# The Crowd as Suspect

## A Manzonian Reading of Italy's Recent Protests and Security Decrees

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"Actors, spectators, instruments, obstacles, as the wind blows." With these words Alessandro Manzoni describes the crowd of the Milanese bread riots of 1628 in *I promessi sposi*, a crowd in which roles are fluid and competing wills struggle to prevail. The image still helps make sense of the protests and the government's response in the same city almost four centuries later. On 17 and 18 October 2026, protests against the cost of living reached Milan, while similar protests took place in Turin and Bologna. Public attention, particularly that of the Italian government, soon turned to the violence, from the looting of luxury shops to the clashes with the police.

The government responded within days with Decree-Law No. 190 of 22 October 2026. It is, by some counts, the eighth security measure of this government in four years, reflecting what Venturi has described as a "securitarian turn" in Italian criminal law. Ignoring the fluid nature that Manzoni's portrayal had already highlighted, the new "Security Decree" turns the crowd into a single category of risk. By attaching harsher penalties and preventive restrictions to collective settings, it blurs the distinction between violent offenders, organisers and peaceful demonstrators. It thus casts dissent under suspicion and chills the exercise of the right to peaceful assembly under Article 11 ECHR and Article 21 ICCPR: a right held individually, even when exercised collectively.

### A Little Fear

Manzoni's authorities resolved "to find a way of laying hands on some seditious fellow", because they wanted "to make advice more effective by adding a little fear". The Security Decree follows a similar deterrent logic by introducing new offences, aggravating circumstances and preventive measures.

Article 1 inserts into the Criminal Code a new offence of "organised violence in public demonstrations" (Article 420-bis). Anyone who unlawfully uses or throws specified offensive objects during a demonstration, as part of an organised group of at least five people, faces two to five years in prison, provided that the conduct creates a concrete danger to personal safety and also causes property damage. The provision does not expressly require the other group members to act violently. It suffices that the group operates *"in modo organizzato anche occasionalmente"* ("in an organised manner, even occasionally"), which the government's explanatory report interprets as requiring only minimal coordination, potentially arising during the protest itself. Yet the provision does not require that coordination to concern violence. The collective element may therefore add no distinct harm or danger to the individual's violent conduct, since the coordination may concern only the organisation of a peaceful assembly.

A similar logic informs two further aggravating circumstances, increasing penalties by one-third to one-half for devastation and looting involving goods in commercial premises (Article 419(3)) or attacks on public utility installations (Article 420(2)) committed, in the words of both provisions, *"nel corso di manifestazioni in luogo pubblico o aperto al pubblico"* ("during demonstrations in a public place or a place open to the public"). Neither provision expressly requires the offender to be among the demonstrators or the offence to have been committed in furtherance of the protest. The demonstration itself thus becomes the basis for increased punishment, without any required connection between the offence and the protest.

With an even heavier penalty of four to twelve years, the decree punishes anyone who*"organizza o*

*promuove la formazione del gruppo"* ("organises or promotes the formation of the group"), or incites or instigates the specified violent conduct, including online. Promoters thus face a heavier sentence than those who commit the violence. On one possible reading, organising or promoting the group may be punishable even before any violence occurs. This uncertainty blurs the line between organising a protest and preparing violence, with potentially serious chilling effects on peaceful mobilisation.

An early case shows the risk: on 24 October, police detained the administrator of the "October 17 Movement" social media channels, partly under Article 420-bis. Politicians and some media outlets presented him as the "mind" behind the movement, although the channel had been opened only after the clashes. A judge ordered his release on 28 October, finding that posts advocating civil disobedience without inciting violence did not establish serious indications of guilt. The decision was not an acquittal, but it shows that mobilising people and organising aggression require separate proof. The Prime Minister nonetheless called the decision "shameful".

Given that many of those arrested in Milan were minors, Article 1 also amends Article 98 of the Criminal Code, under which judges had to establish case by case whether a 14- to 17-year-old was capable of understanding and controlling their conduct. The decree now introduces a rebuttable presumption of that capacity, bringing into force by emergency decree a general reform of juvenile responsibility that was already pending efore Parliament.

Articles 6 and 7 further expand preventive powers. Under the former, the *Questore,* the provincial police chief, may prohibit individuals from gathering with specified people in designated public places for up to one year, subject to conditions concerning previous group conduct and the individual's record. Breach of that prohibition is itself an offence, so a forecast about a person's future company, drawn up by the police, may end in a prison sentence. The latter concerns an existing power to hold individuals in police custody for up to twelve hours. The decree extends it from demonstrations to other crowded settings, without specifying what must be ascertained in those hours. Both measures allow restrictions on individual freedom to be imposed in anticipation of future conduct, making the perceived dangers of collective settings a basis for preventive intervention.

The tendency to treat heterogeneous crowds as a single threat also shaped the political and communicative framing of these measures. Some provisions had already appeared in a July 2026 government bill, described at the time in political debate and the press as an *"anti-maranza"* package, before being enacted by emergency decree, thus curtailing ordinary parliamentary scrutiny. *Maranza* is a derogatory term associated with young men from urban peripheries, often of migrant background. As Ederoclite and Villano show, such processes of "verbal collectivisation" and "visual de-individualisation" turn disparate episodes of youth deviance into a recognisable, racialised figure of public danger. The label resurfaced after the October clashes, projecting this image onto the unrest and reinforcing the connection between repressing protest and controlling urban marginality.

