

# Freedom of Assembly and State Regulation: A Comparative Analysis of Organized Protests in India

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## ABSTRACT

Freedom of assembly constitutes a foundational pillar of democratic governance, enabling citizens to express dissent, mobilize collective opinion, and participate in public affairs. In India, this right is constitutionally guaranteed under Article 19(1)(b), yet remains subject to reasonable restrictions imposed in the interests of public order, sovereignty, and morality. This paper undertakes a comparative analysis of organized protests in India to examine how state regulation has evolved through legislative frameworks, administrative practices, and judicial interpretation. It explores the tension between civil liberties and security concerns by analyzing prominent protest movements, policing strategies, prohibitory orders, and the use of colonial-era statutes alongside modern regulatory mechanisms. The study situates Indian practice within broader democratic theory, drawing comparative insights from selected jurisdictions that similarly grapple with regulating public demonstrations while safeguarding fundamental rights. Particular attention is paid to judicial balancing tests, the proportionality doctrine, and the expanding role of executive discretion in granting permissions or imposing restrictions on assemblies. Through doctrinal analysis and case-based evaluation, the paper argues that while regulatory frameworks are justified to maintain public order, excessive or vague controls risk chilling political participation and undermining constitutional commitments. The research concludes by proposing normative guidelines for a rights-sensitive regulatory model—emphasizing transparency, necessity, proportionality, and accountability—that can reconcile state interests with the democratic imperative of protest. By highlighting patterns in legal reasoning and administrative responses, this study contributes to contemporary debates on constitutional freedoms, governance, and civic space in India’s evolving political landscape.

**Keywords:** Freedom of assembly; organized protests; State regulation; Constitutional rights; Public order.

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## INTRODUCTION

Freedom of assembly occupies a central place in constitutional democracies, functioning as a vital mechanism through which citizens articulate dissent, influence public policy, and participate in collective political life. Peaceful gatherings—whether marches, sit-ins, rallies, or strikes—have historically shaped constitutional development, social reform, and democratic transitions across the world. In India, public protest has been integral to political mobilization since the colonial period and continues to define contemporary civic engagement in areas ranging from labour rights and environmental protection to citizenship, land acquisition, and digital governance. Yet the same phenomenon that embodies democratic vitality also presents complex challenges for the modern state: concerns over public order, traffic regulation, national security, health emergencies, and the prevention of violence routinely justify regulatory intervention. The resulting tension between liberty and control makes freedom of assembly one of the most contested civil rights in Indian constitutional law.<sup>1</sup> The Constitution of India expressly guarantees to all citizens the right “to assemble peaceably and without arms,” while simultaneously permitting the State to impose “reasonable restrictions” in the interests of public order, sovereignty, and integrity.<sup>2</sup> This dual structure—affirmation followed by limitation—frames almost every legal controversy surrounding

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<sup>1</sup> Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* 112–15 (Oxford Univ Press 2016), <https://global.oup.com> (accessed 6 Feb 2026).

<sup>2</sup> Constitution of India, art 19(1)(b) & 19(3), <https://legislative.gov.in/constitution-of-india> (accessed 6 Feb 2026).

organized protests. On one hand, courts have repeatedly emphasized that dissent and peaceful demonstration lie at the heart of democratic culture; on the other, executive authorities routinely rely on preventive powers, licensing regimes, curfews, and prohibitory orders to manage crowds and avert disorder. The coexistence of these imperatives has produced a rich body of jurisprudence, administrative practice, and public debate, particularly as protest movements have grown larger, more technologically networked, and more politically consequential.

Organized protests in India today are regulated through a layered framework that combines constitutional doctrine, colonial-era statutes such as preventive policing laws, post-independence public order legislation, and local administrative rules governing permissions, routes, and conditions of assembly.<sup>3</sup> Emergency powers, temporary bans on gatherings, and digital surveillance tools have further expanded the regulatory repertoire of the State, especially during periods of political unrest or public health crises. Critics argue that such measures, when broadly framed or unevenly applied, risk chilling legitimate expression and narrowing civic space.<sup>4</sup> Supporters counter that India's size, diversity, and security concerns necessitate flexible and sometimes robust controls to prevent violence and protect the rights of non-participants. This debate mirrors broader global conversations about the governance of protest in democratic societies.

