</sup> *Romesh Thappar v. State of Madras*, AIR 1950 SC 124 (India).

<sup>9</sup> The Constitution (First Amendment) Act, 1951, § 3(1) (India).

<sup>10</sup> *Himat Lal K. Shah v. Commissioner of Police, Ahmedabad*, (1973) 1 SCC 227 (India).

<sup>11</sup> *In re Ramlila Maidan Incident v. Home Secretary, Union of India*, (2012) 5 SCC 1 (India).

*Madhu Limaye v. Sub-Divisional Magistrate, Monghyr* (1970)<sup>12</sup> examined the power under section 144 of the Code of Criminal Procedure<sup>13</sup> (now section 163 of the Bharatiya Nagarik Suraksha Sanhita, 2023). The Court upheld the provision but confined its use. It read the phrase “in the interest of public order” in Article 19 broadly enough to include acts that disturb public tranquillity or amount to breaches of the peace, declining to import the narrower meaning given to “maintenance of public order” in preventive detention law. It nevertheless held that the gist of the power is the urgency of the situation: because an order may be made absolutely and even *ex parte*, the emergency must be sudden and the consequences sufficiently grave. The power is not an ordinary administrative power but one exercised in a judicial manner, by a written order setting out the material facts, and it remains open to judicial scrutiny. An order that does not meet these conditions may be challenged as falling outside the grant of the law.

### III. THE PRACTICE: HOW PROTESTS ARE POLICED

Protest thus enjoys constitutional safeguards and has been rigorously protected in judicial rulings. A significant gap nonetheless persists in the way protests have been managed and policed over the last few decades, as three episodes show.

In 2011, in the course of that year’s anti-corruption agitation, most widely associated with Anna Hazare,<sup>14</sup> the yoga guru Ramdev began a fast at the historic Ramlila Maidan in Delhi on 4 June, demanding action against black money stashed in foreign tax havens and against systemic corruption. The gathering had been permitted as a yoga training camp; by the Supreme Court’s account, the crowd swelled to more than fifty thousand during the day. At about 11:30 p.m. the police informed Ramdev that the permission had been withdrawn, and a prohibitory order under section 144 of the Code of Criminal Procedure was invoked. At about 12:30 a.m. on 5 June a large force entered the ground while the protesters were asleep. Tear gas shells were fired, lathis were wielded, and bricks were thrown in the confusion that followed; many people were injured, and one woman, Rajbala, later died after suffering a spinal injury that night. When the matter reached the Supreme Court, it held that the action “demonstrated the might of the State and was an assault on the very basic democratic values enshrined in our Constitution”, and awarded ad hoc compensation to the injured and to Rajbala’s heirs. The Court also found Ramdev’s trust guilty of contributory negligence for failing to cooperate with a lawful order, and directed it to

---

<sup>12</sup> *Madhu Limaye v. Sub-Divisional Magistrate, Monghyr*, (1970) 3 SCC 746 (India) (decided under section 144 of the Code of Criminal Procedure, 1898).

<sup>13</sup> Code of Criminal Procedure, 1973, § 144 (India), now Bharatiya Nagarik Suraksha Sanhita, 2023, § 163 (India).

<sup>14</sup> Andrew Davies, *Civil/Political Society, Protest and Fasting: The Case of Anna Hazare and the 2011 Anti-Corruption Campaign in India*, in *PROTEST CAMPS IN INTERNATIONAL CONTEXT: SPACES, INFRASTRUCTURES AND MEDIA OF RESISTANCE* 261, 261–76 (Gavin Brown et al. eds., 2017), <https://doi.org/10.56687/9781447329435-018>.

bear a quarter of the compensation in cases of death and grievous hurt.<sup>15</sup> By then, however, the damage had been done.

