



UPSC & STATE PCS CURRENT AFFAIRS · UJIYARI.COM

EDITORIAL ANALYSIS

The Right to Protest and Its Reasonable Limits

 INDIAN EXPRESS

22 July 2026 ·

POLITY

GS2

CURATED & WRITTEN BY

**Bharat Choudhary**

UPSC Educator & Content Creator

 [linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)

ALSO FROM THE CREATOR

BharatNotesFree UPSC notes, MCQs, PYQ analysis. **100% Free.**bharatnotes.com → **ADVERTISE****Advertise with Ujiyari**

Reach thousands of UPSC aspirants daily.

 epicbharat@gmail.com

The Right to Protest and Its Reasonable Limits

 The Indian Express

22 July 2026

GS2

 Every fact web-verified against primary sources

THE LIFT LINE

A democracy is tested not by how it treats convenient speech but by how it handles inconvenient assembly. The right to protest and the duty to keep public order are both constitutional, and the art of governance is holding them in proportion.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

The right to protest is a textbook GS Paper 2 theme because it sits squarely inside **Fundamental Rights**, their **reasonable restrictions**, and the **balancing role of the judiciary**. A crackdown on protesters is exactly the kind of live event that lets you convert bare articles into a reasoned constitutional argument, which is what separates a scoring answer from a listing of provisions.

It also trains you to reject absolutism in either direction. The mature position is neither that protest is unlimited nor that order justifies any restriction, but that restrictions must be **reasonable, proportionate and non-arbitrary**, a standard the Supreme Court has repeatedly articulated.

GS Paper 2: Indian Constitution, features, significant provisions, and Fundamental Rights.

GS Paper 2: Separation of powers, and the role of the judiciary in interpreting and balancing rights.

For **Prelims**, hold the specifics: **Article 19(1)(a)** protects freedom of speech and expression, and **Article 19(1)(b)** the right to assemble **peaceably and without arms**; these are subject to **reasonable restrictions** under **Article 19(2)** and **Article 19(3)** on grounds such as **sovereignty**, integrity, and public order; **Section 163 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)** is the successor to **Section 144 of the CrPC** for prohibitory orders; in **Anita Thakur (2016)** the Supreme Court underlined the right to protest, and in **Amit Sahni / Shaheen Bagh (2020)** it held that public spaces cannot be occupied indefinitely.

For **Mains**, the transferable line is that **dissent** is a constitutional value and not a threat to be managed away. The State may regulate the time, place and manner of protest, but blanket, indefinite or arbitrary restrictions fail the reasonableness test.

BACKGROUND AND CONTEXT

Peaceful protest is woven into the Indian constitutional scheme. The freedom to assemble under **Article 19(1)(b)** and to speak under **Article 19(1)(a)** together make dissent a protected activity, and the freedom struggle itself was built on the legitimacy of peaceful assembly. But the framers did not make these freedoms absolute. They paired each with **reasonable restrictions** so that one person's right does not extinguish another's, and so that public order can be maintained.

The recurring flashpoint is the tool of choice for maintaining order. Prohibitory orders, historically issued under **Section 144 of the CrPC** and now under **Section 163 of the BNSS**, are meant for genuine apprehension of danger, yet they are often deployed pre-emptively and broadly. When a crackdown follows a protest, the question is not whether the State may act, but whether it acted proportionately and for a legitimate purpose.

THE CORE ARGUMENT / ISSUE

The freedom is real, and so are its limits

Article 19(1)(b) protects only assembly that is peaceful and unarmed. The moment protest turns violent, the constitutional shield weakens. Equally, the State's power under **Article 19(3)** is not open-ended; a restriction must serve an enumerated ground like public order and must be **reasonable** in scope and duration.

Prohibitory orders must be the exception

Section 163 of the BNSS, like **Section 144 CrPC** before it, is an emergency instrument for imminent danger, not a routine device to pre-empt inconvenience. Courts have cautioned against its mechanical, repetitive use, because a standing prohibition on assembly effectively nullifies a fundamental right.

The judiciary supplies the balancing test

In **Anita Thakur (2016)** the Court affirmed the constitutional status of the right to protest while recognising the State's duty to maintain order. In **Amit Sahni / Shaheen Bagh (2020)** it held that while dissent is protected, public spaces cannot be **occupied indefinitely**, and that the rights of protesters must be balanced against the rights of others to use those spaces.