Comparative constitutional analysis offers a valuable lens through which to assess India's regulatory choices. Democracies across jurisdictions have struggled with similar questions: when does regulation become suppression, how narrowly must restrictions be tailored, and what procedural safeguards should accompany prior restraints on assembly? Judicial doctrines such as proportionality, necessity, and least-restrictive-means analysis have emerged internationally as tools for balancing individual rights against collective interests.<sup>5</sup> Indian courts have increasingly engaged with these principles, drawing—explicitly or implicitly—on comparative constitutional reasoning to evaluate prohibitory orders, blanket bans, and conditions imposed on demonstrators. At the same time, India's distinctive federal structure and history of preventive detention and public order legislation introduce unique complexities not always present in other constitutional systems.

The significance of this inquiry has been heightened in recent years by the scale and visibility of protest movements and by the State's frequent resort to emergency-style regulatory instruments. The use of curfews, suspension of internet services, restrictions on movement, and denial of permissions for assemblies has generated intense litigation and scholarly scrutiny.<sup>6</sup> These controversies underscore the need to examine not only the doctrinal contours of the right to assemble but also the everyday administrative practices that determine whether and how citizens can occupy public spaces to voice opposition. Regulatory discretion exercised by district magistrates or police commissioners often operates at the front line of constitutional rights, shaping outcomes long before courts are approached.

### Scope and Objectives of the Present Study

This paper situates organized protests in India within a comparative constitutional framework to explore how freedom of assembly is conceptualized, limited, and defended in practice. It proceeds from the premise that the constitutional guarantee cannot be meaningfully assessed in isolation from regulatory mechanisms that structure its exercise. The analysis therefore extends beyond headline-making judgments to include statutory schemes, executive guidelines, and policing models that influence protest governance. By placing Indian experience alongside approaches adopted in other democratic systems, the study seeks to illuminate alternative regulatory designs and normative standards that might better reconcile order-maintenance with rights protection.

### Research Questions and Analytical Framework

Three interrelated questions guide this inquiry. First, what are the constitutional and statutory foundations governing organized protests in India, and how have courts interpreted the scope of permissible regulation? Secondly, how do contemporary administrative practices—such as licensing requirements, prohibitory orders, and preventive restrictions—operate on the ground, and with what implications for civil liberties? Thirdly, how does the Indian approach compare with regulatory models in other democracies, particularly with respect to prior restraint, proportionality analysis, and judicial oversight? Addressing these questions enables a more systematic evaluation of whether current regulatory strategies align with constitutional commitments and international human-rights standards.

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<sup>3</sup> K.D. Gaur, *Textbook on the Indian Penal Code* 45–47 (8th edn, Universal Law 2021), <https://www.universallawpublishing.com> (accessed 6 Feb 2026).

<sup>4</sup> Anuradha Bhasin v Union of India, (2020) 3 SCC 637, <https://indiankanoon.org/doc/82461587/> (accessed 6 Feb 2026).

<sup>5</sup> Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* 131–36 (Cambridge Univ Press 2012), <https://www.cambridge.org> (accessed 6 Feb 2026).

<sup>6</sup> Internet Shutdowns in India 2023, Software Freedom Law Center, <https://sflc.in/internet-shutdowns> (accessed 6 Feb 2026).

### Methodology and Sources

Methodologically, the paper adopts a doctrinal and comparative approach, analyzing constitutional provisions, leading judicial decisions, statutory texts, and scholarly commentary. It also draws upon reports by civil-society organizations and international bodies that document trends in protest policing and civic-space regulation.<sup>7</sup> Through this multi-layered analysis, the paper aims to identify recurring patterns in legal reasoning and executive action, as well as points of divergence between Indian practice and comparative norms. The objective is not merely descriptive but normative: to articulate principles that can guide a more rights-sensitive regulatory framework for assemblies.

### Judicial Developments and the Proportionality Standard

The introduction of proportionality as an explicit standard of constitutional review in Indian rights jurisprudence has opened new possibilities for scrutinizing restrictions on protests.<sup>8</sup> Courts have begun to ask whether bans are narrowly tailored, whether less intrusive alternatives exist, and whether procedural fairness has been observed. Yet the persistence of broad statutory powers and routine resort to blanket prohibitions suggests that doctrinal advances do not always translate into restrained executive practice. This disjunction raises deeper questions about institutional culture, accountability mechanisms, and the accessibility of judicial remedies for protesters—issues that comparative analysis can help to foreground.

### Normative Significance and Structure of the Paper

Ultimately, freedom of assembly is not merely a negative liberty against state interference but a positive condition for democratic participation. Public spaces acquire political meaning through collective occupation, and restrictions on such occupation shape the boundaries of acceptable dissent. By examining organized protests in India through a comparative lens, this study seeks to contribute to ongoing debates about constitutionalism, governance, and the future of civic space in large, pluralistic democracies. The sections that follow trace the historical development of assembly regulation, analyze contemporary judicial approaches, and evaluate alternative regulatory models, culminating in a set of normative recommendations for aligning state regulation more closely with constitutional ideals.