In 2018, in Thoothukudi (Tuticorin), Tamil Nadu, residents had for a hundred days protested peacefully against the Vedanta-owned Sterlite Copper plant, demanding its permanent closure over environmental and health concerns. On 22 May 2018, the hundredth day, a march to the District Collectorate was met with police firing. According to the Observatory for the Protection of Human Rights Defenders, after baton charges failed to disperse the crowd the police used assault rifles and fired indiscriminately and without warning; thirteen protesters were killed and many more were injured.<sup>16</sup> The State Government maintained at the time that the protesters had turned violent and that the police were compelled to open fire, but the commission of inquiry headed by Justice Aruna Jagadeesan later found that the firing was unprovoked and that the police had fired from their positions at protesters who were some distance away; it held named police officers responsible and criticised the district administration, including the then Collector, for failing to engage with the protesters.<sup>17</sup> The Tamil Nadu Government subsequently closed the copper plant, but at what cost?

Most recently, in 2026, a protest at Jantar Mantar in Delhi demanded the resignation of the Union Education Minister, Dharmendra Pradhan, following leaks of the NEET examination paper, after which, by the organisers' count, 21 students took their own lives.<sup>18</sup> The protest was organised mainly by the Cockroach Janta Party, a viral, youth-led satirical political movement, with the support of other groups and unions, and from 28 June the education and climate activist Sonam Wangchuk joined it with an indefinite hunger strike. On 20 July, the first day of Parliament's Monsoon Session, the protesters set out to march to Parliament although a prohibitory order under section 163 of the Bharatiya Nagarik Suraksha Sanhita barred assemblies of five or more persons in the New Delhi district.<sup>19</sup> Accounts of what followed

---

<sup>15</sup> *In re Ramlila Maidan Incident*, *supra* note 11.

<sup>16</sup> OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS, *India: Repression of a Peaceful Protest, Resulting in the Death of 13 Protesters*, Urgent Appeal IND 005 / 0518 / OBS 076 (May 25, 2018), <https://www.fidh.org/en/issues/human-rights-defenders/india-repression-of-a-peaceful-protest-resulting-in-the-death-of-13>.

<sup>17</sup> Scroll Staff, *Firing on Anti-Sterlite Protestors in Thoothukudi Was Unprovoked and Indiscriminate, Finds Panel*, SCROLL.IN (Aug. 19, 2022), <https://scroll.in/latest/1030842/firing-on-anti-sterlite-protestors-in-thoothukudi-was-unprovoked-and-indiscriminate-finds-panel>; Anil Ashwani Sharma, *Thoothukudi Firing: Inquiry Report Finds Police, Revenue Officials Responsible for 13 Deaths*, DOWN TO EARTH (Oct. 28, 2022), <https://www.downtoearth.org.in/governance/thoothukudi-firing-inquiry-report-finds-police-revenue-officials-responsible-for-13-deaths-85673>.

<sup>18</sup> Samridhi Tewari, *Release Wangchuk, Sack Pradhan, Pay Rs 1 Cr to NEET Suicide Victims' Kin: CJP's Demands in Memo to Nadda*, THEPRINT (July 20, 2026), <https://theprint.in/politics/release-wangchuk-sack-pradhan-pay-rs-1-cr-to-neet-suicide-victims-kin-cjps-demands-in-memo-to-nadda/2991314/>.

<sup>19</sup> Poojaraj Maniyeri, *India's Delhi Police Denies Permission as Cockroach Party Call for March to Parliament*, KHALEEJ TIMES (July 19, 2026), <https://www.khaleejtimes.com/world/asia/delhi-police-cockroach-party-march-to-parliament>.