ELEMENT	PROVISION OR CASE	PRINCIPLE
Freedom to assemble	Article 19(1)(b)	Peaceful and without arms
Freedom of expression	Article 19(1)(a)	Includes the right to dissent
Reasonable restrictions	Articles 19(2) and 19(3)	Public order, sovereignty, integrity
Prohibitory orders	Section 163, BNSS	Exceptional, not routine
Judicial balance	Anita Thakur; Shaheen Bagh	Protest protected, not unlimited occupation

HOW TO THINK ABOUT THIS (ANALYTICAL FRAME)

Use the **proportionality test** as your organising tool. Ask four questions of any restriction: Is the aim legitimate, such as public order? Is the measure suitable to that aim? Is it the least restrictive option available? And does the benefit to order outweigh the cost to the right? A blanket, indefinite prohibitory order usually fails the third and fourth limbs, because a narrower, time-bound measure would have achieved the same public-order goal at far less cost to the freedom. This frame lets you evaluate any rights-versus-security question without collapsing into either libertarian absolutism or security maximalism.

THE DIAGRAM IN WORDS

Article 19(1)(a) and 19(1)(b) protect peaceful protest -> reasonable restrictions under 19(2) and 19(3) for public order -> Section 163 BNSS as an exceptional tool -> apply proportionality (legitimate aim + suitable + least restrictive + balanced) -> Anita Thakur and Shaheen Bagh set the balance -> peaceful dissent protected, indefinite occupation and arbitrary bans struck down

WAY FORWARD

- 1 Regulate manner, not the right itself.** The State should manage the **time, place and manner** of protest through narrow, reasoned orders, not extinguish assembly with blanket prohibitions.
- 2 Use prohibitory powers sparingly.** Invoke **Section 163 of the BNSS** only on a genuine, recorded apprehension of danger, with clear reasons and defined limits, so the exception does not swallow the rule.
- 3 Apply proportionality by default.** Require authorities to choose the **least restrictive** measure that secures public order, and to justify why a lighter option would not work.

- ④ **Protect the peaceful, isolate the violent.** Distinguish sharply between peaceful protesters, who retain full constitutional protection, and those who resort to violence, so that order is maintained without criminalising dissent itself.

PYQ LINKAGE AND PRACTICE

UPSC has asked on the scope of Fundamental Rights, reasonable restrictions, and the tension between individual liberty and public order. This editorial updates that theme to the **BNSS** era and recent [jurisprudence](#), letting you cite **Section 163** and **Shaheen Bagh** rather than dated provisions.

Practice question: “The right to protest is fundamental but not absolute.” Discuss the constitutional limits on peaceful assembly in India and the principle of proportionality that must govern restrictions on it. (250 words, 15 marks)

Sources: Indian Express, Supreme Court of India, PIB

Source: The Right to Protest and Its Reasonable Limits — Ujiyari.com | Free UPSC & State PCS Editorial Analysis

RELATED DAILY ARTICLES

25 Jul **Dharmendra Pradhan Resigns Over Exam Leaks: Ministerial...**

24 Jul **Tougher Penalties for Exam Paper Leaks: The 2026...**

23 Jul **The Supreme Court Number of Judges Amendment Bill 2026**

21 Jul **A Bill to Protect Vande Mataram Under the National...**



CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

[in linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)[Read Full Article on Ujiyari →](#)<https://ujiyari.com/editorials/2026/07/ie-right-to-protest-assembly-2026/>

ALSO FROM THE CREATOR

BharatNotes

Free UPSC study platform — subject-wise notes across all 4 GS papers, Prelims MCQs, Mains answer frameworks, PYQ analysis & progress tracking. **100% Free • No Login Required.**

[Start Preparing → bharatnotes.com](#)

📢 OPPORTUNITY

Advertise with Ujiyari

Reach **thousands of serious UPSC & State PCS aspirants** daily through our PDFs, website, and social channels.

Ideal for: Coaching institutes • EdTech platforms • Book publishers • Exam prep apps

[✉ epicbharat@gmail.com](mailto:epicbharat@gmail.com)

Write to us for rates & media kit

Free UPSC & State PCS Current Affairs · ujiyari.com · bharatnotes.com