### Analysis

#### Freedom of Assembly and State Regulation in India

Freedom of assembly in India has developed through a dense interaction between constitutional text, colonial-era policing powers, post-Independence public-order legislation, and evolving judicial doctrine. While Article 19(1)(b) of the Constitution protects the right “to assemble peaceably and without arms,” Article 19(3) authorises the State to impose reasonable restrictions in the interests of sovereignty, integrity, and public order.<sup>8</sup> Judicial interpretation of these clauses has oscillated between robust defence of democratic dissent and deference to executive assessments of security and administrative necessity. This section analyses fifteen leading cases to demonstrate how Indian courts have conceptualised organised protest, preventive regulation, proportionality, and executive discretion.

#### I. Early Constitutional Jurisprudence: Establishing the Framework

One of the earliest decisions interpreting freedom of assembly was *Himat Lal K Shah v Commissioner of Police, Ahmedabad*,<sup>9</sup> where municipal regulations required prior permission for public meetings on streets. The Supreme Court accepted that the State could regulate the time and place of assemblies but struck down provisions conferring unguided discretion on authorities to refuse permission. The Court emphasised that licensing regimes must operate through “reasonable standards” and cannot amount to disguised prohibitions.

This principle was reinforced in *Babulal Parate v State of Maharashtra*,<sup>10</sup> which upheld temporary prohibitory orders under the Criminal Procedure Code but cautioned that such powers must be exercised sparingly and subject to judicial review. Although the Court acknowledged that preventive measures could be justified during volatile situations, it insisted that the executive’s satisfaction was not immune from constitutional scrutiny.

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<sup>7</sup> UN Human Rights Council, *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly*, <https://www.ohchr.org> (accessed 6 Feb 2026).

<sup>8</sup> Constitution of India, arts 19(1)(b), 19(3), <https://legislative.gov.in/constitution-of-india> (accessed 6 Feb 2026).

<sup>9</sup> *Himat Lal K Shah v Commissioner of Police, Ahmedabad*, (1973) 1 SCC 227, <https://indiankanoon.org/doc/1097057/> (accessed 6 Feb 2026).

<sup>10</sup> *Babulal Parate v State of Maharashtra*, AIR 1961 SC 884, <https://indiankanoon.org/doc/1349055/> (accessed 6 Feb 2026).

Similarly, in *Kameshwar Prasad v State of Bihar*,<sup>11</sup> a rule imposing a blanket ban on demonstrations by government servants was struck down insofar as it prohibited peaceful protest. The Court distinguished violent activity from orderly expression of dissent and held that an absolute prohibition violated Article 19(1)(a) and (b). This case laid the groundwork for recognising protest as integral to democratic participation rather than merely a threat to administrative discipline.

## II. Public Order, Preventive Powers, and Executive Discretion

Preventive regulation has remained a recurring theme in freedom-of-assembly jurisprudence. In *Madhu Limaye v Sub-Divisional Magistrate*,<sup>12</sup> the Supreme Court examined the validity of preventive restrictions imposed under Section 144 of the Criminal Procedure Code. While upholding the provision's constitutionality, the Court underscored that it could not be used as a routine administrative device and that repeated or prolonged orders could amount to an abuse of power.

The Court adopted a similar stance in *Gulam Abbas v State of Uttar Pradesh*,<sup>13</sup> which involved prohibitory orders issued to prevent communal violence during religious processions. While recognising the legitimacy of anticipatory action to avert disorder, the Court stressed that authorities must balance competing rights and avoid favouring one group's assembly at the cost of another's liberty.

More recently, in *Ramlila Maidan Incident v Home Secretary, Union of India*,<sup>14</sup> the Court condemned the late-night police action against a peaceful gathering protesting corruption. It held that although the State could regulate assemblies for public safety, the use of force must satisfy standards of necessity and proportionality, and procedural fairness—including advance notice—was constitutionally required.

## III. Protest Sites, Public Spaces, and Democratic Expression

The relationship between public space and democratic dissent has received focused judicial attention. In *Mazdoor Kisan Shakti Sangathan v Union of India*,<sup>15</sup> the Supreme Court considered restrictions placed on protests at Delhi's Jantar Mantar. While permitting regulation to protect residents and maintain traffic flow, the Court reaffirmed that the right to peaceful protest is a fundamental democratic entitlement and directed authorities to frame guidelines that preserved expressive opportunities rather than eliminating them.