conflict. According to Al Jazeera and Reuters, the organisers said that about 150 protesters had been injured when the police fired tear gas and beat them with canes and batons; the police said that some 70 protesters had been detained and that 118 police and security personnel had been injured; and the videos that had then emerged showed police attacking protesters, but none showed violence by the marchers.<sup>20</sup> Video footage also appeared to show men in civilian clothes using police lathis on protesters, and uniformed personnel without visible name tags; the police said the plainclothes personnel had been lawfully deployed as reinforcements.<sup>21</sup> A general diary entry at the Parliament Street police station later recorded that the Rapid Action Force had fired two rounds of plastic pellets on 20 July on the instructions of an officer of the rank of Deputy Commissioner of Police.<sup>22</sup> An investigation published by Amnesty International in August 2026 concluded that pellet-firing shotguns, tear gas, batons and electric shock devices had been used against protesters in Delhi and in Siwan, Bihar, between 20 and 24 July in breach of international standards, while noting isolated incidents of stone-throwing by protesters. The Delhi Police, as the same release records, had called reports of pellet injuries “completely false and misleading” and publicly denied any disproportionate use of force, describing its handling of the protest as “professional”.<sup>23</sup> The events of July 2026 remain under examination by the Supreme Court, and nothing here anticipates its findings. The episodes of 2011 and 2018, in which a court and a commission of inquiry made findings against the police, suggest that the problem is not an absence of law but an absence of consequences. The law and the precedents state how protesters must be treated, but little is done to ensure that they are followed.

#### IV. PUBLIC ORDER OR PUBLIC CONVENIENCE? TESTING THE RESTRICTIONS

The limitation in Article 19(3) rests on “the sovereignty and integrity of India or public order”. Convenience, traffic and administrative ease are not among its grounds. The Supreme Court has held that a restriction may be imposed only where it has a real and proximate

---

<sup>20</sup> Al Jazeera Staff & Reuters, *India's “Cockroach” Protest Movement Halts Marches After Police Violence*, AL JAZEERA (July 21, 2026), <https://www.aljazeera.com/news/2026/7/21/indias-cockroach-protest-movement-halts-marches-after-police-violence>.

<sup>21</sup> Mayank Kumar, *Lathi-Wielding Plainclothes Cops in Delhi Protest Crackdown Spark Row; Police Say Deployment Lawful*, THEPRINT (July 21, 2026), <https://theprint.in/politics/lathi-wielding-plainclothes-cops-in-delhi-protest-crackdown-spark-row-police-say-deployment-lawful/2992528/>; *Plainclothes Police, Missing Nametags: Delhi Police Orders Officers to Be in Uniform After Viral Lathi Charge Videos Spark Outrage*, WION (July 23, 2026), <https://www.wionews.com/india-news/plainclothes-police-missing-nametags-delhi-police-orders-officers-to-be-in-uniform-after-viral-lathi-charge-videos-spark-outrage-1784770601254>.

<sup>22</sup> Rahul Gahlawat & Animesh Singh, *RAF Fired Pellets on Delhi DCP's Order: Police Diary*, THE TRIBUNE (July 29, 2026), <https://www.tribuneindia.com/news/india/raf-fired-pellets-on-delhi-dcps-order-police-diary/>.

<sup>23</sup> AMNESTY INTERNATIONAL, *India: New Investigation Documents Unlawful and Deadly Force Against CJP-Led Protests Amid Ongoing Police Impunity* (Aug. 24, 2026), <https://www.amnesty.org/en/latest/news/2026/08/india-new-investigation-documents-unlawful-and-deadly-force-against-cjp-led-protests-amid-ongoing-police-impunity/>.

connection with public order, and that it cannot rest on grounds that are far-fetched or hypothetical.<sup>24</sup> *Anuradha Bhasin v. Union of India* (2020)<sup>25</sup> added a further layer of scrutiny. An order under section 144 of the Code of Criminal Procedure (now section 163 of the Bharatiya Nagarik Suraksha Sanhita) must state the material facts so as to permit judicial review; it cannot be used to suppress the legitimate expression of opinion or grievance or the exercise of any democratic right; repetitive orders are an abuse of power; and the magistrate must balance rights and restrictions on the principle of proportionality and apply the least intrusive measure. The Court also directed that such orders be published so that those affected can challenge them. The State must therefore pursue its lawful objectives by the least restrictive means, and its restrictions remain subject to judicial scrutiny.

