Protesters must pay for
damage to public property

India must update the prevention of damage to public property act and use technology to nail down vandals

T he ongoing protests at Delhi’s Shaheen Bagh and continued agitations elsewhere in the city and the country over the Citizenship (Amendment) Act, or the CAA, have brought to the fore the debate over the impact of agitations and the resultant disruption to normal life. While agitators point to their fundamental right to protest, the plight of the people affected by agitations and their right to continue with normal activity often gets ignored.

Last month the Uttar Pradesh police took up 560 people accused of vandalising public and private property and causing inconvenience to the public. The police of the issue notwithstanding, this is one of the few cases of punitive action. This issue has long been brushed under the carpet and organisers and participants of protests and bandhs mostly get off scot-free, sometimes getting away with a few hours of detention and having minor charges slapped on them.

The only other instance of strong punitive action for vandalising public property was against the Dera Sacha Sauda, whose followers went on a rampage and destroyed properties across Haryana and Punjab in 2017, following the arrest of the head of the cult, Gurmeet Ram Rahim Singh. The Punjab and Haryana High Court had ruled that all losses caused to property be recovered from the Dera. To date, though, no recovery has been made.

India has no central legislation governing recovery of damages, except for the 2009 Supreme Court (SC) guidelines asking respective high courts to appoint a sitting/retired judge as claims commissioner to adjudicate on damages. Then in October 2018, the SC took cognisance of incidents of vandalism and rampage carried out by violent mobs in the name of protests, pronouncing that individuals and organisers will be held accountable for criminal and civil liability for creating such nuisance.

The SC said individuals who are responsible for initiating, promoting, instigating an act of violence, which results in loss of life or damage to public or private property, will be held accountable and these individuals will have to compensate the victims. The SC also laid down the procedure for recovery of damages and it hoped that a bill, regarding the recovery of damages pending since 2015, will be taken to its logical end.

At present, action against rioters is limited to the toothless Prevention of Damage to Public Property Act, 1984, which prescribes a jail term and fine for convicts, but has no provision for recovery for damages. The UP administration, in its recent action, is relying on a 2010 Allahabad High Court judgment that empowered the government to set up a competent authority to accept damage claims, hear all concerned, and pass orders within 30 days.

India’s history of public protests derivates its legitimacy from the Mahatma’s path of civil disobedience and non-violent protests, that were an integral part of our freedom struggle. This legacy, continued and intensified over the years and the acceptance of bandhs, and hartals, often as unplanned public holidays, became part of people’s lives in many parts of the country. In fact agitations and disruptions are so steeped into our culture that we often make a virtue of it.

Scores of agitations in the recent past have caused damage to public property but states have made little or no attempt at recovery. Assocham estimates that public and private property worth Rs 1.07 lakh crore was damaged across the country over the last one year. The Patel agitation in Haryana in 2018, the Pakistan minority agitations and the incidents of vandalism in various states were among the most prominent.

Rajasthan witnessed many incidents of vandalism and arson around the release of Padmaavat in 2018, and then again during the CAA in Parliament, West Bengal erupted, and the UP government vehicles were damaged. At least 115 incidents of vandalism and arson were reported in the state last year.

Clearly it is time for.barrier measures with punitive consequences where both protesters and their leaders — one could call them instigators — are held accountable. The United States has state-wise laws with heightened penalties for protesters who block traffic and authorises law enforcement agencies to recover costs from protesters who damage or obstruct “critical infrastructure”. The public utilities that come under the classification of critical infrastructure include oil and gas pipelines, electricity transmission towers, railways and public transport vehicles.

It is about time India modifies its 36-year-old Prevention of Damage to Public Property Act to reflect the new reality. Every organiser of a protest must make a clear declaration ensuring his followers will not damage public property and if they do, must be held financially liable.

Facial recognition technology and the databases of (chronic troublemakers) that power them can help the police nail down vandals in a manner that can stand court scrutiny. With the increased deployment of surveillance cameras, protest organisers and front line leaders could be monitored, subject to privacy laws. It is about time India upscales the Mahatma’s satyagraha to a better version. We cannot afford unhindered damage to public property and no accountability.

Lloyd Mathias is an angel in transit, business and marketing strategist. The views expressed are personal.