However, in *Amit Sahni v Commissioner of Police*,<sup>16</sup> arising from the Shaheen Bagh sit-in against the Citizenship Amendment Act, the Court adopted a more restrictive approach. It held that indefinite occupation of public roads could not be justified in the name of protest and that authorities were duty-bound to keep public ways open. Critics argue that the decision privileged mobility and administrative convenience over participatory dissent, signalling a more restrained judicial posture toward prolonged assemblies.

Earlier, in *Railway Board v Niranjana Singh*,<sup>17</sup> the Court had upheld restrictions on demonstrations within railway premises, reasoning that certain spaces dedicated to essential services could legitimately be insulated from protest activity. Together, these cases illustrate how spatial considerations increasingly shape the scope of assembly rights.

## IV. Emergencies, Technology, and Contemporary Regulatory Tools

The expansion of regulatory techniques—especially during emergencies—has reshaped the legal landscape of protest governance. In *Anuradha Bhasin v Union of India*,<sup>18</sup> although the principal issue concerned internet shutdowns in Jammu and Kashmir, the Court linked digital restrictions to the ability to assemble and communicate collectively. It held that curbs on fundamental rights must satisfy proportionality and periodic review, thus introducing procedural safeguards that indirectly affect protest regulation.

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<sup>11</sup> *Kameshwar Prasad v State of Bihar*, AIR 1962 SC 1166, <https://indiankanoon.org/doc/1132565/> (accessed 6 Feb 2026).

<sup>12</sup> *Madhu Limaye v Sub-Divisional Magistrate*, (1970) 3 SCC 746, <https://indiankanoon.org/doc/1713678/> (accessed 6 Feb 2026).

<sup>13</sup> *Gulam Abbas v State of Uttar Pradesh*, (1981) 1 SCC 71, <https://indiankanoon.org/doc/1428311/> (accessed 6 Feb 2026).

<sup>14</sup> *Ramlila Maidan Incident v Home Secretary, Union of India*, (2012) 5 SCC 1, <https://indiankanoon.org/doc/1504634/> (accessed 6 Feb 2026).

<sup>15</sup> *Mazdoor Kisan Shakti Sangathan v Union of India*, (2018) 17 SCC 324, <https://indiankanoon.org/doc/101004296/> (accessed 6 Feb 2026).

<sup>16</sup> *Amit Sahni v Commissioner of Police*, (2020) 10 SCC 439, <https://indiankanoon.org/doc/146098857/> (accessed 6 Feb 2026).

<sup>17</sup> *Railway Board v Niranjana Singh*, AIR 1969 SC 966, <https://indiankanoon.org/doc/1522190/> (accessed 6 Feb 2026).

<sup>18</sup> *Anuradha Bhasin v Union of India*, (2020) 3 SCC 637, <https://indiankanoon.org/doc/82461587/> (accessed 6 Feb 2026).

During the COVID-19 pandemic, courts grappled with restrictions on gatherings imposed in the name of public health. In *In Re: Distribution of Essential Supplies and Services During Pandemic*,<sup>19</sup> the Supreme Court acknowledged that emergency conditions justified limits on assembly but reiterated that such measures remained subject to constitutional standards and could not be arbitrary or indefinite.

In *State of Kerala v Raneef*,<sup>20</sup> while primarily addressing preventive detention, the Court reiterated that anticipatory restrictions impacting liberty—including collective action—must be supported by concrete material and cannot rest on vague apprehensions. This reasoning resonates with freedom-of-assembly jurisprudence by reinforcing the need for evidence-based executive action.

#### V. Doctrinal Shift Toward Proportionality

A significant development in Indian constitutional law has been the formal adoption of proportionality analysis. In *Modern Dental College v State of Madhya Pradesh*,<sup>21</sup> the Supreme Court articulated a four-stage proportionality test—legitimate aim, rational connection, necessity, and balancing—which has since influenced rights adjudication across contexts.

This doctrinal framework was extended to restrictions on movement and expression in *Justice KS Puttaswamy v Union of India*,<sup>22</sup> where the Court held that any encroachment upon fundamental rights must satisfy proportionality and procedural safeguards. Although not directly concerning assembly, the decision's emphasis on structured balancing has informed later challenges to prohibitory orders, curfews, and protest bans.

Together with *Ramlila Maidan* and *Anuradha Bhasin*, these cases suggest an emerging judicial vocabulary that subjects executive discretion to closer scrutiny—at least in principle. Yet the uneven application of proportionality across cases such as *Amit Sahni* reveals continuing ambivalence about the judiciary's role in supervising protest governance.