The measures adopted during the Jantar Mantar protests of 2026 raise the same concerns. According to reports, the Delhi Metro Rail Corporation closed five central stations on 20 July and sixteen on 23 July, leaving thousands of commuters stranded;<sup>26</sup> internet services were reported, on the organisers' account, to have been disrupted in parts of central Delhi;<sup>27</sup> and prohibitory orders were issued under section 163 of the Bharatiya Nagarik Suraksha Sanhita.<sup>28</sup> The closure of metro stations affects everyone: not only those protesting on the streets but also ordinary commuters. On the reasoning in *Anuradha Bhasin*, however, such a closure can be justified only if the authorities show that it meets an imminent and specific danger that could not be addressed by a less intrusive step, such as restricting access at particular points. If it does not answer such a danger, it is a measure of administrative convenience, which Article 19(3) does not recognise.

The courts have not been consistent. *Himat Lal K. Shah* accepted that the authorities may regulate how and where assemblies take place in order to avoid congestion, but held that they cannot ban assemblies altogether.<sup>29</sup> In *Mazdoor Kisan Shakti Sangathan v. Union of India* (2018),<sup>30</sup> the Court held that there could be no complete ban on protests at Jantar Mantar and the Boat Club and directed that regulations be framed to govern protests there instead. In *Amit*

---

<sup>24</sup> *The Superintendent, Central Prison, Fatehgarh*, *supra* note 5, at 836.

<sup>25</sup> *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637, ¶ 152 (India).

<sup>26</sup> Press Trust of India, *CJP Protest March: Five Delhi Metro Stations Closed over Security Concerns*, THEPRINT (July 20, 2026), <https://theprint.in/india/cjp-protest-march-five-delhi-metro-stations-closed-over-security-concerns/2990891/>; *CJP Protests: 16 Delhi Metro Stations Shut Again as Crowd Swells at Jantar Mantar*, THE WEEK (July 23, 2026), <https://www.theweek.in/news/india/2026/07/23/delhi-metro-station-closures-cjp-protests.html>.

<sup>27</sup> KL News Network, *Internet Services Reportedly Disrupted in Parts of Central Delhi*, KASHMIR LIFE (July 20, 2026), <https://kashmirlife.net/internet-services-reportedly-disrupted-in-parts-of-central-delhi-443963/>.

<sup>28</sup> Maniyeri, *supra* note 19.

<sup>29</sup> *Himat Lal K. Shah*, *supra* note 10.

<sup>30</sup> *Mazdoor Kisan Shakti Sangathan v. Union of India*, (2018) 17 SCC 324 (India).

*Sahni v. Commissioner of Police* (2020),<sup>31</sup> however, the Court took a firmer line on the indefinite blockade of thoroughfares, holding that public ways cannot be occupied indefinitely, because protest cannot override the right of other citizens to move freely, and that demonstrations must be held in designated places. In the *Kisan Mahapanchayat v. Union of India* proceedings of 2021, the Court, without deciding the point, chose to examine whether the right to protest is absolute, particularly where the protesters' grievance is already before a court.<sup>32</sup> These cases dealt with prolonged occupations of public roads, whereas peaceful rallies are usually over within a few hours. Their reasoning can nonetheless be stretched by an administrator faced with a one-day assembly.

Has the governing concept, then, shifted from public order to public convenience? Textually, the answer is no. The Supreme Court has never treated convenience as a ground of restriction under Article 19(3); public order remains the controlling concept. The shift, this article argues, lies in practice. Arguments of convenience have found their way into orders that are nominally justified on grounds of public order, and the line of decisions on the prolonged occupation of streets has supplied administrators with a ready vocabulary. The result is two sets of principles: one applied in legal proceedings, the other in practice.

## V. THE BALANCING QUESTION: THE STATE'S CASE

A proper understanding of protest policing must take account of the State's case. Article 19(1) (b) protects only assembly that is "peaceably and without arms", and Article 19(3) allows restrictions in the interests of public order. The State has obligations towards people who do not take part in a protest, such as commuters, residents and shopkeepers, as well as towards its own police officers. Those obligations become more complicated when protests are large or particularly complex. While Parliament is in session, for example, Parliament Street is a zone of heightened security, and any government must consider the safety of the thousands of people who may wish to join a protest or march there.