## The Two Souls of Protest

Manzoni's crowd harbours "almost two hostile souls struggling to enter that hulking body and set it in motion". Writing about the underprivileged with a "condescending benevolence" that Gramsci would later criticise, Manzoni did not celebrate the crowd as a democratic subject. His image nonetheless refuses to reduce it to one actor, a refusal on which the right of assembly also rests.

The UN Human Rights Committee describes assembly as an individual right exercised collectively (General Comment No. 37, § 4). Because each participant holds the right, the conduct of some cannot define the legal position of all. For this reason, isolated violence cannot be attributed to other participants, to organisers or to the assembly as such (§ 17). More fundamentally, the Committee holds that restrictions on peaceful assembly should in principle rest on a differentiated or individualised assessment of participants' conduct and treats blanket restrictions as presumptively disproportionate (§ 38). The European

Court of Human Rights takes the same view under Article 11 ECHR, holding that a participant cannot be sanctioned merely for failing to distance himself from the misconduct of others (*Ezelin v France*, § 53). A person who stays peaceful keeps that protection even when others commit sporadic acts of violence (*Frumkin v Russia*, § 99). Article 11 ECHR and Article 17 of the Italian Constitution protect only peaceful assembly. While peacefulness defines the scope of the right, it does not allow the State to treat the whole crowd as violent, nor to evade the principle of proportionality.

Nor does every disturbance amount to violence. The Court has required a degree of tolerance towards peaceful gatherings that disrupt ordinary life, including unnotified ones (*Oya Ataman v Turkey*, § 42). Even deliberate road blockades may remain within the protection of Article 11, although their scale and impact can justify proportionate criminal sanctions (*Kudrevičius and Others v Lithuania*, §§ 97–99, 155–156, 173–183).

The Court's case law also bears directly on the liability of promoters. In *Kavala v Türkiye (no. 2)*, the Grand Chamber reviewed the conviction of a civil society figure linked by Turkish courts to violence committed by others during the 2013 Gezi Park protests. The Court refused to attribute that violence to him without a direct causal link, since sporadic violence by third parties did not remove his protection under Article 11 (§§ 158, 163–165). This reasoning is particularly relevant to Article 420-bis. Whatever the scope of the new offence, its application must distinguish support for a protest from participation in, incitement to, or intentional support for violence. Otherwise, lawful organisational activity risks becoming evidence of criminal responsibility for acts committed by others. Penalties matter too, as the Court has stressed the chilling effect of harsh sentences on participants in a mass protest (*Yaroslav Belousov v Russia*, §§ 179–182). Against this background, the four-to-twelve-year penalty range makes the need for a carefully individualised and proportionate response particularly acute.

The presumption for 14- to 17-year-olds raises a related problem, making the criminal responsibility of adolescents the default. In *Gülcü v Turkey*, the Court found a minor's punishment for throwing stones at police during a demonstration disproportionate in view of his age and detention (§§ 110–117). Although the judgment concerned sentencing rather than criminal capacity, it underscores the importance of individualised treatment of minors. The decree moves in the opposite direction, replacing the requirement of an individualised assessment of criminal capacity with a rebuttable presumption.

The *Questore*'s bans impinge on the collective dimension of the right, since assembly requires the possibility of organising, meeting and voicing demands collectively. Article 21 ICCPR also protects the activities that make a gathering possible, including its planning and communication between participants (General Comment No. 37, § 33). A ban on meeting certain people in certain places restricts the right even if each person remains free to speak alone. The twelve-hour detention sharpens the issue. In *Schwabe and M.G. v Germany*, German courts ordered the preventive detention of two activists during the 2007 G8 summit, preventing them from joining the protests. The Court required particularly careful scrutiny of such measures and found a violation of Article 11 (§§ 102, 117–119). Extending detention to "crowded places" moves it further from any concrete assembly and any concrete risk.

The State also has a positive duty to take reasonable measures to enable peaceful assemblies to proceed safely. Yet, as the Court made clear in *Plattform Ärzte für das Leben v Austria*, that duty exists to protect peaceful protest (§§ 32–34). It cannot be turned into a duty to eliminate every possible risk of violence, for that would transform an obligation designed to protect peaceful assembly into a justification for restricting it.

## Galleys and Rope

Manzoni's final comparison is unforgiving: the crowd "had sought to bring abundance into being through looting and fire", whereas the government "sought to preserve it through the galleys and the rope". The new "Security Decree" answers social unrest in a similar way, adding penalties and preventive powers.

Even Renzo, the novel's naive young protagonist, grasps something important when he hopes that "if people know how to conduct themselves, even better things will be done", though "without harming a hair on anyone's head". He then calls for "everything through justice", joining the will to keep protesting with the rejection of violence. A constitutional democracy must accept that protests can cause disruption and that even violence may occur despite efforts to prevent it. Eliminating every risk through sweeping restrictions would undermine the right itself, harming democracy more. A real risk of disorder beyond the organisers' control does not remove the protection of Article 11. Violence calls for investigation and individual responsibility, while a restriction that falls on all participants shifts onto them a danger they did not cause. Ultimately, a State that treats the crowd as a collective risk, and its participants as potential suspects, may add "a little fear", but it cannot claim to have done "everything through justice".

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