#### VI. Comparative and Normative Implications

The Indian experience reflects broader democratic anxieties about mass mobilisation, infrastructural disruption, and security threats. However, comparative constitutional practice increasingly favours regulatory models that emphasise facilitation rather than suppression of protest—requiring authorities to negotiate routes, impose narrow time-place-manner restrictions, and justify prohibitions through transparent reasoning.

Indian courts have gestured toward such an approach in cases demanding guidelines, advance notice, and proportional use of force. Yet the persistence of colonial-era preventive statutes and routine invocation of Section 144 suggests a regulatory culture still oriented toward control rather than accommodation. Judicial reluctance to invalidate blanket bans or prolonged prohibitory orders further weakens the protective force of Article 19(1)(b).

Normatively, a rights-sensitive model would require: (a) statutory codification of proportionality standards for assembly regulation; (b) mandatory publication of reasons for prohibitory orders; (c) time-bound and geographically limited restrictions; and (d) accessible judicial remedies through expedited review. Such reforms would align India's regulatory framework more closely with its constitutional commitment to democratic participation.

### CONCLUSION

Freedom of assembly remains one of the most vital yet contested guarantees within India's constitutional framework. As this study has demonstrated, judicial interpretation has oscillated between protecting protest as a core democratic practice and permitting extensive executive regulation in the name of public order, security, and administrative necessity. From early decisions invalidating unguided licensing powers to contemporary cases scrutinising prolonged occupations of public spaces and emergency restrictions, the Supreme Court has progressively articulated doctrinal tools—most notably proportionality, necessity, and procedural fairness—to evaluate limits on organised demonstrations. Yet the uneven application of these standards, coupled with the persistence of broad preventive statutes and routine resort to prohibitory orders, reveals continuing institutional ambivalence about the proper balance between liberty and control.

<sup>19</sup> *In Re: Distribution of Essential Supplies and Services During Pandemic*, (2021) SCC OnLine SC 68, <https://indiankanoon.org/doc/147690435/> (accessed 6 Feb 2026).

<sup>20</sup> *State of Kerala v Raneef*, (2011) 1 SCC 784, <https://indiankanoon.org/doc/1462981/> (accessed 6 Feb 2026).

<sup>21</sup> *Modern Dental College v State of Madhya Pradesh*, (2016) 7 SCC 353, <https://indiankanoon.org/doc/131375313/> (accessed 6 Feb 2026).

<sup>22</sup> *Justice KS Puttaswamy v Union of India*, (2017) 10 SCC 1, <https://indiankanoon.org/doc/91938676/> (accessed 6 Feb 2026).

The comparative perspective adopted in this paper underscores that India's regulatory dilemmas are not unique; democracies worldwide struggle to reconcile the facilitation of dissent with the maintenance of civic order. However, international practice increasingly favours regulatory models that treat protest as an activity to be enabled rather than merely contained—through narrow, time-bound restrictions, transparent decision-making, negotiated conditions, and accessible judicial oversight. Aligning Indian practice more closely with such norms would strengthen the constitutional promise embodied in Article 19(1)(b) while preserving the State's legitimate interest in preventing violence and protecting the rights of others.

Ultimately, the health of a constitutional democracy is measured not by the absence of dissent but by its capacity to accommodate it. A rights-sensitive regulatory regime—anchored in proportionality, accountability, and reasoned decision-making—can ensure that organised protests continue to function as instruments of political participation rather than occasions for routine coercive control. By reaffirming the centrality of peaceful assembly to democratic life, Indian constitutional law can move toward a more principled and consistent reconciliation of state authority with civic freedom.

### Recommendations

India should adopt a facilitative, rights-oriented approach to regulating assemblies rather than a primarily prohibitory one. Statutory guidelines must expressly incorporate proportionality, necessity, and least-restrictive-means standards for imposing restrictions on protests. Prohibitory orders should be narrowly tailored in scope, duration, and geography, accompanied by written reasons and prompt judicial review. Authorities should be required to consult organisers where feasible and designate adequate protest spaces instead of imposing blanket bans. Transparent policing protocols, mandatory human-rights training for officials, and public reporting of emergency restrictions would further strengthen accountability and safeguard democratic participation.

### Futures scope

Future research may extend this study through empirical fieldwork on how district administrations and police authorities implement protest regulations across different states, highlighting regional variations and best practices. Comparative analysis with jurisdictions such as the United Kingdom, Germany, and South Africa could deepen understanding of facilitative regulatory models and judicial oversight mechanisms. Scholars may also examine the long-term constitutional impact of digital governance tools—such as internet shutdowns, surveillance technologies, and online mobilisation—on collective action. Interdisciplinary approaches drawing on sociology and political science would further illuminate how legal frameworks shape evolving forms of protest in India.

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