The march of 20 July 2026 illustrates the point. According to the Delhi Police, protesters attempted to breach police barricades, attacked police personnel with stones and other objects, and damaged government vehicles; the police said that 118 of their personnel were injured.<sup>33</sup> The organisers gave a different account, alleging that about 150 protesters had been injured by

---

<sup>31</sup> *Amit Sahni v. Commissioner of Police*, (2020) 10 SCC 439 (India).

<sup>32</sup> *Kisan Mahapanchayat v. Union of India*, Writ Petition (Civil) No. 854 of 2021 (S.C. Oct. 4, 2021) (order) (India), <https://indiankanoon.org/doc/116469110/>.

<sup>33</sup> Press Trust of India, *118 Police Personnel Injured, 70 Protesters Detained as CJP Protest Turns Violent in Delhi*, THEPRINT (July 20, 2026), <https://theprint.in/india/118-police-personnel-injured-70-protesters-detained-as-cjp-protest-turns-violent-in-delhi/2991722/>.

the police.<sup>34</sup> The use of force that day is now before the Supreme Court, where the Delhi Police stated that force was used only after protesters “resorted to violence”, and which in August 2026 set up a panel to investigate violence by both the police and the demonstrators.<sup>35</sup> What must be borne in mind is that police officers at large protests face serious risks, and the law does not oblige them to remain passive while property is destroyed and people are injured.

But the law also marks the limits of that case. Three lines recur in the cases already discussed:

1. Regulation is not prohibition. *Himat Lal* holds that the State’s role is to regulate the time and place of an assembly, not to abolish the right, and *Mazdoor Kisan Shakti Sangathan* rejects an absolute ban.
2. Force must be preventive, not punitive. *Ramlila Maidan* treats the power to restrict an assembly as an emergent power to be used for maintaining public order; it found that the police had failed to show any imminent need to intervene, and it faulted them for failing to follow standing orders that required, among other things, the use of minimum force, videography of the event and announcements over the public address system.<sup>36</sup>
3. Isolated violence does not taint an assembly. Under international standards, including General Comment No. 37 of the UN Human Rights Committee, isolated acts of violence by some participants are not to be attributed to other participants, to the organisers or to the assembly as such, and do not deprive the remaining participants of protection.<sup>37</sup>

These lines show that the State’s case, properly understood, is a case for regulation, not for prohibition. The State’s obligations justify certain restrictions. They do not justify a prohibitory order that gives no specific reasons, a closure of public transport that harms thousands of people, or methods of force that are not needed for dispersal.

---

<sup>34</sup> Al Jazeera Staff & Reuters, *supra* note 20.

<sup>35</sup> Navashree Nandini, *Indian Forces Used Pellet Guns on Jul 20? SC Hearing, Police Diary Entry, MLC Report and Injured Protesters’ Claims*, WION (July 30, 2026), <https://www.wionews.com/india-news/indian-forces-used-pellet-guns-on-jul-20-sc-hearing-police-diary-entry-mlc-report-and-injured-protesters-claims-1785391254005>; Amnesty Accuses Indian Police of Excessive Force Against Youth Protesters, MALAY MAIL (Aug. 24, 2026), <https://www.malaymail.com/news/world/2026/08/24/amnesty-accuses-indian-police-of-excessive-force-against-youth-protesters/232448>.

<sup>36</sup> *In re Ramlila Maidan Incident*, *supra* note 11.

<sup>37</sup> U.N. Hum. Rts. Comm., *General Comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21)*, ¶ 17, U.N. Doc. CCPR/C/GC/37 (2020), <https://docs.un.org/en/CCPR/C/GC/37>.

## VI. WAY FORWARD

The main problem, it appears, is not a lack of protective law but the distance between that law and its implementation. Four reforms would help to narrow the gap.

First, restrictions under Article 19(3) must be made specific. An order limiting a gathering should state what disorder is feared and the area and period in which it operates, and it should be published in good time, as *Anuradha Bhasin* requires.<sup>38</sup> A bare reference to a programme of events or the movement of dignitaries is not enough. Placing these requirements on a regular administrative footing would make the limits a matter of routine administration, rather than leaving protesters to go to court again and again.

Secondly, notification should replace authorisation. In *Himat Lal*, the Court struck down a rule that allowed the police to refuse permission without any guiding standards,<sup>39</sup> and General Comment No. 37 states that having to apply for permission undercuts the idea that peaceful assembly is a basic right, favouring advance notification instead.<sup>40</sup> Where the courts have allowed protest to be confined to designated places, as in *Mazdoor Kisan Shakti Sangathan*, those places should be accessible and close to the target of the protest. A protest site where no one can hear the protesters is a ban by another name.

Thirdly, shutdowns need limits. The closure of stations or the suspension of internet services should be permitted only after a prior determination of necessity, for the shortest possible period, and subject to prompt review under the proportionality standard set out in *Anuradha Bhasin*.<sup>41</sup> Administrative ease should never be the reason given.

Fourthly, clear rules on the use of force, the identification of officers and the preservation of evidence already exist and should be observed. Crowd-management orders should comply with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which, though not binding on India, are the accepted international benchmark. They call for non-violent means to be tried before force, a differentiated use of force with careful control of less-lethal weapons, restraint and proportionality, a clear warning before firearms are used, and medical assistance for injured or affected persons at the earliest possible moment.<sup>42</sup> Every officer deployed should be visibly identifiable, as *D.K. Basu v. State of West Bengal*

---

<sup>38</sup> *Anuradha Bhasin*, *supra* note 25, ¶ 152.

<sup>39</sup> *Himat Lal K. Shah*, *supra* note 10.

<sup>40</sup> General Comment No. 37, *supra* note 37, ¶ 70.

<sup>41</sup> *Anuradha Bhasin*, *supra* note 25, ¶ 152.

<sup>42</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, princs. 2–5, 10, 13–14, Eighth U.N. Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF.144/28/Rev.1, at 112 (1990).

required of police officers carrying out arrests<sup>43</sup> and as General Comment No. 37 expects of uniformed officers at assemblies,<sup>44</sup> and recordings from body-worn cameras and police operations should be preserved.<sup>45</sup> This protects the police against false accusations as much as it protects demonstrators.

None of this requires a new constitutional principle. Everything is already there; all that needs to be done is to apply it consistently.

## VII. CONCLUSION

This article began by asking whether demonstrators in India are indeed safe and whether the principles of democracy hold in practice. The answer appears to be a conditional one.

In law, the right to peaceful assembly is well protected. Article 19(3) allows it to be curtailed only in the interests of the sovereignty and integrity of India or public order. The Supreme Court has consistently insisted on a real connection between a restriction and the disorder it addresses, on proportionality, and on the use of force to prevent harm rather than to punish. In practice, the position is more ambiguous. Prohibitory orders grounded in schedules of events and the movement of dignitaries, closures that affect the livelihoods of thousands of people who are not protesting, and allegations of force by personnel who could not be identified suggest that, on the street, the principle of convenience is prevailing over the principle of public order.

The State must, of course, protect lives and property, and the law has given it the means to do so: reasonable and proportionate restrictions, regulation rather than prohibition, and the use of no more force than is necessary. A democracy proves its respect for dissent not only through its laws and court decisions but in the moment when a citizen with a banner meets a line of police officers. If that encounter is peaceful, the promise of Article 19(1)(b) is fulfilled. If it is not, no body of case law can make up for it.

\*\*\*\*\*

---

<sup>43</sup> *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 (India).

<sup>44</sup> General Comment No. 37, *supra* note 37, ¶ 89.

<sup>45</sup> *See id.* ¶ 94.